

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

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IN THE MATTER OF: :

:

STANTON-EASTBANC LLC : Case No.

Consolidated PUD and : 11-24

Related Map Amendment :

:

-----:

Thursday,

June 21, 2012

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No.
 11-24 by the District of Columbia Zoning
 Commission convened at 6:30 p.m. in the
 Jerrily R. Kress Memorial Hearing Room at
 441 4th Street, N.W., Washington, D.C.,
 20001, Anthony J. Hood, Chairman, presiding.

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ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
MARCIE COHEN, Vice Chairman
MICHAEL G. TURNBULL, FAIA,
Commissioner (OAC)
PETER MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF
PRESENT:

JAMIE HINSON
SAMUEL ZIMBABWE

The transcript constitutes the
minutes from the Public Hearing held on June
21, 2012.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

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Consolidated PUD and Related Map Amendment

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Adjourn, Chairman Hood.321

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

2 6:33 p.m.

3 CHAIRMAN HOOD: Let's reconvene
4 this hearing. Good evening, ladies and
5 gentlemen. This is a public hearing of the
6 Zoning Commission of the District of Columbia
7 for Thursday, June 21, 2012.

8 My name is Anthony Hood. Joining
9 me are Vice Chairperson Cohen, Commissioner
10 May and Commissioner Turnbull. We are also
11 joined by the Office of Zoning Staff Ms.
12 Sharon Schellin. Also the District Department
13 of Transportation Mr. Zimbabwe and Mr. Hinson.

14 Just to refresh everyone's memory,
15 the subject of this evening's hearing is the
16 continuation of the Zoning Commission Case No.
17 11-24. This is a request by Stanton Eastbanc
18 for approval of a consolidated PUD and related
19 map amendment for property located at square
20 901.

21 Notice of today's hearing was
22 published in the D.C. Register on April 23,

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1 2012, and copies of that announcement are over
2 to my left on the wall near the door.

3 The hearing will be conducted in
4 accordance with the provisions of 11 DCMR
5 3022, preliminary matters, additional
6 testimony of the Applicant's traffic expert.
7 Then we will go to the DDOT report and the
8 report of ANC-6B, parties in support, which is
9 CHAMPS, and then organizations and persons in
10 support, persons in opposition -- parties in
11 opposition.

12 I'm sorry. Eyes on Hine, Eastern
13 Market Metro Community Association, Hine
14 School North Neighbors, and Diverse Market
15 Management LLC. Then organizations and
16 persons in opposition, rebuttal and closing by
17 the Applicant.

18 The following time constraints
19 will be maintained in this meeting: party in
20 support two minutes, parties in opposition 60
21 minutes combined, organizations five minutes,
22 individuals three minutes.

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1 Again, all persons appearing
2 before the Commission are to fill out two
3 witness cards. These cards are located to my
4 left on the table near the door. Upon coming
5 forward to speak to the Commission, please
6 give both cards to the reporter sitting to my
7 right before taking a seat at the table.

8 The decision of the Commission in
9 this case must be based exclusively on the
10 public record. To avoid any appearance to the
11 contrary, the Commission requests that persons
12 present not engage the members of the
13 Commission in conversation during any recess
14 or at any time.

15 In addition, there should be no
16 direct contact whatsoever with any
17 Commissioner concerning this matter be it
18 written, electronic or by phone. Any
19 materials received directly by a Commissioner
20 will be discarded without being read and any
21 calls will be ignored. The staff will be
22 available throughout the hearing to discuss

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1 procedural questions.

2 Please turn off all beepers and
3 cell phones at this time so not to disrupt
4 these proceedings.

5 Would all individuals wishing to
6 testify please rise to take the oath whether
7 you took the oath last time or not. Let's
8 keep it clean. If you could just rise again
9 and take the oath.

10 Ms. Schellin, would you please
11 administer the oath?

12 MS. SCHELLIN: Yes.

13 (The witnesses were sworn.)

14 MS. SCHELLIN: Thank you.

15 CHAIRPERSON HOOD: Ms. Schellin,
16 do you have any preliminary matters?

17 MS. SCHELLIN: No, sir.

18 CHAIRMAN HOOD: Okay. I do have
19 one preliminary matter. I do want to
20 acknowledge Ms. Hinson who is watching us from
21 Georgia. I'm not sure what part of Georgia
22 but I wanted to put a shout out to her. I did

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1 not forget.

2 She watches the Zoning Commission
3 in the District of Columbia and I just wanted
4 to shout out to her and tell her that we're
5 glad to have her aboard. Send us a letter
6 sometime and let us know what you think about
7 us.

8 Is that all right, Ms. Hinson?

9 Is she watching tonight?

10 MR. HINSON: I haven't talked to
11 her but I hope so. She said she would.

12 CHAIRMAN HOOD: Okay. If she
13 didn't watch, tell her I'll do it at the next
14 hearing.

15 Let's go right into Ms. White.
16 Mr. DuPuy, if you want to come up and Ms.
17 White. Again, we are going to hear from the
18 traffic consultant. We are cross-exam and
19 then we are going to go to DDOT and then we
20 will cross-exam in that order.

21 Whenever you are ready Mr. DuPuy
22 and Ms. White you may begin.

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1 MR. DuPUY: Thank you, Mr.
2 Chairman, and members of the Commission. Good
3 evening. For the record, I'm Jacques DuPuy
4 with Greenstein DeLorme & Luchs appearing
5 tonight with my co-counsel Kate Olson on
6 behalf of the Applicant Stanton Eastbanc, LLC.

7 Our first witness, or our resumed
8 witness, is Nicole White.

9 Ms. White.

10 MS. WHITE: Thank you. Good
11 evening, Mr. Chair, and members of the
12 Commission. Thank you, everyone, for the
13 opportunity to supplement my presentation from
14 last week. Just to give you an update, since
15 last week we have submitted three additional
16 supplemental documents to DDOT. We had a
17 meeting with DDOT yesterday to provide
18 information in response to their June 5th
19 report. I don't want to speak on behalf of
20 DDOT, and you'll hear from them shortly, but
21 I thought the meeting went well. I feel as
22 though we've answered their questions. Again,

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1 you'll hear from them shortly.

2 The three main topics and the
3 supplemental information that we provided was,
4 one, related to the assumptions that we put in
5 our traffic impact study. We also provided a
6 revised vehicle trip generation table. Then
7 we updated our traffic analysis based on the
8 revised trip generation.

9 A little more about the
10 assumptions. Basically any traffic impact
11 study that's submitted has some level of
12 assumption. DDOT asks that we provide more
13 documentation about our assumptions.

14 For example, the routes that Hines
15 site traffic would use to get to the project.
16 We use census data to determine where people
17 that live in other areas the routes that they
18 would use to get to the site and vice versa.
19 If you live in the District, where do you
20 work. We walked DDOT through our assumptions
21 based on that census data. I think they were
22 comfortable with our assumptions there.

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1 The second part of the main
2 information that we provided was related to
3 vehicle trip generation. Since we submitted
4 our initial transportation study back at the
5 end of April, there is more information about
6 retail. If the retail plan will continue to
7 evolve, it needs to be very flexible.

8 One of the things that we've done
9 is instead of using a general trip generation
10 rate that is all encompassing for a retail, we
11 decided based on DDOT comments to put in
12 specific rates related to a restaurant, a
13 high-quality restaurant so we put in those
14 rates, for example.

15 Another example as to what we did,
16 it was initially thought that grocery store
17 rates might be too high so we went out and
18 surveyed two urban Trader Joe's to get the
19 trips associated with that. Actually, we had
20 previously overestimated the traffic
21 associated with the urban grocery store.

22 Then the other part of the vehicle

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1 trip generation had to do with the fact that
2 we all understand that there's an opportunity
3 for the parking garage to be used for the
4 general public. Mostly we think that
5 opportunity will exist after work hours when
6 office employees are not there and on
7 weekends.

8 We are providing for vendor
9 parking spaces, but still there could be the
10 potential for some traffic during the PM peak
11 hour so we added that on. Also some traffic
12 associated with the existing parking lots that
13 are there today that would be eliminated.

14 Then we updated our traffic
15 analysis based on that updated vehicle trip
16 generation rate. Our conclusions are more or
17 less the same as they were in the original
18 report.

19 For the most part there is
20 adequate capacity throughout the study area
21 with the exception of 8th Street. We all have
22 heard from the community and our corridor

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1 analysis shows that 8th Street is an existing
2 problem. It is mainly due to the fact of the
3 traffic signals at Independence and North
4 Carolina and also Pennsylvania Avenue.

5 This is an existing condition. We
6 will add, of course, traffic on top of that.
7 One of the things that we talked about with
8 DDOT is a monitoring plan which was submitted
9 in draft form today by the Applicant to assure
10 that we are managing our level of trips to the
11 site. That is one of the proactive things
12 that we're doing in addition to the
13 transportation demand management plan.

14 I think that is the primary point
15 with the traffic analysis. I will just take
16 30 seconds to recap the testimony from last
17 time and that is there has been consensus on
18 the transportation demand management plan from
19 DDOT and, I believe, from the community as
20 well.

21 The reopening of C Street will
22 improve pedestrian and vehicular circulation,

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1 and also reduce the level of activity in the
2 alley so that's a benefit.

3 The project will provide parking
4 in line with zoning requirements for the
5 office and the at-grade retail components.
6 The project will provide parking higher than
7 zoning requirements and instead use market-
8 based information for the residential and for
9 the grocery store.

10 The Applicant will seek to exclude
11 residents of the south building from the RPP
12 system so it is very critical that the project
13 provide enough parking spaces to accommodate
14 the residents.

15 The project will provide shared
16 parking opportunity for Barracks Row and the
17 market particularly during evenings and on
18 weekends. We know from Ms. Scheeder's
19 testimony and from our on-street surveys that
20 there is certainly a need for additional
21 parking in the area.

22 Finally, we have reached consensus

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1 with DDOT to move forward with a flexible
2 loading plan for larger vehicles to either use
3 on-street loading or reverse maneuvers into
4 the loading dock. The preferred plan will be
5 decided at the time of public space. DDOT may
6 have comments on their position this evening.
7 That concludes my additional presentation.
8 Thank you.

9 CHAIRMAN HOOD: Thank you very
10 much, Ms. White.

11 Commissioners, any questions?

12 Mr. Turnbull.

13 COMMISSIONER TURNBULL: Thank you,
14 Mr. Chair. I wonder if we could just touch on
15 the north building again. I just want to
16 clarify. The north building will have parking
17 available in the garage and it will also have
18 -- be eligible for RPP.

19 MS. WHITE: If the north building
20 -- if the Applicant wants to come up and
21 answer this but if the north building is on C
22 Street, my understanding is it would not be

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1 eligible for RPP if it has a C Street address.
2 Yes, my understanding is there would be
3 parking in the garage that could be available
4 for the north building.

5 COMMISSIONER TURNBULL: You had
6 said earlier that you are not requesting RPP
7 for the south building.

8 MS. WHITE: That's correct.

9 COMMISSIONER TURNBULL: So the
10 north building?

11 MS. WHITE: The north building if
12 it has a C Street address would not be
13 eligible. Whereas the south building would be
14 eligible and so we have to explicitly ask to
15 be excluded.

16 COMMISSIONER TURNBULL: Okay.
17 Thank you.

18 MS. WHITE: You're welcome.

19 CHAIRMAN HOOD: Any other
20 questions? I did have one question that I
21 wanted to ask. I want you to take me around
22 the site. You know what? I'm going to do

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1 cross-examination.

2 Mr. Depuy, if it's available, can
3 we get the site plan on the screen so I can
4 have Ms. White take me around the site plan?
5 We don't have to do it right now because I'm
6 going to wait. I'll wait and do cross-
7 examination. Then I just want her to take me
8 around the whole site from a traffic
9 standpoint.

10 MS. WHITE: Okay.

11 CHAIRMAN HOOD: Okay. Also we've
12 been joined by Ms. Brown-Roberts from the
13 Office of Planning. Okay. Let's go to cross-
14 examination first if you don't mind. We can
15 do that later but I want to go to cross-
16 examination first.

17 CROSS-EXAMINATION

18 CHAIRMAN HOOD: Does ANC-6B have
19 any cross-examination?

20 ANC COMMISSIONER FRISHBERG: If
21 it's possible, could we defer? My
22 understanding is there are some expert

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1 witnesses that are going to do cross-
2 examination and it might be more efficient
3 with your time if we wait with our questions
4 until we've seen some of what they discussed.
5 Is that possible?

6 CHAIRMAN HOOD: Typically elected
7 officials -- probably you're not referred to
8 that often but I want you to know we give you
9 the respect. Our elected officials simply
10 will go first. You know what? I don't think
11 I'll get in trouble. I have in the past now
12 going out of order. What we are going to do
13 then is let's start with CHAMPS.

14 ANC COMMISSIONER FRISHBERG: We
15 appreciate your accommodation.

16 CHAIRMAN HOOD: Do you want to go
17 last all the time?

18 ANC COMMISSIONER FRISHBERG: No,
19 just this time.

20 CHAIRMAN HOOD: Okay. Just on
21 this particular one. Okay.

22 Does CHAMPS have any cross-

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1 examination?

2 What about Hine School North
3 Neighbors.

4 Mr. Hitchcock, I thought you
5 wasn't here. You were hiding behind --

6 MR. HITCHCOCK: Sorry to
7 disappoint you, Mr. Chairman.

8 CHAIRMAN HOOD: No, I'm actually
9 glad you're here.

10 MR. HITCHCOCK: Thank you.
11 Actually, in the interest of time we did
12 consult with Mr. DuPuy and Ms. White over the
13 last week. We have some information. Rather
14 than cross-examination we will rely on Mr.
15 Mehra's testimony. There are still come
16 concerns that we have and I think it might be
17 more efficient to do it that way.

18 CHAIRMAN HOOD: Thank you.

19 What about Eyes on Hine? Okay.
20 EMMCA. Okay. And Diverse Market? We're
21 right back to the ANC.

22 ANC COMMISSIONER FRISHBERG: That

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1 is the measure of the kind of respect we get.

2 Thank you. Very briefly, if you
3 could refresh me about the dates of the
4 original study of the existing conditions and
5 then what the dates and time -- not dates but
6 the times and days of the week that you did
7 both for the update including the Trader Joe's
8 areas that you mentioned.

9 MS. WHITE: I can tell you it from
10 a Tuesday through a Thursday and I can tell
11 you school was in session and Congress was in
12 session. Other than that I would have to
13 thumb through. I know we did traffic council
14 in different time periods and updated them
15 throughout the course of this study. If you
16 would like, I can thumb through and try to
17 tell you through the appendix.

18 ANC COMMISSIONER FRISHBERG: How
19 about for the recent --

20 MS. WHITE: The recent Trader
21 Joe's count?

22 ANC COMMISSIONER FRISHBERG: Yes.

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1 MS. WHITE: That was a recent
2 count that was conducted within the past two
3 weeks.

4 ANC COMMISSIONER FRISHBERG: Did
5 you get a series of sort of weekend? I know
6 when I go to some of the Trader Joe's it's
7 very busy on the weekend but not during the
8 week.

9 MS. WHITE: No, no. We did a
10 survey and I know it was the weekend, Sunday
11 from, I believe, 10:00 a.m. until 2:00 p.m.
12 and then also on a weekday evening which
13 included the peak hour of 5:00 to 6:00. It
14 may have been from 4:00 to 7:00 p.m.

15 ANC COMMISSIONER FRISHBERG: Okay.

16 MS. WHITE: That is my best
17 estimate.

18 ANC COMMISSIONER FRISHBERG: We
19 haven't seen a detailed report but is all that
20 information in the updated --

21 MS. WHITE: Yes, it is.

22 ANC COMMISSIONER FRISHBERG: Okay.

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1 This may be a question for the Applicant but
2 you've reserved the flexibility on the loading
3 plan for 7th Street. Is the building being
4 constructed to include the loading dock so
5 then that flexibility exist or can you speak
6 to sort of the timeline for how that
7 flexibility will persist?

8 MS. WHITE: That's not an answer
9 for me to provide but I'm looking to see if
10 someone else may be able to answer.

11 MR. STERNLIEB: Good evening, Mr.
12 Chairman.

13 MR. DuPUY: Mr. Sternlieb,
14 identify yourself, please.

15 MR. STERNLIEB: Joe Sternlieb from
16 Eastbanc, part of the Applicant. This is a
17 discussion that we're currently having with
18 folks at DDOT and we are going to have to have
19 a PDRM with the folks at Public Space to
20 confirm that if DDOT and Public Space want us
21 to use the dock to back into that the ramping
22 can start at the front edge of the paid

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1 projections to get the clearance under the
2 ceiling.

3 It's all relatively tight. We're
4 talking about inches to clear the truck but
5 the intention is to be able to make sure the
6 building is designed to be able to accommodate
7 the trucks if we are going to be allowed to
8 use them. Does that answer the question?

9 ANC COMMISSIONER FRISHBERG: So
10 you anticipate this being resolved with DDOT
11 in rather short order because you're going to
12 have -- you are going to finalize your
13 construction plans based in part on the
14 resolution of that issue. It's not like you
15 are going to build it with the truck dock to
16 accommodate 55-foot trucks and then work it
17 out with DDOT.

18 MS. WHITE: My understanding is
19 that this would have to go through the public
20 space process either way, either plan, that we
21 select. The public space process is down the
22 road and has to happen, I think, at some point

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1 after the PDRM.

2 MR. STERNLIEB: Our intention is
3 to design the building to have the maximum
4 flexibility so that if things change in the
5 future, we're not physically prohibited from
6 using the dock so that's what we're trying to
7 do but it may not be physically possible.

8 ANC COMMISSIONER FRISHBERG: So
9 it's likely that you would build it with that
10 accommodation but not for sure at this point?

11 MR. STERNLIEB: It has to go
12 through the public space process, yes.

13 ANC COMMISSIONER FRISHBERG:
14 That's all I have. Thank you very much.

15 CHAIRMAN HOOD: Okay. Thank you
16 very much. I thought we were going to have --
17 you know what? I'll do mine on the back end.
18 Don't let me forget. I'll do mine during
19 rebuttal.

20 Let's go straight to DDOT. Mr.
21 Hinson. Oh, I'm sorry. Mr. Zimbabwe.

22 MR. ZIMBABWE: It's actually going

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1 to be me tonight.

2 CHAIRMAN HOOD: Okay.

3 MR. ZIMBABWE: Good evening
4 Chairman Hood. Good evening, Commission.
5 Thank you for the opportunity to provide
6 DDOT's comments on this case.

7 This testimony augments and
8 expands upon our June 4th report based on
9 continued and ongoing discussions and
10 clarifications provided by the Applicant. The
11 Applicant has coordinated with DDOT several
12 times over the course of the zoning process,
13 most recently with regard to supplemental
14 information that enhances their April 30, 2012
15 transportation impact study.

16 As discussed in our June 4th
17 report to the Zoning Commission, DDOT
18 disagreed with many of the findings and
19 assumptions in the Applicant's transportation
20 impact analysis.

21 Following the submission of DDOT's
22 report, DDOT met with the Applicant and

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1 members of ANC-6B to address issues raised in
2 our report and to come to resolutions on
3 assumptions that identify potential impacts
4 and mitigations.

5 The Applicant has followed up with
6 additional information and clarification in
7 several subsequent memoranda including as
8 recently as this morning. Based on these
9 follow-up meetings and memoranda DDOT is
10 confident that we have been able to reach
11 basic agreement on the analysis and while we
12 retain some difference of opinion on the
13 assumptions, we have resolved major areas of
14 concern.

15 The purpose of DDOT's review is to
16 assess the impact of the proposed project on
17 the District's transportation network and, as
18 necessary, propose appropriate mitigations.
19 There are four primary areas of concern in our
20 initial report; curbside loading of 55-foot
21 trucks, parking, vehicle trip generation, and
22 performance monitoring of the equal impacts.

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1 Prior to discussing some of our
2 concerns DDOT would also like to take this
3 opportunity to clarify its position on the
4 application. DDOT has not and does not
5 express concern about the development program
6 or its density overall.

7 Our concern is generally focused
8 around the previously mentioned concerns about
9 onsite transportation and the surrounding
10 curbsides. DDOT believes that developments in
11 such locations as this have the ability to
12 minimize impacts to the transportation system
13 overall by taking advantage of the rich
14 multimodal transportation network available.

15 The remainder of this testimony
16 will address the areas of concern and discuss
17 resolutions of the assumptions and the
18 analysis with the Applicant. We will also be
19 requesting to leave the record open in this
20 case for several weeks to provide additional
21 written information to the Commission.

22 Loading of heavy vehicles. For

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1 new developments DDOT generally requires that
2 loading take place in private space and that
3 no backup maneuvers occur in the public realm.
4 The Applicant is proposing a dedicated 80-foot
5 curbside commercial loading space for 55-foot
6 trucks on the east side of 7th Street.
7 Originally the proposal was from 7:00 a.m. to
8 6:30 p.m.

9 DDOT continues to hold the
10 position that this is not feasible and should
11 not be allowed. However, there are times that
12 off-street loading is not permissible or
13 generates unacceptable impact. DDOT has
14 worked with the applicant to identify
15 potential loading schemes for 55-foot trucks.

16 One would utilize the 7th Street
17 curb with limited late night and early morning
18 restrictions. The other would provide onsite
19 loading requiring trucks to back from 7th
20 Street into a loading dock that would need to
21 be ramped into public space approximately four
22 feet as we understanding it.

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1 Provided that we can work out a
2 loading management plan, DDOT supports the on-
3 street option. The back-in option raises
4 safety concern and would require Public Space
5 Committee approval due to the driveway ramp in
6 public space. The Applicant is free to pursue
7 one or both but DDOT will only look favorably
8 on a curb-loading scheme with an appropriate
9 management plan.

10 Onsite parking. The overall
11 parking demand created by the development is
12 primarily a function of land use, development
13 square footage and the price and supply of
14 parking spaces. However, in urban areas other
15 factors contribute to the demand for parking
16 such as the availability of nearby high-
17 quality public transit.

18 With the site in proximity to such
19 transit, DDOT expects a low need for onsite
20 parking in general. DDOT's initial report
21 assessed the information provided with respect
22 to onsite parking and identified approximately

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1 120 to 125 spaces that were provided in excess
2 of the projected onsite demand.

3 Our main concern is that this
4 level of parking provided will induce further
5 vehicular trips into the broader neighborhood
6 that will lead to unaccounted impacts to the
7 transportation network and that on-street
8 utilization will not be significantly reduced.
9 However, we do support the overall -- we are
10 okay with the overall level of parking
11 provided that the impacts are assessed.

12 In the June 4th report DDOT noted
13 several concerns with the basic assumptions of
14 the Applicant's analysis that could result in
15 underestimating vehicular trip generation and
16 distribution and ultimately understate
17 potential impacts on the transportation
18 network.

19 In addition, DDOT also expressed
20 concern about the excess parking supply
21 generating trips not accounted for in the
22 Applicant's analysis. Through subsequent

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1 discussions and clarifications with the
2 Applicant and submission of updated analysis,
3 DDOT's initial concerns about trip generation
4 assumptions have largely been addressed.

5 However, DDOT finds that the
6 Applicant's proposed trip generation rate is
7 at the low end of what can be considered a
8 reasonable range. Further, the roadway
9 capacity analysis that showed little impact on
10 the network is based on this low number.

11 If the proposed vehicle -- if the
12 proposed low number is attained, then DDOT
13 agrees the impact will be manageable.
14 However, if vehicular trip generation is
15 greater than expected, the impact on the
16 roadway will also be greater.

17 DDOT believes the modal split
18 assumptions in the impact statement are
19 achievable given appropriate strategies to
20 discourage driving such as parking, pricing,
21 and adequate transportation demand management
22 measures to encourage transit use as well as

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1 pedestrian and bicycle access to the site.

2 Based on this assessment of
3 parking and vehicular trip generation DDOT
4 request that the Zoning Commission require a
5 robust TDM, transportation demand management
6 plan, that at a minimum includes charging
7 market rates for parking and that the
8 Applicant monitor performance of the
9 development.

10 The basis of the monitoring will
11 be the trip generation estimates assumed by
12 the Applicant. Ultimately DDOT requested the
13 Applicant be required to achieve this level of
14 vehicular trip generation for a period of not
15 less than three years. If through a robust
16 data collection program a lack of adherence is
17 identified, remedial TDM measures should be
18 required.

19 Due to the recent submission of
20 additional information and meetings with the
21 Applicant, at this point DDOT is not able to
22 finalize its detailed request for monitoring

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1 to the Zoning Commission. We would expect to
2 finalize our request in a supplementary
3 submission.

4 In conclusion, from our initial
5 review of the Applicant's updated analysis
6 DDOT believes that the analysis is adequate
7 and that the increase in traffic delay
8 resulting from the project is within an
9 acceptable range.

10 DDOT is working with the Applicant
11 to finalize a loading plan for large trucks
12 that will require approval from DDOT and/or
13 the Public Space Committee depending on the
14 option that we pursue. As an abundance of
15 information has recently been provided, DDOT
16 would appreciate the opportunity to submit a
17 supplementary report where we are able to
18 fully review the Applicant's updated analysis.
19 This review would consist of a complete review
20 of analysis of the Applicant's methodology as
21 well as analysis. It would also contain
22 DDOT's recommendation for a performance

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1 monitoring program and any necessary
2 supplementary TDM measures. Therefore, we
3 would like to formally request that the Zoning
4 Commission leave the record open for at least
5 three weeks to facilitate this request.

6 CHAIRMAN HOOD: Thank you very
7 much, Mr. Zimbabwe. We appreciate your
8 report.

9 Commissioners, any questions?

10 COMMISSIONER TURNBULL: Yes, Mr.
11 Chair.

12 So as far as the parking count,
13 you're okay with the count, with the number of
14 cars being provided in general?

15 MR. ZIMBABWE: We believe that the
16 amount of parking being provided is higher
17 than will be demanded by on-site uses. For
18 that reason we see the need to account for the
19 potential vehicular trip generation by people
20 active in that parking accessing other uses
21 within the area.

22 COMMISSIONER TURNBULL: I was

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1 going to say, I mean, last week we had some
2 fairly clear testimony not only by the
3 Applicant but by neighbors and parties talking
4 about the Eastern Market which has got to be
5 recognized as a destination point not only for
6 other people in D.C. but from Maryland,
7 Virginia, and neighboring states that come
8 here as a tourist destination.

9 Also you've got the flea market
10 which the Applicant as part of their agreement
11 is to accommodate the flea market on weekends.
12 They've got a little bit of an issue in trying
13 to provide for that. Have you taken that into
14 account? I mean, that is sort of an extra
15 burden on the project.

16 MR. ZIMBABWE: We understand that
17 and understand that and understand that the
18 Applicant's decision to provide as much
19 parking as they have chosen to provide. We
20 are not requesting that they provide any less.

21 COMMISSIONER TURNBULL: Okay.

22 MR. ZIMBABWE: We are simply --

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1 COMMISSIONER TURNBULL: You're
2 okay.

3 MR. ZIMBABWE: Yes, we're okay.

4 COMMISSIONER TURNBULL: Okay.
5 Thank you.

6 CHAIRMAN HOOD: Very well. Vice
7 Chairperson.

8 VICE CHAIRPERSON COHEN: Thank
9 you, Mr. Chairman.

10 My question has to do with 8th
11 Street and the existing conditions of the
12 heavy traffic. What can you do to alleviate
13 that somewhat? When I say you meaning the
14 city because I understand from the
15 presentation of Ms. White that there are some
16 signaling problems. Is there something you
17 can actually address to help that street not
18 be so heavily trafficked?

19 MR. ZIMBABWE: I can start off by
20 saying that there are limited things that we
21 can do in an area such as 8th Street. It's a
22 heavily traveled corridor, heavy bus route.

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1 The intersections are some of the more complex
2 ones with multiple -- there are short
3 distances between signals which creates a
4 challenge in terms of moving vehicular
5 traffic.

6 It's also a place, especially near
7 the Metro station, where we deal with high
8 volumes of pedestrians and also need to
9 account for their ability to cross streets and
10 that impacts our ability to optimize signals
11 to move vehicles.

12 I don't know, Jamie, if you want
13 to add anything.

14 VICE CHAIRPERSON COHEN: But
15 you'll study -- can you study that further and
16 see about the signalization, especially after
17 the project has been built?

18 MR. ZIMBABWE: Yes, we can. We
19 are in the process of doing a city-wide signal
20 optimization study so over the next several
21 years we will be looking at all intersections
22 throughout the District to address those

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1 issues.

2 VICE CHAIRPERSON COHEN: I have
3 another question. There are certain
4 neighborhoods that have extreme parking
5 problems. Capitol Hill obviously near the
6 Eastern Market, Dupont Circle, Adams Morgan.
7 I have read a lot of studies that say the more
8 -- it's like widening roads. The more you
9 widen the road, the more you're going to have
10 cars. The more parking you give, the more
11 parking is needed. Is that true or false?

12 MR. ZIMBABWE: We believe it's
13 true. That has led to our concerns about the
14 amount of parking provided on site. The
15 stated goal of alleviating on-street demand
16 for parking may or may not come to pass based
17 on providing parking off site over and above
18 what the site itself will demand.

19 Our position as simply been that
20 we need to account for those impacts
21 adequately so that the whole community
22 understands what the implications are of that

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1 decision.

2 CHAIRMAN HOOD: Commissioner May.

3 COMMISSIONER MAY: Yes. Thank you
4 for your additional statements tonight that
5 answered a number of the questions that I had
6 based on the support that had been submitted.

7 I do have a couple of follow-up
8 questions. The essential issue that you had
9 with the number of parking spaces had to do
10 with the fact that it exceeded the trip
11 generation that would occur as a result of
12 what was on site.

13 Are you now concerned that meant
14 that people who were coming to Eastern Market
15 itself would, therefore, now be parking in the
16 garage or would be driving rather than opting
17 to come by Metro? That is the sort of
18 scenario that you're imaging?

19 MR. ZIMBABWE: Typically in the
20 impact statements we are looking at what the
21 site itself -- the uses on the site is
22 generating. Most projects that we see are

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1 accounting for parking that supports the uses
2 only on site.

3 In this case because we felt there
4 were excess parking spaces over and above what
5 the site itself would demand in a location as
6 transit oriented and accessible as this is
7 that we had to see the impact of those
8 additional parking spaces on potential trip
9 generation.

10 Whether those were existing trips
11 coming to the market by other means that are
12 now going to choose to come by car, whether
13 they were -- or whether they were new trips
14 coming to Eastern Market by car that
15 previously had chosen to stay away because of
16 constrained on-street parking, we did feel
17 that this additional parking would induce
18 trips that had to be accounted for as part of
19 trip generation of the project as a whole.

20 COMMISSIONER MAY: So as long as
21 the trip generation takes that into
22 consideration, you could be okay with that?

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1 MR. ZIMBABWE: Yes.

2 COMMISSIONER MAY: Okay. It seems
3 to me that -- well, I don't know. There have
4 been times in the past when parking issues in
5 neighborhoods actually prompted discussions of
6 things like publicly funded garages.

7 I know that's out of favor due to
8 most recent experiences with underground
9 garages, but I also remember back to the Adams
10 Morgan parking garage and the decades that it
11 took to address that.

12 It seems to me that some
13 consideration ought to go to the potential for
14 additional availability of parking to address
15 some of the pent-up demand for parking, if you
16 will, but now causes such extreme parking
17 difficulties in close proximity on the
18 weekend. Did they ever get any credit for
19 trying to address that?

20 MR. ZIMBABWE: It's difficult to
21 accredit that in the transportation analysis.
22 I think whether that's a good decision for the

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1 neighborhood is outside of the purview of what
2 DDOT is reviewing in this case.

3 COMMISSIONER MAY: So it's all
4 done through the lens of how it affects level
5 of service and actual traffic impact as
6 opposed to assessing parking needs?

7 MR. ZIMBABWE: It's done in the
8 assessment of the overall transportation
9 system impacts and potential mitigations of
10 those impacts.

11 COMMISSIONER MAY: Generally
12 speaking the fact that except for 8th Street
13 we're talking about levels of service largely
14 in the BNC range. This is not a heavily
15 impacted neighborhood compared to others.

16 It may not be apparent to many
17 folks who don't deal with this on a regular
18 basis but we usually -- we often see
19 developments like this in neighborhoods where
20 Ds and Es are as good as it gets and Fs are
21 not uncommon. Then within Fs there's a whole
22 -- you know, you can have an F with a 60-

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1 second delay and you can have an F with a 300-
2 second delay.

3 MR. ZIMBABWE: That's right.

4 COMMISSIONER MAY: All right. I
5 guess the last question going to the demand
6 for parking itself, is there ever a point when
7 you actually want to have parking at Metros?

8 I mean, you certainly want to have
9 them at outlying stations and we don't have
10 many of those. There is parking at some of
11 the outlying stations in the District. Is any
12 consideration given to that in this location
13 that it's desirable to have parking in
14 proximity?

15 MR. ZIMBABWE: As I understand it,
16 the parking here as proposed by the Applicant
17 would be serving the neighborhood, not
18 necessarily a park and ride demand, for the
19 Metro system. I think there can be situations
20 where parking serving the Metro system even in
21 dense built-up neighborhoods is useful.

22 Again, I think we have to

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1 understand the impacts of that decision on the
2 broader transportation network and how it
3 informs people's choices about how to access
4 transit. Most people accessing Eastern Market
5 today are accessing by walking, biking, or
6 taking transit to the station itself.

7 Providing park and ride space for
8 the station might change that decision about
9 how people choose to access transit and what
10 that might do to the network at home.

11 COMMISSIONER MAY: Okay. I know
12 that the District takes a number of different
13 approaches to residential street parking
14 across the city.

15 Understanding that there is
16 already a problem within close proximity to
17 Eastern Market itself, where is your
18 consideration of other residential parking
19 solutions in this neighborhood? Are you
20 considering other measures at this point?

21 MR. ZIMBABWE: We are. We
22 generally work on those measures in

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1 collaboration with the ANCs and citizens
2 through a petition request process. We have
3 a variety and growing number of tools in terms
4 of residential parking mostly focused on the
5 residential parking permit program but have
6 cases of extended hours. Around areas of our
7 performance parking districts we have done
8 some enhancements to that to have residents,
9 basically Ward 6 only, parking on one side of
10 the street and a normal residential parking
11 permit on the other side of the street. Those
12 are things that we can entertain in working
13 with the ANC.

14 COMMISSIONER MAY: So that is
15 driven by petition?

16 MR. ZIMBABWE: It's driven largely
17 by petition.

18 COMMISSIONER MAY: And have there
19 been petitions from this neighborhood?

20 MR. ZIMBABWE: I don't know that.

21 COMMISSIONER MAY: Okay. I would
22 be interested in knowing if there have been so

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1 if you can provide an answer to that question,
2 that would help.

3 I guess that's all my questions.

4 Thank you.

5 CHAIRMAN HOOD: Okay. Thank you.

6 Mr. Zimbabwe, I'm looking at what
7 was proposed by the Applicant and I'm looking
8 at the last one. "Retail parking will be
9 priced to encourage turnover of spaces after
10 no more than four hours." How are we going to
11 encourage visitors from the DMV to utilize
12 those spaces? I'm just trying to understand
13 how do we encourage turnover?

14 In other words, we are encouraging
15 people to leave after four hours. I don't
16 know because, again, it's a lot of traffic so
17 I don't go up there. I'm just curious how are
18 we going to accomplish that? Has that been
19 thought through?

20 I know what the Applicant is
21 proposing but I'm just curious has that been
22 thought through? Is that a good TDM measure

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1 when we are trying to strike -- I'm sure the
2 flea market and the retail up there wants
3 business and sometimes it takes people a
4 little longer to shop than it takes others.

5 I'm just curious have we thought
6 that whole piece out? How are we driving them
7 out? What happens after four hours if I'm
8 still parked there?

9 MR. ZIMBABWE: That typically
10 happens through some kind of escalation
11 in price or some kind of pricing scheme that
12 makes folks want to leave. I don't know what
13 that price point is but at some point. You
14 see many garages downtown, for example, try to
15 price to encourage people to stay for a long
16 time so they would have a very first hour and
17 then it gets progressively cheaper.

18 You could do the opposite where
19 the first hour is cheaper and then it gets
20 progressively more expensive. I think you're
21 touching on one of the tensions between
22 providing a reservoir of parking for the

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1 neighborhood and charging an undue amount of
2 vehicular trips accessing the site where if we
3 encourage too much turnover, we are going to
4 have the impacts that we are concerned about
5 with providing an additional reservoir of
6 parking.

7 If you don't provide enough
8 turnover and people think all of a sudden that
9 there is a reservoir of parking, people may be
10 circling the neighborhood to find scarce on-
11 street parking if the garage fills up. I
12 think the idea with pricing for turnover is to
13 maintain some level of availability at all
14 times within the garage without encouraging
15 people to turnover too quickly.

16 CHAIRMAN HOOD: Okay. Thank you.
17 I think I see my way through now on that.

18 The other thing the Applicant is
19 asking about is the residential parking spaces
20 will be unbundled. I know that has been a
21 topic on this Commission for years. I can't
22 remember the last conversation but it was some

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1 years back. I'm not sure but how is that
2 working out? Is that actually happening?
3 Would you all echo what their sentiments are
4 as far as a TDM measure?

5 MR. ZIMBABWE: We would. As we
6 understand the proposal from the Applicant,
7 the residential parking spaces would be
8 segregated from the other spaces. If they
9 were under-utilized, let's say, if there were
10 fewer spaces demanded than provided, that
11 those would not just revert back to the
12 overall pool of retail and office parking.

13 One thing that has been apparent
14 from the recent growth in the District and
15 even longtime residents is that we've had a
16 declining rate of vehicle ownership in the
17 District so unbundling.

18 That's partly because of the
19 options, especially in a location such as
20 this, across the street from the Metro station
21 with two major bus corridors and Bike Share
22 across the street and very good access to

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1 other activity generators.

2 We anticipate that the residential
3 parking demand will be low, lower than is
4 being provided, and unbundling that is a way
5 to signal to residents that choose not to own
6 a car that they don't have to pay for that
7 space if they want to live in this building.

8 CHAIRMAN HOOD: I noticed that you
9 asked us to leave the record open for three
10 weeks. I was trying to get the gist of
11 exactly your request. Right now I believe
12 that the District Department of Transportation
13 in this case is not ready to give final
14 approval. Is that kind of where we are?

15 MR. ZIMBABWE: We're prepared.
16 Our testimony tonight stands. We requested
17 that the record be left open to be able to
18 provide additional written testimony fully
19 assessing the information we've been given by
20 the Applicant and unusual requests for three
21 weeks involves some vacations around the 4th
22 of July. Otherwise, we would request two

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1 weeks.

2 CHAIRMAN HOOD: We work through
3 the 4th of July.

4 Mr. Hinson, do you want to add
5 something?

6 MR. ZIMBABWE: He's the one taking
7 the vacation around the 4th of July.

8 CHAIRMAN HOOD: Since his mom is
9 watching we better not say anything. I'm
10 going to end the discussion on those
11 questions.

12 MR. ZIMBABWE: Thank you.

13 CHAIRMAN HOOD: Okay. All right.

14 Any other questions? Okay. Let's
15 go to cross-examination.

16 CROSS-EXAMINATION

17 CHAIRMAN HOOD: Does the Applicant
18 have any cross?

19 MR. DuPUY: None. Thank you, Mr.
20 Chair.

21 CHAIRMAN HOOD: ANC-6B? No Cross.

22 CHAMPS? Hine School North, any

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1 cross-examination?

2 MR. HITCHCOCK: Mr. Chairman, as a
3 preliminary matter I wanted to follow up on
4 Mr. Zimbabwe's point about the written report.
5 We did receive a lot of the information that
6 was provided to DDOT. Mr. Mehra did have an
7 opportunity to review it. There's over 250
8 pages of material.

9 He will testify shortly that there
10 are still some concerns and questions that he
11 has. Mr. Zimbabwe mentioned that there are
12 differences of assumptions. Our view is yes
13 and the differences of assumptions affect the
14 conclusion and he can present it.

15 What I would like to suggest for
16 the Commission's approval is to go along with
17 the suggestion that DDOT take three weeks,
18 file material that answers in writing which
19 points were addressed, what documents address
20 them.

21 If I may, in addition, rather than
22 cross-examine ask for the right to file a

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1 response within a week after that if there are
2 any outstanding issues. There's a lot of
3 paper. Everything that the Applicant has
4 filed is called draft. Stuff was still coming
5 in this afternoon.

6 Assuming that their final -- I
7 don't know what the final is from them.
8 DDOT's conclusions stand but I think that
9 might be a more efficient way of letting the
10 Commission read the testimony, read the
11 answers, make up its own mind at that point
12 rather than sitting here tonight and try to go
13 through the assumptions page by page.

14 CHAIRMAN HOOD: So after three
15 weeks you want to be able to respond?

16 MR. HITCHCOCK: We agree with
17 their suggestion. We would like to make an
18 amendment that in providing the written
19 assessment they point out and identify each
20 concern and say how that concern has been
21 addressed. There's 250 pages of material. It
22 may be in there somewhere. We may have missed

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1 it. There may have been something oral. We
2 don't know. It gets very technical very
3 quickly. The trip generation data, for
4 example, a lot depends on the assumptions that
5 are made. The other thing I would say --

6 CHAIRMAN HOOD: Let me address the
7 first point. We're fine with that. Are we
8 all fine with that? Okay.

9 MR. HITCHCOCK: The other point, I
10 have been asked in previous cases when we have
11 expert traffic testimony to provide a copy in
12 advance to DDOT and we did that last week
13 before the hearing. They have not answered
14 any of the points here tonight.

15 If I were to cross-examine, I
16 would go into that as well but you may want to
17 consider asking them after the hearing what
18 Mr. Mehra has to say for specifics on that but
19 I'll leave that up to the Commission.

20 CHAIRMAN HOOD: Mr. Hitchcock,
21 first about being responsive to their
22 submission so we don't have a problem. The

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1 second issue is that you want to -- you want
2 your questions answered, or whatever you
3 submitted you want answered.

4 MR. HITCHCOCK: Well, we would
5 like DDOT to explain where its concerns were
6 answered in the supplemental materials and,
7 second, where DDOT -- what DDOT is relying
8 upon to say their concerns have been
9 addressed.

10 CHAIRMAN HOOD: All that was in
11 Mr. Mehra's report. Right?

12 MR. HITCHCOCK: Pardon me?

13 CHAIRMAN HOOD: Mr. Mehra's
14 report.

15 MR. HITCHCOCK: His report, which
16 is three pages, and I will hand it up shortly,
17 and there's a PowerPoint, will identify a
18 number of specific issues that he still has.
19 Thanks to Mr. DuPuy we were able to look at
20 the information. We were able to eliminate
21 some issues and say that is no longer a
22 concern but there are still issues.

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1 CHAIRMAN HOOD: Do you have any
2 cross-examination of DDOT right now?

3 MR. HITCHCOCK: Well, if the
4 Commission is not willing to do that, I mean,
5 ordinary cross-examination would say let's
6 start on page 1 of the report and talk about
7 that concern and tell me which page the
8 information is on that addresses it and that
9 would take a long time. I'm proposing this is
10 in lieu of cross-examination.

11 CHAIRMAN HOOD: First of all, I
12 need to see those three pages. The Commission
13 may have those questions that we may ask.
14 There's a number of factors there. It's hard
15 for me to do things in the blind because --
16 let me just say that. It's hard to do things
17 in the blind.

18 I would need to see that. I'm
19 just trying to figure out what is best for you
20 because I want you for your client to be able
21 to get the best out of it. I may get it, or
22 we may get it, and ask the questions

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1 ourselves. Or we may ask DDOT to respond to
2 this which is probably what is going to happen
3 anyway once I see what the outstanding issues
4 are.

5 MR. HITCHCOCK: I'm happy to do
6 so. I can provide them right now along with
7 the PowerPoint we're going to use. I was
8 planning to hand them up just when he came up
9 to testify. I do have all the copies now.

10 COMMISSIONER MAY: Mr. Chairman,
11 for the purposes of our decision making, I
12 would very much like to hear if they have
13 specific cross-examination of DDOT now.

14 There is nothing that is -- I
15 mean, the reason why we do written testimony
16 and oral testimony is so that we can get the
17 information explained and follow up with
18 immediate questions rather than scrolling
19 through lots of documents and then having your
20 own questions and then having to ask more
21 questions.

22 I would very much like them to go

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1 ahead and do their cross-examination. I don't
2 think that they need to go through and
3 question every number that is in the report
4 but I would like to hear what significant
5 issues that they have that they would like to
6 highlight for the Commission. As far as the
7 follow-up report and receiving that from DDOT
8 and then having a written response, you know,
9 that's all great.

10 CHAIRMAN HOOD: Okay. Mr.
11 Hitchcock?

12 MR. HITCHCOCK: I do have
13 questions but they would not be as limited as
14 Commissioner May suggested.

15 CHAIRMAN HOOD: We can't limit
16 your cross-examination. At the end of the day
17 go ahead and cross.

18 MR. HITCHCOCK: Okay. Let me ask,
19 Mr. Zimbabwe, did you receive the report that
20 we sent to -- that I emailed you last week?

21 MR. ZIMBABWE: Yes, we did.

22 MR. HITCHCOCK: Okay. And did you

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1 analyze the points that were made therein in
2 considering your testimony here tonight?

3 MR. ZIMBABWE: Yes, we did.

4 MR. HITCHCOCK: Okay. Mr. Mehra
5 made a number of points and concerns. I would
6 like to ask how those factored into the
7 analysis that you made. For example, one of
8 the points he talked about is the lack of
9 information on truck and bus counts. How did
10 that factor into your analysis?

11 MR. HINSON: My name is Jamie
12 Hinson. I'm a planner with DDOT. My
13 understanding was that the Applicant actually
14 changed some of the assumptions in their most
15 recent submission to address some of the
16 concerns. I don't know the specifics off
17 hand.

18 MR. HITCHCOCK: Can you identify
19 the page on which those assumptions were
20 changed and what the information is?

21 MR. HINSON: No, not right now.

22 MR. HITCHCOCK: I noticed Mr.

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1 Zimbabwe is referring to a paper. Can I ask
2 what that document is?

3 MR. ZIMBABWE: This paper? Your
4 testimony.

5 MR. HITCHCOCK: Okay. There's
6 nothing there dealing with the truck or bus
7 counts. It's different but you can't explain
8 -- I mean, would you agree with me that there
9 were no bus counts, for example, in the April
10 30, 2012 study?

11 MR. HINSON: I think generally the
12 way that it works, and from my understanding
13 it was included at the default level. That
14 generally is adequate for analysis.

15 MR. HITCHCOCK: I'm sorry. What
16 is the it that was included at the default
17 level?

18 MR. HINSON: You said buses and
19 trucks.

20 MR. HITCHCOCK: Correct.

21 MR. HINSON: And so those are
22 assumed at the default level in the analysis

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1 software.

2 MR. HITCHCOCK: And what is the
3 default level?

4 MR. HINSON: I do not know off the
5 top of my head.

6 MR. HITCHCOCK: Would it refresh
7 your recollection if I told you it was 2
8 percent?

9 MR. HINSON: If that's what you
10 say, that's --

11 MR. HITCHCOCK: Okay. Do you
12 recall where exactly the truck level analysis
13 was done?

14 MR. HINSON: Where exactly? I'll
15 go back to what I said previously about the
16 Applicant. They told us this yesterday, I
17 believe, that they updated their analysis.

18 MR. HITCHCOCK: Okay. But you
19 don't know where it is? You can't point to a
20 particular page?

21 MR. HINSON: No.

22 MR. HITCHCOCK: Okay. Do you have

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1 the April 30, 2012 study in front of you?

2 MR. HINSON: I do but I do not
3 have the technical appendices.

4 MR. HITCHCOCK: All right. I'm
5 just dealing with the April 30th study.

6 MR. HINSON: We've got it.

7 MR. HITCHCOCK: Okay. I will
8 state for the Commission's benefit page 28
9 deals with truck counts. Directing your
10 attention to the middle of the page where it
11 says truck counts were conducted.

12 MR. HINSON: Okay.

13 MR. HITCHCOCK: Then further down
14 the second bullet point shows 8 percent of
15 northbound 8th Street traffic were heavy
16 vehicles and 10 percent of southbound were
17 heavy vehicles. Correct?

18 MR. HINSON: That's what it says.

19 MR. HITCHCOCK: Okay. That is
20 somewhat higher than the 2 percent default.

21 MR. HINSON: That would be the
22 case.

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1 MR. HITCHCOCK: Okay. Does that
2 not cause some concern if the number of heavy
3 vehicles is 10 percent instead of 2 percent?

4 MR. HINSON: Not generally.

5 MR. HITCHCOCK: Not generally?
6 Could you explain?

7 MR. HINSON: Generally the impact
8 that is shown in the analysis is minimal to
9 nonexistent.

10 MR. HITCHCOCK: Minimal according
11 to whom?

12 MR. HINSON: Minimal according to
13 engineering judgment so I don't know what the
14 difference as far as changing level of service
15 would be but generally it's not going to be
16 more than maybe a second or two on delay if
17 that.

18 MR. HITCHCOCK: Okay. You will
19 notice in the paragraph we're looking at that
20 they only did several streets, only 7th and
21 8th. Correct?

22 MR. HINSON: If that's what it

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1 says.

2 MR. HITCHCOCK: Does it say
3 anything else? Does it say anything else?

4 MR. HINSON: No.

5 MR. HITCHCOCK: Thank you. So
6 there were no other -- no truck counts were
7 conducted on other streets. Correct?

8 MR. HINSON: I'll defer to the
9 Applicant's documentation but it would seem
10 that is not the case.

11 MR. HITCHCOCK: As we sit here
12 tonight can you point to any other page in
13 this April 30th report that refers to truck
14 counts?

15 MR. HINSON: No.

16 MR. HITCHCOCK: Okay. So, to your
17 knowledge, as we sit here tonight looking at
18 this report, there were no other truck counts
19 on other streets. Correct?

20 MR. HINSON: Not to my knowledge.

21 MR. HITCHCOCK: Okay.

22 MR. HINSON: Unless it's in the

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1 appendices.

2 MR. HITCHCOCK: Unless it's in the
3 appendices but you wouldn't know where. Is
4 that not a subject of concern that there --

5 CHAIRMAN HOOD: Let me just say
6 this, Mr. Hitchcock. I actually did not want
7 to move in this direction for the very reason
8 of what we're doing now.

9 MR. HITCHCOCK: Neither did I.

10 CHAIRMAN HOOD: Okay. That's why
11 I didn't want to move. First of all, cross-
12 examination is on his report. Do you have his
13 report in front of you?

14 MR. HITCHCOCK: No. I do not have
15 any written reports here today.

16 CHAIRMAN HOOD: The cross-
17 examination that you're asking should have
18 been cross for the most part. Now, you can
19 ask did they agree with their conclusions or
20 findings of the Applicant. That cross-
21 examination you're doing with him is more
22 appropriate to the Applicant.

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1 MR. HITCHCOCK: Mr. Chairman, he
2 says they are in basic agreement with the
3 conclusions. So, therefore, what I am trying
4 to do was to look at what factors were
5 considered in reaching those conclusions.

6 CHAIRMAN HOOD: Okay. That
7 question is fine as opposed to being specific
8 in identifying what page of somebody else's
9 report that he didn't do. All he did was went
10 through and put his analysis to that report.
11 You are asking specific pages and numbers and
12 what lines and that's not fair to do that.
13 All they are suppose to do is analyze the
14 report.

15 MR. HITCHCOCK: But it's not fair
16 to my clients either if they write a very
17 detailed report, 13 double spaced pages, and
18 come in and say, "Oh, we looked at everything
19 and everything is fine but we're not going to
20 explain it and we're not going to provide
21 documentation. It's somewhere in the
22 technical appendices."

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1 It's just not fair. That is why I
2 was making the recommendation earlier because,
3 you're right, I can't think of a way to go
4 through all this without asking them. They've
5 stated that this is not a concern. Okay. Why
6 isn't it a concern? There is nothing really
7 I can do if they can get up here and testify
8 generally, vaguely that everything is okay but
9 we have some problems with the assumptions.

10 CHAIRMAN HOOD: Okay.
11 Commissioners, I don't think this is -- it's
12 not helping me.

13 COMMISSIONER MAY: No, but I don't
14 think it's being conducted the way it should
15 be for the benefit of the Commission. What we
16 are getting here is you're testing them on
17 their memory of DDOT's report. I don't think
18 it's reasonable to expect them to come out on
19 every single detail.

20 Now, I think that you should be
21 focusing on what they wrote in their report.
22 If you find there are holes or there is not a

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1 basis for it, then accept that point and then
2 move on. You do not need to cross-examine
3 them on every single fact that is in DDOT's
4 report.

5 MR. HITCHCOCK: We largely agreed
6 with their report, the June 4th report.

7 COMMISSIONER MAY: I'm sorry, the
8 Applicant's report. You don't have to cross-
9 examine on every point that is in the
10 Applicant's report.

11 MR. HITCHCOCK: I'm cross-
12 examining them on their testimony. They have
13 come in here tonight with a very conclusory
14 statement that everything is fine.

15 COMMISSIONER MAY: No, I don't
16 think they came in here and said everything is
17 fine. I think there were lots of
18 qualifications with that. If you want to
19 probe the qualifications or if you want to
20 probe the basis for their decisions it's
21 perfectly reasonable, but it's their thinking
22 that you should be questioning, not their

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1 recollection of the Applicant's report.

2 MR. HITCHCOCK: I'm trying to find
3 out what they did look. I mean, I can ask
4 them, "Did you consider -- you know, "Were you
5 not bothered by the fact that Pennsylvania
6 Avenue was excluded?"

7 COMMISSIONER MAY: Yes, you could
8 ask them that. They can answer that and then
9 they can move on. I mean, we don't need to
10 belabor points like that.

11 MR. HITCHCOCK: Then I will ask
12 the question.

13 Were you bothered by the fact
14 Pennsylvania Avenue was not included?

15 MR. HINSON: Included in extra
16 trucks?

17 MR. HITCHCOCK: The analysis
18 provided here in the April 30th document.

19 MR. HINSON: No, generally because
20 there are fewer trucks on Pennsylvania Avenue
21 that might be standard because they can't go
22 through.

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1 MR. HITCHCOCK: Okay. Let's talk
2 about the buses. What is your conclusion?
3 Where in your report did you talk about bus
4 traffic and do you still have concerns about
5 that?

6 MR. HINSON: Is there a more
7 specific question?

8 MR. HITCHCOCK: The measurement of
9 bus traffic.

10 MR. HINSON: I'm still not sure
11 what --

12 MR. HITCHCOCK: Is it not standard
13 for an applicant providing traffic data
14 reports such as the one of April 30th to do
15 bus counts and look at bus traffic and how
16 that may contribute to the overall traffic
17 congestion at the light?

18 MR. HINSON: Sure. Generally
19 there is a need to look at the number of
20 buses. The bus stops on 8th Street, in
21 particular, in the area of the study are not
22 in the flow of traffic.

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1 MR. HITCHCOCK: Okay. Did you
2 find -- did you agree with the analysis that
3 was provided?

4 MR. HINSON: Yes.

5 MR. HITCHCOCK: Okay. And what
6 was the analysis? Do you remember where it
7 was?

8 MR. HINSON: Well, it was a
9 synchro analysis which is what everything is
10 included in which we've already talked through
11 now.

12 MR. HITCHCOCK: Okay. Let me ask
13 a couple of questions about the intersections.
14 At a number of the intersections you found
15 levels of service at D or better. Correct?
16 Go ahead. I'm sorry.

17 MR. HINSON: The Applicant found
18 levels of service at D or better.

19 MR. HITCHCOCK: Okay. And the
20 Applicant also -- I'm sorry. I didn't mean to
21 interrupt your answer. And the corridor
22 analysis for 8th between Pennsylvania and

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1 North Carolina was F for morning, evening, and
2 weekend. Did you have any concerns about
3 that?

4 MR. HINSON: Not particularly, no.

5 MR. HITCHCOCK: And why is that?

6 MR. HINSON: Corridor level of
7 analysis is a little bit different animal than
8 intersection level of analysis. It's a little
9 harder to quantify so we tend to focus on
10 intersection level of delay.

11 MR. HITCHCOCK: Okay. Trip
12 generation. A fairly high percentage of non-
13 auto travel was projected. Are you aware of
14 any studies or analysis or have you done any
15 yourself or otherwise that shed light on the
16 assumption, the validity of the assumption?

17 MR. HINSON: Yes.

18 MR. HITCHCOCK: And what was the
19 conclusion?

20 MR. HINSON: So as far as the mode
21 splits, I think we said generally that we are
22 agreeable to them. I would have to get our

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1 initial report.

2 MR. HITCHCOCK: Take your time.

3 MR. ZIMBABWE: The Applicant did
4 subsequently provide additional written
5 documentation. This was an area of concern
6 that we had in our initial June 4th report.
7 The Applicant has provided subsequent
8 information on that. At this point having not
9 fully analyzed that we are in agreement and
10 they provided some citations for their
11 methodology.

12 MR. HITCHCOCK: And what is the
13 percentage that they supplied to you?

14 MR. ZIMBABWE: It varies by use
15 and it ranges from -- which one are you
16 referring to? What mode split were you --

17 MR. HITCHCOCK: The non-auto
18 travel for residential use. Their figure was
19 70 percent.

20 MR. ZIMBABWE: In a location
21 adjacent to a Metro station with many other
22 transit options available in a walkable

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1 environment, that is not out of line with
2 other places that we've seen.

3 MR. HITCHCOCK: Okay. Are you
4 aware of a study about the Van Ness station
5 and the modes there?

6 MR. HINSON: Well, there is the
7 WMATA study but I don't know if they looked at
8 the Van Ness station but they looked at a few
9 stations. Is that what you're referring to?

10 MR. HITCHCOCK: No, I was
11 referring to one that was conducted separately
12 just focusing on Van Ness but if you're not
13 familiar with it, I won't pursue it.

14 MR. HINSON: I'm not.

15 MR. HITCHCOCK: Okay. The
16 Applicant proposed that there were -- well,
17 there's three major uses; the residential, the
18 office, and the retail. The report showed
19 that there were separate inbound and outbound
20 travel patterns. Did you agree with their
21 analysis on that?

22 MR. HINSON: Generally, yes.

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1 MR. HITCHCOCK: Okay. What did
2 you disagree with?

3 MR. HINSON: Well, again, these
4 are all assumptions as the Applicant's
5 transportation consultant noted initially so
6 it's up to us to look to see if they are
7 generally reasonable and look at data to do
8 our best to come to the conclusion or to
9 assess it in a way that seems appropriate.

10 MR. HITCHCOCK: Okay. Let me ask
11 you this. Would you agree with me that
12 inbound and outbound travel patterns should be
13 roughly the same? If somebody drives a car
14 into an office building in the morning they
15 are likely to drive it out at night?

16 MR. ZIMBABWE: That depends on --
17 over the course of 24 hours it should
18 generally be the case but over the course of
19 a peak hour it may not.

20 MR. HITCHCOCK: Let's look at 24
21 hours. The report showed that there was like
22 21 percent inbound from the south and 26

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1 percent outbound. Did that concern you at
2 all?

3 MR. HINSON: Can you point to the
4 page?

5 MR. HITCHCOCK: In the April 30th
6 report, figure 17 through 19.

7 MR. HINSON: Which note
8 specifically are you referring to?

9 MR. HITCHCOCK: They are charts.

10 MR. HINSON: Right, I'm sorry.
11 Which chart specifically?

12 MR. HITCHCOCK: Let me just get
13 that a second. Figure 17, page 60.

14 MR. HINSON: Okay. Got it.
15 What's your question?

16 MR. HITCHCOCK: The question is
17 there is a gap between the inbound and the
18 outbound residential traffic to the south. Is
19 that a concern?

20 MR. HINSON: No, because there are
21 one-way streets in the area and different ways
22 to access larger regional routes.

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1 MR. HITCHCOCK: Let's look at 7th
2 and 8th Streets.

3 MR. HINSON: Sure.

4 MR. ZIMBABWE: So people coming
5 toward the site from 395 would tend to take
6 6th Street or potentially 7th Street as
7 opposed to 8th Street. Vehicles traveling
8 southbound to access 395 would tend to take
9 8th Street.

10 MR. HITCHCOCK: And what is the
11 source of that statement?

12 MR. ZIMBABWE: Our understanding
13 of the street network and experience. 6th
14 Street is a one-way northbound street.

15 MR. HINSON: Which is also where
16 the rent drops off so it makes a lot of sense
17 that a good portion of the traffic is going to
18 be coming --

19 MR. HITCHCOCK: The northbound
20 traffic.

21 MR. HINSON: The northbound
22 traffic. Southbound traffic makes sense that

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1 it would be 7th and 8th in order to get in
2 queue to get on the freeway.

3 MR. HITCHCOCK: Okay. A separate
4 question, moving along, on levels of service.
5 Did you do a separate analysis of the impacts
6 of proposed mitigation?

7 MR. HINSON: Did DDOT perform an
8 analysis?

9 MR. HITCHCOCK: Um-hum.

10 MR. HINSON: No.

11 MR. HITCHCOCK: Okay.

12 MR. HINSON: We reviewed the
13 Applicant's analysis.

14 MR. HITCHCOCK: Okay. You
15 mentioned looking at the synchro models.
16 Could you explain what you did in that regard?

17 MR. HINSON: What we did in regard
18 to reviewing the synchro models?

19 MR. HITCHCOCK: Um-hum.

20 MR. HINSON: Looked at the
21 adequacy of the models making sure the
22 geometries are correct, making sure the

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1 volumes are in there correctly.

2 MR. HITCHCOCK: And you were
3 satisfied they were correct?

4 MR. HINSON: We're satisfied or we
5 are reasonably sure at this point that the
6 synchro analysis is, indeed, correct which is
7 also one of the reasons we want to make sure
8 we can do a full report so that we can
9 adequately evaluate that because we've also
10 had --

11 MR. HITCHCOCK: Okay.

12 Mr. Chairman, I don't have any
13 other questions at this point. I'm happy to
14 rely on the direct testimony when we get
15 there.

16 CHAIRMAN HOOD: Thank you very
17 much.

18 Let's go to Eyes on Hine. Do you
19 have any cross? Okay.

20 EMMCA, any cross? Ms. Riehle.

21 MS. RIEHLE: I just have really
22 one question. Did the Applicant discuss with

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1 DDOT the possibility of locating the entrance
2 to the parking garage on Pennsylvania Avenue
3 rather than on C Street?

4 MR. HINSON: Very long time ago on
5 the order of probably a year and a half or two
6 years ago. When access was being discussed we
7 talked about potential locations to have the
8 access. I'm sure we discussed that. I don't
9 think it was ever considered a feasible
10 alternative and so we came to the consensus
11 that the best locations were along C Street
12 and 7th.

13 MS. RIEHLE: Okay. I'm curious
14 about that because I know there is a parking
15 garage entrance in the 700 block -- no, the
16 600 block of Pennsylvania Avenue.

17 MR. HINSON: Right. Yes, ma'am.

18 MS. RIEHLE: I wonder why that
19 would be discounted?

20 MR. HINSON: We -- in order to
21 preserve the function of the network as well
22 as the public space in the District, we work

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1 along a general practice that pushes access
2 toward the least utilized facility.

3 Pennsylvania Avenue being the most
4 prominent facility we generally encourage curb
5 cuts to not go on those types of facilities
6 unless they absolutely have to and there is no
7 other way to provide access.

8 MS. RIEHLE: Okay. So it's not a
9 total no from you. It is still an option if
10 it's necessary. Right?

11 MR. ZIMBABWE: In this case DDOT
12 would not have supported curb cut access from
13 Pennsylvania Avenue.

14 MS. RIEHLE: Even though there are
15 no traffic issues related to the curb cuts
16 that exist on Pennsylvania Avenue already?

17 MR. ZIMBABWE: At this point DDOT
18 would not support that curb cut on the 600
19 block of Pennsylvania Avenue.

20 MS. RIEHLE: Okay. But there is
21 no reason. Right?

22 MR. HINSON: Yes, ma'am. There

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1 are actually a couple of -- I can think of
2 three in particular. As D Street enters
3 Pennsylvania Avenue it can be a highspeed
4 entrance.

5 There's bus stops for, I think,
6 about four lines at that corner and then as
7 7th Street comes in it is hard to imagine how
8 you can get a driveway in that location and
9 not dramatically impact the function of buses,
10 safety of pedestrians, operations of
11 intersections.

12 MR. ZIMBABWE: I think also in
13 this case because it would be right-in and
14 right-out only access it would provide a less
15 -- it would create an issue of more
16 neighborhood circulation of vehicles accessing
17 both directions on Pennsylvania Avenue.

18 MR. HINSON: And I'll go a little
19 further and say it could create a problem of
20 vehicles immediately trying to turn across
21 three or four lanes of traffic to turn left
22 and make a u-turn at 7th.

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1 If you had the right-in and right-
2 out on Pennsylvania Avenue you would
3 immediately if you needed to go eastbound on
4 Pennsylvania Avenue, southeastbound, you would
5 immediately go across three lanes of traffic
6 and then make a u-turn similar to what happens
7 at 4th where, I believe, C Street comes in at
8 an angle and folks dart across it to try to
9 get in the little one or two vehicle queuing
10 area.

11 MS. RIEHLE: I've never noticed a
12 problem there either, though. Okay. Thanks.

13 CHAIRMAN HOOD: Okay. Thank you.

14 Let's go to Diverse Market. No
15 questions. Okay. Thank you very much.

16 Let's go to the report of ANC-6B.

17 COMMISSIONER TURNBULL: Mr. Chair,
18 before we go there, what are we looking for
19 here? I mean, there's been a lot of
20 superseded information, supplemental
21 information.

22 When the day is done and we look

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1 at all of this new stuff related to what was
2 presented, are we going to be -- is it for
3 DDOT to do a comparative -- are you going to
4 compare what the Applicant presented before,
5 what it is now, comment on what some of the
6 other questions are?

7 I'm just curious. I mean,
8 inquiring minds want to know what the hell is
9 going on and how we are really looking at
10 this. I think we need a balance here of
11 information that we are going to be able to
12 shift through so that everybody is dealing
13 with the same issues and we can legitimately
14 look at this thing and see what we are being
15 offered.

16 CHAIRMAN HOOD: Let me just say
17 this. On that note, while we haven't seen it
18 yet, Mr. Mehra has some analysis that he's
19 done that may conflict with conclusions you
20 all have come with. In the past I know we've
21 seen him before. We've asked DDOT to respond
22 to that. I can tell you without seeing it I

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1 am going to ask DDOT to respond to it. I just
2 want to do that along with what Mr. Turnbull
3 had mentioned.

4 MR. HINSON: I'll go ahead and
5 state my preference is to go ahead and take
6 the extra time to actually update the report
7 and have a final report. Not put a piece in
8 that supersedes this. That stands from the
9 last report.

10 My preference is to actually do a
11 new report. Much of it will be the same text
12 but it will be a final document that
13 encapsulates our review and one location where
14 you don't have to actually go back and forth
15 between place to place. In my view that is
16 too much to ask.

17 COMMISSIONER TURNBULL: That would
18 be appreciated. We want to have a final
19 verdict.

20 MR. HINSON: Right.

21 COMMISSIONER TURNBULL: Looking at
22 all the issues to that we don't have to go

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1 back and shift through pages.

2 MR. HINSON: That is exactly why
3 we wanted to take the extra three weeks to do
4 a good job and do it right, frankly.

5 COMMISSIONER TURNBULL: Thank you.

6 CHAIRMAN HOOD: Okay. We're going
7 to go with Commissioners Frishberg and Pate
8 whenever you all are ready.

9 ANC COMMISSIONER PATE: We're just
10 trying to get our briefing set up.

11 CHAIRMAN HOOD: It's not working?
12 Okay. We're going to take a three-minute
13 break.

14 (Whereupon, at 7:46 p.m. off the
15 record until 7:53 p.m.)

16 CHAIRMAN HOOD: Okay. Let's get
17 started. I think the ANC is ready to begin.
18 We are going to begin with ANC-6B.

19 ANC COMMISSIONER FRISHBERG: Thank
20 you very much, Mr. Chairman. My name is Ivan
21 Frishberg. I am the ANC commissioner for ANC-
22 6B-02. Thank you for the opportunity to

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1 testify today.

2 CHAIRMAN HOOD: I think you need
3 to speak into the microphone. They are waving
4 their hands and they can't hear you. Unlike
5 me, they want to hear you so use your mic.

6 ANC COMMISSIONER FRISHBERG: I am
7 testifying today on behalf of ANC-6B along
8 with my colleague Commissioner Brian Pate. We
9 have been authorized to represent the ANC on
10 this matter by the commission.

11 I am the chair of the ANC-6B
12 subcommittee on the Hine School redevelopment
13 and the project is located in my Single Member
14 District. I'm also the vice chair of the
15 commission.

16 Commissioner Pate is the vice
17 chair of the subcommittee and represents the
18 Single Member District that borders 8th Street
19 and the 8th Street aspect to the project. We
20 have worked very collaboratively on this
21 project.

22 By a vote of 6 to 4 ANC-6B voted

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1 to support the developer's application
2 contingent on as incorporated into the
3 provisions of the memorandum of agreement. We
4 passed out copies of that last week so you
5 should have the full memorandum of agreement.

6 The vote was held at our meeting
7 last Tuesday so about 10 days ago. I
8 appreciate the Commission's flexibility in
9 being able to accommodate what at that point
10 was a very late addition to your materials.

11 What we are going to go through
12 tonight is a little bit about the process that
13 we went through, some details about the
14 agreement. We would like to spend a little
15 bit of time on how we view some of the
16 community dialogue.

17 I think you are going to be
18 exposed to plenty of that tonight in terms of
19 community opinion. Then also respond to some
20 of the information that has been provided
21 previously and some technical points.

22 First of all, in terms of the

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1 process, we obviously spent a great deal of
2 time with the HPRB process and right through
3 the RFP process there has been a significant
4 level of community engagement in this.

5 The ANC first got involved with it
6 with regard to the ANP in outlining community
7 perspectives on what should fill that space.
8 Those recommendations included a restriction
9 on height of 60 feet on Pennsylvania Avenue,
10 50 feet on 7th Street, 40 feet on 8th Street.

11 The prior commission, in my own
12 view, and, again, I wasn't on the commission
13 at this point, and did not play a very active
14 role in the LDVA discussion that went on
15 before the city. By way of an observation
16 that is one of the major defining constraints.
17 It has defined many of the benefits that we
18 are dealing with here today as well as the
19 shape and structure of it.

20 Following the LDVA the commission
21 has held numerous public meetings to engage
22 the public. The HPRB process, as you know, is

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1 a long one. We held special meetings not once
2 but sometimes twice for each step of that
3 process.

4 There were many changes that were
5 made over the course of that process. I will
6 say that I think most of those changes came
7 through some of the direct dialogue and not
8 through the direct orders of the HPRB as
9 evidenced by the testimony that will be
10 provided by CHRS, Capitol Hill Restoration
11 Society.

12 At the conclusion of the first
13 HPRB meetings, ANC-6B traded a subcommittee on
14 Hine redevelopment which included members of
15 the community and stakeholder groups that were
16 beyond the ANC. Some of those groups are
17 included here today and have been afforded
18 party status in opposition, some in favor.

19 Our effort was to create a bridge
20 conversation among the various interests on
21 Capitol Hill as we developed our position on
22 the project and developed the MOA that you

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1 have before you today.

2 That process, as noted by the
3 developer, included many working groups, many
4 more public meetings, and a lengthy
5 negotiation between myself, Commissioner Pate,
6 and the development team.

7 As noted, at the end of this
8 process we went through our regular ANC
9 process and that MOA was adopted and,
10 therefore, we are in support of the project.

11 To go through some of the benefits
12 and amenities -- I'm missing a slide -- the
13 benefits and amenities that come in is
14 proffered by the developers which include, as
15 you've heard, affordable housing, building to
16 a LEED gold standard, the jobs for source
17 compliance, economic utilization of the site,
18 more parking for multiple purposes including
19 support for local retail and Eastern Market,
20 high quality design and architecture and
21 recreation of C Street, as well as space and
22 parking for the flea market, specifically 50

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1 spaces and the loading dock.

2 In addition to that, which we
3 covered very quickly here, the additional
4 benefits and amenities that we have worked on
5 the developer which include the provision of
6 a childcare facility, the space for it, and
7 some financial support.

8 This site was a school for almost
9 its entire history. We think that the growth
10 of Capitol Hill in recent years has come in
11 large part because of younger families who
12 were able to move there when it was slightly
13 cheaper. We face a particular challenge when
14 it comes to infant care particularly.

15 It's Capitol Hill housing stock so
16 it's historic. You put the historic buildings
17 up against the city code, which is very strict
18 when it comes to infant care, and it's almost
19 impossible to site any kind of child
20 development center in that historic area.

21 A new construction project like
22 this provides particular opportunity so we

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1 have included a minimum of 2,400 square feet
2 space in the development for that.

3 There are several open space
4 improvements which I'll let Commissioner Pate
5 go through later on. Obviously this space --
6 this construction reduces significantly the
7 public space that is available for the
8 community. That is inherent in it. We have
9 worked with the developer to try and find
10 spaces adjacent to the property that we can
11 enhance and utilize for continued public use.

12 We included provisions with regard
13 to nonprofit use and space for nonprofits
14 which includes a very small 150-square-foot
15 office space for the ANC.

16 The purpose for that from our
17 perspective we are trying to include functions
18 in the building that bring people into the
19 building so there is meeting space that is
20 required, community meeting space that is
21 required in the building both for the ANC's
22 public meetings and then other groups to have

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1 public meetings.

2 We think a good building is a
3 building that brings the community into it not
4 as just something that they observe as they
5 walk by. Then from the ANC's perspective we
6 pay significant amount of market rate rent for
7 office space at this point. We don't have
8 District government offices in our commission
9 such that, like many other ANCs, they can have
10 that at no cost.

11 We included use of some of the
12 historic bike racks, or made-to-historic-
13 standard bike racks that are created by
14 Eastern Market and the DDOT folks which are
15 not sitting unused.

16 We have provided -- the developer
17 provided the space for the weekend markets.
18 Brian will go through this in more detail but
19 it's clearly not all the space that the
20 weekend markets are going to need. Separately
21 the commission has been working towards
22 legislation which Donna Scheeder testified to

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1 last week that will help fully accommodate the
2 market.

3 What we did do was look at a lot
4 of the issues with regard to the logistics of
5 the market, the parking that would be afforded
6 to vendors at 50 spaces, and the use of the
7 loading dock. It still may not be completely
8 sufficient but we think that is a significant
9 benefit for the market and it includes a
10 subsidy of the cost of that space.

11 I will turn it over now to Brian
12 to talk about the mitigations and some issues
13 there.

14 ANC COMMISSIONER PATE: Good
15 evening, Commissioners. Thanks for allowing
16 us to testify. I am Brian Pate, commissioner
17 for ANC-6B-05. I'm going to go through what
18 we view as things that need to be mitigated
19 about this development.

20 I'm going to cover some of them
21 generally and I'm going to dive a little
22 deeper into some of the things we've asked

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1 them to do as far as restriction of certain
2 uses in the building.

3 I'm also going to go a little more
4 deeply into C Street, the 700 block of C
5 Street, and how that functions with Eastern
6 Market and what we have tried to put in place
7 to ensure that space is managed in a way that
8 is compatible with the surrounding
9 neighborhood and in a way that respects the
10 rights of adjacent residents.

11 First we felt like there certainly
12 would be impacts on pedestrian safety with the
13 garage on C Street, the garage entrance there,
14 and just general increases in pedestrian foot
15 traffic, especially with the weekend market.

16 In this regard Stanton Eastbanc
17 agreed to several provisions that would help
18 improve pedestrian safety. For example, the
19 location of a barrier at the C Street garage
20 entrance on the weekends so that it would
21 deconflict pedestrian traffic from traffic
22 using the garage.

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1 Additional signaling at that site
2 to ensure that there's a visible signal for
3 people that it is a garage entrance. They
4 have agreed to work with DDOT to signal
5 optimization after construction and several
6 other provisions that we feel will effectively
7 mitigate some of the pedestrian safety
8 concerns.

9 As far as traffic, we've worked
10 with them on a loading plan that basically
11 concentrates deliveries to the west side of
12 the building away from the residential areas.
13 We got the DDOT report that you received at
14 the same time so one of the big concerns was
15 the 55-foot truck and the ability to support
16 a 55-foot truck on that block.

17 I think our position is that we
18 would have preferred that be off the
19 residential streets but we feel like with time
20 deconfliction they can effectively make that
21 work either with a loading zone on 7th Street
22 at the southern side of the development or by

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1 building a loading dock that would accommodate
2 a 55-foot truck backing in.

3 In terms of one of the other
4 issues that the committee was very concerned
5 about, and you will hear a lot about tonight
6 because in some people's opinion, I don't know
7 if we have effectively dealt with this, people
8 are concerned about the height of the
9 development and the original plans for the 7th
10 and Pennsylvania Avenue building it actually
11 was a floor higher and had a setback floor.

12 It had a higher mechanical
13 structure on top of that floor. Through the
14 course of our internal deliberations we try to
15 prioritize what design changes we wanted.
16 These were design changes that were in
17 addition to design changes that had been
18 achieved through the HPRB process.

19 The subcommittee's opinion for
20 Hine was that the 7th and Pennsylvania Avenue
21 building was the building that we felt was the
22 most incompatible with in terms of height and

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1 mass.

2 Many of us support the density of
3 the development and are not as concerned about
4 the mass so we negotiated with the developers
5 and they removed the setback floor of the top
6 floor of that building and integrated the
7 penthouse mechanicals basically dropping the
8 building from 104 feet to about 92 feet, I
9 believe, at its highest point. We did feel
10 like that was a concession on their part and
11 effectively mitigated some of the height
12 concerns.

13 As far as the loss of public space
14 we have a diagram. They have committed to
15 funding improvements on the Eastern Market
16 Metro plaza, one on the southwest quadrant,
17 quadrant B there. There is currently a
18 nonprofit established called Celebrate Capitol
19 Hill, Inc.

20 They have plans that are fairly
21 far advanced and have been endorsed by Capitol
22 Hill Restoration Society and several of the

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1 other groups on the Hill to build an
2 information kiosk at that site. They are
3 currently raising funds. The developers have
4 agreed to contribute \$50,000 to make that a
5 viable project.

6 They have also committed to
7 providing \$75,000 for the development of a
8 play facility or some type of playground type
9 structure on parcel A there. That is the
10 northeast quadrant of the Eastern Market Metro
11 plaza.

12 If you are familiar with the Metro
13 plaza, it is a pretty uninspiring space
14 considering that it kind of a gateway into
15 Capitol Hill. We felt like these were
16 mitigations that would reduce the impact of
17 some of the loss of public space and public
18 uses on the development.

19 COMMISSIONER MAY: So does that
20 mean the little tikes plastic stuff that is
21 over on A is going to go away?

22 ANC COMMISSIONER PATE: Ideally,

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1 you know. I would love to see some kind of
2 creative sculpture there that is interactive
3 for children.

4 COMMISSIONER MAY: It's an
5 interesting impromptu space.

6 ANC COMMISSIONER FRISHBERG: Yes.
7 It wants to be used for, I think, play and
8 other activities. I think that is the sign
9 that space wants to be used and the neighbors
10 get some credit for taking it on and not
11 waiting for others to do it.

12 COMMISSIONER MAY: I appreciate
13 it. I'm glad it's not parkland anymore. It
14 would be more complicated then.

15 ANC COMMISSIONER PATE: Yes.
16 Thank you. I want to go back now to some of
17 the restrictions that we asked them to put in
18 place to minimize the impact of certain use
19 types on the residents.

20 One of the big concerns is the
21 encroachment of retail into the residential
22 part of the neighborhood. This is a viable

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1 concern. Nobody wants a fast food restaurant
2 next to their house or on the corner.

3 There are some who would like no
4 retail on D Street, which is essentially the
5 dog leg that comes into Pennsylvania Avenue.
6 Our position with the developers is ultimately
7 we got them to agree to place no commercial
8 use on 8th Street. We feel like they should
9 hold to that.

10 That is something they committed
11 to early on so that is not like something we
12 won from them in our negotiations. We also
13 asked them to place entrance to the below-
14 grade retail on Pennsylvania Avenue and not on
15 the B Street element of that frontage which
16 they agreed to and it's in their PUD
17 submission.

18 Then we asked them to place only
19 lower-impact retail, commercial, professional,
20 or childcare entrances into the building from
21 D Street. They agreed to that. I think
22 Commissioner Frishberg and I were negotiating

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1 this particular provision. There are kind of
2 two guiding principles.

3 One is that to connect the
4 commercial corridor along Barracks Row to the
5 Eastern Market corridor along 7th, it's really
6 the corners of that plaza that need to speak
7 to each other.

8 If you look at pedestrian traffic
9 on the weekends, it really is diagonal.
10 People go from 7th Street, the corner of 7th
11 and Penn, diagonally to the corner of 8th and
12 Pennsylvania to the south and across
13 Pennsylvania Avenue and through the plaza. We
14 feel like those corners are kind of critical
15 elements of development commercially.

16 Then we felt like the frontage
17 across the plaza, which is what you see right
18 there, is our attempt to create a panorama
19 photo. On the left-hand side there is a
20 Starbucks at the corner of 8th and
21 Pennsylvania. That would be the southeast
22 corner of the plaza.

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1 Then there is a series of kind of
2 light retail establishments. There's a Radio
3 Shack, a FedEx. Then there's the much-loved
4 Hill's Kitchen. If you haven't made it out
5 there, Commission Hood, it's worth the trip.

6 CHAIRMAN HOOD: Is it near the
7 Metro?

8 ANC COMMISSIONER PATE: It's right
9 off the Metro. You don't have to drive. They
10 have a wide variety of different kitchen
11 items.

12 Then there is a salon. As you
13 move to the west on Penn it's a series of
14 professional offices, law offices and a couple
15 lobbyists. Get egged every now and then.

16 Then it's residential once you get
17 to 7th. We felt like that really is the
18 retail profile that should be reflected on the
19 north side of the plaza. That's why we asked
20 for this particular provision in our agreement
21 with them.

22 Now I want to dive into C Street.

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1 On the one hand --

2 COMMISSIONER MAY: Commissioner,
3 can I interrupt you for just a second?

4 ANC COMMISSIONER PATE: Sure.

5 COMMISSIONER MAY: Pull the
6 microphone just a hair away from your mouth
7 because we're getting a lot of air.

8 ANC COMMISSIONER PATE: I'm trying
9 to compensate for Commissioner Frishberg being
10 afraid of it.

11 COMMISSIONER MAY: It's a
12 difficult balance. I wind up backing up
13 sometimes. I think you need to be close
14 enough that people can hear you but not so
15 close that we get blasted.

16 ANC COMMISSIONER PATE: All right.
17 Sorry. Are we good?

18 COMMISSIONER MAY: Is that good?
19 Good. Thank you.

20 ANC COMMISSIONER PATE: Okay. On
21 the one hand, the recreation of C Street is
22 certainly a benefit to the community and to

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1 Capitol Hill and to the city. The landscape
2 architecture that's there certainly will make
3 that a more viable space 24 hours a day, seven
4 days a week.

5 One of the things that concerned
6 us is basically the street becomes -- is
7 leased to the developer for 99 years along
8 with the rest of the south parcel.

9 As we explored that we tried to
10 figure out what does that mean? What does
11 that mean for the usage? How does this impact
12 the space and its relationship to Eastern
13 Market? This was a very important set of
14 issues that we tried to deal with through the
15 process of negotiations.

16 Next slide. That's not it. What
17 did you do to my slides? Can you go down?
18 Keep going down. It's got to be in there.
19 Okay.

20 All right. One of the things -- a
21 couple of things that the ground lease does
22 for the developer it agrees -- it gives them

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1 the ability to open and close the street at
2 their sole but reasonable discretion and
3 that's verbatim from the ground lease which is
4 Exhibit N in their LDDA.

5 It also does require them to enter
6 into a mutually acceptable lease with market
7 managers to operate weekend flea markets for
8 as long as such markets are practical for and
9 desired by the community, the District, and
10 developer. That, too, is verbatim from the
11 ground lease.

12 It requires the developer to
13 present an open-space management plan every
14 five years and it requires the developer to
15 pay for all operations and maintenance cost
16 associated with this street.

17 There are a couple of things in
18 the ground lease that when we looked at it
19 gave us concern. One was the language around
20 the requirement to enter into a mutually
21 agreeable lease with Eastern Market. The
22 language as worded would allow for one of the

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1 three parties referenced to pull out of
2 supporting the market unilaterally because it
3 states "For so long as the District, the
4 developer, or the Market desires." We were
5 very concerned about that and what that could
6 possibly mean in the future should one of
7 those parties desire to no longer support the
8 market for whatever reason.

9 The other is the ability to close
10 down a street should not be taken lightly. It
11 essentially abrogates the role of the Public
12 Space Committee and the processes that are in
13 place to ensure that nearby neighbors are
14 effectively consulted.

15 On the other hand, it is a market
16 space and you need the ability to program it
17 creatively, flexibly, and it needs to really
18 harmonize with the activities that go on at
19 the market and become an extension of it.
20 That was a concern.

21 Preservation of the Eastern Market
22 is one of the things we were trying to

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1 mitigate and ensure that we had in place. One
2 is protection for the rights of adjacent
3 neighbors.

4 The other is during the course of
5 negotiations with them I started to research
6 other streets that were extensively public but
7 were controlled by private entities and there
8 are a few examples that really gave rise to
9 concern.

10 One of them is Ellsworth Avenue in
11 Silver Springs which is private controlled by
12 the Peterson Group Developers. They had an
13 issue where the developer was trying to
14 prevent people from taking photographs on the
15 street. The preservation of constitutional
16 rights immediately became a concern that we
17 felt like we needed commitment from the
18 developer.

19 Not that we want the C Street
20 plaza to be Zuccotti Park but there's a lot of
21 petitioning and other kind of civic actions
22 and activities that occur at Eastern Market

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1 and we wouldn't want that to be precluded for
2 any reason on this plaza.

3 We wanted the developer to treat
4 that space as a holistic part of the Eastern
5 Market historic special use district. We
6 wanted to ensure that the space was
7 logistically feasible for the operations in
8 the market in toto. Those are the concerns
9 and goals that we kind of kept in mind as we
10 negotiated certain provisions around that
11 space.

12 I personally feel like we have
13 reached a set of provisions that address all
14 of those concerns. I'm just going to kind of
15 go through them. One is constitutional
16 freedoms.

17 In the MOA, and I don't know if
18 it's in your draft, but it seems to have
19 slipped out of the draft I have but I did
20 verify with the developers that was not some
21 kind of devious plot to destroy our wrap
22 rights but it was just a technical error.

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1 They've agreed to treat this space
2 as a space protected by the First Amendment.
3 I think that's important. I don't even think
4 we should have to negotiate for that but, you
5 know, so be it.

6 The second is resident rights.
7 The developers agreed to create a three-person
8 committee comprised of the developer rep, an
9 Eastern Market rep, and an ANC rep from the
10 Single Member District that encompasses the
11 development or is adjacent to the development
12 in order to review and approve programming on
13 the street and to provide ample notice of
14 closures. I think what we agreed to is 14
15 days notification for closures. This group
16 will meet and review lessons learned.

17 They will also ensure that the
18 activities on that plaza are deconflicted from
19 programming at Eastern Market. We wouldn't
20 want Eastern Market trust to schedule a
21 Christmas ice sculpture festival and the
22 developer to do the same thing at the same

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1 time.

2 As far as preservation of Eastern
3 Market we have several statements in both the
4 open space management plan and in the MOA that
5 reaffirm the developer's commitment to the
6 culture and character of Easter Market and
7 that they will seek program activities that
8 respect that character and bolster the
9 viability of the market itself.

10 Also in the MOA we got them to
11 agree to the clause that I think kind of
12 cleans up some of the issues of the ground
13 lease. Let me just find it real quick. It's
14 item No. 20 in the MOA on page 5.

15 It says, "Stanton-Eastbanc will
16 make portions of C Street and the plaza per
17 the attached diagram [that's Exhibit C and
18 essentially it's the bulk of the plaza]
19 available to the manager of the Eastern Market
20 Trust for another market manager to operate
21 Saturday and Sunday vendor markets from 8:00
22 a.m. to 6:00 p.m. every weekend day of the

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1 year that such manager desires to operate a
2 market there."

3 Essentially that shifts the
4 ability for them to unilaterally pull out of
5 supporting the market and shifts that to the
6 discretion of whatever entity running the
7 market in the future.

8 Then in terms of the creation of a
9 holistic market area and ensuring that space
10 provided is logistically feasible and supports
11 the best operations of the market, they have
12 agreed to include C Street in the Eastern
13 Market historic special use district.

14 This is all contingent on passing
15 of the Eastern Market legislation as Ms.
16 Scheeder testified last week. We do have a
17 hearing on that on the 2nd of July with
18 Council Member Bowser's committee.

19 They have agreed to respect the
20 culture and character of the space. They have
21 agreed to fund a tabletop exercise before
22 construction begins. Basically it's an

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1 exercise to optimize the logistics of the
2 market. That will include the Easter Market
3 operations as well as the operations on the
4 plaza.

5 There are several provisions on
6 loading in there where we've left the hours
7 restricting loading and kind of when the
8 garage will be available to vendors.

9 We've left it -- we set some "no
10 later than" clauses but we've put it in there
11 so it's flexible so that we can change some of
12 these loading hours and parking availability
13 hours to support whatever the market
14 operations demand, whatever that looks like
15 when this is built. With that, that concludes
16 my section on mitigations.

17 I'm going to move on to the ANC's
18 perspective on what should be in the zoning
19 order. I would actually ask you guys a
20 question since we are neophytes to this
21 process.

22 How much sway do we have on you in

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1 terms of what you put in the zoning order and
2 what just remains in the MOA or exhibits?
3 It's not clear to us but our position would be
4 that as much as possible be in the zoning
5 order. As much from the MOA as possible
6 should be in the zoning order. That's our
7 position.

8 CHAIRMAN HOOD: Okay. We heard
9 you. I do want to respond but I want to let
10 you finish.

11 ANC COMMISSIONER PATE: Okay. The
12 last thing is we have not executed our MOA.
13 The MOA is contingent upon finalizing a couple
14 of the exhibits. We want to get the final
15 DDOT report and better understand what their
16 position is on 55-foot trucks and parking,
17 etc.

18 Then also we are working through
19 the construction management agreement. We
20 just got the latest version of that yesterday.
21 As soon as we get that hammered out, we are
22 ready to sign this agreement.

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1 ANC COMMISSIONER FRISHBERG: The
2 Commission has approved the core of that
3 agreement but it included inherent to it and
4 part of that agreement included these
5 appendices. It's just a technical matter
6 really. Until those are resolved we can't
7 finally execute the agreement. The
8 Commission's position is clear on the
9 fundamentals of the agreement.

10 ANC COMMISSIONER PATE: That's all
11 from my part. I think it's back to you.

12 ANC COMMISSIONER FRISHBERG: I
13 wanted to go through a couple of issues that
14 came up in the testimony previously and add a
15 little bit more detail. I think, Commissioner
16 Turnbull, you were asking about parking for
17 residents in the north building.

18 It seems very clear to us that the
19 north building residents won't have access to
20 the RPP or the visitor parking pass program.
21 That is something that we are quite
22 comfortable with. What we did ask of the

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1 developers and we have in the MOA is that they
2 would be offered parking in the south
3 building.

4 It will be at those commercial
5 rates which are pretty steep. I think the
6 developer's perspective is that no one is
7 going to take it given the cost of that. We
8 asked them to give them sort of the first
9 rights once that space is not utilized.

10 Now, if all the space was utilized
11 in the 120 parking spaces, if all of those
12 were used by tenants of the south building,
13 then there would be no parking but the north
14 building gets sort of the first dibs if that
15 is not satisfied.

16 Another note. It was not clear to
17 us until last week that the north building is
18 not being built to LEED gold standard. We
19 sort of understood this is all being built to
20 LEED gold. We had actually asked for
21 certification.

22 I understand that was an expensive

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1 process and maybe one that wasn't necessary if
2 it was being built to that standard. Our
3 assumption had been that the entire building
4 -- the entire development was being built to
5 that standard, not just the southern portions.

6 There was some conversation last
7 week, in particular from Commissioner May,
8 about the sort of bait and switch. You've
9 heard different aspects of that with regard to
10 the overall size, with regard to the
11 courtyard. We wanted to put up a couple of
12 things.

13 ANC COMMISSIONER PATE: I do want
14 to say we did crib this from a member who is
15 in opposition to the development and he will
16 use this later so I appreciate it but I just
17 wanted to acknowledge that. Randy Steer.

18 ANC COMMISSIONER FRISHBERG: This
19 was this initial best and final offer. This
20 is the new building with the outline of the
21 best and final offer. It's actually -- we
22 thought they did a fairly good job of sort of

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1 showing from one of these largest facets of
2 the project how those two things add up.

3 You could certainly -- you are
4 familiar at this point with the current design
5 and sort of look back at that and say maybe
6 you like that or maybe you don't like that
7 better. I think it is somewhat safe to argue
8 that these are within the ballpark of what was
9 provided for at that point.

10 We have heard all sorts of
11 testimony about what this project was at
12 various points. It has changed so it is a
13 little bit of a moving object. By in large I
14 don't find it to be tremendously inconsistent
15 with what was initially proffered and it went
16 through the city process.

17 ANC COMMISSIONER PATE: At least
18 in terms of height and mass and density.

19 ANC COMMISSIONER FRISHBERG: There
20 are -- the issue of the courtyard came up and
21 I think the developer couldn't recall if there
22 was an open courtyard or where that impression

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1 may have come from. This is the first plan
2 that was sort of presented to us at the
3 beginning of the HPRB process.

4 You can see this is the site plan
5 and the interior courtyard. It does, indeed,
6 appear to be open. That is -- there's no
7 gates there. There is a clear walkway. That
8 was the assumption. We had mixed opinions
9 about this within the Commission. Certainly
10 it was viewed as something that would be part
11 of the public space in the project.

12 For awhile that was a contentious
13 issue. I think we ultimately ended up as a
14 Commission saying if you have to close that
15 space off, then you should shrink it as much
16 as possible in order to make concessions
17 elsewhere in the project and reduce the
18 impact.

19 The other issue that has come up a
20 great deal, and we covered this a little bit
21 in Brian's explanation as sort of the mirror
22 side of D Street and Pennsylvania Avenue and

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1 what the retail frontage there looks like, a
2 significant concern from the residents has
3 been this portion of D Street as it comes off
4 of 8th and whether that should be residential.

5 This is something that from the
6 developer's perspective has migrated over
7 time. Clearly here it is stated, and this is
8 the ground floor plan, this is residential and
9 that's how it was proposed.

10 I believe that was sort of the
11 genesis for alleviating many of the concerns
12 in the community at that point which is they
13 were going to have residences as their
14 immediate neighbors.

15 As the project has developed, that
16 has turned into commercial area and the
17 agreement that we negotiated doesn't return it
18 to this but I think it starts to accommodate
19 a balance of some of the interest here.

20 This is probably the most
21 controversial corner of the project. Some
22 people have objected that we didn't specify

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1 where the childcare could go. That might be
2 one place that it would go that has been
3 identified by the developers. People have
4 attacked that. Almost anything you put there
5 has been attacked by some part of the
6 community.

7 We think, as Brian articulated, we
8 have tried to find something that while
9 probably popular with about nobody at least
10 balances out the various interests and does
11 try to reflect that exist on the opposite side
12 of the street.

13 There was some conversation about
14 whether there would be a window on 8th Street
15 and how that was going to be treated. We were
16 not aware that there was that conversation
17 that was going on, our assumption that there
18 was going to be, as agreed to with the
19 developer, no commercial frontage on 8th
20 Street at all.

21 We would have some concerns if
22 that ended up being a window that was sort of

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1 coming out of what could be retail use and was
2 coming onto 8th Street.

3 The last issue that is somewhat in
4 flux still with the development is the issue
5 of the water feature on the plaza area. That
6 was something that went through the last
7 serious review.

8 There were three parts to this
9 water feature. The ANC in its negotiation had
10 asked for the water feature. We liked the
11 water feature. For the five days a week when
12 the space is not a market or for the evenings
13 after the market is broken down when it tends
14 to be a gathering place.

15 I walk my children through there
16 in the evening as things are settling down.
17 It's a nice walk before bedtime. It should be
18 an engaging space with features that can be
19 used by the community. We thought the designs
20 that were presented for that were pretty
21 effective.

22 We were disappointed to see that

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1 put into flux and will be watching carefully
2 to see how that is resolved but we certainly
3 went into our negotiations liking and asking
4 for the water feature. We didn't have to ask
5 very hard because that is what was presented
6 and now, I think, because of HPRB somewhat
7 back on play.

8 Just to sort of summarize then our
9 position, I think obviously we are in support
10 of the project contingent on the MOA that we
11 have negotiated. For us at every step this
12 has been a balancing project between community
13 members who are anxious for change.

14 Some would be fine if it was
15 higher and see almost anything you put next to
16 a Metro is legitimate. On the other side we
17 have community members who see what is
18 described as an out-of-place behemoth that has
19 been plunked down into one of the most
20 historic neighborhoods in the city.

21 Our vote was close, as I
22 mentioned, six to four. Commissioner Pate and

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1 I both represent the districts that are most
2 anxious about this project. I would say
3 candidly that both of us have mixed emotions
4 and share some of the fears about the
5 neighborhood -- about the development.

6 With that said, I think we have
7 had a significant impact on what will happen
8 if it's adopted with the MOA. We would not
9 want to see that lost and we would also not
10 want to see the ultimate opportunity from this
11 development lost. Our kind of net calculus in
12 this is that this development will be a
13 benefit to the community and to the city.

14 Thank you very much.

15 Brian, do you want to add
16 anything?

17 ANC COMMISSIONER PATE: I'm good.

18

19 ANC COMMISSIONER FRISHBERG: Thank
20 you very much.

21 CHAIRMAN HOOD: All right. Thank
22 you very much. Could you put back up the

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1 slide? I want to comment. You had three
2 bullet points about trying to get the MOA into
3 the zoning order.

4 No. 1, typically when I looked at
5 your MOA some things will be in there, car
6 share and some things. I would like to leave
7 that up to our legal folks. Typically we
8 don't put the whole MOA into the zoning order
9 for specific reasons. That's an agreement
10 between the community and the applicant.

11 It's not enforceable to some
12 degree. Some things that I did look in your
13 MOA will be in our order because some things
14 actually are typical things that go in our
15 order. What we can do, and I think I've said
16 this before, is that our order will point to
17 there's an agreement.

18 It will point to it. That's the
19 word that our legal folks I think like for me
20 to use, that the zoning order will point to an
21 agreement but we can't put that whole
22 agreement into the order.

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1 The second thing -- sure.

2 ANC COMMISSIONER FRISHBERG: Is
3 there an opportunity for us as your general
4 counsel is sort of going through that process
5 for us to discuss with them how they are
6 handling any of those pieces? Whether they
7 are in or out or how they --

8 CHAIRMAN HOOD: At the end of the
9 day we will -- from a legal standpoint we will
10 -- when we deliberate we will have a
11 deliberation but, you know, there may be some
12 things -- I won't use Commissioner Cohen but
13 I'll use myself. There may be some things
14 that I may want to see in there but legally
15 cannot go in there.

16 ANC COMMISSIONER FRISHBERG: Okay.

17 CHAIRMAN HOOD: We leave that up
18 to them.

19 MS. SCHELLIN: The ANC, and all
20 other parties, too, if they choose to do so,
21 is always welcome to provide draft findings of
22 fact and conclusions of law so you can always

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1 do that. Maybe not the whole document but may
2 suggest that you would like to see these items
3 as conditions. You do have an opportunity to
4 provide a draft.

5 ANC COMMISSIONER FRISHBERG: Based
6 on the draft zoning order?

7 MS. SCHELLIN: Yes.

8 ANC COMMISSIONER FRISHBERG: Okay.

9 COMMISSIONER MAY: No, it's your
10 version of the draft zoning order.

11 CHAIRMAN HOOD: You won't have
12 anything to mirror or look at. It will be a
13 version but what I would recommend is you
14 contact Ms. Schellin and they can help you
15 through that. Staff can help you through that
16 process.

17 ANC COMMISSIONER FRISHBERG: Thank
18 you.

19 COMMISSIONER MAY: Mr. Chairman.

20 CHAIRMAN HOOD: Okay. Mr.
21 Turnbull is being really helpful. He's saying
22 find the old one and look at it as a model.

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1 COMMISSIONER MAY: Mr. Chair, I
2 also want to mention a number of the things
3 that are in the memorandum of agreement that
4 you have and that you hopefully will be
5 executing, the attorney for the Applicant if
6 they are willing to sign off on these things,
7 they are probably willing to include a number
8 of those in their draft findings of fact and
9 conclusions of law so that they can be
10 incorporated in that fashion.

11 They also should have a good sense
12 about what is appropriately in a Zoning
13 Commission order as opposed to the sort of
14 things we don't touch because they are outside
15 of our domain.

16 CHAIRMAN HOOD: Okay. That is the
17 Zoning Commission at its best really putting
18 out a lot of help.

19 Commissioner Turnbull.

20 COMMISSIONER TURNBULL: I think
21 one of the things that we can do or work with
22 is basically a lot of physical elements from

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1 a zoning standpoint; height, the architecture,
2 the issues about glass on 8th Street or
3 something like that. We could make it a point
4 in working with the Applicant and say, "We
5 don't like this. We think it has an impact on
6 the neighborhood."

7 If it's those kinds of things from
8 the standpoint of the building and the
9 structure on how it impacts, that is what we
10 can work with.

11 We can do our best to try to help
12 physically mold that to work with the
13 Applicant and say this is not what the
14 community wants. If you have some of those
15 things that you think need to be addressed by
16 us, please present them if you think those are
17 points that we need to really look at.

18 COMMISSIONER MAY: And, of course,
19 some of those things will simply be reflected
20 in the final set of drawings of whatever gets
21 approved.

22 CHAIRMAN HOOD: Help me remember.

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1 Did the Applicant proffer a construction
2 management plan?

3 ANC COMMISSIONER FRISHBERG:
4 There's been copies flying around the last few
5 days.

6 CHAIRMAN HOOD: Mr. DuPuy, I'm
7 just curious. I'm taking this out of order
8 but did you all proffer a construction
9 management to us?

10 MR. DuPUY: We did not because, as
11 was testified, it's under negotiation and
12 discussion.

13 CHAIRMAN HOOD: Are you going to
14 proffer one at some point or will you not?

15 MR. DuPUY: We will.

16 CHAIRMAN HOOD: Oh, so you will
17 proffer one? Okay. Okay. All right. I'm
18 sure that the record will probably remain
19 open. I think I've addressed those three
20 building points. Is it okay if we ask a few
21 questions?

22 ANC COMMISSIONER PATE:

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1 Absolutely.

2 CHAIRMAN HOOD: All right,
3 Commissioners. Any questions of the ANC?

4 VICE CHAIRPERSON COHEN: Yes, Mr.
5 Chairman. There will be 158 apartments built
6 on that site so there is going to be a number
7 of people living there. You mentioned that
8 you're having a three-person committee that
9 will decide what happens in that neighborhood.

10 Shouldn't it be four or five
11 people so that the residents who are going to
12 be moving in, whether they already are
13 neighbors of this project or new people coming
14 in, shouldn't they have a say in what's going
15 on in their backyard?

16 ANC COMMISSIONER FRISHBERG: Brian
17 talked a lot about the tensions of dealing
18 with a privately managed street. There is no
19 way around the fact that we lose a lot of the
20 due process there. There are some benefits
21 that go along with that.

22 The three parties that were

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1 included are the ANC which would include all
2 the residents in that area; the Eastern Market
3 community, the Advisory Commission, and the
4 developer themselves.

5 We had played with different
6 models of how to do this. I think from the
7 developer's perspective they were very
8 concerned about having public participation
9 and approval in this process because they are
10 going to monetize this location. They have
11 particular -- they want to keep their freedom.

12 This is what Joe will call the
13 iPad thing. If you had said five years ago we
14 are going to create this device and it's going
15 to do all these things, nobody knew about all
16 this stuff. Somebody did and they are doing
17 quite well right now.

18 We don't know what's going to
19 happen in the future and so they were very
20 concerned about constricting this. We were
21 obviously pushing to get as much public
22 participation as we could in that process.

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1 The particular mission here is to
2 set the policies and the guidelines and the
3 process for dealing with that space more than
4 a sort of approval on each item.

5 ANC COMMISSIONER PATE: So the ANC
6 rep whether it's the ANC member or designated
7 representative, the ANC rep will be
8 accountable for the people who live there at
9 the ballot box.

10 The Eastern Market rep provides
11 some measure of local inclusion because the
12 Eastern Market trust, assuming that it's
13 approved, the members of that trust have to be
14 Ward 6 residents except for a few. We
15 wrestled with this long and hard.

16 People probably don't appreciate
17 it but this is honestly where we spent a lot
18 of time locking horns with the developer. It
19 was one of the last things we brought into
20 kind of clarity. We would be open to more but
21 this is where we felt --

22 ANC COMMISSIONER FRISHBERG: My

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1 guess is this is not going to be one of the
2 items that is put into the zoning order. This
3 will end up being one of those separate
4 agreements.

5 ANC COMMISSIONER PATE: I do
6 think, you know, one of the concerns was and
7 one of the questions we asked the developer
8 was do you intend to make this a profit and
9 loss center because we don't want C Street to
10 be Disneyfied. We don't want you to all of a
11 sudden closing it down for large corporate
12 events, etc.

13 But we recognize that if they are
14 on the hook for paying for the operations and
15 maintenance of that street, they have to be
16 able to recoup those costs somehow. If we
17 want that street to be a holistic part of the
18 Eastern Market in the historic special use
19 district, then you have to be able to shut it
20 down and have activities there from time to
21 time.

22 VICE CHAIRPERSON COHEN: A number

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1 of the units -- well the north building is
2 totally an affordable housing project and the
3 people have to meet certain requirements to
4 lease a unit there. I don't think I
5 understood this or missed it. The fact that
6 people have to pay market rate for parking do
7 you think that's fair?

8 ANC COMMISSIONER PATE: I
9 personally think that some accommodation
10 should be made for them but, again, in our
11 negotiations we did address the availability
12 of equal amenities for people in the north
13 building and we didn't win that debate.

14 ANC COMMISSIONER FRISHBERG: I
15 would just say it's complicated with
16 tradeoffs. First of all, getting six
17 commissioners to agree on one thing -- on
18 anything is one thing. Getting them to agree
19 with the developer is a whole other stretch.

20 If the -- one of the things we
21 would have to balance out here is then we
22 would be providing a subsidy for parking and

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1 saying, okay, people have a right to a car and
2 they have a right to some sort of subsidy for
3 that car.

4 Which, as uncomfortable as it is
5 to also say, you are going to have to go pay
6 the exorbitant rates that somebody who is
7 living in the fantastic penthouse overlooking
8 Pennsylvania Avenue is going to pay. There is
9 another side to it, too.

10 I think this is one of those
11 things where for the developer parking is a
12 core economic function and so they were fairly
13 set in what they were able to agree to on this
14 matter.

15 As a practical matter I think they
16 are right on the point that there are -- there
17 is not going to be a lack of people who will
18 want to take advantage of affordable housing
19 in one of the greatest places, not only in the
20 city, but in the country.

21 They will come in understanding
22 that their lifestyle doesn't have a car

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1 involved with it. That will be part of their
2 calculus to seek housing there. If somebody
3 comes in and says, "I want to live here and my
4 job is in Columbia, Maryland and I'm going to
5 make plans for parking," they will have that.

6 They will understand what the
7 terms of that are right up front. I don't
8 think there is going to be a lack of people
9 who want to take advantage of those residences
10 and a car-free existence.

11 ANC COMMISSIONER PATE: That does
12 put into stark contrast principles of transit
13 oriented development and housing justice.
14 They are not always aligned.

15 COMMISSIONER TURNBULL: I just
16 want to thank both of you for a very well done
17 presentation. We have a lot of ANCs that give
18 presentations but yours was very well
19 organized, very thorough. I just want to
20 congratulate you on a very well done
21 presentation. A lot of your neighbors may not
22 agree with you on a lot of points but it was

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1 very well presented. Thank you.

2 COMMISSIONER MAY: I would second
3 that. I think what was most compelling about
4 this is the fact that you got into a lot of
5 detail on a lot of different issues and it
6 shows also in the memorandum more so than we
7 often see in cases like this. It's a really
8 diverse set of interest and it reflects, I
9 think, an extraordinary effort on the part of
10 the ANC to represent all of the interests of
11 the neighborhood.

12 I do have some questions for you,
13 though. You made reference to the overall
14 size of the project being similar to what was
15 originally presented and then you made sort of
16 a passing reference to density. Are you also
17 saying that the overall density of the project
18 is unchanged in your view or within the same
19 ballpark?

20 ANC COMMISSIONER PATE: It depends
21 on your metric. If you look at it at housing
22 units per acre, it's the same as it was in the

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1 BAFO. With the floor reduction they only
2 reduce the square footage of the development
3 by about 4,000 square feet because they in-
4 filled some of the other setbacks.

5 We know it's lower but it's
6 roughly the same. From where they are with
7 the LDDA they are about 5 percent or 4 percent
8 over the terms in their LDDA.

9 ANC COMMISSIONER FRISHBERG: It
10 was a struggle to figure out the kind of
11 apples to apples in this because the original
12 presentation handled some of the space in the
13 project differently. When you kind of add it up
14 what was in the original BAFO and the original
15 filings, they didn't include a set of space
16 that ultimately, I think, they were told by
17 the Office of Planning they were told to
18 include and then various pieces were counted
19 differently.

20 It was very difficult for us not
21 having access to all the measurements to
22 really understand those pieces. I do think

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1 with the reduction it's horseshoes.

2 COMMISSIONER MAY: Okay. The vote
3 was six to four. Without getting too far into
4 the detail of it, are there some general
5 issues upon which the four who voted against
6 this agreement that they were centered around?
7 I mean, were their biggest concerns the loss
8 of the flea market space or density of the
9 project? Tell me.

10 ANC COMMISSIONER FRISHBERG:
11 Probably two fundamental concerns. Commission
12 Campbell is here to speak himself in
13 opposition. I think he'll do a very
14 articulate job in sort of sharing some of the
15 concerns on both points.

16 Some of it is just reflecting the
17 neighborhood concerns about the overall size
18 and scale of the thing. Some of it was the
19 sense that we didn't get enough. It's a \$180
20 million project and you got us a \$75,000 pot
21 to piss in across the street. It was not --
22 if you add it up it's not a lot.

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1 ANC COMMISSIONER FRISHBERG:

2 Gordon Gekko is on our committee.

3 ANC COMMISSIONER PATE: I think
4 it's very difficult for us to be the judge of
5 that. We did go and look at other zoning
6 orders and agreements and tried to understand
7 what we had done in that context and
8 ultimately felt that we had done a good job.

9 When the developer tells you they
10 can't afford to do this or they can't afford
11 to do that or what have you, we have no idea.
12 It's totally not a transparent process.

13 COMMISSIONER MAY: I understand.
14 Okay.

15 ANC COMMISSIONER PATE: I do want
16 to address the impact on the weekend -- I'm
17 sorry. The impact on the weekend market is a
18 concern. I think we ultimately felt that
19 could be mitigated. Not by the developer.
20 The community has to mitigate that through the
21 closure of the 300 block of 7th Street.

22 COMMISSIONER MAY: That was my

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1 next line of questioning.

2 ANC COMMISSIONER PATE: I could
3 talk about that more if you would like.

4 COMMISSIONER MAY: Really how
5 important was the size of the market? Is
6 there an overall consensus that this needs to
7 be as big as it is now and that is really
8 important or were there people who spoke out
9 that maybe it's too big because of the impact
10 on the neighborhood on the weekend?

11 ANC COMMISSIONER PATE: I don't
12 think there is anyone who would tell you that
13 the market is too big. Maybe Commissioner
14 Campbell but he doesn't go down there. I'm
15 sure there are people who avoid it.

16 My personal opinion is that the
17 market space, the geography of the market as
18 outlined in the current law and in the pending
19 law should support the maximum capacity for
20 tents and vendors on the weekend.

21 When I look at the problem, I look
22 at the problem not just by adding -- looking

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1 at C Street alone and that space there. I
2 look at it in toto with the rest of the space
3 surrounding Easter Market.

4 When you take the full capacity of
5 that space to support weekend vending, you
6 actually come out a little bit above what is
7 there now. There are financial interests in
8 play.

9 There are a lot of people who have
10 serious investments at stake both because of
11 the development and the pending legislation.
12 I would fully expect them to fight tooth and
13 nail for it. They should.

14 There is a lot of -- before the
15 fire they called the politics at the Eastern
16 Market the 30 years war. All the equities
17 between the indoor vendors, the outdoor
18 vendors, the farmers, and the two independent
19 weekend market operators. It's like the Game
20 of Thrones over there.

21 I try to set that aside and look
22 at what can the market be in 15 to 20 years

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1 and I think if we create the fabric for it --
2 one of the other provisions in our MOA is to
3 work with the city to extend the pavers down
4 the 300 block of 7th Street and really set
5 that fabric up we'll be fine.

6 ANC COMMISSIONER FRISHBERG: The
7 city said in their agreement with the city
8 there was sufficient space for the weekend
9 market. What exist on site, I think, in our
10 view would not be sufficient.

11 Concurrent with this whole process
12 we then as a Commission and as a community are
13 working very hard on the trust legislation to
14 make sure that there are other accommodations
15 which is block D on here.

16 I think our perspective is that
17 the combination of these spaces plus the other
18 pieces that aren't shown on here with respect
19 to the market do accommodate the market. On
20 top of that we have tried to add other
21 logistical and other types of parking support
22 to help the market prosper over the long term.

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1 Obviously the market is critically
2 important to the neighborhood, we think,
3 through this and the legislation. You can't
4 look at either of these things independently.
5 Even though we don't have the legislation yet
6 we will get there.

7 COMMISSIONER MAY: Okay. Having
8 personally seen a number of those episodes of
9 the Game of Thrones, I think the fact that you
10 were able to weigh into it and try to see your
11 way through it and come to some consensus it
12 seems, at least among the majority of the
13 Commission, I think is, again, a testament to
14 the effort that you went through. We'll hear
15 a lot more about that topic I'm sure so we'll
16 get all sides of it. I'm glad to hear your
17 take on it.

18 ANC COMMISSIONER FRISHBERG: Our
19 votes on the Eastern Market legislation are 10
20 zero.

21 COMMISSIONER MAY: Okay. We don't
22 usually weigh on legislation. I have no

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1 comment on that. Thanks.

2 CHAIRMAN HOOD: Any other
3 questions? Okay. I actually was trying to
4 work on the third night so I'm going to ask
5 one or two questions and try to figure out how
6 we are going to do the third night.

7 Commissioners, first of all, let
8 me thank you for your testimony and I
9 appreciate it. I think it was very well done
10 and thorough. I'm just curious. Both of you
11 -- the Single Member Districts between the two
12 of you encompasses this whole project?

13 ANC COMMISSIONER FRISHBERG: It's
14 all technically mine. 8th Street is the
15 dividing line. The way SMDs are drawn is one
16 side of the street is in one district and the
17 other side is the other district so Brian has
18 the east side of 8th Street and I have --

19 ANC COMMISSIONER PATE: I have the
20 majority of residents who you consider within
21 200 feet of development so the Eyes on Hine
22 and EMMCA are those -- the neighborhoods

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1 represented there are all --

2 CHAIRMAN HOOD: I just wanted to
3 make sure that you all were representing those
4 areas right there in the project.

5 The other issue is redistricting.
6 I'm sure Ward 6 didn't have any problems with
7 redistricting. Is any of that going to
8 change?

9 ANC COMMISSIONER PATE: Not in
10 ANC-6B. We fought very hard to protect -- you
11 can't see it here but the north of the market
12 to protect the blocks that are between
13 Independence and East Capitol to retain those
14 into ANC-6B precisely because they are part of
15 the -- if you go to Wiki it's actually called
16 the Eastern Market Neighborhood.

17 One of the proposals to draw a
18 distinction and put those folks into a
19 neighboring ANC, not give them representation
20 in that market neighborhood would have been
21 devastating so we were successful in that but
22 it was fairly hard fought.

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1 CHAIRMAN HOOD: And did you all in
2 your discussions and even within your
3 agreement that I see here, did you all talk
4 much about first source in the CB?

5 ANC COMMISSIONER PATE: We didn't
6 address them. I think we took them as given
7 when we looked at the LDDA so we didn't get
8 into that.

9 CHAIRMAN HOOD: Okay. That is
10 very important. I'm glad to see Ms. Caldwell
11 is here. I'm not sure if I'll be able to ask
12 her the questions because that is very
13 important. Unfortunately it's not a given.

14 I know this Applicant wouldn't do
15 it but they come down in front of this
16 Commission promise us this and promise us
17 that. At the end of the day District
18 residents are not being employed.

19 Businesses are not getting the
20 business. That is something that this
21 Commission is moving forward. Not just with
22 this Applicant but we are starting to really

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1 look at that and working with the Department
2 of Employment Services and the local small --

3 ANC COMMISSIONER PATE: We
4 certainly support those principles.

5 ANC COMMISSIONER FRISHBERG: And
6 noted your comments last week on that point.

7 CHAIRMAN HOOD: All right. That's
8 really all the questions I have. Let's do
9 cross-examination.

10 CROSS-EXAMINATION

11 CHAIRMAN HOOD: Does the Applicant
12 have any cross?

13 CHAMPS, do you have any cross-
14 examination?

15 Hine School North, do you have any
16 cross?

17 Mr. Hitchcock.

18 MR. HITCHCOCK: Thank you, Mr.
19 Chairman. Two or three quick questions.

20 Mr. Pate, you talked about the
21 size being similar from the revised proposal
22 to what was originally proposed. Isn't it

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1 true that square footage for the revised
2 proposal was larger than the square footage
3 for the original?

4 ANC COMMISSIONER PATE: Yes, it
5 is.

6 MR. HITCHCOCK: Okay. And isn't
7 it true that it's also larger than that which
8 was contemplated in the LDDA?

9 ANC COMMISSIONER PATE: You mean
10 square footage wise?

11 MR. HITCHCOCK: Using the square
12 footage as a measure.

13 ANC COMMISSIONER PATE: Yes, it
14 is.

15 MR. HITCHCOCK: Okay.

16 ANC COMMISSIONER PATE: Would you
17 like me to elaborate on that?

18 MR. HITCHCOCK: No. I was just
19 clarifying that that went into the calculus.

20 ANC COMMISSIONER PATE: Okay.

21 MR. HITCHCOCK: The other question
22 I had you mentioned very capably that the

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1 limitations of a private street. Would you
2 agree with me it would be better if it were a
3 public street?

4 ANC COMMISSIONER PATE: I think
5 there are tradeoffs. I think that if it's a
6 public street, then the incremental cost of
7 operating and maintaining it are much lower
8 for the city than for the private developer to
9 bear those costs. There is that
10 consideration.

11 The benefit is if this is done
12 right, this can aid in the long-term viability
13 of the Eastern Market which until this year
14 has traditionally run a deficit on the order
15 of \$200,000 to \$250,000 a year.

16 The ability to program this street
17 in a manner that supports the economic
18 interest of the market is a good thing for our
19 community and a good thing for the taxpayers
20 of the District. That is the tradeoff.

21 I wouldn't have supported this if
22 I didn't feel like there were some protections

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1 for the public based in. Will it work? It's
2 speculative.

3 MR. HITCHCOCK: Okay. Thank you.
4 I have nothing further, Mr.
5 Chairman.

6 CHAIRMAN HOOD: Okay. Thank you
7 very much. Let's do Eyes on Hine.

8 EMMCA, any cross-examination?

9 MS. RIEHLE: First of all, thank
10 you for a really great presentation. Thank
11 you, Commissioner Pate, for protecting our
12 First Amendment rights.

13 CHAIRMAN HOOD: Excuse me, Ms.
14 Riehle. If you could pull the mic up.

15 MS. RIEHLE: I'm sorry. I'm so
16 bad at this. Thank you, Commissioner Pate,
17 for protecting -- sorry. Okay. I just have
18 a couple of questions about the process and
19 about some of the things that were said last
20 week.

21 I think in maybe Mr. Sternlieb's
22 testimony he talked about how many community

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1 meetings you've had and how long the process
2 has taken so far. I think he said he's been
3 at this for three years and he could have
4 built the Eiffel Tower.

5 Here is my question. Has anything
6 you've done except for, I think, you asked for
7 a one-month delay in the HPRB process. Has
8 any other action or any of your meetings
9 delayed this process in any way?

10 ANC COMMISSIONER FRISHBERG: No.
11 The one-month delay that you are referring to
12 in the HPRB process was because the schedule
13 of when we received the filings from the
14 developer and in the normal course of our
15 monthly meeting schedule didn't afford us the
16 opportunity to do the regularly approved
17 review.

18 That was something that HPRB said
19 was appropriate under their rules and law to
20 provide a one-month delay and that is it in
21 terms of -- otherwise we had been working, as
22 you know, because you've been working on part

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1 of it, very hard on the process for several
2 years. When Mr. Sternlieb said 41 meetings
3 with the ANC, I heard my wife in my ear.

4 MS. RIEHLE: Yes. And that
5 doesn't count the meetings with the neighbors.
6 Okay. Are you aware of any action taken by
7 any of the neighbor groups that has delayed
8 the project in anyway?

9 ANC COMMISSIONER FRISHBERG:
10 Absolutely not.

11 MS. RIEHLE: Okay. Do you agree
12 that the only delay to this project was a year
13 extension requested by the developers
14 themselves?

15 ANC COMMISSIONER FRISHBERG: I
16 believe it was a 13-month process to negotiate
17 the LDDA which required the city to extend the
18 timeline of it.

19 MS. RIEHLE: Okay. I'm really
20 interested in the 55-foot truck issue and I
21 don't know anything about trucks. It's my
22 understanding and people have told me that the

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1 whole 55-foot truck issue is related to
2 particular types of retail. That 55-foot
3 trucks are needed to service grocery stores
4 and pharmacies. Is that your understanding?

5 ANC COMMISSIONER FRISHBERG: That
6 is correct. The specific use the developer is
7 seeking, or one of the ones they are most
8 interested in, as I understand it, is the
9 below-grade retail for a grocery store in the
10 neighborhood.

11 I think it's 20,000 square feet so
12 it's not your regular old Harris Teeter type
13 thing but a smaller grocery store. Those
14 require daily deliveries, one to two per day
15 with a 55-foot truck. That is the principal
16 issue that is driving the 55-foot truck
17 loading situation.

18 There are issues, as I understand
19 it, with sometimes beer trucks and other
20 things that come into the community that
21 aren't related to that. The principal issue
22 here is the below-grade retail.

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1 MS. RIEHLE: Okay. Thanks. Can
2 you tell me how many grocery stores/slash
3 pharmacies are there within walking distance
4 of the site?

5 ANC COMMISSIONER PATE: Well,
6 there's Eastern Market proper.

7 MS. RIEHLE: Yeah. Right.

8 ANC COMMISSIONER PATE: We've
9 asked them in the retail plan to make sure
10 that the grocery or whatever retail is
11 compatible so that is a concern in the
12 consideration.

13 You can walk to Harris Teeter, six
14 blocks, depending on how much you're getting.
15 It depends on how strong you are.

16 ANC COMMISSIONER FRISHBERG: Then
17 there's Yes Market which is on Pennsylvania
18 Avenue in the 600 block but is relocating to
19 8th Street.

20 ANC COMMISSIONER PATE: And
21 there's a small format grocery.

22 MS. RIEHLE: Right. And there's a

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1 Safeway at 14th Street. Correct?

2 ANC COMMISSIONER PATE: I think
3 you're starting to get out of walking
4 distance.

5 MS. RIEHLE: Well, I walk there so
6 it's not that far.

7 ANC COMMISSIONER PATE: That's
8 subjective.

9 MS. RIEHLE: Okay. All right.
10 But you wouldn't say that the Eastern Market
11 Neighborhood is underserved by grocery stores
12 and pharmacies. Right?

13 ANC COMMISSIONER PATE: I wouldn't
14 conclude that, no.

15 MS. RIEHLE: Okay. Thank you very
16 much for your efforts to get parking for those
17 people in the north building even though they
18 have to pay market rates, I guess. I don't
19 think that was 100 percent clear in the
20 presentation of the developers. I think they
21 said it possibly could be rented but I might
22 have misheard.

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1 CHAIRMAN HOOD: Ms. -- are you
2 getting to a question?

3 MS. RIEHLE: Yes.

4 CHAIRMAN HOOD: Okay.

5 MS. RIEHLE: So in your
6 negotiations about things in the south
7 building that weren't available to people in
8 the north building, did you discuss whether or
9 not people in the north building could use the
10 closed courtyard, the nice green roof, or
11 maybe the swimming pool which would be great
12 on a day like today, or were those just not
13 discussed?

14 ANC COMMISSIONER FRISHBERG: They
15 were discussed. The subcommittee when it was
16 first presented, the draft agreement was
17 presented, sent Brian and I, mostly Brian
18 because I wasn't there, sent us packing with
19 a list of items to go back and included in
20 that was extending the benefits or the
21 amenities that are available in the south
22 building, which as you know are many, into the

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1 residents of the north building.

2 In our discussion around that, a
3 couple of points that were raised by the
4 developers is they said no fairly sternly.
5 One was that there are some amenities build
6 into the north building. There is a small
7 running room, a gym, like a community meeting
8 room.

9 ANC COMMISSIONER PATE: Computer
10 room.

11 ANC COMMISSIONER FRISHBERG:
12 Computer room. There are some amenities that
13 are there. The complexities of the HOA and
14 how that would be operated in the south
15 building they didn't want to get into that or
16 do allow any of the north building residents
17 to participate in that.

18 ANC COMMISSIONER PATE: They
19 didn't want the south building residents to
20 subsidize the north building residents. I'm
21 paraphrasing.

22 MS. RIEHLE: Okay.

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1 ANC COMMISSIONER PATE: We pushed
2 and we yielded.

3 MS. RIEHLE: Okay. So none of
4 those amenities in the south building are
5 available to the north building so there is no
6 green space or any of the nice things from the
7 south building.

8 Sorry. When you process started,
9 I remember that you were really specific about
10 delineating between sort of the big ticket
11 things, the things that people -- I think you
12 had a short list of four or five things that
13 were thought as the big ticket request. Then
14 there was another list of ideas people had
15 presented for mitigating some of the problems
16 that were resulting. Right?

17 ANC COMMISSIONER PATE: Correct.

18 MS. RIEHLE: At some point that
19 all was combined into a document referred to
20 by you guys as a punch list. Is that right?

21 ANC COMMISSIONER FRISHBERG: We
22 combined all the items we had adopted over

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1 time into one big list. I don't recall a
2 punch list but it was negotiating positions
3 for the ANC.

4 ANC COMMISSIONER PATE: The
5 developer actually developed the artifact that
6 you're thinking of. It's an Excel spreadsheet
7 that has a list of things.

8 MS. RIEHLE: Right. It's some 80
9 plus items. Correct?

10 ANC COMMISSIONER PATE: That's
11 correct.

12 MS. RIEHLE: In looking at that
13 list, I couldn't help but notice that most of
14 the items on it are things that were suggested
15 mitigations. Would you agree with that?

16 For instance, there were lots of
17 things related to traffic. There were stop
18 signs at particular corners and traffic lights
19 and crosswalks, that sort of thing that was
20 all intended to accomplish basically the same
21 goal.

22 ANC COMMISSIONER FRISHBERG: That

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1 could absolutely be the case. I've not done
2 the count but, as you noted, we started off
3 with
4 -- we had a lot of work to go through to
5 absorb all the community concerns and think
6 about benefits, amenities, mitigations, all
7 these different pieces.

8 We wanted to start negotiating
9 with the developers on some of, as you
10 referred to them and we refer to them, the big
11 ticket items up front and not wait for the
12 entire community process to conclude before we
13 started that.

14 We kind of asked the subcommittee
15 and the ANC to sort of set us in motion while
16 we continued to work on all the longer list of
17 issues that we might need to consider. I
18 don't know whether that is the best process or
19 not but it certainly did result in what is
20 probably a rather lengthy MOA that is before
21 the Commission.

22 MS. RIEHLE: Okay. Again, I don't

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1 want to say Mr. Sterlieb said things he didn't
2 so one of the people on the development team
3 referred to -- it could have been Ken also --
4 referred to 80 plus requests from the
5 community. I think that statement was related
6 to this list. What you're saying is there
7 weren't 80 plus requests but there were
8 suggestions for mitigation?

9 ANC COMMISSIONER FRISHBERG:

10 That's correct. The mitigations that we had
11 we identified problems or concerns. Then many
12 of those potential mitigations we listed all
13 sorts of options. For one problem or concern
14 that was identified, the Commission and the
15 community might have identified five or six
16 different options for how that might be
17 handled. The point was that we had
18 flexibility in working with the developer to
19 achieve those. It is a little bit of
20 overstating the point of those things to say
21 that there were 83 discrete asks because many
22 of them were never envisioned as something if

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1 we did this, then we would also do that. They
2 were, in fact, competing options.

3 MS. RIEHLE: Right.

4 ANC COMMISSIONER FRISHBERG: But
5 there was a lot of information put on the
6 table.

7 MS. RIEHLE: Okay. Just briefly
8 on this three-person C Street advisory group.
9 All three of the parties involved in that
10 group are speaking on behalf of the Applicant.
11 Correct?

12 ANC COMMISSIONER PATE: What do
13 you mean?

14 MS. RIEHLE: This three-person
15 advisory -- well, right now EMMCA, ANC-6B, and
16 the Applicant themselves are the three members
17 of this advisory group.

18 ANC COMMISSIONER PATE: That are
19 supporting the development? Is that your
20 point?

21 MS. RIEHLE: No. I'm just asking.
22 All three are supporting the development,

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1 correct?

2 ANC COMMISSIONER PATE: Well, the
3 body doesn't exist yet but if it were in
4 existence today, that would be true, although
5 I cannot predict who would be from the ANC in
6 the future and what their disposition towards
7 this agreement would be.

8 MS. RIEHLE: Okay. With respect
9 to you made a statement about being attacked
10 on the prospect of locating a childcare
11 facility on the corner of 8th and D Street.
12 Are you aware of any of the neighborhood
13 groups objecting to childcare at 8th and D?

14 ANC COMMISSIONER FRISHBERG: No.

15 MS. RIEHLE: Okay. Thank you.

16 I'm curious about this. Our
17 membership increased dramatically after the 3-
18 D model went on display. Did you find that
19 interest and concern about this project grew
20 after the 3-D model became available and went
21 on display at the Hill Center?

22 ANC COMMISSIONER FRISHBERG: Yes.

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1 We had asked for that earlier in part of the
2 HPRB process.

3 ANC COMMISSIONER PATE: I want to
4 qualify that, Barbara. Interest in this
5 development also increased after resident
6 groups started setting up tables at Eastern
7 Market and informing people about the
8 development so there's a variety of things
9 that came into -- I don't want to use the word
10 conspired but came together to increase the
11 interest in the project toward the end of the
12 process.

13 MS. RIEHLE: The model went on
14 display in April. I don't know of anyone
15 setting up tables until pretty recently.

16 I can't read what I've written.
17 Oh, I think Amy Weinstein and one of the other
18 members of the development team mentioned that
19 8th Street neighbors had indicated that they
20 were opposed to any curb cuts at all on 8th
21 Street.

22 I know they had objections to the

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1 parking garage because of the bus traffic and
2 the emergency vehicle traffic on 8th Street,
3 but I don't believe that statement is correct.
4 Do you recall in your extensive meetings
5 anyone saying they objected to any curb cuts
6 at all on 8th Street?

7 ANC COMMISSIONER FRISHBERG: I
8 don't think so as part of either this process
9 or the HPRB process.

10 MS. RIEHLE: Okay. I just want
11 you to clarify something for me. Earlier this
12 week Joe Sternlieb had a little video clip in
13 the Washington Post saying that objections to
14 this project came from nearby neighbors who
15 were advocating for the project to be only two
16 stories. Have you ever heard that from any of
17 your neighbors?

18 ANC COMMISSIONER FRISHBERG: No,
19 but I could Google it now.

20 ANC COMMISSIONER PATE: I'm
21 interested in seeing it. How did he look?

22 MS. RIEHLE: He looked good.

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1 Okay. Thank you also for including in your
2 very good testimony the resolution ANC-6B
3 passed prior to your service about the overall
4 heights at the various points.

5 That's it. Thanks.

6 CHAIRMAN HOOD: Thank you.

7 Diverse Market? Okay.

8 All right. I want to thank the
9 ANC for your testimony. It was very well
10 done. Thank you both.

11 ANC COMMISSIONER FRISHBERG: Thank
12 you.

13 CHAIRMAN HOOD: Let's try to go to
14 find out an additional date. I think we are
15 going to get through parties in support and
16 persons in support. That may be a good
17 breaking point depending on how cross-
18 examination goes. Unless you all want to go
19 to 12:00 again.

20 MS. SCHELLIN: Even if we went to
21 12:00 we will not finish.

22 CHAIRMAN HOOD: Ms. Schellin and I

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1 counted the calculations of the amount of
2 people it's going to take. She's right, we
3 won't finish. It's going to be another night.
4 I can tell you that.

5 Let's do that. Let's come up with
6 another date. Ms. Schellin, do you have
7 another date in mind?

8 MS. SCHELLIN: Yes, sir. Our
9 calendar is totally booked so the only date
10 that we are going to be able to do is going to
11 be July 11th. It's a Wednesday almost three
12 weeks from now. 6:30 p.m., July 11th.

13 CHAIRMAN HOOD: July 11th.

14 MS. SCHELLIN: Everybody got that
15 down on their calendar?

16 CHAIRMAN HOOD: I'm almost scared
17 to ask does anybody have a problem with July
18 11th. I knew Mr. Hitchcock was going to raise
19 his hand.

20 Mr. Hitchcock, come forward.

21 If not, we're looking into
22 September or October.

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1 MS. SCHELLIN: November.

2 CHAIRMAN HOOD: November.

3 MR. HITCHCOCK: Mr. Oberlander,
4 one of our witnesses, is going to be out of
5 town that entire week.

6 MS. SCHELLIN: The week after July
7 4th?

8 MR. HITCHCOCK: The week of July
9 9th through the 13th.

10 MS. SCHELLIN: Chairman Hood,
11 could you give me like one minute and let me
12 find out if there is a Tuesday that the BZA is
13 not meeting or is that an option?

14 CHAIRMAN HOOD: Let me ask you
15 this.

16 MS. SCHELLIN: They are finishing
17 early.

18 CHAIRMAN HOOD: What about this
19 coming Tuesday?

20 MS. SCHELLIN: Well, they finish
21 early enough now so we could say 6:30 Tuesday.

22 CHAIRMAN HOOD: This coming

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1 Tuesday.

2 MS. SCHELLIN: That would be the
3 26th.

4 CHAIRMAN HOOD: That works out
5 good for me because I'll be here anyway.

6 MS. SCHELLIN: I have no choice.

7 CHAIRMAN HOOD: Can we do this
8 coming Tuesday, Commissioners?

9 COMMISSIONER MAY: You know that
10 volleyball moves outside to Tuesday nights
11 now.

12 CHAIRMAN HOOD: Well --

13 MS. SCHELLIN: It's only one.

14 COMMISSIONER MAY: It's okay.

15 It's only one. Right.

16 MS. SCHELLIN: It's only one. We
17 won't do this again.

18 CHAIRMAN HOOD: With the heat we
19 want to make sure that nothing happens to you.

20 COMMISSIONER MAY: It's nice and
21 cool in the evening.

22 CHAIRMAN HOOD: Can everybody do

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1 this coming Tuesday?

2 MS. FERSTER: Good evening, Mr.
3 Chairman. I will be at the judicial
4 conference on the 26th and one of our
5 witnesses is unavailable on the 26th as well.

6 MR. HITCHCOCK: And I'm
7 unavailable on the 26th as well.

8 ANC COMMISSIONER FRISHBERG: That
9 is the executive committee of the ANC that
10 night so it at least includes me if not other
11 commissioners.

12 CHAIRMAN HOOD: Okay.

13 MS. SCHELLIN: Tuesday the 17th.

14 CHAIRMAN HOOD: July 17th?

15 MS. SCHELLIN: July 17th.

16 MR. DuPUY: Mr. Chairman, Jacques
17 DuPuy. I'll be out of the country on July
18 17th. One of our witnesses is also
19 unavailable.

20 MS. SCHELLIN: How about December?

21 CHAIRMAN HOOD: What about
22 November?

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1 MS. SCHELLIN: At this point, you
2 know, okay. So we're going into November
3 then.

4 MR. DuPUY: Mr. Chairman, could I
5 make --

6 CHAIRMAN HOOD: You know the bad
7 part about that is we have a lot of cases.
8 It's always good for us to kind of hear these
9 in --

10 MS. SCHELLIN: Actually October.

11
12 MR. DuPUY: Could I make a
13 suggestion, Mr. Chairman? If the only witness
14 who so far as been identified as unavailable
15 on July 11th is Mr. Oberlander, I would
16 suggest we take his testimony tonight and then
17 we could proceed.

18 MR. HITCHCOCK: If I may respond
19 to that, I understand Mr. DuPuy's suggestion.
20 Mr. Oberlander's testimony is part of a more
21 cohesive whole with our other witness Mr.
22 Mehra and we've also divided up the time with

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1 the other witnesses Eyes on Hine and EMMCA.

2 It would sort of throw off the presentation.

3 CHAIRMAN HOOD: Okay. Again, Ms.
4 Schellin, can we find some dates?

5 MS. SCHELLIN: Tuesday, July 17th.

6 CHAIRMAN HOOD: When you and I
7 were talking about this I was getting a
8 headache. Now I'm really getting one.

9 MS. SCHELLIN: I had one before we
10 started.

11 CHAIRMAN HOOD: What day are we
12 looking at now?

13 MS. SCHELLIN: July 17th. That's
14 right, Mr. DuPuy is out of the country.

15 When are you coming back? I'm not
16 going to pick a date. September?

17 MR. DuPUY: Yes, the 1st.

18 MS. SCHELLIN: Okay. Then we are
19 definitely into October.

20 MR. DuPUY: There is a schedule
21 established from the city council for this
22 project and we cannot tolerate a delay into

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1 the fall.

2 MS. SCHELLIN: There is not much
3 we can do if you're telling me you can't be
4 here. I mean, we have picked several dates
5 and somebody is not here. I mean, we're doing
6 what we can. I understand your deadline but
7 our schedule is also pretty tight.

8 MR. DuPUY: We understand that and
9 I would reiterate the suggestion I made
10 earlier about Mr. Oberlander going on the
11 11th. If that's not acceptable, then we'll
12 proceed on July 17th and I'll get one of my
13 partners to handle the case.

14 MS. SCHELLIN: Okay. July 17th
15 then. The 11th was a problem for Mr.
16 Hitchcock.

17 MR. DuPUY: Mr. Oberlander had the
18 conflict the prior week on the 11th.

19 CHAIRMAN HOOD: Let me ask this.
20 What about --

21 MS. SCHELLIN: The 17th was the
22 next choice.

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1 CHAIRMAN HOOD: The 17th. What
2 about the 24th?

3 MS. SCHELLIN: The 24th is going
4 to have the same issue as the 17th does
5 because he's out of the country until
6 September. He said he would have one of his
7 partners do it and go forward on the 17th.

8 COMMISSIONER MAY: I'm not here
9 that week of the 23th anyway.

10 CHAIRMAN HOOD: Yeah, that's a
11 whole other --

12 MS. SCHELLIN: The week of the
13 23rd, right, Commissioner May is out.

14 CHAIRMAN HOOD: Okay. But you're
15 here the 17th.

16 COMMISSIONER MAY: I've been
17 looking at so many dates. I think I'm here
18 the 17th.

19 MS. FERSTER: July 17th works for
20 DMM.

21 CHAIRMAN HOOD: I hear somebody
22 saying July 5th.

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1 MS. SCHELLIN: I will not be here
2 but I guess I'm not needed. You can go
3 without me. I know we had earlier in the year
4 said we weren't doing anything on July 5th.

5 CHAIRMAN HOOD: That's okay. We
6 won't do July 5th. So the 17th. I was just
7 trying to be fair. Here's the thing. Either
8 that or we're going to have to go to October.
9 I mean, at some point in time somebody's got
10 to give. Somebody's got to give.

11 MS. SCHELLIN: Mr. DuPuy has said
12 he would have his partner stand in for him.
13 Whoever is yelling the 11th does not work for
14 one of the parties. Mr. Hitchcock has already
15 stated twice that one of his main witnesses
16 will not be here so the 11th is off.

17 CHAIRMAN HOOD: Okay. Since all
18 that doesn't work, just give me a date in
19 October and let's move forward. Give me a
20 date in October, please. Hold on. Here is
21 what I don't want. Let's deal with this.
22 Let's not yell out what other people are going

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1 to do. What we are trying to do is balance
2 it.

3 Mr. Hitchcock's party has a right.
4 The Applicant has a right and we've got to
5 balance all that. Everybody wants to be here
6 for the most part. They have presentations
7 and we want to respect that. Mr. DuPuy is the
8 main counsel for the Applicant and we want to
9 respect that. The only thing I'm seeing right
10 now is October. Believe me, I'm the last one
11 that wants to go to October.

12
13 MR. HITCHCOCK: Mr. Chairman, that
14 would put us out of compliance with the
15 schedule announced in the statute adopted by
16 the D.C. Council.

17 MS. SCHELLIN: July 17th.

18 CHAIRMAN HOOD: The 11th is off.
19 Is the 18th?

20 MS. SCHELLIN: No, the 17th is
21 still good.

22 CHAIRMAN HOOD: But there were

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1 some objections over here, I though, to the
2 17th.

3 MS. SCHELLIN: That was from
4 individuals in the audience. They can always
5 submit their testimony in writing.

6 CHAIRMAN HOOD: Okay. I thought
7 the Applicant had some objections.

8 MS. SCHELLIN: The Applicant does
9 but he's going to have his partner stand in
10 for him. He's going to be gone until
11 September so he would rather have, he said,
12 his partner stand in.

13
14 CHAIRMAN HOOD: So, Mr. DuPuy, in
15 light of what you said about you being out of
16 compliance, you don't have a problem with the
17 17th?

18 MR. DuPUY: That's correct. As
19 between the 17th and October or September,
20 yes. We would prefer July 17th.

21 CHAIRMAN HOOD: Okay. That's the
22 best we can do. I can't think of another

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1 night. Do we have a short hearing anytime
2 soon?

3 MS. SCHELLIN: We have the
4 Waterfront cases. Those are not going to be
5 short.

6 CHAIRMAN HOOD: Okay. All right.
7 So the 17th.

8 MS. SCHELLIN: Yes, sir. That's
9 the only thing available at this point, the
10 17th at 6:30 p.m.

11 CHAIRMAN HOOD: One more thing.
12 If there's a lot, I'm going to cut it right
13 off. What about next Wednesday? This coming
14 Wednesday. Mr. DuPuy --

15 MS. SCHELLIN: I think somebody
16 had a problem with that.

17 CHAIRMAN HOOD: This coming
18 Wednesday?

19 MS. SCHELLIN: The 27th. She
20 can't do the 27th.

21 CHAIRMAN HOOD: Okay. That's it.
22 Let's go with the 17th.

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1 MR. STERNLIEB: Mr. Chairman, I
2 would just like to reiterate the suggestion
3 that Mr. DuPuy made. Had we been able to get
4 to the witnesses, they would have been able to
5 put on their case.

6 There is nobody from the Eastbanc
7 team who can be here on the 17th of July. To
8 accommodate a single witness who is here
9 tonight and is able to testify, you are making
10 it impossible for us to respond to any of the
11 issues that come up on the 17th.

12 I would just ask for the party to
13 call their witness tonight if you would be
14 willing to accept that witness tonight so that
15 they can be on the record so all of us can
16 participate on the 11th.

17 CHAIRMAN HOOD: Okay. I'll make
18 this proposal. I'm going to ask CHAMPS if
19 they would hold -- I don't really like going
20 out of succinct because it sets up other
21 problems.

22 Anyway, if CHAMPS would hold off

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1 because CHAMPS is suppose to come next, party
2 in support. I'm going to ask those who are
3 here who would like to testify in support if
4 they would hold off. We will go to your
5 party, Mr. Hitchcock, and do your whole party
6 in totality, your presentation.

7 How many minutes is it?

8 MS. SCHELLIN: Each party has 15
9 minutes unless they have worked out something
10 ahead of time.

11 CHAIRMAN HOOD: Your 15 minutes.
12 We'll cross-examine you and then that way you
13 all will be done. Then we'll come back.

14 MS. SCHELLIN: I think July 11th
15 would then work. I think everybody was okay
16 with July 11th.

17 Ms. Ferster, were you okay with
18 the 11th?

19 CHAIRMAN HOOD: Does anybody have
20 a problem with going out of order? Well, I
21 do.

22 MS. SCHELLIN: Yes. We don't

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1 typically do it but at this point I don't know
2 how else we can accommodate everybody.

3 CHAIRMAN HOOD: So that's how
4 we're going to move, Mr. Hitchcock.

5 Mr. DuPuy, are we fine?

6 MR. DuPUY: Thank you.

7 CHAIRMAN HOOD: All other parties
8 fine? I'm going to ask the indulgence of
9 those who are here in support and also CHAMPS,
10 if CHAMPS has a problem.

11 What I was saying tonight I asked
12 for the indulgence of CHAMPS and those persons
13 who are here in support because that's who is
14 next. We will go with Hine School North
15 Neighbors, hold a 15-minute presentation. We
16 will cross-examine that presentation.

17 That way it could be done in
18 succinct how it was rehearsed or whatever the
19 case is. Then we'll go back to our regular
20 order. That way that would do away with a lot
21 of the conflict in the different dates. That
22 way we can come back on July 11th because you

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1 will still be in the country.

2 Hold on. Can you come to the mic
3 and identify yourself?

4 MR. HOLTZMAN: My name is -- I'm
5 representing EMMCA. Sorry. Is that okay?
6 Are you saying only the Hine North Neighbor
7 presentation or all of the presentations?

8 CHAIRMAN HOOD: Just Hine North
9 and then we'll go back in succinct order.

10 MR. HOLTZMAN: I would like to
11 point out that when you gave party status to
12 the three groups you requested us to make sure
13 that we coordinated as best possible so that
14 we could do so and we have done so and tried
15 to put together a series of presentations that
16 fit together.

17 CHAIRMAN HOOD: You know what, Mr.
18 Hitchcock? This is a little more than what I
19 bargained for. I thought we would just do
20 your piece. I understood that's what we did.
21 I think what is going to wind up happening is
22 -- I don't want to favor one.

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1 I think Mr. Oberlander -- I don't
2 know who else has his presentation but
3 somebody else may have to do it. At some
4 point in time we have to get this hearing over
5 with. Unless you all want to do October.
6 That's the only alternative I'm giving.

7 MR. HITCHCOCK: Let me make this
8 suggestion. I appreciate the Chair's effort
9 to be fair in terms of doing this. Perhaps if
10 -- we could put our case on in 15 minutes and
11 perhaps then pass on next time.

12 Maybe we could be allowed to just
13 take a minute when we get to the parties in
14 opposition next time to try to seque into what
15 Eye on Hine and EMMCA were going to say and it
16 fit into what we said.

17 CHAIRMAN HOOD: One minute?

18 MR. HITCHCOCK: Um-hum.

19 CHAIRMAN HOOD: I will do that.

20 MR. HITCHCOCK: I really
21 appreciate that. Thank you.

22 CHAIRMAN HOOD: One minute the

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1 next time.

2 MR. HITCHCOCK: I promise.

3 CHAIRMAN HOOD: Ms. Schellin, you
4 can start the clock.

5 Okay. So we all can agree to do
6 that. Anybody have a problem?

7 MS. LaFOLLETTE: Could you clarify
8 exactly what's happened because I have long-
9 standing vacation planned for the 11th but I
10 would be willing to change that -- don't tell
11 my husband. He's not listening -- in order to
12 get this done. Are you saying then that Hine
13 School North Neighbors would be able to
14 present tonight but we would not?

15 CHAIRMAN HOOD: Right. You all
16 will do July 11th.

17 MS. LaFOLLETTE: July 11th.

18 MS. SCHELLIN: Chairman Hood, if
19 she doesn't want to ruin her vacation and have
20 her husband want to move out, you could
21 authorize someone else to do your presentation
22 for your group.

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1 If there is another member of your
2 group that could do the presentation, you
3 could certainly submit a letter saying that
4 person has the authority to represent the
5 group and do the cross. That's an option,
6 too.

7 MS. LaFOLLETTE: We can discuss
8 this, I suppose, among the group but I think
9 I'll have to cancel the vacation. I have an
10 obligation to my flock. I've been with them
11 through this since 2009 and I'm not going to
12 desert them now.

13 MS. FERSTER: Mr. Chairman, if I
14 may make just one other suggestion to add to
15 the mix of options. Many of the opposition
16 parties do have a cohesive presentation they
17 have coordinated.

18 Another option that would allow
19 the opposition to present tonight would be to
20 allow all the opposition, the four parties for
21 their one hour to testify tonight and hear all
22 the party in support testimony on the 11th.

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1 CHAIRMAN HOOD: Okay. Let me make
2 sure the party in support and the persons who
3 are here to testify in support are okay with
4 that. Thank you all very much. I really
5 appreciate that whole heartedly.

6 Let's go ahead and go with the
7 whole party in opposition. I can't dictate
8 what happens with cross but I can tell you
9 that if we run over, we are still going to end
10 up where we are but at least we can make an
11 effort to try. I don't want you -- I'll tell
12 you what. If you want to come here, I'll take
13 your vacation and the Vice Chair can take
14 over.

15 MS. LaFOLLETTE: Sir, that would
16 surprise my husband.

17 CHAIRMAN HOOD: All right. So
18 I'll tell you what. Let's do the whole party
19 in opposition. Can we do that? We seem like
20 we're on the same page.

21 MS. SCHELLIN: Well, they are all
22 separate parties.

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1 CHAIRMAN HOOD: But it's the whole
2 hour.

3 MS. SCHELLIN: Yes. We'll start
4 it and depending on how much cross-
5 examination, which we don't control as long as
6 you guys are in line, that's all we can do.

7 CHAIRMAN HOOD: Okay. Then I want
8 to thank the party in support and the persons
9 in support for waiting to go after this. This
10 is totally out of our normal agenda but I
11 appreciate you all being willing to do this so
12 we can try to move through this case. As soon
13 as you all are ready, let's get started.

14 MS. SCHELLIN: So if the first
15 party, I believe that's Mr. Hitchcock's group,
16 would please come to the table, the first
17 party.

18 VICE CHAIRPERSON COHEN: We're
19 going to start. The Chairman just stepped out
20 but please let's move along.

21 Mr. Hitchcock, please.

22 MS. SCHELLIN: Don't turn off the

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1 lights. Turn them back on, please.

2 MS. FERSTER: While we are waiting
3 for the Chairman to come back --

4 VICE CHAIRPERSON COHEN: No, we
5 don't have to wait for the Chairman. We have
6 a quorum so we can move ahead.

7 MS. FERSTER: Can I ask a
8 question? We haven't fully arranged for the
9 order of the parties in opposition. I
10 understand Mr. Hitchcock is going to go first.

11 VICE CHAIRPERSON COHEN: Yes.

12 MS. FERSTER: Diverse Management
13 would like to go second just because --

14 VICE CHAIRPERSON COHEN: It's up
15 to you guys.

16 MS. FERSTER: Is that okay?

17 MS. SCHELLIN: You guys need to
18 work it out between the parties.

19 VICE CHAIRPERSON COHEN: Mr.
20 Hitchcock, please let us start.

21 COMMISSIONER MAY: Those of you
22 who were still working out who goes next, you

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1 can step away from the table, please.

2 MS. SCHELLIN: They can actually
3 go out in the hallway.

4 COMMISSIONER MAY: Yes. Not every
5 party who is in opposition needs to be at the
6 table at this moment.

7 MR. HITCHCOCK: Thank you, Mr.
8 Chairman, for accommodating us. Hine School
9 North Neighbors has three witnesses. Two of
10 them are experts. Mr. Oberlander and Mr.
11 Mehra have both testified before. Mr.
12 Oberlander's resume was provided with his
13 prepared statement on June 5th. Mr. Mehra's
14 resume is provided with his statement that I
15 just passed up to Ms. Schellin.

16 CHAIRMAN HOOD: I think we have
17 seen both of them before and I think we have
18 previously accepted them. Any objection?
19 Okay. They are expert witnesses.

20 MR. HITCHCOCK: Okay. Our first
21 witness is Mr. Pate who is one of the
22 neighbors. He will be presenting --

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1 COMMISSIONER MAY: Mr. Hitchcock,
2 I'm sorry. Can you also pull the microphone
3 slightly away from you because it's really
4 blowing the sound.

5 MR. HITCHCOCK: The first witness
6 is Mr. Bill Pate who lives on 8th Street a
7 couple doors up from the alley next to where
8 the north building will be.

9 We submitted a statement from
10 Marion Connolly who is another neighbor on
11 June 5th. That is in the record. What we
12 will be doing is presenting that. Mr. Pate
13 will be presenting for Ms. Connolly who is out
14 of town. As soon as I get the PowerPoint up
15 we'll start.

16 Mr. Pate.

17 MS. SCHELLIN: Before he starts,
18 do you want the lights off?

19 MR. HITCHCOCK: I don't think so.

20 MS. SCHELLIN: Okay.

21 MR. WILLIAM PATE: Chairman Hood
22 and members of the Commission, I speak tonight

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1 on behalf of the dozens of property owners who
2 live north of the Hine School. The majority
3 of our group live within 200 feet of the site.
4 I want to briefly highlight our positions and
5 major concerns which we set out more fully in
6 our June 5th letter to you.

7 We support mixed-use development
8 of the Hine site. However, we have concluded
9 that the PUD application and proposed map
10 amendment are seriously inconsistent with the
11 character and values of the long-established
12 Capitol Hill historic district, specifically
13 the Eastern Market Neighborhood.

14 The excesses of the Hine School
15 development project include proposed building
16 heights, scale, and density, the intensity of
17 commercial and residential uses, traffic
18 congestion and pedestrian safety, the loss of
19 light and air, limited open space for public
20 use, and the reduction and space for the flea
21 markets.

22 As proposed, the Hine project

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1 requires major compromises of existing D.C.
2 comprehensive planning policies and zoning
3 regulations. For example, there is no C-2-B
4 area anywhere near the PUD site.

5 I want to briefly address three
6 additional concerns. First, the north
7 building remains a critical issue. We
8 strongly support affordable housing on the
9 Hine site but the many issues surrounding the
10 design use and encroachment of this building
11 illustrate how ill-suited this narrow strip of
12 land is for this or any building on this
13 parcel.

14 Among the negative impacts that
15 this building will create are segregation of
16 affordable housing rather than inclusionary
17 housing, loss of light and air for surrounding
18 residents, community members and visitors, and
19 loss of privacy with no possibility of rear-
20 yard set backs. The four story wall of
21 windows will look directly onto and into
22 neighboring homes and gardens.

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1 The best alternative for this
2 building is to integrate the affordable
3 housing into the plaza building, retain the
4 north parcel in public ownership, and make
5 this a public green space that compensates the
6 community somewhat for the loss of light, air,
7 and recreational space.

8 If the north building is retained,
9 reasonable mitigations of the negative impacts
10 include retaining the R-4 zoning for this
11 building requiring all deliveries be made from
12 7th Street or the reopened C Street, and
13 relocating garbage pickup to the west end of
14 the building.

15 The second concern is privatizing
16 the reopened 700 block of C Street. There is
17 no known public benefit to making the reopened
18 C Street a private street. Mr. Oberlander
19 will discuss this issue in more detail but we
20 prefer that the city retain full authority
21 over the right-of-way.

22 Third, traffic and transportation.

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1 In the past year-and-a-half we have raised
2 numerous issues and concerns related to
3 traffic volume and patterns, garage entrances,
4 pedestrian safety, loading and unloading of
5 delivery trucks on the site including proposed
6 use of the east/west alley.

7 Despite numerous discussions to
8 date little has changed. Mr. Mehra, our
9 traffic expert, will address the
10 transportation analysis and make
11 recommendations he thinks the Commission
12 should consider. Thank you. This concludes
13 my statement.

14 MR. HITCHCOCK: Mr. Oberlander
15 will proceed next as soon as I get the
16 presentation up.

17 MR. OBERLANDER: Chairman Hood and
18 members of the Commission, you know my name is
19 George Oberlander. A copy of my report dated
20 June 4, 2012 has been submitted and I believe
21 you have it.

22 Due to the hearing time

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1 constraints, my testimony summarizes the
2 report and the content and the conclusions of
3 the report. The report finds that the
4 principal purpose of the PUD and map amendment
5 is to effectuate the land disposition and
6 development agreement.

7 My report finds that the most
8 serious impact of the proposal, the magnitude
9 of the bulk and building height are found to
10 be unacceptable within the existing two and
11 three-story built neighborhood character.

12 The PUD should not be approved as
13 currently presented. The bulk needs
14 additional further mitigations as indicated on
15 the slide here showing the minimum bulk and
16 height that needs to be removed.

17 More specifically, the report
18 deals with the purpose of the requested map
19 amendment from R-4 to C-2-B which would allow
20 the density and the height necessary to
21 implement the objectives of the LBDA and
22 certain policy goals of the District elements

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1 of the comprehensive plan.

2 The well-intentioned public
3 purpose of the LDDA seems to be at cross
4 purpose with existing public purpose for the
5 current zoning. Namely, to protect property
6 from the adverse impacts and preserving the
7 character of the existing neighborhood.

8 The Applicant implies that only C-
9 2-B can work. My report analyzes the zoning
10 map amendment and concludes that the C-2-B
11 zoning for this site is arbitrary and only
12 proposes for a singular property meaning
13 Square 901. No other C-2-B zoning exist in
14 the immediate area.

15 Now I would like to mention
16 quickly the alternative zoning that is shown
17 in the lower part of that square. It
18 recommends that C-2-A zoning be placed over
19 the western half of Square 901 which would
20 complement the east and existing zoning in
21 Square 873 across 7th Street and the existing
22 zoning directly north of the subject site for

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1 the western half of Square 900 while leaving
2 the eastern half of Square 901 in the R-4
3 category. Such a zoning pattern for Square
4 901 allows a lesser dense mixed-use
5 development more appropriate for the in-fill
6 type location in this historical Capitol Hill
7 residential neighborhood.

8 This alternative zoning pattern
9 carries out the intent of Section 6-641.02 of
10 the regulation which is shown in the governing
11 provision. I won't read all that. It is also
12 in keeping with the purpose of the CHC overlay
13 zone, Capitol Hill commercial overlay zone
14 Section 1570.2(d) which is on the screen.

15 My report explains on pages 17 and
16 19 why Square 901 for zoning purposes can be
17 considered a pivotal or transition square
18 transitioning from purely R-4 zoning, the
19 three-story 40-foot residential housing area
20 to the CHC/C-2-A overlay medium density
21 community business center which allows a
22 height of 50 feet.

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1 Page 19 through 24 of the report
2 provides recommendations concerning the more
3 appropriate density and heights for Square 901
4 that can be accommodated on that square within
5 the land use policy of mixed use in the
6 neighborhood conservation area. I underscore
7 this is a neighborhood conservation area.

8 Now I would like to turn to the
9 comprehensive plan policy. The report finds
10 that the PUD and the requested map amendment
11 are inconsistent with the two most specific
12 explicable comprehensive plan policies shown
13 on the screen. Mainly they would be violating
14 the policy CH1.11.1 dealing with conserving
15 residential uses and the direct growth policy
16 of the Capitol Hill area, policy CH1.114.

17 While you review these two
18 policies I would like to emphasize that the
19 current zoning for Square 901 is not
20 commercial. There is another policy disparity
21 and incongruity. Policy CH2 on pages 15
22 through 25 of the comprehensive plan suggest

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1 for the vicinity of East and Market Metrorail
2 station moderate density housing with ground
3 floor retail on under-used commercial sites in
4 the station vicinity. There is no mention of
5 any office use in that policy. This policy
6 calls for mixed housing with ground floor
7 retain in quotes. The site is not an under-
8 used commercial site. This section of the
9 report also finds that the moderate density
10 commercial land use map category applies to
11 buildings not to exceed 5 stories, or 50 feet.
12 Therefore, the lesser commercial land use
13 category is a more appropriate land use.

14 Pages 30 through 31 of my report
15 finds that the OP endorsement is not fully
16 supported by applicable comprehensive plan
17 policies. The OP final report did not alter
18 the finding and, in fact, asked for additional
19 information.

20 Since I have only a half minute
21 left, my testimony deals with the policies
22 that the HPRB has outlined in preserving

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1 communities and the character of their
2 communities. I want to emphasize that the
3 policies shown on there deal with lower
4 density housing of whatever it says on there.

5 There's another policy -- sorry.
6 Where am I? My report finds that the HPRB
7 recommendation and published objectives have
8 not been sufficiently and/or completely
9 accepted due to the fact the HPRB's own
10 building height guidelines for new
11 construction have not yet been applied.

12 Finally, my report concludes with
13 a specific recommendation as shown on the last
14 two slides. That is the next slide, please.

15 Comprehensive plan future land use
16 map designation of mixed use can be
17 interpreted at this location as transitional
18 between the existing R-4 zoning and the
19 adjacent CHC C-2, a commercial zone.

20 Let me reiterate there is no
21 justification for the requested C-2B zoning.
22 To accommodate a mixed-use development for

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1 zoning purposes, Square 901 can be divided, as
2 I suggested, in half with the western portion
3 rezoned to CHC C-2-A and the eastern portion
4 retaining its R-4 classification.

5 Finally, due to the block-wide
6 length and narrowness of the second lot to be
7 created in the north component, the lot should
8 be conditioned or restricted to a height limit
9 of 40 feet and the height of the rear portion
10 of the structures required to respect the
11 privacy of existing homes directly adjacent to
12 it.

13 I apologize for rushing through
14 this but the time limits are strict. I would
15 be happy to answer any questions you may have.

16 MR. HITCHCOCK: Mr. Mehra.

17 MR. MEHRA: Good evening. I have
18 reviewed the traffic studies, technical
19 appendices, and the synchro model. Based on
20 my review I conclude that the Symetra analysis
21 remains deficient and does not support the
22 conclusions reached regarding the proposed

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1 redevelopment.

2 Symmetra underestimated future
3 traffic conditions and the impact of the
4 proposed plan. Examples include ignoring
5 traffic queues and the effect of such queues
6 on traffic, underestimating the site-generated
7 vehicle trips, failing to measure truck and
8 bus traffic.

9 A spot check shows errors in
10 traffic assignments for the site traffic. The
11 traffic volumes for some movements on
12 Pennsylvania Avenue at 7th Street and 8th
13 Street appear to be the same for both the
14 background and total conditions.

15 Due to these errors, Symmetra goes
16 on to indicate that there is really no change
17 in the delay between background conditions and
18 total conditions with drawing.

19 The level of service on 8th Street
20 at C Street lessens to level of service F from
21 a level of service C with the development. No
22 mitigation is provided for this impact.

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1 Therefore, the Symmetra results are invalid
2 due to the large number of deficiencies and
3 errors noted and should not be relied upon to
4 predict adverse traffic impacts.

5 Symmetra collected traffic and
6 parking data to conduct the traffic analysis.
7 However, some critical data elements may not
8 have been observed or collected in the field.
9 These data items include comprehensive truck
10 and bus counts.

11 The higher the percentage of
12 trucks and buses in the traffic stream the
13 lower the level of service. The observation
14 of existing fuel is important because the
15 intersection level of service analysis using
16 the synchro model resulted in good levels of
17 service at most of the intersections.

18 However, the corridor analysis
19 resulted in level of service F for all three
20 time periods. Further, Symmetra states, and
21 I quote, "Existing weekend intersection
22 analysis results indicate all intersections

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1 operate within an acceptable threshold.
2 Field observations indicate congestion and
3 delay along southbound 8th Street."

4 There is a contradiction between
5 intersection analysis that results in good
6 levels of service and observed conditions to
7 the contrary. In terms of future conditions,
8 I agree with DDOT's assessment on the
9 shortcomings of the trip generation analysis.

10 COG and DDOT conducted a survey at
11 the residential apartment building near a
12 Metro station using lobby interviews and found
13 a 52 percent auto mode travel during the PM
14 peak hours. This would suggest that the
15 residential trips by Symmetra are being
16 underestimated by approximately 57 percent.

17 The office trips are also being
18 underestimated. Fifty percent auto mode is
19 assumed for the office use. However, the
20 WMATA document cited by Symmetra shows a 66
21 percent auto mode. This will suggest that the
22 office trips are being underestimated by

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1 approximately 33 percent.

2 In terms of parking, the existing
3 parking service showed that the personal
4 parking spaces occupied are in the 83 to 95
5 percent range. Therefore, all parking for the
6 development would have to be met on site.

7 CHAIRMAN HOOD: Okay.

8 MR. HITCHCOCK: Mr. Chairman,
9 EMMCA has graciously given us five minutes of
10 their time so Mr. Mehra will wrap up and it
11 will come out of EMMCA's time when they go.

12 MR. MEHRA: Conclusions. The
13 traffic analysis is deficient and erroneous
14 and cannot be used to determine the traffic
15 impacts.

16 In summary, the errors and
17 deficiencies are as follows: ignoring traffic
18 queues and the effect of such queues on
19 traffic and levels of service. Errors in lane
20 widths, right-turn-on-red assumptions are used
21 in the synchro model.

22 Underestimating vehicle trip

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1 generation that affects the level of service.
2 Errors in trip distribution assignments that
3 affect levels of service. Level of service on
4 8th Street at C Street lessens to level of
5 service F from level of service C at the
6 development and no mitigation is provided for
7 this impact.

8 There are significant differences
9 between the intersection levels of service
10 which are level of service D or better and the
11 corridor level of service which is level of
12 service F along 8th Street. Thank you.

13 MR. HITCHCOCK: Thank you, Mr.
14 Chairman.

15 CHAIRMAN HOOD: Okay. Let's open
16 it up for questions. Any questions?

17 VICE CHAIRPERSON COHEN: Yes.

18 CHAIRMAN HOOD: Vice Chairperson.

19 VICE CHAIRPERSON COHEN: Thank
20 you, Mr. Chairman.

21 Mr. Mehra, I notice that you do
22 say you agree with DDOT's assessment on the

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1 shortcomings of the trip generation analysis.
2 But subsequently DDOT got additional
3 information and is evaluating it more
4 thoroughly and asked for three weeks. Did you
5 have the opportunity to review that
6 information, the most recent, that was
7 submitted by the Applicant?

8 MR. MEHRA: Yes, I did review the
9 most recent information that was provided on
10 June 14th, June 18th, and some of it today.
11 The report of presentation that I made
12 actually incorporates the latest information
13 that Symmetra has provided.

14 VICE CHAIRPERSON COHEN: Thank
15 you.

16 CHAIRMAN HOOD: Okay. Any other
17 questions up here?

18 Commissioner May.

19 COMMISSIONER MAY: I have a
20 question for Mr. Oberlander.

21 On the second page of your
22 presentation you have an image. Maybe you

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1 want to bring that up. Well, it's the second
2 page of what I'm looking at. If you could
3 bring that up, it would be very helpful.

4 Okay, that one.

5 What's the dimension of 8th Street
6 there?

7 MR. OBERLANDER: 8th Street is 100
8 feet wide. The right-of-way is 100 feet wide.

9 COMMISSIONER MAY: Okay. So that
10 is the dimension line the string that we're
11 seeing at the bottom of the page on the left
12 under 8th Street is 100 feet. That is the
13 dimension line that we are seeing under 8th
14 Street there on the left side.

15 MR. OBERLANDER: Yes.

16 COMMISSIONER MAY: Okay. So this
17 image has been squished. Right? I mean,
18 otherwise you're indicating that the building
19 itself is well more than 100 feet tall.

20 MR. OBERLANDER: This is the image
21 in the Applicant's drawing. I just used it to
22 show the portions that I believe need to be

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1 removed.

2 COMMISSIONER MAY: I understand
3 what you are trying to indicate on it. I
4 mean, I looked at that and it was a very
5 disturbing image because it looks like the
6 building is really towering over everything
7 but I think everything is a little bit more
8 spread out than on the image that you're
9 showing.

10 MR. OBERLANDER: I'm using their
11 diagram.

12 COMMISSIONER MAY: Okay. I think
13 you should check because I think it somehow
14 has been distorted because otherwise it's 100
15 feet tall on 8th Street which I don't think is
16 correct.

17 MR. OBERLANDER: My information is
18 that the building on 7th Street the highest
19 point is around 88 feet. The building on 8th
20 Street is close to 60 feet.

21 COMMISSIONER MAY: Right, at the
22 tallest point, yeah. Okay. I just wanted to

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1 clarify that because -- I can't hear you.

2 MR. OBERLANDER: Those are heights
3 which I believe are too high. Those are
4 heights that I believe are too high for the
5 character of the neighborhood.

6 COMMISSIONER MAY: Right. You
7 said that in your testimony. I didn't have
8 any question about that.

9 I guess the comprehensive plan
10 future land use map designation, do you
11 disagree that C-2-B is within the realm of
12 what is indicated on the map?

13 MR. OBERLANDER: The
14 classification on the map is a mixed-use area.
15 It could be both in terms of how you interpret
16 the zoning categories and the relation to the
17 mixed-use character on the map.

18 My analysis shows that the density
19 proposed under the C-2-B, although it doesn't
20 -- the developer doesn't use all the capacity
21 that the C-2-B provides is too much for that
22 site. My analysis indicates that the C-2-A

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1 type zoning is more appropriate for the
2 western portion of the square and the eastern
3 portion should remain in the R-4 category
4 which is a mixed-use category.

5 COMMISSIONER MAY: R-4 is a mixed-
6 use category?

7 MR. OBERLANDER: The whole site,
8 the square, would be a mixed use --

9 COMMISSIONER MAY: The site would
10 be split zoned in that circumstance.

11 MR. OBERLANDER: Split zoning,
12 yes.

13 COMMISSIONER MAY: Which is not
14 inherently contradictory with the future land
15 use plan because it's currently R-4. It's
16 just a question of what gets remapped.

17 MR. OBERLANDER: If you look at
18 the zoning map you see a good number of split
19 zones or split squares in this area.

20 COMMISSIONER MAY: I'm not so much
21 questioning that. I just wanted to understand
22 whether you thought C-2-B in totality not

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1 permitted or not appropriate under the future
2 land use map and you're not saying that.
3 You're just saying that the way this has been
4 proposed is inappropriate and it would be
5 better to split zone.

6 MR. OBERLANDER: That's right.

7 COMMISSIONER MAY: Okay. Thanks.

8 CHAIRMAN HOOD: Any other
9 questions?

10 COMMISSIONER TURNBULL: I just
11 have one questions, Mr. Chair. It's for Mr.
12 Pate. You had some comments on the north
13 building.

14 MR. WILLIAM PATE: That is
15 correct.

16 COMMISSIONER TURNBULL: Scale
17 wise, though, the north building is not out of
18 scale with the neighborhood and the homes
19 behind it. It's only about 10 feet taller.
20 It's not really --

21 MR. WILLIAM PATE: Right, but
22 there is insufficient setbacks, rear setbacks,

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1 so that it's right on top of that alley so you
2 have a four-story building overlooking this
3 20-foot alley looking directly into the
4 windows of the nearest house as well as the
5 backyards probably for the first two or three
6 houses.

7 My understanding of the entire
8 purpose of a sufficient setback is to avoid
9 that particular situation. The problem with
10 this current configuration is that if you had
11 that setback, then the building would no
12 longer exist because it's such a small area.
13 There are some issues with the north building.

14 COMMISSIONER TURNBULL: You also
15 make a point of talking about segregation of
16 affordable housing.

17 MR. WILLIAM PATE: Correct.

18 COMMISSIONER TURNBULL: Do you
19 feel that's a critical issue for you?

20 MR. WILLIAM PATE: It seems to be
21 very problematic with the earlier testimony by
22 ANC. There is the issue -- I mean, as you

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1 brought up in earlier testimony there is the
2 issue of access to parking.

3 There's the issue of different
4 amenities for the people in the north
5 building. It's very different living
6 environment and so concentrating the
7 affordable housing into a building where it
8 was indicated by one of the individuals on the
9 Applicant's side that investments in
10 affordable housing makes it easier if it's all
11 together.

12 But, according to that testimony,
13 it does not sound like that it's prohibitive.
14 It's not something that they can't invest in
15 if it's not so concentrated. It does seem to
16 create a number of problems with that
17 concentration.

18 One of the things that we had in
19 our testimony one way to deal with that is to
20 push the affordable housing into the south
21 building so that it's more inclusive, so that
22 it's included in that, so it meets the intent

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1 of affordable housing rather than
2 concentrating into this building.

3 COMMISSIONER TURNBULL: Thank you.

4 CHAIRMAN HOOD: Any other
5 questions?

6 Mr. Oberlander, you mentioned on
7 page 3 of your report that the -- you talk
8 about the Office of Planning's report not
9 coming to rationale for favorable use from
10 going from R-4 to C-2-B.

11 This may be in line with what you
12 just mentioned. Are you recommending another
13 zone or are you just saying there's not enough
14 evidence to go from R-4 to C-2-B? I'm not
15 following that point.

16 MR. OBERLANDER: I'm saying that
17 there is no C-2-B zoning anywhere near this
18 site. There is C-2-A zoning across the street
19 on 7th Street and also further north west of
20 this site that you could draw over to half of
21 the square and leave the other half in the R-
22 4. If you look at the map but I don't have a

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1 pointer.

2 CHAIRMAN HOOD: That's okay. You
3 can describe it.

4 MR. OBERLANDER: The lower half
5 shows where the C-2-A zoning exist west of the
6 square and the northwest corner.

7 CHAIRMAN HOOD: That's all right.
8 Just describe it. That would be all right.

9 MR. OBERLANDER: The report has
10 this map in it and if you look at it, you'll
11 see that this drawing, the official zoning map
12 of the District of Columbia, the lower part
13 shows an arrow coming from the Square 873, I
14 think it is.

15 It's not readable in this
16 reproduction. That is where the Capitol Hill
17 commercial C-2-a exist and that is across the
18 street from the western portion of this
19 square.

20 There is also a C-2-A area which
21 is the zoning for the market itself. On the
22 east side of the market is another Capitol

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1 Hill commercial zone which you draw down for
2 the northern part of the square and the rest
3 of the square and leave the R-4 alone.

4 You conceivably could push -- but
5 I'm not testifying to that -- the C-2-A
6 further to 8th Street. That wouldn't be
7 unusual. I think preserving the character of
8 the Capitol Hill historic district, this kind
9 of split zoning is preferable.

10 CHAIRMAN HOOD: Thank you. Any
11 other questions? Okay. Let's see if we have
12 any cross-examination.

13 CROSS-EXAMINATION

14 CHAIRMAN HOOD: Does the Applicant
15 have any cross, Mr. DuPuy?

16 MR. DUPUY: Mr. Oberlander, with
17 respect to your statement that the eastern
18 half of the block should retain its R-4
19 classification, would an apartment house
20 including a condominium be allowed under the
21 R-4 district?

22 CHAIRMAN HOOD: Mr. Oberlander,

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1 make sure you have your microphone on.

2 MR. OBERLANDER: You know very
3 well that it wouldn't, no. My testimony was
4 that the magnitude --

5 MR. DuPUY: You've answered my
6 question. Thank you.

7 Do you believe as an expert in
8 land planning and zoning that an apartment
9 house is inappropriate land use facing 160-
10 foot right-of-way at Pennsylvania Avenue
11 across the street from a Metrorail station?

12 MR. OBERLANDER: I didn't testify
13 to that at all.

14 MR. DuPUY: I'm asking you as an
15 expert whether an apartment house is an
16 appropriate land use in that location.

17 MR. OBERLANDER: It depends on the
18 existing zoning. The current zoning wouldn't
19 allow it. As the Applicant you have applied
20 for creating a commercial zone which would
21 permit a taller building whether it's an
22 apartment or an office. That's what mixed use

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1 is talking about.

2 MR. DuPUY: Is it your testimony
3 that that row dwellings on Pennsylvania Avenue
4 are an appropriate land use?

5 MR. OBERLANDER: I don't think
6 there is anything to do with this particular
7 site.

8 MR. DuPUY: Did you not advocate
9 R-4 for half of the block?

10 MR. OBERLANDER: Yes.

11 MR. DuPUY: And aren't row
12 dwellings a predominate use in the R-4 zone?

13 MR. OBERLANDER: What kind of --

14 MR. DuPUY: Row dwellings.

15 MR. OBERLANDER: Row dwellings,
16 yes.

17 MR. DuPUY: Is it correct that
18 you're advocating row dwellings on
19 Pennsylvania Avenue in the eastern half of the
20 block?

21 MR. OBERLANDER: I'm advocating
22 that if this zoning remains the way it is that

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1 you could have row dwellings coming southward
2 along 8th Street which would side up to D
3 Street. Not to Pennsylvania Avenue but to D
4 Street. Pennsylvania Avenue is a little bit
5 further down.

6 MR. DuPUY: If the Commission were
7 to accept your recommendation to rezone the
8 eastern portion of the R-4 and the western
9 portion of the C-2-A, have you analyzed how
10 many residential units could be accommodated
11 in such a zone category?

12 MR. OBERLANDER: No, I haven't but
13 it would require the developer to drop about
14 eight units from the present design.

15 MR. DuPUY: Have you analyzed --
16 first of all you said no and now you are
17 offering an opinion as to how many units?

18 MR. OBERLANDER: I did not analyze
19 how many units could be placed along the
20 entire length of the square. What I did
21 analyze is how many units the developer would
22 lose if they reduce the height to no more than

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1 the 50 feet that I was suggesting.

2 MR. DuPUY: But I was asking you
3 about the entire site including the eastern
4 half as well as the western half.

5 MR. OBERLANDER: That is why I
6 said no.

7 MR. DuPUY: Okay. Thank you. Are
8 you aware that there is C-2-B located at the
9 Potomac Avenue and Pennsylvania Avenue at a
10 Metrorail station?

11 MR. OBERLANDER: I am aware that
12 C-2-B exist over there but the developer has
13 said that he wants to drive the commercial
14 type uses from Barracks Row up to this
15 direction. Barracks Row is C-2-A.

16 MR. DuPUY: I have a question for
17 Mr. Mehra.

18 Mr. Mehra, in your statement and
19 in your written analysis you indicate that for
20 parking analysis there is no excess parking
21 capacity in the neighborhood. Therefore, all
22 parking demand for the neighborhood would have

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1 to be met on site.

2 In view of that statement have you
3 formed an opinion as to whether the amount of
4 parking proposed by the Applicant in the
5 project is adequate?

6 MR. MEHRA: No, I did not really
7 analyze the amount of parking needed or being
8 supplied. What I looked at was the data that
9 Symmetra provided which showed that the
10 evenings and weekends there was about 85 to 95
11 percent space utilization. When you look at
12 about 10 to 15 percent parking efficiency,
13 essentially what it shows is that there is no
14 parking available for the development in the
15 neighborhood.

16 MR. DuPUY: Off site.

17 MR. MEHRA: Off site.

18 MR. DuPUY: Thank you.

19 I have no further questions, Mr.
20 Chairman.

21 CHAIRMAN HOOD: Thank you. Let me
22 make an announcement I was suppose to make

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1 earlier. We will be taking up the witness
2 list so if you have not signed in tonight, you
3 need to sign in in support or opposition.
4 Tonight we are cutting off the witness list.
5 If not we will have this hearing in October so
6 we are going to cut off the witness list
7 tonight.

8 We have your name. You've been
9 giving me the score so we got your name.
10 Thank you.

11 ANC-6B, do you have any cross-
12 examination? Okay.

13 CHAMPS, do you have any cross-
14 examination? CHAMPS? CHAMPS went home to
15 watch the game. Okay.

16 Hine School North, do you have any
17 cross-examination -- it must be getting late.
18 Eyes on Hine? Okay. Great.

19 EMMCA? Okay. And Diverse Market.
20 Okay.

21 Who is next? Okay. Let's go to
22 Eyes on Hine.

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1 MS. LaFOLLETTE: Thank you. I'm
2 Marcel LaFollette. I represent Eyes on Hine.
3 Thank you to the Commission for allowing me
4 the opportunity to speak tonight.

5 I'm here to voice the concerns of
6 the residents directly across the street from
7 the Hine School, the adults and children who
8 will be most immediately affected by the
9 project you approve.

10 Our organization, Eyes on Hine,
11 was founded in 2009. Our members have
12 participated at every step of the process in
13 every public meeting and we have done so in
14 good faith.

15 Our households will see the
16 development from our front doors and windows.
17 If the project is built as tall and massive as
18 currently proposed, we will suffer immediate
19 adverse impacts from loss of light, loss of
20 sky, increased noise, increased air, and night
21 time light pollution and the street congestion
22 and parking problems created by development

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1 generated traffic.

2 We are the residents who will
3 suffer adverse impacts from demolition and
4 construction no matter what is built. Because
5 of that, we have been engaged in an attempt to
6 negotiate a construction management agreement
7 to protect our homes, many of which are 19th
8 structures that could be irreparably damaged
9 by demolition and construction.

10 We hired a well-respected
11 attorney, Cynthia Giordano of Saul Ewing, to
12 represent our interest. Ms. Giordano
13 delivered a draft construction agreement to
14 Stanton-Eastbanc on the morning of June 7th
15 and was told that the developers would respond
16 within a day or two.

17 Yesterday afternoon she finally
18 received a document which does not come close
19 to addressing our concerns. We remain deeply
20 disappointed with the developer's
21 unwillingness to meet our request for a
22 responsible and proactive construction

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1 management similar to that provided to
2 residents elsewhere in the city.

3 Despite what we know will be a
4 lengthy period of neighborhood disruption,
5 Eyes on Hine has never opposed construction of
6 a mixed-used develop on the site. We are,
7 however, united in opposition to this request
8 for zoning relief. We believe that it should
9 be built but built better and built smaller.

10 The comprehensive plan designates
11 where we live as a neighborhood conservation
12 area and urges that the development in such
13 areas be limited, small in scale, and
14 compatible with existing buildings. We believe
15 the construction of a six-story building next
16 to far smaller scale residential neighborhoods
17 does not meet that standard.

18 An additional and critical aspect
19 of compatibility is the level of permissible
20 commercialization. If you will require that
21 those sections of the project abutting the
22 residential areas must conform to R-4 zoning

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1 height and scale limitations and be solely
2 residential in use, then you will help us to
3 preserve the character of our neighborhood as
4 called for in the comprehensive plan.

5 The proposed variance would allow
6 the project to exceed all reasonable limits
7 for height, massing, and proportion of new
8 construction within an historic neighborhood.
9 These are the very protections that we look to
10 the Commission to secure on our behalf.

11 As the site context model has
12 demonstrated, the buildings of the project
13 would loom over our houses. The Eastern
14 Market Neighborhood is now consistently listed
15 among the nation's best and is a tourist
16 destination.

17 That is in part because of the
18 individual residents' hard work and investment
19 in restoring, repairing and preserving
20 historic properties. Rather than
21 complementing the neighborhood such a massive
22 development disrespects its modest scale and

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1 character.

2 Good developers, to quote a major
3 architect, respect neighboring buildings.
4 They do not overpower or talk down to them.
5 The Eastern Market Neighborhood is a visual
6 and cultural attraction, a historic place, not
7 a retail destination. Build it but build it
8 so it fits the neighborhood.

9 Current zoning maps and
10 regulations which restrict lot size and height
11 on private property have preserved that
12 pleasant human scale of tree lined Capitol
13 Hill streets. The residents of Square 924
14 cherish a walkable neighborhood and access to
15 public transportation.

16 The new residents of the proposed
17 development should have the same experience
18 but we remain concerned that hundreds upon
19 hundreds of new residents and thousands upon
20 thousands of additional clients, customers,
21 and restaurant patrons, many of whom we know
22 will probably not use public transportation,

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1 will have an adverse impact on the
2 neighborhood.

3 Of all the structural elements in
4 the project, the excessively tall component at
5 the corner of 8th and D seems the most
6 inappropriate. That building design and scale
7 is out of character with the historic
8 district. Its height and mass will adversely
9 impact the structures across the street.

10 We appeal to the Commission to
11 apply the same standards to large property
12 owners as they are applied to smaller owners
13 who seek to build a model addition in the
14 historic district. Build us a project
15 compatible with its context.

16 Although I represent the 300 block
17 many of our concerns are shared by other
18 residents in Square 924. Every foot of
19 additional building height means that the
20 shadows will fall earlier on Square 924
21 depriving us of the opportunity to assist in
22 achieving the admirable goal stressed in the

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1 D.C. Green Building Act.

2 Several neighbors, I believe, have
3 provided data about solar panels, their own,
4 and what the effect of these shadows will be
5 on them.

6 We have urged the developers to
7 construct a building that achieves 21st
8 century environmental ideals. They are
9 depriving us of many of the benefits of adding
10 solar panels and, yet, are requesting relief
11 to construct a building that will not yet meet
12 the highest standards possible of
13 environmental conservation and energy
14 production.

15 The proposal to place restaurants
16 and retail operations on the 700 block of D
17 would eliminate an appreciable longtime buffer
18 zone between the heavy commercial activity
19 along 7th Street and our residences. The
20 development site has always been a school and
21 noncommercial.

22 The suggested inclusion of

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1 substantial numbers of bars and restaurants
2 threatens established community values and
3 standards for this family-oriented
4 neighborhood.

5 We urge the Zoning Commission to
6 sustain the neighborhood as a family friendly
7 area as it has been for two centuries even if
8 the site will no longer contain a school or
9 other educational facilities as the community
10 has consistently asked the developer to
11 include.

12 Some of the original designs
13 contain Shakespeare Theater Company residences
14 and offices near the corner of 8th and D.
15 That proposed nonprofit public benefit use is
16 one that secured support from many in the
17 neighborhood.

18 Then the developers began to
19 insist that no one would want to live on the
20 first floor of D Street despite the fact that
21 they proposed first-floor luxury apartments
22 along 8th Street which I can testify is a bar

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1 busier and far noisier street.

2 Now they propose heavy commercial
3 retail activity on that corner. We have
4 suggested a number of alternative nonprofit
5 public oriented uses for that space such as
6 child or infant care.

7 If they are not available as a
8 tenant, there are hundreds of visiting
9 scholars and scientists who arrive in the
10 District every year and will be happy to rent
11 from a selection of small efficiency
12 apartments at that corner.

13 The residents of the 300 block of
14 8th Street vigorously objects to restaurants,
15 retail store, commercial offices, liquor
16 stores, online gambling, nightclubs, or strip
17 clubs along the D Street side of the complex.

18 We have suggested alternative
19 public oriented nonprofit uses, one that would
20 still provide revenue for the developers,
21 offer benefits to the city, and add activity
22 to that corner. We ask the Commission to deny

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1 the zoning exemption that might allow the
2 destruction of a central buffer between the
3 commercial and residential areas now or in the
4 future.

5 The D.C. Historic Protection Act
6 is intended to promote an equitable balance
7 between the rights of private individual
8 property owners and the benefits of
9 preservation and to promote the protection,
10 enhancement, and perpetuation of historic
11 districts which represent distinct
12 developments in the city's history.

13 If this project is approved as
14 currently designed, the buildings facing our
15 homes will alter the streetscape from one of
16 over 50 percent open space, including that
17 parking lot that contains the flea market, to
18 one of zero percent.

19 For the first time in history and
20 in violation of the encouragement and
21 protection of neighborhood open space there
22 will be no open space on the Hine School block

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1 accessible to the public. With the current
2 design the varying and wide setbacks of city-
3 owned land along the west side of 8th Street
4 will disappear.

5 For that reason we have asked that
6 the proposed 8th Street apartment entrance
7 simply be lowered and pushed back into the
8 property surrounded by inviting open green
9 space. We have asked that the developers
10 reopen the gates to the inner courtyard or
11 devised some other solution to conform to the
12 spirit of openness that has long distinguished
13 our neighborhood.

14 The developer's plans for handling
15 what will be a vastly increased volume of
16 traffic remain inadequate. I do not need to
17 belabor that point. You've heard adequate
18 testimony on it. 8th Street is a designated
19 evacuation route. It's also a vital route for
20 emergency vehicles to reach District residents
21 north or Independence Avenue.

22 The traffic jams created by non-

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1 local people looking for parking places could
2 adversely impact public safety by impeding the
3 passage of emergency vehicles from the 8th
4 Street fire station.

5 We request that the city work with
6 the developers and the D.C. police, fire, EMS,
7 and Homeland Security to review the design,
8 the garage entrances, the truck loading plans
9 and reassure us and the rest of the community
10 that public health and safety will continue to
11 be protected at the high level those services
12 now provide.

13 This is a project on public land.
14 We continue to be deeply disappointed in a
15 lack of significant public benefits in return
16 for a request for a major zoning exemption.
17 The developer should offer substantial, not
18 token packages of benefits, ones that are
19 available to all residents of the District,
20 not merely ANC-6B.

21 Although the Hill has evolved over
22 two centuries, our neighborhood remains

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1 fragile and vulnerable. As a professional
2 historian I just happened to have written and
3 published about a family that lived on the
4 Hill during the early 20th century long before
5 this project began.

6 The archival accounts that I would
7 read of community and neighborhood life were
8 often similar to what I was experiencing in my
9 20 years on the Hill. Capitol Hill has been
10 for a very long time a residential area filled
11 with families.

12 With the exception of the Navy
13 Yard, the pockets of commerce have been
14 concentrated at street corners or on a single
15 block or two mostly near the Marine Barracks
16 or the Capitol. Yes, change has come to the
17 Hill in recent decades but this huge
18 development threatens to overwhelm the
19 adjacent neighborhood and change it
20 irreversibly.

21 Give us a development that in
22 height, design, and appropriate amounts of

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1 commercialization complements its surrounds.
2 The residents of our block are willing and
3 ready to cope with the demolition of the
4 school and a major construction project but we
5 respectfully urge the members of the Zoning
6 Commission to assist us in protecting our
7 neighborhood to protect us from the
8 encroachment of unwanted and potentially
9 deleterious commercial activity, and to
10 preserve our neighborhood for its youngest
11 residents, provide a suitable legacy for the
12 next generation of Washingtonians. They will
13 inherent the results of your decisions. Build
14 it, yes, but build it better. Thank you.

15 CHAIRMAN HOOD: Okay. Thank you
16 very much.

17 Any questions up here,
18 Commissioners? Any questions?

19 COMMISSIONER TURNBULL: Yes. You
20 are talking about the -- what about the design
21 that is presented as far as architecture? You
22 don't feel that has any compatibility to the

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1 neighborhood?

2 MS. LaFOLLETTE: I think we feel
3 it is evolving and is evolving in the right
4 direction. Many of the people on the block
5 would still prefer to see something that
6 mirrors more the styles of our houses. We
7 argued that case in front of HPRB.

8 COMMISSIONER TURNBULL: You
9 mentioned concerns about the construction
10 management agreement but you did hear tonight
11 the Applicant is going to proffer a
12 construction management agreement.

13 MS. LaFOLLETTE: The Applicant --

14 COMMISSIONER TURNBULL: You
15 haven't seen it yet but --

16 MS. LaFOLLETTE: The Applicant has
17 proffered an agreement to the ANC. It does
18 not include our residences or our residents as
19 a party to that agreement.

20 COMMISSIONER TURNBULL: I think we
21 could probably work that out some how.

22 MS. LaFOLLETTE: We would

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1 appreciate that.

2 COMMISSIONER TURNBULL: I think we
3 can work with the Applicant on that. You are
4 also concerned about the corner of 8th and D?

5 MS. LaFOLLETTE: Yes.

6 COMMISSIONER TURNBULL: It's now
7 shown as kind of a nebulous. You're not going
8 to see anything supposedly from 8th Street but
9 you're still concerned about D Street and
10 what's going to be there?

11 MS. LaFOLLETTE: D Street does
12 take that little angle so, in fact, those of
13 us who are near that corner will be affected
14 by any commercial activity on the corner. Our
15 great concern is that if what arrives in that
16 corner is a Gap or something similar to that,
17 it really does change the character of the
18 neighborhood.

19 A restaurant, that would
20 definitely change the character of the
21 neighborhood. We just feel very strongly that
22 if we could maintain that buffer and we are

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1 willing to work with the developer, and we
2 have been willing, including the neighbor most
3 directly affected, and we have been willing to
4 compromise with the ANC and say that we would
5 accept childcare which we know would be a very
6 busy activity on that corner.

7 That neighbor who will face what
8 is happening has said, "Sure, I'll take
9 childcare but I don't want restaurants and I
10 don't want heavy commercial retail."

11 COMMISSIONER TURNBULL: Okay.

12 Thank you.

13 COMMISSIONER TURNBULL: Any other
14 questions?

15 I would agree that hopefully you
16 all will be included, or need to be included,
17 in those discussions with the construction
18 management agreement. I think they heard it
19 loud and clear.

20 Let's go to cross-examination.

21 CROSS-EXAMINATION

22 CHAIRMAN HOOD: Applicant? ANC-

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1 6B? Mr. Pate?

2 ANC COMMISSIONER PATE: Can you
3 just briefly cover what you're looking for in
4 a construction management agreement and what's
5 not currently being provided to your
6 satisfaction?

7 MS. LaFOLLETTE: I don't have all
8 the documents in front of me. I have become
9 more an expert on this than I will never be.
10 I think one of the things that Ms. Giordano --
11 one of the reasons that we hired Ms. Giordano
12 is because she is an expert on these issues.
13 I believe she has testified in front of your
14 Commission.

15 One of the things that she
16 specifically provided in the draft were
17 specific protections for our properties which
18 would also survive the agreement since we have
19 several members on the block, senior citizens
20 like me and one who is approaching 90.

21 Things may happen and you would
22 like to be able if we had to sell in the

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1 middle of a construction project to have the
2 agreement survive so we wanted to have our
3 properties listed. The families with small
4 children were very concerned about the
5 environmental monitoring. Obviously in a two
6 or three-story brick structure you are very
7 concerned about any vibration that happens
8 across the street.

9 She had devised -- she had
10 suggested ways to development an agreement
11 that would -- I'm not sure what the right word
12 is but help to make it possible if there were
13 damage for us not to move into a situation of
14 parties having to sue or if there was an
15 objection to have a stop work order. The idea
16 was to move the project along and we would
17 cooperate in that.

18 ANC COMMISSIONER PATE: Thank you.
19 That's all I have.

20 CHAIRMAN HOOD: Okay. Thank you.

21 CHAMPS?

22 COMMISSIONER TURNBULL: Maybe you

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1 could give a copy of Ms. Giordano's document
2 to the ANC.

3 MS. LaFOLLETTE: We have been
4 sharing it with the ANC.

5 COMMISSIONER TURNBULL: Oh, you do
6 have it?

7 MS. LaFOLLETTE: Unfortunately
8 what came back was not a version of hers but
9 was a completely different document.

10 COMMISSIONER TURNBULL: Maybe
11 let's send it forward again and try to work a
12 little harder.

13 MS. LaFOLLETTE: Thank you.

14 CHAIRMAN HOOD: Hine School North?
15 Okay. EMMCA?

16 MR. HOLTZMAN: No questions.

17 CHAIRMAN HOOD: Okay. And Diverse
18 Market? Okay. Thank you very much. We
19 appreciate it.

20 Who is next? EMMCA.

21 MR. HOLTZMAN: Thank you, Chairman
22 Hood and members of the Commission. My name

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1 is Steve Holtzman and next to me is my
2 colleague Barbara Riehle who is one of the
3 original founders of Eastern Market Metro
4 Community Association.

5 We speak on behalf of that
6 association, an organization of over 140
7 residents founded in 2008. Our members live
8 within walking distance of Eastern Market. We
9 join Hine North Neighbors and Eyes on Hine in
10 their concerns that you've heard already and
11 associate ourselves with their views and
12 recommendations.

13 We believe strongly in the
14 potential of this site for moderate density
15 mixed-use development. However, we are
16 testifying today in opposition to the
17 application as it is currently formulated.

18 We believe that the current plan
19 tried to do too much in one site and ends with
20 a totality that unduly burdens neighbors,
21 risks undermining its own stated objectives,
22 and could reshape the nature of our community

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1 in undesirable ways.

2 Despite the 114 community meetings
3 referred to last week and an innovative
4 consultative process initiated by ANC-6B, we
5 remain frustrated at the potential which
6 remains unrealized and the issues that remain
7 unresolved.

8 As mentioned by my colleague in
9 Eyes on Hine the original presentation three
10 years ago, which still had many issues that we
11 wanted to take exception to, had embedded in
12 it a package of community oriented amenities
13 and mitigations now fallen by the wayside that
14 were far superior to the marginal improvements
15 agreed to with the ANC and through other
16 means. It provided a central plaza,
17 sufficient place for the flea market, and it
18 provided us with something to be proud of, a
19 range of large public interest oriented
20 tenants including Shakespeare Theater
21 International Relief and Development. You've
22 heard that.

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1 The prominence of these tenants
2 and the proposal was so pronounced that site
3 maps in the Applicant's presentations included
4 the naming of the central plaza as Bard's
5 Square designed to allow Shakespeare oriented
6 performances in its center and the
7 identification of major buildings as IRD and
8 Shakespeare.

9 In the absence of these things
10 which we viewed as mitigating factors, we come
11 to you today with the very same still
12 unresolved issues that we began this process
13 with when Mayor Fenty first selected Stanton-
14 Eastbanc as developers.

15 For EMMCA, as with other groups of
16 residents, our goals are simply and
17 straightforward as well as in keeping with the
18 comprehensive plan. Reduce the height and
19 approve the design to ensure that the project
20 respects the Capitol Hill historic district.

21 Retain sufficient open space on
22 site, particularly for the weekend flea

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1 markets, maintain the distinction between what
2 is commercial and what is residential, and
3 respect the history of the site as mentioned
4 previously by continuing to offer meaningful
5 services to children. If these goals were
6 met, we would be here today to support the
7 project.

8 The Hine site together with
9 historic Eastern Market represents the heart
10 of our community. Hine is the gateway to the
11 Eastern Market. It's what you first see and
12 experience when you walk through and it has
13 been the site of our weekly flea markets for
14 over two decades which are, yes, a business
15 but are more importantly part of the fabric of
16 our neighborhood.

17 Together with Eastern Market the
18 Hine site effectively represents the center of
19 our urban village. It has been a site for
20 teaching children since the Civil War and, as
21 such, it has long been a functional and
22 physical transition space between residential

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1 and commercial areas of our community.

2 Until 2008 the Hine site included
3 highly valued facilities for public
4 recreation; two tennis courts, two basketball
5 courts, a playground.

6 That is not in the documents that
7 you've seen today because after the fire at
8 Eastern Market neighbors happily supported the
9 city's decision to build a temporary market on
10 a portion of the school's open space and to
11 reconfigure the remaining space for the flea
12 markets because it supported a public good.

13 We recognize the necessity of
14 tradeoff for the public good but the term
15 public good requires a thorough cost benefit
16 analysis on a case-by-case basis and we find
17 this design lacking.

18 We do support the three core
19 objectives of this project as agreed upon by
20 the city and the Applicant. Notably, to link
21 Eastern Market with Barracks Row, to provide
22 new residences at a range of income levels,

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1 and to create an enlivened streetscape.

2 But achieving these objectives
3 does not require imposing the burdens on
4 surrounding neighbors, you previously heard,
5 and the project as currently designed
6 undermines some of the very objectives. Due
7 to the size and location of the development
8 threatens to transform many things about our
9 daily lives.

10 We agree that linking Eastern
11 Market with Barracks Row is a good thing, a
12 positive thing, and that this project has the
13 potential to achieve that objective. Yet, the
14 height and mass seem to supplant Eastern
15 Market as the center of our neighborhood and
16 are at odds with it in its architecture and
17 historical context.

18 An archway at 7th and
19 Pennsylvania, which has been suggested, may,
20 in fact, exacerbate the disconnect with
21 Barracks Row but further the objective of
22 tying together the two commercial corridors is

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1 not aided by storefronts along D Street which
2 draw shoppers into a residential neighborhood
3 and away from Barracks Row.

4 To buffer areas from this
5 commercial corridor, childcare, as you've
6 heard, along D Street would be a transitional
7 capstone serving a function that schools on
8 the site have done for generations, honoring
9 the 148-year history of the site while
10 fulfilling a strong community need.

11 A second objective of the project
12 is to welcome new residents of all ages and
13 income levels by offering new highly-desirable
14 housing units.

15 Yet, instead of providing more
16 public space for residents of south and north
17 buildings to share and interact with each
18 other and with the existing community, the
19 most significant green space in the project is
20 on the roofs and in the closed private
21 courtyards of the south building.

22 The design isolates the majority

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1 of residents of affordable housing, as you've
2 heard, without access to the extensive
3 amenities of the other building. This may be
4 allowable but is it necessary? I would like
5 to ask you is it acceptable?

6 Affordable housing is a real need
7 on Capitol Hill but at other local
8 developments at Ellen Wilson and Capitol
9 Corridor, affordable units are woven into the
10 development inclusively.

11 The third goal, to transform and
12 enliven the streetscape. Yet, the design
13 fails to provide sufficient public space to
14 accommodate the flea market which already
15 enlivens the streetscape on weekends.

16 Instead, it transfers the
17 responsibility to the city and the community
18 to mitigate perhaps the only community focused
19 commitment agreed by the Applicant with a
20 solution that may require further mitigation
21 in its own right.

22 Closing the 300 block of 7th and D

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1 on weekends will lose us a further 30 parking
2 spots. It creates pressures on brick and
3 mortar businesses along the western side of
4 the block and complicates traffic flow. Yet,
5 it may be a potential solution and we may not
6 have a problem with it. But in the three
7 years since the RFP no comprehensive studies
8 or public hearings have been undertaken to
9 examine this option in all its facets.

10 More importantly, it relies on a
11 premise of future action that no more can
12 guarantee the passage of legislation by city
13 council which as of the last public draft of
14 May 24th did not even mention the closure of
15 7th Street as one of the things in the trust
16 legislation.

17 The privatization of a public
18 street, the 700 block of C Street, is almost
19 unprecedented in the District of Columbia and
20 contributes to the exclusive character of the
21 development.

22 A tangible implication of this

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1 decision is the Applicant's ability to close
2 the street at will for large private events
3 circumventing city public space permit
4 procedures. You've heard a discussion of
5 this.

6 But the mitigating mechanism
7 agreed to by the Applicant does not adequately
8 safeguard the rights of neighbors. The
9 proposed mechanism for the closure of C Street
10 for special events requires a two-thirds vote
11 of a three member committee of the ANC, the
12 Eastern Market Trust, and the developer.

13 The trust, which has not been
14 established yet, has no mandated community
15 role or direct responsibility to the
16 community. Despite something I heard earlier,
17 again, the last public draft only required
18 that members of the trust board be citizens of
19 the District of Columbia. It urges some
20 consideration for surrounding neighborhoods
21 and selection but it does not mandate it.

22 Also, the trust is intended to be

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1 a self-financing entity which implies it will
2 have a legitimate but vested interest in
3 income generated by private events utilizing
4 some combination of C Street, 7th Street, and
5 the North Hall facility of Eastern Market.
6 The ANC vote can be overruled by two entities
7 who do not represent community interest.

8 In conclusion, when the Applicant
9 first presented their concept of the Hine site
10 to our community they said the following. "To
11 be clear, our vision was not just uses but
12 also feel. When completed, the Stanton-
13 Eastbanc project will feel like a part of the
14 neighborhood that has been there forever and
15 a place where you want to live, work, shop,
16 and visit. It will feel like the best place
17 for friends to meet. It is this feel that
18 will create the greatest value for the people
19 who live and work in the neighborhood and for
20 the city as a whole."

21 We ask that you look at the
22 totality of design components in this project

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1 which amplified by the project size and
2 pivotal location in the heart of our community
3 combined to create an uneasy filling in us
4 that seems uncharacteristic of our
5 neighborhood. The size and mass of the south
6 building unbroken by public courtyards or
7 pathways with its green spaces largely
8 internalized, the privatization of a public
9 street in the center of the development, the
10 intrusion of commercial into residential, the
11 isolation of most affordable housing in a
12 separate building. This is complex that
13 reflects many of its burdens outward onto the
14 community while retaining many of its benefits
15 inside.

16 The project creates a sense of a
17 fortress to some of us. Individual
18 explanations have been proffered for each of
19 these outcomes but at some point they must be
20 seen in their totality because that is how
21 they will be experienced by the community.

22 There are logical change of

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1 decisions and constraints leading to each
2 element of the project design. Some of these
3 limitations have come from D.C. government
4 but, for the most part, the room for reshaping
5 the plan is limited by the reality that, as
6 the previous speaker noted, the design
7 overcrowds the lot.

8 Increased density near a Metro
9 stop and maximizing profits, the development
10 team have made the space largely fit the
11 design rather than allowing the space in its
12 larger community context to dictate the
13 design.

14 This is an opportunity to do
15 something great but there is also the peril of
16 doing something irrefutably damaging. You may
17 have seen 250 signs in yards throughout
18 Eastern Market which say Right Size Hine.
19 Right Size Hine means do it right. Build
20 something we can be proud of. Build a mixed-
21 use transit oriented development with lots of
22 retail where retail belongs with the public

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1 benefit of a significant childcare center.
2 Ensure that the height of the project truly
3 steps down as it approaches the existing
4 historic residential neighborhood. Most of
5 all, highlight rather than diminish Eastern
6 Market itself. The proposed development needs
7 more work. Stanton-Eastbanc needs to do more
8 than just hold community meetings so that they
9 can provide you with a long list of the
10 meetings that have been held. We ask you to
11 call on the developers to take the concerns
12 and suggestions of the neighbors seriously so
13 that this can remain the livable walkable
14 community that drew us all here in the first
15 place.

16 The alternative is the development
17 can overwhelm and undermine the very qualities
18 that have long made Eastern Market
19 Neighborhood such a desirable place to live,
20 work, to business, and visit. Thank you very
21 much.

22 CHAIRMAN HOOD: Okay. Thank you.

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1 Any questions?

2 COMMISSIONER TURNBULL: Yes, Mr.
3 Chairman. I do.

4 CHAIRMAN HOOD: Commissioner
5 Turnbull.

6 COMMISSIONER TURNBULL: Looking
7 back at the Applicant's original presentation,
8 they discuss a missing link between Barracks
9 Row and what is called Market Row. I take it
10 you don't agree with that missing link
11 concept?

12 MR. HOLTZMAN: No, we do.

13 COMMISSIONER TURNBULL: You do?

14 MR. HOLTZMAN: I stated that we
15 agree with that objective, but first that
16 objective to us brings even a greater
17 responsibility to preserve the residential
18 character of the rest of the neighborhood if
19 you make that link.

20 We agree the link should be made
21 but we don't think to make that link you need
22 something this dense, this high, that there

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1 are other ways to do this.

2 COMMISSIONER TURNBULL: Do you
3 think that missing link is -- we've heard some
4 comments before about it should not be a
5 restaurant on the corner, that the type of
6 retail should be limited along there?

7 MR. HOLTZMAN: Why don't I let my
8 colleague answer that question.

9 MS. RIEHLE: If you look at the
10 model, Commissioner, you'll see that
11 Pennsylvania Avenue turns onto D Street
12 towards the residential neighborhood.

13 COMMISSIONER TURNBULL: Right.

14 MS. RIEHLE: Our position has
15 always been that putting retail along D Street
16 actually draws people into the residential
17 neighborhood and away from Barracks Row where
18 they are meant to be drawn according to this
19 linkage idea.

20 I know the developers say this
21 creates a visual connection, I think that is
22 the term they use, between Barracks Row and

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1 7th Street. The truth is you can see Barracks
2 Row from 7th Street. You don't need to draw
3 shoppers toward residential 8th Street to
4 accomplish that goal.

5 COMMISSIONER TURNBULL: Your
6 comments just sort of preclude retail. You
7 sort of just said you don't want anything on
8 D Street --

9 MS. RIEHLE: Correct.

10 COMMISSIONER TURNBULL: -- that
11 would draw things into the neighborhood.

12 MS. RIEHLE: That's exactly right.

13 COMMISSIONER TURNBULL: That's
14 what my comment was. My comment was they sort
15 of show a missing link and I'm saying you
16 don't agree with that missing link. You don't
17 want retail on D Street.

18 MS. RIEHLE: No, we don't want
19 retail on D Street.

20 COMMISSIONER TURNBULL: Well,
21 that's what my comment was.

22 MS. RIEHLE: Yes, but we

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1 completely agree with retail along
2 Pennsylvania Avenue where it belongs.

3 COMMISSIONER TURNBULL: But there
4 is a street that ends and D Street is coming
5 in. I think you have a corner of a building
6 there that has to be something and my comment
7 was what is the corner of that building.

8 MS. RIEHLE: Well, the corner of
9 that building could be residential or the
10 corner of that building --

11 COMMISSIONER TURNBULL: That's
12 what I was asking.

13 MS. RIEHLE: Yes.

14 COMMISSIONER TURNBULL: Thank you.

15 MS. RIEHLE: It could be
16 childcare.

17 COMMISSIONER TURNBULL: You don't
18 mention any comments about the north building
19 in your testimony. I didn't hear anything
20 related to the north building.

21 MR. HOLTZMAN: We tried to honor
22 the comments of the Chairman last week to not

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1 replicate things that other people had said,
2 but we are strongly in support of everything
3 that they said and we did reference the issues
4 of the north building as a site for
5 concentrated affordable housing separated from
6 the south building. In all of the comments
7 that the neighbors on the north side have
8 said, the impacts of that on their houses
9 we're in full agreement.

10 COMMISSIONER TURNBULL: You are?
11 Okay. Thank you.

12 CHAIRMAN HOOD: Any other
13 questions? Okay. Let's do some cross-
14 examination.

15 CROSS-EXAMINATION

16 CHAIRMAN HOOD: Does the Applicant
17 have any cross?

18 ANC-6B have any cross? Okay.
19 CHAMPS I think has left.

20 Hine School, do you have any
21 cross?

22 Hine School North Neighbors?

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1 Okay. Eyes on Hine?

2 Okay. And Diverse Market?

3 Okay. Thank you very much.

4 Appreciate your presentation.

5 I think we have one more group
6 which is --

7 MS. SCHELLIN: Sir, they have a
8 preliminary matter. They have requested a
9 couple of their witnesses be considered
10 experts. There is some opposition from the
11 Applicant. Tonight you have a document
12 submitted by Ms. Ferster, I think, in response
13 to the Applicant's opposition.

14 CHAIRMAN HOOD: Okay, that's
15 right. This is Diverse Market.

16 MS. FERSTER: Mr. Chairman, the
17 resumes of our experts are in this volume
18 which is the complete testimony and they are
19 on page 7.

20 CHAIRMAN HOOD: Ms. Ferster, I'm
21 going to ask that we walk through your experts
22 that you asked. Let's do them one at a time.

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1 First, have any of them ever been
2 previously accepted?

3 MS. FERSTER: Not with this
4 Commission, no. The testimony that we are
5 submitting is really not classically zoning
6 issues. It's not planning. It's not traffic.
7 These are all experts who are going to testify
8 on the economic and social value of the flea
9 market and the adverse impacts to the District
10 and to the neighborhood if the size of the
11 flea market is reduced.

12 They are qualified to speak to the
13 matters that they are going to testify to.
14 They have conducted visitor surveys, surveys
15 of the vendors, surveys of the exhibitors.

16 They are very experienced
17 professionals who have years and years of
18 experience in conducting the sorts of market
19 research that would support the conclusion
20 that they are reaching today about the
21 economic value of the flea market to the
22 District.

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1 CHAIRMAN HOOD: Okay.
2 Commissioner, we have a request. Any
3 comments?

4 COMMISSIONER MAY: There was
5 reference to a submission today or a recent
6 submission in response?

7 CHAIRMAN HOOD: It was the one
8 that we received --

9 COMMISSIONER MAY: In the package
10 we received tonight which is also fairly
11 thick? It's what number? I have not had a
12 chance to review that.

13 CHAIRMAN HOOD: We got it tonight.
14 I thought we were talking about the resumes.

15 MS. SCHELLIN: The resumes were
16 earlier and you have that. Then there was a
17 filing from the Applicant opposing those
18 witnesses being experts. This evening you
19 received something from Ms. Ferster.

20 Mr. DuPuy's opposition to those
21 expert witnesses, I don't have an exhibit
22 number on that but it was a letter dated June

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1 14th.

2 (Whereupon, 10:48 p.m. off the
3 record until 11:51 p.m.)

4 CHAIRMAN HOOD: I'll give my
5 colleagues a little more time. I think that
6 even while we have accepted people on a scope
7 about economics, I think that the magnitude
8 of, at least from my point of view and I open
9 it up to my colleagues to comment, I think
10 while we will entertain their testimony, I
11 don't think that we could proffer -- I would
12 not be in favor of proffering this next person
13 unless my colleagues were otherwise inclined
14 to do so, but I would not be inclined to do
15 that.

16 COMMISSIONER MAY: Mr. Chairman, I
17 don't object to them being proffered as expert
18 witnesses in this limited fields in which
19 they're being proposed. I mean, it certain
20 doesn't extend to expert on zoning, but we're
21 looking for information about -- part of their
22 testimony is clearly going to be about the

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1 economics and feasibility of operating a
2 market of this sort, and it was a market that
3 would have to change significantly under
4 certain developments areas.

5 In other words if they run it
6 reducing the number of available spaces from
7 whatever it was 150 to some number
8 significantly less than that, and I think it's
9 relevant.

10 CHAIRMAN HOOD: Commissioner
11 Cohen?

12 VICE CHAIRPERSON COHEN: Mr.
13 Chairman, I fall in the middle of the two of
14 you. I think, you know, I'm not going to
15 question their expertise as experts, however
16 this is a Zoning hear and I don't really
17 accept that the impact of what they're going
18 to say really can influence the land use of
19 the project.

20 You know, I don't know what they
21 can add to that will be related to the Zoning
22 issues, frankly.

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1 CHAIRMAN HOOD: Okay.

2 Commissioner Turnbull.

3 COMMISSIONER TURNBULL: Yes, Mr.
4 Chair. I'm kind of turned on this. I mean, I
5 think Commissioner May's got a point. We have
6 had different people at different -- I mean,
7 you had a point where we've had different
8 experts in economics. I don't know what these
9 people add to our review of this case on the
10 Zoning matter.

11 I'm totally opposed to -- I mean,
12 I have no idea whether these people are
13 experts are not. These CVs, there's a lot of
14 things in here but I would -- I guess my
15 feeling is I don't know whether they're
16 experts or not, or whether they're qualified
17 or not.

18 CHAIRMAN HOOD: Okay. I would
19 move that we not grant them expert status, but
20 listen to their testimony and ask for a second

21 VICE CHAIRPERSON COHEN: Second.

22 CHAIRMAN HOOD: It's been moved

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1 and properly second.

2 Any further discuss? Are you
3 ready for the question?

4 All those in favor?

5 ALL: Aye.

6 CHAIRMAN HOOD: Any opposition?

7 COMMISSIONER MAY: Opposed.

8 CHAIRMAN HOOD: Staff, would you
9 record the vote?

10 MS. FERSTER: May I ask for
11 reconsideration and just briefly one question?
12 And that is that --

13 CHAIRMAN HOOD: First of all,
14 you're out of order right now, correct?

15 MS. FERSTER: Yes.

16 CHAIRMAN HOOD: I called for the
17 vote. Staff, would you record the vote?

18 MS. SCHELLIN: Yes. Staff records
19 the vote three-to-one-to-zero. I'm sorry,
20 three-to-one-to-one to deny expert status to
21 the two witnesses proffered by Diverse -- were
22 there four?

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1 CHAIRMAN HOOD: -- Four, sorry.
2 Couldn't find my paper. To the experts, put
3 it that way, proffered by Diverse Markets.

4 Commissioner Hood moving.
5 Commissioner Cohen seconding. Commissioner
6 Turnbull in support. Commissioner May
7 opposed. The Third Mayoral Appointment
8 position vacant, not voting.

9 CHAIRMAN HOOD: Okay. Now, Ms.
10 Ferster, we would entertain any comments that
11 you may have.

12 MS. FERSTER: Yes. And let me
13 just say that we'd ask that perhaps at the end
14 of this testimony that you would reconsider
15 that vote, and the reason why I ask that is
16 that the issue is really not -- they're
17 expertise, they're clearly qualified as
18 experts for the matters that they are
19 attesting to.

20 These individuals went out and
21 took surveys, visitor surveys and surveys of
22 the vendors and the exhibitors to quantify the

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1 economic impact of the flea market and to
2 assess it and evaluate it.

3 And it's not a situation where I
4 got my teenage son and his class, his high
5 class maybe, to go out and do surveys. I mean
6 that would be, perhaps, an issue about
7 expertise.

8 These are individuals who
9 routinely on a regular basis in their
10 profession do this sort of research. So,
11 would ask that their results be given that
12 value based on the fact that this is what they
13 do for a living.

14 CHAIRMAN HOOD: Go ahead.

15 VICE CHAIRPERSON COHEN: I don't
16 think that it's the value of their expertise
17 in their field. We're just questioning whether
18 their expertise is relevant to the Zoning. But
19 we're going to hear them, okay? That's the
20 important thing.

21 MS. FERSTER: Okay. Just to make
22 that comment. I think my letter goes to the

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1 relevance of this to the PUD's criteria. I
2 think it's clearly relevant. Most witnessed
3 talk about adverse effects tot heir homes and
4 their values, and their property. But in
5 this case we have a business whose economic
6 value will be really harmed in a serious way
7 and the value that it brings to the other
8 businesses in Eastern Market. So, think it's
9 pretty relevant to --

10 CHAIRMAN HOOD: Let me just say
11 this: Thank you very much. We've already
12 taken the vote.

13 Would any of my colleagues like to
14 reconsider? Okay. Thank you. Okay.

15 Ms. Schellin, could you start the
16 clock.

17 MR. BERMAN: Chairman Hood and
18 Members of the Zoning Commission. My name is
19 Michael Berman. I'm testifying in opposition
20 tot he proposed project as a public space
21 allocated by the Applicant is woefully
22 inadequate and will de facto destroy the flea

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1 market at Eastern Market.

2 My company, Diverse Markets
3 Management, owns the flea market Eastern
4 Market that operates on Sundays on the
5 playground and parking lot of the Hine School.
6 The market has been operating continuously for
7 30 years under the management of my partner
8 Tom Rall, and as of 2011, under my direction.

9 Under the existing lease agreement
10 with the D.C. Education Reality Office, the
11 flea market provides nearly 50,000 square feet
12 for 151 ten foot by ten foot vendor spaces, 25
13 foot wide aisles for customer and vehicle
14 access and approximately 15,000 square feet
15 for vendor parking.

16 The space allotted by the
17 Applicant by comparison is an estimated mere
18 12,000 square feet in an awkward and
19 unfeasible configuration.

20 Because of the scale of the
21 products sold, the furniture, collectable
22 items and large format vending, 2 foot wide

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1 aisles are needed to provide for the required
2 logistics of loading and unloading. The
3 proposed single narrow driveway does not
4 provide sufficient space for vendors,
5 particularly for large items or trucks.

6 While typically market setups take
7 three hours to accommodate all exhibitors,
8 their proposed layout would likely take four
9 hours just to squeeze a third of the stalls
10 in.

11 Space for parking trucks is an
12 absolute necessity. Unlike vendors across
13 the street on Eastern Market Square, the
14 majority of vehicles are accommodated on site.
15 The flea market can provide for 75 or more
16 vehicles, typically including 37 foot tall
17 cargo vans, six ten foot wide box trucks, five
18 oversized pickup trucks, three trailers and
19 other vehicles.

20 The proposal before you
21 drastically reduces the footprint of the flea
22 market jeopardizing its economic viability.

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1 Water features, fixed street elements and
2 plantings further reduce useable space despite
3 Office of Planning's condition for "no fixed
4 furniture or landscaping installed in the C
5 Street Plaza to allow the space to be flexible
6 and responsive to the flea market."

7 Our large format vendors could not
8 participate. Gutting the market's core
9 attraction and displaying our most senior and
10 committed participants. Its de facto
11 elimination will be:

12 (1) Devastating to the small
13 business vendors who rent space at the market
14 to their families and their employees;

15 (2) Result in loss of foot
16 traffic in the vicinity of Eastern Market and
17 the surrounding businesses, and;

18 (3) Decrease tax revenue related
19 to sales at the flea market and most other
20 businesses in their vicinity.

21 Despite promises to the contrary,
22 Eastern Market Square does not have space to

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1 accommodate the flea market currently, nor is
2 there a guarantee that the City Council will
3 close 7th Street below C.

4 And neither option can be
5 considered part of the Applicant's proposal
6 for public space or relieve them of their
7 obligation to provide adequate space for
8 market use. Thus, it is not relevant to the
9 Applicant's proposed Zoning request before you
10 today.

11 The flea market has become a
12 landmark adding to the synergy, vitality and
13 diversity to make Eastern Market as a whole
14 and important destination. In fact, the flea
15 market has played a key role in the
16 revitalization of Capitol Hill. When it
17 started Eastern Market was closed and the
18 street were deserted. Due in large part to
19 the foot traffic created by the flea market,
20 Eastern Market is now considered by many to be
21 the economic and social heart of Capital Hill.

22 The Applicant's proposal can be

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1 rectified by simply expanding the plaza area;
2 thinning the dense tree plantings, removing
3 fixed elements and the C Street Garage
4 entrance.

5 The recommendation from the Office
6 of Planning to pull back the building line is
7 indicative of solutions that could be adopted
8 in consultation with the flea market. In so
9 doing, the building will align with the street
10 per Comp Plan Urban Design Policy for
11 Maintaining Facade Lines.

12 Without taking these reasonable
13 steps to protect this use of special value to
14 the neighborhood and the District of Columbia
15 as a whole, this Commission cannot conclude
16 that on balance the public benefits and
17 project amenities afforded by the application
18 outweigh its adverse impacts.

19 Thank you for this opportunity to
20 testify.

21 MR. OWENS: Mr. Chairman, Members
22 of the Commission, my Bill Owens. I'm Founding

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1 Principal of Owens Economics.

2 I was retained by Diverse Markets
3 Management to evaluate and analyze the
4 economic benefits of the flea market of
5 Eastern Market and to analyze and evaluate the
6 impacts of the Hine School Development Plan
7 that effectively in the view of my client,
8 would cause the flea market to lose the
9 character that it has today.

10 To some of the key findings, and I
11 will quantify these in just a minute, the flea
12 market along with the other parts of the
13 Eastern Market complex, the Eastern Market
14 Square and the Eastern Market building itself,
15 are truly a strong retail destination.

16 The complex draws visitors from
17 through the city, from throughout the
18 metropolitan area, and it attracts tourists
19 for Washington's visitor market. Visitors
20 from outside the city, whether they're tourist
21 or other area metro residents bring in new
22 dollars and by extension, new tax money to the

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1 city. And all visitors, whether they're city
2 residents or none residents, focus their
3 spending on the Eastern Market neighborhoods
4 that are represented here today.

5 The loss of the flea market,
6 reduction of scale and reduction of the
7 merchandise offering the high value types of
8 things that Mr. Berman has just mentioned,
9 would cause a significant impact -- a negative
10 impact on visitation and the expenditures that
11 benefit the city and the community.

12 My analysis incorporated two major
13 components. The first was the estimate of the
14 annual visitation and visitation patterns.
15 Estimates were developed by Diverse Markets
16 Management and the Eisen Group Retail and USA
17 consultants here in the city. Tom Moriarity
18 will speak to the estimates of visitation
19 during his testimony.

20 The second leg or the second part
21 of the analysis was the extensive survey of
22 flea market visitors by WBNA of Crofton,

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1 Maryland who looked a visitor characteristics,
2 expenditures and their visitor potential
3 reaction to the loss of the flea market as it
4 exists today.

5 In terms of the numbers
6 quantifying the findings, as you can see from
7 the slide the flea market attracts almost
8 433,000 visitors on the property visits.
9 Because many people visit the flea market more
10 than once during the year.

11 These visitors spends over \$29
12 million, half of that money \$14.5 million is
13 spent at the flea market and flea market
14 complex itself with the balance split between
15 the Eastern Market neighborhoods and elsewhere
16 in the city of Washington.

17 The flea market attracts 184,000
18 visitors from outside the city, from the metro
19 area and from the D.C. Tourist Market, these
20 visitors bearing \$11.3 million into the city.

21 The survey that was done by WBNA
22 shows that 90 percent of visitors to the flea

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1 market indicated that the flea market was one
2 of the reasons to be in the city. Fifty-five
3 percent of flea market visitors said the flea
4 market was either the only or the primary
5 reason for their visit to the city.

6 With a reconfiguration of the
7 market, loss of the school yard site
8 effectively changing the character of the flea
9 market, the impact on visitation and
10 expenditures would be dramatic. The number of
11 visitors would decline by almost 200,000
12 people.

13 What it really means is that some
14 people would stop coming, others would reduce
15 the number of visits to Eastern Market. It
16 would mean a loss of \$6.7 million in sales at
17 the market complex itself and another \$6.7
18 million in sales outside the Eastern Market
19 complex in the neighborhood and elsewhere in
20 the city.

21 In summer, as you can see with the
22 reconfiguration that is called for in the Hine

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1 School Plan, the city would lose a unique and
2 successful attraction along with the economic
3 and community benefits that go with it.

4 Thank you. I'll be happy to
5 answer any questions at the conclusion of this
6 testimony.

7 MR. MORIARITY: Mr. Chairman and
8 Members of the Commission, thank you. My name
9 is Tom Moriarity. I'm with the Eisen Group
10 here in Washington.

11 Parallel to Owens Economics and
12 WBNA, we were also hired by Diverse Markets
13 Management to look for from the operator
14 standpoint. It's easy when you look at Eastern
15 Market and the flea market in particular to
16 say this ephemeral, it's one day a week. It's
17 a great community benefit. It's a cultural
18 asset. We can all come together, but it's
19 pretty low key.

20 We approached it to say "Well, how
21 low key is it? Is this something more
22 significant than it appears on the surface?"

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1 And I'd say I was surprised at the magnitude
2 of it.

3 To understand what the sales are,
4 we surveyed the operators themselves. As you
5 know, it's very difficult to disaggregate
6 sales figures for retailers geographically. It's
7 particularly difficult in the District.

8 So one way to determine this is to
9 ask the operators:

10 What are you getting?

11 How does it change?

12 How does your market effect what
13 you do professionally?

14 What role does this play in your
15 world as a livelihood in addition to being a
16 community asset?

17 So, we conducted a survey of the
18 operators online. The sales were aggregated by
19 the survey company so we weren't able to
20 attribute to any individuals because that's
21 private information.

22 We analyzed that data to say how

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1 does this stack up to performance of other
2 flea markets, of other retail conventions
3 whether they're something like this, just
4 temporary, or something more permanent.

5 And then we also looked at it as a
6 business incubator because based on the
7 information provided, this has had we believe
8 a rather extraordinary and consist role in
9 creating new businesses for the District and
10 the region.

11 In aggregating these numbers, we
12 found that the flea market itself, just the
13 flea market alone, generates sales of between
14 \$5 and \$6 million a year. That does not
15 include the 7th Street vendors, nor does it
16 include as Bill Owens said, the sales in the
17 market building itself, the food vendors. And
18 we believe this is a conservative estimate.

19 The projected sales for this year
20 are just under \$6 million for the flea market
21 over those Sundays alone. To appreciate that
22 fully, this is a low cost entry into business.

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1 And this has generated a lot of business
2 operations over the years, some of which have
3 grown and stayed with the flea market, others
4 which have spin off. But it has a proven
5 business incubator.

6 Over 60 full service retailers and
7 not locations, retailers themselves, have
8 begun at the flea market and has sustained
9 operations with an average life span of almost
10 nine years after they left the market.

11 So, this is not somebody floating
12 around and whipping around for a year and then
13 closing. Some of these retailers have been in
14 business 23/25 years beyond leaving the flea
15 market, many of which still show up there and
16 still exhibits on Sundays. So it's spun off
17 business development elsewhere and the
18 District has benefits more than the other two
19 jurisdictions around us with over 60 percent
20 of those businesses staying in the District of
21 Columbia.

22 Something a little less economic

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1 but culturally significant is how the flea
2 market has fostered among young artists. There
3 are a number of working artists who exhibit at
4 the flea market, who have started at the flea
5 market and have found this a way to sustain
6 their income, to expose their work to the
7 public and to build a reputation.

8 This has gone on to result in
9 artists who began at the flea market, who have
10 done presidential portrait commissions, more
11 than one who have won national awards and
12 international awards who have developed into
13 gallery representation, other representation
14 and have grown from a committed artist on a
15 small scale to established artists on a large
16 scale. So, that's a little harder to
17 quantify, but it's equally important for our
18 community like this. So, it is a business
19 incubator for us.

20 I have included with the submittal
21 and the testimony two tables that I won't go
22 into, one of which documents the sales figures

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1 and the visitation that Mr. Owens represented.
2 The second is a list by category of the
3 business incubators. This showed 62 of those
4 business cast by category. We did not divulge
5 the names for privacy reasons, but can make
6 those available to you if you wish.

7 I'll be happy to answer any
8 questions.

9 MR. PEPPER: Commissioners,
10 Chairman Hood, it's delightful to have an
11 opportunity to speak with you tonight.

12 My name is James Pepper of
13 California Street Northwest, Washington, D.C.
14 My area of expertise is the evaluation and
15 creation of cultural sites and great public
16 spaces.

17 In my work in Heritage area and
18 tourism development and a similar career, I'm
19 the Strategic Planner for development in
20 National Park Service units.

21 I have assessed the importance of
22 the flea market at Eastern Market as a use of

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1 special value both to Capitol Hill and the
2 District of Columbia as whole. This is a great
3 historic public space now.

4 The flea market at Eastern Market
5 is an essential part of the cultural
6 reawakening of the Eastern Market area. It
7 provides special synergies to the life of the
8 neighborhood and the city. This conclusion is
9 reflected in numerous professional and media
10 publications. I've got, I think, useful
11 bibliographies and extensive articles, all of
12 which are copied in the back of your
13 testimony.

14 Eastern Market is a spark plug.
15 It's the outdoor market connecting to the
16 indoor Eastern Market, and there's linkage in
17 turn to the city, to the neighborhood and to
18 the neighboring retail. These are
19 characteristics of great public spaces that we
20 have found because tourism, economic
21 development and space making is all about an
22 assemblage of opportunities and public

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1 enthusiasm.

2 I have a slide that I'm not going
3 to give you in the time we have available, the
4 presentation itself. But it lays out the
5 Ford's Foundation assessment of what makes a
6 great market, and you'll see that this flea
7 market in fact is precisely the kind of
8 catalyst that's defined already in this space.

9 There are numerous quotes in the
10 media, such as the Huffington Post Poll that
11 it is the second best flea market in the
12 world. And the D.C. Insider's Guide ranks it
13 as number three with the Eastern Market
14 combined with the flea market, number three
15 overall of all destinations in the city of
16 Washington.

17 CHAIRMAN HOOD: Okay. Thank you
18 very much.

19 MS. FERSTER: And then I just want
20 to cite for purposes of cross-examination that
21 Mr. Markenson is here, he's not testified
22 today but he did do the survey research that

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1 was the basis for the analysis that was
2 presented by Mr. Moriarity and Mr. Owens.

3 So, he's just available for
4 questions in case anybody has any questions
5 about the methodology relating to the visitor
6 and vendor surveys that were undertaken.

7 CHAIRMAN HOOD: Okay. Thank you
8 very much.

9 Commissioners, any questions.
10 Commissioner May?

11 COMMISSIONER MAY: Mr. Moriarity,
12 I don't think I got a copy of your
13 presentation. Did you submit those? Did
14 anybody get those? It's in the book? Is it
15 in the book?

16 MR. MORIARITY: Oh, I'm sorry. I
17 thought Andrea Ferster had provided those.

18 COMMISSIONER MAY: Okay. That's
19 good. Thank you. We want to have that.

20 The second is -- and my next
21 question, is I guess on the particulars of
22 some of the information that Mr. Owens

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1 provided, these statistics -- I just to
2 clarify. You've cited \$29 million, 14.5 half
3 at the flea market/Eastern Market complex.
4 Just to clarify, how much of that is actually
5 flea market and how much is Eastern Market out
6 of 12.5?

7 MR. OWENS: The question on the
8 survey is not specific in terms of how that is
9 split up for the survey. Ms. Moriarity's
10 analyses shows that the flea market itself is
11 doing \$5 to \$6 million. So the balance, \$8
12 million or so would be going to both the
13 Eastern Market building and the other outdoor
14 vendors.

15 COMMISSIONER MAY: Okay. So the
16 \$5 to \$6 million for the flea market, that's
17 only the Sunday-only market?

18 MR. OWENS: Yes.

19 COMMISSIONER MAY: Okay. And your
20 survey didn't address everybody? It addressed
21 only some of the people?

22 MR. OWENS: That's correct.

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1 COMMISSIONER MAY: So it was only
2 done on Sunday? I mean, how did you make sure
3 that it was only Sunday people that you were--

4 MR. OWENS: Steve?

5 MR. MARKENSON: It was only done
6 on Sundays.

7 COMMISSIONER MAY: Only done on
8 Sundays? Okay.

9 MR. MARKENSON: On the two
10 separate subjects.

11 COMMISSIONER MAY: Okay. So the
12 expect impact without the school yard site and
13 the merchandise offered you're projecting a
14 loss of \$6.7 million in sales, at least to the
15 market complex. So is that with a total loss
16 of the market or with the reduced size?

17 MR. OWENS: It's a matter of both
18 the scale and the uniqueness of the
19 merchandise offering. You could in theory
20 keep the size the same, but if you took away
21 the high volume items that make the flea
22 market unique, the antiques, the furniture,

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1 the art, the jewelry then the impact would
2 reflect the loss of the merchandise.

3 If you tried to keep the --

4 COMMISSIONER MAY: I'm just asking
5 this question about 6.7 million, which is a
6 fairly precise number. Is it based on a
7 projected loss of the market or a reconfigured
8 market?

9 MR. OWENS: It's based on a
10 smaller market that effectively extends the
11 ability of diverse markets to --

12 COMMISSIONER MAY: I understand
13 what the impacts are. I just wanted to clear
14 what that number represented. So I understand
15 the testimony about what would happen if the
16 market were reduced and how certain larger
17 scale item vendors would not function, and
18 those are higher dollar items and so on. I
19 understand the impacts.

20 Okay. You didn't harp about much
21 in testimony, but in the submission there was
22 -- well, there was a paper petition and there

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1 was an online petition. I'm wondering if
2 you've done any analysis of the petition
3 signers to determine how many of them are
4 local residents either District residents or
5 Ward 6, or anything like that?

6 MR. BERMAN: It was quite a lot.
7 You know, it was --

8 COMMISSIONER MAY: Well, a lot of
9 signatures.

10 MR. BERMAN: It was 4700
11 signatures. I had not broken it down by zip
12 code, but significant was --

13 COMMISSIONER MAY: But is this
14 when--

15 MR. BERMAN: -- D.C.-based and
16 there was significant 20003 zip code.

17 COMMISSIONER MAY: Yes.

18 MR. BERMAN: The majority.

19 COMMISSIONER MAY: I mean just
20 skimming it that was apparently.

21 MR. BERMAN: Yes.

22 COMMISSIONER MAY: I was just

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1 wondering if there was an approximation.

2 MR. BERMAN: Yes. I haven't had
3 the time to really compare that.

4 COMMISSIONER MAY: And I really
5 appreciate that you counted the number of
6 signatures to save us from doing that, to save
7 me from doing it.

8 I'm curious about some of the
9 other markets that you operate, Mr. Berman. It
10 was in your file that there are other markets
11 that you have been involved in. And I'm
12 wondering how they compare in size to this?
13 Are there other markets that are -- I mean,
14 are they all at this minimum size or are there
15 some larger, some smaller --

16 MR. BERMAN: No.

17 COMMISSIONER MAY: -- and how do
18 they do?

19 MR. BERMAN: They're all smaller.
20 And none of them are based on large format
21 antique furniture and those type of vendors.

22 My other markets are something

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1 like the Holiday Market, which is a special
2 event. It's a tightly configured space, but
3 it's a completely different product and it has
4 a start date and an end date.

5 I have some farmers markets that
6 are very small and they, obviously, cannot
7 ever get to this size and more, can their
8 economies ever be even worth studying, really?

9 COMMISSIONER MAY: Yes.

10 MR. BERMAN: Then I have no other
11 market that is --

12 COMMISSIONER MAY: Have the other
13 small markets, even the ones that have done
14 with the large format vendors --

15 MR. BERMAN: Yes.

16 COMMISSIONER MAY: -- you've had
17 continuing financial success with those, or
18 are they kind of one shot deals that have gone
19 away? I mean, I know the Holiday Market
20 continues.

21 MR. BERMAN: Yes.

22 COMMISSIONER MAY: But are the

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1 other ones continuing as well?

2 MR. BERMAN: What do you mean?

3 COMMISSIONER MAY: Well, are they
4 ongoing at the moment?

5 MR. BERMAN: At the moment two of
6 them are, one is not.

7 COMMISSIONER MAY: Two out of --
8 say two out of three?

9 MR. BERMAN: Yes.

10 COMMISSIONER MAY: Okay.

11 MR. BERMAN: And there's reason
12 for that if you --

13 COMMISSIONER MAY: I mean, if you
14 want to go into that, I mean I was just
15 curious about the --

16 MR. BERMAN: The one event that's
17 not going to take place this year is called
18 Arts on Foot, and that's a special event.

19 COMMISSIONER MAY: Yes.

20 MR. BERMAN: Done in conjunction
21 with the Downtown BID and the Penn Quarter
22 neighborhood. And they've chosen to take this

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1 year off.

2 COMMISSIONER MAY: And it's not
3 necessarily because of economic viability or--

4 MR. BERMAN: Maybe it. It's more
5 than just an arts market. It has many factors.
6 So there's other factors of part of that event
7 are economic in base that they have problems
8 with.

9 COMMISSIONER MAY: My last
10 question. In the event that the Council takes
11 action or the Mayor takes action, or whatever,
12 and 7th Street is opened for market operation
13 did you look at all of 7th Street? Did you
14 look at all about the viability of operations
15 in that kind of space?

16 MR. BERMAN: I have no assessed
17 the viability of that space. The logistics
18 will definitely be an issue, and I'm not sure
19 how much space is available. And, of course,
20 if there's a loading dock from this project
21 and other factors, it'll definitely impact
22 space.

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1 COMMISSIONER MAY: Okay. Did you
2 see the diagram that the Applicant had
3 produced?

4 MR. BERMAN: I have not.

5 COMMISSIONER MAY: Okay. I think
6 that was shown at the last hearing. So --

7 MR. BERMAN: I'll look in that
8 time.

9 COMMISSIONER MAY: Yes. You know,
10 if you're interested in doing that and present
11 an opinion on that, you can submit something
12 additional with us if you're so inclined.

13 That's my questions.

14 CHAIRMAN HOOD: Vice Chairperson?

15 VICE CHAIRPERSON COHEN: Thank,
16 you, Mr. Chairman.

17 I presume that of the \$29 million
18 that is spent in the flea market, the District
19 of Columbia gets a percent of the sales tax on
20 that?

21 MR. BERMAN: Six percent.

22 VICE CHAIRPERSON COHEN: Six

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1 percent. Okay.

2 What is the lowest member vendors?
3 Because I know there is an importance in the
4 mix, but the lowest member that is a survivor
5 rate for you?

6 MR. BERMAN: In my proposed
7 solution of an expanded plaza, and that's not
8 a -- you know, I don't have CAD, I don't have
9 the skills of the architect, but I'm proposing
10 a 100 10-by-10 spaces.

11 VICE CHAIRPERSON COHEN: And
12 remind me of what the total number is now?

13 MR. BERMAN: A 150. A 151 to be
14 exact.

15 VICE CHAIRPERSON COHEN: Now
16 presumably if you work at the Applicant, I
17 know there were vendors may be eligible to
18 move into the actual retail spaces that are
19 set aside for incubators, is that correct?

20 MR. BERMAN: I don't recall.

21 VICE CHAIRPERSON COHEN: Okay.

22 MR. BERMAN: Correct me, I don't

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1 recall their exact figures, but I think I
2 heard a 1,000 square feet for incubator
3 business, was that the total?

4 VICE CHAIRPERSON COHEN: I think
5 it was more than that. I really don't have the
6 figures.

7 MR. BERMAN: But anyway, I
8 appreciate that and would love to work with
9 him on that.

10 VICE CHAIRPERSON COHEN: Okay.
11 And then also it appears to me from your
12 testimony that you have not really worked
13 closely with the Applicant and that may be too
14 premature?

15 MR. BERMAN: We've attempted. I
16 think we've even testified that we've met.
17 However, our last meetings the Applicant would
18 not change their plans, so it became
19 irrelevant to me if they're not going to make
20 any changes.

21 VICE CHAIRPERSON COHEN: Well, I
22 thought that there was going to be an

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1 opportunity to work together to see if there
2 are additional areas that can be open to your
3 business --

4 MR. BERMAN: COHEN: On site? No,
5 I have not heard.

6 VICE CHAIRPERSON COHEN: No, not
7 on site, surrounding this.

8 MR. BERMAN: The developer can't
9 do anything about something off their site.

10 VICE CHAIRPERSON COHEN: So it's
11 something that Eastern Market and the city
12 would not participate in, is that what you're
13 saying?

14 MR. BERMAN: I've heard it said
15 that there is required to be legislation to
16 close 7th Street, although it doesn't seem to
17 be required legislation to close the C Street.
18 So it sounds like it's a political answer to
19 your question.

20 VICE CHAIRPERSON COHEN: Thank
21 you.

22 CHAIRMAN HOOD: Any other

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1 questions?

2 COMMISSIONER TURNBULL: Yes, Mr.
3 Chair. Actually, there's one or two.

4 It's \$29 million. It looks like
5 \$14.5 million -- well, you got 6.8 would go to
6 be spent in the Eastern Market area, and that
7 7.7 million is elsewhere in D.C. How do you
8 come up that number? I thought the survey
9 instrument itself examined as those issues
10 with the 435 flea market visitors that were
11 surveyed? They were asked:

12 How much do you anticipate you and
13 your party will spend today at the flea
14 market?

15 How much do you and your party
16 anticipate that you'll spend elsewhere in the
17 city?

18 What percent of that spending
19 elsewhere in the city would be spent in the
20 Eastern Market area?

21 MR. OWENS: Okay.

22 COMMISSIONER TURNBULL: And so --

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1 MR. OWENS: I mean, it's not
2 actually a real market number. It's a
3 projected number that based upon the survey.
4 It's not real numbers that someone -- you
5 could look back at it and say "In our hotels,
6 these people went to the market."

7 It's not looking at actual
8 numbers.

9 COMMISSIONER TURNBULL: Numbers?

10 MR. OWENS: It's trying to come
11 up with a reasonable estimate --

12 COMMISSIONER TURNBULL: Right.

13 MR. OWENS: -- based on the survey
14 and the number of visitors that we believe
15 come to that site.

16 COMMISSIONER TURNBULL: Okay.

17 Thank you.

18 CHAIRMAN HOOD: Any other
19 questions.

20 Okay. Let's do cross-examination.

21 CROSS-EXAMINATION

22 MR. DuPUY: Does the Applicant

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1 have any cross?

2 MR. DuPUY: Thank you, Mr.

3 Chairman.

4 Mr. Berman, is Diverse Markets
5 Management as a limited liability company a
6 for-profit entity?

7 MR. OWENS: Yes, it is.

8 MR. DuPUY: And would it be
9 appropriate to assume that if the Diverse
10 Markets Management with 125 or 150 vendors
11 that DMM would receive more revenues than if
12 it managed a market of, say, 75 vendors?

13 MR. OWENS: The way the flea
14 market operators, stalls are assigned and
15 charged by number of stalls, not by number of
16 exhibitors.

17 MR. DuPUY: So if I rephrase the
18 question and ask it terms of number of stalls,
19 what would your answer be?

20 MR. OWENS: Would you repeat the
21 question?

22 MR. DuPUY: Yes. Yes. If you were

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1 managing a market with 125-150 stalls, would
2 it be reasonable to assume that the revenues
3 to your company would be higher than if you
4 managed a market of, say for example, 75
5 stalls?

6 MR. OWENS: Not necessarily.
7 There are costs related to operating a market,
8 the logistics and the staff, and the
9 management and the --

10 MR. DuPUY: I didn't ask about
11 profit, I asked about revenues.

12 MR. OWENS: Yes.

13 MR. DuPUY: Is it your testimony
14 that the viability of the flea market is
15 essentially identical to the viability of your
16 limited liability company?

17 MR. OWENS: I don't understand
18 your question.

19 MR. DuPUY: Let me rephrase the
20 question.

21 Is it your testimony that the
22 viability of the flea market has a

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1 relationship to the economic viability of your
2 for-profit LLC?

3 MR. OWENS: Perhaps. I've never
4 studied it that way.

5 MR. DuPUY: And would the
6 viability of the flea market be enhanced if
7 the dock on 7th Street were made available and
8 more market stalls were to be provided?

9 MR. OWENS: Made available to who?

10 MR. DuPUY: To any management
11 company?

12 MR. OWENS: It would be viable for
13 anyone who manages that street.

14 MR. DuPUY: Okay. Thank you.

15 I have no further questions.

16 CHAIRMAN HOOD: Okay. Thank you.

17 ANC 6B have any questions?

18 CROSS-EXAMINATION

19 ANC COMMISSIONER FRISHBERG: I'm
20 going to pick up on the last line, the
21 question I might ask. You do a good thing for
22 the community, but you're also in it to make

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1 a profit, right? That's sort of has been
2 driven out?

3 MR. OWENS: We're in it to run a
4 business to make the vendors succeed, that's
5 the right important thing.

6 ANC COMMISSIONER FRISHBERG:
7 Right. Right. And are the developers in it
8 to make a product?

9 MR. OWENS: I don't think about
10 the Applicant in those terms. It's up to them.

11 ANC COMMISSIONER FRISHBERG: Is
12 that relevant in this case?

13 MR. OWENS: No.

14 ANC COMMISSIONER FRISHBERG: Okay.
15 Is your fundamental concern about the amount
16 of space that is available for you to run the
17 market?

18 MR. OWENS: My fundamental concern
19 is that there's no enough public space
20 provided to adequate supply for the types and
21 numbers of vendors that makes this place an
22 attraction, and has for 30 years.

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1 ANC COMMISSIONER FRISHBERG: So
2 it's about the sufficiency of the space?

3 MR. OWENS: That's correct.

4 ANC COMMISSIONER FRISHBERG: Okay.
5 Can you tell me the existing space that you
6 have, what's the square footage for that?

7 MR. OWENS: It's in my written
8 testimony. I estimate that I have about 50,000
9 square feet for vending and customer access.
10 And I estimate about 15,000 for parking. Those
11 are rough numbers. I don't have a document
12 that's citing that.

13 ANC COMMISSIONER FRISHBERG: You
14 referred to Exhibit E earlier, which is the
15 portion of the plaza that would be available
16 to you. Do you have a rough estimate on what
17 that is in terms of square feet?

18 MR. OWENS: For the total plaza, I
19 do not. I estimate it that it looked to be
20 about 12,000 feet of vendor and customer
21 access.

22 ANC COMMISSIONER FRISHBERG: The

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1 portion inside the red line --

2 MR. OWENS: Yes. Yes.

3 ANC COMMISSIONER FRISHBERG: --

4 you say 12,000?

5 MR. OWENS: Yes. Should I bring

6 that slide up from my --

7 ANC COMMISSIONER FRISHBERG: Do

8 you know if 7th Street were to be opened from

9 Pennsylvania Avenue or how many square feet

10 would that provide for the market?

11 MR. OWENS: I have no idea what

12 7th Street provides or doesn't provide.

13 ANC COMMISSIONER FRISHBERG: Have

14 you -- so you've not investigated what that

15 potential would be for you?

16 MR. OWENS: I have not. I don't

17 know the parameters of it. I don't know what

18 a fire lane would be. I don't know what the

19 setbacks would be. I don't know where the

20 loading docks or curb cuts would be. There's

21 a lot of factors.

22 ANC COMMISSIONER FRISHBERG: Will

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1 you participate if we get to this in the table
2 top exercises with the developer about the
3 construction and the end post-construction
4 process?

5 MR. OWENS: If invited, I'd be
6 happy to participate in all process.

7 ANC COMMISSIONER FRISHBERG: Okay.
8 Have you worked with the current market
9 manager for Eastern Market to look at what
10 other space or efficiencies could be gotten on
11 the existing space that they have to do with?
12 So you have 7th Street to the north and
13 &11:31?

14 MR. OWENS: No. Eastern Market, in
15 the Advisory Committee or the market manager,
16 which is the District Government, has not
17 approached me about space for flea market
18 vendors at all. And in my broad assessment,
19 that there is no space. But not without
20 moving around vendors that have rights to be
21 where they are.

22 ANC COMMISSIONER FRISHBERG: Okay.

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1 Have you worked -- I guess maybe I know the
2 answer to this from a previous question, but
3 have you worked with the brick and mortar
4 folks along 7th Street to talk to them at all
5 about how if your operations were to extend
6 down 7th Street, how that would work and
7 integrated with them?

8 MR. OWENS: No, of course not. I
9 don't believe that I will have the opportunity
10 to be on 7th Street, nor do I think that
11 that's a solution for the Applicant to
12 provide.

13 ANC COMMISSIONER FRISHBERG: I
14 don't think that I asked if it was for the
15 Applicant to provide. But it is something
16 that we have worked together to help provide
17 to the legislation, correct?

18 MR. OWENS: Correct. But this is a
19 Zoning hearing for the Applicant.

20 ANC COMMISSIONER FRISHBERG: Okay.
21 Are you supportive of the legislation and the
22 idea of creating a common management for that

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1 market area and expanding that space?

2 MR. OWENS: Again, it's not
3 relevant to this case, but I'm awaiting final
4 language of the legislation to see.

5 ANC COMMISSIONER FRISHBERG: Okay.
6 Do you -- I understand that the space that's
7 available under their plan on C Street and
8 regard as insufficient, but do you believe
9 that at least that space will be available to
10 your under the agreement that we have with the
11 developers?

12 MR. OWENS: So that's based on
13 legislation that's not yet passed. So I'm
14 confident in answering that question.

15 ANC COMMISSIONER FRISHBERG: Has
16 the ANC worked with you both as a part of this
17 process in our negotiation with the developers
18 and with regard to the market legislation to
19 ensure the survivability of the market?

20 MR. OWENS: Yes. We've had some
21 meeting. I don't feel I've been -- or the
22 Saturday operator has been brought to

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1 negotiations or discussions that require
2 logistical concerns about those issues. I
3 think it could have been better. But, yes, we
4 have met on those issues.

5 ANC COMMISSIONER FRISHBERG: Okay.
6 Do you believe that the legislation will pass?

7 CHAIRMAN HOOD: Let me just
8 interrupt. It's getting late.

9 ANC COMMISSIONER FRISHBERG: Fair
10 enough.

11 CHAIRMAN HOOD: And we're getting
12 ready to cut it off and we're all going to
13 have to come back and finish cross-examination
14 because we want to make sure that those who
15 ride bicycles and take public transportation
16 are able to get into the subway before 12:00.

17 How many more questions do you
18 have?

19 ANC COMMISSIONER PATE: I'll
20 conclude. I just have two questions.

21 CHAIRMAN HOOD: Sure.

22 ANC COMMISSIONER PATE: You

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1 mentioned that you have an alternative design
2 or something you've presented. I've not seen
3 it. Do you have that here?

4 MR. OWENS: Yes. It was
5 positioned in my slide show.

6 ANC COMMISSIONER PATE: Can you
7 pull it back up?

8 MR. OWENS: Yes.

9 CHAIRMAN HOOD: While he's doing
10 that, do any other parties have any cross-
11 examination? You can just raise your hand if
12 you have any other parties have any cross?

13 CHAMPS, Hine School, Eyes on Hine
14 or EMMCA, anybody have any cross? Okay.

15 ANC COMMISSIONER PATE: Have you
16 provide this diagram to anyone in the ANC or
17 to the developer?

18 MR. OWENS: I've required it as
19 required for this Zoning hearing.

20 ANC COMMISSIONER PATE: And you've
21 not provided it prior to any of the
22 deliberations that we've had -- you've not

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1 injected it into the process of deliberations
2 with the developer, correct? It's the first
3 time I've seen it, that's my point.

4 MR. OWENS: That's correct.

5 ANC COMMISSIONER PATE: Okay. The
6 large format vendor, would they be able to
7 operate in other parts of the existing market
8 complex? Assuming we don't close the 300
9 block of 7th Street, are there other parts of
10 the current market complex that could
11 accommodate large format vendors?

12 MR. OWENS: No, not without office
13 and space and other vendors.

14 ANC COMMISSIONER PATE: So if you
15 were to reconfigure the tents and the goods
16 and whatnot, do you think that --

17 MR. OWENS: That's not up to me.
18 I have no say over that.

19 ANC COMMISSIONER PATE: Okay. I'm
20 done.

21 CHAIRMAN HOOD: Okay. What day?

22 MS. SCHELLIN: We're not going

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1 through this again, are we? July 7th.

2 CHAIRMAN HOOD: Okay. July 7th.

3 MS. SCHELLIN: 6:30.

4 CHAIRMAN HOOD: At 6:30 we're
5 going to start off with those who are --

6 MS. SCHELLIN: We're going to
7 start off with CHAMPS, the party in support.
8 Then we'll go to the individuals in support,
9 individuals and organizations, and then we'll
10 go to individuals and organizations in
11 opposition.

12 CHAIRMAN HOOD: And then we should
13 finish?

14 MS. SCHELLIN: And then rebuttal.
15 We should definitely finish.

16 CHAIRMAN HOOD: Definitely finish?

17 MS. SCHELLIN: And again, the
18 witness has been taken up, so no more names
19 will be added.

20 CHAIRMAN HOOD: Okay. We want to
21 thank you for your participation.

22 We will reconvene on July the

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1 11th. Thank you.

2 (Whereupon, the Hearing was
3 adjourned, to reconvene at 6:30 on July 11th,
4 2012.)

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