

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

-----:
   
IN THE MATTER OF: :
   
:
   
Skyland Holdings, LLC - : Case No.
   
Consolidated PUD & Related : 09-03
   
Map Amendment @ Squares 5632, :
   
5633, 5641, 5641N, & Various :
   
Parcels :
   
-----:

Thursday, February 4, 2010

Hearing Room 220 South  
441 4<sup>th</sup> Street, N.W.  
Washington, D.C.

The Public Hearing of Case No. 09-03 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- WILLIAM W. KEATING, III, Vice Chair
- MICHAEL G. TURNBULL, FAIA, Commissioner  
(AOC)
- PETER MAY, Commissioner (NPS)

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OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER

MAXINE BROWN-ROBERTS

The transcript constitutes the minutes from the Public Hearing held on February 4, 2010.

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

2 (6:43 p.m.)

3 CHAIRPERSON HOOD: Good evening,  
4 everyone. We are experiencing a few technical  
5 difficulties. As I read the opening  
6 statement, we will be working on that. We are  
7 going to try to go ahead and get started.

8 Good evening, ladies and  
9 gentlemen. This is a public hearing of the  
10 Zoning Commission of the District of Columbia  
11 for Thursday, February 4th.

12 My name is Anthony Hood. Joining  
13 me are Vice Chairman Keating, Commissioner May  
14 and Commissioner Turnbull. We are also joined  
15 by Ms. Sharon Schellin. Also, the Office of  
16 Planning, Ms. Steingasser, and Ms. Brown-  
17 Roberts.

18 This proceeding is being recorded  
19 by a Court Reporter and is also webcast live.

20 Accordingly, we must ask you to refrain from  
21 any disruptive noises or actions in the  
22 hearing room. The subject of this evening's

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1 hearing is Zoning Commission Case Number 09-  
2 03.

3 This is a request by Skyland  
4 Holdings, LLC, for approval of a consolidated  
5 PUD and related map amendment for property  
6 located at Squares 5632, 5633, 5641, 5641N,  
7 and various parcels, and is -- this is also a  
8 continuation of our December 10, 2009,  
9 hearing.

10 Notice of today's hearing was  
11 published in the D.C. Register on October 16,  
12 2009, and copies of that announcement are  
13 available to my left on the wall near the  
14 door.

15 This hearing will be conducted in  
16 accordance with provisions of 11 DCMR 30.22 as  
17 follows: preliminary matters, applicant's  
18 update, report of the Office of Planning,  
19 report of the government agencies, if any,  
20 report of ANC-7B that abuts the boundaries of  
21 8B, organizations and persons in support,  
22 party in opposition, which at this time we

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1 have already established Fort Baker Drive a  
2 party, organizations and persons in  
3 opposition, rebuttal and closing by the  
4 applicant.

5 The following time constraints  
6 will be maintained in this meeting: the  
7 applicant, 15 minutes; party in opposition at  
8 the time will be Fort Baker Drive, they will  
9 have 60 minutes; organizations, five minutes;  
10 individuals, three minutes.

11 The Commission intends to adhere  
12 to the time limits as strictly as possible in  
13 order to hear the case in a reasonable period  
14 of time. The Commission reserves the right to  
15 change the time limits for presentations, if  
16 necessary, and notes that no time shall be  
17 ceded.

18 All persons appearing before the  
19 Commission are to fill out two witness cards.

20 The cards are located on my left on the table  
21 near the door. Upon coming forward to speak  
22 to the Commission, please give both cards to

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1 the reporter sitting to my right before taking  
2 a seat at the table.

3 When presenting information to the  
4 Commission, please turn on and speak into the  
5 microphone, first stating your name and home  
6 address. When you are finished speaking,  
7 please turn your microphone off, so that your  
8 microphone is no longer picking up sound or  
9 background noise.

10 The decision of the Commission in  
11 this case must be based exclusively on the  
12 public record. To avoid any appearance of the  
13 contrary, the Commission requests that persons  
14 present not engage the members of the  
15 Commission in conversation during any recess  
16 or at any time. The staff will be available  
17 throughout the hearing to discuss procedural  
18 questions.

19 Please turn off beepers and cell  
20 phones at this time, so as not to disrupt  
21 these proceedings.

22 Would all individuals wishing to

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1 testify please rise to take the oath. Even if  
2 -- let's just keep it clean. Even if you rose  
3 the last time, if you could rise again this  
4 time, we would greatly appreciate it.

5 Ms. Schellin, would you please  
6 administer the oath?

7 SECRETARY SCHELLIN: Yes. Please  
8 raise your right hand.

9 (Whereupon, an oath was administered to those  
10 persons wishing to testify.)

11 Thank you.

12 CHAIRPERSON HOOD: Okay. At this  
13 time, the Commission will consider any  
14 preliminary matters. Does the staff have any  
15 preliminary matters?

16 SECRETARY SCHELLIN: No, sir.

17 CHAIRPERSON HOOD: Okay. We  
18 already are looking at a third date.

19 SECRETARY SCHELLIN: Correct.

20 CHAIRPERSON HOOD: And that  
21 hopefully will -- I'm not going to say it's  
22 going to be the last date, because I did that

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1 once before and I was criticized for not  
2 getting it done the third time. But our goal  
3 is to look at February, I think the 18th?

4 SECRETARY SCHELLIN: 18th.

5 CHAIRPERSON HOOD: February 18th.

6 That's the goal. We're going to try to get  
7 as far as we can tonight, and then to -- we're  
8 going to see how far we go. So I'm just  
9 letting you know how far we're going to go, so  
10 we're looking for the 18th of February. We're  
11 going to get started, we're going to see how  
12 far we can go, and we'll give you an update  
13 probably within an hour and a half.

14 PARTICIPANT: That's a public  
15 meeting date, and notice has already been  
16 published for the --

17 SECRETARY SCHELLIN: Do you have  
18 somebody else who can come?

19 CHAIRPERSON HOOD: Is that the  
20 ANC? Well, we'll look for some more dates.  
21 It's good to know that in advance. Okay. We  
22 might have to do -- Sharon, we might have to

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1 do --

2 SECRETARY SCHELLIN: The Wednesday  
3 night before?

4 CHAIRPERSON HOOD: We might have  
5 to do a Wednesday night.

6 SECRETARY SCHELLIN: That would be  
7 the 17th.

8 CHAIRPERSON HOOD: Are you about  
9 to sneeze? I thought you were about to cry.

10 (Laughter.)

11 Okay. Let's -- colleagues --

12 COMMISSIONER MAY: It's my  
13 volleyball night, so I might --

14 CHAIRPERSON HOOD: Well, maybe if  
15 you don't show up they'll win. Anyway, let's  
16 get started.

17 (Laughter.)

18 That was low. I'm sorry, Peter.

19 Okay. The 17th is -- colleagues,  
20 is the 17th okay? Okay. Check your  
21 calendars, and we'll revisit that.

22 Okay. Mr. Tummonds, let's get

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1 started.

2 MR. TUMMONDS: We have one  
3 preliminary matter before we start. In our  
4 January 21st submission, we had submitted the  
5 resume of our proposed expert in aboriculture  
6 and wetland delineation, Lynn Straughan. We  
7 had asked that she be admitted as an expert in  
8 those two areas. This was Exhibit E to the  
9 January 21, 2010 submission.

10 CHAIRPERSON HOOD: We're  
11 certifying her as an aborist?

12 MR. TUMMONDS: Yes, and in wetland  
13 delineation.

14 CHAIRPERSON HOOD: Okay. We have  
15 her resume in front of us. Is everybody okay  
16 with it?

17 (No response.)

18 Not seeing any objections, okay,  
19 Mr. Tummonds, we will accept her as an expert.

20 You may begin.

21 MR. TUMMONDS: Great. Good  
22 evening, Mr. Chairman, members of the

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1 Commission. I am Paul Tummonds with the law  
2 firm of Pillsbury Winthrop. We appreciate the  
3 opportunity to present brief testimony this  
4 evening regarding the information that we  
5 submitted into the record of this case on  
6 January 21, 2010.

7 This information was provided in  
8 response to the issues that were raised at the  
9 Zoning Commission's December 10, 2009, public  
10 hearing in this case.

11 We have two witnesses. Cheryl  
12 O'Neill of Torti Gallas, the project  
13 architect, will walk through the changes that  
14 have been made to the building on Block 1, and  
15 how those changes have diminished the visual  
16 impact of the project on adjacent properties,  
17 and has resulted in the creation of a  
18 significant landscaped visual and sound buffer  
19 between the project and the adjacent  
20 properties.

21 Our second witness is Lynn  
22 Straughan of Wetland Studies and Solutions,

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1 Inc., who will present the results of WSSI's  
2 tree study and wetlands study investigation.  
3 These reports address many of the issues that  
4 were raised in the Urban Forestry  
5 Administration's memo that was submitted into  
6 the record on January 21st as well.

7 The information we have filed in  
8 the record this evening includes a hard copy  
9 of our PowerPoint presentation as well as  
10 WSSI's wetlands study. With that, I will have  
11 Ms. O'Neill begin her presentation.

12 MS. O'NEILL: Good evening,  
13 Chairman and Commissioners. I would like to  
14 present to you changes, as Paul said, we have  
15 talked -- we have made to the Fort Baker Drive  
16 side of Block 1. And this is in response to  
17 many issues raised with regard to the buffer  
18 and the visual appearance of Block 1 from that  
19 side.

20 In this slide, this is just  
21 looking at the rear of Block 1, the large  
22 format retail store, and comparing the former

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1 version of it to the current version of it.  
2 In yellow, along that drawing, you see the  
3 existing property line. Previously, the back  
4 of the store was approximately 35 feet from  
5 that property line, and that is the green line  
6 that you see indicated on that drawing.

7           Since that time, we have made that  
8 change -- a change to move the building an  
9 additional 37 feet from the property line,  
10 doubling the amount of buffer between the edge  
11 of Block 1 and the existing property line.

12           In addition, we have also  
13 internalized the garage ramp to the upper  
14 level of the parking that is above the store.

15           That internalization obviously has tremendous  
16 visual benefits as well as noise and other  
17 benefits, protecting the noise and other  
18 activities of the cars from the landscape  
19 condition on the back of the site.

20           In addition, all of that, as you  
21 will in the subsequent slides, has had  
22 tremendous impact on the grading to the rear

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1 of the site. It has allowed us to almost  
2 eliminate all of the retaining walls on the  
3 Fort Baker Drive side of the site, as well as  
4 to create a very substantial new tree  
5 preservation area.

6 This next series of slides are a  
7 series of sections that show the relationship  
8 between our property, Fort Baker Drive, and  
9 the existing site. This is an existing  
10 conditions drawing. On the left-hand side of  
11 the site is Fort Baker Drive, just below some  
12 of the existing houses. That elevation is at  
13 about 234. You can see then in the center of  
14 the drawing is the bottom of the ravine that  
15 exists between Fort Baker Drive and our site.

16 The bottom of that ravine is about  
17 30 feet below the Fort Baker Drive at that  
18 portion. And then, within our site, it rises  
19 up to about an elevation 271, which is about  
20 30 feet above Fort Baker Drive at that  
21 portion. The large black line that you see in  
22 the center of the drawing is the property line

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1 showing where the demarcation is between our  
2 site and the adjacent properties.

3 This slide shows the condition  
4 that existed in the previous PUD plan. You  
5 can see that there is a 35-foot buffer between  
6 the edge of our building and the property  
7 line. There was a substantial amount of  
8 grading and a retaining wall previously  
9 required along the side of the site to meet  
10 the grades. The ramp to the upper level  
11 garage was outside of the building, and then  
12 the building rose to a slightly higher  
13 elevation.

14 Indicated also in red on this  
15 slide is the profile of the existing --  
16 existing topography, so you can compare what's  
17 there now to what was being proposed.

18 In this next slide we show you the  
19 condition that exists with the plan that we  
20 are bringing to you today, and a number of  
21 significant things have happened. We have  
22 moved the building away from the property line

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1 an additional 37 feet, thereby doubling the  
2 size of the landscape buffer.

3 In doing that, we have been able  
4 to create an approximately 37-foot tree  
5 preservation area that will not only preserve  
6 the existing grades but also preserve a lot of  
7 the trees that exist there. That also has  
8 allowed us to eliminate almost all of the  
9 retaining walls that were previously along the  
10 Fort Baker Drive side of the site.

11 We have also been able to  
12 internalize the garage ramp, as I said  
13 earlier, again providing additional protection  
14 and buffering of the noise and the other  
15 activities of the cars going up to the rooftop  
16 parking on the garage.

17 Additionally, because we have a  
18 solid wall, and not the ramp abutting the Fort  
19 Baker Drive portion of the site, we can locate  
20 green screen along that wall as well as  
21 additional landscaping that creates a much  
22 more bucolic view of the building from Fort

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1 Baker Drive.

2 This is a revised landscape plan  
3 that shows the buffering that exists all along  
4 the Fort Baker Drive portion of the site.  
5 Shown here in green is the extent of the  
6 existing tree plantings, and this diagram  
7 shows the extent of the tree preservation area  
8 that has now been created by means of this  
9 adjustment to the building and the grades  
10 adjacent to it.

11 This next series of slides are  
12 kind of panoramic views showing the view of  
13 the existing conditions from Fort Baker Drive.

14 This is approximately in the same location as  
15 the sections were taken. There is an existing  
16 house that you can see just to the left hand  
17 of the slide.

18 You might note that even though  
19 this photograph was taken in December of this  
20 year, there is substantial green in that  
21 photograph, which is unusual for that time of  
22 year. And Lynn will talk about that a little

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1 bit.

2 This next slide collages in a view  
3 of the building portraying the approximate  
4 scale and character of the building as it is  
5 seen from Fort Baker Drive, and so you can get  
6 a sense of the relationships between the  
7 height of Fort Baker Drive, the height of our  
8 building. Along our building you can see the  
9 green screen located along that side, as well  
10 as the substantial evergreen plantings that  
11 will protect the view from the Fort Baker  
12 Drive side of the site.

13 And this last photograph is a  
14 photograph taken in June of this year in  
15 approximately the same location, which shows  
16 to you the kind of characteristics of the tree  
17 plantings and what-not that exist there in  
18 June of this year. And, clearly, not much can  
19 be seen when the trees are fully foliated at  
20 that time of the year.

21 I will now turn it over to Lynn.

22 MS. STRAUGHAN: Good evening. I

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1 am Lynn Straughan, and I work with Wetland  
2 Studies and Solutions. We were tasked to  
3 investigate the natural resources on this  
4 site.

5 This is Skyland Town Center's  
6 site. There are approximately seven acres of  
7 urban forest, approximately .7 acres of open  
8 area, and approximately 11 acres of existing  
9 commercial development. A part of our  
10 background study, we investigate some historic  
11 photos of the site, and we found this site in  
12 1978 was totally cleared. And as you can see  
13 also in this picture you can see fill piles  
14 deposited on the site.

15 1981, the site remains clear, and  
16 also this photo depicts some of the steep  
17 slopes on the site.

18 On October 1, 2009, we conducted  
19 an existing vegetation survey of the site,  
20 noting dominant species, tree diameters, and  
21 understory species. We characterized three  
22 forest types, mostly dominated by Slippery Elm

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1 and Black Locust. Forest Type A is the  
2 Slippery Elm/Black Locust forest,  
3 approximately four to 10 inches DBH. Forest B  
4 is a Slippery Elm forest approximately five to  
5 23 inches DBH. And Forest Type C is a  
6 Slippery Elm/Norway Maple/Bigtooth Aspen  
7 forest approximately five to nine inches DBH.

8 One thing to note about these  
9 forest communities, they have extensive  
10 invasive species in the understory. The  
11 entire understory up to the canopy is covered  
12 in English ivy. Also present are Princess  
13 tree, Tree of Heaven, and Honeysuckle shrub.

14 On January 20th and 21st of 2010,  
15 we returned to the site to conduct a tree  
16 survey. We identified 17 special trees,  
17 special trees being trees measuring 55 inch in  
18 circumference. Of these 17 trees, three of  
19 these trees were in poor condition with  
20 significant trunk decay. Four trees were  
21 growing out of an existing retaining wall,  
22 therefore restricting its root growth. And

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1 one species was a Mulberry, which is exempt  
2 from the D.C. Urban Forest Protection Act.

3 One thing to note, of the 17  
4 special trees, the largest tree is a 40-inch  
5 DBH Northern Red Oak. This tree is proposed  
6 to be preserved with the proposed project.

7 On January 20th and 21st, we also  
8 conducted a waters of the U.S. investigation  
9 using the U.S. Army Corps of Engineers' 1997  
10 delineation manual and the October 2008  
11 interim regional supplement to the 1987 manual  
12 for the Atlantic and Gulf Coast plain region,  
13 which is an acceptable method for the District  
14 of Columbia.

15 In our opinion, no jurisdictional  
16 wetlands or waters of the U.S. are present  
17 onsite. We investigated four areas which  
18 exhibited evidence of hydrology. However,  
19 these areas did not meet the three parameters  
20 of a jurisdiction wetland, nor did they  
21 exhibit an ordinary high water mark as defined  
22 by the Corps for waters of the U.S.

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1           In this picture, you can see data  
2 point 4. This is an upland swale adjacent to  
3 the paved alley of Akron Place. This swale  
4 contains no bed and bank and no ordinary high  
5 water mark, and does not meet the three  
6 parameters of a jurisdictional wetland.

7           This is a photo of data point 2.  
8 This is a little bit further down the swale.  
9 However, the topography increases a bit here.

10          This also did not contain a bed and bank and  
11 no ordinary high water mark, and does not meet  
12 the three parameters of a jurisdictional  
13 wetland.

14          This is data point 3. This  
15 feature has the appearance of a wetland that  
16 has hydrophilic vegetation but does not show  
17 evidence of hydric soil. In our opinion, this  
18 feature was most likely created in the  
19 original clearing and survey of the site, as  
20 we saw in the 1978 photos in 1981, and,  
21 therefore, in our opinion are not -- is not a  
22 jurisdictional feature.

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1           In conclusion, there are seven  
2 acres of urban forest on the site, .7 acres of  
3 open area, and 11 acres of commercial  
4 development. Seventeen special trees are  
5 located on the site. The proposed development  
6 will preserve the largest tree, which is a 40-  
7 inch Northern Red Oak, and in our opinion no  
8 jurisdictional wetlands or waters of the U.S.  
9 are present on the site.

10           Thank you.

11           MR. TUMMONDS: That concludes our  
12 presentation. We are available to answer any  
13 questions you may have.

14           CHAIRPERSON HOOD: Thank you. Can  
15 we go back to the data points and the three  
16 parameters? What are the three parameters?

17           MS. STRAUGHAN: In order to be a  
18 jurisdictional wetland, you have to have  
19 hydrophilic vegetation, which means 50 percent  
20 of the vegetative community has to be labeled  
21 as an obligate wetland plant or a facultative  
22 wetland plant. You have to have hydric soils,

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1 which the '87 manual has a criteria of a  
2 hydric soil list, and you also have to have  
3 evidence of wetland hydrology.

4 CHAIRPERSON HOOD: Okay. So both  
5 -- all three of your data points, they  
6 constitute not being a wetland.

7 MS. STRAUGHAN: Correct. We did  
8 not find hydric soil on the site, although you  
9 can see in some of the pictures it depicts  
10 hydrology. We were there during the winter,  
11 during the non-growing season, and there is  
12 some hydrophilic plants, but we could not find  
13 soil that matches the hydric soil  
14 characteristic.

15 CHAIRPERSON HOOD: And that is  
16 data point 3.

17 MS. STRAUGHAN: Actually, in all  
18 of the data points presented.

19 CHAIRPERSON HOOD: Okay. From a  
20 layman person looking at data point 3, I would  
21 -- I would really want to know how that is not  
22 classified. I guess it wouldn't meet within

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1 the three -- the criteria that you mentioned  
2 as far as being a wetland.

3 MS. STRAUGHAN: Correct. I mean,  
4 this was done during the winter. We had a lot  
5 of snow. We've had a lot of rain. One thing,  
6 when I was conducting my data point, I was  
7 restricted at 12 inches. There may be --  
8 there are lots of piled concrete slabs around  
9 there. There may be buried materials under  
10 there that is restricting and holding --  
11 perching the water at the surface.

12 This area where this photo was  
13 taken is -- as you can see in the 1978 photo,  
14 that is directly behind the access point  
15 through the fence. There are lots of tire  
16 tracks through there. We believe it was  
17 created during the original disturbance.

18 CHAIRPERSON HOOD: Okay. All  
19 right.

20 MR. TUMMONDS: Ms. Straughan,  
21 would it be safe to say that water is there  
22 because there is not natural soil underneath,

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1 that there is construction fill preventing  
2 water that would naturally flow into the soil?

3 Could that be one of the reasons there is  
4 standing water there?

5 MS. STRAUGHAN: There could be.  
6 Since I was restricted at 12 inches, I could  
7 not auger any deeper.

8 CHAIRPERSON HOOD: All right.  
9 Thank you very much. Let's open it up for  
10 questions. I'm going to go to --

11 COMMISSIONER MAY: Mr. Chair?

12 CHAIRPERSON HOOD: Yes.

13 COMMISSIONER TURNBULL: Oh, I'm  
14 sorry. Mr. May?

15 CHAIRPERSON HOOD: Since I was  
16 mean to the volleyball player, I want to start  
17 -- can I start with --

18 COMMISSIONER TURNBULL: Okay.

19 (Laughter.)

20 COMMISSIONER MAY: Thank you very  
21 much. What restricted you to 12 inches?

22 MS. STRAUGHAN: I don't know what

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1 the restriction was. I auger with a hand  
2 auger to take out soil profiles.

3 COMMISSIONER MAY: So, in other  
4 words --

5 MS. STRAUGHAN: And we -- after  
6 several attempts --

7 COMMISSIONER MAY: -- you couldn't  
8 go any deeper than 12 inches.

9 MS. STRAUGHAN: Exactly. And we  
10 attempted several times.

11 COMMISSIONER MAY: All right. It  
12 is a little hard to follow -- being restricted  
13 makes it sound like somebody was telling you,  
14 "Don't dig any deeper than 12 inches."

15 MS. STRAUGHAN: I was unable to  
16 dig any deeper.

17 COMMISSIONER MAY: Okay. And just  
18 to recap the three data points. One is  
19 basically plants that normally thrive in a  
20 wetland.

21 MS. STRAUGHAN: The three  
22 parameters --

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1 COMMISSIONER MAY: Yes.

2 MS. STRAUGHAN: -- of a wetland,  
3 correct.

4 COMMISSIONER MAY: One is the  
5 plants that normally thrive, the --

6 MS. STRAUGHAN: There is a list.

7 COMMISSIONER MAY: -- soils  
8 commonly found there, and presence of water.  
9 Are those like a plain language version of  
10 those three points?

11 MS. STRAUGHAN: Well, the soils  
12 are -- we have a regional list for this area  
13 that says which plants grow in a wetland. And  
14 when you do your data point, you have to have  
15 greater than 50 percent of those plants making  
16 up your vegetative community. And you also  
17 have soils that --

18 COMMISSIONER MAY: I'm going to  
19 take that as a yes.

20 MS. STRAUGHAN: Yes.

21 (Laughter.)

22 I'm sorry. I didn't understand

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1 your --

2 COMMISSIONER MAY: No, I'm just  
3 trying -- I'm trying to get this down to plain  
4 English terms.

5 MS. STRAUGHAN: We actually have a  
6 checklist that we go down.

7 COMMISSIONER MAY: I am sure it's  
8 very scientific.

9 MS. STRAUGHAN: Okay.

10 COMMISSIONER MAY: But we are not  
11 very scientific. I mean, just trying to get  
12 it down to plain language. It is plants,  
13 soil, and water are the three --

14 MS. STRAUGHAN: Correct.

15 COMMISSIONER MAY: -- fields if  
16 you will. Did you consult with the District  
17 Department of the Environment on whether any  
18 of these might be a wetland of interest to  
19 them? Because I know that when I have dealt  
20 with them in the past, even though the Corps  
21 of Engineers has said, "No, it's not a  
22 jurisdictional wetland," the District

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1 Department of the Environment has expressed an  
2 interest.

3 MS. STRAUGHAN: We were not tasked  
4 to contact them, no.

5 COMMISSIONER MAY: Okay. That may  
6 be a question that's worth answering. I don't  
7 know. I have to think about that one. And  
8 only one of the special trees you say will be  
9 saved or is worthy of saving out of the 17?

10 MS. STRAUGHAN: I believe there  
11 will be four special trees saved, of which it  
12 is the largest on the site. And also, a  
13 native species, which is important.

14 COMMISSIONER MAY: Okay. And what  
15 is the requirement by the District's tree  
16 preservation law with regard to special trees?

17 MS. STRAUGHAN: Special trees 17-  
18 1/2 DBH and greater have to be identified, and  
19 to remove them you have to fill out a permit,  
20 fill out a permit and either pay for the  
21 removal, justify its removal by its poor  
22 condition, or replant to replace it.

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1                   COMMISSIONER MAY:     Okay.     And I  
2     assume that there will be compliance with that  
3     law that's not --

4                   MR. TUMMONDS:     I'm sorry.     Mr.  
5     May, maybe to further answer your question,  
6     Mr. Hays is here to answer the question of  
7     which special trees will be removed, which  
8     will be retained, and that's the chart that we  
9     just presented before you.

10                  COMMISSIONER MAY:     Okay.

11                  MR. HAYS:     Want me to walk you  
12     through this?

13                  COMMISSIONER MAY:     No.     I think  
14     this chart pretty much answers --

15                  MR. HAYS:     Okay.

16                  COMMISSIONER     MAY:             --     the  
17     question.

18                  MR. HAYS:     That shows you which  
19     tree is -- corresponds to the tag that was  
20     identified in the field -- its common name,  
21     botanical name, size, circumference, and then  
22     we did a calculation about how many trees we

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1 would be replacing, and we more than meet the  
2 replacement requirement criteria.

3 COMMISSIONER MAY: Okay. I think  
4 this is -- answers pretty much all my tree  
5 questions.

6 The last question I had had to do  
7 with the retaining wall. I raised the issue  
8 at the last hearing that a retaining wall of a  
9 certain height could be considered a  
10 structure. And I'm wondering if you  
11 investigated that and whether there was  
12 specific zoning relief that is going to be  
13 required for such retaining walls, because it  
14 seems like there are still some retaining  
15 walls of some height. I don't know how high,  
16 but they --

17 MR. HAYS: Yes. And in Exhibit D  
18 to the January 21st submission, the retaining  
19 wall is of a sufficient height that would be  
20 considered to be structures, are those that  
21 are behind Block 1 towards 28th Street. And  
22 so in Exhibit D, in our chart, the top of the

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1 chart on Lot 1 in red we have noted those --  
2 we have included those areas of the retaining  
3 wall structures in the calculation of the --  
4 basically in the zoning calculations, zoning  
5 tabulations.

6 COMMISSIONER MAY: Okay. So, in  
7 other words, you are calling them structures  
8 and you are accounting for them in your lot  
9 occupancy, right?

10 MR. TUMMONDS: That's correct.

11 COMMISSIONER MAY: Okay. And it's  
12 not requiring any additional relief, or it is?  
13 I mean, is it -- it does require some relief?

14 MS. O'NEILL: I believe there is  
15 one rear yard setback that relief is required,  
16 but not for lot occupancy.

17 COMMISSIONER MAY: Okay. All  
18 right. I'll look at this more carefully, and  
19 if I have any questions I'll come back.  
20 Thanks.

21 CHAIRPERSON HOOD: Okay. Mr.  
22 Turnbull?

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1                   COMMISSIONER TURNBULL: Thank you,  
2 Mr. Chair.

3                   Ms. Straughan, you mentioned 1978  
4 as the year that there was an extreme amount  
5 of disturbance to the site, that if there was  
6 any native plant material it was removed in  
7 1978. I'm trying to summarize your mentioning  
8 of 1978.

9                   MS. STRAUGHAN: Okay. We did a  
10 background of historic photos. We had a  
11 picture I believe from 1964 that showed the  
12 site forested, and the first photo that we  
13 came across that the site was completely  
14 cleared was 1978. I guess this gauges kind of  
15 the age of the existing forest. You know,  
16 it's approximately 30 years.

17                   It also -- one of my main points,  
18 too, is you can see the deposition of fill.  
19 It has very poor soil -- very poor soil, which  
20 would explain the types of trees growing on  
21 it. There are Black Locusts --

22                   COMMISSIONER TURNBULL: You

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1 characterize them as "invasive."

2 MS. STRAUGHAN: Some of them are  
3 invasive.

4 COMMISSIONER TURNBULL: Okay.

5 MS. STRAUGHAN: The Princess tree,  
6 Tree of Heaven, Mulberry species are  
7 considered invasive species. They are more  
8 tolerant of these type of disturbed soils, and  
9 they take off.

10 COMMISSIONER TURNBULL: Okay. I  
11 just wanted to clarify the timeline on that.  
12 Thank you.

13 Ms. O'Neill, you showed the  
14 section through Block A, through the garage.  
15 I'm just curious, though, as we move down the  
16 site, as we go into Block 4, that projects  
17 further into -- toward the property line. So  
18 the dimension changes, and actually it is  
19 going to change as it goes along. What is the  
20 effect as we turn the corner and go toward the  
21 residential units? What is the spacing there?

22 MS. O'NEILL: Block 4 is forward

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1 and closer to the property line. However, as  
2 you go up Fort Baker Drive, the grade of the  
3 street actually rises considerably. So there  
4 is more kind of equivalence between the grade  
5 of the street and the grade of the development  
6 on that side. And there is a substantial  
7 landscape buffer that we are putting adjacent  
8 to Block 4 with some mature tree plantings  
9 that actually will substantially screen the  
10 parking garage and most of the buildings that  
11 are there from the adjacent properties.

12 COMMISSIONER TURNBULL: Okay.  
13 Well, how would you characterize -- what is  
14 the spacing? How much space is left? If you  
15 originally had 72 feet now -- well, what do  
16 you get at Block 4? Roughly, what is that  
17 interval?

18 MS. O'NEILL: Currently, right now  
19 we have 72 feet from the face of Block 1 to  
20 the property. Block 4 is a little bit closer.  
21 I would estimate that that is approximately  
22 50 feet from the face of the garage to the

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1 property line.

2 COMMISSIONER TURNBULL: Okay. All  
3 right. Thank you.

4 CHAIRPERSON HOOD: All right. Any  
5 other questions?

6 (No response.)

7 Okay. I think we're good.

8 Let me -- I don't have any  
9 additional questions either, and I think my  
10 colleague doesn't either.

11 Let's do cross-examination. And  
12 the cross is going to be on the changes from  
13 what the applicant testified to today. So we  
14 are going to start with cross from  
15 Commissioner Richards, ANC-7B, and then right  
16 after that we will have Mr. Sullivan.

17 MR. RICHARDS: The study that you  
18 did on the wetlands, that was done during  
19 December of 2009?

20 MS. STRAUGHAN: That was done in  
21 January of 2010.

22 MR. RICHARDS: Okay. Now, during

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1 December there was a lot of heavy rain. Could  
2 the disturbances of 1978 have changed the  
3 substrata in such a way that we have a new  
4 wetland, and, therefore, the plants and the  
5 soil and the other things that you observe  
6 from looking at it are not what would be there  
7 had it been a wetland for 200 years?

8 MS. STRAUGHAN: Possibly. It is  
9 my opinion, based on the amount of concrete  
10 slabs stacked around this wet area, the  
11 inability to auger down below 12 inches, we  
12 usually auger to 20 inches and pull out soil  
13 profiles.

14 And also, in my data points it  
15 showed -- although it made it as a wet  
16 community, it is a very borderline wet  
17 community. Most of the faculty of plants,  
18 which can grow also in uplands, based on the  
19 lack of strong hydrophilic plants, it would be  
20 my opinion that it is not functioning as a  
21 wetland.

22 MR. RICHARDS: You said it --

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1 "borderline." Could "borderline" also be  
2 young?

3 MS. STRAUGHAN: I don't think I  
4 would define "borderline" as young. The  
5 reason why certain plants grow in a wetland is  
6 because during the growing season, which  
7 usually starts in March, and I believe that  
8 goes through September, the soil will become  
9 anaerobic. And these plants can survive in  
10 anaerobic -- a lack of oxygen environment.

11 This little bit of soil I did pull  
12 out didn't even exhibit -- let me see how I  
13 can explain this. When you have hydric soil  
14 it becomes anaerobic, and the microorganisms  
15 in the soil no longer have oxygen, so they  
16 have to break down other minerals in the soil.

17 Therefore, your soil will have a gray color.  
18 That is showing a reduction of iron.

19 And when I looked at the soil I  
20 saw no evidence at all of a reduction of iron.

21 It has been my experience in the past when I  
22 have a young wetland you can see the gray

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1 colors developing, they might not match the  
2 exact criteria of achromatul, which is defined  
3 by the core, but you see it developing. You  
4 see water fluctuating in the soil profile, and  
5 I didn't see any evidence of that.

6 MR. RICHARDS: Okay. So, then,  
7 it's your opinion that the water ran off.

8 MS. STRAUGHAN: Or evaporates. It  
9 is -- I would have to revisit the site during  
10 the growing season to be sure, but I think  
11 based on the soil that I did see that the  
12 water usually dries up during the growing  
13 season.

14 MR. RICHARDS: Okay. So there is  
15 no runoff from there?

16 MS. STRAUGHAN: No. It seemed  
17 just to be a hole, a depression.

18 MR. RICHARDS: Okay. Okay. Thank  
19 you.

20 I have a couple of questions about  
21 the photography on the elevation shots. Yes,  
22 that one. Where were those pictures taken?

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1 MS. O'NEILL: There's a small site  
2 plan at the bottom of the slide that you can  
3 see. So it is on Fort Baker Drive, almost at  
4 the intersection of W Street.

5 MR. RICHARDS: I mean, were they  
6 taken standing in the street, standing across  
7 the street, standing on the curb of the  
8 street?

9 MS. O'NEILL: They were taken  
10 standing in the street.

11 MR. RICHARDS: In the middle of  
12 the street?

13 MS. O'NEILL: Pretty much in the  
14 middle of the street, yes.

15 MR. RICHARDS: Okay. Now, is that  
16 a wide angle lens?

17 MS. O'NEILL: No. It was actually  
18 several photographs pieced together to make  
19 one longer image, so that you'd get a better  
20 sense of the extent of the view there.

21 MR. RICHARDS: I observed that  
22 when I stand in that intersection there at

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1 Fort Baker and look, I see more than just 10  
2 or 15 feet of tree. There is more sky and  
3 that sort of thing there, and I was wondering,  
4 depending upon where you take the picture  
5 from, wouldn't that make the difference as to  
6 where the building appears to be? As I move  
7 my camera closer to an object that is in the  
8 background, i.e. behind those trees, and I  
9 move closer to the trees, it makes it look  
10 like it is kind of smaller than it really is.

11 MS. O'NEILL: That is correct.  
12 But in any photograph, and in creating this  
13 depiction, what was critical was to know  
14 exactly the spot that we were standing, and  
15 exactly the location of our eye level, so that  
16 we could correlate that with the image or the  
17 view of the architecture that you see in the  
18 model, because we have a program called  
19 "Sketch-Up," where you can actually locate  
20 yourself in space and get an accurate  
21 volumetric depiction of the view.

22 And so by the use of that Sketch-

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1 Up model, which locates you literally on an  
2 elevation at a spot and gives you a view, and  
3 correlating that to the exact spot that we  
4 knew we took the photographs from, we were  
5 able to create the image that you see.

6 MR. RICHARDS: Okay. And the  
7 image of the building in the background where  
8 it is yellowish -- yes, I think it's that one  
9 -- that is the new 37-foot setback.

10 MS. O'NEILL: Yes.

11 MR. RICHARDS: Now, just for  
12 comparison, to show what an improvement that  
13 would have been, wouldn't it have been helpful  
14 to have two pictures, one showing what was  
15 earlier and one showing this and --

16 MS. O'NEILL: Yes. I mean, that's  
17 what we attempted to do in a series of  
18 sections that we took that show the kind of  
19 different conditions. Here we felt it was  
20 important to demonstrate what it was that we  
21 were bringing to the Commission today.

22 MR. RICHARDS: Okay. And what was

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1 the elevation of the camera off the ground?

2 MS. O'NEILL: It was at eye level,  
3 so it's approximately five and --

4 MR. RICHARDS: Mine or his?

5 MS. O'NEILL: No. It was actually  
6 -- Doug Hays, the landscape architect on our  
7 team, took the photographs, so he is pretty  
8 tall, just under six feet I would say.

9 MR. RICHARDS: Okay. No further  
10 questions.

11 CHAIRPERSON HOOD: Okay. Thank  
12 you very much.

13 Mr. Sullivan?

14 MR. SULLIVAN: I'll start with Ms.  
15 O'Neill. Just to follow up on the -- you said  
16 it's approximately to scale, the photo of the  
17 Block 1 building from Fort Baker Drive? Or  
18 did you say it's smaller than it looks, I  
19 think, right?

20 MS. O'NEILL: No. I said we  
21 correlated the scale of the image to where  
22 were standing and how high the -- Doug's eye

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1 was above the ground.

2 MR. SULLIVAN: In your opinion,  
3 this is an accurate depiction of what this  
4 will look like from Fort Baker Drive?

5 MS. O'NEILL: Yes.

6 MR. SULLIVAN: Okay. You said the  
7 building over there that is not covered, all  
8 the way to the left, is something about a  
9 setback. Is that Block 4? Is that the Block  
10 4 building?

11 MS. O'NEILL: You've got -- on the  
12 extreme left of the image, yes, there is a  
13 little bit of Block 4.

14 MR. SULLIVAN: What does Block 4  
15 look like from Fort Baker Drive?

16 MS. O'NEILL: That's not  
17 demonstrated in this picture. There were some  
18 images presented at the last hearing,  
19 actually, that showed the view -- a  
20 perspective drawing actually in that instance  
21 from some of the houses further up Fort Baker  
22 Drive, looking towards Block 4.

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1 MR. SULLIVAN: So I am at page 69  
2 on the plans, and I see this. Is that --  
3 would that be the view?

4 MS. O'NEILL: That's a view that  
5 actually shows the elevations of the building,  
6 not the extent of the landscaping. It's  
7 important for the submittal that we actually  
8 show the architecture of the building. There  
9 was an additional view that I believe was in a  
10 pre-hearing submittal that was a perspective  
11 drawing that showed more three-dimensionally  
12 the view from further up Fort Baker Drive, and  
13 also included the landscape in it.

14 MR. SULLIVAN: Oh. Where's that?  
15 I have never seen that. Or is it from --  
16 just from up above, like last time?

17 MS. O'NEILL: No. This --

18 MR. SULLIVAN: Okay.

19 MS. O'NEILL: This was part of our  
20 --

21 MR. TUMMONDS: Again, we haven't  
22 -- as the chair said, we weren't testifying

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1 with that tonight. So the cross-examination  
2 is about the information we presented tonight,  
3 not previous submissions in this case.

4 MR. SULLIVAN: I'm asking about  
5 the -- what wasn't submitted that was asked  
6 for, and which I think is relevant.

7 CHAIRPERSON HOOD: Mr. Sullivan --

8 MR. SULLIVAN: You asked for --

9 CHAIRPERSON HOOD: -- let me just  
10 say this. I allowed it, because I figured you  
11 were trying to make a tie-in to what was  
12 presented tonight. You can make that tie-in,  
13 and it will be allowable. If not, the narrow  
14 scope, as I said, that we started with was  
15 going to be what was testified to tonight, and  
16 also what we asked for. So please make the  
17 tie-in, so we can get the answer that you  
18 need, and we can move forward.

19 MR. SULLIVAN: I can make the tie-  
20 in. Commissioner Hood asked for a view of  
21 what this project would look like from Fort  
22 Baker Drive. And so far we have gotten a view

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1 of the fourth house of my client's on the  
2 townhouses at a certain angle, and now we have  
3 a view from below the first house onto Block  
4 1, and we're missing everything in between,  
5 which is probably the most impactful view.

6 MR. TUMMONDS: Is that question?

7 MR. SULLIVAN: No, it's an answer  
8 to Commissioner Hood's question, tying in.  
9 Commissioner Hood asked for information that's  
10 not here, so I'm asking how. Maybe it's  
11 somewhere else; maybe I'm missing it. I don't  
12 know.

13 CHAIRPERSON HOOD: I think -- Mr.  
14 Sullivan, to help you out, I think -- my  
15 colleagues and I were trying to figure out who  
16 asked that. I think my colleague did. I  
17 don't think I asked for that. I might have  
18 endorsed it, but --

19 MR. SULLIVAN: Yes. Both -- two  
20 people asked for it, and said Block 1, and you  
21 said -- well, it's not my case to make, so  
22 we'll go --

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1 CHAIRPERSON HOOD: It actually is,  
2 because you brought the question up.

3 MR. SULLIVAN: Okay. Well, then,  
4 we'll just go with this as the view for our  
5 case, because that's all we have.

6 CHAIRPERSON HOOD: Okay. Okay.

7 MR. SULLIVAN: The 58,000-foot  
8 tree preservation area, is that all new area,  
9 just as a result of the 37-foot pullback? Ms.  
10 O'Neill?

11 MS. O'NEILL: No. The portion of  
12 that that abuts Block 1 is new, because of the  
13 change in location of the building. The  
14 finger that comes out closer to -- the finger  
15 that comes out there, that was previously  
16 existed.

17 MR. SULLIVAN: The plans show that  
18 about approximately maybe a little more than  
19 20 feet of earth is going to be removed from  
20 Block 1. Was that in the plans before, or is  
21 that just in the new plans?

22 MS. O'NEILL: The elevations of

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1 Block 1 have not changed. The amount of -- so  
2 there is -- still continues to be some earth  
3 that needs to be removed, but it is less than  
4 it was previously. There is a greater extent  
5 of the site adjacent to Block 1 where the  
6 grades will be left undisturbed.

7 MR. SULLIVAN: The photos -- I'm  
8 still not clear on the photo and the angle of  
9 the photos, because in the one photo from  
10 December I see a house, and then in the photo  
11 from June I just see a street, and I don't see  
12 any house. So is it really the same angle, or  
13 was it actually a much different angle?

14 MS. O'NEILL: These are in roughly  
15 the same location. They have been created by  
16 different means. The June photograph is one  
17 shot taken standing on Fort Baker Drive,  
18 roughly at the intersection of W Street,  
19 looking towards the site. So it's just a  
20 single image captured in the camera's lens.

21 The longer images that you see  
22 here are panoramas, in that they are created

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1 by taking -- standing in one place and taking  
2 three or four separate views, so that you get  
3 a greater extent of the image. You get more  
4 of the elevation in that view.

5 MR. SULLIVAN: Okay. So where is  
6 the house in this June photo? How far up the  
7 street is it?

8 MS. O'NEILL: It's further up the  
9 street on the left.

10 MR. SULLIVAN: It's actually a  
11 much different angle, isn't it? Is it really  
12 looking at where the Wal-Mart or where Block 1  
13 would be? Or is it looking --

14 MS. O'NEILL: It is looking --

15 MR. SULLIVAN: -- well north of  
16 it?

17 MS. O'NEILL: It is looking  
18 straight at where the back of Block 1 would  
19 be. The intent of this photograph was simply  
20 to demonstrate the extent of the foliage in  
21 June, which is quite a different than it is in  
22 the winter months of the other photographs.

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1                   MR. SULLIVAN:     Would a balloon  
2 test have been more revealing than the photo  
3 montage, as far as giving us a perspective of  
4 what this will look like from Fort Baker  
5 Drive?

6                   MS. O'NEILL:     We felt these were  
7 very credible, accurate images portraying what  
8 would -- the appearance of the building would  
9 be from Fort Baker Drive.

10                  MR. SULLIVAN:     When you planned  
11 this photo montage and did it, did you think  
12 about showing a perspective onto Block 4 as  
13 well? Or did you just consider showing Block  
14 1?

15                  MS. O'NEILL:     We had previously  
16 prepared the image of Block 4. We had  
17 understood from the hearing that the  
18 appearance of Block 1 had not been fully  
19 presented, and it was our attempt in these  
20 images to do just that.

21                  MR. SULLIVAN:     So you have  
22 presented -- you have a photo montage

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1 somewhere in the file on Block 4 just like  
2 this, is that right?

3 MS. O'NEILL: We have a  
4 perspective drawing created that similarly  
5 portrays the image of the development between  
6 the houses at Fort Baker Drive.

7 MR. SULLIVAN: And that is not  
8 this, just to be clear, right?

9 MS. O'NEILL: That is not the  
10 elevation.

11 MR. SULLIVAN: But you don't know  
12 where it is, right? Okay.

13 MR. TUMMONDS: Can I try to bring  
14 some clarity here? Are we talking about this  
15 image? Is that Block 4 perspective?  
16 Microphones.

17 MR. SULLIVAN: Is that showing  
18 townhouses or apartment building?

19 MS. O'NEILL: That is showing the  
20 back of Block 4, the apartment building.

21 MR. SULLIVAN: Also, if I could  
22 clarify, my comments at the previous hearing

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1 were really in reference to the retail Block  
2 1. That was my largest concern about the  
3 large wall and the retaining walls and how  
4 those would appear to the residents on Fort  
5 Baker Drive. I had less of a concern and  
6 didn't raise an issue, really, about this  
7 perspective, because I thought this  
8 perspective was satisfactory.

9 And this perspective is taken from  
10 which house?

11 MR. TUMMONDS: I would object. We  
12 haven't presented any testimony on that  
13 perspective. The opportunity to cross-examine  
14 on that perspective was on December 10th. The  
15 perspective now that Mr. Sullivan is pointing  
16 to is the one that Commissioner Keating  
17 showed.

18 CHAIRPERSON HOOD: Do I need to  
19 say anything, Mr. Sullivan? Have you got --

20 MR. SULLIVAN: That's fine. I'll  
21 have some questions for Ms. Straughan. You  
22 said you evaluated the soil. Did you evaluate

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1 the condition of the fill, the soil? Was it  
2 clean fill, or was it toxic fill? Or is that  
3 not part of your scope?

4 MS. STRAUGHAN: That was not part  
5 of the scope of my work.

6 MR. SULLIVAN: You did say it was  
7 very poor soil, though, right?

8 MS. STRAUGHAN: The soil that I  
9 was describing were the piles of fill, yes,  
10 debris and also trash. It was very rocky and  
11 loose.

12 MR. SULLIVAN: Okay. And then,  
13 that very poor soil explains the types of  
14 trees that are there, is that right?

15 MS. STRAUGHAN: The types of trees  
16 growing on the site are more tolerant of these  
17 types of soils, correct.

18 MR. SULLIVAN: Is the vegetation  
19 unhealthy in that -- in the subject area?

20 MS. STRAUGHAN: In my opinion, I  
21 would say yes. Based on the extent of the  
22 English ivy, it has totally covered the

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1 understory, and it's into the canopy. And I  
2 would think that that -- the extensive nature  
3 of the ivy would be prohibiting the regrowth  
4 of new species. This forest hasn't evolved to  
5 the next stage. It is still in the early  
6 succession species.

7 MR. SULLIVAN: But if the soil  
8 remains, then you will still have the same  
9 issue with new trees, correct? If it's the --  
10 if the very poor soil explains the type of  
11 trees, do you have a continuing problem with  
12 new vegetation?

13 MR. TUMMONDS: I could maybe  
14 redirect. Could you address -- could you get  
15 rid of that ivy, if -- and you are enhancing  
16 and creating a landscape buffer on this site,  
17 could we create a -- on those areas we're  
18 trying to keep a healthy growing environment?

19 MS. STRAUGHAN: I would think the  
20 first step, yes, would be to remove all of the  
21 ivy. I would remove some of the invasive  
22 species. There is lots of mulberry growing.

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1 All of the regeneration seems to be the  
2 invasive species that can tolerate the ivy and  
3 the soil substrate.

4 MR. SULLIVAN: Okay. So my  
5 question was: if the soil remains, do you  
6 still have a problem with -- regardless of  
7 moving the ivy, which wasn't my question, if  
8 the soil remains, do you still have a problem  
9 with new vegetation being healthy in that  
10 location?

11 MS. STRAUGHAN: I don't think that  
12 the soil would affect the healthiness of the  
13 tree types that we grow there. I think the  
14 invasive ivy is more of a restrictive layer  
15 restricting the regeneration.

16 MR. SULLIVAN: You don't think, or  
17 you -- that's your expert opinion?

18 MS. STRAUGHAN: The soil could be  
19 improved. But since we did note Northern Red  
20 Oak growing on the site, there are areas that  
21 have better soil along the edges.

22 Looking at the photographs from

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1 1978, 1981, you can see in the areas where the  
2 deposition of fill are have smaller DBH trees,  
3 and more early successional and invasive  
4 species types growing on them, on the edges  
5 that weren't removed or where we have a few  
6 oaks.

7 MR. SULLIVAN: So any new  
8 vegetation plant in here will have no problem  
9 at all surviving in this soil?

10 MS. STRAUGHAN: I think that might  
11 be a better question for the landscape  
12 architect.

13 MR. SULLIVAN: Okay.

14 MR. HAYS: Most of the fill  
15 material that we will be dealing with, it will  
16 be removed during construction of the project.

17 What will remain will be the areas that are  
18 in the current slopes of the tree preservation  
19 zone, and those are the areas that are  
20 problematic, because it is imported soil that  
21 is not native.

22 And so it is going to be -- we are

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1 proposing just to leave those soils as they  
2 are and to go in and clean up the understory,  
3 and to let Mother Nature take its course in  
4 those areas. And then, we will supplementally  
5 plant in the areas that are immediately  
6 adjacent to the development with new plantings  
7 that will be selected to grow in these  
8 difficult conditions.

9 MR. SULLIVAN: So you are going  
10 to --

11 MR. HAYS: Almost all of the  
12 plants that we will be proposing will be  
13 native.

14 MR. SULLIVAN: Okay. So you are  
15 saying you are going to put the condition of  
16 the soil back to where it was before 1978  
17 before the landfill?

18 MR. HAYS: Not in the areas that  
19 it is sloped or if it was filled. It is where  
20 we will be grading for the new construction.

21 MR. SULLIVAN: How do you know you  
22 will be removing most of the fill? You said

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1 most of the fill will be removed. How do you  
2 know how much --

3 MR. HAYS: It is because of the  
4 grades that the new buildings will be. We  
5 have to excavate down to get the lower parking  
6 lot and below Block 1 building, and just  
7 because of the grades that are there. Most of  
8 that material that is currently there that has  
9 been brought in and filled will be removed.

10 MR. SULLIVAN: Ms. Straughan, you  
11 said you did a background study of the  
12 landfill. Did you review any documents from a  
13 lawsuit filed by the District of Columbia  
14 against Andrew Godd relating to the dumping  
15 activity there?

16 MS. STRAUGHAN: When I stated that  
17 we did a background investigation, that was of  
18 aerial photographs of the site.

19 MR. SULLIVAN: Okay. So you also  
20 -- you are not familiar with a study by the  
21 Geology Department of GWU that investigated  
22 the landfill in 1975?

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1 MS. STRAUGHAN: No, I'm not.

2 MR. SULLIVAN: Did you find any  
3 evidence or would you know if there could have  
4 been a natural stream existing there that was  
5 diverted or eliminated as a result of the fill  
6 that was placed there in the 1970s?

7 MS. STRAUGHAN: I did not find any  
8 evidence of that.

9 CHAIRPERSON HOOD: I think what  
10 would help us, if you could just tell us the  
11 scope of your background. That may save some  
12 of the questions.

13 MS. STRAUGHAN: The scope of my  
14 background?

15 CHAIRPERSON HOOD: The scope of  
16 what you --

17 MS. STRAUGHAN: The scope of our  
18 work?

19 CHAIRPERSON HOOD: Right, the  
20 scope of your work.

21 MS. STRAUGHAN: We were tasked to  
22 review the site as is and existing conditions.

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1 I traversed a site and noted the species and  
2 did data points in accordance to the '87  
3 manual. I didn't do any type of extensive  
4 background investigation of the history of the  
5 site.

6 MR. SULLIVAN: Okay. But you had  
7 to understand a little bit about the  
8 composition of the fill to give your opinion,  
9 is that correct?

10 MS. STRAUGHAN: I -- my opinion is  
11 based on what I observed in the field.

12 MR. SULLIVAN: Is this area part  
13 of the Anacostia watershed?

14 MR. HAYS: Yes.

15 MR. SULLIVAN: Okay. I thought  
16 that would have been the wetlands person's  
17 question. What does she think? Ms.  
18 Straughan?

19 MS. STRAUGHAN: I didn't look at  
20 the watershed of Anacostia. That wasn't part  
21 of the scope of my work.

22 MR. SULLIVAN: Despite the

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1       unhealthiness or non-native nature or noxious  
2       or invasive species of the vegetative  
3       community in the subject area, is it your  
4       opinion that that -- the existence of that  
5       vegetation and the root system would still  
6       play a role in slowing erosion of the  
7       landfill?

8                   MS. STRAUGHAN: Yes.

9                   MR. SULLIVAN:        So if the  
10       vegetation is removed from the landfill, the  
11       erosion situation will not be helped. It will  
12       be harmed, is that right?

13                   MS. STRAUGHAN:    That wasn't part  
14       of the scope of my study, but I would assume  
15       they would have erosion and sediment control  
16       measures in place to --

17                   MR. SULLIVAN: Thanks.

18                   MS. STRAUGHAN:       -- to protect  
19       that.

20                   MR. SULLIVAN:        Okay. In the  
21       landfill and all throughout the landfill area.

22                   No further questions.

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1 CHAIRPERSON HOOD: Thank you very  
2 much.

3 Let's move right along with the  
4 Office of Planning's report. And I think what  
5 we can do, colleagues, unless you all seem to  
6 think we need to move in another fashion, I  
7 think we can get the Office of Planning's  
8 report, and we have Mr. Jennings down there  
9 and we can hear from DDOT also. Okay. Ms.  
10 Brown-Roberts.

11 MS. BROWN-ROBERTS: Good evening,  
12 Mr. Chairman, and members of the Commission.  
13 I am Maxine Brown-Roberts from the Office of  
14 Planning.

15 The Office of Planning is  
16 supportive of the proposed redevelopment of  
17 the new Skyland Town Center. The proposed  
18 rezoning would put the entire site in the C-3-  
19 A district. The accompanying PUD would be a  
20 mixed use development of approximately 315  
21 square feet of retail space, and up to 500  
22 residential units, of which up to 150 would be

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1 affordable units. And this would be -- they  
2 would be distributed across 80 percent of AMI,  
3 and 100 percent of -- 120 percent of AMI.

4 The applicant has requested  
5 flexibility from the loading, roof structure,  
6 and closed court requirements, which is  
7 outlined in our report. We are supportive of  
8 these requests, and we believe that this  
9 flexibility would not be detrimental to the  
10 project.

11 The individual lots are also --  
12 there are also some individual lots which come  
13 under Section 2517. Most of the requirements  
14 are met. However, there are some small  
15 reductions in the rear, side yard, and lot  
16 occupancy on a few of the townhouses. Again,  
17 we do not think that these -- the flexibility  
18 requested on these lots would be detrimental  
19 to the light and air and privacy on these  
20 adjacent buildings.

21 One of our main concerns on this  
22 development relates to parking. The applicant

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1 is proposing 1,698 spaces. The Office of  
2 Planning and DDOT have met with the applicant  
3 on a number of occasions in trying to reduce  
4 the large number of spaces, because we think  
5 that it is excessive.

6 The property is not adjacent or in  
7 close proximity to a Metro station, but the  
8 Office of Planning believes that the proposed  
9 number of spaces should be reduced.

10 The applicant has stated that  
11 under the phasing of the development that  
12 Blocks 1 and 4 will be in Phase 1. We have  
13 recommended that the Commission approve the  
14 parking spaces associated with those -- with  
15 these two blocks, and that the applicant be  
16 required to come in when -- on later phases  
17 when those are going to be developed.

18 This will allow us to do -- or  
19 allow the applicant to do an analysis of the  
20 parking that is proposed, and hopefully at  
21 that time we will have a better idea of what  
22 the traffic to the site is going to be.

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1           And so we are proposing that the  
2 Commission approves just the parking for  
3 Blocks 1 and 2, and then at a later date, on  
4 the other blocks, the applicant will come in  
5 just to give the Commission an analysis of  
6 what the transportation impact is and have the  
7 Commission approve that at those stages.

8           Currently, there are also seven --  
9 approximately seven buses, bus routes, that  
10 either go to or pass by the site. We are  
11 hoping that with the new development there  
12 will be some improvement in ridership. This  
13 will help to reduce the number of parking  
14 spaces that would be needed.

15           One of the things that we are also  
16 recommending for -- in order to help to reduce  
17 -- to increase transit use to the site is to  
18 have a store on the property that would  
19 provide information on transit services, and  
20 also offer such things as a sale of SmartTrip  
21 cards, passes for students and seniors, bus  
22 and train schedules, information on SmartBike

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1 and car-sharing programs.

2 To accommodate such a facility, OP  
3 has requested that the applicant provide such  
4 a facility on the property. The applicant has  
5 agreed that they will provide this. We have  
6 also requested that they provide the buildout  
7 of the space and security and cleaning  
8 services.

9 The issue of staffing has not been  
10 completely resolved, but we are requesting  
11 staffing for at least a period of some time.  
12 Such a facility would be the first in the  
13 District of Columbia, and we believe that if  
14 over time we notice that this facility is not  
15 needed or is underutilized, then the space  
16 could be reverted back to the applicant.

17 The Office of Planning and DDOT  
18 will continue to work with the applicant on  
19 the details of such a facility.

20 Attached to the OP report you find  
21 memoranda from DDOE and also from Fire and  
22 EMS. Regarding the memorandum from Fire and

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1 EMS, they outlined some issues that need  
2 resolving. Up until today I know I spoke to  
3 the -- to the captain who wrote the  
4 memorandum, and he said there are still some  
5 issues that hasn't been resolved. And so we  
6 believe that that is something that should be  
7 resolved prior to the approval of this  
8 application.

9           Regarding the recommendation from  
10 the Department of the Environment, they have  
11 also had some feedback, and especially they  
12 had two issues or highlighted two issues --  
13 the green building -- in which they stated  
14 that they would also -- they would like the  
15 checklist off their -- what are the things  
16 that will be provided under the green  
17 community standards.

18           Regarding stormwater management,  
19 they have also asked for -- they have  
20 commented on it, and that they have some  
21 issues concerning erosion and also the steep  
22 slope areas. I think from the comments that

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1 the Commission gave them at the last hearing  
2 that the applicant has addressed some of  
3 these. However, DDOE will review that in  
4 further detail at the time of building permit.

5 The applicant has requested only a  
6 minimum amount of flexibility, which does not  
7 affect the FAR, the density, the height  
8 allowed by right in the C-3-A district, and  
9 has included a number of amenities --  
10 affordable housing, green building practices,  
11 facilitation of the transit-oriented  
12 development through the provision of a number  
13 of items, and also some benefits with the  
14 revitalization of the property.

15 The future land use map designates  
16 the property as a moderate density commercial,  
17 and the proposal falls within that category.  
18 The PUD-related zoning and the proposed  
19 development are not inconsistent with the  
20 moderate density designation.

21 The comprehensive plan also  
22 outlines a number of areas where it talks

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1 about development of Skyland, and we think  
2 that the proposed development are consistent  
3 with those goals.

4 The Office of Planning recommends  
5 approval of the proposed map amendment and the  
6 PUD for the entire site, but only for the  
7 parking for Blocks 1 and 4. And then, the  
8 remainder of the property will be submitted to  
9 the Zoning Commission for development as  
10 subsequent phases.

11 Thank you, Mr. Chairman.

12 CHAIRPERSON HOOD: Okay. I think  
13 what we're going to do -- I know I said we're  
14 going to hear both presentations together, but  
15 let's ask our questions, and we'll do cross  
16 and everything on Office of Planning, and then  
17 we'll come to you, Mr. Jennings, because we  
18 may have some additional questions that -- we  
19 don't want to mix it all together.

20 Let me just ask one quick  
21 question, Ms. Brown-Roberts. You mentioned  
22 that you are asking the Zoning Commission to

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1 approve -- was it Blocks 1 and 2 or Blocks 1  
2 and 4? 1 and 4?

3 MS. BROWN-ROBERTS: The parking,  
4 only related to the parking, yes.

5 CHAIRPERSON HOOD: Right. For  
6 parking, I'm sorry. Yes, parking for 1 and 4.

7 If that was to happen, would the -- if it's  
8 approved, the whole thing is approved, if that  
9 was to happen, would the Office of Planning be  
10 objectionable to maybe having this either as a  
11 consent calendar -- and I'm not sure what the  
12 legal ramifications, but maybe a consent  
13 calendar item or a -- I don't want to say -- a  
14 minor modification?

15 MS. BROWN-ROBERTS: I think that  
16 is something that we can accommodate, yes.

17 CHAIRPERSON HOOD: I'm not sure  
18 which one would be the most applicable to it,  
19 but whichever one applies after the analysis.

20 MS. BROWN-ROBERTS: I agree, yes.

21 CHAIRPERSON HOOD: Okay. Thank  
22 you. Let me open it up. Commissioner

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1 Turnbull.

2 COMMISSIONER TURNBULL: Just to  
3 piggyback on your question, you are asking to  
4 approve the amounts of parking that the  
5 applicant wants?

6 MS. BROWN-ROBERTS: The amount of  
7 parking that they requested on Block 1 and 4.

8 COMMISSIONER TURNBULL: Now, you  
9 had shown 508 in your matrix, and they are  
10 providing 650. That's 150 more cars  
11 approximately. And then, on Block 4, the --  
12 or on page -- I don't even know what page this  
13 is in your report. It's in Attachment 1.  
14 Block 4 was 127 versus 192. Your colleague at  
15 DDOT, is Mr. Jennings okay with that?

16 MS. BROWN-ROBERTS: I think the --  
17 regarding Block 1 and 4, I think the applicant  
18 has made the argument that the big box really  
19 requires a large amount of parking spaces.  
20 And so while we are hoping that even though we  
21 have -- we are going to approve that amount,  
22 or we would approve that amount, there may be

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1 coming -- in further phases there may be areas  
2 where they will be able to share that parking  
3 -- that parking space at that time.

4 COMMISSIONER TURNBULL: Okay.  
5 Then, in Block 4, you've got retail and  
6 residential. We are allowing them -- that is  
7 at one point something. That is over --  
8 retail is at 111, and residential is at 81.  
9 So the residential is one for one, basically.

10 MS. BROWN-ROBERTS: Right.

11 MS. STEINGASSER: That's correct,  
12 Commissioner Turnbull. We're comfortable with  
13 the up-front parking on the site, that the  
14 site will be under construction, that the  
15 transit won't be well established at this  
16 point. There are seven bus routes that come  
17 through here, but while the site is under  
18 construction and the big box is getting its  
19 patterns established, that there is going to  
20 be some additional demand for parking that, as  
21 the site matures and the other phases come  
22 online, may not be necessary, but we are

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1 comfortable with it going in in the first  
2 phase.

3 And then, we are asking that when  
4 the developer is ready to build out Phase 2,  
5 that there be a reassessment of whether the  
6 additional parking of Phase 2 is really  
7 needed, or can some of the Phase 1 parking be  
8 shared.

9 COMMISSIONER TURNBULL: Okay.

10 MS. STEINGASSER: So we are  
11 comfortable with Phase 1.

12 COMMISSIONER TURNBULL: Okay.  
13 Thank you.

14 CHAIRPERSON HOOD: Any other  
15 questions of the Office of Planning?

16 (No response.)

17 Okay. Let me see, does the  
18 applicant have any questions of the Office of  
19 Planning?

20 MR. TUMMONDS: Just one question.

21 I know that we had at one point talked about  
22 that Block 4 might be the next one, but if in

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1 the instance Block 4 wasn't in the first  
2 phase, and it was Block 2 or Block 3, the same  
3 rationale would apply, correct? It would --

4 MS. STEINGASSER: That's correct.

5 MR. TUMMONDS: Block 1, the  
6 retail, then, whatever is the first mixed use  
7 block, that would establish the approved, and  
8 then --

9 MS. STEINGASSER: Well, I don't  
10 want to give a blanket okay to that, because  
11 Block 2 carries with it another 450 parking  
12 spaces, which is considerably different than  
13 the Block 4 project. But the idea and the  
14 concept are the same. We are willing to  
15 accommodate more parking in the first phase of  
16 construction, with the request that it be  
17 reassessed in the second phase.

18 MR. TUMMONDS: The second issue is  
19 with regards to the staffing of the commuter  
20 store and the idea that the applicant -- it  
21 would be his responsibility, is it your  
22 thought, to pay for the staffing or to hire

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1 the people? And that if for some time -- is  
2 there any idea of how long that would be?

3 MS. BROWN-ROBERTS: I think that  
4 is something that we are still working out  
5 with DDOT, and we think that is a decision --  
6 is I said in my report, that's something that  
7 we will continue to work on on that.

8 MR. TUMMONDS: No further  
9 questions.

10 CHAIRPERSON HOOD: Thank you.  
11 Commissioner Richards, do you have any cross-  
12 examination of the Office of Planning?

13 MR. RICHARDS: Yes.

14 CHAIRPERSON HOOD: Okay.

15 MR. RICHARDS: The first issue of  
16 our concern is the rezoning. How many acres  
17 of land are you proposing be -- are you  
18 supporting being rezoned to commercial from  
19 residential?

20 MS. BROWN-ROBERTS: I'm sorry.  
21 Did you say from commercial to residential?

22 MR. RICHARDS: From residential to

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1 commercial, I meant to say.

2 MS. BROWN-ROBERTS: I don't have  
3 the exact figure, but I can check and get back  
4 to you on that. But the majority of the site  
5 is already zoned C-3-A.

6 MR. RICHARDS: The majority is.

7 MS. BROWN-ROBERTS: The majority  
8 of the site, yes.

9 MR. RICHARDS: But there are  
10 sections that are residential, and those are  
11 being changed to commercial.

12 MS. BROWN-ROBERTS: That's  
13 correct.

14 MR. RICHARDS: Now, that creates  
15 additional value in the property for the  
16 developers, does it not?

17 MS. BROWN-ROBERTS: Ask the --

18 MR. RICHARDS: Developer?

19 MS. BROWN-ROBERTS: -- the  
20 developer that, yes. But I suppose, yes,  
21 because it is good from a residential zone to  
22 a commercial zone. So, yes.

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1 MR. RICHARDS: Okay. And did --

2 MS. STEINGASSER: If I could just  
3 clarify that. The rezoning does not stand  
4 alone. The rezoning stands only in the  
5 context of this project. So if this project,  
6 as is approved by the Commission, is not  
7 built, the zoning goes away. So the zoning  
8 only enables this particular project and  
9 design.

10 MR. RICHARDS: Okay. So what I  
11 take it you are saying is that the proposal  
12 that is currently before the Commission would  
13 require a change of zoning for this developer  
14 for this site, if it's approved.

15 MS. STEINGASSER: That's correct.

16 MR. RICHARDS: Okay. Now, doesn't  
17 the law usually require that the developer  
18 make some proposal as to what they are doing  
19 to the -- for the community to make this a  
20 better community, so that this grace would be  
21 granted to them, which creates value in their  
22 pocket and expands the size of their

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1 development, because if the -- if you had that  
2 land as residential, you certainly -- the FAR  
3 and all of those other things would be  
4 different.

5 MS. STEINGASSER: Yes, sir, it  
6 would. The planned unit development, which is  
7 the process under which this project is going  
8 forward, does allow for the Commission to  
9 consider the balancing of what is considered  
10 -- defined as benefits and amenities, and  
11 those benefits and amenities can accrue to the  
12 neighborhood, to the residents of the project  
13 itself, or to the city as a whole.

14 In this case, we looked to the  
15 comprehensive plan for guidance in assessing  
16 what those benefits and amenities should be as  
17 a place to start, and the comprehensive plan  
18 provided very specific and clear guidance  
19 about the redevelopment of Skyland as a  
20 shopping center, creating a very vital mixed  
21 use center. And so we -- that was our point  
22 of beginning that we went through.

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1 MR. RICHARDS: Okay. So are you  
2 -- do you mean to say, then, that you were  
3 satisfied with the proposal of this developer  
4 on that area?

5 MS. STEINGASSER: We are  
6 recommending approval of the PUD, subject to  
7 the conditions Ms. Brown-Roberts explained  
8 about parking, and a resolution of this issue  
9 with the transit kiosk store.

10 MR. RICHARDS: Okay. Now, since  
11 you have sort of changed that subject to the  
12 parking, are you aware that ANC-7B has passed  
13 a resolution opposing your position on  
14 parking?

15 MS. STEINGASSER: Yes, sir, I am.

16 MR. RICHARDS: And are you aware  
17 that if this development goes forward, and  
18 there are not parking spaces, and people being  
19 people they are going to be parking  
20 everywhere, even if you tow their cars away?

21 MS. STEINGASSER: I have seen no  
22 evidence of that, no, sir.

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1 MR. RICHARDS: Okay. Now --

2 CHAIRPERSON HOOD: Commissioner  
3 Richards, let me just say, that issue is  
4 something you can bring up when you do your  
5 presentation to us. You want to make sure you  
6 ask them -- get right to their question, get  
7 right to the question they're asking. You  
8 know, that issue you can rebuttal that when  
9 you come up and ask -- when you come up and do  
10 your presentation to us.

11 MR. RICHARDS: Okay. I wanted to  
12 keep it as a question rather than making a  
13 speech on the position of the ANC.

14 Okay. Let me move on to a couple  
15 of the other areas. The map that was  
16 submitted tonight on the fire -- access by  
17 fire trucks -- it was submitted on January  
18 21st, I am being told, but it was submitted  
19 for tonight's hearing and is a part of the new  
20 evidence.

21 Okay. Now, did I hear you correct  
22 that you -- that the fire department is not

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1 satisfied with that resolution to the issues  
2 raised in your report?

3 MS. BROWN-ROBERTS: The fire -- as  
4 I said, attached to my report was a memo from  
5 Fire that talked about some turning radius.  
6 This was submitted -- a small one was  
7 submitted, a small plan was submitted to the  
8 captain. When I spoke to him, he said that he  
9 needed a larger scale map, and that was  
10 something that the applicant was supposed to  
11 get to him, for him to see if they had  
12 addressed what he had said in his memo.

13 MR. RICHARDS: Okay. So, then,  
14 your objection is not that it is not safe as a  
15 fire hazard for the fire department to get in  
16 there and deal with any emergencies, but that  
17 the scale of the map submitted?

18 MS. BROWN-ROBERTS: It is not the  
19 Office of Planning's objection. It was from  
20 the Fire and EMS.

21 MR. RICHARDS: Well, is it or  
22 isn't it safe?

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1 MS. BROWN-ROBERTS: He has to have  
2 a larger plan, so he can make an assessment.  
3 His -- he said that this was too small a scale  
4 a plan for him to make the assessment that he  
5 wants to do, and, therefore, he has requested  
6 that the applicant provide a larger scale  
7 plan.

8 MS. STEINGASSER: The fire code  
9 will also be examined as part of the building  
10 permit process. This process, the planned  
11 unit development process, does not get into  
12 building code details at that level. But if  
13 the fire department is uncomfortable and  
14 doesn't sign that building permit,  
15 construction won't begin. We have no reason  
16 to think that the developer won't be  
17 responsive to the fire department's criteria.

18 MR. RICHARDS: Now, did you do any  
19 studies of water and erosion on the site and  
20 adjacent to the site running down from that  
21 hill from the -- you know, the landfill?

22 MS. BROWN-ROBERTS: No, we did

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1 not. That is not something that we do in the  
2 Office of Planning. However, we submitted the  
3 application to the Department of the  
4 Environment that would do that assessment, and  
5 basically what they are saying -- that there  
6 is not enough engineering work done at this  
7 phase of the development, so that they will  
8 make their assessment at the time of the  
9 building -- when the building permit is  
10 submitted.

11 MR. RICHARDS: Okay. So we don't  
12 know -- then, the city is not sure whether or  
13 not and how the water flows on that site and  
14 down into wherever the water goes when it flow  
15 downs the street after rains and --

16 MS. BROWN-ROBERTS: As I --

17 MR. RICHARDS: -- whatever else  
18 water does?

19 MS. BROWN-ROBERTS: As I said, at  
20 this time, they have -- DDOE, which is the  
21 portion of the government that does that  
22 analysis, they have said that they will do

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1 that analysis when their engineering plans are  
2 submitted, and they can do that. But based on  
3 the plans that are submitted at this stage,  
4 they are not able to do that assessment.

5 MR. RICHARDS: Okay. No further  
6 questions.

7 CHAIRPERSON HOOD: Thank you,  
8 Commissioner Richards. Mr. Sullivan.

9 MR. SULLIVAN: Thank you. Ms.  
10 Steingasser, you said that there is very  
11 specific and clear guidance about the  
12 redevelopment of Skyland as a vital mixed use  
13 center. Where is that exactly?

14 MS. STEINGASSER: In our report,  
15 it's cited on page 12, Section 10. It talks  
16 about the 2006 comprehensive plan. It talks  
17 about the general description of multi-  
18 neighborhood centers, and then in the text of  
19 that it lists as examples Skyland Shopping  
20 Center. Then, again in Section --

21 MR. SULLIVAN: Hold one second.

22 MS. STEINGASSER: Okay.

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1 MR. SULLIVAN: What page are you  
2 on?

3 MS. STEINGASSER: Of our report,  
4 it's on page -- starts on page 12.

5 MR. SULLIVAN: Page 12.

6 MS. STEINGASSER: Section Roman  
7 numeral ten.

8 MR. SULLIVAN: Okay.

9 MS. STEINGASSER: It starts with a  
10 description of the designation of the  
11 generalized land use map. It defines what is  
12 a multi --

13 MR. SULLIVAN: It says -- I'm  
14 sorry, it says it's a multi-neighborhood --

15 MS. STEINGASSER: Center.

16 MR. SULLIVAN: -- business center.

17 MS. STEINGASSER: Right. The --

18 MR. SULLIVAN: Business center at  
19 Skyland.

20 MS. STEINGASSER: Neighborhood  
21 center, multi-neighborhood --

22 MR. SULLIVAN: Multi-neighborhood

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1 business center.

2 MS. STEINGASSER: -- center, yes.

3 MR. SULLIVAN: Okay. So it's --  
4 all right. Is that it?

5 MS. STEINGASSER: Then -- no. On  
6 page --

7 MR. SULLIVAN: Does multi-  
8 neighborhood business center mean that it is  
9 more than a business center? Does that mean  
10 there is residential use in there?

11 MS. STEINGASSER: Mixed use infill  
12 development at these centers should be  
13 encouraged.

14 MR. SULLIVAN: Okay.

15 MS. STEINGASSER: To provide new  
16 retail services and additional housing.

17 MR. SULLIVAN: Okay.

18 MS. STEINGASSER: Then, there is  
19 also a section specific to Skyland --

20 MR. SULLIVAN: Oh, I'm sorry.  
21 That's the general -- that's on the  
22 generalized --

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1 MS. STEINGASSER: That's the  
2 generalized land use map --

3 MR. SULLIVAN: Okay.

4 MS. STEINGASSER: -- that  
5 references Skyland directly there --

6 MR. SULLIVAN: Okay.

7 MS. STEINGASSER: -- as a  
8 definition of what a multi-neighborhood center  
9 is.

10 MR. SULLIVAN: Okay.

11 MS. STEINGASSER: What is this  
12 section? Far northeast sector plan has  
13 several references to Skyland. The most  
14 direct would be --

15 MR. SULLIVAN: Northeast?

16 MS. STEINGASSER: Far northeast.  
17 It's also denoted as FNS as the --

18 MR. SULLIVAN: Okay.

19 MS. STEINGASSER: -- 2.7 is titled  
20 Skyland. We're on page 15.

21 MR. SULLIVAN: Got it.

22 MS. STEINGASSER: And it goes

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1 through there and gives a lot of description  
2 about the potential for the site.

3 MR. SULLIVAN: Does it say  
4 anything about residential use in there or big  
5 box retail?

6 MS. STEINGASSER: There is a great  
7 deal of talk about retail, complex of  
8 freestanding retail buildings. It talks about  
9 dynamic community scale retail, function is  
10 primary business district for adjacent  
11 neighborhoods.

12 Then, again here when we talked --  
13 when it was cited about what is a mixed multi-  
14 neighborhood center, additional housing and  
15 job opportunities.

16 MR. SULLIVAN: Where is the  
17 additional housing comment?

18 MS. STEINGASSER: Housing is  
19 referred back in the description of a multi-  
20 neighborhood center, where it gives examples  
21 in the second paragraph on page 12. It says,  
22 "Mixed use infill development at these centers

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1 should be encouraged to provide new retail and  
2 service uses and additional housing and job  
3 opportunities."

4 MR. SULLIVAN: Okay. We did that  
5 one, and we're on 2.7.

6 MS. STEINGASSER: But you're  
7 asking, where is their housing? That's one of  
8 the references to housing?

9 MR. SULLIVAN: In 2.7, I thought.

10 MS. STEINGASSER: Well --

11 MR. SULLIVAN: I got the first  
12 section that we did. I was --

13 MS. STEINGASSER: Okay. So that  
14 answers --

15 MR. SULLIVAN: -- 2.7 says it's a  
16 town center with 275,000 square feet of  
17 leasable space is being pursued. Is that in  
18 line with the current proposal?

19 MS. BROWN-ROBERTS: I'm sorry.  
20 The retail -- the proposed retail is 315,000  
21 square feet.

22 MR. SULLIVAN: And in addition

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1 there is residential --

2 MS. BROWN-ROBERTS: Yes.

3 MR. SULLIVAN: -- and a big box.

4 MS. BROWN-ROBERTS: The big box is  
5 included in the 315.

6 MR. SULLIVAN: I'll go to your  
7 next section, FNS 2.7.1, Skyland  
8 revitalization. How would you define  
9 "community scale retail center"?

10 MS. STEINGASSER: I would look  
11 back -- again, since Skyland is specifically  
12 cited as qualifying as a multi-neighborhood  
13 center, I would say they went through -- if I  
14 were to cross over to what is considered --

15 MR. SULLIVAN: But on its own --  
16 this thing, how would you define a community  
17 scale retail center? Not with bootstrapping  
18 or anything, just on it -- 2.7.1 says that the  
19 policy is to revitalize Skyland Shopping  
20 Center as an essential dynamic community scale  
21 retail center.

22 MS. STEINGASSER: That's correct.

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1 MR. SULLIVAN: Does it say  
2 anything about residential or big box retail  
3 in that section?

4 MS. STEINGASSER: No. In that  
5 particular section, no, it does not.

6 MR. SULLIVAN: Actually, other  
7 than where it says multi-neighborhood, in the  
8 section you pointed out in mixed use, there is  
9 six or seven sections that talk about Skyland.  
10 Do any of them talk about residential use?

11 MS. STEINGASSER: Which six or  
12 seven?

13 MR. SULLIVAN: One second. Well,  
14 I'll go by reg section, 1700.2 says shopping  
15 centers like Skyland. It doesn't mention  
16 anything about residential.

17 MS. STEINGASSER: But as you are  
18 probably familiar, all of our commercial  
19 districts allow -- all but three of them  
20 actually incent residential. The only way to  
21 capture your full development potential  
22 outside of the C-3-C, C-4, and C-5 zones, your

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1 full development potential, is to have  
2 residential. It is inherent in the District's  
3 zoning practice and in the creation of our  
4 zoning districts that residential is  
5 permitted.

6 MR. SULLIVAN: Yes, it's  
7 permitted. But you said there is very  
8 specific and clear guidance, very -- those  
9 were your words --

10 MS. STEINGASSER: Right.

11 MR. SULLIVAN: -- specific --  
12 about the redevelopment of Skyland as a vital  
13 mixed use center. Where is the specific and  
14 clear guidance that presents a Wal-Mart,  
15 350,000 square feet of retail, and 475 housing  
16 units, from the comprehensive plan? I mean,  
17 that would be -- that's what I would call  
18 "specific."

19 MS. STEINGASSER: Well, that's not  
20 what the comprehensive plan does. The  
21 comprehensive plan does not dictate. It is a  
22 generalized guiding policy document.

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1 MR. SULLIVAN: So it's not  
2 specific.

3 MS. STEINGASSER: It is specific  
4 in that it identifies Skyland as an area for  
5 redevelopment and identifies that it should be  
6 considered a mixed neighborhood center, and  
7 that the uses should be considered mixed use,  
8 retail service, additional housing.

9 MR. SULLIVAN: Okay. So it is the  
10 Office of Planning's opinion that the  
11 applicant has met its burden of proof, that  
12 this proposal is not inconsistent with the  
13 comprehensive plan, is that correct?

14 MS. STEINGASSER: Yes, it is.

15 MR. SULLIVAN: And you noted  
16 several sections in the comp plan and your  
17 report. One of them is -- as supporting that  
18 opinion. Policy FNS 1.1, the policy is to  
19 recognize the value and importance of the far  
20 northeast/southeast stable single-family  
21 neighborhoods to the character of the local  
22 community, and to ensure that the zoning

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1 designations for these neighborhoods reflect  
2 and protect the existing low density land use  
3 pattern while allowing for infill development  
4 that is compatible with neighborhood  
5 character.

6 So isn't -- does infill  
7 development mean that Skyland would be  
8 revitalized on its existing footprint rather  
9 than eliminating the natural R-5-A buffer  
10 between Skyland and the single-family  
11 neighborhood to the east?

12 MS. STEINGASSER: No, it does not.

13 MR. SULLIVAN: No? Infill can be  
14 -- "infill" means you can develop undeveloped  
15 land, too, is that right?

16 MS. STEINGASSER: Well, this is --  
17 infill can be undeveloped land. It can be  
18 redeveloped land. It can be large sites,  
19 small sites. It can be utilizing a broader  
20 envelope of an existing site.

21 MR. SULLIVAN: Okay. So would you  
22 term this as infill development that is

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1 compatible with a single-family neighborhood  
2 character?

3 MS. STEINGASSER: We're saying in  
4 total, when we weigh all the elements of the  
5 comprehensive plan that address infill  
6 development, new housing, stabilization of  
7 neighborhoods, Skyland in particular, the --  
8 yes, that there is --

9 MR. SULLIVAN: Okay. But I'm  
10 asking about --

11 MS. STEINGASSER: -- a balancing.

12 MR. SULLIVAN: -- this provision,  
13 because you cited --

14 CHAIRPERSON HOOD: Mr. Sullivan,  
15 let me just say this. I noticed for a while  
16 now when Ms. Steingasser is trying to finish  
17 her question, before she even finishes her  
18 question -- I mean, her answer response to  
19 your question, you are already asking another  
20 question. It would be helpful to my  
21 colleagues and I if you'd let her finish, we  
22 can understand what she is saying, and then we

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1 also can understand what you are saying.

2 And about infill, let me fill in  
3 something. It is very helpful for whatever  
4 you do that you make sure that you persuade  
5 us. Okay? And I'll leave it at that. So how  
6 many more questions do you think you have?

7 MR. SULLIVAN: I don't know  
8 exactly. As many as it is going to take to  
9 find out what --

10 CHAIRPERSON HOOD: 10? 15?

11 MR. SULLIVAN: -- the truth is.  
12 My clients have a lot at stake here, and for  
13 me to turn around and tell them, "Sorry, I  
14 only had 15 minutes, I couldn't really find  
15 out what the impact of this large development  
16 is going to do to your homes," after 20 years  
17 of planning, I think I would like a little bit  
18 -- I haven't taken that much time.

19 CHAIRPERSON HOOD: Well, let me  
20 just say this.

21 MR. SULLIVAN: I'm not going to be  
22 redundant.

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1                   CHAIRPERSON HOOD:     Mr. Sullivan,  
2     you didn't even listen to my point. I've been  
3     listening to you. This is my point. My point  
4     was not to limit you. I just asked you how  
5     many questions, because I have to sit here and  
6     -- we're going to figure out where we are  
7     going to have our cutoff point.

8                   I'm trying to reference the time.

9     I don't want community folks or anybody who  
10    wants to testify to sit here for three hours  
11    and then I tell them in the last five minutes  
12    that we are going to end tonight. So I was  
13    trying to get a reference of about how many  
14    more questions you have, but you don't know.

15                  MR. SULLIVAN:     It's hard -- it's  
16    hard to say.

17                  CHAIRPERSON HOOD:     We're not --  
18    I'll tell you what, we're not putting a limit  
19    on you, because we don't do that. But what I  
20    would encourage you to do is make sure that we  
21    answer a question, let Ms. Steingasser have an  
22    opportunity to respond, and make sure that

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1 what you are trying to do is -- make sure you  
2 influence or try to persuade us to see it your  
3 way. That's the key to cross-examination, as  
4 you well know.

5 MR. SULLIVAN: Noted. Thank you.

6 Does the proposal meet and comply  
7 with policy FNS 1.1?

8 MS. STEINGASSER: Well, the  
9 standard is not inconsistent, and we believe  
10 that this development is indeed not  
11 inconsistent with that statement.

12 MR. SULLIVAN: Okay. So in your  
13 opinion, then, the Block 1 Wal-Mart building,  
14 73 feet away from the property line, 330 feet  
15 across, 56 feet above Fort Baker Drive, is  
16 compatible with the single-family neighborhood  
17 character on Fort Baker Drive.

18 MS. STEINGASSER: It doesn't have  
19 to be residential on this square to be  
20 compatible. The standard is not compatible.  
21 It's not inconsistent. It is a double  
22 negative. It is our position that the

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1 revitalization and redevelopment of this site  
2 as a mixed neighborhood center is not  
3 inconsistent with the residential  
4 neighborhoods that surround it and that it  
5 will serve.

6 MR. SULLIVAN: Okay. I'm just  
7 focusing on this policy, FNS 1.1, which talks  
8 specifically about single-family  
9 neighborhoods.

10 MS. STEINGASSER: That's correct.

11 MR. SULLIVAN: And it says that it  
12 would ensure that zoning designations reflect  
13 and protect the existing low density land use  
14 pattern.

15 MS. STEINGASSER: Right. And that  
16 the zoning --

17 MR. SULLIVAN: And it does use the  
18 word "compatible."

19 MS. STEINGASSER: That we would  
20 use here is the zoning designation of a PUD  
21 allows from that -- for that compatibility to  
22 be judged and evaluated by the Planning

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1 Commission -- the Zoning Commission in terms  
2 of the planning documents.

3 MR. SULLIVAN: So it is compatible  
4 that -- okay. Add Block 4 to my example. You  
5 have Block 1, 330 feet; you have Block 4,  
6 another 237 feet. So you have 600 feet. You  
7 have two football fields 50 to 70 feet away  
8 from a single-family neighborhood, 56 feet  
9 high, multi-family, big box retail, parking  
10 garages, loading bays, trucks, compatible with  
11 a single-family character neighborhood.

12 MS. STEINGASSER: As a whole, the  
13 development proposal, as designed and laid  
14 out, is compatible with the neighborhood that  
15 it serves. The pieces don't stand alone in an  
16 urban environment. The pieces stand as a  
17 whole. The commercial centers serve the  
18 residential, and the residential patronizes  
19 the commercial centers. This is a --

20 MR. SULLIVAN: Do you think they  
21 might stand alone for the people that live on  
22 Fort Baker Drive?

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1 MS. STEINGASSER: I don't know.  
2 They are not my -- I don't know. I can't  
3 speak for any others. That's -- I'm not  
4 testifying for the people on Fort Baker Drive.  
5 I'm talking about how planning pieces fit  
6 together, what makes a neighborhood. A  
7 neighborhood is not just houses. It is made  
8 up of commercial nodes and centers, employment  
9 places, civic uses, and they are all  
10 compatible when laid out and designed  
11 correctly, and we feel that this is compatible  
12 with that statement.

13 MR. SULLIVAN: Can you envision  
14 something that would not be compatible with a  
15 single-family neighborhood?

16 MS. STEINGASSER: Yes.

17 MR. SULLIVAN: And it would be  
18 more than a Wal-Mart and 600 feet of a 56-foot  
19 high wall 60 feet away from a single-family  
20 home.

21 MS. STEINGASSER: Yes.

22 MR. SULLIVAN: Okay. In the

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1 report, it claimed that the low scale of the  
2 buildings makes it more compatible with the  
3 character of the neighborhood. By the phrase  
4 "more compatible," do you mean that it would  
5 be more compatible than the forest and open  
6 space that exists there now, or just more  
7 compatible than some other vision that was  
8 discussed outside of these proceedings?

9 MS. BROWN-ROBERTS: I think that  
10 when we talked about the low scale is that in  
11 this zone a higher density could have been  
12 achieved, and so the -- with the lower heights  
13 of the building, with the lower density on the  
14 site, and also with the vegetation that is  
15 being proposed, we think that it is, you know,  
16 compatible.

17 MR. SULLIVAN: That last policy  
18 statement from the comp plan also mentions  
19 that it would enhance the residential use that  
20 surrounds the property. So -- or actually  
21 your report stated that the proposal would  
22 enhance the residential use that surrounds the

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1 property.

2 Perhaps you could explain how the  
3 properties on Fort Baker Drive will be  
4 enhanced by the Wal-Mart and the Block 4  
5 structures overlooking --

6 MS. BROWN-ROBERTS: Well, I think  
7 it's the use --

8 MR. SULLIVAN: -- those  
9 properties.

10 MS. BROWN-ROBERTS: I'm sorry. I  
11 think what we're talking about is that you  
12 have uses with the retail uses that are going  
13 to be proposed for the site that would -- that  
14 are much closer to the community, and which  
15 the community can make use of, where the --  
16 the number of different uses that will be  
17 coming to the site as against what is there  
18 now. I think that is what we were -- that was  
19 the idea we are trying to get across here.

20 MR. SULLIVAN: Okay. So by  
21 enhancing or improving their residential use,  
22 that is the tradeoff if they have --

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1 MS. BROWN-ROBERTS: Well, it's not  
2 to improve the --

3 MR. SULLIVAN: -- 56-foot high  
4 building looking down over their backyard, but  
5 at least now they have a Wal-Mart they can go  
6 to. Is that the tradeoff?

7 MS. BROWN-ROBERTS: I think -- go  
8 ahead.

9 MS. STEINGASSER: I believe those  
10 are your words, not ours, Mr. --

11 MR. SULLIVAN: Which words?

12 MS. STEINGASSER: -- Sullivan. If  
13 you would like us to answer a question that's  
14 one thing, but paraphrasing an answer and  
15 asking us to --

16 MR. SULLIVAN: Okay. I'm  
17 wondering what is the --

18 MS. STEINGASSER: -- concur is not  
19 how we --

20 MR. SULLIVAN: -- do you feel that  
21 that is a tradeoff that enhances the property  
22 values on Fort Baker Drive?

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1 MS. STEINGASSER: I think in the  
2 current context of what is at Skyland now, and  
3 what this development will bring to the  
4 neighborhood in terms of revitalization, yes,  
5 it is an improvement.

6 MR. SULLIVAN: Action item FNS  
7 2.7(b) requires the applicant to work with  
8 property owners on Fort Baker Drive to develop  
9 and maintain a suitable visual, sound, and  
10 security buffer. Based on the renderings that  
11 you have seen, including the elevation, which  
12 shows a structure with trucks and loading bays  
13 and a parking garage, and three stories of  
14 residential use, 50 feet away, 50 feet -- size  
15 of this room away from Mr. Cole's property,  
16 would you say that the applicant has provided  
17 a suitable visual, sound, and security buffer  
18 between this building and Mr. Cole's property?

19 MS. STEINGASSER: Based on the  
20 design criteria that the Office of Planning  
21 has to evaluate, yes, we do.

22 MR. SULLIVAN: What buffers the

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1 sound from the loading bays and the trucks  
2 that are 50 feet away?

3 MS. STEINGASSER: They are  
4 interior to the buildings. They have doors  
5 and gates that will come down and close.

6 MR. SULLIVAN: So trucks going in  
7 and out won't make any noise.

8 MS. STEINGASSER: Will they make  
9 any more noise?

10 MR. SULLIVAN: Will they stay in  
11 -- sorry. They won't make any noise to the --  
12 that will impact the property 50 feet away.  
13 What is the sound buffer? You are saying  
14 there is no sound.

15 MS. STEINGASSER: No. We are  
16 saying there is -- we believe it is acceptable  
17 sound in the context of an urban neighborhood,  
18 in a center like this on these roads, this  
19 capacity, that it is not adverse.

20 COMMISSIONER MAY: Where is the  
21 property you are referring to? Microphone  
22 needs to be on.

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1 MR. SULLIVAN: It's the second  
2 property. It is 2933 Fort Baker Drive.

3 COMMISSIONER MAY: Where is the  
4 loading dock that you are referring to?

5 MR. SULLIVAN: Well, it's on the  
6 elevation, on page 65 -- or 69, sorry.  
7 Picture of two big trucks there. And this is  
8 a -- this is a view probably back from a  
9 couple hundred feet, not 50 feet.

10 COMMISSIONER MAY: Thanks.

11 MR. SULLIVAN: And you believe,  
12 Ms. Steingasser, they have met the requirement  
13 to provide a suitable visual buffer?

14 MS. STEINGASSER: Yes. Yes. I  
15 just want to clarify, you said that you  
16 believe that house is 50 feet from this  
17 loading dock?

18 MR. SULLIVAN: The property line  
19 is 50 feet from the --

20 MS. STEINGASSER: Oh, the property  
21 line.

22 MR. SULLIVAN: -- building, right.

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1 MS. STEINGASSER: But the house is  
2 a good 200-plus feet away?

3 MR. SULLIVAN: It is actually  
4 about -- from the back it is probably about  
5 110 feet, which is -- if you look out the  
6 back --

7 MS. STEINGASSER: From the loading  
8 dock.

9 MR. SULLIVAN: -- that back window  
10 there, from the building, then that's about  
11 how far it is across the street, 110 feet.

12 MS. STEINGASSER: From the loading  
13 dock?

14 MR. SULLIVAN: From --

15 MS. STEINGASSER: I'm just using  
16 the scale that is on the bottom.

17 MR. SULLIVAN: No, from Mr. Cole's  
18 back deck.

19 MS. STEINGASSER: To the loading  
20 dock. The issue of sound --

21 MR. SULLIVAN: To the building,  
22 the whole building.

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1 MS. STEINGASSER: Oh, to the  
2 building. I thought we were talking about the  
3 noise impact to the -- of the loading dock.  
4 It looks like it's at least 250, maybe 300  
5 feet from the loading dock. So we are  
6 comfortable with that kind of distance.

7 MR. SULLIVAN: Okay. And the  
8 visual buffer is -- how would you describe the  
9 visual buffer?

10 MS. STEINGASSER: It is a  
11 landscape edge.

12 MR. SULLIVAN: Five stories high?

13 MS. STEINGASSER: It's a wall,  
14 yes, with landscaping adjacent to it. But  
15 yes.

16 MR. SULLIVAN: I'm sorry. I  
17 didn't -- well, there is a wall in front of  
18 that residential building.

19 MS. STEINGASSER: I'm sorry.  
20 Which -- you are going to have to be more  
21 specific.

22 MR. SULLIVAN: I'm wondering what

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1 the suitable visual buffer is between 2933  
2 Fort Baker Drive and Block 4.

3 MS. STEINGASSER: The developer  
4 has proposed a landscape screening.

5 MR. SULLIVAN: And it's five  
6 stories high, or four -- it's 40, 50 feet  
7 high?

8 MS. STEINGASSER: I'm sure at  
9 maturity it probably will be. Trees typically  
10 grow --

11 MR. SULLIVAN: So these people  
12 won't have any view out of their windows, I  
13 assume, the residential apartment units.

14 MS. STEINGASSER: Views to?

15 MR. SULLIVAN: Anywhere. It will  
16 be covered, right?

17 MS. STEINGASSER: I'm sorry. I'm  
18 not sure what you're asking.

19 MR. SULLIVAN: I guess I'm asking  
20 for a truthful answer about whether or not  
21 there will be a visual buffer between the home  
22 on Fort Baker Drive and Block 4.

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1 MS. STEINGASSER: Are you actually  
2 asking whether the neighbors are going to see  
3 this building? Because, yes, they will see  
4 the building.

5 MR. SULLIVAN: Okay. Thank you.  
6 What did the applicant provide as the security  
7 buffer between Skyland Shopping Center and  
8 these homes?

9 MS. STEINGASSER: I'm not sure  
10 what you mean by "security buffer." Are you  
11 --

12 MR. SULLIVAN: I'll withdraw the  
13 question. But the bottom line is you are --  
14 the Office of Planning opinion is that the  
15 applicant has met action item FNS 2.7.5 by  
16 providing a suitable visual, sound, and  
17 security buffer.

18 MS. STEINGASSER: Yes.

19 MR. SULLIVAN: But you don't know  
20 what a security buffer is.

21 MS. STEINGASSER: Are you --

22 MR. SULLIVAN: You said, "I don't

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1 know what a security buffer is." But you are  
2 saying it has been provided, though.

3 MS. STEINGASSER: I guess I don't  
4 -- I guess I don't know the answer to that in  
5 terms of a security buffer, because I don't  
6 know what a security buffer would be.

7 MR. SULLIVAN: Do you know if the  
8 applicant has worked with the property owners  
9 on Fort Baker Drive?

10 MS. STEINGASSER: I know there has  
11 been consultation and meetings.

12 MR. SULLIVAN: And have they  
13 worked? Have they cooperated with them to  
14 provide any --

15 MS. STEINGASSER: I have not been  
16 party to any of those meetings.

17 MR. SULLIVAN: Okay. Thanks.

18 The report noted on page 5 that  
19 the townhomes serve as an appropriate  
20 transition from the larger buildings to the  
21 single-family homes to the northeast. So  
22 transition is a critical factor important to

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1 your decisionmaking on evaluating this  
2 proposal?

3 MS. STEINGASSER: Yes.

4 MR. SULLIVAN: Why isn't there an  
5 appropriate transition between Block 1 and  
6 Block 4 to the homes on Fort Baker Drive?

7 MS. STEINGASSER: I believe we  
8 have said our opinion is that there is --

9 MR. SULLIVAN: So from the 330-  
10 foot Wal-Mart to the single-family home there  
11 is a transition area in there somewhere.

12 MS. STEINGASSER: I believe that  
13 it was presented this evening how it was  
14 enhanced and expanded with setbacks and  
15 landscaping.

16 MR. SULLIVAN: Is that a buffer or  
17 a transition?

18 MS. STEINGASSER: I would say it's  
19 a little bit of both.

20 MR. SULLIVAN: Does the Office of  
21 Planning think that the provision of 475  
22 residential units is viable in the current

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1 market conditions?

2 MS. STEINGASSER: I don't believe  
3 we have testified to that issue.

4 MR. SULLIVAN: You have testified  
5 that this proposal is being looked at as a  
6 whole.

7 MS. STEINGASSER: Yes.

8 MR. SULLIVAN: So will it be built  
9 as a whole?

10 MS. STEINGASSER: It will be built  
11 in stages.

12 MR. SULLIVAN: Will it be viable  
13 as a whole?

14 MS. STEINGASSER: That's not a --  
15 the financial viability is not in our  
16 testimony.

17 MR. SULLIVAN: So would you  
18 approve the project if it was just a big box  
19 retail and nothing else?

20 MS. STEINGASSER: I can't testify  
21 to something hypothetically.

22 MR. SULLIVAN: If the developer

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1 built the big box retail in Block 1, and then  
2 was prevented by economic conditions from  
3 completing the rest of the development, would  
4 that change your opinion of the overall  
5 project, or would that change your evaluation  
6 of the project?

7 MS. STEINGASSER: Again, it is too  
8 hypothetical for the Office of Planning to  
9 testify for a project like that.

10 MR. SULLIVAN: Does the Office of  
11 Planning study potential demand for retail use  
12 before they approve it in this scenario?

13 MS. STEINGASSER: We don't -- we  
14 are neither an approval or a disapproval  
15 agency. We make recommendations to the Zoning  
16 Commission.

17 MR. SULLIVAN: When you make your  
18 recommendation, do you study the viability of  
19 a project or the demand for the retail that is  
20 going into that project?

21 MS. STEINGASSER: We did not do a  
22 retail study for this site.

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1 MR. SULLIVAN: How do you know  
2 this is needed in this area, then?

3 MS. STEINGASSER: Needed in terms  
4 of revitalization? I can just drive down the  
5 street and look and see that this is a site --  
6 an underutilized site. This is an urban  
7 environment that provides an opportunity to  
8 redevelop the site, redevelop the  
9 neighborhood.

10 MR. SULLIVAN: But if there wasn't  
11 demand, which you don't know about, there  
12 wasn't demand for the products that that  
13 business was offering, what would that do to  
14 the neighborhood if it went out of business  
15 two years after it opened?

16 CHAIRPERSON HOOD: Mr. Sullivan, I  
17 don't see how that's -- any of that testimony  
18 or those -- that line of questioning is  
19 helping us out in making a decision on zoning.

20 So we want to bring it back to that, and  
21 trying to predict what the uses of the goods  
22 and services are, you know, I think are

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1 relevant. I think we need to come back to  
2 what we have in front of us as far as the  
3 zoning perspective. If you could stick to  
4 that, I'm sure that would help the four of us  
5 out.

6 MR. SULLIVAN: Okay. I just --  
7 viewing the project as a whole, and saying  
8 that it is going to resurrect this community,  
9 but they're saying they don't really know if  
10 anybody is going to shop there, if there's a  
11 need for this place, it is a planning function  
12 I think.

13 CHAIRPERSON HOOD: Let me help you  
14 out a little bit. Most of your questions --  
15 you usually ask four questions which are  
16 basically in the same area. We get your point  
17 after the second one. And then, if you go to  
18 the next one, I mean, we -- I understand where  
19 you're going, and I understand what you're  
20 trying to do in representing your folks.

21 Actually, the first two questions  
22 you are doing a good job. It's the third, the

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1 fourth, the fifth, and the six ones. We get  
2 the point.

3 MR. SULLIVAN: Thank you. Okay.  
4 I'll move on, then, to policy FNS 1.2.4  
5 regarding soil erosion that identifies the  
6 comp plan policy to reduce soil erosion and  
7 stabilize slopes at hot spots, particularly  
8 the Skyland/Alabama Avenue area. Did the  
9 Office of Planning review the stormwater  
10 management plan for compliance with the comp  
11 plan on this point?

12 MS. STEINGASSER: No, we did not.  
13 And, again, I point out that this is a  
14 planning and zoning exercise. The permit and  
15 engineering phase comes after the approvals at  
16 this stage, so the Department of Environment  
17 will look at that. It was forwarded to them  
18 for early comments. They commented I think  
19 back in November or December on the issues  
20 that they felt would be needed when it gets to  
21 permit.

22 MR. SULLIVAN: Thank you. Well,

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1 then, why did the OP report state that the  
2 applicant had met or furthered this policy of  
3 reducing soil erosion and stabilizing slopes?

4 MS. BROWN-ROBERTS: I think under  
5 FNS 1.2.4, is that the section you are talking  
6 about?

7 MR. SULLIVAN: Yes.

8 MS. BROWN-ROBERTS: It reads -- I  
9 think our comments under that is that as part  
10 of the development the applicant has proposed  
11 stormwater management and erosion control  
12 measurements. And then later tonight I did  
13 explain, and as Jennifer has just said, that  
14 DDOE will do further analysis.

15 MR. SULLIVAN: Okay. So is the  
16 mere submittal of a stormwater management plan  
17 sufficient to meet the burden of proof that  
18 this proposal will reduce soil erosion and  
19 stabilize the slopes?

20 MS. STEINGASSER: No. It's  
21 acceptance by the Department of the  
22 Environment. And when you read through their

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1 report, they are very clear that they would  
2 like to see specific efforts, and that there  
3 was -- that they look forward to working with  
4 the developer to assist in the appropriate  
5 promoting of the sensitive design of the site.

6 And that this is not to suggest that any  
7 action by the Commission should be delayed.  
8 So we look to our staff of engineers as the  
9 experts, and they were comfortable with it at  
10 this stage.

11 MR. SULLIVAN: Okay. But there  
12 was an issue there. They didn't say that it  
13 would be -- it would reduce erosion, did they?

14 MS. STEINGASSER: They said they  
15 were willing -- they needed to work with --

16 MR. SULLIVAN: They were concerned  
17 about it, sorry.

18 MS. STEINGASSER: They needed to  
19 work with the developer at the engineering  
20 stage.

21 MR. SULLIVAN: In the PUD  
22 evaluation standards, Section 2403.10, it

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1 requires that every item in 2403.9 be found to  
2 be acceptable before a PUD can be approved.  
3 And one of those items is 2403.9(h) relating  
4 to environmental benefits such as stormwater  
5 runoff controls in excess of those required.  
6 Do you know if the applicant has provided or  
7 proposed stormwater runoff controls in excess  
8 of those required --

9 MS. STEINGASSER: Well, I believe  
10 we just --

11 MR. SULLIVAN: -- by the  
12 regulations?

13 MS. STEINGASSER: -- referenced  
14 the Department of Environment's enthusiastic  
15 willingness to work with the developer in  
16 moving the project forward. But I would also  
17 correct one point, and that is point 10 does  
18 not require. It says a project may qualify,  
19 and that's an extremely important difference,  
20 that the project may qualify for being  
21 particularly strong in one or more, but must  
22 be acceptable.

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1 MR. SULLIVAN: In all.

2 MS. STEINGASSER: In all.

3 MR. SULLIVAN: Okay. So it must  
4 be acceptable in --

5 MS. STEINGASSER: That's correct.

6 MR. SULLIVAN: -- 2403.9. And,  
7 again, we won't know that before we have an  
8 approval or disapproval or a modification here  
9 in this --

10 MS. STEINGASSER: According to --

11 MR. SULLIVAN: -- hearing, because  
12 it's not going to be done before --

13 MS. STEINGASSER: According to the  
14 Department of the Environment, they feel  
15 comfortable at this stage that there is  
16 sufficient evidence.

17 MR. SULLIVAN: So they have --  
18 okay. So they have -- all right. But they  
19 didn't really comment on whether or not the  
20 runoff controls were in excess of those  
21 required by stormwater management regulations?

22 MS. STEINGASSER: I think I've

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1 already answered what they testified to.

2 MR. SULLIVAN: Okay.

3 MS. STEINGASSER: It's in the  
4 record.

5 MR. SULLIVAN: Thanks. In  
6 reviewing this -- and I know DDOE isn't here  
7 -- but did the Office of Planning or DDOE  
8 investigate the history of the landfill?

9 MS. STEINGASSER: The Office of  
10 Planning did not.

11 MR. SULLIVAN: So the Office of  
12 Planning doesn't -- wasn't familiar with the  
13 GWU study or the lawsuits involving the  
14 landfill?

15 MS. STEINGASSER: No. No, sir,  
16 we're not.

17 MR. SULLIVAN: Is it the Office of  
18 Planning's position that the applicant has  
19 complied with Section 2403.12?

20 MS. STEINGASSER: Yes.

21 MR. SULLIVAN: Is the applicant  
22 required to show how the public benefits are

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1 superior in quality and quantity to typical  
2 development?

3 MS. STEINGASSER: Let's see, I  
4 just want to get the wording correct on this.

5 "The Commission shall evaluate the specific  
6 public benefits and amenities of the proposed  
7 development. The applicant shall have the  
8 burden of proof to justify the granting of the  
9 application, which is represented by the  
10 overall application."

11 MR. SULLIVAN: I was on, "The  
12 table shall show how the public benefits  
13 offered are superior in quality and quantity  
14 to typical development of the type proposed."

15 So, and I think the ANC asked for this at the  
16 last hearing. Was there any -- did you review  
17 anything that showed the difference between  
18 what would be provided in a typical  
19 development of this type and what is being  
20 provided here?

21 MS. STEINGASSER: The table is in  
22 -- the analytical tables or the annotated

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1 tables are typically in the front of the  
2 application. There is one on 19 for parking.

3 MR. SULLIVAN: It's not on the  
4 table. I think it may have been submitted --

5 MS. BROWN-ROBERTS: Yes. I think  
6 --

7 MR. SULLIVAN: -- separately or  
8 something.

9 MS. BROWN-ROBERTS: I think that  
10 we had requested it from the applicant also,  
11 and I think they did submit it in their  
12 submission at the last hearing.

13 MR. SULLIVAN: Okay. And it  
14 showed the difference between what would be  
15 done as a matter of right or the cost for --  
16 to do something as a matter of right, or what  
17 -- here is what is matter of right, here's  
18 what we're doing? Does it show that?

19 MS. BROWN-ROBERTS: I don't know,  
20 because I don't have it in front of me right  
21 now, so I don't want to comment.

22 MR. SULLIVAN: I'm getting there.

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1 CHAIRPERSON HOOD: We're not  
2 rushing you.

3 (Laughter.)

4 MR. SULLIVAN: On the Office of  
5 Planning report it calls Good Hope Road,  
6 Alabama Avenue, and Naylor major roadways. Is  
7 that correct?

8 MS. BROWN-ROBERTS: I think -- in  
9 this case, the major that we're talking about  
10 were, you know, the roads that carry a high  
11 volume of traffic. I suppose DDOT has a more  
12 defined definition of exactly what -- you  
13 know, what those roads are classified as.

14 MR. SULLIVAN: Okay. How do you  
15 come about your classification for major?  
16 It's just a generalized --

17 MS. STEINGASSER: It's an  
18 anecdotal reference, yes.

19 MR. SULLIVAN: Okay. So something  
20 could be a minor arterial, but you could still  
21 call it a major roadway?

22 MS. STEINGASSER: We were not

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1 using engineering classifications. We were  
2 just using anecdotal reference.

3 MR. SULLIVAN: Thanks. That's all  
4 I have.

5 CHAIRPERSON HOOD: Okay. Thank  
6 you very much.

7 Let's do an assessment of time.  
8 Ms. Schellin, I have around 8:45. I think if  
9 we go to -- and we have also been joined by  
10 the Social Director, Ms. Karina Ricks, from  
11 DDOT. And I think we can do DDOT. I think we  
12 can do cross-examination. I'm scared to ask  
13 Mr. Sullivan how many questions he might have,  
14 so -- but I think that will take us probably  
15 to --

16 MR. SULLIVAN: It's less than I  
17 had for -- much less.

18 CHAIRPERSON HOOD: Oh, it's less?

19 MR. SULLIVAN: Much less, yes.

20 CHAIRPERSON HOOD: Oh, okay. So  
21 still that will probably take us until about  
22 10:00 or so. So what I'm trying to do is

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1 evaluate. I'm wondering if we can get through  
2 that, and also if anyone is here in support,  
3 maybe we can get through that. And I would  
4 ask -- maybe we can ask Mr. Sullivan, we can  
5 ask Fort Baker, if they would like to come on  
6 the back end and do your presentation at the  
7 next -- 17th? Right. No, not tonight, I'm  
8 talking about if they could -- maybe hopefully  
9 we can get to the point where they can start  
10 on the 17th.

11 SECRETARY SCHELLIN: We may not  
12 need to have them come on the back end if we  
13 -- it's up to them.

14 CHAIRPERSON HOOD: Okay.

15 SECRETARY SCHELLIN: Or up to the  
16 Commission, rather.

17 CHAIRPERSON HOOD: I guess what  
18 I'm trying to do is not have the residents who  
19 want to testify in support or opposition sit  
20 here with us until whatever time, quarter to  
21 10, and then we leave and go home. I want to  
22 let them know now that we are not going to go

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1 that far.

2 MR. SULLIVAN: Isn't the procedure  
3 that the persons in support speak before our  
4 case anyway?

5 CHAIRPERSON HOOD: I kind of moved  
6 -- yes, I did. Yes, they do.

7 MR. SULLIVAN: But at any rate we  
8 are happy to --

9 CHAIRPERSON HOOD: Well, I was  
10 going to let the persons in support and  
11 persons in opposition -- the key -- I was  
12 trying not to inconvenience people to have to  
13 come back a third night.

14 SECRETARY SCHELLIN: Right.  
15 Persons and organizations in support go before  
16 you, absolutely.

17 MR. SULLIVAN: We are happy to  
18 accommodate, you know, if -- our presentation  
19 obviously is going to run into the next  
20 hearing anyway, so --

21 SECRETARY SCHELLIN: Yes, no  
22 doubt.

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1 CHAIRPERSON HOOD: We probably  
2 won't even start that until the next hearing,  
3 so -- okay. Well, thank you, Mr. Sullivan,  
4 for working with us.

5 So, colleagues, I would suggest  
6 that we try to get through DDOT, do cross-  
7 examination, possibly -- why don't we just see  
8 if -- how many people do we have here -- who  
9 are here who would like to testify,  
10 individuals in support? Okay. How many  
11 individuals do we have testifying in  
12 opposition? Okay.

13 We are going to start it, and we  
14 are going to see how far we go. But I want to  
15 let you all both know, support and opposition,  
16 as soon as possible whether we're going to get  
17 to you tonight or not. That's the goal. I  
18 don't want you to sit here all night until  
19 11:00 and then we say we're going home. I  
20 want to be fair.

21 So let's go, Mr. Jennings, and Ms.  
22 Ricks, whoever is going to start us off. Mr.

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1 Jennings.

2 MR. JENNINGS: Thank you, Chairman  
3 Hood. For the record, my name is Jeff  
4 Jennings. I work for the District Department  
5 of Transportation. Again, thank you, Chairman  
6 Hood, and fellow Commissioners.

7 As you are fully aware, we  
8 submitted our report in I believe late  
9 November or early December for this case,  
10 support the case, of course, with conditions.

11 A summary of what our report does put forth  
12 is three new signals being installed to  
13 complement the entire new development.

14 It should be noted that the  
15 development has a significant amount of WMATA  
16 bus service right in the direct vicinity. The  
17 areas -- if I may point them out -- the areas  
18 of concern -- and, once again, it's inside of  
19 our written report -- it's the surrounding  
20 existing community, and for those residents to  
21 access the site, crossing Alabama, crossing  
22 Naylor, crossing Good Hope, and we envision a

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1 lot of those new pedestrian trips to get over  
2 onto the new Skyland.

3 And we certainly wish to point out  
4 to this panel that some of those  
5 intersections, as they exist today, are a  
6 little unsafe. We do expect this to be a  
7 major draw in the community, and, therefore,  
8 they would be crossing those intersections  
9 much more and frequently than what we see  
10 today.

11 So the idea was, as means of  
12 mitigation, to improve those intersections.  
13 That's something that the applicant has yet to  
14 come back to us on just yet.

15 The other area of concern is, as  
16 the applicant has stated, there are 11  
17 existing curb cuts on this site today. They  
18 are narrowing that number down to a total of  
19 six curb cuts, which is an improvement and we  
20 certainly want to recognize that benefit.  
21 Those will certainly undergo additional review  
22 within the District Department of

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1 Transportation, the Public Space Division.

2 So the one -- as we put in our  
3 summary, the one major lacking factor of the  
4 entire transportation impact study that we  
5 thought was most relevant to bring to you  
6 tonight is the thorough review for safe  
7 pedestrian crossings. As I stated earlier, on  
8 Alabama, Naylor, and Good Hope Road, we have  
9 put forth the necessary intersection  
10 improvements for those pedestrian trips to  
11 safely occur.

12 And I think with that, I am not  
13 going to belabor our presentation any further.

14 We are happy -- as you stated earlier, I am  
15 joined by Associate Director Karina Ricks. I  
16 think we are both available for questions when  
17 you're ready.

18 Thanks.

19 CHAIRPERSON HOOD: Thank you very  
20 much, Mr. Jennings. Let me just ask, you  
21 mentioned about the intersection improvements,  
22 and the applicant has failed to come back thus

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1 far. Is there an intention -- do you get an  
2 inkling that they are going to come back? I  
3 know that they -- obviously, they haven't come  
4 back -- in other words, why haven't they come  
5 back? Do you know? Is it just that they  
6 haven't had time, or do you get a sense that  
7 they are eventually going to come back with  
8 some of those mitigation methods?

9 MR. JENNINGS: I presume a lot of  
10 it is just because we are in the midst of the  
11 hearing, and we haven't necessarily really put  
12 out times and dates for us to get together.  
13 But, again, my presumption is coming to the  
14 Zoning Commission has consumed a lot of their  
15 time.

16 CHAIRPERSON HOOD: Well, I'm  
17 hoping that we can get that resolved, because  
18 one of our charges is to protect the residents  
19 of the District of Columbia, and I think that  
20 is very key. So I personally, colleagues,  
21 will not be moving forward until this is dealt  
22 with, because we don't want to put anyone in

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1 harm's way.

2 Okay. All right. That's all I  
3 have. Any questions or comments?  
4 Commissioner May?

5 COMMISSIONER MAY: Your report  
6 refers to the trip generation data being based  
7 on an auto-oriented suburban traffic  
8 generation data, which leads to the high  
9 number of parking spaces. So what -- embedded  
10 in that thought is the notion that this is  
11 truly an urban setting.

12 And I'm wondering how you  
13 differentiate between when it's appropriate to  
14 use a suburban model versus an urban model,  
15 because when you look at this area in any sort  
16 of plan that shows the -- you know, the nature  
17 of the streets, the nature of the distribution  
18 of homes, and so on, it looks very suburban.  
19 So why is this not -- why is it inappropriate  
20 to use suburban trip generation here?

21 MS. RICKS: If I can respond.  
22 While it is a lower density portion of the

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1 city, it is still significantly more dense  
2 than you would see in the true suburban areas  
3 of the region. What is being proposed here is  
4 a mixed use development that would add  
5 significant density onto the site. And there  
6 are multiple bus routes in this area that are  
7 fairly heavily used.

8 And while it is not a Metro  
9 station site, the density of Metro bus service  
10 is one that can be considered a transit-  
11 oriented site. So we do think that it's  
12 appropriate to use trip generations. It would  
13 be more akin to a transit-oriented site than  
14 to a suburban location that is weakly served  
15 by transit or devoid of transit.

16 COMMISSIONER MAY: That strikes me  
17 as a very subjective kind of assessment, that  
18 this is not really a very suburban kind of  
19 setting. So I'm wondering if there is behind  
20 that somewhere in your analysis of this -- is  
21 there some standard for what makes something  
22 urban or suburban?

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1 I mean, is there a, you know,  
2 number of people per acre or density of homes  
3 per acre? I mean, what's the standard that  
4 makes something truly suburban? Because I'm  
5 not convinced that simply because there is a  
6 lot of buses here it really should be built as  
7 if it were on a Metro, which is kind of what  
8 you just said.

9 MS. RICKS: No, not exactly like a  
10 second Metro, but that it can be considered  
11 more of a transit-oriented site than one that  
12 doesn't have rich transit services to it. So  
13 I think the distinction would be the mix of  
14 land uses and the density of land uses that  
15 are there.

16 Typically, many of the suburbs  
17 have very Euclidean zoning where the land uses  
18 are quite separate from one another. There's  
19 commercial areas and there are residential  
20 areas, and they infrequently blend and mix and  
21 overlap. This is an example where they do  
22 overlap.

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1 I think we will also note that the  
2 zoning standards that we have right now are  
3 with a C-3-A I think is what is being  
4 requested here -- is typically not an urban  
5 center city zoning category, but is a major  
6 regional center zoning category. And the  
7 applicant is exceeding the minimum zoning  
8 requirements by over 30 percent, and so that's  
9 what leads us to recommend that this is  
10 perhaps a little bit more than we would  
11 anticipate in this area or that zoning  
12 anticipates to be necessary.

13 COMMISSIONER MAY: I don't know,  
14 I'm not totally convinced. You know, we -- in  
15 discussing the whole parking issue and the  
16 zoning regulation rewrite, there was a lot of  
17 discussion of the market being able to  
18 determine what the appropriate level of  
19 parking is.

20 And this -- the thing -- you know,  
21 there were developments that were cited where  
22 the minimums were so high, and they were

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1 inappropriately high, and so you wind up with  
2 the vacant -- largely vacant garage or  
3 something like that.

4 I mean, if the market, i.e. the  
5 developer, is here saying that you need this  
6 level of parking, I'm not sure that the -- I  
7 would think that you would need to have a  
8 pretty strong justification for saying that  
9 it's got to be less than what they want to  
10 provide as a minimum, particularly when many  
11 people who are -- who live in a neighborhood  
12 and who are going to be seeing this new  
13 development are very concerned about parking  
14 impacts.

15 MS. RICKS: I think that's a very  
16 valid point. I would remind the Commission of  
17 the many developments that have been completed  
18 in this city in recent years that we found to  
19 be grossly overparked even when they go below  
20 the zoning requirements. Columbia Heights is  
21 of course a very different situation, but  
22 that's one where, you know, it has been

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1 notorious for the excessive amounts of parking  
2 that exist there.

3           There are other cases in the city  
4 where there are retail locations that are now  
5 finding such surplus parking in their areas  
6 that they are making their parking available  
7 to commuters and day parkers in order just to  
8 recoup the money that they have expended in  
9 building the structured parking.

10           We have seen that even -- although  
11 I don't think I have the numbers in front of  
12 me, but even in a comparable location, which  
13 is the Camp Simms grocery store there that  
14 there is extra parking available, which is in  
15 a very similar situation as this, although it  
16 is surface parking rather than structured.

17           COMMISSIONER MAY:     You know, I  
18 have heard anecdotally about buildings and  
19 developments that are overparked. But I don't  
20 recall seeing a lot of specific --

21           MS. RICKS:     We would be happy to  
22 provide the Commission with some of the

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1 examples that we have looked at that --

2 COMMISSIONER MAY: That would be  
3 helpful, particularly if they are, you know,  
4 in anything that is remotely analogous to this  
5 situation. I think that would be very, very  
6 helpful.

7 MS. RICKS: Okay.

8 COMMISSIONER MAY: I think that's  
9 it for the moment. I have some questions  
10 about loading, but I need to look at the  
11 information first to see if it's worth asking.

12 So --

13 CHAIRPERSON HOOD: Okay. Any  
14 other questions for DDOT?

15 COMMISSIONER TURNBULL: Yes, Mr.  
16 Chair, I just have one. Regarding the new  
17 signals and the modified signals, I wonder if  
18 you could describe for me how you -- if you  
19 look along Alabama, all the way down to Good  
20 Hope, the sequencing, the modification of  
21 those, how do you approach or how do you have  
22 the applicant approach -- I mean, it is going

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1 to be your task to sequence these things, but  
2 I'm just curious, if it -- they're short in  
3 one way, yet when you look at the whole thing  
4 it's a long length of road. But there are  
5 short bursts of traffic. Do you -- how do you  
6 go about sequencing that to handle the people  
7 crossing over? I'm just curious.

8 MS. RICKS: Yes. It's an art, I  
9 would say, more than a science in a lot of  
10 ways. That there is only 60 seconds in a  
11 minute. And as much as we'd like to make more  
12 time out of it, there is not. And so it is  
13 always a challenge to determine who needs to  
14 wait and who gets the longer time to go.

15 Part of the recommendations here  
16 are ways to reconfigure the roadway, so that  
17 we can narrow the pedestrian crossings. The  
18 average -- I'm not a traffic engineer, but I  
19 believe the average time that we use is three  
20 seconds -- I'm sorry, three feet per second in  
21 order to allow enough time for a pedestrian to  
22 cross an intersection.

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1           So if a pedestrian needs to cross  
2 four lanes of traffic, there is a certain  
3 formula that we need to allow for a pedestrian  
4 to get across that stretch, where if it's six  
5 lanes of pavement that they are crossing,  
6 which includes the parking lane, then that  
7 signal cycle must be longer if we are to allow  
8 pedestrians to cross at that location at all.

9           And so the pedestrian timings  
10 mandate a certain amount of time, and then we  
11 need to strike the balance with the cross  
12 vehicular streets that are on those corridors.

13          So it is rare the occasions that we are able  
14 to perfectly sequence lights so that you can  
15 progress for many, many intersections  
16 uninterrupted, and usually when we do that  
17 it's at the cost of vehicles gaining speed  
18 with those sequenced lights, and thus  
19 exceeding the actual time speed that the  
20 sequencing is set for.

21          So I'm not sure if I'm answering  
22 your question. There are a lot of signals in

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1 this location. The signals are primarily  
2 requested in order to facilitate in and out  
3 access and safe turning movements into the  
4 development, but also to accommodate and  
5 provide a safe signal cycle for pedestrians to  
6 cross those corridors, because it is -- these  
7 are very heavily trafficked roadways.

8 COMMISSIONER TURNBULL: Yes. I  
9 was thinking not only of the existing traffic  
10 now, but we have got ground floor retail with  
11 several floors of residential above -- around  
12 the whole development.

13 So I'm curious about people who  
14 still use their cars coming home, or even  
15 leaving, with people trying to get to the  
16 retail and pulling in and parking and -- or  
17 even just people from the neighborhood  
18 crossing over. It sounds like we're going to  
19 have a very -- this is going to be a very busy  
20 street.

21 MS. RICKS: It is going to be  
22 busy. The good news is that I would suspect

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1 that many of the residents of this community  
2 now are still making vehicle trips, but they  
3 are leaving their neighborhood in order to  
4 access those goods and services.

5 So there will be some substitution  
6 of trips where the residents of this community  
7 will not need to make vehicle trips that they  
8 are making now to access goods and services,  
9 that they will be able to access those goods  
10 and services due to this development in their  
11 own neighborhood. So there will be some local  
12 reduction in trips that can offset those trips  
13 generated as an attraction to this  
14 development.

15 COMMISSIONER TURNBULL: Thank you.

16 CHAIRPERSON HOOD: Any other  
17 questions from my colleagues? Commissioner  
18 May?

19 COMMISSIONER MAY: Yes. I do want  
20 to follow-up. There was a point made in the  
21 report about unloading of freight for retail  
22 fronting on Main Street as it may lead to

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1 severe vehicle and pedestrian conflicts. And  
2 I'm looking for where that is happening in the  
3 plans, and I can't find it. Can you point it  
4 out to me?

5 MR. JENNINGS: So the most often  
6 used rendering for us at DDOT was probably  
7 page 27 within the February 17, '09 booklet.  
8 And within this site plan you have here, if  
9 the retail that fronts along Main Street is to  
10 have deliveries that would enter in off those  
11 Main Street curb cuts, or the Good Hope Road  
12 curb cuts off where the curbline is contoured  
13 there, the concern we had within the agency  
14 was, what makes it less attractive to pull up  
15 in front of the store and unload your goods  
16 and freight versus pulling into any of these  
17 varying curb cuts and having to walk through  
18 whatever internal arteries they may offer.

19 So the idea is we see more often  
20 than we wish -- and we have discussed here in  
21 front of this Commission -- the curb side  
22 loading that a lot of cases currently used

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1 today, and a lot of that is because  
2 potentially inadequate loading that was  
3 planned at the very beginning.

4 We are trying to make the point  
5 that with a loading coordinator or a loading  
6 dock manager -- and I think the applicant in  
7 their transportation management plan has even  
8 suggested that they would be willing to work  
9 with us on that -- but we want to get away  
10 from this Main Street being congested with  
11 either a beverage delivery truck or a food  
12 delivery truck.

13 COMMISSIONER MAY: Do you mind if  
14 I interrupt for a second? I understand the  
15 principle. It's the -- where do you see that  
16 the loading is inadequate? Because compared  
17 to many PUDs this -- I see mostly buildings  
18 that have an interior loading dock and a  
19 corridor from which goods can go in and trash  
20 can come out. So where is it lacking? What  
21 is wrong with this plan?

22 MR. JENNINGS: We don't know how

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1 far -- if I'm driving in and trying to deliver  
2 my goods, what is the distance for me to park  
3 my vehicle and unload my goods up to one of  
4 these Main Street retailers versus I find --

5 COMMISSIONER MAY: So you are  
6 concerned about the travel distance from the  
7 loading dock to some of the retail bays.

8 MR. JENNINGS: On foot, that is  
9 correct. Sorry if I wasn't clear enough on  
10 that.

11 COMMISSIONER MAY: Now I  
12 understand what the issue is, because  
13 sometimes we don't see these internal  
14 corridors at all. And, you know, the stated  
15 premise is that there would be loading from  
16 the street. On a certain level, it could be  
17 regarded as an enforcement issue, in that if  
18 this is an area where the people delivering  
19 things are getting lazy and not using the  
20 loading dock, they need to be ticketed more  
21 aggressively.

22 MR. JENNINGS: We agree.

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1                   COMMISSIONER MAY:     Have you had  
2 any discussions with the applicant about how  
3 to make improvements to the loading?

4                   MR. JENNINGS:    At one of our early  
5 meetings, I should say early for me -- I began  
6 reviewing this case early last year myself. I  
7 know it has been within DDOT for quite a few  
8 years. Nonetheless, some recommendations were  
9 made as far as trying to improve on the  
10 loading. And I think they actually heard and  
11 understood DDOT's concerns.

12                   We didn't want to see the vehicles  
13 queuing up along Main Street. And I think  
14 that's where we saw a response, and the  
15 applicant has even submitted a transportation  
16 management plan that does include some loading  
17 dock coordinators.

18                   Nonetheless, I'm not exactly sure  
19 if there is a rendering within this book that  
20 we can view where the arteries may be  
21 positioned. So if somebody isn't loading  
22 their freight, what the distance may be for

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1       them to walk their pallet of goods over to the  
2       retailer that is fronting on Main Street  
3       there.

4                   COMMISSIONER MAY:    Okay.  I mean,  
5       it sounds like maybe there just needs to be  
6       further conversation between DDOT and the  
7       applicant to sort this out, because it is --  
8       most of our domain is the -- is the issue of  
9       whether there is sufficient loading.  It is --  
10      without somebody telling us that, "Oh no, it's  
11      -- you know, this is a 200-foot distance.  It  
12      is never going to work."  It's hard for us to  
13      say anything about that.

14                   So, I mean, you can point to this  
15      and say, "You know what?  This has got to be  
16      -- this isn't going to work," that would be  
17      more helpful than just sort of raising the  
18      general concern.

19                   All right.       That's it for me.  
20      Thanks.

21                   CHAIRPERSON HOOD:    Okay.       Any  
22      other questions, colleagues?

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1 (No response.)

2 Okay. Let's do -- does the  
3 applicant have any --

4 MR. TUMMONDS: A few.

5 CHAIRPERSON HOOD: Mr. Tummonds?

6 MR. TUMMONDS: Mr. Jennings,  
7 DDOT's report notes that DDOT reserves the  
8 right to deny any of the curb cuts based on  
9 the agency's public space standards. Are  
10 there any proposed curb cuts in this  
11 application you believe do not meet DDOT's  
12 public space standards?

13 MR. JENNINGS: Based upon our  
14 internal conversations, we have some  
15 legitimate concerns with the two curb cuts  
16 that face Good Hope Road, Block 2.

17 MR. TUMMONDS: Okay.

18 MS. RICKS: If I could add to that  
19 just for the benefit of the Commission. The  
20 standards are that if an internal alley system  
21 services the block, that should be looked to  
22 first. If that is inadequate, then they

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1 should look to secondary roads to service the  
2 access points for their properties.

3 This development does have an  
4 internal roadway network via Main Street,  
5 which would meet that secondary access  
6 purpose. So by having the curb cuts on the  
7 major arterial, it creates more conflict and  
8 greater risk to both pedestrians and vehicles,  
9 and that is our reservation.

10 MR. TUMMONDS: Okay. The second  
11 question is with regards to the pedestrian  
12 safety. In our presentation, in the materials  
13 we have submitted, we talked about the various  
14 improvements that are going to be made to the  
15 surrounding intersections, the creation of  
16 high visibility crosswalks. Was that not  
17 enough, not consistent with your concerns  
18 about pedestrian safety? Or were those things  
19 part of it and we just need to do more?

20 MR. JENNINGS: I think we  
21 certainly appreciate everything that you have  
22 put into proposing here as far as mitigation

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1 is concerned and trying to make the area  
2 safer. What we saw on a number of field  
3 visits to the site, as well as what we have  
4 seen on the various renderings that are before  
5 us, the intersections have, as was stated in  
6 the report as well, these very wide curb  
7 radii. And I think Karina mentioned it  
8 earlier as well.

9 Some of that has to do with  
10 tightening up the curb radii. And if you're  
11 not familiar with that, I can certainly go  
12 into a much better description of it, if it's  
13 okay. Nonetheless, it gets to the point of  
14 cutting down on pedestrian crossing time.  
15 And, clearly, we don't want to leave  
16 pedestrians, as is sometimes witnessed here in  
17 the city, halfway crossing the road waiting  
18 for a break in the platoons of traffic.

19 MR. TUMMONDS: So the answer is we  
20 have gone some of the way, we need to go  
21 further.

22 MR. JENNINGS: That's correct.

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1                   MR. TUMMONDS:       Got it.       The  
2 commuter store -- does DDOT plan on having or  
3 requesting funds in future budgets to operate  
4 such a store?

5                   MS. RICKS:     Future, yes.     How far  
6 in the future, I'm afraid we can't say at this  
7 point.   It is the objective of DDOT, and part  
8 of our long-range vision, that we would  
9 operate a range of commuter stores across the  
10 city.   Commuter stores, for the benefit of  
11 everyone, are facilities that would allow the  
12 traveling public information about the  
13 multiple modes of transport available to them,  
14 they might have scheduling information, they  
15 might provide shelter in inclement conditions  
16 while waiting for the buses.

17                   They would have information on  
18 bike sharing or car sharing, and any number of  
19 other services that DDOT or the many  
20 transportation partners that we have offer to  
21 encourage more space efficient, for lack of a  
22 better term, modes of travel.

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1           So it is our goal to do that. Our  
2 concern was that we can't make that staffing  
3 commitment right at this moment in time, but  
4 we are very supportive of having the retail  
5 space reserved and available for that, and  
6 think that we can work with the applicant to  
7 find some safe interim strategy that could be  
8 perhaps unstaffed for the time being with the  
9 intent to staff it as part of this larger  
10 program when DDOT is able to in the future.

11           MR. TUMMONDS: That's it.

12           COMMISSIONER TURNBULL: Just a  
13 follow-up question. I want to make sure I  
14 understand. The objection to the curb cuts on  
15 Good Hope is for both of the curb cuts, or is  
16 it -- meaning the one leading to the loading  
17 dock as well as the one that looks like the  
18 through road?

19           MS. RICKS: It is primarily the  
20 one going into the retail parking garage.

21           COMMISSIONER TURNBULL: Okay.

22           MS. RICKS: The loading corridor

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1 is -- it can be justified as hard to turn  
2 those big trucks in any kind of a tight radii,  
3 so a straight through on the loading. It  
4 would need to be we think better designed  
5 perhaps than it is now to make sure that we've  
6 got, you know, some good, safe movements  
7 coming out of there.

8 But it is the one leading to the  
9 parking garage that we think, you know, could  
10 be treated in a different way, and that one is  
11 the one that is most likely to present  
12 multiple conflicts in travel and we, frankly,  
13 think is unnecessary.

14 COMMISSIONER TURNBULL: Okay.  
15 Good. Thank you.

16 COMMISSIONER MAY: If I could  
17 follow -- actually, I would like to ask the  
18 applicant a couple of questions that result  
19 from this. First of all, is it conceivable  
20 that somehow these two parallel roads that cut  
21 through Block 2, that they could -- instead of  
22 them coming all the way through to Good Hope

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1 that they would actually connect in some way  
2 within the building? Because there is that  
3 area that is -- that seems to be open between  
4 the garage and the bank building that fronts  
5 Good Hope.

6 MS. O'NEILL: We would have to  
7 look at it. I would point out there is a  
8 substantial change in grade across that  
9 building, that the loading area is actually  
10 one parking level above the entrance to the  
11 parking garage at the lower level, so you  
12 would have to figure out how to -- a way to  
13 negotiate that and still have the parking  
14 garage work.

15 COMMISSIONER MAY: Okay. And so  
16 maybe it could work for cars but not trucks or  
17 something like that.

18 MS. O'NEILL: Correct.

19 COMMISSIONER MAY: Yes. I think  
20 that's well worth looking into for the sake of  
21 eliminating a curb cut or two.

22 And then, the next thing is just

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1 -- it's a minor clarification, but I'm  
2 looking at these elevations of the Paseo. And  
3 when you look at it in plan, the Paseo looks  
4 like it's a pedestrian street. But when you  
5 look at the elevation, Elevation D, and on  
6 page 53, and Elevation G on page 54, there are  
7 cars shown in both of those elevations. Is  
8 that just a mistake in the drawing?

9 MS. O'NEILL: That is a mistake in  
10 the drawing.

11 COMMISSIONER MAY: Okay. Good,  
12 thanks.

13 MS. O'NEILL: Thank you for  
14 picking that up.

15 COMMISSIONER MAY: Thank you.

16 CHAIRPERSON HOOD: Commissioners,  
17 any other questions up here?

18 (No response.)

19 Mr. Tummonds, did you finish your  
20 cross-exam?

21 MR. TUMMONDS: Yes, I did.

22 CHAIRPERSON HOOD: Okay. Let's go

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1 to Commissioner Richards. Commissioner, can  
2 you turn your microphone on?

3 MR. RICHARDS: Oh, I keep  
4 forgetting to do that.

5 Good evening. Did the Department  
6 of Transportation do studies of the current  
7 street crossing and traffic at that site?

8 MR. JENNINGS: We did not.

9 MR. RICHARDS: You made no  
10 studies?

11 MR. JENNINGS: Not for this  
12 particular case. We perhaps have reviewed the  
13 intersections for a previous review, but  
14 nothing for this particular land use in mind.

15 MR. RICHARDS: Did you use the  
16 results of those previous studies in  
17 determining your judgments and recommendations  
18 on this applicant?

19 MR. JENNINGS: We did.

20 MR. RICHARDS: And what were the  
21 results of those previous studies in terms of  
22 the number of automobiles that go -- well, you

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1 tell me what's in the study.

2 MR. JENNINGS: We can provide that  
3 information to you. I don't have that before  
4 me here tonight. We can certainly provide the  
5 queuing length at the various intersections.  
6 We can provide the crossing time for  
7 pedestrians, if that's what's needed. But we  
8 did not come here tonight prepared to speak  
9 about various intersection reviews that we  
10 have done in the past.

11 MR. RICHARDS: Commissioners,  
12 would I be permitted to further cross-examine  
13 after receiving the study from them?

14 CHAIRPERSON HOOD: You know what I  
15 think we can do? If you -- if we don't have  
16 the information, what we'll do on the back  
17 end, if we can get some written submission and  
18 we can analyze that, I think that's the clean  
19 way to deal with that. That's okay,  
20 Commissioner?

21 MR. RICHARDS: Okay.

22 CHAIRPERSON HOOD: Okay.

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1 MR. RICHARDS: All right.

2 CHAIRPERSON HOOD: So let me --  
3 forgive me for getting some water, but --

4 MR. RICHARDS: It's okay.

5 CHAIRPERSON HOOD: -- so you asked  
6 a question about a study.

7 MR. RICHARDS: Right.

8 CHAIRPERSON HOOD: And DDOT does  
9 not have that handy or we are not able to  
10 respond to it, and you wanted to be able to  
11 respond to that study.

12 MR. RICHARDS: When -- yes, I have  
13 asked them if they would make it available,  
14 and they said yes. And when it is made  
15 available, I would like the opportunity to  
16 cross-examine them further on what is in that  
17 study.

18 CHAIRPERSON HOOD: Let me ask  
19 this. Mr. Jennings, will you have that study  
20 by the third meeting, the third hearing?

21 MR. JENNINGS: It depends when  
22 that third hearing may be.

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1                   CHAIRPERSON HOOD: It is going to  
2 be February 17th.

3                   MR. JENNINGS: And today is the  
4 4th? I probably need a minimum of -- my guess  
5 is I would need more time.

6                   CHAIRPERSON HOOD: Mr. Jennings, I  
7 have been working with you a long time. You  
8 have always pulled the rabbit out of the hat.

9                   MR. JENNINGS: I do my best. I  
10 honestly do.

11                   CHAIRPERSON HOOD: And the reason  
12 I'm saying that, Commissioner, is because  
13 there will not be another opportunity for you  
14 to cross-examine unless you just give us your  
15 input on whatever comes out in that study.  
16 That's the only way we can do it, because at  
17 that point, with the amount of days, we'll be  
18 ready to go ahead and eventually make our  
19 decision.

20                   So if you can just respond in  
21 writing -- and I hate to put that on a  
22 volunteer ANC Commissioner, because I know how

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1 it is when you are a community leader and you  
2 are volunteering. I hate to do that, but  
3 that's the only other avenue we will have for  
4 you to be able to respond.

5 MR. RICHARDS: That's acceptable,  
6 but I would like a little bit of leeway in  
7 trying to get from him as much as he remembers  
8 about that study at this time.

9 CHAIRPERSON HOOD: Okay.

10 MR. RICHARDS: Thank you.

11 Now, does that study show the  
12 number of automobiles going -- well, let me  
13 rephrase that. Are you familiar with Good  
14 Hope Market?

15 MR. JENNINGS: Yes.

16 MR. RICHARDS: Okay. And Good  
17 Hope Market is located where?

18 MR. JENNINGS: Directly across the  
19 street.

20 MR. RICHARDS: Now, there are  
21 parking facilities at the site that is  
22 Skyland, is that correct?

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1           MR. JENNINGS: Proposed, sir. I  
2 take that back, yes, you are exactly right.  
3 Existing, there are parking spaces there.  
4 Surface parking is in abundance from what I  
5 could tell when I was out there.

6           MR. RICHARDS: Okay. Now, does  
7 your survey show automobiles on Alabama Avenue  
8 going in both directions past the sidewalk  
9 crossing between Skyland and Good Hope Market?

10          MR. JENNINGS: What I would be  
11 able to present to you, sir -- it's  
12 Commissioner Richards, is that correct?

13          MR. RICHARDS: Yes.

14          MR. JENNINGS: Fantastic. Thank  
15 you, sir. We have a volume study which  
16 assists us with looking at these land use  
17 reviews. And we can gauge how many vehicles  
18 are currently passing through various  
19 intersections. They are not necessarily  
20 current numbers from -- you wouldn't get them  
21 from 2010 as far as the volumes are concerned,  
22 and you most likely wouldn't get them from

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1 2009. I believe the last collection of data  
2 occurred in 2007.

3 So we used that knowing that there  
4 aren't a substantial amount of new trips on an  
5 annual basis. We do factor in an increase in  
6 percentage. It's a small percentage. But the  
7 regional growth models help us do that.

8 So those numbers would actually be  
9 able to provide I think perhaps what you are  
10 looking for with the number of vehicles that  
11 pass through an intersection not necessarily  
12 on a daily basis, because the counts are done  
13 on an average.

14 MR. RICHARDS: Okay. Now, do you  
15 count the number of vehicles going into Good  
16 Hope Market?

17 MR. JENNINGS: I don't know.

18 MR. RICHARDS: Do you count the  
19 number of pedestrians crossing from the  
20 Skyland site to the Good Hope Market site?

21 MS. RICKS: Let me -- can I  
22 answer? The applicant was required to do a

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1 transportation analysis. That's the most  
2 current information that we would go off of on  
3 any of these development sites, and the most  
4 detailed typically is what the applicant  
5 provides to us.

6 What DDOT typically has in order  
7 to sort of truth the reports that we are being  
8 presented from the applicants are volume  
9 vehicle corridor information, which are the  
10 average daily trips occurring on a corridor.  
11 If there is a particular site study that we  
12 are conducting, then we would do potentially  
13 tube counts we call them, vehicle counts,  
14 going in and out of various access points.  
15 But that's not data that we would routinely  
16 collect is how many trips are coming in and  
17 out of a private property.

18 And, likewise, pedestrian counts,  
19 though we would wish that they would be much  
20 richer that we have -- but, again, we would  
21 typically only collect pedestrian counts or  
22 bicycle counts associated with a unique study

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1 that we were doing for an area.

2 I'm sure that a study has been  
3 done for Naylor Road in the past. I'm not  
4 sure how current that data would be to be  
5 relevant to this case. We would most likely  
6 defer to the traffic impact analysis that the  
7 applicant is required to provide.

8 MR. RICHARDS: So you are relying  
9 on the applicant's studies to make your  
10 determinations.

11 MS. RICKS: Unless there is reason  
12 to doubt the truthfulness of the studies that  
13 they present.

14 MR. RICHARDS: Do you doubt the  
15 reasonableness of the studies presented by  
16 this applicant?

17 MS. RICKS: No.

18 MR. RICHARDS: Then, why do you  
19 oppose his parking estimates based on those?

20 MS. RICKS: We oppose the  
21 assessment of what the parking demand might  
22 be. Again, we are going off of experience of

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1 many other developments in the city, also that  
2 we are able to justify in their traffic impact  
3 analyses their belief that abundant parking is  
4 required. And we found, first, that typically  
5 the parking is overestimated for the need,  
6 but, secondly, that the amount of parking in  
7 any development is the strongest correlation  
8 to the number of vehicle trips that that  
9 development generates.

10 So it is a bit of a self-  
11 fulfilling prophecy that abundant parking then  
12 invites abundant vehicle trips to the area,  
13 which is generally the negative impact on the  
14 neighborhoods.

15 CHAIRPERSON HOOD: Commissioner,  
16 can I just interrupt for one moment? It looks  
17 like -- I want to do an assessment. I want to  
18 let everyone know as soon as possible.  
19 Because I can't predict what the cross-  
20 examination will be coming up, we are going to  
21 have to cut it off after Fort Baker Drive's  
22 cross-examination, unless you could kind of

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1 tell me about how many -- how much time you  
2 are going to need. Oh, five minutes? Okay.  
3 Well, we might be able to get through it.  
4 Okay. Go ahead, Commissioner Richards.

5 MR. RICHARDS: Now, the -- in your  
6 evaluation of the applicant's proposal, did  
7 your department make any evaluation of whether  
8 or not streets should be closed and moved to  
9 facilitate the traffic flow?

10 MS. RICKS: Are you meaning the  
11 streets on the site, or are you talking about  
12 the streets surrounding the site? Just for my  
13 own clarity.

14 MR. RICHARDS: Oh, surrounding.  
15 I'm talking about the streets that currently  
16 exist -- Good Hope, Naylor, that whole --

17 MS. RICKS: And would we move  
18 streets that currently exist?

19 MR. RICHARDS: Yes. You know,  
20 when you're -- for example, if you are driving  
21 on Alabama Avenue, there is traffic lights  
22 there that make it difficult for pedestrians

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1 crossing, and you've got green and red lights  
2 green and red at the same time, so that some  
3 vehicles are proceeding and some are turning  
4 right, and pedestrians sort of have to dodge  
5 the traffic, and end up, as you say, caught on  
6 the middle island.

7 Did you make any evaluation of the  
8 pattern of -- let me just tell you where I'm  
9 going. Did you make an evaluation of the  
10 pattern of how the automobiles and the people  
11 move, both through the intersection as  
12 automobiles and crossing from the parking at  
13 Skyland to shopping at the Good Hope Market?

14 MS. RICKS: I think what we can  
15 unequivocally say is that this is a very  
16 chaotic transportation arrangement here.  
17 There is many unfortunate angles that the  
18 roads intersect at here. There are sweeping  
19 turns, there are odd configurations, pseudo  
20 five-legged intersections, all kinds of  
21 interesting geometries happening out here that  
22 do create a confusing situation out there

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1 today.

2           There are limitations of exactly  
3 how much we can do to realign the streets that  
4 are there without, you know, going back to the  
5 old days of massive urban renewal, which we  
6 intend not to do, by the way.

7           So I think that some of the  
8 reconfigurations, the closings that they are  
9 doing with this development, will help bring  
10 some degree of order to what the arrangement  
11 of the roadways are out there today. But it  
12 will still be a situation that will require  
13 constant monitoring and adjustment by the  
14 Department of Transportation to try and strike  
15 the right balance to ensure safety of the  
16 pedestrians in the area, as well as, you know,  
17 through-put and operations on the vehicle  
18 corridors.

19           MR. RICHARDS:       Okay.       So my  
20 question was:   given all of that, did you  
21 consider the possibility or the options of  
22 bringing some order to your chaos, so that

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1 pedestrians and automobiles are able to use  
2 that intersection safely? I mean, you have  
3 these -- you have admitted the chaos, and my  
4 question is: have you thought about a  
5 solution to the chaos that would make it  
6 better for the residents, for the businesses,  
7 for people just passing through?

8 MS. RICKS: We have, as has the  
9 applicant. I would say that the  
10 configurations and the access points that they  
11 are proposing with this development are very  
12 close to the best I believe that they can do  
13 here with the exception of some of the curb  
14 cuts that we have discussed. But they are  
15 aligning their access points with, for  
16 instance, the access to the Good Hope  
17 Marketplace, which means that that will be a  
18 direct cross-connection as opposed to an  
19 offset connection.

20 They are improving some of the  
21 pedestrian crossings in this area. We would  
22 like to continue to work with them to see if

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1 we can do better with that. But we do believe  
2 that this will be -- and DDOT has committed to  
3 ensuring that it will be safe for all users.  
4 Safety is far more important to us than speed  
5 of travel, I'm afraid.

6 MR. RICHARDS: But you have -- do  
7 you have any proposed plans for alternatives  
8 to that intersection that you could recommend  
9 to the developer? Or does the developer have  
10 any proposed alternatives? I mean, you know,  
11 you take a bulldozer, since you are going to  
12 be bulldozing and building new buildings  
13 anyway, you can move those streets. You can  
14 make those intersections such that they are  
15 safe. You can make it a better place and  
16 remove the chaos.

17 And my question is: do you have  
18 any plans or any -- even discussions in your  
19 office about doing such a thing?

20 MS. RICKS: We certainly have  
21 discussions, but I'm afraid many of them are  
22 hypothetical. Truly, the most problematic

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1 intersection here is the joining of Naylor  
2 Road, Alabama Avenue, and Good Hope Road. And  
3 I am not certain that this development really  
4 provides the perfect opportunity to realign  
5 that intersection.

6 They are constrained, really, to  
7 the property that they have been able to  
8 assemble, and that is --

9 MR. RICHARDS: You are not  
10 constrained; you have eminent domain, and  
11 these are streets. So why not make --

12 MS. RICKS: No, we have not  
13 considered eminent domain.

14 MR. RICHARDS: -- some  
15 suggestions? Why doesn't your department make  
16 some suggestions in an area where you can?

17 MS. RICKS: We'll take that under  
18 consideration, but eminent domain is not  
19 something that we are likely to pursue.

20 MR. RICHARDS: Actually, you  
21 wouldn't even need the eminent domain. You  
22 already own the streets.

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1                   You    never    thought    of    taking  
2   Alabama Avenue and making it a right turn into  
3   the -- into Good Hope and eliminating that  
4   Naylor Street section?

5                   MS. RICKS:    No.    That's a major  
6   connection.    Please understand that Good Hope  
7   Road, Alabama Avenue, and Naylor Road are all  
8   major arterials, and they are critical parts  
9   of our regional transportation system.    Simply  
10   eliminating    that    connection    would    have  
11   repercussions on a regional scale.

12                   MR. RICHARDS:    No, I didn't say  
13   eliminate the connection.    I said reconfigure  
14   it, so that it works better and safer.

15                   MS. RICKS:    We'll consider to  
16   evaluate that, and appreciate your thoughts.

17                   MR. RICHARDS:    Okay.    Now, with  
18   regard to that section of Alabama Avenue, you  
19   envision that there will be, from time to  
20   time, loading trucks unloading on that  
21   section, is that correct?

22                   MR. JENNINGS:    On Alabama Avenue

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1 unloading?

2 MR. RICHARDS: Yes.

3 MR. JENNINGS: I don't envision  
4 that, no, sir.

5 MR. RICHARDS: So they --

6 MR. JENNINGS: I don't think we  
7 have ever said that.

8 MR. RICHARDS: Have you asked the  
9 developer if he said that?

10 MR. JENNINGS: I think we've had  
11 extensive conversations, Commissioner, with  
12 the developer as to where they would do most  
13 of their unloading, if not all of their  
14 unloading, in coming to a conclusion.

15 If most of the retail is down here  
16 and over here, which is where the big box  
17 retailer is going to be located -- in the  
18 residential community a lot of it is in this  
19 neck of the woods up here -- nothing presents  
20 to me why anybody would want to unload off of  
21 Alabama Avenue.

22 MR. RICHARDS: Well, that's --

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1 those are retail stores between that  
2 residential section and the bottom thing that  
3 you were just looking at. I don't know if I  
4 have that.

5 MR. JENNINGS: Also, keep in mind  
6 -- Commissioner, we are agreeing with the  
7 applicant on their transportation management  
8 plan, which I know that you have read. It's  
9 inside their application, and the  
10 transportation management plan clearly states  
11 that they will have loading dock coordinators  
12 for this site as part of the property  
13 management team.

14 So the idea that anybody would  
15 unload on a right-of-way like what you are  
16 describing is perhaps not the way that this  
17 applicant will go about its unloading  
18 practices.

19 MR. RICHARDS: So there is going  
20 to be "No Truck Loading" signs and things  
21 along there?

22 CHAIRPERSON HOOD: Commissioner,

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1 I'm not rushing you, but I just wanted to know  
2 about how much -- how many more questions you  
3 think you might have.

4 MR. RICHARDS: About five with  
5 maybe a couple of followups.

6 CHAIRPERSON HOOD: You know what?  
7 Here's what I'm going to do, because I don't  
8 want to -- here's what I don't want to do. I  
9 don't want to keep the individuals in -- I was  
10 trying to get the individuals so they wouldn't  
11 have to come back. But, unfortunately, I'm  
12 going to have to do that. I'm going to have  
13 to ask all of the individuals who are going to  
14 testify -- it doesn't look like we are going  
15 to get to that point.

16 What we are going to do,  
17 Commissioner, after we finish your cross-  
18 examination and Mr. Sullivan finishes his  
19 cross-examination, we are going to call it a  
20 night, and then we are going to start at the  
21 ANC-7B's presentation on February 17th.

22 So I don't want to belabor those

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1 who are in attendance to just sit here  
2 tonight, unless I'm sure there's a lot of  
3 interest. But if you are looking forward to  
4 testifying, we won't get that -- to that until  
5 February 17th. If you are not able to make it  
6 on February 17th, please submit your -- in  
7 writing. I will assure you that we will read  
8 your testimony. I can guarantee that. We do  
9 that. Okay?

10 All right. Again, I apologize for  
11 those who just came to testify and who wanted  
12 to leave earlier. I apologize, but were  
13 trying to really get to you tonight. But we  
14 want to make sure we afford the courtesy of  
15 Commissioner Roberts and also Mr. Sullivan to  
16 be able to cross-examine to the fullest  
17 extent.

18 Okay. Thank you, and you may  
19 proceed, Commissioner Richards. What did I  
20 say, Roberts? I'm sorry. Richards.

21 MR. RICHARDS: It's Robert  
22 Richards.

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1 CHAIRPERSON HOOD: Oh, Robert  
2 Richards. I looked at the first name.  
3 Forgive me, Commissioner Richards.

4 MR. RICHARDS: That's okay.

5 Okay. Do you know what percentage  
6 of shoppers at Good Hope Market arrive by  
7 automobile as opposed to bus?

8 MR. JENNINGS: No.

9 MR. RICHARDS: Do you know what  
10 percentage of Good Hope Market shoppers arrive  
11 at Good Hope Market on foot walking from the  
12 neighborhoods?

13 MR. JENNINGS: No, sir.

14 MR. RICHARDS: I have no further  
15 questions. I do reserve the right, however,  
16 to submit questions to the Commission after I  
17 receive the material from them.

18 CHAIRPERSON HOOD: Exactly, right.  
19 That was our agreement. Thank you very much.

20 Okay. Mr. Sullivan.

21 MR. SULLIVAN: Thank you.

22 Ms. Ricks, you said that Good

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1 Hope, Naylor, and Alabama Avenue are all major  
2 arterials. Is that correct?

3 MS. RICKS: That's correct.

4 MR. SULLIVAN: And you are basing  
5 that on the applicant's traffic study or  
6 something else?

7 MS. RICKS: On our functional  
8 classification. I think -- I could be wrong.

9 I think -- they are all arterials. Is Good  
10 Hope Road a minor arterial? The only  
11 exception perhaps is that Good Hope Road is a  
12 minor arterial, but they are all considered  
13 arterials, which is the federal  
14 classifications.

15 MR. SULLIVAN: Okay. So you  
16 disagree with the applicant's traffic  
17 consultant, then, on Naylor Road and Alabama  
18 Avenue.

19 MS. RICKS: And the --

20 MR. SULLIVAN: That they are --  
21 they say they are minor arterials. So you  
22 disagree with that?

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1 MS. RICKS: We will get back to  
2 you from our functional classification. Or  
3 anyone who wishes to get it, it's on the DDOT  
4 website -- to confirm exactly if they are  
5 major arterials or minor arterials.  
6 Generally, it's a nuance distinction.  
7 Arterials is the federal classification, and  
8 one that means that it is a roadway in the  
9 regional network that's critical for the  
10 transportation.

11 MR. SULLIVAN: Thanks. The DDOT  
12 report says that the scope included  
13 intersections directly adjacent to the  
14 proposed development site, and then subsequent  
15 meetings revealed the need for evaluation of  
16 intersections further away from the site due  
17 to the regional traffic. Did the applicant  
18 include such intersections further away from  
19 the site in their traffic study?

20 MR. JENNINGS: Page 5 actually  
21 shows the various intersections. There are  
22 seven total intersections that DDOT and the

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1 applicant agreed on for the scope of work.  
2 They initially came to us with a -- I believe  
3 a smaller scope of work. I wasn't -- I wasn't  
4 in on those meetings at the time, but it's my  
5 understanding that we negotiated a larger  
6 scope of work.

7 MR. SULLIVAN: Thanks. Was any  
8 intersections on Naylor Road north of the  
9 proposed project included in that  
10 recommendation? Included in your  
11 recommendation?

12 MR. JENNINGS: I don't know.

13 MR. SULLIVAN: I have a question  
14 about the commuter store. Does DDOT pay for  
15 operation of the commuter store?

16 MS. RICKS: Well, we don't  
17 presently have any commuter stores in the  
18 District, but we would model our program after  
19 a very similar program that is operating in  
20 Arlington County, where they have commuter  
21 stores there that are operated via a contract  
22 that the transportation agency holds with a

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1 service provider that staffs, then, the  
2 commuter store locations.

3 MR. SULLIVAN: Okay. But it is  
4 funded by --

5 MS. RICKS: It is funded by  
6 transportation dollars, yes.

7 MR. SULLIVAN: What about some of  
8 the other mitigation measures, then, that are  
9 proposed, including installing new sidewalks,  
10 granite curb and gutter, or, in particular,  
11 transportation infrastructure and traffic  
12 improvements, the traffic signals, new and  
13 modified traffic signals? Is it funded by the  
14 applicant or by transportation dollars?

15 MS. RICKS: Those would be funded  
16 by the applicant as mitigations.

17 MR. SULLIVAN: Okay. Thank you.  
18 That's it.

19 CHAIRPERSON HOOD: All right.  
20 That's it. We are going to go ahead and cut  
21 it off there. I just -- I guess I just can't  
22 predict anything. But anyway, we are going to

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1 go ahead and cut it off there.

2 And what we're going to do is  
3 we're going to meet February 17th at 6:30. I  
4 think with what we have left we should be able  
5 to complete it that night, hear from the --  
6 hear from the ANC-7B. And ANC-7B is in  
7 support, am I correct? With conditions, okay.  
8 ANC-7B is in support with conditions.

9 And then, we will hear  
10 organizations and persons in support, followed  
11 by party -- the party in opposition, which is  
12 Fort Baker Drive, and they are asking for 60  
13 minutes I believe. And then, we have  
14 organizations and persons in opposition, and  
15 then we will have rebuttal and closing by the  
16 applicant.

17 Are we all agreeable to that, with  
18 the written submission that is going to be on  
19 anything about the study that is going to be  
20 presented at a later date before we make our  
21 final decision?

22 (No response.)

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1           Okay. Give me one moment and let  
2 me let Ms. Schellin get straight, and I'll ask  
3 her if everything is in order. If it is, we  
4 will adjourn this hearing. Everything is in  
5 order? Okay.

6           All right. I want to thank  
7 everyone for your participation tonight.  
8 Again, we will see you February 17th. Do I  
9 have that date right, Ms. Schellin?

10           SECRETARY SCHELLIN: Wednesday,  
11 February 17th.

12           CHAIRPERSON HOOD: Wednesday,  
13 February 17th. Now, Wednesday, February 17th  
14 we will see you here at 6:30, and we will  
15 conclude on that evening.

16           Thank you for your participation  
17 tonight. Have a good evening.

18 (Whereupon, at 9:47 p.m., the proceedings in  
19 the foregoing matter were  
20 adjourned.)

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