

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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FURTHER PUBLIC HEARING

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IN THE MATTER OF: :

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Valor Development, LLC : Case No.

Voluntary Design Review : 16-23

@ Square 1499 :

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:

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Wednesday,

February 6, 2019

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No. 16-23 by the District of Columbia Zoning Commission convened at 6:00 p.m. in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- PETER G. MAY, Commissioner (NPS)
- PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director, Development
Review & Historic Preservation
JOEL LAWSON
ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.
HILLARY LOVICK, ESQ.

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

AARON ZIMMERMAN

The transcript constitutes the minutes from
the Further Public Hearing held on February 6, 2019.

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

6:02 p.m.

1
2
3 CHAIRMAN HOOD: Good evening, ladies and
4 gentlemen. Today's date is February 6, 2019. My name is
5 Anthony Hood. We're located in the Jerrily R. Kress Memorial
6 Hearing Room.

7 Joining me this evening for this continuation
8 hearing of Zoning Commission case number 16-23 is Vice Chair
9 Miller, Commissioner Shapiro and Commissioner May, Office of
10 Zoning staff Ms. Sharon Schellin, Office of Attorney General
11 staff Mr. Tondro and Ms. Lovick.

12 Office of Planning staff will be joining us
13 shortly as well as the District Department of Transportation
14 Mr. Zimmerman.

15 I will incorporate the opening statement of the
16 other hearings into this record as well and go straight to
17 Ms. Schellin. Ms. Schellin, do we have any preliminary
18 matters?

19 MS. SCHELLIN: No, sir.

20 CHAIRMAN HOOD: Okay. So, tonight we're going to
21 hear rebuttal, cross and rebuttal, and closing. So Mr.
22 Glasgow, you may begin.

23 MR. GLASGOW: Thank you. Do witnesses need to be
24 sworn?

25 CHAIRMAN HOOD: Oh, that's right. I figured

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1 everybody that was here the other night would be the same.

2 Everybody who's going to be testifying would you
3 rise to please take the oath? Even if you took it the other
4 night, tonight -- well, you know what, if you're going to
5 testify tonight rise to take the oath.

6 (Whereupon, the witnesses were sworn.)

7 CHAIRMAN HOOD: So, the people who are going to
8 be testifying tonight is the applicant and the parties. If
9 you're -- individuals, we've already been through all that.
10 Okay? Are we on the same page?

11 It's just the rebuttal. So the only people who
12 will be --

13 MS. SCHELLIN: Are testifying are just the
14 rebuttal witnesses. The others are just cross examining.

15 CHAIRMAN HOOD: So even at that we want to make
16 sure you're telling the truth when you answer questions as
17 well.

18 So I know what I said so let's just govern
19 ourselves and move in that fashion. Okay. Mr. Glasgow.

20 MR. GLASGOW: Thank you. Good evening, Mr.
21 Chairman, members of the commission. My name is Norman M.
22 Glasgow, Jr., the law firm of Holland & Knight.

23 I think all these witnesses have been identified
24 in the record before so we'll just get right into the
25 rebuttal.

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1 The first question is Mr. Dettman referring to
2 slide 1. You'll see the slides as we go through the
3 presentation.

4 CRD states in its presentation and in its response
5 to the October 2018 revised plans that the density of the
6 project is unchanged. Is this an accurate statement?

7 MR. DETTMAN: It's not. Compared to the plans
8 that were heard by the commission in January of 2018 the
9 density of the project has been reduced. You can see this
10 table here which compares the density and the allocation of
11 square footage throughout the building from December 2017 and
12 October 2018.

13 Comparing those two you can see in terms of gross
14 floor area there's been an approximately 42,600 square feet
15 removed from the project. That's a reduction in density of
16 0.27 FAR.

17 We were able to recapture some of that square
18 footage in the cellar area which as the commission knows
19 cellar area does not count towards gross floor area, but it
20 is subject to inclusionary zoning which we'll touch upon
21 later.

22 But again we were able to capture approximately
23 21,000 square feet in cellar and penthouse space. So the net
24 reduction in terms of square footage still is almost 22,000
25 square feet.

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1 I think it's worth taking just a quick step
2 backwards and showing the commission in terms of the
3 reduction in the density of the project from the very first
4 time Valor showed it to the community which was in October
5 2015 that's an entire year, that's a full year before Valor
6 was even comfortable submitting the project to the
7 commission.

8 So in October of 2015 Valor was contemplating a
9 PUD and they presented that PUD to the commission -- to the
10 ANC.

11 Looking at that project and comparing to the
12 project that's currently before the commission the current
13 revised plan submitted in October 2018 is approximately
14 almost 95,000 square feet smaller, less dense than the very
15 first project that was shown to the community. And that's
16 in direct response to a lot of the comments from the
17 community.

18 In terms of building height the reduction from the
19 very first project shown is approximately 24 feet. And
20 there's 38 less units.

21 In terms of the table on the right-hand side you
22 can see that these substantial reductions in the project as
23 a result of the substantial community engagement that Valor
24 took place in, a total of 54 community meetings Valor either
25 hosted, participated in, attended.

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1 I think that's -- roughly 34 of those meetings
2 were directly with the community.

3 MR. GLASGOW: Ms. Alexander, CRD included a slide
4 in its presentation that super imposes a series of homes over
5 Valor's Yuma Street elevation drawing.

6 There was also testimony provided by a homeowner
7 along 48th Street that shows a comparison of their house
8 relative to the project. Are those depictions accurate of
9 the project's relationship to the surrounding context?

10 MS. ALEXANDER: No, they are not. And I will show
11 briefly how that is true.

12 First, this image you're seeing on the screen does
13 not take into account the variety of scale of homes along
14 Yuma, and secondly it does not account for the distance in
15 which these homes are separated from our project.

16 A more accurate depiction of the relationship of
17 these homes to our project is in our slides showing the
18 street sections of the project along Yuma.

19 The first here showing the excess of 90 foot
20 separation between our project and the home across the
21 street.

22 Again moving east -- west along Yuma again a
23 separation in excess of 90 feet, and in some places even more
24 due to courtyards.

25 And then lastly at the lowest most point due to

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1 grade we have separated our project a full 137 feet from the
2 adjacent home. So that distance is very important to take
3 into account and along with the setbacks and terracing that
4 we provided.

5 This 50mm photo shows the relationship of the
6 homes on the left to the existing site on the right.

7 You can see both the terracing of the homes as
8 they go up the hill and the large context trees. Both of
9 those also help mitigate the scale between our project and
10 the existing homes.

11 In terms of the home at the corner of 48th and
12 Windom Place this home was also characterized by the drawings
13 seen here as submitted by the opposition as a story and a
14 half structure that was in this case related to our project
15 in this way in their depiction.

16 A more true and accurate depiction of this project
17 is both the scale of the project as seen from our project
18 site is both a two story structure with a tucked below garage
19 and an attic level.

20 And its relationship to our project, this is a
21 section through that home is you can see our project and that
22 home, we are actually very sensitive and almost comparable
23 in height to that home in our project scale.

24 And lastly, just to clarify all of the sections,
25 the street sections we prepared were based on surveyed

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1 information of the ridge heights of those homes. So they are
2 accurate.

3 MR. GLASGOW: Ms. Alexander, CRD includes a slide
4 prepared by Digital Design that shows a view of the project
5 from Windom Place. Would you say that that slide is an
6 accurate depiction of the project and its visual impacts from
7 that vantage point?

8 MS. ALEXANDER: It's very hard to answer that
9 question because of the information given. It is really just
10 a tan mass. There are no floor lines. There is no
11 articulation in any way to get scale or reference points.

12 That said, I would say that our depiction which
13 is a 50mm lens and is taken showing the project in the
14 context with surveyed information and showing the windows,
15 the bays, the materials, the banding and all the elements
16 that make a building a building is a more accurate depiction
17 of what people will see in that vantage point.

18 MR. GLASGOW: Mr. Dettman, CRD states that the
19 project is inconsistent with the comprehensive plan. Do you
20 agree with that statement?

21 MR. DETTMAN: I don't agree with that. We have
22 provided for the commission and updated it all along the way
23 a very thorough comprehensive plan analysis that's been
24 included in the record.

25 There were two main areas that CRD argued where

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1 the project was inconsistent. One was with the future land
2 use map. The other one was with a specific policy in the
3 urban design element that talked about avoiding overpowering
4 contrasts and scale and height.

5 With respect to the future land use map you can
6 see in this kind of montage of historic zoning maps the site
7 has been zoned C-2, C-2-A, MU-4 since the 1958 zoning
8 regulations and nothing really changed even after the first
9 comprehensive plan went into effect in the nineteen eighties
10 when the low density commercial designation was established
11 for the site.

12 And just to note that the C-2-A and the MU-4 zone
13 are the exact same zone. In the carryover to 2016 the
14 development standards of the MU-4 are exactly the same as the
15 C-2-A.

16 The commission has determined previously that the
17 C-2-A or the MU-4 zone is not inconsistent with the low
18 density commercial land use designation on the future land
19 use map.

20 They've also determined that projects that have
21 been designed in accordance with the development standards
22 of the MU-4 or C-2-A zone is also not inconsistent with the
23 low density commercial future land use map designation.

24 And not only has the commission made those
25 determinations, but in the Cathedral Commons case those

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1 determinations were upheld by the Court of Appeals.

2 In terms of that one urban design element about
3 avoiding overpowering contrasts and scale I would submit to
4 the commission that I think the project is consistent with
5 that policy.

6 As Ms. Alexander described along Yuma Street where
7 we do have a substantial change in grade as the grade goes
8 down along Yuma Street from 48th to the alley the building
9 consistently in its massing and in its setbacks as you go up
10 to the upper floors of the building, as the grade goes down
11 the building pulls back from the street, increasing the
12 setback from the houses to the north.

13 There's also -- there was some comments about that
14 there's nothing like the proposed building in the surrounding
15 area and that the AU building is an anomaly.

16 The AU building was constructed in accordance with
17 the regulations in effect at the time. It allowed 60 feet.

18 And if you look across the street there are
19 examples of similarly scaled and massed buildings in the
20 immediate area.

21 And so in terms of the massing and the setbacks
22 and all that stuff the building is consistent with that urban
23 design policy.

24 But it's also consistent in the way that the
25 materials are applied to that building and how those

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1 materials relate to the surrounding context.

2 MR. GLASGOW: Mr. Dettman, CRD states that the
3 project proposes an impermissible increase in density, that
4 there is only 184,000 square feet of gross floor area
5 available as a matter of right yet Valor is proposing 234,000
6 square feet. Do you agree with that statement?

7 MR. DETTMAN: I would agree that there's 184,000
8 square feet available as a matter of right on record lot 9.

9 But this is not a matter of right project. If it
10 was we wouldn't be here undergoing a discretionary review
11 subject to the approval by the Zoning Commission under the
12 voluntary design review process.

13 Under voluntary design review our project lot
14 includes record lot 9 which is the AU building and the old
15 Superfresh lot, but also includes lots 802 and 803, the
16 Historic Spring Valley Shopping Center which are divided by
17 a 20 foot public alley which the voluntary design review
18 provisions specifically provide for.

19 If you look at the gross floor area that is
20 permitted under the MU-4 zoning under voluntary design review
21 you could get up to approximately 286,000 square feet of
22 square footage.

23 Taking out the 200,000 that's already there -- I'm
24 sorry, after taking out the 200,000 square footage that's
25 there there remains 286,000 square feet that could still be

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1 constructed within the project lot. We're providing 234 so
2 we're well within what's available on the project lot.

3 So how do we get there? We get there through the
4 voluntary design review process which allows us to define the
5 project lot separated by an alley and to aggregate density
6 within the project lot.

7 We're allowed to do that through the flexibility
8 and building bulk control that's stated in Sub X Section
9 600.1.

10 Building bulk does include density. If you look
11 at Subtitle G Section 101.2, and this is stated in many
12 places throughout the regulations, Subtitle G just happens
13 to be the MU subtitle which we're zoned MU-4 it says the
14 development standards are intended to control the bulk or
15 volume of structures including height and FAR.

16 MR. GLASGOW: Next, Mr. Dettman --

17 CHAIRMAN HOOD: Mr. Glasgow.

18 MR. GLASGOW: Yes, sir.

19 CHAIRMAN HOOD: I have a request of you.

20 MR. GLASGOW: Yes.

21 CHAIRMAN HOOD: Could you pull your mike closer
22 so we can hear you?

23 MR. GLASGOW: Oh. I'm sorry.

24 CHAIRMAN HOOD: If you're like me I don't usually
25 get those kind of requests. Nobody wants to hear me. But

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1 we want to hear you.

2 MR. GLASGOW: I appreciate that. Mr. Dettman, CRD
3 states that the project is not permitted because it involves
4 a transfer of density that is only permitted in D zones. Do
5 you agree with that statement?

6 MR. DETTMAN: I don't. We've never said that
7 we're relying upon TDRs or CLDs or now credits under ZR16.

8 We have always said that the way in which we can
9 carry out this project is through the discretionary review
10 of the commission under voluntary design review which
11 provides for aggregation of density.

12 MR. GLASGOW: And then does the Heurich Mansion
13 case have anything to do with TDRs in the DD district?

14 MR. DETTMAN: It does not.

15 MR. GLASGOW: Next, relative to the commission's
16 authority to aggregate density Mr. Hanson states that it's
17 premature to cite any ruling on McMillan that is currently
18 in front of the court. Do you agree with that statement?

19 MR. DETTMAN: I don't. We cited to McMillan not
20 in reliance upon the Zoning Commission's initial order on the
21 McMillan case which was as you know vacated by the court.

22 We cited to McMillan as an example in reliance
23 upon the Court of Appeals order that vacated the Zoning
24 Commission's initial Zoning Commission order.

25 In the Court of Appeals decision the Court of

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1 Appeals confirmed that the Zoning Commission can aggregate
2 density.

3 MR. GLASGOW: Ms. Eig, CRD claims that because
4 both the Spring Valley Shopping Center building and parking
5 lot are part of a historic landmark there is no unused
6 density available on lots 802 or 803. Do you agree with that
7 statement?

8 MS. EIG: I do not agree with that statement.
9 Whether a property is designated as historic has nothing to
10 do with the amount of density that is allowed via the zoning
11 regulations.

12 MR. GLASGOW: Next, Mr. Hanson asserts that HPRB
13 would have a role in determining this calculation and
14 allotment of any density from the Spring Valley Shopping
15 Center. Are you aware of any authority that HPRB has under
16 D.C. Historic Preservation Act involving how they would be
17 involved in density aggregation?

18 MS. EIG: No. I'm not.

19 MR. GLASGOW: Also, Ms. Eig, would you say that
20 the commission's approval of the project would promote the
21 general welfare and assist in protecting the Historic Spring
22 Valley Shopping Center on lot 802 and 803?

23 MS. EIG: Yes, because by reducing the amount of
24 density that would be possible to build on that lot there's
25 protection of the building from being overbuilt as might be

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1 possible for the review board to allow.

2 But that would not be allowable because the zoning
3 regulations would prohibit it.

4 MR. GLASGOW: Ms. Eig, CRD argues that HPRB must
5 review the project because the design review boundary for
6 this application constitutes a subdivision because it
7 consolidates the Spring Valley Shopping Center lots -- that's
8 lots 802 and 803 with the Valor and AU building lots. Do you
9 agree with that assertion?

10 MS. EIG: No, there's no subdivision being
11 requested here.

12 MR. GLASGOW: Ms. Eig, CRD states that the 2000
13 Mayor's agent decision and order in Rhode Island Avenue
14 Residential Buildings case confirms that the formation of a
15 project lot that includes additional non-landmark lots gives
16 HPRB review authority over all new construction on the
17 entirely newly formed project lot. Is that your reading of
18 the Mayor's agent order?

19 MS. EIG: No. The Mayor's agent's order
20 references record lots, the combination of lots to have a
21 single record lot. So a lot that is historically designated
22 has been combined through the subdivision process into a
23 single record lot and therefore the HPRB does have authority.

24 But in this case there is no subdivision. And the
25 concept of project lot does not come into this Mayor's agent

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1 order nor into the issue of subdivision in taking from the
2 historic preservation point of view.

3 MR. GLASGOW: Mr. Dettman, will any changes be
4 made to the existing lot configuration within the voluntary
5 design review boundary?

6 MR. DETTMAN: No.

7 MR. GLASGOW: Will the existing public alley
8 separating the Spring Valley Shopping Center from record lot
9 remain as is?

10 MR. DETTMAN: It will.

11 MR. GLASGOW: CRD states that the presence of an
12 alley separating a landmark from the other lots in a combined
13 project is not a disqualifying factor for review by HPRB and
14 cites the row case as an example.

15 Have you researched that case to confirm the
16 accuracy of the statement?

17 MR. DETTMAN: I have. It's not accurate. If you
18 look at the slide here the map on the left is an existing map
19 that shows what is now called the Mass Court development at
20 H between 3rd and 4th Street.

21 And you can see the record lot that currently
22 exists, it's kind of this porkchop shape.

23 This is a photo of the existing development at
24 Mass Court. Here's the existing landmark at the corner and
25 then there's the new development.

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1 When you look back at kind of the changes that
2 have occurred on that site and the lot configuration there
3 was an alley, but that alley was closed.

4 And so we're looking at the alley closing platt
5 on the top here and then we're looking at the subsequent
6 subdivision plat that created that porkchop shaped record lot
7 which gave the HPRB as a result of that subdivision review
8 authority over that development, both the existing historic
9 structure and the new construction.

10 COMMISSIONER MAY: Can I ask a quick question
11 about that? I mean, what we're seeing in the aerial photo
12 is a flipped image. Right?

13 MR. DETTMAN: That's correct.

14 COMMISSIONER MAY: Okay.

15 MR. GLASGOW: Mr. Andres, CRD states that the
16 project will increase traffic through the alley by 600
17 percent. Is that a fair assessment?

18 MR. ANDRES: We believe it's not a fair assessment
19 because that assessment assumes that there's no development
20 on the existing Ladybird site.

21 It's important to note that if you take the
22 preexisting use of the Superfresh grocery store and the
23 associated retail that's about a total of 44,000 square feet.

24 If you were to compare that to our proposed
25 development our development generates approximately 29 trips

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1 more in the a.m., but in the evening our development actually
2 generates significantly less number of trips, in range of
3 about 107 trips in the evening.

4 And the reason for that is typically per square
5 foot grocery and retail generate more traffic than
6 residential square foot.

7 In addition to that I think what's also not
8 consistent is that we are complying with the D.C. Department
9 of Transportation driveway design manual and their
10 requirements to locate new curb cuts in the alley.

11 This is something that's been applied to all of
12 the new projects and all the projects I'd say within the past
13 five to seven years.

14 And it's important to note that because the
15 existing driveways serving the current Superfresh site are
16 not standard. If that building were to go through DDOT's
17 review it would not -- those access points would not be
18 approved.

19 So it's important to put these calculations in
20 context.

21 What's also important to note is that I think what
22 gets lost in all the discussion about traffic impacts and
23 traffic on residential streets associated with grocery, what
24 people don't understand sometimes is that the grocery trips
25 are actually happening today.

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1 People are -- in that neighborhood are going to
2 the grocery store. They're using residential streets.
3 They're using neighborhood arterial streets.

4 They're not coming to this site. They're going
5 to Bethesda. They're going to Wisconsin Avenue. They're
6 going to Chevy Chase. So those grocery trips are on the road
7 today.

8 And it's important for that to be put in context.
9 The opportunity here is that if you put a grocery store of
10 this size and scale in this neighborhood there's going to be
11 more opportunities for people to either take a bike or walk
12 here that currently they cannot. So I think we're providing
13 an opportunity here for that.

14 MR. GLASGOW: Mr. Andres, please discuss what
15 actions or studies you have undertaken since the last hearing
16 to respond to truck and alley utilization issues.

17 MR. ANDRES: So, there are a couple items that we
18 want to bring up that are interrelated.

19 In a previous hearing there was a lot of
20 discussion and comments related to pedestrian improvements,
21 pedestrian circulation.

22 And I think what this slide shows is that with
23 respect to pedestrian improvements in the neighborhood we are
24 essentially upgrading a lot of pedestrian elements at the
25 intersections around the site.

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1 I think it's important to note that we're
2 upgrading a lot of the crossings. We're updating the
3 crosswalks. There are some missing signs that need to be
4 upgraded. So those elements I think are important as part
5 of introducing pedestrian improvements.

6 I think what's also -- again, what's also lost is
7 the fact that the reason why DDOT requires new curb cuts to
8 be in the alley is because they want continuous sidewalks on
9 the public streets.

10 Currently there's a curb cut on 48th Street and
11 a very large curb cut on Yuma that we are eliminating. So
12 essentially we are improving pedestrian access because that's
13 what the intent of DDOT's driveway design manual is.

14 Their intent is to make sure that when possible
15 to create continuous sidewalks and allow for the alleys to
16 serve its purpose which is to address the vehicular impacts.
17 Next slide.

18 So one of the -- based on the feedback that we
19 received especially from you, Commissioner Hood, I believe
20 it was important for us to take a closer look at what can be
21 done in the alley that would introduce a level of awareness
22 for pedestrians in the alley.

23 DDOT had expressed last time they were here, had
24 identified that the priority of the alleys are for the
25 vehicles and for the loading vehicles.

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1 So in this context we are actually essentially
2 providing pedestrian facilities that right now are actually
3 not required by DDOT guidelines.

4 But despite that fact we are committed to provide
5 some level of pedestrian circulation. So in this context we
6 are looking at creating sort of this internal intersection
7 which allows for vehicles to recognize that this is an area
8 where pedestrians could potentially be and it's a treatment
9 that is consistent in other parts of the District. Next
10 slide.

11 So, also in context with vehicles in the alley
12 there was a lot of discussion at the last hearing regarding
13 loading activity in the alley.

14 We -- out of an abundance of caution we went to
15 the alley. So last week on January 29 and 30 we performed
16 some observations of the alley, particularly the north-south
17 alley, the alley where there are currently dumpsters and
18 containers that essentially constrains the alley.

19 So looking at that we did them from 6 a.m. to 9
20 p.m. we identified a total of 65 deliveries over that two-day
21 stretch. So roughly on Tuesday and Wednesday there's a range
22 of about 31 to 34 deliveries per day.

23 What we noticed was that about half of them,
24 actually more than half, about 55 -- in the range of about
25 50 percent of those vehicles are actually attributed to the

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1 tenants of the Ladybird site.

2 So there are existing tenants in there that are
3 generating that loading activity.

4 The other half are being generated by the Spring
5 Valley Shopping Center, but half of that would essentially
6 go away and would be replaced by the loading activity
7 associated with the residential and the grocer.

8 But that activity would not take place in a north-
9 south alley where it currently occurs today. That would
10 occur in the east-west alley because we have our own specific
11 loading dock for that.

12 So, there is going to be some benefit with respect
13 to the way the alley operates in there.

14 MR. GLASGOW: Next, Mr. Dettman, did you prepare
15 the IZ calculations that are included in the October 2018
16 revised plans that are before the commission and do you have
17 comments about those calculations?

18 MR. DETTMAN: I did prepare those calculations.

19 First, they're based on the IZ calculations -- IZ
20 regulations that are currently in effect and in no way are
21 based upon the amended IZ regulations proposed in case 0433-
22 I.

23 The mathematics, the calculations that you're
24 looking at here would also not change at all if the
25 amendments proposed under 0433-I would go into effect prior

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1 to the commission voting on the project.

2 The only thing that would change through those
3 amendments would be that the provision that prohibits an IZ
4 unit to be located in the cellar which we've already
5 committed to not include in this project.

6 Just to touch quickly upon the testimony provided
7 by Ms. Simon, Ms. Simon states that under Sub C 1003.9 the
8 bonus density utilized would include the residential cellar
9 space and the projections which are not in GFA.

10 I would disagree with that. So if you look at the
11 IZ regulations 1002.3 there is a definition for what bonus
12 density is and it is the 20 percent more gross floor area
13 that someone can construct over and above what's permitted
14 as matter of right.

15 That 20 percent of extra GFA is what bonus density
16 is.

17 Ms. Simon's reliance upon 1003.9 is in my opinion
18 a little bit misplaced because 1003.9 does not redefine bonus
19 density which is defined in 1002.3.

20 It merely says that if you have residential floor
21 area in cellar space or in enclosed projections that that
22 space also gets included in your setaside calculation that
23 you carry out under that last provision, 1003.1.

24 MR. GLASGOW: And Mr. Dettman, where it says --
25 it also says may construct up to 20 percent more gross floor

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1 area. And that up to 20 percent, whatever that is over 20
2 percent, that -- whatever that is that goes from the zero to
3 the 20 percent, that's the bonus density, is that not
4 correct?

5 MR. DETTMAN: That's correct. That is the bonus
6 density. In this case it's the bonus density between the 2.5
7 FAR matter of right and the 3.0 FAR under the MU-4.

8 And so the tables here, there was a comment about
9 how by putting residential units in the cellar Valor was
10 somehow circumventing the IZ regulations and that's simply
11 not the case.

12 It's important to note that no matter where you
13 have residential dwelling units in a building it's subject
14 to IZ, whether it's in the base building, the penthouse, the
15 cellar or projections.

16 It's just a matter of how it gets factored into
17 the calculation. And that really depends upon whether it's
18 considered gross floor area contributing to bonus density or
19 if it's floor area that gets added in after you do the gross
20 floor area related calculations.

21 And so this top table shows you the table that I
22 showed earlier. We have approximately 234,000 square feet
23 of above grade gross floor area.

24 We run the greater of the 10 percent of the bonus
25 density calculation. It turns out that our 75 percent of the

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1 bonus density calc is the higher number so we have to use
2 that one per 1003.1.

3 And then we add in the 10 percent in the
4 penthouse, the 10 percent in the cellar and the 10 percent
5 in the projection areas in order to get that 27,440 setaside.

6 What does this project mean in terms of affordable
7 housing in Ward 3 I think is worth showing the commission.

8 This is information obtained from DMPED's economic
9 development dashboard website which shows the distribution
10 of affordable housing units that have been completed or they
11 are under construction since January of 2015.

12 And over the course of that time only about 53
13 units of affordable housing have been constructed or are in
14 the process of being constructed in Ward 3 over the course
15 of the last four years. Fifty-three units.

16 This project is going to add approximately 27
17 units. It's going to increase the number of affordable
18 housing units in Ward 3 by almost 47 percent.

19 MR. GLASGOW: Mr. Dettman, do the zoning
20 regulations in the 1910 Height Act allow the height of the
21 apartment building to be measured from 48th Street?

22 MR. DETTMAN: It does. Both the zoning
23 regulations and the Height Act specifically speak to
24 buildings that have more than one front and they both allow
25 you to choose which front you use for purposes of measuring

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1 your building height.

2 MR. GLASGOW: Mr. Dettman, Mr. Stover stated in
3 his testimony that Valor would have the commission find 48th
4 Street rests entirely upon the natural elevation of the
5 preexisting slope. Will you address that, please?

6 MR. DETTMAN: Sure. The zoning regulations with
7 respect to measuring a building from the elevation of the
8 curb opposite the middle of the front of the building has
9 nothing to do with having to demonstrate that the elevation
10 of the curb is the same as a preexisting slope, a slope that
11 preexisted the construction of the road network or the
12 construction of the area.

13 The provision that CRD is relying upon, that's Sub
14 B Section 307.7 which you see here, while CRD says that Valor
15 has failed to demonstrate or prove that the curb on 48th
16 Street is the same as the preexisting slope, we've never
17 argued that.

18 What we've argued is that the curb grade elevation
19 has not changed since it was put in at least in the nineteen
20 forties, probably earlier if you look at some of the aerial
21 photos.

22 And that's what 307.7 says. The term curb shall
23 be the curb at grade. And it says when the curb grade has
24 been artificially changed. And based on Mr. Glatfelter's
25 analysis which he'll summarize there's no information out

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1 there that would suggest that the curb grade elevation as it
2 was put in in the nineteen forties or earlier has been
3 artificially increased or elevated at any time since then.

4 MR. GLASGOW: Next, Mr. Glatfelter, based on your
5 research is there any indication that the curb grade
6 elevation of 48th Street has been artificially changed since
7 it was constructed?

8 MR. GLATFELTER: No, and in the interest of
9 brevity I included this in previous testimony but basically
10 looking at all the historical maps from the early nineteen
11 hundreds it appears as though 48th Street has remained
12 relatively unchanged from the looks of the contour maps.

13 MR. GLASGOW: And Mr. Glatfelter, when you had a
14 site inspection did you see any empirical evidence that would
15 verify your observations and your studies?

16 MR. GLATFELTER: Yes. So, it's been argued that
17 the presence of the retaining wall is indicative of an
18 embankment and that's simply not the case.

19 A retaining wall is used to support earth and in
20 this case it was used to maintain the existing elevation of
21 48th Street.

22 Looking back at the development in the area as it
23 progressed 48th Street is in fact held up by that retaining
24 wall.

25 And we -- what you're looking at here is an

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1 elevation section or a profile of the property and as it's
2 changed over time.

3 48th Street has remained relatively, again,
4 unchanged. But in order to provide the subgrade parking the
5 retaining wall was constructed to carve out space and keep
6 48th Street at its existing elevation.

7 MR. GLASGOW: All right. And Mr. Glatfelter, did
8 you find evidence of a tree that had been removed that would
9 substantiate that the grade has not changed on 48th Street?

10 MR. GLATFELTER: Yes. Unfortunately one of the
11 older trees has recently been taken down because it started
12 to grow over the curb line which would indicate that the tree
13 was there prior to or around the time the curb was
14 constructed.

15 It had to be taken down because it was becoming
16 unsafe. It being taken down allowed us the opportunity to
17 actually count the rings which is an industry standard kind
18 of way to age the tree.

19 And we were able to age it at approximately 75
20 years old which is in line with about the development of the
21 nineteen forties development of the single family houses in
22 the 48th grid street.

23 MR. GLASGOW: Thank you. Ms. Alexander, CRD
24 claims that our newest renderings are not accurate. For
25 example, they argue that our renderings make the project look

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1 smaller than it actually will.

2 We also have a video that we want to show as part
3 of the presentation. I see we're getting pretty tight on
4 time, Mr. Chairman.

5 We may need if we can I would say probably an
6 extra 10 minutes to finish everything.

7 CHAIRMAN HOOD: That's fine. You all had asked
8 for 40 or 50, that's fine. Sixty is fine.

9 MS. ALEXANDER: Thank you. All right.

10 MR. GLASGOW: Would you look at your slides 34 and
11 35. CRD continues to claim our newest renderings are not
12 accurate. Would you look at those and explain those?

13 MS. ALEXANDER: Sure. I was also going to say the
14 process in which we went through to create our information.

15 MR. GLASGOW: Yes, please.

16 MS. ALEXANDER: In response to CRD's statements
17 that a 50mm lens was the most accurate lens for depicting our
18 project we revised all of our architectural renderings and
19 in site photos to be 50mm lens.

20 To produce the renderings we combined the Revit
21 model and the survey grading with the Google Earth context
22 info in a rendering program called Lumien. So taking
23 everything and consolidating it into one program which allows
24 us to stipulate that 50mm lens.

25 We also wanted to speak to the comment regarding

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1 the renderings being 100 percent virtual. This is actually
2 a benefit of this method because it doesn't rely on the
3 perilous process of manually inserting and scaling a 3D model
4 inside of a photo doing -- in Photoshop.

5 It allows everything to be instead contained in
6 one program so that that relative scaling is done within the
7 program. And our method can actually be more accurate.

8 In terms of the various -- the depictions of the
9 photos, we took the photos during the summertime and in an
10 effort to be able to see the site we did have to move a
11 little bit closer to the site in some of the photos to have
12 the opportunity to see the site relative to the viewpoint
13 that was seen in the rendering.

14 I tried to take in the lower left here a photo
15 during the winter and then show what that would be if you
16 infilled the trees and that's how you can see basically it's
17 all trees. That's why we moved forward in that photo.

18 Similarly in the other photo that was a tad bit
19 off, about 20 feet off, we moved a little bit to the right
20 again to get past the greenery in the photo so that you could
21 see the site.

22 MR. GLASGOW: Ms. Alexander, can you please
23 discuss what you've done since the last time we were here to
24 respond to the commission's interest in seeing the project
25 and surrounding context from several different vantage

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1 points.

2 MS. ALEXANDER: Yes. We prepared a video. And
3 the thought behind this is that we want to be as accurate and
4 true to how people experience our project.

5 And so using the 50mm lens we wanted to show also
6 how people experience scale relative when movement.

7 To really see scale you need something to move
8 past something else. That's how the human eye works.

9 So when you see the video you can better
10 understand where our project lies relative to the other
11 context images.

12 So we have four clips to share with you today, one
13 down each of the main streets adjacent to our project.

14 We're starting off on Massachusetts Avenue going
15 past the shopping center. Again you can -- as a person you
16 can turn your head left and right and experience the whole
17 context.

18 And then again looking towards the alleyway.
19 Every frame in this photo is a 50mm lens so if you were to
20 stop on any frame. We've also included a series of still
21 images for the record.

22 And then this is on Yuma Street heading towards
23 the east. The homes to your left, our project to the right.

24 Looking at the northwest plaza and the grocery
25 store entrance. Next we're starting on 48th Street and

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1 heading towards the south.

2 You can see the courtyards on the right and the
3 breakdown of our project with the dais and the individual
4 pavilions. And then the townhouses coming up on the right
5 and the AU building in the distance. There's even a bus at
6 the bus stop.

7 And then the last clip for you is the walk along
8 Windom Place. So this is starting at Windom Place and then
9 heading towards our project heading towards the west.

10 All of the homes are taken from Google Earth and
11 then verified with our surveyed information.

12 And then lastly the small pocket park at the end
13 of Windom Place. And the five townhomes.

14 MR. GLASGOW: Thank you. Mr. Lansing, Subtitle
15 X Section 604.8 requires the Zoning Commission to make a
16 finding that the project meets the criteria of Subtitle X
17 Section 604.7 in a way that is superior to any matter of
18 right development possible on the site.

19 Would you be able to provide the grocery store
20 that has been highly desired by many in the community?

21 MR. LANSING: No, we would not.

22 MR. GLASGOW: Is that because there is only 2,300
23 square feet of commercial FAR left on a completely matter of
24 right project without the design review aggregation?

25 MR. LANSING: That's correct.

1 MR. GLASGOW: Would you commit to provide a design
2 with the same high level of facade articulation and detailing
3 and the same extensive massing reductions and setbacks in
4 order to respond to the surrounding context and reinforce the
5 pedestrian realm?

6 MR. LANSING: We would not, no.

7 MR. GLASGOW: And that's not that you may not, or
8 may or may not do it, but you would not commit to do it.

9 MR. LANSING: Correct.

10 MR. GLASGOW: Would you commit to provide
11 sidewalks along the alleys and the other improvements to
12 clean up and organize the alleys?

13 MR. LANSING: We would not commit to do that.

14 MR. GLASGOW: And once again, it's not that you
15 may or may not do it, but you would not commit to do that.

16 MR. LANSING: That's correct.

17 MR. GLASGOW: Would you commit to provide the same
18 publicly accessible open spaces such as the northwest plaza
19 and Windom Park?

20 MR. LANSING: No.

21 MR. GLASGOW: Would you commit to provide the same
22 high-quality materials that are applied on all sides of the
23 building and as part of the design of this project in
24 responding to the historic and architectural character of the
25 Spring Valley Shopping Center?

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1 MR. LANSING: No, would not.

2 MR. GLASGOW: Would you obligate yourself to
3 construct a LEED gold certified project?

4 MR. LANSING: No, would not.

5 MR. GLASGOW: Is there a cost premium to providing
6 -- committing to provide a LEED certified gold project?

7 MR. LANSING: There is, yes, and it's significant,
8 generally speaking about 3 percent of the total construction
9 cost of the project.

10 MR. GLASGOW: Would you commit to providing all
11 of the additional pedestrian improvements through the site
12 along the alleys and at the intersections and the HAWK signal
13 along Massachusetts Avenue?

14 MR. LANSING: No, we would not.

15 MR. GLASGOW: Do you know the approximate cost of
16 those improvements?

17 MR. LANSING: Approximately \$500,000.

18 MR. GLASGOW: Thank you. Mr. Dettman, in your
19 expert opinion is the project consistent with the
20 comprehensive plan?

21 MR. DETTMAN: It is.

22 MR. GLASGOW: In your expert opinion does the
23 project meet the design review criteria of Subtitle X Section
24 604.7?

25 MR. DETTMAN: I believe it does and we've provided

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1 thorough analyses of both comprehensive plan and the design
2 review criteria that have been submitted to the record.

3 MR. GLASGOW: In your expert opinion does the
4 project meet the design criteria and is in a manner that is
5 superior to any matter of right development possible on the
6 site?

7 MR. DETTMAN: I believe that it does.

8 MR. GLASGOW: Mr. Lansing, would you describe your
9 community engagement over the past several years and how this
10 engagement has resulted in changes to the project?

11 MR. LANSING: Sure, happily. I think first and
12 foremost, Mr. Chair, members of the Zoning Commission, I'd
13 like to thank each of you for -- sincerely for the amount of
14 time and attention you've put for this case.

15 This has been a very long, involved road of
16 engagement. We recognize that. Certainly longer than I
17 think we anticipated when we first started out over three
18 years ago talking to the community on this project.

19 We recognize that during the course of these
20 proceedings the commission could have easily just said enough
21 and moved on to other zoning matters but you didn't. You
22 gave us the chance to continue to work with the community to
23 come back to you five times now. Again, no small effort.

24 So I think it's with that commitment to this
25 process, allowing it to play out the way that it has that has

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1 brought about I think the proper collaboration with the
2 neighborhood, the opposition, our project team with the
3 upshot of what we truly believe to be a phenomenal project
4 for the District.

5 I'd like to comment on just a couple of things
6 that has come up across the record over the past five
7 hearings if you will.

8 There has been a lot of chatter from the
9 opposition saying things along the lines of that this process
10 has been one where we have failed to engage and negotiate
11 with the community.

12 And it's hard, it's very disappointing because
13 it's just downright incorrect.

14 I appreciate the Commissioners John McHugh from
15 ANC 3E and Troy Kravitz from ANC 3D for the recognition and
16 honest portrayal of the commitment that we have shown to the
17 community.

18 And as our listing of community meetings shows and
19 as Mr. Dettman touched on earlier we have worked with the
20 community for an entire year before we felt comfortable
21 bringing anything to the commission.

22 A fun tidbit. I can recall three years ago
23 standing before ANC 3E in our first public meeting and saying
24 to them, and would encourage people to check the transcript.
25 I said this is going to be a very collaborative process.

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1 You're going to get sick of seeing me because we're going to
2 do this a lot until we get it right.

3 And that is how this has played out. We designed
4 it that way because we believe that's the proper thing to do
5 as a developer in the District of Columbia.

6 We do that because we believe the importance of
7 engaging very early on with the neighbors.

8 We are no stranger to this and this is very
9 important to us. Our offices are based in this neighborhood.
10 We have team, parts of our team that live in this
11 neighborhood.

12 And I think it's also important to note that we
13 are no stranger to this. We have been involved in seven
14 successful entitlement cases over the past seven years.

15 We have sat before this actual commission, the BZA
16 and in some cases HPRB. Those cases have taken us through
17 and had us fortunately deal with Wards 1, 2, 3, 6 and 7.

18 So again I have to say it again that we are no
19 stranger to the community engagement process and we wear our
20 successful collaboration with these ANCs and the public very
21 proudly.

22 If I could I'd also like to touch a bit on the
23 comments made regarding the multiple postponements that have
24 occurred during this process just so that we can set the
25 record straight.

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1 The opposition has led the commission to believe
2 that postponements show that we are not acting in good faith,
3 that the project is half baked.

4 As the record clearly reflects these requests
5 further demonstrate our willingness to work with the
6 community and its commitment to the project. I'm going to
7 quickly detail those for you.

8 Prior to the initial hearing in January of 2018
9 our December 2016 and August 2017 requests were made
10 specifically at the request of ANC 3E to provide more time
11 to review our CTR.

12 Our February 2017 request was made because we took
13 it upon ourselves to reevaluate aspects of the project in
14 response to several questions raised by the ANCs and the
15 community regarding the size of the grocery store, the design
16 of the buildings, general transportation issues and because
17 we were responding to questions from OP regarding the
18 definition of the project boundary.

19 Following the initial hearing our February 2018
20 request was to allow additional time for us to continue
21 working with the Office of Planning to resolve the IZ
22 interpretation issue that arose.

23 Our April 2018 request was submitted because we
24 needed to reevaluate aspects of the project in response to
25 community concerns and also due to changes made as a result

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1 of the outcome of the IZ interpretation issue which required
2 us to go back to the owners within the project boundary to
3 discuss the financial structure of the project.

4 Please make no mistake the outcome of the IZ
5 interpretation issue had a crushing impact on this project.
6 Crushing impact.

7 We continued to go on. Finally, after significant
8 effort to get the project back on track. Again, no small
9 effort. Five hearings. With the landowners we also
10 additionally got a different grocer on board which was at the
11 response of once again the community.

12 Our 2018 request of June was necessary to allow
13 us time to revise the project plans to what you see before
14 you today.

15 Yet after all the significant reductions,
16 countless community meetings and multiple postponements
17 requested for the benefit of the community CRD now says that
18 we refused to negotiate with them because they say the
19 building is still a floor too high even though it's 6 and a
20 half feet below the maximum matter of right height. We are
21 below the maximum matter of right height.

22 In fact, because the opposition parties have not
23 gotten everything they demanded back in October of 2016 they
24 now characterize the substantial changes we have made in
25 direct response to their concerns and the postponements as

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1 a moving target.

2 They say that we are trying to deceive the
3 commission with misleading renderings when everything we are
4 now preparing is based upon the specs that even their own
5 witnesses say we should use.

6 Mr. Chair and members of the commission, the
7 project that is before you today is drastically different
8 than what was first shown to the community a year before you
9 even saw it, and very different from when it was first
10 brought to the commission.

11 I can honestly tell you that the project is
12 markedly better than its first iteration and that is the
13 direct result of our intense engagement with the community
14 and especially the contributions made by the opposition.

15 It has been a very healthy and celebrated process.

16 We are now at a point where we have squeezed
17 everything out of this project that we can. We have made all
18 the additional commitments that we can to satisfy the
19 community.

20 Any further reductions will indeed render this
21 project unachievable for us which would be a terrible
22 disappointment to the significant support of this project
23 including both ANCs, DDOT, OP, other parties and persons as
24 well as this project team.

25 The project before you is now right sized. It's

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1 within a matter of right height and density. It will replace
2 a substantially underutilized site that lacks any
3 environmental sustainability with a new LEED gold certified
4 mixed use project in a designated neighborhood commercial
5 center.

6 It will restore a highly desired full service
7 grocery store to the neighborhood. It will increase the
8 number of affordable dwelling units in Ward 3 by almost 50
9 percent.

10 Finally, after significant engagement with the
11 community it reflects an equitable solution that addresses
12 and balances the community's interests and concerns.

13 This truly is a phenomenal project for the
14 District and it is due largely in part to the efforts of all
15 of the people in this very room. The commission, the
16 applicant, the neighborhood and the opposition. And also the
17 patience for the process we have all collectively worked
18 through.

19 With that I'd like to thank you, Mr. Chair and
20 other members of the commission for your time, your
21 attention, your patience on the consideration of your
22 decision for this one of a kind project.

23 MR. GLASGOW: That concludes our rebuttal.

24 CHAIRMAN HOOD: Okay. Thank you all for your
25 rebuttal presentation. I have a couple of quick questions

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1 and then I will turn it over to my colleagues.

2 Mr. Glasgow, you mentioned a few questions that
3 you asked. You asked Mr. Lansing was he committed to it or
4 not committed to it. Do we have those questions in the
5 record?

6 MR. GLASGOW: No, those are questions we developed
7 for rebuttal. We can get those.

8 CHAIRMAN HOOD: I would like those questions along
9 with his answers. It doesn't have to be long, I don't need
10 a book, just some snapshot so I can go back and look at what
11 you asked.

12 MR. GLASGOW: Sure.

13 CHAIRMAN HOOD: Ms. Alexander.

14 MS. ALEXANDER: Yes, sir.

15 CHAIRMAN HOOD: So, am I to take the video that
16 you showed me, am I to take that as I'm not going to get what
17 I asked for, the still pictures?

18 MR. GLASGOW: No, you have the still pictures
19 also.

20 MS. ALEXANDER: We have the still pictures as
21 well.

22 CHAIRMAN HOOD: Okay. Can you tell me --

23 MR. GLASGOW: There's a packet of them that's
24 about 15 still pictures.

25 MS. ALEXANDER: We actually have that to share.

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1 CHAIRMAN HOOD: Are they in this package?

2 MR. GLASGOW: No, that doesn't look like the same
3 package. We had a package of the still pictures also.

4 MS. ALEXANDER: I have seven printed copies of
5 them. I thought that was already handed up. My apologies.

6 CHAIRMAN HOOD: We don't have that. Okay, so I
7 took that as I wasn't going to get that. I was going to have
8 to look at the video again.

9 MS. ALEXANDER: No, no, we have those.

10 CHAIRMAN HOOD: The video didn't get it for me.

11 (Simultaneous speaking)

12 CHAIRMAN HOOD: So if I can get that that would
13 be very helpful.

14 And the -- Mr. Dettman, expand a little bit more
15 about the affordable housing component. I think you had a
16 chart that's been realized in Ward 3. That really caught my
17 interest.

18 MR. DETTMAN: Yes. So again this is data that's
19 taken right off of DMPED's website. And it's a great
20 website. It tracks a lot of economic development indicators
21 throughout the city one of which being the delivery of
22 affordable housing.

23 And the numbers sort of speak for themselves.
24 Ward 3, it's been mentioned during the course of these
25 proceedings that Ward 3 is a little bit behind in terms of

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1 its role in addressing the District's need, extreme need for
2 more affordable housing.

3 Part of that is that Ward 3 is largely a single
4 family detached area. There's very few opportunities for new
5 multifamily development.

6 And we see this site as being one of the few and
7 an ideal opportunity for a new multifamily development that
8 can incorporate a substantial number of affordable housing
9 units.

10 CHAIRMAN HOOD: So Ms. Alexander, let's go back
11 to the pictures. I saw these. And I heard you say that the
12 pictures to the left of your project like on page 6 it's a
13 scale.

14 MS. ALEXANDER: Keep going.

15 CHAIRMAN HOOD: Keep going, page 6? I'm almost
16 at the end. Seven.

17 MS. ALEXANDER: Yes, keep going. That was the
18 whole presentation so you have to get to the end.

19 CHAIRMAN HOOD: Oh, okay. Maybe I need to keep
20 going, okay.

21 MS. ALEXANDER: Yes.

22 MR. GLASGOW: It's the last 15 sheets.

23 MS. ALEXANDER: Have you gotten there yet?

24 CHAIRMAN HOOD: I've been there, but it's not
25 doing it for me so I'm trying to figure out what's going on.

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1 MR. GLASGOW: Can I approach the bench?

2 CHAIRMAN HOOD: So you're talking about these
3 pictures right here. I'm going to hold this up so everything
4 can see it. This is what you're talking about, right?

5 That still is not doing it for me. That's not
6 what I asked for. That's not what I asked for.

7 I wanted -- and I understand about what you used.
8 I want exactly what you said you were not going to provide.
9 I don't know if you said it. I don't want to put those words
10 in your mouth.

11 But I want to see like behind the shopping center
12 how that building fits in the existing situation, existing
13 circumstances, how it exists.

14 And I know that's maybe old-fashioned, but maybe
15 I'm old-fashioned. I'm getting older. So I need to be able
16 to see exactly the conditions right now, nothing fancy.

17 I'm sure that -- well, I'm not going to say that
18 it doesn't look that nice, but I'm sure it doesn't look like
19 what I see here.

20 I want to see what the exact situations are, just
21 what you said with it plopped down in the area where it's
22 supposed to be. Is that doable?

23 I see that, but that doesn't do it for me.

24 MS. ALEXANDER: It is doable. It is 100 percent
25 doable. Our hesitation and I'll say it only as that,

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1 hesitation.

2 We will do it, but our hesitation is that there
3 is an opportunity for error. Whenever you take our 3D model
4 which is from a Revit program and then try and manually
5 insert it into the photo you are manually scaling, manually
6 placing and you have to use say some scale reference points
7 which we've done in the past, you've seen that in the past
8 and there was errors that we did in our best intended efforts
9 to create the accurate model in the photo.

10 So we can do it again and we will do our very best
11 and sincere effort to make it accurate.

12 CHAIRMAN HOOD: So let me ask you this. The plus
13 or minus, what are you saying? It may look larger? I'm
14 trying to follow you.

15 MS. ALEXANDER: So, for instance, the first time
16 we did it we didn't realize that the default setting on an
17 iPhone was a wide angle lens. And so a wide angle lens, once
18 you insert a 3D image from Revit into a wide angle lens it
19 makes that building smaller in that insertion than it
20 actually would be in a different lens setting. So we learned
21 that lesson.

22 The second time we were still off by a little bit
23 and we were corrected once again.

24 So then the third time instead of trying to keep
25 beating our head against the wall we came up with a new

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1 method and the new method was not having us do that manual
2 insertion.

3 CHAIRMAN HOOD: Okay. I will leave it up to the
4 applicant. I just know what I need and it would help me get
5 to where I need to be.

6 If I don't get it I understand and I'll just deal
7 with that accordingly.

8 MR. GLASGOW: Mr. Chairman, can I ask one question
9 on that? If we could get feedback that the 15 views that we
10 have are sufficient to respond in doing what it is that
11 you've requested.

12 CHAIRMAN HOOD: That would do it for me, but I
13 want to see what's the existing circumstances right now.

14 And I understand you did the massing. I see that.
15 But I want to see the existing. I want to see what's really
16 there, like being a realist. I want to see what's exactly
17 there and how that building is going to fit.

18 And I understand, I can balance the issues about
19 some of the offness of the camera. I can deal with that.
20 Because it's been done in the past and I can tell you the
21 truth, I don't know whether it was off or not. But it's just
22 being able to visually be able to see it in the existing
23 circumstances and that is very helpful to this commission.

24 MS. ALEXANDER: We can certainly provide that.

25 MR. GLASGOW: All right. But the 15 shots that

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1 we have respond in that fashion.

2 CHAIRMAN HOOD: I don't know if I need 15. I
3 would say four. I would say four, four different views. Not
4 the same street. Four different areas, especially the one
5 over top of the shopping center. The existing circumstances
6 right now. Okay? All right.

7 So I don't need 15. Four would do it for me. I
8 don't know if others need anything. So okay.

9 All right, let's open it up. Commissioner
10 Shapiro.

11 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.
12 Could we go back to that slide with the alley improvements
13 that you were talking about? Yes, that's the one.

14 So help me to understand. I may have missed this.
15 Is there something new that you're proposing here or is this
16 what you had already proposed?

17 MR. ANDRES: So, Commissioner Shapiro, so what we
18 did is we summarized all of the improvements that we
19 committed to around the site.

20 But then what we've sort of prepared in response
21 to comments related to some of the conditions in the alley
22 is we've created that center zone is textured pavement that
23 provides --

24 COMMISSIONER SHAPIRO: So the textured pavement
25 is added.

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1 MR. ANDRES: Yes, that's correct.

2 COMMISSIONER SHAPIRO: Okay, thank you. And the
3 mirrors too?

4 MR. ANDRES: And the mirrors, yes.

5 COMMISSIONER SHAPIRO: Are added.

6 MR. ANDRES: And again those were in response to
7 great comments we received from the commission as well as the
8 neighbors.

9 COMMISSIONER SHAPIRO: So those are the two that
10 I saw that looked out. Is there anything else here that's
11 added?

12 MR. ANDRES: That is it. Those are the primary
13 components of that.

14 COMMISSIONER SHAPIRO: Okay. What about the
15 intersection at Warren and what is that --

16 MR. ANDRES: 48th?

17 COMMISSIONER SHAPIRO: 48th.

18 MR. ANDRES: So, at the intersection of Warren and
19 48th there was a comment about -- so at that intersection
20 we've identified the need to make that an all-way stop and
21 DDOT is actually going to implement that.

22 COMMISSIONER SHAPIRO: So that's new.

23 MR. ANDRES: Yes. And that was based on sort of
24 new comments that we got from DDOT.

25 COMMISSIONER SHAPIRO: Okay. So I just want to

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1 keep going on this. I'm hearing three new things here. Is
2 there anything else that's new?

3 MR. ANDRES: That is it. Everything else we've
4 previously identified.

5 COMMISSIONER SHAPIRO: Sidewalks are same
6 location, same width.

7 MR. ANDRES: Yes, that's correct.

8 COMMISSIONER SHAPIRO: And I'm a little confused
9 about the HAWK light.

10 MR. GLASGOW: Can we confirm the prior answer and
11 then?

12 COMMISSIONER SHAPIRO: Please.

13 MR. ANDRES: That is it. Everything that we've
14 detailed is in there.

15 COMMISSIONER SHAPIRO: Okay, thank you. So now
16 back to the HAWK light. So you have or have not committed
17 to paying for the HAWK light if that's what DDOT wants?

18 MR. LANSING: We have committed to it.

19 COMMISSIONER SHAPIRO: Okay, that's all I have.
20 That's not what I heard either. I was confused about the
21 questions.

22 MR. GLASGOW: All right. The question was in the
23 context of what is better about this project than any matter
24 of right project. There's that provision right at the end
25 of Subtitle X Section 600.

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1 COMMISSIONER SHAPIRO: But let me back up just so
2 I'm asking the right question.

3 MR. GLASGOW: Sure.

4 COMMISSIONER SHAPIRO: You asked a series of
5 questions.

6 MR. GLASGOW: Right. He is committing to all of
7 those things, but he would not commit to them if he was just
8 doing matter of right. Those are all being committed to
9 because we're doing the design review.

10 COMMISSIONER SHAPIRO: So everything on that list
11 is things that --

12 MR. LANSING: We're doing.

13 (Simultaneous speaking)

14 MR. GLASGOW: All of those things are being
15 committed to because of design review.

16 CHAIRMAN HOOD: That's not the way I -- that's why
17 I asked, but I still want it anyway.

18 (Simultaneous speaking)

19 COMMISSIONER SHAPIRO: I wasn't quite sure what
20 that was about.

21 MR. GLASGOW: No, there's not a shock and awe
22 strategy. It was to sort of -- well, it was to highlight,
23 I'm very glad we're having this discussion. It was a
24 highlight of all the extra things that are occurring as a
25 result of the design review that would not otherwise occur.

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1 COMMISSIONER SHAPIRO: Okay. One last question
2 while I'm thinking about it.

3 There was some testimony around the trucks that
4 come in off of Yuma and the damage that -- visible evidence
5 of damage that's been done because it's not wide enough and
6 trucks drive over the corner. And that's both with the
7 Spring Valley Shopping Center but also on what will be the
8 front of the grocery site.

9 I'd like to hear a little bit more about that as
10 well.

11 MR. ANDRES: So interestingly enough that's what
12 prompted us to actually go out in the field to do our
13 observations.

14 So what we wanted to get a sense of was (a) how
15 many roughly deliveries are there today without the project,
16 and then (b) I guess we were trying to figure out what
17 contribution of the existing tenants in our building on the
18 Ladybird site that would essentially go away and be replaced.

19 We didn't know what that number was and so based
20 on our observations it turned out to be 50 percent. So if
21 anything the alley gets cleaned up by -- essentially that
22 north-south alley gets cleaned up by 50 percent because the
23 Ladybird development with respect to both the grocery loading
24 and the residential loading will be accessed off of the east-
25 west alley.

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1 COMMISSIONER SHAPIRO: So, that's -- and I
2 appreciate that. That's related to the volume.

3 The question that I heard was more related to is
4 the alley, the throat of the alley just too narrow. And so
5 the trucks can't easily turn in and turn out of it.

6 MR. ANDRES: So, there are limitations to the size
7 of vehicles. Just in terms of context there -- and this was
8 a little bit -- some of this was sort of mischaracterized in
9 previous hearings.

10 The largest size trucks that we're using here are
11 WB-50s which are 55 foot trucks. There are other retailers
12 in the District that we've worked with, Whole Foods, Safeway,
13 Walmart. They use the large, it's called WB-65 which are 72
14 foot trucks and in some cases 75.

15 And those trucks, they physically can't be
16 accommodated here. And that's why we've worked with the
17 retailer to see what trucks can be used here. So I think we
18 want to make that clear.

19 The second thing is we've submitted in exhibit 244
20 in the record all of the loading turning in and turning out.

21 And primarily the major route for a lot of the
22 activity would be essentially coming in and out of 48th
23 Street because the movements allow for better functionality
24 and maneuverability. So that's that element.

25 With respect to the north-south alley that was

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1 brought up at the last hearing we're doing a great job of
2 trying to clean it up. We're consolidating some dumpsters
3 and in that consolidation there's compactors that would be
4 introduced to help essentially reduce the number of trash
5 trips that would be associated with it.

6 We understand that there are some practical
7 limitations for some of the other retailers in Spring Valley
8 Shopping Center. That includes CVS. Those large trucks,
9 we're going to see if we can work with them to see what we
10 can do to coordinate as part of our loading management plan.

11 MS. ALEXANDER: And one other thing to add just
12 on the screen here. Some of the difficulty right now that
13 may be happening with trucks entering the north-south alley
14 is the location currently of a few of the trash receptacles
15 in the alley adjacent to that more constrained entry point.

16 If you see we are actually going to alleviate that
17 situation by consolidating the trash back further into the
18 alley system.

19 COMMISSIONER SHAPIRO: And actually while I'm
20 thinking about it one more. What you have in -- go back to
21 that one with the marked papers if that's easy to get back
22 to.

23 So the question is related to -- this is the
24 chairman's question way back when around the sidewalk system
25 that brings you from Mass into the alley and up, and the only

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1 way to take advantage of that is actually to cross the alley.

2 So, I'm having trouble figuring out what you --
3 in this drawing what you imagine the pedestrian path would
4 be coming off of Mass.

5 MR. ANDRES: So that black sidewalk that comes
6 from Mass Ave is actually -- it runs parallel to the alley.
7 That sidewalk we're constructing until we can physically no
8 longer extend it.

9 There are existing HVAC equipment behind that
10 building that prevents us from running that all the way up.
11 And that's where we start introducing the textured pavement
12 to allow for that opportunity for pedestrians to be in that
13 space.

14 And there are good sight lines because there's no
15 real constraints for anybody who are stopping at that
16 intersection to be able to not see them. So that provides
17 us the opportunity to get to that walkway.

18 COMMISSIONER SHAPIRO: Okay. So you carry the
19 sidewalk up to here and then you have the -- okay, I'm with
20 you. Thank you.

21 MR. ANDRES: Okay, thank you.

22 COMMISSIONER SHAPIRO: That's all I have, Mr.
23 Chair.

24 CHAIRMAN HOOD: Any other questions up here?
25 Commissioner May.

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1 COMMISSIONER MAY: I just have one. I appreciate
2 the detailed rebuttal not having been here for the previous
3 hearings but having to view all that and get caught up. It's
4 great fun getting caught up.

5 But I was interested in the one photo I think it
6 was from Windom Place. You had a photo with a simulation
7 next to it. At least I think that's what I remember. Yes.

8 So the one on the left is the one that was
9 provided by the party in opposition, right? Is that right?

10 MS. ALEXANDER: Correct.

11 COMMISSIONER MAY: Okay. And in your simulation
12 -- this is your revised plan. And at least in this version
13 you're not showing the telephone poles. They were in the
14 video although very lightly shown, right?

15 MS. ALEXANDER: Correct. We made everything
16 transparent as to not obscure the building.

17 COMMISSIONER MAY: Right. So, it's an important
18 aspect of context. Kind of like trees. Those poles are
19 really, really present in that photo on the left side.

20 When you do your photo simulation drop in will
21 that all remain there then? Will you be able to keep that
22 there?

23 MS. ALEXANDER: Yes, we'll be able to slide our
24 rendering behind those elements.

25 COMMISSIONER MAY: All right. I think that's my

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1 only question.

2 CHAIRMAN HOOD: Okay. Vice Chair Miller?

3 VICE CHAIR MILLER: Thank you, Mr. Chairman. I'm
4 glad we're finally at this point. I look forward to the
5 cross examination of rebuttal, but I think it was excellent
6 rebuttal testimony and I appreciate everybody's in the
7 neighborhood and the city's participation in this case for
8 such a long period of time. And my colleagues' patience
9 also. I think we're all looking forward to it coming to a
10 conclusion of one sort or another because it's ready, we're
11 all ready to move on.

12 I understand the chairman's request for the
13 existing conditions. I'm so familiar with that neighborhood
14 I can picture how this fits into the existing conditions.

15 But I appreciate the video that you provided. I
16 think it was helpful for me at least.

17 And my problem with this project as I said from
18 the beginning is the historic designation of the Spring
19 Valley Shopping Center on Massachusetts Avenue.

20 This is where this project should be located, not
21 on the back end next to the residential neighborhood. That
22 is -- it is what it is. That's what the neighborhood wanted,
23 this to be a historic strip shopping center like we have in
24 our neighborhood too in Cleveland Park which seems wrong from
25 an urban planning perspective especially in our neighborhood

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1 where it's on top of a Metro station. Unbelievable.

2 So, I think I was going to make another more
3 relevant comment, but -- this has been a vacant underutilized
4 site for too many years and it needs to be revitalized and
5 used and serve the neighborhood.

6 It's in a vibrant neighborhood. It's unbelievable
7 that it's been vacant for five years in such a vibrant
8 neighborhood. So I'm hoping that we'll get to a solution
9 that will allow it to be -- to serve the neighborhood and the
10 city.

11 I know we're not in deliberations, but I was kind
12 of beginning to go there. So I look forward to the cross
13 examination of the rebuttal and the conclusion of this case.

14 And I appreciate the ANCs, both ANCs'
15 participation and the neighborhood association's
16 participation in this case.

17 CHAIRMAN HOOD: Okay, thank you. Any other
18 follow-up questions up here? Okay. And I'm sure Mr.
19 Turnbull will review the record.

20 Okay, let's do some cross examination. Does ANC
21 3D?

22 Mr. Andres, I was going to ask you about the
23 grocery store and the bicycles, but I don't want to get
24 another petition again so I'll just leave that alone for now.
25 Okay.

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1 MR. KRAVITZ: I just have four questions. One of
2 them follows up on Commissioner Shapiro's question to Mr.
3 Andres about changes to the pedestrian movements or the
4 pedestrian traffic plan since the past hearing.

5 If you could pull up that slide again. The next
6 one, sorry. Or that one, yes.

7 It indicates there that there's going to be a stop
8 sign at Windom and 48th. There's currently not a stop sign
9 there. So is that a change from before? There's currently
10 not a stop sign visible.

11 MR. ANDRES: Yes. And actually I guess I
12 neglected to bring that up.

13 That was in response to the comments from the
14 previous hearing.

15 MR. KRAVITZ: Thank you. For I guess the
16 applicant would you join us in asking the Zoning Commission
17 to interest in its zoning order a requirement that, and I'm
18 going to quote from the ANC 3E MOU that you guys have signed,
19 for at least 10 years from the date a certificate of
20 occupancy is issued for the project that the developer will
21 reserve a minimum of 13,000 square feet of retail space. I'm
22 sorry? Of retail space within the project solely for use by
23 a full service grocer.

24 MR. LANSING: Yes.

25 MR. KRAVITZ: Nice. Similarly, would you join us

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1 in asking the Zoning Commission to incorporate in its zoning
2 order a requirement that -- now I'm going to quote from the
3 ANC 3D resolution -- that the applicant will reach a binding
4 agreement with American University so that at least 144
5 spaces of the 236 space easement are provided to the
6 applicant?

7 MR. LANSING: Sorry for the delay. Yes.

8 MR. KRAVITZ: Thank you. Would you consider --
9 there is some support I've gathered from the community here
10 that there be a limit placed on the new residential units of
11 219 units as presented here instead of up to 10 percent more
12 units as requested under minor design flexibility. Is that
13 something that you guys could think about?

14 MR. LANSING: My hope is that two out of three is
15 okay with you. I think that's something we're going to have
16 to stay away from unfortunately.

17 We need the flexibility. Things happen through
18 design and construction. We're going to keep that in.

19 MR. KRAVITZ: It was a question. I didn't presume
20 the answer. Thank you.

21 CHAIRMAN HOOD: Okay. All right, thank you,
22 Commissioner. Let's go -- is ANC 3E here tonight? He's on
23 his way. Okay. All right, let's go to Ward 3 Vision.
24 Spring Valley Neighborhood Association, we do have a letter.
25 They were not going to be able to make it here tonight, but

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1 they retain their party status. CRD.

2 MR. DONOHUE: Thank you, Mr. Chairman, members of
3 the commission. My name is Ed Donohue. Joining me at the
4 table is Mr. Shelly Repp. As we've done in the past we're
5 going to have some questions and we have several other folks.

6 We have heard a good deal of new information and
7 seen a good deal of new information here tonight. Some of
8 these graphics are with all due respect a little dense so
9 we're going to need some time to digest this.

10 We received this package like you did at about 6
11 o'clock.

12 CHAIRMAN HOOD: So, this is a lot of new
13 information to you tonight, or was this in response to -- how
14 many hearings have we had?

15 MR. DONOHUE: There were questions posed by the
16 commission at the end of the last January 24 meeting. Some
17 of the questions that you asked earlier, the follow-up on the
18 pictures. There's new detail on traffic. There's new detail
19 on IZ. There's a good deal of new information again provided
20 at 6 p.m. tonight.

21 CHAIRMAN HOOD: In the rebuttal package. Okay.
22 All right. Well, if you want to call it new. Maybe it's
23 presented different. But I'll go ahead and go with that.
24 So let's go ahead.

25 MR. DONOHUE: All right. So I've got a few

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1 questions and I'm going to hand it over to Mr. Repp.

2 Mr. Dettman, I'm going to start with you. I'm
3 going to ask you about your characterization of 4801
4 Massachusetts Avenue in the earlier hearing, and I can't
5 remember what the quote was, but we heard -- we described the
6 building as an anomaly.

7 And I think you said that there were a number of
8 buildings in the vicinity of 4801 Massachusetts that were
9 comparable. Could you describe the location of those
10 buildings that you think are comparable?

11 MR. DETTMAN: Certainly. Sure, so I can point.
12 Here are the three photos that I included from Google street
13 view in proximity to the project site.

14 So, I'll call it the brick building, the bank
15 building and the AU building. So if we go back to that.

16 So, Massachusetts Avenue, 49th Street. Here's the
17 project, the project lot. Here's the AU building. Here's
18 the site of the proposed building.

19 The bank building is right here and the brick
20 building is just over here. I think that's Mass and Fordham
21 and 49th and 50th Street.

22 MR. DONOHUE: And the height of those buildings
23 that you think are comparable?

24 MR. DETTMAN: Those are approximately 40 foot
25 buildings, maybe a little bit higher. As a matter of fact

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1 if you look at the testimony provided by ANC 3D at the last
2 hearing by Commissioner Kravitz pictures of those exact
3 buildings are in the record and there are height measurements
4 of those buildings.

5 MR. DONOHUE: All right, but your testimony was
6 that you thought it was comparable. And I guess what I'm
7 asking you is what's comparable. What are the heights of the
8 building you're describing?

9 MR. DETTMAN: We have a 43 foot 6 inch building
10 and those buildings are comparable in height, ranging maybe
11 40 feet to 40 some feet.

12 Again, we can bring up the testimony from ANC 3D
13 and show that the heights of those buildings are comparable
14 to the proposed building height of 43 feet 6 inches.

15 They're also comparable in massing. They're also
16 comparable in materials.

17 MR. DONOHUE: Well, I'm going to ask some
18 questions later on about the point of measurement. We'll get
19 back to that.

20 Do you know the height of the proposed Valor
21 project from -- say from the north-south alley?

22 MS. ALEXANDER: One moment. Sixty-seven feet six
23 inches to the parapet.

24 MR. DONOHUE: And that's again from the alley?

25 MS. ALEXANDER: From the alley to the main

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1 parapet.

2 MR. DONOHUE: Thanks.

3 MS. ALEXANDER: Not including the penthouse.

4 MR. DONOHUE: While I've got the microphone you
5 took the rendering that we had marked up a little bit. It's
6 marked page 4 but I think it's actually page 3 on your --
7 it's the view from Yuma with the houses in the foreground.
8 Yes. All right.

9 So in describing this picture you said it was
10 skewed inasmuch as the houses were, and I've forgotten what
11 the words were, but it didn't reflect properly on how the
12 building was going to be reviewed from Yuma Street.

13 And you went on to show us pictures from various
14 points up and down Yuma, east and west on Yuma.

15 Were you asked to do a comparable of this
16 rendering, of this view?

17 MS. ALEXANDER: So, no, I was not asked.

18 MR. DONOHUE: And the houses that you see in the
19 foreground there, there was a question, I think you said --
20 well, how do you describe those houses that you see in the
21 foreground?

22 MS. ALEXANDER: They are all identical.

23 MR. DONOHUE: And then going to the corner of 48th
24 and Yuma Street you made a point of saying that that house
25 was in fact a two story building. Maybe your next graphic,

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1 I'm not sure. No, I guess it's further on. You described
2 the view from that house and made a point of telling us that
3 it was a two story building with an attic and that the view
4 from there was going to be quite a bit different than what
5 we had shown. Is that?

6 MS. ALEXANDER: I said it was different than this
7 image on the screen currently.

8 MR. DONOHUE: Do you have a graphic showing the
9 view from that house on 48th and Yuma?

10 MS. ALEXANDER: I have the section depicted here
11 showing a cross section between that specific home and our
12 project.

13 MR. DONOHUE: Okay, but not the view of the
14 homeowner from the house on 48th and Yuma. In other words
15 not the view to compare to what we had shown.

16 MS. ALEXANDER: To compare with this image right
17 here?

18 MR. DONOHUE: Well, to your slide 4. In other
19 words we were trying to show the view from the rear of those
20 houses and show the juxtaposition of the single family homes
21 and the Valor project in the rear.

22 MS. ALEXANDER: Oh. No, I do not have anything
23 prepared.

24 MR. DONOHUE: Okay. Thank you. And may I ask a
25 question about the Spring Valley Shopping Center. I think

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1 that Chip asked you some questions about the agreement as
2 between Valor and Spring Valley Shopping Center.

3 Have you been -- are those agreements shared with
4 you? Do you know the agreement that's between Spring Valley
5 and Valor?

6 MS. EIG: No. You're talking about the
7 Massachusetts Avenue parking shop which is the adjacent site
8 to this site?

9 MR. DONOHUE: Right.

10 MS. EIG: No, I have not seen that.

11 MR. DONOHUE: Okay. And that property is in
12 what's called a project lot along with Valor, is that
13 correct?

14 MS. EIG: I couldn't address that. I don't know
15 what a project lot is.

16 MR. DONOHUE: Okay. Mr. Dettman, is the shopping
17 center we're describing here, is it part of the project lot?

18 MR. DETTMAN: Yes, it is.

19 MR. DONOHUE: Okay. And the agreement as between
20 all parties has been the subject of some discussion both last
21 January and this most recent January. So maybe it's a good
22 Mr. Dettman question. Have those agreements as between Valor
23 and AU and Valor and Spring Valley Shopping Center, are those
24 going to be produced to the Zoning Commission?

25 MR. DETTMAN: That's not a question that I can

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1 answer.

2 MR. GLASGOW: Mr. Chairman, I think that we had
3 stated that the private agreements between the private
4 property owners are just that.

5 We gave a summary, I think Mr. Lansing had given
6 a summary of those documents. And anything that's of import
7 with respect to what the size of the project is and what the
8 size of the lots are are going to come out of the Zoning
9 Commission order.

10 CHAIRMAN HOOD: Mr. Donohue, what is the link
11 between that information being provided to the Zoning
12 Commission?

13 MR. DONOHUE: So, we were asking and Mr. Smith and
14 others asked last time about transfer of development --
15 aggregation of development on the Valor property.

16 And the question was what remains of the
17 development envelope on Spring Valley Shopping Center.
18 What's left. What are the protections in the event of
19 destruction.

20 MR. GLASGOW: Mr. Dettman can --

21 CHAIRMAN HOOD: No, go ahead since maybe you'll
22 make it easier for me. Go ahead.

23 MR. GLASGOW: Mr. Dettman, can you please respond
24 to that?

25 MR. DETTMAN: Sure.

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1 MR. DONOHUE: And tell us what page you're on.

2 MR. DETTMAN: Sure. Okay. Seventeen. The one
3 with -- I'm going to speak to this graphic here.

4 MR. DONOHUE: Wait a minute. Okay.

5 MR. DETTMAN: I'll do my best to do some math on
6 the fly.

7 So the graphic on the right is a graphic that was
8 prepared in direct response to an earlier request by the
9 commission -- the graphic on the right was prepared in direct
10 response to a request by the commission to kind of diagram
11 the aggregation of density that's going to take place.

12 So, the Spring Valley Shopping Center, the
13 Massachusetts Avenue Parking Shops which is its formal name
14 resides on lots 802 and 803.

15 The land area of those two lots is 39,516. So if
16 you take the MU-4 permitted density you can construct on that
17 site up to 118,548 square feet.

18 The existing shopping center is 16,922 square
19 feet. So we take that away from the 118.

20 The proposed Ladybird project needs 50,115 square
21 feet from that because there's not enough commercial density
22 primarily due to the grocery store. So that will go.

23 So existing to remain on the site would be the
24 total permitted minus roughly 67,000 square feet of density.
25 That's the -- I can do the math right here if you'd like me

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1 to.

2 MR. DONOHUE: So, what you're giving us is the
3 118, 118,500 less call it 17 of existing and less the
4 transfer to the Valor project. And what's that number, 50?
5 Okay.

6 So the questions in the last hearing had to do
7 with what protections pertain to, for example, if there's a
8 catastrophic fire, if there's a destruction of that shopping
9 center. What's left of the building envelope which is the
10 number you just gave us?

11 MR. DETTMAN: To give you the answer it's 51,511
12 square feet -- sure, okay. Okay. If it was destroyed we get
13 that 17,000 square feet back. That would leave 68,433 square
14 feet that could be constructed on lots 802 and 803.

15 MR. DONOHUE: Okay. And do the agreements as
16 between the shopping center and Valor address the situation
17 that's been asked about? Do the agreements address the --
18 no.

19 MR. GLASGOW: I don't think that the team
20 understands your question.

21 MR. DONOHUE: All right. I got an answer from
22 your client, but okay. If we're not going to see the
23 agreements because they're proprietary what we want to know
24 is we know that there's a transfer of density as between the
25 shopping center and Valor, and there's a remainder of 68,433

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1 according to Mr. Dettman.

2 What we'd like to know -- if it's demolished.
3 Understood.

4 CHAIRMAN HOOD: Can we make sure we're on the
5 record? I hear a lot of mumbling going on without the mike
6 on. If it goes wherever it may go they'll probably say what
7 kind of hearing are they running because everybody's
8 commenting. So let's make sure we keep that in order and
9 speak -- if you're going to speak let's speak in the mike.

10 MR. DONOHUE: So do the agreements or does the
11 agreement address redevelopment of the project in the event
12 of catastrophic loss?

13 MR. LANSING: I do not believe it addresses that
14 specific point, no.

15 MR. DONOHUE: Okay. Thank you.

16 MR. GLASGOW: Mr. Chairman, I want to make sure
17 though that the record is clear that what -- because it
18 doesn't address it doesn't mean that they have lost that
19 68,443. That's still there.

20 CHAIRMAN HOOD: Okay, this is in response to his
21 question because I think it's been answered. So that's part
22 of the answer to his question.

23 MR. GLASGOW: Correct.

24 CHAIRMAN HOOD: Okay.

25 MR. DONOHUE: Well, let me ask you a question I've

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1 asked you a few times. The grocery store. Does Valor have
2 a commitment from a grocer for the project?

3 MR. LANSING: I believe we've mentioned this in
4 the record a couple of times. We have a signed letter of
5 intent with Mom's Organic and we are deeply negotiating
6 through a work letter.

7 And I also believe there was an article that came
8 out recently in Bethesda Magazine which would I think also
9 further lend to Mom's commitment to this project with us.

10 MR. DONOHUE: Well, I'm really asking about
11 Valor's commitment. Mr. Glasgow asked you several questions
12 about your commitment and asked you about the HAWK signal,
13 asked you about what I would describe as project amenities.

14 And I'm going to assume that the grocery store is
15 included in your list of --

16 MR. LANSING: It is, correct. Yes.

17 MR. DONOHUE: So when you were asked by Mr.
18 Kravitz about the commitment to retain space there for -- 10
19 years I believe is what you agreed to and the minimum square
20 footage was what?

21 MR. LANSING: I can't recall the exact number.
22 Thirteen thousand plus or minus I think he mentioned give or
23 take.

24 MR. DONOHUE: So part of your answer to Mr.
25 Glasgow when you came up with your number of \$500,000 you --

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1 well, let me ask it this way. What does Valor attribute to
2 that commitment? What dollar figure do you attribute to that
3 commitment?

4 MR. LANSING: To be clear the grocery store?

5 MR. DONOHUE: Yes.

6 MR. LANSING: I haven't thought about that
7 unfortunately.

8 MR. DONOHUE: You've been in discussions --

9 MR. LANSING: I think it's beyond --

10 (Simultaneous speaking)

11 MR. DONOHUE: -- specialty stores, a number of
12 grocers. We've heard names over the past couple of years and
13 it's now Mom's. But you don't yet have a commitment, but you
14 told us tonight you'd keep that space available for
15 grocery/retail for 10 years.

16 MR. LANSING: That's correct.

17 MR. DONOHUE: And you haven't penciled out what
18 you think that's going to cost?

19 MR. LANSING: I guess it's a hard question to
20 answer. Cost in the way of construction cost? I mean,
21 there's a lot of costs that go into these types of things.

22 I think to be clear when Chip was -- Mr. Glasgow
23 was talking me through the different amenities that we would
24 not offer up had this been a matter of right project I was
25 referencing hard dollar costs of some of those amenities that

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1 relate to pure construction costs.

2 With this grocery store I don't know the pure
3 construction cost without going back and looking at our
4 budget.

5 MR. DONOHUE: Okay, fair enough. Let me ask you
6 a question about IZ because at the very end of your remarks,
7 you told us that the calculation and the response came back
8 I wrote down had a crushing impact on the project. So that
9 was a pretty severe number crunching experience for Valor,
10 right?

11 So, we've taken the position and Ms. Simon has
12 given extensive testimony about IZ. And she feels that
13 you're off by a pretty significant number, two numbers
14 depending on which way you look at it.

15 So my question is in the event when you go to the
16 next step you go in for a building permit if this is approved
17 and those numbers prove out that you're in fact deficient on
18 IZ. What's Valor's response going to be on that -- when that
19 comes?

20 MR. GLASGOW: That's a hypothetical question, Mr.
21 Chairman.

22 MR. DONOHUE: Well, I think it's a fair question
23 because this is being offered as one of the amenities. We
24 have a graphic up there that shows this is going to
25 dramatically improve the IZ --

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1 MR. LANSING: I don't believe it's an amenity.

2 CHAIRMAN HOOD: Let him finish because I actually
3 want to hear the answer to that question.

4 MR. LANSING: Apologies.

5 MR. DONOHUE: So the OP has suggested and I think
6 you probably appreciated the comment, OP has said they're
7 going to deal with that when the time comes for building
8 permit.

9 My question is if the project is approved here
10 through design review and you find out that you have yet
11 another IZ setback, a good deal more contribution has been
12 made to IZ, what's going to be your response?

13 MR. LANSING: Again, a bit of a hypothetical. I
14 don't know. We'd have to probably see it when it happens.
15 It won't be easy. It wouldn't be an easy pill to swallow,
16 that's for sure.

17 MR. DONOHUE: Thank you, Mr. Chairman. I'm going
18 to turn it over to Mr. Repp.

19 MR. REPP: Since we're talking about affordable
20 housing did the number of Ward 3 units that you threw out
21 before which was a pretty low number, 43 or something like
22 that, does that take into consideration the affordable
23 housing that will come out of the two, the Fannie Mae and the
24 building next door which will have combined over 1,500 units
25 at 10 percent affordable housing. That would be 150. Does

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1 it take into consideration the developments one of which was
2 approved by this commission further up Massachusetts in
3 Tenleytown?

4 MR. DETTMAN: No. So as I testified the data that
5 I obtained from the DMPED website reflects affordable housing
6 units that have been delivered or are under construction
7 since September 2015.

8 The Fannie Mae project has just broken ground and
9 I believe the project that's immediately north of Babe's
10 Billiards is under appeal.

11 MR. REPP: I'm not sure it is under appeal. But
12 anyway, with respect to Fannie Mae I mean it is --
13 construction has started on that unit.

14 Just to be clarified on our part we're not opposed
15 to affordable housing. We've never said that we're opposed
16 to affordable housing on this space.

17 With respect to the test for whether or not you
18 are in compliance with the affordable housing requirement
19 under the two alternative tests, the 10 percent of
20 residential space or the 75 percent of bonus density I think
21 you said -- tell me what you said about that, about whether
22 or not they would be in compliance with either test.

23 MR. DETTMAN: No. So, just to state we are very
24 confident in our calculations.

25 MR. REPP: But didn't you say --

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1 MR. DETTMAN: I'll answer your question. But I
2 just want to make sure sort of in response to Mr. Donohue's
3 question about what happens at building permit.

4 As OP said we have not asked for flexibility and
5 you can't ask for flexibility from IZ. You get to building
6 permit and if you do the calc and you're off you either
7 comply or in this case we'd have to come back to the Zoning
8 Commission or do something else. But we're very confident
9 in those numbers.

10 Now, what I said in testimony is that under the
11 IZ regulations your setback is the greater of given this
12 zone and this construction type it's 10 percent of the
13 residential floor area or 75 percent of the bonus density
14 utilized, or achievable bonus density, I never remember --
15 it's being clarified to say the bonus density used.

16 So when you do the calculation on our building you
17 take the 234,000 square feet of residential, 10 percent of
18 that is 23,004.

19 If you do the calculation on 10 percent of the
20 bonus density used and the amount of bonus density that we're
21 using in this project is 0.18 FAR.

22 Seventy-five percent of 0.18 FAR across the land
23 area of the project lot is the greater number. So we have
24 to use that number.

25 But that's a bonus density calculation so then

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1 after you do that you have to add in all the stuff that does
2 not count as bonus density being the penthouse, the cellar
3 and the projections.

4 MR. REPP: I thought -- first of all I thought --
5 the question is with respect to the bonus density calculation
6 whether or not it's bonus density utilized or potential bonus
7 density.

8 And I thought I heard you say in your rebuttal
9 here that the -- and that's just -- right now it's just a
10 proposed rule that hasn't gone to the -- hasn't been
11 published yet in the D.C. Register.

12 But I thought I heard you say that you're in
13 compliance even without that proposed rule ever becoming
14 effective.

15 MR. DETTMAN: So to be clear the proposed rule
16 under 0433-I is a clarification. You can check the record.
17 It does not change the substantive meaning of the regulation.
18 It is a clarification of the setaside.

19 The current provision says of its achievable bonus
20 density. Now, Ms. Simon argues that achievable is 20
21 percent. But as clarified by the commission under proposed
22 action it's going to say bonus density used.

23 And that's consistent with the underlying premise
24 of IZ in that the requirement is commensurate with the bonus
25 that you get.

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1 So we are utilizing 0.18 FAR of bonus density.
2 We are 75 percent of the bonus density used is our greater
3 number.

4 Now, even if the current language which again is
5 being changed, the current language of the achievable bonus
6 density was correct, if Marilyn Simon was correct in her
7 interpretation she does cite unique site constraints.

8 We have unique site constraints. We have 200,000
9 square feet of commercial office space on the site which as
10 a result of the interpretation issue has to get included into
11 the calculation.

12 But it's 200,000 square feet of commercial office
13 space that Valor doesn't own, doesn't collect any revenue on,
14 has no control over and it's not being changed. The new
15 gross floor area proposed by Valor is the 234,000 square
16 feet.

17 So the achievable bonus density for Valor in this
18 project calculated in accordance with the outcome of the IZ
19 interpretation, the achievable bonus density in this project
20 is 0.18 FAR.

21 MR. REPP: But Valor is being paid to buy that
22 density from the shopping center and from American
23 University.

24 MR. GLASGOW: Valor -- you said Valor is being
25 paid?

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1 MR. REPP: Is paying. Excuse me. Is paying for
2 it. Yes, I'm sorry.

3 (Simultaneous speaking)

4 MR. REPP: Isn't that what your agreement with the
5 Spring Valley Shopping Center is, you're paying for that
6 density?

7 MR. LANSING: Sorry, I missed -- yes. There is
8 compensation.

9 MR. GLASGOW: For Spring Valley. I think part of
10 your question at one point said AU. There's no density --
11 there's not that part of the equation. There's Spring
12 Valley.

13 MR. REPP: Well, let's talk about AU since you
14 mentioned it here. Isn't this agreement with American --
15 doesn't the agreement with American University provide that
16 American University is giving up any additional density
17 right, building rights with respect to -- so it is -- because
18 there is excess density there with respect to AU also that
19 basically is being transferred to the site.

20 MR. GLASGOW: Yes, it's on the same record lot.

21 MS. ALEXANDER: Correct, but no density from the
22 AU site is coming onto our site. They are in fact taking
23 density from our site onto their site.

24 MR. REPP: Well, hold up here. I mean, that was
25 the case before but with respect to the current -- let me

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1 finish here, Chip.

2 With respect to the current situation isn't
3 American University relinquishing any rights to build more
4 on its part of lot 807.

5 MR. GLASGOW: Go ahead, Mr. Dettman.

6 MR. DETTMAN: Sure. I don't know how this is
7 relevant to the question about IZ but I can certainly clarify
8 or answer your question.

9 We're in a voluntary design review boundary, a
10 project lot that consists of three lots. It's the AU
11 building on 806. It's the Superfresh site which we're
12 proposing to redevelop on 807. And then there's the Spring
13 Valley Shopping Center.

14 Looking at just record lot 9 which is the AU
15 building and the Superfresh site there is an allocation from
16 the nineteen seventies. At that time the zoning regulations
17 allowed up to 2.0 FAR all of which could be commercial.

18 And so there was an allocation. They said okay,
19 well, the record lot is this area times two and AU building
20 you get this much, and Spring Valley 807 you get that much.

21 After that the zoning regulations changed twice.
22 One, it went from 2.0 FAR overall to 2.5 but the amount of
23 non-residential density that was permitted went down by half
24 -- that's why we only have 2,600 square feet of commercial
25 left on the site.

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1 But it went up by half an FAR overall on the
2 record lot. Then under IZ you get another half of FAR.

3 So since that allocation an additional 1.0 FAR of
4 density on record lot 9 is available. AU has a right to 0.5
5 times its land area and the owner of -- Valor, owner of 807
6 has a right to 1.0 FAR times its land area.

7 So, Valor and AU will have an agreement that says
8 hey, you have a right to this, but we'd like it. So we'd
9 like to get it.

10 And then under the voluntary design review because
11 we don't have enough commercial density we're allowed to be
12 split by a public alley.

13 There is a substantial amount of unused density
14 on the Spring Valley Shopping Center site. It's
15 substantially under built under zoning.

16 And so in order to gain that commercial square
17 footage that's necessary to restore a grocery store to lot
18 807 there's that agreement happening.

19 There's two agreements but for purposes of zoning
20 those are private agreements. They're happening outside of
21 zoning and in fact the Zoning Commission has said that for
22 purposes of being able to make a zoning decision here those
23 agreements aren't necessarily required in the record.

24 But under zoning voluntary design review and the
25 ability to aggregate that's how this all works.

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1 MR. REPP: Once again just to clarify that
2 American University is relinquishing development rights under
3 that extra FAR and as part of the agreement -- part of the
4 agreement with AU.

5 And I brought this up because you talked about IZ
6 and about how this project lot basically raised issues about
7 your IZ compliance. So that gave me the opening to bring it
8 up.

9 MR. GLASGOW: So there's no question there.
10 That's a statement.

11 MR. REPP: The question was aren't you
12 relinquishing -- isn't American University as part of its
13 agreement with you relinquishing development rights or
14 density to Valor.

15 MR. GLASGOW: Mr. Chairman, asked and answered.

16 CHAIRMAN HOOD: Who brought up American University
17 to begin with? Who brought that up? Was it Mr. Repp? Who
18 brought up American University?

19 MR. GLASGOW: I believe it was Mr. Repp.

20 MR. REPP: I believe it was Mr. Dettman because
21 he talked about --

22 CHAIRMAN HOOD: Okay, let's go to the next
23 question since we don't know who brought it up. Next
24 question. I don't know, so. I can't remember.

25 MR. REPP: With respect to basically the traffic

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1 counts, Mr. Andres, isn't this grocery store which actually
2 is -- these are 13,000 square feet or maybe -- let's just
3 assume it's 18,000 square feet, this proposed grocery store.

4 Isn't that roughly the same size as the Superfresh
5 grocer that was there five years ago?

6 MR. ANDRES: The 44,000 square feet calculation
7 that we used to compare our proposed development to what was
8 there previously, actually what's there today consists of
9 24,000 square foot grocer and 20,000 square foot of ancillary
10 retail.

11 So the way that our traffic generation works is
12 that grocer generates more traffic per square foot and
13 regular retail at a lower rate.

14 So the 20,000 square foot retail consists of
15 smaller, essentially smaller retailers.

16 MR. REPP: I believe actually it's 18,000 square
17 feet is what the Superfresh space is. Maybe it's basement
18 space also.

19 Isn't most of the space -- first of all we have
20 the DeCarlo's restaurant which is currently in operation.
21 We have the Superfresh site which is the grocery space is
22 empty.

23 We have the basement of the Superfresh building
24 which is being at least partially utilized today, right?

25 MR. ANDRES: That's my understanding. But in the

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1 past I believe there are some utilization.

2 Just because there's retail space that's below
3 grade doesn't mean that it's not -- it won't be viable retail
4 space in the future. There are plenty of retail uses that
5 don't need above ground space.

6 For example, a grocery store, if they're putting
7 storage in a bottom level if everything was in one building
8 it doesn't matter if it's in a bottom level or if it's above
9 grade. It's still usage related to a retail function.

10 MR. REPP: So isn't the major -- let's look at the
11 two grocery stores as being a wash, the new one and the old
12 one.

13 But we still have 219 at least, maybe 230 if they
14 use -- 240, excuse me, if they use their flexibility
15 apartments which seems to me generate a lot of traffic.

16 When you say it's almost the same amount of
17 traffic before and after doesn't make much sense when the
18 major addition is 220 to 240 residential units.

19 MR. ANDRES: As I addressed in my previous
20 statement trip generation associated with retail per square
21 foot generates more traffic than residential per square foot.

22 Like for example, a 2,000 square foot retailer
23 would generate more than 2,000 square feet of residential.
24 If you think about it 2,000 square feet of residential is
25 roughly three apartments, call it three apartments.

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1 So think of the people in a 3,000 square foot
2 apartment and the number of trips associated with a
3 restaurant at dinner time. You'll generate more traffic from
4 that restaurant at dinner time than you would of three
5 apartments.

6 So if you carry that out to the projections that's
7 what we get.

8 Now, as I mentioned in my rebuttal statement
9 retail doesn't generate a lot in the mornings and that's why
10 we generate a little bit more, but in the evenings retail
11 generates significantly more than the apartments.

12 MR. REPP: Don't you have a 90 percent mode split
13 between cars and other forms of transportation?

14 MR. ANDRES: That's all -- the calculations take
15 all of that into account.

16 MR. REPP: The 220 residential units -- I mean
17 we've heard from DDOT that most of the people in those 220
18 to 240 units are going to have cars. They're going to be
19 driving.

20 And actually also don't you assume that roughly --
21 you said that the retail has more -- generates more traffic
22 than the grocer. But don't you assume that at least 40
23 percent of the 322 peak hour trips in the afternoon would be
24 generated by the residents?

25 MR. ANDRES: I don't understand your question.

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1 So when we do our trip generation calculations they represent
2 the trips that are identified that are based on square
3 footage with a mode share percentage applied to it.

4 So what drives the comparison is the square
5 footage. And so that's what we've shown.

6 MR. REPP: Okay. Let's move on here. The with
7 respect to design review, isn't the design review -- you're
8 using the design review -- yes or no, you're using the design
9 review process here to get additional density.

10 MR. DETTMAN: No. The design review regulations
11 specifically state that there can be no increase in density
12 and there cannot be a map amendment. And we are not seeking,
13 requesting, proposing either.

14 MR. REPP: Isn't the matter of right density on
15 the Superfresh lot 184,000 square feet roughly?

16 MR. DETTMAN: The matter of right density on
17 record lot 9 is 184,514. But as I stated this is not a
18 matter of right project.

19 MR. REPP: It's -- so then how does design review
20 allow you -- isn't design review the vehicle you're using to
21 get additional density above the 184,000 square feet?

22 MR. DETTMAN: Voluntary design review is the
23 vehicle that we're using to be able to aggregate density
24 within the project lot.

25 MR. REPP: The PUD regulations state that FAR

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1 buildings shall not exceed the aggregate of the FARs as
2 permitted in the zone or zones included in the PUD boundary.

3 Does this language appear in the design review regulations?

4 MR. DETTMAN: That specific language, that
5 specific provision in the PUD regulations does not.

6 But what does and I talked about it here. The
7 purpose of the design process is to (e) provide for
8 flexibility and building bulk control. Building bulk
9 includes FAR.

10 MR. REPP: Doesn't that very sentence go on to say
11 without an increase in density.

12 MR. DETTMAN: And we are not proposing an increase
13 in density. Again on this same slide we are allowed for our
14 project lot to be -- it has to be contiguous but it can be
15 separated by a public street or alley. We have a 20 foot
16 public alley separating us from the Spring Valley Shopping
17 Center.

18 And also, and you can look at exhibit 215 which
19 is OP's supplemental report on aggregation which states to
20 the commission that aggregation is appropriate under the
21 voluntary design review process.

22 In that report there is guidance on how the zoning
23 computations are to be carried out under both a PUD and a
24 design review. And it says a lot used for the boundaries of
25 a design review can be a tax lot or record lot. We have

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1 both.

2 The zoning calculations for a PUD or design
3 reapplication must be determined using the project lot. Our
4 project lot is 160,000 square feet plus not including the
5 area of the public alley.

6 And that's consistent with commission's
7 determinations and orders saying that for purposes of
8 computing FAR you can't use public alleys and streets. And
9 we can move on.

10 If an applicant uses a tax lot as a project lot
11 a request for multiple buildings on a single lot must be
12 included under the following circumstances. None of those
13 apply to us.

14 Number four, an application for a design review
15 cannot result in creating a non-conformity for a building or
16 property outside the project lot.

17 This is why we had to amend our project boundary
18 to include the AU building. If you recall back in October
19 of '16 our original project boundary was the shopping center,
20 Spring Valley Shopping Center, and Superfresh site because
21 that was the only lot that we needed to get density from.

22 But it would have created a non-conformity. We
23 included the AU building.

24 Lastly, if the full record lot is used as the
25 project lot then all owners within the project lot must

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1 authorize the project. There are letters in the record from
2 Regency which is the owner of Spring Valley Shopping Center,
3 the owner of lot 807 which Valor is attempting to purchase
4 and AU authorizing Valor to proceed with this application.

5 MR. REPP: Isn't this -- with respect to design
6 review isn't this a case of first impression?

7 MR. DETTMAN: It's the first use of the voluntary
8 design review process under ZR16 since ZR16 went into effect.

9 MR. REPP: So this, whatever this pronouncement
10 is that you've just referred to, it's never been tested.

11 MR. DETTMAN: So, if you compare the PUD
12 regulations to the design review regulations there is a
13 provision that is identical. All the property included in
14 design review applications shall be contiguous except that
15 the property may be separated only by a public street, alley,
16 or right of way.

17 That provision shows up in both the PUD and the
18 design review regulations. And when you look at 600.1 which
19 is on the screen to suggest that aggregation of density
20 across that public alley is not permitted under design review
21 gives -- completely takes away any meaning to that provision
22 that says that the intent of the design review process is to
23 provide for flexibility and building bulk control.

24 MR. REPP: Isn't the design review regulations --

25 CHAIRMAN HOOD: Mr. Repp, let me ask you a

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1 question. What are you trying to do? Are you trying to help
2 us to make a decision or are you just trying to --

3 MR. REPP: I'm trying to clarify that the design
4 review regulations and the design review process is totally
5 separate from the PUD regulations which do provide and do
6 allow for this.

7 But on several occasions in the design review
8 regulations an increase in density is specifically
9 prohibited. These are different rules.

10 CHAIRMAN HOOD: So I think we got your point. So
11 let's try to go down something else to help us. I think we
12 got your point. We'll deal with it when we deliberate. I
13 think we have your point.

14 MR. REPP: With respect to working with the
15 community, Mr. Lansing, you talked about a lot of meetings
16 with the community and I'm sure all those meetings that were
17 -- you have listed did occur.

18 How many of those meetings would you deem to be
19 negotiation sessions with CRD, for example?

20 MR. LANSING: That's hard to answer because I
21 think in all of the community meetings that we did conduct
22 there was constant feedback from not only CRD but other sort
23 of individual opponents.

24 So it would be tough for me to answer that with
25 a specific number other than I'd say a good amount, a large

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1 number.

2 MR. REPP: Well, I would submit that it's one.
3 But moving on here. Didn't I ask you at the October 26, 2017
4 community meeting at the Tenley Friendship Library whether
5 or not you would be agreeable to working with neighbors to
6 lower the number of floors in the project?

7 MR. LANSING: I can't recall. We've had
8 conversations in the past about that. I don't know if that
9 was the exact date.

10 MR. REPP: Didn't you answer then that that's
11 absolutely off the table?

12 MR. LANSING: Again, I can't recall, Shelly.

13 MR. REPP: Going back to the IZ and the reduction
14 of the height of part of the building as part of the current
15 design you said that the OP's decision on IZ was a crushing
16 development, right?

17 MR. LANSING: That's correct.

18 MR. REPP: And isn't that the reason why you
19 redesigned the building and came down 6 and a half feet over
20 part of the project and sunk the -- that 6 and a half feet
21 basically in the below grade units?

22 MR. LANSING: That was part of the reason but not
23 the only reason.

24 MR. REPP: Going back to Andres, Commissioner
25 Shapiro talked about that center zone where the T is. Isn't

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1 there an entrance to the building, to the retail building at
2 that corner where the T -- basically at the T?

3 MR. ANDRES: Sorry, can you provide a little more
4 context for that? It's my understanding it's an entrance to
5 the retail/amenity space but not to the grocer. But I just
6 need confirmation.

7 MS. ALEXANDER: I'm sorry, I thought you were
8 talking about the existing shopping center. Our building
9 does indeed have an entrance point on the corner of the
10 alley, yes.

11 MR. REPP: I'm sorry, could you say that again?

12 MS. ALEXANDER: Yes. Our building has an entrance
13 -- I'll put the mouse over it right now -- right here.

14 MR. REPP: And Mr. Andres, how is the entrance and
15 exit from retail customers at that site at the T, how are the
16 dangers being mitigated?

17 MR. ANDRES: Well, the way that that space has
18 been identified, is that space contiguous to the grocery
19 space, Sarah, I guess is the question.

20 MS. ALEXANDER: No, that space can be a standalone
21 space. We have depicted four bollards that protect the
22 doorway in addition to the sidewalk which is in excess of
23 that space.

24 MR. REPP: Going back to Will, isn't it possible
25 that the grocery store will -- if you do have a grocery

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1 tenant that they will use that space?

2 MR. LANSING: It is a possibility. It has not
3 been finalized yet.

4 MR. REPP: So they might -- if it is used by the
5 grocery store it might be an entrance for pedestrians walking
6 in using -- customers.

7 MS. ALEXANDER: It is required by one of the
8 agreements with Office of Planning that we maintain an
9 entrance at that corner, correct.

10 MR. REPP: With Mr. Andres here, with respect to
11 the use of the north-south alley and the trash containers is
12 there an agreement with the Spring Valley Shopping Center
13 regarding the use of that alley and the loading in that alley
14 and the use of the dumpsters and getting rid of some of the
15 trash vehicles, trash dumpsters?

16 MR. LANSING: There is a coordinated effort with
17 Spring Valley Shopping Center for that specific thing, yes.

18 MR. REPP: A coordinated effort but not an
19 agreement right now?

20 MR. LANSING: It has not been finalized yet, but
21 there have been significant discussions with their team on
22 this particular matter.

23 MR. REPP: It seems to me that's another reason
24 to get at these agreements. With respect to you talked about
25 65 foot trucks, Mr. Andres. Doesn't CVS actually use the

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1 bigger trucks?

2 MR. ANDRES: I'm not aware of the 67 foot trucks
3 -- excuse me, the WB-67s which are actually 72 to 75 foot
4 trucks.

5 I know in some instances I believe some of their
6 stores throughout the District use the similar 55 foot trucks
7 that we're using.

8 MR. REPP: I believe they do use those trucks for
9 that store right now. With respect to going back to the --
10 you said you did a survey in January and that half of the
11 trucks using the alley, the north-south alley were basically
12 loading and unloading for the tenants of the Superfresh site.

13 Basically the Wagshal's Kitchen there I believe.
14 That's really the major tenant there.

15 But if that Wagshal's Kitchen goes away won't
16 Wagshal's need to instead of having people walk across the
17 aisle, walk across the alley from the Superfresh building to
18 deliver it to their two stores in the shopping center, won't
19 they need deliveries directly rather than getting deliveries
20 through the kitchen?

21 MR. ANDRES: I'm unaware of what Wagshal's would
22 do. You would need to ask them.

23 MR. DONOHUE: Mr. Chairman, two things. You heard
24 from Mr. Michael Stover on the point of measurement, the 1910
25 Height Act and the embankment on 48th Street.

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1 We'd like to have him just come up and ask one and
2 a half questions. He's right over here.

3 But as he's finding his way up here, Mr. Chairman,
4 we do have new visual impact information.

5 CHAIRMAN HOOD: Is he with the applicant?

6 MR. DONOHUE: No, he's with us.

7 CHAIRMAN HOOD: And he's coming up to do what?
8 Ask some questions?

9 MR. DONOHUE: Ask questions.

10 CHAIRMAN HOOD: He needs to give the questions to
11 you two because you two are designated as the ones -- really
12 I think it was you -- well, whoever it was it needs to be one
13 of you all.

14 MR. DONOHUE: Fair enough.

15 CHAIRMAN HOOD: He can write the question down and
16 give it to one of you all. Let's do it that way.

17 MR. DONOHUE: Are we going to have an opportunity
18 to respond to the visual information that's been provided
19 here tonight, the videos that we've all seen for the first
20 time, the pictures that we've seen and the additional
21 pictures that are going to be provided at some point after
22 tonight?

23 CHAIRMAN HOOD: Are you talking about the video?

24 MR. DONOHUE: Well, I'm talking about all the
25 visual depictions.

1 CHAIRMAN HOOD: The four still pictures that I
2 asked for and the video.

3 MR. DONOHUE: Well, and the new photographic
4 material that's been submitted here tonight.

5 CHAIRMAN HOOD: Typically you don't respond to
6 rebuttal. I'll have a sidebar with OAG but typically you
7 don't respond to rebuttal.

8 MR. DONOHUE: Well, you know we've had a debate
9 about the accuracy of the renderings that have been submitted
10 and we're going to have those looked at to see if we think --

11 CHAIRMAN HOOD: So now, it's almost about time
12 though, Mr. Donohue, for us to deal with it. You know,
13 actually we're ready I believe. We needed to go back and re-
14 look at everything that's been mentioned and I think we're
15 ready to move forward. Honestly.

16 I don't know if I'm speaking just for myself.
17 Okay, I'm getting a lot of nods. Up here I don't usually get
18 a lot of nods when I say exactly how we're going to proceed
19 but I'm getting a lot of nods. So, you know, typically and
20 I think I would ask OAG, Mr. Tondro, typically the party or
21 party in opposition after rebuttal and they do cross, they
22 don't respond to anything else especially if we've asked for.

23 Let me have a sidebar.

24 (Whereupon, the above-entitled matter went off the
25 record at 8:12 p.m. and resumed at 8:16 p.m.)

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1 CHAIRMAN HOOD: Okay, are we finished cross
2 examination?

3 MR. DONOHUE: One question.

4 CHAIRMAN HOOD: Sure. Another cross question or
5 a question to me? Okay.

6 MR. DONOHUE: I got my answer.

7 CHAIRMAN HOOD: Okay, let's move on then.

8 MR. DONOHUE: No, I've got a cross question.

9 CHAIRMAN HOOD: Oh. All right.

10 MR. DONOHUE: We were speaking about the
11 embankment on 48th Street and Mr. Dettman started the
12 testimony and tried to explain what the embankment was in
13 their view and Mr. Glatfelter continued to describe what that
14 was.

15 So my question is this. The -- appears that we're
16 showing a pretty well flat grade here as we move from 48th
17 Street over toward the retaining wall. So what is the
18 retaining wall holding up and what is that soil that's there
19 behind the retaining wall?

20 MR. GLATFELTER: To the best of our knowledge from
21 what we can find the retaining wall was constructed as a
22 matter of support of excavation to build the underground
23 parking garage.

24 It does not appear -- in order to construct
25 something like this, and if you go back and look at the

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1 historical photos there used to be a surface parking lot
2 there around the early sixties.

3 In the sixties then they converted the surface
4 parking lot to this multilevel weird kind of underground
5 parking deck. And in order to construct that standard
6 practice would be to provide some support of excavation.

7 Because of the existing 48th Street the more cost
8 effective approach would be to lay back the site and have it
9 open. But you couldn't do that and retain functionality at
10 48th Street.

11 So the 48th Street -- the grid was kind of set in
12 what we could determine was the early forties when those
13 single family houses came into the neighborhood or created
14 the neighborhood and that retaining wall was constructed in
15 order to maintain 48th Street usability.

16 MR. DONOHUE: Did you do any soil testing, any
17 soil boring to confirm what you think you know?

18 MR. GLATFELTER: I did not.

19 MR. DONOHUE: Will, can I ask you the same
20 question? Did Valor do any soil testing?

21 MR. LANSING: We did do borings on the site, yes.

22 MR. DONOHUE: On the 48th Street side of the site?

23 MR. LANSING: On our project site.

24 MR. DONOHUE: Are you prepared to share those with
25 the Zoning Commission?

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1 MR. LANSING: If asked we'd be happy to.

2 MR. DONOHUE: Thank you, Mr. Chairman.

3 CHAIRMAN HOOD: All right. Any other questions?

4 MR. REPP: One more question. Just to clarify.

5 Aren't you asking for additional density over what's
6 available as a matter of right -- isn't what you're asking
7 for more than what you need to build the grocery store, a 13
8 or 18,000 foot grocery store?

9 MR. DETTMAN: Yes.

10 MR. REPP: So you're asking for additional density
11 for residential units as well as the grocery store.

12 MR. DETTMAN: The grocery store is roughly 20,000.
13 No.

14 MS. ALEXANDER: We have 16,000 square feet of
15 retail plus 4,000 loading. So for GFA purposes it's 20,000.

16 MR. DETTMAN: Right. So 20,000 -- 50,115 is being
17 aggregated from Spring Valley Shopping Center. So the
18 remainder of that is being devoted to residential use that's
19 subject to inclusionary zoning.

20 CHAIRMAN HOOD: Okay. Let me just say this. I
21 had asked for the comparison when you went through that
22 exercise of asking Mr. Lansing those questions about what was
23 -- I misunderstood that whole process.

24 Unless somebody else wants it I'm taking that off
25 the map. I don't need that.

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1 The other thing is when you did your cross
2 examination I allowed a lot of cross examination which was
3 not on rebuttal.

4 And what I found out over the years, and I learned
5 this from Carol Mitten, hopefully she's watching. What I
6 found out over the years, if I keep interrupting and telling
7 you that's inappropriate or telling you to move to the next
8 question that was not part of rebuttal, over the years I
9 found out that takes even longer. So I let you flesh out
10 some of the things even though it was not part of the
11 rebuttal. So I want you to understand that too. I want to
12 make sure that's on the record.

13 And also the -- one more thing I wrote down. I
14 try to write it down right quick.

15 What I'm going to ask each party if they choose
16 to do is findings of facts and conclusions of law. The only
17 thing that you're going to be able to respond to -- because
18 here's the thing.

19 If we go back and forth in respond and rebuttal,
20 the applicant has rebuttal and then what you're supposed to
21 do is cross now. The only thing that I would like for you
22 to respond to is the four photographs that I've asked for.
23 I think that's pretty much it.

24 Because if we go back -- we get it. We get where
25 CRD is coming from. We get where the parties in support are

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1 coming from. We get it. So, I think we can move forward.
2 I know we have one more party to hear from.

3 Okay? So have you finished your cross? Hold on
4 one second. All right, anything else?

5 MR. DONOHUE: No, sir.

6 CHAIRMAN HOOD: Okay. So at the end we will ask
7 you to submit a findings of fact and conclusions of law so
8 that you may be able to address. But we go back and forth,
9 back and forth we'll be here all day.

10 MR. DONOHUE: Thank you.

11 CHAIRMAN HOOD: No, all year. We've already been
12 here for a year. A couple of years. So we want to make sure
13 at some point in time we give us an opportunity. Thank you
14 all for your indulgence.

15 Okay, let me do this and I'm sure Mr. Smith
16 doesn't have a problem with me doing this. I hope not.

17 Jonathan McHugh, did you have any cross
18 examination on rebuttal? Okay. All right. Let me call up
19 the Spring Valley Wesley Heights Citizens Association,
20 Neighbors for a Livable Community and Spring Valley West
21 Homes, Inc.

22 So it looks like three people or four who are
23 coming up. So do you all have your questions, Mr. Smith, in
24 sequence? Is there somebody at the table that you're not
25 going to ask any questions to? You want to make sure you're

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1 on the mike. And identify yourself.

2 MR. SMITH: I don't think we're going to ask Ms.
3 Eig any questions or -- no, you we've got questions for. I'm
4 sorry, I didn't hear your name.

5 CHAIRMAN HOOD: I think they all want to sit
6 together. Could I get one person to move down or however you
7 all want to do it.

8 Okay. Who's going to start off with the cross?

9 MR. SMITH: I'm going to start out. I just wanted
10 to make sure --

11 CHAIRMAN HOOD: And about how much -- let me ask
12 you this. About how much time do you need?

13 MR. SMITH: We're trying to cut down significantly
14 and focus on a few key issues. I don't want to say how long
15 because I don't want to tell you something I don't know
16 depending upon what answers we get. But we're very sensitive
17 to your concerns about time.

18 CHAIRMAN HOOD: I'm not trying to put you on a
19 time I just see four people that's ready to ask questions.

20 MR. SMITH: We've been sitting here watching too.
21 We get it.

22 CHAIRMAN HOOD: Okay. You got it? Okay, good.
23 You may begin.

24 MR. SMITH: Mr. Andres, I wanted to ask you some
25 questions related to the alley. And you talked about the

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1 pedestrian improvements --

2 CHAIRMAN HOOD: Let me interrupt. I need you to
3 identify yourself.

4 MR. SMITH: I'm sorry. My name is Tom Smith. I'm
5 with Spring Valley Wesley Heights Citizens Association.

6 You talked about the alleys, the pedestrian
7 improvements, the circulation. What is the major pedestrian
8 route through -- in this project? You talked about getting
9 rid of the curb cuts, for example, one on 48th, one on Yuma.
10 So what is the primary pedestrian route?

11 MR. ANDRES: So with respect to the pedestrian
12 routes for the most part if you're to look at the site and
13 I guess in this situation north is to the left. North is up.
14 In this scenario if you're coming from points north and east
15 of the site and you live either north of Yuma or east of 48th
16 you're essentially coming down -- coming up 48th Street or
17 Yuma Street to get to the site.

18 If you're coming from points north and west
19 chances are you're coming across and coming into Yuma that
20 direction.

21 If you're coming from the south chances are if
22 you're on 49th and points south and west you're going to come
23 up either 49th or come across and go up to Yuma if you're
24 going to the grocery store.

25 There are -- there's going to be a situation where

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1 as you could remember from my previous testimony that if
2 there are people coming from the shopping center across the
3 street and intend to cross at that location we've identified
4 a HAWK signal to facilitate that because it's something that
5 we recognize happens today.

6 And we believe that that's a benefit that would
7 benefit both ANCs because both ANCs support it.

8 So in that instance if they're coming across mid-
9 block then that's the opportunity where we've identified the
10 potential for somebody to use the new sidewalk that we're
11 incorporating west of the alley through this diagonal portion
12 in the middle.

13 MR. SMITH: Okay. You lost me. Didn't you
14 indicate in your supplemental transportation report that was
15 submitted with the -- it was submitted late November, didn't
16 you indicate in that report that the major pedestrian pathway
17 was down 48th Street and that that was one of the reasons why
18 you eliminated the curb cut? And also because of the
19 elimination of Windom Walk.

20 MR. ANDRES: So, the removal of the curb cuts on
21 both 48th and Yuma are a function of what DDOT requires us
22 to do.

23 MR. SMITH: I hear that but my question is about
24 pedestrian pathway. So are you suggesting that there is not
25 going to be any pedestrian traffic or no significant

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1 pedestrian traffic through the site through the alleyways?

2 MR. ANDRES: I didn't say that at all.

3 MR. SMITH: Well, that's what I'm trying to get
4 at. Is that what you're saying tonight?

5 MR. ANDRES: What I am saying and what I've said
6 previously is it depends where you're coming from. If you're
7 coming from points north and northeast or northwest or even
8 southwest why would you come through the alley when the
9 entrance to the grocery store is on Yuma.

10 Knowing that the primary path and circulation that
11 DDOT has identified in their design requirements that it be
12 concentrated in the alley --

13 MR. SMITH: Is there something in the record or
14 have you provided something in the record that shows the
15 pedestrian circulation pattern through this site?

16 MR. ANDRES: Yes.

17 MR. SMITH: And is it consistent with what you're
18 saying tonight?

19 MR. ANDRES: Absolutely.

20 MR. SMITH: Okay. And the other question I have
21 about that, the related question about that is that you
22 talked about how the priority for the alleyway, what you said
23 tonight, what I wrote down at least was the priority are
24 vehicles. Is that correct?

25 MR. ANDRES: So, in keeping with the DDOT design

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1 and engineering manual the reason why we are essentially
2 getting rid of curb cuts on public streets is to essentially
3 return the public streets and sidewalks to the pedestrians.

4 This is consistent with many of the zoning cases
5 that come before this commission. So in doing that cars have
6 to go someplace. In that respect DDOT has identified that
7 that someplace where all of that activity should take place
8 isn't across the sidewalk but in the alley.

9 MR. SMITH: Okay. So the priority for the design
10 of the alleyways are for the vehicles, not the pedestrians.
11 Is that correct? Is that what you're saying?

12 MR. ANDRES: That's correct, but knowing that yes,
13 there is an expectation in this condition that there would
14 be some pedestrians that would choose to walk in the alley.

15 MR. SMITH: Right. And you're suggesting that's
16 because of DDOT's regulations, correct?

17 MR. ANDRES: No, it's a function of how the site's
18 laid out relative to all the other streets and sidewalks
19 around it.

20 We've worked on grocery store sites like this with
21 residential on top with alleys right next to it.

22 MR. SMITH: My question really has to do -- you
23 said that the priority here for the alleyway was vehicles.
24 You said that that was because that that's how DDOT looks at
25 alleys that the priority is vehicles and not necessarily

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1 pedestrians.

2 My question to you is okay, I hear this about the
3 DDOT's regulations or practices. What about the design
4 review regulations which make specific -- how do you meet the
5 design review regulations in 604.7 about multiple pedestrian
6 entrances, wide sidewalks, the connectivity issues that are
7 required. All those are laid out in the design review
8 regulations in 607.4. I'm sorry, 604.7.

9 So my question to you is that in terms of the
10 design how do you meet those kinds of requirements? In the
11 alleyway.

12 MR. ANDRES: Well, let's be clear. Given that
13 DDOT has identified that the alleys are, there's a priority
14 for the vehicles. It has to take place someplace.

15 With respect to meeting the standard the fact that
16 we're creating public streets and public sidewalks that are
17 now continuous as opposed to being interrupted by close to
18 70 feet of curb cut.

19 And if you were to include the fact that we're
20 upgrading all of the pedestrian amenities in and around the
21 site that is how we meet the standard.

22 MR. GLASGOW: We have another witness who can
23 respond also.

24 MR. DETTMAN: I think, Mr. Smith, in terms of
25 604.7 we took a very close look at how the project satisfies

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1 these design review criteria.

2 Multiple pedestrian entrances. We have six
3 residential entrances. We have two retail entrances.
4 There's the multiple pedestrian entrances.

5 We have wide sidewalks. And we have over 80 feet
6 of new sidewalk because the curb cuts are going away.

7 I think you place a lot of your focus on sites are
8 developed to promote connectivity both internally and with
9 surrounding areas.

10 Pedestrian pathways through developments increase
11 mobility and link neighborhoods to transit.

12 We have the alley that's going through our site.
13 As Mr. Andres said alleys, the hierarchy of alleys is that
14 there's an emphasis on vehicular. The emphasis on public
15 streets, sidewalks, the emphasis is on pedestrians.

16 But we do know under the site circumstances that
17 there may be potential for pedestrian connectivity through
18 the alley and we're accommodating that through the myriad of
19 improvements that are being proposed along the alley where
20 DDOT perhaps even thinks it might be a little bit over
21 designed.

22 But given the site circumstances we think it's
23 appropriate.

24 Large sites are integrated in the community
25 through street and pedestrian connections. We have

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1 connections through the private alley on AU. We have the
2 public alley. We're restoring a bunch of sidewalks. I think
3 that it's very consistent with the urban design guidelines.

4 MR. SMITH: You also said that most of the loading
5 will take place in the east-west highway -- I mean, the east-
6 west alley.

7 MR. ANDRES: The loading for our development --

8 MR. SMITH: Is that correct?

9 MR. ANDRES: The loading docks for our development
10 are located in the east-west alley.

11 MR. SMITH: Okay. And for a pedestrian, when a
12 pedestrian is walking down that there's a sidewalk on the --
13 correct? There's a sidewalk on the side of where the loading
14 docks are, correct?

15 MR. ANDRES: Yes. There is a continuous pathway
16 that runs through the alley and runs past the openings into
17 --

18 MR. SMITH: How many times is that alley, that
19 pedestrian pathway there, how many times is it interrupted
20 by an entrance or by for cars and the like?

21 MR. ANDRES: Well, there's two opportunities. One
22 for the loading dock and one for the garage.

23 MR. SMITH: Well, but isn't there also one for the
24 townhomes.

25 MS. ALEXANDER: Yes, I would say there's one for

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1 the townhomes --

2 MR. ANDRES: Yes, one for townhomes.

3 MS. ALEXANDER: -- consolidated one.

4 MR. SMITH: So there's the townhomes, the loading
5 dock and the garage. That's three.

6 MR. ANDRES: Yes.

7 MR. SMITH: Was there any thought to actually
8 putting that sidewalk on the opposite side of the street in
9 order not to interfere with the loading dock, the garage
10 entrance and the access to the townhomes?

11 MR. ANDRES: This situation where we have it sort
12 of on our property side enables us to control how that looks.

13 MR. SMITH: But if you did have it on the other
14 side then you wouldn't necessarily -- you wouldn't have the
15 interruptions with -- you wouldn't have the conflict with
16 vehicles, correct?

17 MR. ANDRES: In this situation we're reducing the
18 crossing.

19 MR. SMITH: And you also talked about the 55 foot
20 trucks. The 55 foot trucks which you're going to use for the
21 grocery store, does that include the cabs? Does the 55 foot
22 measurement include the cab?

23 MR. ANDRES: It's the full length.

24 MR. SMITH: Okay. And -- oh, I know what I wanted
25 to ask you about. Going to your chart we're going to come

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1 back to this, but I want to jump to the chart of the study
2 of the loading in the alley currently. The alley study.
3 Yes, it's up.

4 Now this is all new data that you've showed
5 tonight, correct? We've not seen this data previously.

6 MR. ANDRES: Given the time constraints and in
7 reviewing the record we thought that it was important to
8 identify what was characterized in the previous hearing.

9 MR. SMITH: Okay. Now, the -- when you're looking
10 at these deliveries, these delivery trucks, how many of these
11 trucks were servicing the Spring Valley Shopping Center? Do
12 you have any data on that?

13 MR. ANDRES: So if you look at the chart below it
14 where it says total deliveries day one and day two.

15 MR. SMITH: Oh, I see.

16 MR. ANDRES: So on day one there's 34. On day two
17 there's 31. So it's roughly half and half. Half for the
18 existing tenants and half for Spring Valley Shopping Center.

19 MR. SMITH: As part of this did you count any of
20 the trucks that actually load and unload off Yuma Street?
21 Or is this only the trucks that come into the alleyway?

22 MR. ANDRES: So, if you look at the third bullet
23 down. So there's 48 deliveries over the course of those two
24 days. So 17 of them actually were on curbside on Yuma
25 Street.

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1 MR. SMITH: And they're counted in your numbers
2 in the chart below or not?

3 MR. ANDRES: Yes. Yes, that's correct. So of the
4 34 and 31, 17 of them are actually on Yuma Street.

5 MR. SMITH: Okay. And did this include any trash
6 trucks?

7 MR. ANDRES: Yes. Two trash trucks.

8 MR. SMITH: On one day or on subsequent days?

9 MR. ANDRES: I'll get that answer for you in about
10 30 seconds.

11 MR. KRASKIN: I'm Jeff Kraskin from the Spring
12 Valley Wesley Heights Citizens Association.

13 On the same page of the 17 deliveries that were
14 curbside on Yuma Street do you recall what those were, for
15 whom?

16 MR. ANDRES: No, we don't.

17 MR. KRASKIN: You don't know. Again, all of this
18 slide is brand new data. This was never presented in any of
19 the hearings previously, correct?

20 MR. ANDRES: We did them literally last week.

21 MR. KRASKIN: Okay. And previously you did
22 discuss moving the shopping center trash, all of them into
23 the north-south alley. Is that correct?

24 MR. ANDRES: So, our management plan is
25 coordinating with the Spring Valley Shopping Center and the

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1 intent, and Sarah's going to pull it up, is to (a) reduce the
2 total number of dumpsters so that it gets cleaned up, (b)
3 putting them in an enclosure, and then (c) putting them in
4 compactors so that it reduces the number of trips a week
5 potentially for the trash pickups.

6 MR. KRASKIN: Do you have an agreement with Exxon
7 which is not part of the lot of the Spring Valley Shopping
8 Center to move their trash, their dumpster which is on Yuma
9 Street into this north-south alley?

10 MR. ANDRES: No.

11 MR. KRASKIN: The Exxon is part of -- while it is
12 a separate lot, it is part of the Spring Valley Shopping
13 Center. So their trash pickup is not considered as part of
14 this, correct?

15 MR. GLASGOW: Mr. Chairman, it's not in the
16 project boundary.

17 CHAIRMAN HOOD: I thought he answered the
18 question. He said no.

19 MR. KRASKIN: Okay, I got it. And you don't know
20 the deliveries on Yuma Street. You can't tell us if those
21 were food deliveries, liquor deliveries. You have no idea
22 what those 17 deliveries were on Yuma Street.

23 MR. ANDRES: They were trucks that showed up on
24 Yuma Street.

25 MR. KRASKIN: If we go back to your page 22 from

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1 today which is the -- so this slide, all of the discussions
2 of the upgrades and the change of the materials. I believe
3 Commissioner Shapiro even asked this is all new. This is not
4 something previously testified to at the previous hearings?
5 Is that correct?

6 MR. GLASGOW: Mr. Chairman, I want to interject
7 for one moment. This is rebuttal as to issues that were
8 raised during the last hearing. All this was in response to
9 issues raised at the last hearing.

10 CHAIRMAN HOOD: I think he's responding to what
11 my colleague said when he asked the question so I'm going to
12 allow that question.

13 MR. KRASKIN: Thank you, Mr. Chairman. Mr.
14 Chairman is if we had been there that night and stayed late
15 for rebuttal this would not have been presented. So that's
16 why I'm asking is this not totally new. Because my question
17 is all of these about adding stop signs, all-way stops, DDOT
18 to convert, have you had a discussion since the hearing, the
19 most recent hearing with DDOT?

20 MR. ANDRES: So --

21 CHAIRMAN HOOD: Let me phrase something. I think
22 a lot of this is in response to testimony we heard. I don't
23 think it's new. It may be a new way of delivering the same
24 information over to us again.

25 So I want to clarify that because it's not like

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1 we're starting all over again. This is typical of what our
2 process is. Let me finish, Mr. Kraskin.

3 When somebody gives us rebuttal they respond to
4 what you all have said, what the community said, what the ANC
5 said, what we've said. Things that we've asked for.

6 MR. KRASKIN: Well, Mr. Chairman, what I'd like
7 to know is has DDOT reviewed this. So can I ask DDOT that
8 question?

9 CHAIRMAN HOOD: Has DDOT reviewed it.

10 MR. KRASKIN: Yes, because they're adding all-way
11 stop signs. There are places -- this has never been
12 discussed before. So my further question would be where does
13 the AU bus -- sorry about AU -- but where does their bus stop
14 on 48th Street.

15 MR. ANDRES: So, Chairman Hood, you're correct.
16 This information, a lot of this is in our comprehensive
17 transportation report with respect to the upgrades at the
18 intersections.

19 It was never testified to because it was in our
20 report and DDOT wrote to support it. So it's on the record.

21 So with respect to making it simple for everybody
22 to follow we put it on a graphic. So you can see that our
23 sort of approach here isn't a Band-Aid approach. We took a
24 comprehensive look as part of our multimodal analysis that
25 DDOT requires.

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1 So this graphic shows a majority of that.

2 Now, the elements that are new are in response to
3 some of the comments and questions raised at the previous
4 hearing one of which Chairman Hood asked us to look at the
5 alley.

6 CHAIRMAN HOOD: The word new is causing a problem.
7 So let's just say in response.

8 MR. ANDRES: In response.

9 CHAIRMAN HOOD: Let's just go there because new
10 is causing a problem.

11 MR. ANDRES: Thank you for correcting me, Chairman
12 Hood. So in response to the chairman's comments and some of
13 the other comments raised by the community members we've
14 addressed that with the pedestrian friendly design of the
15 intersection that's internal to the alley network.

16 MR. KRASKIN: So let me ask you one more question
17 on this point. The all-way stop at the corner of Warren and
18 48th. Is that in response to a comment made here during the
19 hearing? And if so, I'm trying to clearly understand how
20 that works since the AU bus stops right at that point in the
21 middle of a stop sign.

22 MR. ANDRES: So, in coordination with DDOT it was
23 our understanding that as a response to their walkthrough
24 that the citizens had coordinated they committed to that.
25 And based on our coordination with DDOT they continue to

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1 commit to that improvement that was identified as part of the
2 walkthrough.

3 MR. KRASKIN: And your textured pavement that
4 you're showing today which was not shown on the previous
5 slides, still though with the sidewalk that you mentioned,
6 the black little stripe on your next page, page 23, still the
7 pedestrians have to move out into the alley over that
8 textured walkway to find the next alley, correct?

9 MR. ANDRES: Yes, which is an improved condition
10 to existing conditions. If the site were to be reoccupied
11 with the 44,000 square feet of retail this is a significant
12 improvement because we're providing pedestrian connections
13 that aren't part of DDOT's design requirements.

14 MS. GATES: Who are the tenants currently using
15 the north-south alley that will go away?

16 CHAIRMAN HOOD: Excuse me. Did you identify
17 yourself, Ms. Gates?

18 MS. GATES: Oh, I'm sorry. Alma Gates, Neighbors
19 for a Livable Community.

20 You mentioned tonight in your testimony or your
21 rebuttal statement that tenants currently there will be going
22 away. I believe this was relative to some truck deliveries,
23 et cetera. So who are they?

24 MR. ANDRES: So yes. It's the tenants that are
25 in the building today. I think Mr. Lansing is going to get

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1 the --

2 MR. LANSING: It would be DeCarlo's, Wagshal's I
3 guess prep kitchen, and the barbecue which is also I guess
4 Wagshal's. And I think that's right. Jean Paul's Salon.

5 MS. GATES: Okay.

6 CHAIRMAN HOOD: I know we're getting there because
7 they were able to tell you what's going away. So I know
8 we're all getting this information.

9 I'm sorry, I just had to mention that because I
10 watched the reaction and they were able to tell you what was
11 going on. Okay.

12 VICE CHAIR MILLER: I think also Spring Valley
13 Catering.

14 MS. GATES: You also mentioned that the trip
15 generation and I think we're talking about cars at this point
16 is already there. Are the future residents of the Ladybird
17 actually onsite at this time?

18 MR. ANDRES: So, I'm trying to --

19 MS. GATES: I'm just stating back to you what you
20 said to us.

21 (Simultaneous speaking)

22 MR. ANDRES: You're saying that the trip
23 generation is already there. I'm not quite sure what's that
24 in reference --

25 MS. GATES: That was the term you used. The

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1 vehicular trip generation is already onsite which is why I'm
2 asking you this question. I didn't understand it.

3 MR. ANDRES: Okay. Well, to clarify if you go to
4 the table, trip generation table, what we've identified in
5 this table just to clarify what I've said before --

6 MS. GATES: I don't think you were talking about
7 this. I think you were talking about -- this was probably
8 in response to Mr. Repp's question about number of vehicular
9 trips that will be generated by new vehicular trips that will
10 be generated.

11 MR. ANDRES: So yes, so this is what that table
12 talks about. So what this table essentially says is that the
13 --

14 MS. GATES: Oh, I'm sorry, I thought this was the
15 other table.

16 MR. ANDRES: Okay. So what this table essentially
17 says is that the existing structure that can accommodate up
18 to 44,000 square feet of grocer and retail, if that were to
19 be reoccupied that would generate slightly less trips in the
20 morning compared to our proposed development, but
21 significantly more trips in the afternoon compared to our
22 proposed development.

23 Because essentially what we're doing is we're
24 swapping roughly 20 plus thousand square feet of retail and
25 comparing that to the 219 units. Because that's essentially

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1 what the change is.

2 We're reducing the amount of retail and replacing
3 it with residential units. And when you do that as I
4 mentioned before retail per square foot generates more
5 traffic than residential per square foot.

6 MS. GATES: Okay. I want to talk a little bit
7 about the outdoor café seating. I don't know who's going to
8 answer this. It might be you, Mr. Andres.

9 It's at the corner of Yuma and the north-south
10 alley, correct?

11 MR. ANDRES: Yes, that's correct.

12 MS. GATES: And isn't this where we've heard
13 tonight about the badly damaged sidewalk because of trucks
14 running over that corner as well as the deliveries that are
15 made in that area.

16 MR. ANDRES: So yes. It's my understanding from
17 your walkthrough you've observed that the curb that's
18 associated with that alley are getting run over.

19 And the reason for it is because the existing
20 location of some of those dumpsters make it difficult for
21 those turns to take place.

22 MS. GATES: Yes. Mr. Zimmerman was at the site
23 when a truck almost took us all out coming around that
24 corner. So anyone who had been sitting there that day.

25 MR. ANDRES: And understood. So what we're doing

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1 and what we've identified is twofold.

2 One, because of the fact that the loading activity
3 associated with the existing tenants are going away in the
4 north-south alley you're reducing first of all the number of
5 vehicular vehicles related to deliveries and trash because
6 our activity related to our development will be east-west
7 alley.

8 And then second of all, as Ms. Alexander has up
9 on the screen, and can you toggle back and forth? The
10 existing condition shows the dumpsters close to the
11 intersection and that's why some of the trucks have to go a
12 little bit wider because of the fact that their turning
13 radius requirements are being driven by the location of those
14 dumpsters.

15 If we move them and relocate them into sort of
16 more deeper into the alley the turning radius requirements
17 at the mouth of the alley become much more generous.

18 MS. GATES: And whose dumpsters are those?

19 MR. ANDRES: Spring Valley Shopping Center
20 dumpsters.

21 MS. GATES: And so now they have farther to go to
22 dump their trash.

23 MR. ANDRES: So yes. Yes. But it's in a more
24 optimal location for those turning maneuvers to take place.

25 MS. GATES: Can Gorove Slade state that the north-

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1 south alley is without potential pedestrian-vehicular
2 conflicts?

3 MR. ANDRES: What do you mean by that? That's a
4 pretty broad question.

5 MS. GATES: And I would like an answer to it. Can
6 you say it's without -- once you've made your improvements
7 is the alley going to be without potential pedestrian-
8 vehicular conflicts?

9 MR. ANDRES: This alley would be similar to all
10 the other District alleys. The alley, the north-south alley
11 that you're talking about is public right of way. The
12 District owns that alley.

13 MS. GATES: That's right. And currently people
14 living in the neighborhood walk through these alleys.
15 They're a shortcut, both the north-south and the east-west
16 alleys.

17 And now you're proposing a HAWK signal which will
18 be even a bigger draw. So are these alleys now with your
19 improvements without pedestrian-vehicular conflicts?

20 MR. ANDRES: There will always be pedestrian-
21 vehicular conflicts in alleys. And this is not any
22 different. We are improving the current situation by leaps
23 and bounds with the different elements that we've introduced
24 at this location.

25 That and cleaning up some of the loading activity

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1 that's taking place today will help improve the current
2 situation.

3 MS. GATES: But just one final point. On the
4 sheet that showed the deliveries -- okay. To the Spring
5 Valley Shopping Center that's where the majority of these are
6 going.

7 MR. ANDRES: No, it's almost half. Half are going
8 to Spring Valley Shopping Center and the other half are going
9 --

10 MS. GATES: Okay. How will the culture of these
11 delivery people who have done this for years be changed to
12 guarantee that they're not delivering in the alley or on Yuma
13 Street? And where will it happen?

14 MR. ANDRES: So we're coordinating with Spring
15 Valley Shopping Center because there are existing leases that
16 need to be respected as part of this.

17 We're addressing the loading and the congestion
18 issue associated with the loading by first of all as I
19 mentioned before reducing the number of dumpsters in the
20 alley, locating them in a more optimal location to help with
21 the maneuverability, locating all of the loading associated
22 with our building in the east-west alley to better facilitate
23 circulation in that north-south alley.

24 MS. GATES: But what about all the people who are
25 delivering to CVS, Wagshal's, all those kinds of businesses

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1 that need every day replenishment. Where are they going to
2 be loading and unloading?

3 MR. ANDRES: So again that's a situation that
4 we're going to need to coordinate with the Spring Valley
5 Shopping Center.

6 DDOT, their requirements for retail facilities is
7 loading within the alley. And so --

8 MS. GATES: Do those currently exist? Those
9 requirements for loading and unloading in an alley?

10 MR. ANDRES: Absolutely. They're in the
11 engineering design manual.

12 MS. GATES: And is DDOT enforcing those?

13 MR. ANDRES: I can't speak for DDOT.

14 MS. GATES: Thank you.

15 MR. KRASKIN: Okay. Question for you. You
16 mentioned before about the size of the trucks and trying to
17 keep them at a specific size, correct? For loading to the
18 new Ladybird.

19 MR. ANDRES: To the new Ladybird, that's correct.
20 The largest vehicles are 55 feet in length.

21 MR. KRASKIN: So, for the residents moving in
22 there's some form of limitation within their lease or
23 whatever for moving, for the residential moving trucks?

24 MS. ALEXANDER: Correct. The residential loading
25 truck is limited to 35 feet.

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1 MR. KRASKIN: And so if I get this right with the
2 chart regarding the peak and it's only 29 additional
3 vehicular trips we get that because we're actually losing
4 neighborhood serving retail. And that would be why we only
5 have -- in other words if this building could maintain the
6 retail we've got and have the residential requirements we'd
7 have more vehicular traffic.

8 MR. ANDRES: Well no. If you go to the chart.
9 Right there. So if you look at the site. So in the mornings
10 the existing use if they were to be reoccupied would generate
11 more traffic than the proposed --

12 MR. KRASKIN: That's what I'm saying.

13 MR. ANDRES: Yes.

14 MR. KRASKIN: So by getting rid of neighborhood
15 serving retail we're getting not very much more traffic.

16 MR. ANDRES: So, but that's in the mornings. In
17 the afternoons we're generating significantly less.

18 MR. KRASKIN: I'm not disagreeing with you.

19 MR. ANDRES: Okay.

20 MR. KRASKIN: Okay.

21 MR. SMITH: Can I ask just a follow-up question
22 on that. Do you consider that to be an amenity for the
23 neighborhood?

24 MR. ANDRES: The full grocer, the grocers?

25 MR. SMITH: No, no, no. The reduction of

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1 neighborhood retail in order to limit traffic impacts. Is
2 that considered to be an amenity?

3 MR. GLASGOW: Mr. Chairman, this is going way
4 beyond the rebuttal.

5 MR. SMITH: Actually, I'm not the one who raised
6 these issues. You raised them in rebuttal. So my --

7 MR. GLASGOW: We raised them in response --
8 (Simultaneous speaking)

9 CHAIRMAN HOOD: Hold on a second. Could you
10 repeat the question?

11 MR. SMITH: Yes. My question is that do you
12 consider the reduction in retail that results in reduced
13 truck traffic as you've shown in the materials that you've
14 submitted as part of the rebuttal, do you consider that to
15 be a neighborhood amenity.

16 MR. GLASGOW: Mr. Chairman, we never testified
17 that that is a neighborhood amenity. It's a fact of what
18 happens as to redevelopment of the site.

19 CHAIRMAN HOOD: I think what messed up your
20 question when I said neighborhood amenity, but I think your
21 question was in line. It's just the last part about a
22 neighborhood amenity. So can you ask that without --

23 MR. SMITH: Actually, I feel like I've gotten the
24 answer.

25 CHAIRMAN HOOD: Okay. Let's move on.

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1 MR. SMITH: That tells me a lot.

2 CHAIRMAN HOOD: Okay. All right.

3 MR. KRASKIN: Mr. Dettman -- Shane. Slide 14.
4 So slide 14 is the one where you took -- you had three
5 pictures existing at the bottom from the Spring Valley area
6 and the AU building.

7 So the first picture. Do you know from where that
8 picture is taken?

9 MR. DETTMAN: I believe that's 50th Street not far
10 from the intersection with Fordham.

11 MR. KRASKIN: So do you know of these three
12 pictures where the buildings were measured from? In other
13 words, do you know that picture number one is not at the
14 street grade, it is for that building off of Yuma it is
15 actually only a three story structure. The fourth story is
16 because it is below grade.

17 MR. DETTMAN: So for purposes of zoning yes, that
18 is not a public street so I would surmise that the building
19 was not measured from that. Probably the other side.

20 I think what that picture does show is the similar
21 condition than what we have on our site is that there's a
22 change in grade from one side of the site to the other.

23 MR. KRASKIN: And but it's only -- overall it's
24 only a four story building from that point.

25 The picture number three is the AU -- what they

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1 now refer to as the Spring Valley building. Again, but it
2 was built based on the point of measurement from where?

3 MR. DETTMAN: I know that under the zoning
4 regulations it's a 60 foot building because that's what the
5 zoning regulations allowed.

6 If they wanted to take the most advantageous point
7 of measurement that would be on 48th Street.

8 MR. KRASKIN: Correct. And the second picture
9 which is Fordham and 49th Street, do you know when that
10 building was built?

11 MR. DETTMAN: I do not.

12 MR. KRASKIN: Would you be surprised to know that
13 building was built before any of the regulations, present
14 regulations were ever established before 1958?

15 MR. DETTMAN: If it was constructed around the
16 same time as the historic shopping center on both -- that
17 would not surprise me.

18 MR. KRASKIN: Correct. So, and that building was
19 built as part of and to match by the WCA Miller Company to
20 match the homes that are built.

21 CHAIRMAN HOOD: Mr. Kraskin, how is this linking?
22 You have to help me.

23 MR. KRASKIN: I'm trying to understand --

24 CHAIRMAN HOOD: Because what you're doing, let me
25 just tell you. And this is actually, we're going on for

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1 awhile tonight. And I'm not just picking on you, Mr.
2 Kraskin, but we go all the way around the corner to ask a
3 question but we're giving our testimony before we get to the
4 question. So let's just get to the question. And how is it
5 germane to what we're doing here?

6 MR. KRASKIN: I'm trying to understand the slide,
7 sir. What the slide's point was was to show something so I'm
8 trying to ask is it just to show that there are other
9 buildings in the neighborhood that have different textures
10 that match the neighborhood, or is it about size?

11 MR. DETTMAN: No, I think it's a response to a
12 comment by opposition that the AU building was the only
13 building in this area that was built to that particular scale
14 and that that was an anomaly through the allocation that
15 occurred in the seventies that's the only way it could be as
16 big as it is.

17 And it's just not the fact. It's as big it is
18 because that's what zoning allowed at the time.

19 But then if you look across the street you see
20 buildings that on one side might be a three story building,
21 on another side it might be a four story building. You see
22 things that are sort of compatible with the scale that's
23 being proposed as shown in the sections on the lefthand side
24 there.

25 MR. KRASKIN: So the greatest height of the

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1 proposed building again is?

2 MR. DETTMAN: Forty-three feet six inches.

3 MR. KRASKIN: The greatest height from seeing from
4 the north-south alley.

5 MS. ALEXANDER: It was 67.5 I believe.

6 MR. KRASKIN: Thank you.

7 MR. SMITH: And you had another image. I'm trying
8 to find where it is. The one that shows this being taller
9 than the AU building. Slide 36 or page 36. Am I correct in
10 saying that this shows that your building is actually taller
11 than the 4801 Mass Avenue building?

12 MS. ALEXANDER: Am I on the correct slide?

13 MR. SMITH: Yes, you are.

14 MS. ALEXANDER: As I previously testified and as
15 supported by the survey which I have also included again in
16 this testimony our building is approximately 12 feet shorter
17 than the AU building. And that is just merely the way
18 perspective works. When a building is farther away it
19 appears shorter.

20 MR. SMITH: So in other words even -- it's 20 feet
21 away.

22 MS. ALEXANDER: So if you look at this diagram
23 here and I can call up the exact points into view if you let
24 me squint for a second. The AU building is 317 feet to its
25 parapet and it's above sea level measurements.

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1 And again if you look at our section which I need
2 to find a section so give me one moment our parapet is I
3 think 305 but I can't recall off the top of my head, 305.

4 MR. SMITH: So this is just the way visual images
5 play with reality.

6 MS. ALEXANDER: It's -- no.

7 MR. SMITH: Okay. All right. I have one last
8 question and then I'm going to turn to Scott. But this
9 really is a question for -- well, I only have one more
10 question period and that's for Will.

11 In the confusing dialogue about the questions when
12 you were being asked questions about matter of right, what
13 you would and wouldn't do with a matter of right project.

14 You went through a whole list of things that you
15 would not do. My question to you is why. Why wouldn't you
16 do any of those things just because it's a matter of right
17 building?

18 MR. LANSING: Because we would not be required to
19 do those.

20 MR. SMITH: So it's because it's not a requirement
21 you would not do it.

22 MR. LANSING: And to be clear in the testimony it
23 was that we would not commit to it. Not that we wouldn't
24 examine it, or review it, or analyze it, but we would not
25 commit to it. Whereas in this particular situation we are

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1 committing because of the design review process.

2 MS. GATES: I just have one question about
3 committing and it's a point of clarification. The 13,000
4 square feet set aside for the grocery store that 3E and 3D
5 have agreed to is only for grocery. It is not for broader
6 retail use.

7 MR. LANSING: That's correct.

8 MS. GATES: Okay, thank you.

9 MR. PARKER: Scott Parker, Spring Valley West
10 Homes Association. I only have two quick questions you'll
11 be thankful to know.

12 And I'm looking at it from the standpoint of
13 helping you all because you've heard a lot.

14 The first question is to Mr. Dettman and that is
15 you went through the calculations in terms of the reduction
16 of the square footage associated with the change from what
17 was the previous proposal to the more recent one, is that
18 correct?

19 MR. DETTMAN: I did.

20 MR. PARKER: Okay. The one thing that you didn't
21 mention was that there was no reduction in the number of
22 units. So it was still 219. So my question is why was there
23 not a consideration for lowering the number of units in order
24 to maintain the sort of mixed composition that was proposed
25 in the original 219.

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1 MS. ALEXANDER: We actually did maintain the mixed
2 composition. I know it sounds impossible and I'll talk
3 through that.

4 Because of the building types that we chose we
5 ended up with for instance the townhomes in lieu of the
6 condo. The condo was an extremely inefficient building. But
7 the townhomes were much more efficient.

8 So the overall net area the project currently has
9 is actually very comparable to what we had before. So our
10 unit mix is also very comparable to what we had before even
11 though we've reduced the overall building gross square feet
12 by 21,000 square feet.

13 MR. PARKER: Essentially more effective use of the
14 space.

15 MS. ALEXANDER: Correct.

16 MR. PARKER: Is that a fair assessment? Okay,
17 good.

18 The second question goes back to my favorite topic
19 the grocery store. And I guess the fundamental question here
20 is in many of the community meetings that I attended, that
21 you attended, Mr. Lansing, the attractiveness of the notion
22 of a full service grocery store came up several times. And
23 you responded to that.

24 You heard me testify on January 24 that Mom's is
25 not a full service grocery store and it wasn't just my view.

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1 I gave some testimony as to what the basis for that view is
2 and in fact encouraged people to go and visit it so that you
3 could find out what you couldn't buy.

4 The question is if in fact the attractiveness of
5 a full service grocery store was so strong for the community
6 and you heard that message a number of times why didn't you
7 consider reducing the number of units by six to eight, or six
8 to nine in order to create the appropriate amount of space
9 that would have allowed you to in fact replicate a full
10 service grocery store.

11 MR. LANSING: So, I think a couple of points.

12 Under the definition, the ABRA definition this is
13 a full service grocery store. So I just, I want to make that
14 clear.

15 And I think to the question, and this dates back
16 I think a couple of years of iterations but under previous
17 designs of this project site we did contemplate a larger
18 grocery store.

19 And as I had spent many meetings in the community
20 updating them on our progress with the grocers in the market
21 at that time it was -- the market changed. It changed
22 dramatically in the grocer space.

23 I gave this talk and update to the neighborhood
24 I think many times where the grocer users that are in the
25 marketplace today for this particular location were all in

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1 that general range of the grocer size that we've designed for
2 the site today.

3 And so therefore we did look at a larger grocer,
4 but over the past couple of iterations this is where it's
5 landed because this was the grocer size that wanted to be in
6 this location.

7 MR. PARKER: And the grocer size that you
8 considered early on as I remember it was considerably larger,
9 50 to 55,000 square feet, is that right?

10 MR. LANSING: That's correct.

11 MR. PARKER: Okay. Well, what I'm talking to is
12 the sort of interim size which would be more associated in
13 people's minds with the old Superfresh. It doesn't have to
14 be exactly that.

15 Again I'm coming back to the same question. Why
16 did you not consider reducing slightly the number of units
17 in order to accommodate a somewhat larger and therefore truly
18 full service grocery store?

19 MR. LANSING: And I'll answer the same that I have
20 just a moment ago. We did. We looked at different
21 iterations, different sizes. The grocers that are in the
22 market that have been in the market that we've been engaged
23 with and talking to for these past three years, the ones who
24 had interest in the site that we could provide and bring to
25 the neighborhood that we've been promoting fall in this size.

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1 And to be very clear we're not too far off from
2 the size of the existing Superfresh grocer that's onsite
3 today. We're in striking distance there.

4 MR. PARKER: You're about 8,000 feet or so less.

5 MR. LANSING: Okay. Fair point.

6 MR. PARKER: So I think the question in my mind
7 and I'll state this in a question format is after all of
8 these community meetings in which the discussions that you
9 and I just recited took place I'm faced with having to go
10 back to the 157 homeowners who make up the Spring Valley West
11 Corporation and say you know what, it's going to be Mom's
12 Organic.

13 My concern is that it's not going to be what they
14 conceived of when they heard you say full service grocery
15 store. You got any response to that?

16 MR. LANSING: Again, we stand behind that it is
17 a full service grocery store.

18 MR. PARKER: Thank you, Mr. Chairman.

19 CHAIRMAN HOOD: Okay. Thank you all very much.
20 One last question.

21 MS. GATES: I just have one last question for Mr.
22 Dettman. Would you please restate 600.1(e)?

23 MR. DETTMAN: 600.1(e). The purpose of the design
24 review process is to (e) provide for flexibility in building
25 bulk control, design and site placement without an increase

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1 in density or map amendment.

2 MS. GATES: Thank you because tonight I think you
3 also included some additional words. And I thought maybe
4 something was wrong with my definition. Thank you.

5 CHAIRMAN HOOD: Okay. I want to thank you all for
6 your cross examination.

7 All right. Any further questions up here?

8 Okay, Mr. Glasgow, you have a closing remark?

9 MR. GLASGOW: Just very briefly, Mr. Chairman.
10 We certainly have used the time between the last hearing and
11 this session to work hard to address the open issues on the
12 functioning of the alley system.

13 As shown in our rebuttal testimony and exhibits
14 we believe now that the alley does function much better with
15 respect to how it addresses both the community and the users
16 within the shopping center area and the proposed project.

17 We believe that the record now is clear that the
18 applicant has in fact used the proper point of measurement
19 under the zoning regulations.

20 With respect to the IZ calculations we are in
21 compliance with the IZ regulations that will be dealt with
22 with DCRA and the Zoning Administrator's office assuming that
23 we have an approval and those computations will be verified
24 at that point in time.

25 But we have already checked as to those items and

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1 we believe that we will continue to be in compliance.

2 We also know that the commission has had some
3 statements and concern about making sure the applicant -- and
4 there was the questions today about what is the applicant
5 committing to.

6 If it is the commission's decision to grant this
7 approval that can be dealt with in a couple of different ways
8 with respect to conditions within the order of the
9 commission, whatever those conditions are.

10 Similar to a PUD there's nothing that precludes
11 in a design review that to occur.

12 Secondly, and also taking an analogy from a
13 planned unit development if there's additional concern about
14 that there could also be a covenant similar to that for a
15 planned unit development with respect to ensuring that the
16 conditions that the commission may elect are documented in
17 that fashion.

18 And I have discussed that with the applicant and
19 the applicant understands that that would be an additional
20 way of dealing with those type of issues.

21 I'm not going to go back through with the
22 engagement of the community other than to note that if you --
23 getting the support of two ANCs is an undertaking. It's an
24 undertaking that's part of this process.

25 We went through the process. That was done. I

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1 think if people were not engaging and having meaningful
2 discussions with the community and the ANC we wouldn't have
3 gotten the support of the two ANCs. So that I think is
4 meaningful with respect to that and there are other
5 organizations that are in support.

6 It's unfortunate that there's not support from
7 everybody, but that -- in projects like this that's very,
8 very difficult to achieve.

9 So I believe that we have done what is possible
10 and reasonable with respect to addressing those issues and
11 concerns, and we hope that the commission will deem fit to
12 approve the project.

13 CHAIRMAN HOOD: Okay. Before we move on I want
14 to thank everyone for their participation in this process.
15 Whether you're for or again, undeclared or whatever I want
16 to thank everyone for their input. I think this will be very
17 useful and helpful as we continue to -- as we get into our
18 deliberations.

19 We definitely have the information. That's one
20 thing that cannot be said that we don't have the information.
21 We definitely have the information.

22 Ms. Schellin, do we have any dates? First, do we
23 have anything that we've asked for other than maybe one
24 thing. Four photographs.

25 MS. SCHELLIN: Just the four photographs, the only

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1 thing that I have down.

2 So I don't think that's going to take very long.

3 MR. GLASGOW: Excuse me, and findings of fact and
4 conclusions of law from both parties, from the parties.

5 MS. SCHELLIN: Right. So --

6 CHAIRMAN HOOD: I think you were going to address
7 that. Just give us a chance. Just give us a second.

8 MS. SCHELLIN: That's part of the normal routine.

9 CHAIRMAN HOOD: Right, the normal process.

10 MS. SCHELLIN: So, if we could have -- I think you
11 guys could provide those in a week.

12 MS. ALEXANDER: Sure.

13 MS. SCHELLIN: Okay. So if we could get those by
14 3 p.m. on February 13, 3 o'clock p.m. And then the parties
15 would have until 3 o'clock p.m. on the 20th of February to
16 respond to those documents only.

17 And then draft findings of fact conclusions of law
18 would also be due by 3 o'clock p.m. on the 20th. The
19 applicant must provide draft findings of fact conclusions of
20 law and the other parties are encouraged to do it since they
21 are in opposition. They don't have to, but if they choose
22 to do so they would need to provide theirs also by 3 o'clock
23 p.m. on the 20th of February.

24 And we will place this on the March 11 agenda for
25 consideration at 6:30 p.m. And that's it.

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1 CHAIRMAN HOOD: Okay. Ms. Schellin, we need to
2 make sure that Commissioner Turnbull reads this --

3 MS. SCHELLIN: Yes.

4 CHAIRMAN HOOD: All right. Are we all on the same
5 page? Any unreadiness? We're all on the same page.

6 Anything else, Ms. Schellin?

7 MS. SCHELLIN: No, sir.

8 CHAIRMAN HOOD: All right. I want to thank
9 everyone for their participation tonight and this hearing is
10 adjourned.

11 (Whereupon, the above-entitled matter went off the
12 record at 9:18 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Valor Development

Before: DCZC

Date: 02-06-19

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



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