

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 :
   
:
   
-----:

Wednesday,
   
July 11, 2012

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

The Public Hearing of Case No.
   
11-24 by the District of Columbia Zoning
   
Commission convened at 6:35 p.m. in the Jerrily
   
R. Kress Memorial Hearing Room at 441 4<sup>th</sup> Street,
   
N.W., Washington, D.C., 20001, Anthony J. Hood,
   
Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

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OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,  
Development Review & Historic  
Preservation

MAXINE BROWN-ROBERTS

DISTRICT DEPARTMENT OF TRANSPORTATION  
STAFF PRESENT:

JAMIE HENSON

The transcript constitutes the  
minutes from the Public Hearing held on July

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11, 20112.

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

6:34 p.m

CHAIRMAN HOOD: Let go ahead and go on the record.

This is the Public Hearing of the Zoning Commission for the District of Columbia for Wednesday, July 11, 2012.

My name is Anthony Hood. Joining me are Vice Chair Cohen, Commissioner May and Commissioner Turnbull.

We're also joined by the Office of Zoning staff Ms. Sharon Schellin, the Office of Planning Ms. Steingasser and Ms. Brown-Roberts and the District Department of Transportation Mr. Henson.

As we all know, the proceeding is being recorded by a court reporter.

The subject of this evening's hearing is the continuation of Zoning Commission Case No. 11-24. And again, Notice of today's hearing was published in the *D.C. Register* on April 23, 2012.

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1                   This hearing will be conducted in  
2 accordance with the provisions of 11 DCMR 3022  
3 as follows:

4                   Preliminary matters;

5                   Party in support, they would have  
6 two minutes;

7                   Organizations and persons in  
8 support;

9                   Organizations and persons in  
10 opposition;

11                   Rebuttal and closing by the  
12 Applicant.

13                   The following time constraints will  
14 be maintained in this meeting:

15                   The party in support two minutes,

16                   Organizations five minutes;

17                   Individuals three minutes.

18                   The witness list was closed to any  
19 new witnesses at the end of the June 21st hearing  
20 night.

21                   All persons who have previously  
22 signed up to testify before the Commission are

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1 to fill out two witness cards.

2 Again, the witness is closed to any  
3 witness at the end of the June 1st hearing night.  
4 All persons who have previously signed up to  
5 testify before the Commissioner are to fill out  
6 two witness cards. These cards are located to  
7 my left on the table near the door. Upon coming  
8 forward to speak to the Commission, we ask that  
9 you please identify and give us your testimony.

10 When you are finished speaking to the  
11 Commission, please turn your microphone off,  
12 and hold your seat because we may have questions.

13 Please turn off all beepers and cell  
14 phone at this time so not to disrupt these  
15 proceedings.

16 Would all individuals wishing to  
17 testify please rise to take the oath? Ms.  
18 Schellin, would you please administer the oath?

19 (Witnesses sworn).

20 CHAIRMAN HOOD: Okay. Thank you.

21 The goal tonight is to finish. We  
22 would like to finish this before we go on recess.

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1           You noticed I cut my statement. I'm  
2 going to cut my time of talking, but we want  
3 to finish this, hopefully, tonight. Because  
4 tonight we don't typically set on Wednesday.  
5 This is our volleyball night, some of our  
6 volleyball night.

7           So what we're going to do, Ms.  
8 Schellin, any other housekeeping?

9           MS. SCHELLIN: No, sir.

10          CHAIRMAN HOOD: Okay. Thank you.  
11 Let me ask CHAMPS if they can come forward and  
12 begin their party in support.

13          Another thing is we're going to do  
14 the one minute when we have people in and  
15 opposition; come up we're going to do one minute  
16 -- the first bell means you got to wrap up in  
17 one minute. The second bell means, and  
18 unfortunately my parents didn't teach me to do  
19 this, but I'm going to be rude. I'm going to  
20 have to cut you off because we're going to try  
21 to finish this before we go on recess.

22          Okay. You can go ahead and get

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1 started.

2 MR. WEINHEIMER: Okay. Thank you.

3 Chairman Hood, Members of the  
4 District Zoning Commission, good evening. And  
5 thank you very much for allowing this testimony  
6 on behalf of CHAMPS, The Capitol Hill Chamber  
7 of Commerce. I'm Mark Weinheimer, CHAMPS  
8 President, as well as a local resident and  
9 business owner.

10 We enthusiastically endorse the  
11 work done by the Stanton-Eastbanc Development  
12 team and ask that the Commission approve its  
13 requests.

14 When the site initially became  
15 available our CHAMPS Board unanimously agreed  
16 that this site needed a significant development  
17 that would take maximum advantage of its  
18 prominent location in our neighborhood.  
19 Because of its prominent and singular location,  
20 CHAMPS feels that the site requires excellence  
21 in the design and a mix of uses, and it requires  
22 some density.

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1           Our city leaders have promoted  
2 livability and walkability. And one clear way  
3 that the District Government can reenforce this  
4 message of smart growth is to encourage density  
5 in the development of parcels located close to  
6 our Metro stops. This development, the  
7 hindsight, provides density where it makes  
8 sense, and it does this while also blending the  
9 project into the overall atmosphere Capitol Hill  
10 Historic District.

11           In addition to this density, we  
12 applaud Stanton-Eastbanc for designing a  
13 project with a mix of uses. As business people,  
14 we like the fact that the project allows for  
15 street level retail along the streets where such  
16 use makes sense. We appreciate also that the  
17 developers are committed to leasing at least  
18 20 percent of that commercial space to small  
19 and local retailers.

20           Among the uses projected for this  
21 project is also parking for 321 cars. We believe  
22 that this is an important part of this

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1 development. The proposed uses of the site and  
2 existing community uses on and near the site  
3 will generate the street traffic, particularly  
4 on weekends and there needs to be parking  
5 capacity to provide for the activity the site  
6 will generate.

7 Eastern Market itself and the  
8 surrounding businesses all rely on a variety  
9 of customers, some of whom need parking. Having  
10 a large amount of traffic --

11 CHAIRMAN HOOD: Let me just say, we  
12 have your testimony. You have two minutes.

13 MR. WEINHEIMER: Okay.

14 CHAIRMAN HOOD: The first person  
15 always is an example.

16 MR. WEINHEIMER: Yes, that's right.

17 CHAIRMAN HOOD: So we have your  
18 testimony.

19 Thank you very much.

20 Any questions from the  
21 Commissioners?

22 Okay. Does the Applicant have any

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1 cross-examination?

2 ANC 6B, any cross? Okay.

3 Hine School North any cross?

4 Eyes on Hine?

5 Okay. And Diverse Market any  
6 cross? No cross. Okay.

7 Thank you very much.

8 MR. WEINHEIMER: You're very  
9 welcome.

10 CHAIRMAN HOOD: Okay. Now lets go  
11 to persons in support. And Ms. Schellin and  
12 I are going to do our normal thing: We're going  
13 to do our best. Most of this is typed. Oh, the  
14 first page, okay.

15 In support I have first Mary  
16 Proctor. Proctor. Okay. Mary Proctor? Is  
17 Mary Proctor. You're right, no I don't have Mary  
18 Proctor. Okay.

19 Next is Janet Quigley? Okay. Come  
20 forward.

21 We're calling those who are coming  
22 forward to testify in support.

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1                   Cheryl Court?    Yes.  Oh,  I  saw  
2 Cheryl.

3                   Steve -- okay.  Actually,  you  know  
4 we  can't  read.  But  you  know  sometimes  we  can't  
5 make  it  out.

6                   David Garber?

7                   David Perry?

8                   Don Myers

9                   Okay.  It's Don Myers? Okay.

10                  And Peter Katz? Peter Katz?

11                  Debbie Danielson?

12                  Larry Quillian.

13                  Okay.  Did I call too many people.  
14 Hold on a second.  No, I think Mr. Quillian can  
15 wait.  Okay.  You're good.  Okay.  Good.

16                  What I'm going to do tonight in doing  
17 this, I'm going to start from my right to your  
18 left and I'm going to go right around here and  
19 identify yourself and we'll begin with this  
20 young lady to my right, and we'll just come on  
21 down.

22                  MS. QUIGLEY:  Now I think it's on.

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1           Good evening, Chairman Hood and  
2           Commissioners. My name is Janet Quigley, and  
3           I'm the new President of the Capitol Hill  
4           Restoration Society.

5           CHRS has worked closely with the ANC  
6           6B, the other community stakeholders and  
7           Stanton-Eastbanc on the Hine project over  
8           several years. This has been a complex and  
9           challenging project, and we applaud all the  
10          parties' commitment to forge an acceptable plan  
11          that balances the wide variety of community  
12          needs.

13          As our letter of June 14, 2012  
14          states, CHRS supports this project with few  
15          reservations.

16          First, the 7th and Pennsylvania  
17          Building. The building at 7th and Pennsylvania  
18          Avenue is still inappropriate and incompatible  
19          with the Historic District. This is the  
20          project's signature building, but with all due  
21          respect to the architect it is not the right  
22          design for such a permanent and highly visible

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1 location on a primary corridor in the Historic  
2 District. It should tell a better story about  
3 how it relates to its neighbors. It is too severe,  
4 too sharply rectilinear and has too few elements  
5 that echo the character defining aspects of the  
6 Historic District.

7 CHRS strongly urges that this  
8 building's design be revisited and made more  
9 compatible with Capitol Hill.

10 Second, the connecting structure  
11 similarly it is completely incompatible with  
12 the historic character of Capitol Hill, and in  
13 particular with Pennsylvania Avenue. It is  
14 stylistic incongruent with the buildings it  
15 connects, its proportions are wrong and it is  
16 highly out of place.

17 CHRS strongly urges that this  
18 structure be redesigned. We also request that  
19 the revisions for this structure all for the  
20 7th and Pennsylvania Avenue Building be  
21 submitted to the Historic Preservation Review  
22 Board for review per HPRB's decision of April

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1 26, 2012.

2 Third, the flea market.  
3 Preservation of the flea market has been a  
4 priority for CHRS since the beginning. We  
5 believe the solutions offered by the reopened  
6 C Street, the Plaza and the pending Eastern  
7 Market legislation will ensure a viable and  
8 vibrant flea market.

9 And fourth, office parking shared  
10 with flea market vendors and customers is a  
11 community priority. We applaud DDOT for  
12 recognizing that and for supporting this key  
13 aspect of the project.

14 In summary, our concern regarding  
15 parking has been resolved and we believe our  
16 remaining concerns regarding design and the flea  
17 market can also be resolved. On that basis,  
18 CHRS support the application.

19 We would request that the following  
20 three provisions be included in the final order.

21 First, the windows on all first  
22 floor retail remain unblocked to remain a view

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1 inside to a depth of 20 feet. Sort of to avoid  
2 the issues that you get at the CVS at 7th and  
3 Pennsylvania where the windows are blocked.

4 Second, that every doorway on the  
5 first floor retail have a functioning door.

6 And third, that any tents or  
7 umbrellas or terraces of the buildings be  
8 temporary only and places in a way that minimizes  
9 their viability from public streets.

10 Finally, CHRS thanks SEB for their  
11 willingness to work with the community and for  
12 their flexibility in negotiating the MOA, and  
13 thank the ANC 6B Hine Subcommittee members for  
14 their long hours of work.

15 Thank you for your time and  
16 consideration of these matters.

17 CHAIRMAN HOOD: Okay. Thank you  
18 very much.

19 Next? Next? You sir.

20 MR. QUILLIAN: Okay. I'm here to  
21 speak in support of the Stanton-Eastbanc Hine  
22 Development project.

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1 I project the project including the  
2 massing, height and concept of the design as  
3 currently proposed.

4 I'm Larry Quillian, and I live at  
5 820 D Street Southeast. That's just four doors  
6 from the southeast corner of the Hine project.

7 I've lived and raised my children  
8 at this location since 1975. I was there while  
9 they built the Metro line and station across  
10 the street from house.

11 There was a concrete plant in the  
12 park, literally across the street from my house  
13 where for three years they started work at 7:00  
14 in the morning with noise, dust and truck  
15 traffic. But it was worth all that bother to  
16 have the enormous convenience of the  
17 concentration of commercial services that are  
18 within blocks of my house.

19 The Hine development will have  
20 dozens of new services, including new stores,  
21 new office space, new housing for our community.  
22 The Hine project will draw hundreds of new

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1 friends and patrons to our neighborhood. Those  
2 hundreds will support all of the existing  
3 businesses on The Hill, and will encourage new  
4 businesses to bring their wares and services  
5 to The Hill. And all the new and old businesses  
6 combined will make The Hill a more successful  
7 and convenient community for everyone who lives  
8 on Capitol Hill.

9 Everyone with vocal opposition to  
10 the Hine project on Capitol Hill, this is  
11 business as usual. Everybody has to have their  
12 say. But once the project is finished and serving  
13 the community, all of the opposition will be  
14 forgotten and all these angry people will be  
15 ecstatic to take advantage of the carefully  
16 balanced amenities that this much negotiated  
17 and compromised project will bring to those who  
18 live and visit Capitol Hill.

19 I urge the Zoning Board to approve  
20 this project in current thoroughly vetted  
21 form--

22 CHAIRMAN HOOD: Okay. Thank you

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1 very much.

2 Okay. Next.

3 Okay. I'm sorry. Forgive. Could  
4 you finish your testimony. No, but I cut you  
5 off and I apologize for that. I forgot about  
6 the one minute warning. So you have some more  
7 time. You have one minute left.

8 MR. QUILLIAN: Thank you for  
9 listening and for your consideration this  
10 matter.

11 CHAIRMAN HOOD: All right. See, I  
12 like to make up when I mess up. I apologize.

13 Okay. Next.

14 MR. CYMROT: My name is Steve  
15 Cymrot, and I'm pleased to be here to support  
16 the Stanton-Eastbanc proposal for Hine.

17 It always appears as though when you  
18 get through writing what you consider to be  
19 absolutely brilliant, unique testimony, that  
20 the people who are coming before and after you  
21 say essentially the same thing.

22 I first moved to Capitol Hill in 1958

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1 and am deeply committed to the neighborhood and  
2 its people. Over the years there have been major  
3 changes.

4 My rent in 1958 was \$40 a month.  
5 Change is scary. On Capitol Hill our village  
6 is cherished by the increasing number of people,  
7 young and old, who choose to live here, to send  
8 their children to our schools and to retire here.

9 Capitol Hill neighbors love its  
10 friendly small community with its meticulously  
11 restored historic buildings, like the Eastern  
12 Market and the newly stored Hill Center at the  
13 Old Naval Hospital.

14 Barracks around H Street have  
15 changed, and now attract people from all over  
16 the city. The flea market at Eastern Market,  
17 despite the initial opposition by neighbors,  
18 has become a values community gathering and  
19 shopping place, so as you can tell from other  
20 testimony that you have heard.

21 We can look out our windows and see  
22 the Capitol Building, the Library of Congress,

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1 the Supreme Court and live with these neighbors  
2 everyday, and appreciate them and the contract  
3 between these buildings and our adjacent  
4 historic neighborhood. But change is scary. Some  
5 people are worried that the Hine development  
6 change the character of the neighborhood. It  
7 will, just the same way that the conversion of  
8 churches and condominiums worried people. Just  
9 the same way that H Street's trolley and the  
10 development of Reservation 13 will do. Just as  
11 the national stadiums has brought new housing  
12 to an old warehouse district. And just the same  
13 as NOMA has turned the Union Station area into  
14 an attractive and active area. It's all for  
15 the better.

16 We're lucky to have an ideal  
17 development team for the Hine project. Kitty  
18 and Ken both love Capitol Hill and have brought  
19 new exciting projects to the Eastern Market area  
20 and other Hill locations.

21 Amy Weinstein is the premier  
22 architect who has designed sensitive and

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1 imagination buildings for us to use and enjoy.  
2 But change is scary and after this development  
3 is completed we'll continue to be a bike riding,  
4 liveable, walkable stroller-pushing  
5 neighborhood. The Hine project will bring new  
6 and varied residential opportunities. And it  
7 will bring much needed space in retail  
8 establishments. We'll wonder how we ever did  
9 without it.

10 I think you may already have written  
11 this one as well.

12 CHAIRMAN HOOD: Thank you.

13 Next?

14 MR. PERRY: Good evening, Mr.  
15 Chairman and Members of the Commissioner. My  
16 name is David Perry and I'm a Board Member of  
17 Barracks Row Main Street, and appearing this  
18 evening in behalf of that organization.

19 As you may know, for more than ten  
20 years Barracks Row Main Street has been a major  
21 force promoting the revitalization of Barracks  
22 Row, which is that portion of H Street Southeast

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1 between Pennsylvania Avenue and M Street.

2 Our experience over the past decade  
3 suggests that the continued improvement of  
4 Barracks Row is dependent to small degree upon  
5 the strength and vitality of the community that  
6 surrounds it. We firmly believe that the  
7 development of the former Hine Junior High  
8 School site will be the single most important  
9 project to be undertaken in our community in  
10 a generation. If redevelopment of the Hine site  
11 it carried out correctly, it can immeasurably  
12 strength Capitol Hill's commercial core and can  
13 serve as the crucial length between Barracks  
14 Row and the Washington Navy Yard to the south,  
15 and the Eastern Market 7th Street corridor to  
16 the north.

17 The good news is that the  
18 Stanton-Eastbanc team includes firms that have  
19 extensive experience working in the Capitol Hill  
20 Historic District and an AIA award winning  
21 architect, Amy Weinstein who has designed a  
22 number of exemplary projects in our community.

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1           Barracks Row Main Street believes  
2           that the mixed-use development plan prepared  
3           by Stanton-Eastbanc, which recently was  
4           approved by the Historic Preservation Review  
5           Board incorporates all of the elements that the  
6           Capitol Hill community has been advocating for  
7           the Hine site including:

8                     A significant amount of new housing,  
9                     especially much needed affordable housing;

10                    New retail on both 7th Street and  
11                    Pennsylvania Avenue that will compliment and  
12                    strengthen the area's existing retail and  
13                    strengthen the commercial link between Eastern  
14                    Market 7th Street and Barracks Row 8th Street.

15                    A substantial amount of office space  
16                    located directly across the street from the  
17                    Eastern Market Metrorail station in keeping with  
18                    smart growth principles

19                    Hundreds of new office workers who  
20                    presence Monday through Friday will support both  
21                    existing and new retail on 7th Street and 8th  
22                    Street as well as the Eastern Market;

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1           Below grade parking that will be  
2           available to support new and existing retail,  
3           the Eastern Market and the flea market on  
4           weekends;

5           The reduction of the 700 block of  
6           C Street Southwest, and finally;

7           Attractive public spaces including  
8           a plaza directly adjacent to the new C Street  
9           that in conjunction with C Street itself will  
10          be the locus of the weekend flea market.

11          I would like to comment on one  
12          particular element of the propose site plan,  
13          and that is the souther edge of the Hine site  
14          between 7th and 8th Streets. Barracks Row Main  
15          Street strongly favors a continuous retail  
16          presence on the north side of Pennsylvania  
17          Avenue between 7th Street and 8th Street. This  
18          portion of the Hine site will visually connect  
19          8th Street Barracks Row commercial corridor with  
20          the new and existing retail establishments on  
21          7th Street at the Eastern Market. We think it  
22          is vital that these two commercial corridors

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1 be seamlessly connected via continuous retail  
2 on Pennsylvania Avenue.

3 In our view the overall project  
4 design acknowledges and reflects the importance  
5 of this site's historic location, and it  
6 restores an element of the original L'Enfant  
7 by reopening C Street Southeast between 7th and  
8 8th Street. The Board of Directors of Barracks  
9 Row Main Street believes that both the scale  
10 of the project and the proposed mix of uses  
11 compatible with the character of the surrounding  
12 Capitol Hill Historic District and we urge the  
13 Zoning Commission to approve the  
14 Stanton-Eastbanc plan for the development of  
15 the Hine site.

16 Thank you very much for giving us  
17 the opportunity to testify this evening.

18 CHAIRMAN HOOD: Okay. Thank you  
19 very much.

20 Next?

21 MR. MYER: Good evening. I'm Don  
22 Myer. I'm the Chairman of the Preservation

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1 League Project Review Committee and  
2 representing the Board of the D.C. Preservation  
3 League. Our Committee reviewed and endorses the  
4 Hine concept based on the design, material use,  
5 massing and streetscape elements relating to  
6 historic precedents.

7 The project's 21st Century design  
8 is compatible with adjacent construction,  
9 nearby historic structure and metrocentric  
10 walkable urban planing. The resulting vitality,  
11 plasticity of the project far exceed the usual  
12 Historic District infill and prestige, and we  
13 hope that such character building elements as  
14 window insets and brick paneling will survive,  
15 because that will greatly enhance the design  
16 harmony in a unique setting, and would include  
17 of course sawtooth brick, brick paneling, the  
18 kind of brick ornament that was predominant in  
19 that era during the Victorian, which was such  
20 a rich part of the potential tapestry of this  
21 project, and one that I might add the architect  
22 is very capable with from other examples of her

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1 work.

2 Thus, I would also add that our  
3 Committee noted the reopening of C Street  
4 visually and from Market Place and in support  
5 of the Eastern Market. And this harkens back  
6 really to some of the 19th Century Washington  
7 streetscape cacophony of retail on the sidewalk  
8 and spilling under awnings going out to the curb.  
9 So pickle barrels and produce and farmers'  
10 wagons and so forth, some of which were a little  
11 bit cattywampus. But if you look at the  
12 photographs of early Washington, you see that  
13 kind of street life, the vitality that existed  
14 here up until actually the beginning of the 20th  
15 Century.

16 So thus, we look forward to keeping  
17 up the data as this project evolves and feel  
18 that it is a part of the evolution of the Historic  
19 District as well and the city, and look forward  
20 to seeing the evolution and development of the  
21 best possible streetscape elements, landscape  
22 lighting, architecture, planning, et cetera as

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1 the project is carried forward.

2 So with that, that concludes my  
3 formal statement on behalf of the D.C.  
4 Preservation League.

5 Thank you.

6 CHAIRMAN HOOD: Thank you.

7 Next?

8 MS. CORT: Good evening. My name  
9 is Cheryl Cort, and I am the Policy Director  
10 for the Coalition for Smarter Growth. We work  
11 to ensure the transportation and development  
12 decisions in the D.C. area accommodate growth  
13 in our revitalizing communities, providing more  
14 housing and travel choices and conserving our  
15 natural historic area.

16 We're here tonight, I'm very pleased  
17 to express our support for the proposed project  
18 for the Hine Junior High School site. We concur  
19 with the results of HBRB approvals and believe  
20 that the proposed scale and overall design  
21 conforms to the Capitol Hill area and is  
22 respectful of the Historic District.

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1           Given the large amount of open space  
2 adjacent to this site, we agree with the larger  
3 scale building, that a large scale building is  
4 needed to given definition to the expansive  
5 square, and we also appreciate the restoration  
6 of C Street and its ability to accommodate an  
7 adaptive flea market and to look at further  
8 extension of street closures to further  
9 accommodate flea market uses.

10           I wanted to highlight one of the  
11 things that I'm most enthusiastic about,  
12 although I think overall it's an excellent  
13 mixed-use project, but the carefully scaled and  
14 mixed-use project is a rare opportunity to offer  
15 a substantial number of affordable and  
16 accessible housing and it's in such a desirable  
17 location at a Metro station and a beautiful  
18 historic neighborhood.

19           We want to highlight that the  
20 project includes deeply affordable housing down  
21 to 30 percent of area median income which we're  
22 not necessarily seeing in new publicly land

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1 deals, and given the high cost of new housing  
2 and the loss of existing low priced housing,  
3 we urge the Commission to ensure that the  
4 proposed amount of affordable housing at these  
5 ambitious income levels and at the 60 percent  
6 AMI level is built at this location. We're  
7 specifically concerned that expensive designs  
8 and materials along with costly amenities often  
9 driven out affordability and eliminate the  
10 possibility of serving D.C. households with the  
11 greatest housing needs, those at 30 percent of  
12 the area needed and below.

13 We think it's worth the trade-off  
14 to have a smaller number of 30 percent AMI units  
15 rather than more 60 percent AMI units, or 80  
16 percent AMI units. We support the independent  
17 North Building which allows financing and  
18 construction advantages to ensure that the  
19 achievement of the five 30 percent AMI of 2960  
20 percent AMI units can be located here, and that  
21 greatest challenge will be to achieve those 30  
22 percent AMI units. And we need to use all the

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1 tools available to do this, and a public land  
2 disposition is what we should be using. And  
3 this is why I am very enthusiastic about this  
4 project.

5 So, you know this project is using  
6 subsidiaries such as loaned from Housing Tax  
7 Credits, but also the public land value to  
8 produce these quality affordable units in this  
9 highly accessible neighborhood.

10 We also agree that the market rate  
11 housing is valuable as baby boomers in the  
12 neighborhood might want to downsize, but still  
13 live nearby. And it's good for business and  
14 it's good for the region to accommodate these  
15 housing opportunities at this location.

16 I just wanted to note that I recently  
17 completed a research paper looking at the public  
18 benefits achieved through public land  
19 dispositions in the District of Columbia. And  
20 the Hine project really stands out as a model:

21 It had early and extensive community  
22 input and support, and continues to have very

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1 extensive community input.

2 It provides an appropriate mix of  
3 housing, office and retail to extend response  
4 of the different street frontages;

5 It provides public benefits with the  
6 rebuilding of C Street with a plaza and the  
7 robust 29 percent affordable housing as a key  
8 component. So, we enthusiastically in support  
9 of this. It's a great opportunity to  
10 translating a beautiful Historic District.

11 Thank you.

12 CHAIRMAN HOOD: Good. Thank you.

13 Remember, the first buzzer means  
14 that you got to round up, so you had another  
15 minute. Okay. Yes.

16 Yes. The first one's a warning. So,  
17 okay. All right. Thank you.

18 Next.

19 MR. GARBER: My name is David  
20 Garber. And I'm here to support the statement  
21 of Stanton-Eastbanc's development team Hine  
22 School Redevelopment proposal. Although I serve

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1 as the Advisory Neighborhood Commission for the  
2 Navy Yard neighborhood and as the Vice Chair  
3 of ANC 6B, my comments are not meant to represent  
4 the comments the opinions of my entire ANC.  
5 I am here as a resident of Greater Capitol Hill  
6 and of Ward 6, and as someone who cares deeply  
7 about our neighborhoods and developments that  
8 happen within them.

9 I've been a regular visitor to  
10 Eastern Market my entire life, and currently  
11 live one mile southwest of the Hine School site.  
12 I engage at the site almost daily, whether  
13 shopping or dining nearby, swimming at the  
14 Aquatic Center, working from the neighboring  
15 coffee shops or visiting with friends and family  
16 in the adjoining neighborhoods and can confirm  
17 that as much s the Eastern Market area is an  
18 amenity and points of interest for those  
19 immediately adjacent to it, it is also an  
20 extremely important place for people from all  
21 sides of Capitol Hill.

22 I support Stanton-Eastbanc's

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1 current proposal because it goes a long way to  
2 accomplishment many of the diverse hopes for  
3 the site. Their proposal:

4 Communicates architecturally with  
5 the surrounding neighborhood without taking a  
6 strictly historic design approach;

7 It adds a significant amount of  
8 affordable housing in an area that increasingly  
9 needs it;

10 It reopens C Street Southeast across  
11 the site, and;

12 It respects the scale of the  
13 existing neighborhood while adding appropriate  
14 new density to a transit accessible location.

15 I do, however, remain concern about  
16 the use of first floor retail space for a  
17 childcare facility. This creates a retail  
18 space in the evenings and on weekends that is  
19 dark unused. Building in ground floor space that  
20 won't be used in the evenings or on the weekends  
21 goes against one of the primarily goals for the  
22 site: To bring activity to a Metro accessible

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1 vacant property and tie together the existing  
2 business communities of Barracks Row, Eastern  
3 Market and Pennsylvania Avenue.

4 That said: If the childcare  
5 facility does locate on the hindsight, I ask  
6 that it not be located at any of the retail  
7 corners or in space currently allocated for  
8 affordable housing.

9 Additionally, a new problem has  
10 emerged from the removal of the penthouse level  
11 of the office building of corner of 7th Street  
12 and Pennsylvania Avenue Southeast. What was a  
13 tiered structure has been left looking much  
14 foxier. I know that more could be done to  
15 gracefully breakup or distinguish elements of  
16 the massing while retaining or essentially  
17 adding to the building's existing square  
18 footage.

19 Again, I support Stanton-Eastbanc's  
20 plans for the redevelopment of the Hine School.  
21 I know that they are working hard to plan a  
22 project that will be a benefit to the

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1 neighborhood and the city. The inclusion of  
2 affordable housing and the reopening of C Street  
3 Southeast exemplify the kinds of community  
4 benefits expected from a planned unit  
5 development and public land disposition. I am  
6 confident that their proposal will only bolster  
7 our affection for the site and will fondly bring  
8 a sense of completion to a space that has been  
9 an economic and visual hole for too long.

10 CHAIRMAN HOOD: Thank you.

11 Next?

12 MS. DANIELSON: Chairman,  
13 Commissioners, my name is Debbie Danielson. I  
14 own Forecast, a women's clothing store across  
15 from Eastern Market on 7th Street, a residential  
16 commercial that houses the shop and the  
17 residential condo all within two blocks of  
18 Stanton-Eastbanc's development project. I  
19 therefore have more to gain or lose than most.

20 I am also representing the Market  
21 Row Association, an organization of brick and  
22 mortar businesses on 7th Street.

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1           For 34 years Forecast has stood on  
2           7th Street. We have survived several recessions,  
3           many, many street repairs, the renovation of  
4           Eastern Market, the permanent closing of 7th  
5           Street to weekend vehicular traffic, flea market  
6           encroachments blocking our store encroaching  
7           our store entrance, crime and so much more.

8           We work incredibly hard at Forecast  
9           to stay on top of the inevitable changes in our  
10          industry and in our neighborhood. We have in  
11          fact earned the reputation as one of the top  
12          performing specialty stores in the country. We  
13          are a destination store that draws customers  
14          from around the region including many Virginia  
15          and Maryland residents.

16          My story is the story of my retail  
17          neighbors. We run efficient and responsive  
18          operations. Many of us are destination stores  
19          attracting customers from around the region.

20          At 218 7th Street, my address, we  
21          proudly pay property taxes, sales taxes and  
22          income taxes.

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1           At the last hearing in Stanton  
2 Development you heard testimony under oath that  
3 the flea market was driving business in our area,  
4 and further diminishing the flea market would  
5 diminish sales for us all. This came as quite  
6 shock to all of us, the working shop keepers.  
7 We thought our sales were due to our own hard  
8 working efforts. The outrageous claims made by  
9 the flea market lobby motivated our group to  
10 speak up. There is room for all, but let us  
11 keep the facts straight. They are entitled to  
12 their own opinion, but not to their own facts.

13           I am pleased to be here this evening  
14 to support Stanton's Development project. I  
15 rarely participate in public forums, but I felt  
16 the ranker and polarization around this project  
17 has escalated to such an unacceptable level I  
18 could no longer sit back. My remarks focus on  
19 the density of the project and the reputation  
20 of the development.

21           As a proponent of smart growth  
22 principles, I support residential and

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1 commercial development across from the Metro.  
2 I leave the look of the project to others like  
3 the Capitol Hill Restoration Society whose  
4 thoughtful criticism has improved the project.  
5 My interest is to see a financially viable  
6 building fully used which will serve the  
7 community but will also attract people from  
8 around the region.

9 More than 30 years ago my husband  
10 and I developed this small building, it  
11 currently houses Forecast. We had no support  
12 from the community and the project was brought  
13 to a halt temporarily because of the neighbors'  
14 complaints. Interest rates were 20 percent, we  
15 were young, I had dark hair then and poor. It  
16 was a long cold water, but we sneaked through  
17 and finished the building.

18 We took a rat-infested abandoned  
19 box, excavated and built up 22 floor adding  
20 apartments atop the commercial spaces.

21 It has been fully rented since its  
22 completion in 1981. We thought we had included

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1 the neighborhood, others disagreed.  
2 Development is not always celebrated. Some of  
3 my most cherished customers are outspoken  
4 critics of the proposed project. Both sides want  
5 the best for the neighborhood. Sadly,  
6 hostilities has escalated and the time for civil  
7 discourse may have passed.

8 Stanton's reputation for attracting  
9 and keeping world class tenants speaks for  
10 itself. They have brought to The Hill  
11 professionally run retail establishments. These  
12 businesses both serve the neighborhood and  
13 attract clients from around the region.

14 Ken and Kitty are my neighbors and  
15 customers. Do I like everything they do? No.  
16 Can I respect for their vision and commitment  
17 to our neighborhood? Yes, I can and I do.

18 Thank you.

19 CHAIRMAN HOOD: You can actually  
20 finish. You have a minute.

21 MS. DANIELSON: Well, it's very  
22 important. I would be happy to take questions

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1 about fashion trends or tips, or any other  
2 compelling concerns that you may have; that's  
3 my real expertise.

4 CHAIRMAN HOOD: All right. Thank  
5 you.

6 I just wanted to remind everything  
7 that the first bell is for you to get ready to  
8 wind up and stop on the second. The first one.

9 So that's, everybody. The first  
10 one you don't have to stop. The second -- I  
11 know it's confusing, but if I take this first  
12 bell away, we might have another hearing. So,  
13 let's continue to do the first bell, start  
14 winding up. The second bell stop. Buzzer, I  
15 guess.

16 Okay. Any questions,  
17 Commissioners? Okay. Commissioner May?

18 COMMISSIONER MAY: Yes. First of  
19 all, I'm not sure that we got written testimony  
20 from everybody. Okay. If you have it and we  
21 haven't gotten it, I think it would be very  
22 useful to have it.

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1           The second thing, I had a question  
2           for Ms. Cort, you've been here many times,  
3           testified on many projects. And there's always  
4           a champion for trends and oriented development,  
5           and generally speaking density.

6           So, your testimony in this case was  
7           that this was very carefully done in terms of  
8           the density, at least that's what I got out of  
9           it. So, I'd like you to speak to that a little  
10          bit more. I mean, you know given the general  
11          tendency of your organization and what you  
12          testified to in other cases, I'm almost  
13          surprised that you wouldn't like to see a lot  
14          more density in this circumstance. But tell me  
15          what you thought.

16                 MS. CORT: Well, I mean I think it's  
17                 a balance of the context of a Historic District  
18                 and basically I would suggest that the building  
19                 needs to relate to its neighborhoods in a way  
20                 you are sort of getting a little bit more out  
21                 of it, but not so much that it's out of scale  
22                 in a Historic District. So, I mean, it's sort

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1 of that balance.

2 Yes, I'd love to see more housing  
3 and business opportunities here, but we have  
4 to put it into its context. So I think that  
5 project does that.

6 COMMISSIONER MAY: Okay. Thanks.

7 CHAIRMAN HOOD: Commissioner  
8 Turnbull?

9 COMMISSIONER TURNBULL: Thank you,  
10 Mr. Chair.

11 I'd like to ask resident Quigley a  
12 question. You're in support but you still have  
13 some serious reservations about a couple of  
14 issues. If you don't see any movement from the  
15 output in those areas, where will be the  
16 Preservation Society be?

17 MS. QUIGLEY: Well, I guess we're  
18 confident that we will see progress. It's been  
19 such a --

20 COMMISSIONER TURNBULL: I don't  
21 mean to put you on the spot.

22 MS. QUIGLEY: I know. There have

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1       been so many, you know we've hashed through so  
2       many different issues and trade-offs and there's  
3       so many aspects to this. We have voted to  
4       support it with those conditions. So, with those  
5       reservations --

6                   COMMISSIONER    TURNBULL:        What  
7       about, you didn't mentioning anything about the  
8       Zoning? Are you okay with the C-2-B proffered  
9       zoning that they want rather than the C-2-A,  
10      which a lot of people are in support of. What's  
11      your take on that?

12                   MS. QUIGLEY:     We do not take a  
13      position on the Zoning level.

14                   COMMISSIONER TURNBULL:    Okay.

15                   MS. QUIGLEY:     Like I say, I don't  
16      want to -- I'll have to speak personally, if  
17      that's all right.

18                   COMMISSIONER TURNBULL:    Sure.

19                   MS. QUIGLEY:     I would assume from  
20      the terms that granted a certain square footage  
21      that it presumed a certain Zoning level.

22                   COMMISSIONER TURNBULL:    Okay. I

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1 can throw that out to anybody else on the panel  
2 on the C-2-B; what's the feeling on that? Any  
3 concerns or you all okay with it?

4 Seeing no response, that means a  
5 yes.

6 MS. QUIGLEY: Or they don't know.

7 COMMISSIONER TURNBULL: Or they  
8 don't know? Okay.

9 Mr. Chair, that's it.

10 CHAIRMAN HOOD: Any other  
11 questions? Vice Chair?

12 VICE CHAIRPERSON COHEN: Yes.  
13 Actually, Ms. Quigley, I have a question as well.

14 The Historic Preservation Review  
15 Board approved this project. And Preservation  
16 did approve the project. So, I'm kind of  
17 confused exactly what your disagreement would  
18 be, other preservations are?

19 MS. QUIGLEY: Well, sure. They're  
20 the same ones that we did voice at the HPRB  
21 reviews and some of our concerns were listened  
22 to and -- you know, you win some, you lose some.

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1 And so they're the same ones that we've been  
2 talking about all along: Basically the design.  
3 We just feel that it should be more compatible  
4 with the architecture of the other structures  
5 that are nearby and respectful of that corner  
6 of the heart of Capitol Hill.

7 VICE CHAIRPERSON COHEN: So, again,  
8 since I don't have any written testimony to refer  
9 to, what exactly is your concern? What exactly  
10 are they then?

11 MS. QUIGLEY: Well, the really  
12 sharp angles. The really -- those twisty  
13 columns. Our Historic Preservation Committee  
14 Chair could say it better, but it's just very  
15 severe, very stark.

16 I'm sorry. My testimony came from  
17 the letter that we submitted. It's pretty much  
18 word-for-word, and I assumed that you had the  
19 letter there, so -

20 VICE CHAIRPERSON COHEN: Yes, I'll  
21 dig for it because we have thousands of letter.  
22 Okay. Thank you.

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1 MS. QUIGLEY: Well, that's what it  
2 is.

3 COMMISSIONER MAY: We do have that  
4 letter, and I was trying to follow along as you  
5 made your points. And I think it was maybe just  
6 a little clearer in your testimony. It sort  
7 of brought the key issues to the top. So, it  
8 would be helpfully to actually to see the  
9 testimony.

10 MS. QUIGLEY: I'm sorry. I will  
11 provide that. Yes.

12 VICE CHAIRPERSON COHEN: Okay.  
13 And then my final question is to Mr. Myer. Can  
14 you define "cattywampus?" I like that name.  
15 I've never heard it.

16 MR. MYER: Cattywampus means every  
17 which way. And when I was referring to the  
18 streetscape retail of the 19th Century. And  
19 sometimes in the Midwest, for example, around  
20 the courthouse square the farmers would all come  
21 with their wagons for marketing. And in the  
22 Midwest they organized it and it, you know, like

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1 lined places where they would parallel park.  
2 But in Washington they weren't quite orderly  
3 and so they were sort of every which way because  
4 some of the parking places, believe it or not,  
5 weren't big enough then.

6 Thank you.

7 CHAIRMAN HOOD: Any more questions  
8 up here? Okay.

9 Does the Applicant have any  
10 cross-examination?

11 ANC 6B, any cross?

12 CHAMPS, any cross? CHAMPS? Oh,  
13 okay. I'm sorry.

14 Hine?

15 Eyes on Hine? Okay.

16 EMMCA? Okay. I'm sorry. I guess  
17 I want to call you all EMMCA, but it's EMMCA.  
18 Yes. I'm sorry. I don't know why I keep doing  
19 that.

20 MS. RIEHLE: Okay. I just have a  
21 couple of quick questions for CHRS, also.

22 You talk in the letter that you sent

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1 about the entrance and the concerns with the  
2 entrance, which I believe is located on  
3 Pennsylvania Avenue, correct?

4 MS. QUIGLEY: Correct.

5 MS. RIEHLE: Would you say just  
6 roughly that that entrance takes about a third  
7 of that Pennsylvania Avenue frontage? Is that  
8 about that?

9 MS. QUIGLEY: It didn't look that  
10 big to me, but --

11 MS. RIEHLE: Well, what you-- I'm  
12 just guessing. What would you guess the width  
13 of that entrance is?

14 MS. QUIGLEY: I don't know. Fifty  
15 feet, I can't say. I don't know.

16 MS. RIEHLE: Okay. I guess my  
17 point -- or the question that I want to ask you  
18 would CHRS say the use of that large a space  
19 on Pennsylvania Avenue might be for storefronts?

20 MS. QUIGLEY: Not necessarily, no.

21 MS. RIEHLE: Okay. My next  
22 question you talk about wanting doorway wherever

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1 there's a door, which sound kind of innocuous,  
2 but the developer has put what looks like  
3 doorways along the D Street side where there  
4 including storefront windows but deliberately  
5 not including entrances. They're putting  
6 entrances on Pennsylvania Avenue. So what  
7 they're proposing is a grocery store, correct?

8 MS. QUIGLEY: The building we're  
9 talking about with the doors is that sometimes  
10 you see a door that's just blocked out but not  
11 used, and those not pretty unsightly. So that's  
12 what we were concerned about.

13 MS. RIEHLE: Yes. Okay. So  
14 you're not suggesting putting doorways along  
15 that D Street frontage

16 MS. QUIGLEY: No, we're just saying  
17 if there is a door, it should be a real door.

18 MS. RIEHLE: Okay. So if it looks  
19 like a door, it should be a door, is that fair?

20 MS. QUIGLEY: Yes.

21 MS. RIEHLE: Okay. You testified  
22 that CHRS is in favor of preserving the weekend

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1 flea markets, correct?

2 MS. QUIGLEY: Yes.

3 MS. RIEHLE: And contingent  
4 obviously on the passage of Eastern Market  
5 legislation Councilmember Wells introduced,  
6 correct?

7 MS. QUIGLEY: yes.

8 MS. RIEHLE: Okay. Were you able  
9 to witness the hearing last week?

10 MS. QUIGLEY: No, sorry. I wasn't.

11 MS. RIEHLE: Okay. So CHRS is not  
12 aware that the legislation is stalled and the  
13 Mayor's Office has opposed it?

14 MS. QUIGLEY: CHRS did testify. It  
15 wasn't me, but we did have someone testify there.  
16 Yes.

17 MS. RIEHLE: And does the stalling  
18 of the legislation affect your support of the  
19 proposal given the state of the flea market is  
20 so at risk now?

21 MS. QUIGLEY: I'm not aware that  
22 it's stalled.

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1 MS. RIEHLE: Okay.

2 MS. QUIGLEY: The issue's come up,  
3 but I have not heard that it's stalled.

4 MS. RIEHLE: Well, if the Council's  
5 adjourned, right?

6 MS. QUIGLEY: Yes, yes.

7 MS. RIEHLE: And no action was taken  
8 on the legislation, correct?

9 MS. QUIGLEY: I'll grant you that.  
10 I don't know.

11 MS. RIEHLE: Okay. Thanks. That's  
12 it.

13 CHAIRMAN HOOD: Thank you. Okay.

14 Diverse Markets? Okay. All  
15 right.

16 We want to thank this panel. We  
17 appreciate your testimony.

18 Okay. Next panel will be Alex  
19 Black, Jay Parker, Bill Sisolak, did I pronounce  
20 that right, Sisolak, Xavier Cervera, Mikey  
21 Balek, B-A-L-E-K. Is Mikey here? Mickey.  
22 Okay. Mark Russ, Mark Russ. I think this

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1 person -- has 118 already testified Put his name  
2 down twice. Okay. And that's it. That's all  
3 we have in support. Okay. So we want to end  
4 with this panel for support and we'll go to  
5 opposition

6 .

7 Okay. So let me start to my right  
8 and we'll work our way to the left. We're go  
9 right to right left -- to my right to my left.

10 You can begin, sir.

11 MR. PARKER: Is this on?

12 Chairman Hood and Members of the  
13 Zoning Commission, my name is Jay Parker, and  
14 I live 911 North Carolina Avenue Southeast.

15 For about 25 years I've been a close  
16 neighbor to this site, and I wish to express  
17 my enthusiastic support for the entire  
18 development a proposed.

19 As a professional architect, land  
20 planner and urban designer I believe it is a  
21 project of exceptional merit and design. For  
22 over 40 years I've been a land planner and

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1 designer for many large scale mixed-used  
2 developments throughout the country, many of  
3 them infill projects. And none of them is as  
4 important to me as this one.

5 Also, I'm past Chairman of the Urban  
6 Land Institute's 1200 member Washington  
7 District Council and have served on a dozen ULI  
8 Advisory Panels comprised of experts and many  
9 disciplines reviewing and making  
10 recommendations on major mixed-used projects  
11 throughout the country and abroad. I mentioned  
12 this because I have had substantial experience  
13 regarding the difficulty, complexity and  
14 financial fragility of these infill projects.

15 It is my professional opinion the Hine project  
16 is one of the best projects I have ever studied.

17 It marks your approval for many  
18 aspects of importance to the wider community,  
19 not just the immediate neighbors. Among them,  
20 the development went into intensive competition  
21 of their submission beating many worthy teams  
22 from around the country. I'm aware that that

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1 original proposal has been changed, but it's  
2 been changed because of all the vetting that  
3 it's received.

4 The design team has given meticulous  
5 attentions to the architectural character,  
6 history and scale of the surrounding site, and  
7 its Capitol Hill context. The site with its  
8 significant size  
9 and proposed Stanton-Eastbanc Master Plan  
10 offers the District of Columbia its last great  
11 opportunity to capitalize on the tremendous  
12 public investment in this Metro station. The  
13 design team has done an exceptional in  
14 transitioning the scale, size and mass of the  
15 projection to the surrounding community.

16 The architectural facades,  
17 demonstrations and elevations are nicely  
18 modulated and separated to avoid the appearance  
19 of a single massive mega project.

20 The Master Plan calls for wonderful  
21 intimate public gathering space across from  
22 Eastern Market which is exactly the right size

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1 for the site and extension of the weekend  
2 activities in front of Eastern Market.

3 It's in short, just a great project  
4 and it fits brilliantly, in my opinion, in it's  
5 Capitol Hill context.

6 In closing, I caution the Zoning  
7 Commission against overburdening the project  
8 with conditions demands by a lot of different  
9 committees, many committees and the vetting it's  
10 gotten, and to approve this project.

11 CHAIRMAN HOOD: Okay. Thank you.

12 Next?

13 MR. SISOLAK: Good evening. My name  
14 is Bill Sisolak.

15 The challenges of summer vacation  
16 and travel have put me here as, I guess, a pinch  
17 hitter for Mary Proctor, the immediate Past  
18 President of Capitol Hill Village. I do sit  
19 on the Board of Directors and I also sit on the  
20 Housing Committee for the Village.

21 The Village is a six year old  
22 community organization whose mission is to

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1 sustain an original community of Capitol Hill  
2 residents for the long-term.

3 First off, we thank you for this  
4 opportunity to testify concerning  
5 Stanton-Eastbanc's application to develop the  
6 Hine School site on Capitol Hill.

7 We're testifying with a group  
8 organizations in support of the project. however  
9 our position is better described as neutral on  
10 this application. We support development on  
11 the Hine site, that includes the type of housing  
12 of interest to our members. I'll say more about  
13 that later.

14 But the Village takes no position  
15 on a number of major issues before you on this  
16 development such as massing, scale, density and  
17 in particular the C-2-B Zoning request of the  
18 Applicant. Nor have we taken a position on the  
19 proposed design of the project before the  
20 Historic Preservation Review Board.

21 Before discussing the type of  
22 housing that we want at Hine, let me first tell

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1 you a little bit about the Village. Capitol  
2 Hill Village was founded in 2006 by a handful  
3 of long time Capitol Hill residents, some of  
4 whom are probably in this room, who saw a grand  
5 need to address housing and other needs of  
6 seniors in our neighborhood. From our humble  
7 beginnings sitting around a kitchen table, we've  
8 grown to over 350 members, have a full time  
9 equivalent staff of three employees. We've been  
10 recognized in the national movement as a leader  
11 in the growing nationwide movement of similar  
12 villages. The District and close-in suburbs now  
13 have about dozen villages in operation.

14 One of our primary goals is to permit  
15 members to age in place; that is to remain in  
16 our Victorian townhouses as long as  
17 realistically possible. However, fights of  
18 stairs and neverending maintenance take a toll.  
19 So, a number of our members have, as we say,  
20 gone horizontal, and that's above ground  
21 horizontal and moved to multi-family condo  
22 rental buildings and other buildings on or near

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1 The Hill. We expect this trend to accelerate  
2 as our membership grows and moves past the  
3 townhouse stage in our lives. It was be  
4 facilitated as more rental and condo options  
5 become available in our neighborhood. That is  
6 why we are keenly interested in the Hine School  
7 project. It represents potential new horizontal  
8 housing for our members, many of whom have lived  
9 within walking distance of Hine for over a half  
10 century.

11 We love our community. We want to  
12 stay here even it means for some of us, leaving  
13 behind our beloved Victorian homes for rentals  
14 or condo units.

15 The Village encourages developers  
16 to build apartments on one floor, but are at  
17 ground level are they can be accessed with  
18 elevators. We also encourage developers to  
19 provide elevators in duplex units.

20 We note that Hine has three  
21 apartment buildings with elevators, however  
22 there are several in the larger units that are

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1 on two floors and they do not have internal  
2 elevators between the floor. We would encourage  
3 Stanton-Eastbanc to include elevators within  
4 those units. If this is not economically  
5 feasible, we'd like to see those units designed  
6 in a such a matter that elevators could be easily  
7 added at a future date if the need arises.

8 The Village also encourages  
9 developer to build housing for individuals and  
10 families in all income ranges, mixing low income  
11 and market rate units in the same building.

12 We are pleased Hine has a  
13 substantial number of affordable units, some  
14 affordable units will be included in the two  
15 market buildings that are largely market rate.  
16 Many of our members are on a fixed income, but  
17 housing costs is a major component of their  
18 living expenses.

19 On the issue of apartment sizes,  
20 Representative Dantes Partners who testified  
21 earlier that seniors want studios and one  
22 bedroom, I cannot speak to his experience in

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1 other developments, but I can assure the  
2 Commission that that is not correct for our  
3 members. The Village wants developments to  
4 include a substantial number of two and three  
5 bedroom units in their projects. Even though  
6 our members downsize when they move from their  
7 traditional rowhouses to an apartment, they  
8 still need more space than, say, a young Hill  
9 staffer for whom an efficiency or a one bedroom  
10 is adequate. We have children, grandchildren,  
11 friends who visit us, you know not to mention  
12 a lifetime of material things that we've  
13 collected over the years. And, Frankly, we have  
14 the equity from our home to be able to afford  
15 larger units. So from that perspective we're  
16 pleased that the proposed will have a  
17 substantial of two and three bedroom units in  
18 market rate apartments.

19 CHAIRMAN HOOD: Okay. Thank you  
20 very much.

21 Next?

22 MR. BLOCK: Thank you, Chairman

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1 Hood and Members of the Commissioner. My name  
2 is Alex Block. I'm here tonight as a resident  
3 of Capitol Hill speaking in support of the PUD  
4 application.

5 I'd like to particularly three  
6 elements in favor of the PUD and then add a fourth  
7 comment on process.

8 The first is density. Perhaps the  
9 most important aspect of this development is  
10 that it brings a dense urban mixed-used to a  
11 transit accessible infill site in an established  
12 neighborhood. This new space will provide much  
13 needed new housing opportunities for people who  
14 wish to live in an increasingly desirable area  
15 as well as diversified uses in the area with  
16 a substantial office component.

17 The density of development is good  
18 policy for the city and it makes for good infill  
19 location with its excellent preexisting  
20 infrastructure connections. The area  
21 surrounding transit network and the density of  
22 development itself as complimentary attributes

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1 giving people the opportunity to make use of  
2 the Metro and boosting the economic development  
3 of the city.

4 The development will bring a welcome  
5 to the growth of the community about the  
6 right-of-use spaces for the community to grow  
7 as well as new people to take advantage of  
8 neighborhood resources. Office workers will  
9 provide a daytime market for the neighborhood's  
10 retail establishment. This is precisely the  
11 kind of dense mixed-use urban development that  
12 is appropriate for such a site like this.

13 And this site also allows for this  
14 type of construction without demolishing or  
15 displacing any of Capitol Hill's historic living  
16 style.

17 The second element is diversity.  
18 A large lot in the midst of an historic fabric  
19 like Capitol Hill is a rarity and this project  
20 presents some tremendous opportunities to add  
21 diversity both in the neighborhood in several  
22 ways.

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1           It adds a diversity of use with  
2 substantial office space, which I mentioned  
3 earlier, that will stimulate daytime use. But  
4 it also provides a broader range of retail spaces  
5 and the kinds that don't currently exist in the  
6 older quirky buildings of Barracks Row that  
7 attracted a diversity of tenants which you can't  
8 currently find in the area.

9           This project's substantial  
10 commitment to affordable housing also will  
11 diversity available housing price points in the  
12 neighborhood, and that's a welcome addition.

13           The third is design. The project's  
14 development hits on all the key elements of good  
15 urban design; strong steep wall, permeable first  
16 floor spaces and so on as the design has evolved  
17 through the deep process, it's been a very  
18 worthwhile outcome and when the project is said  
19 and done it will be a tremendous asset to the  
20 community.

21           Finally, on process. The benefits,  
22 the net benefits to a project like this are very

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1 broad, they cover a wide range of both geographic  
2 areas as well as subject matter areas. But they  
3 can often be very thin and welded. But I  
4 encourage the Commission to take into account  
5 those broad net benefits when making their  
6 decisions.

7 Thank you for the opportunity to  
8 testify, and I'd be happy to answer any questions  
9 you might.

10 CHAIRMAN HOOD: Okay.

11 Thank you.

12 MR. CERVERA: My name is Xavier  
13 Cervera. I live in 6B. I also have five  
14 restaurants on Barracks Row, another restaurant  
15 on 7th Street a stone's away from the new plaza,  
16 and a couple more on the construction of Capitol  
17 Hill. So, I feel as though I have a vetted  
18 interest of what goes on on that corner.

19 I haven't been following for as long  
20 as most of my neighbors, a lot would still oppose  
21 it. I have been paying very close attention to  
22 specifically what the ANC has been getting

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1 involved with, and I'd first of all really like  
2 to Commissioner Pate rather, and Commissioner  
3 Frishberg. You guys did an amazing job.  
4 Because of your efforts hundreds of us on The  
5 Hill have been able to follow thing. Without  
6 those efforts, we would have just been house.

7 I know you've made a lot of leeway.

8 I know the developers have had, my  
9 understanding is, over a 100 meetings with  
10 friends and neighborhood and committees and so  
11 forth. I have deep respect for developers that  
12 do that. I think they've done a great job in  
13 trying to make the changes that they felt could  
14 be done, some they couldn't. But at this point  
15 I feel very comfortable with the project. I  
16 think it fits the neighborhood well.

17 I was very concerned about how does  
18 it blend into 8th Street. What it does is it  
19 brings retail, 75,000 square feet of retail.  
20 Everyone wants to see the retail on 8th Street.  
21 They're very, very difficult properties to bring  
22 retail, too. They're very vertical, they're

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1 very narrow, This new development is really  
2 going to add a lot to what I feel that my  
3 neighbors need.

4 A couple of years ago I paid for and  
5 donated money to Barracks Rows Main Street to  
6 hire an independent urban study group to study  
7 the aspects of parking, traffic and so forth  
8 of Barracks Row area. It was at that time that  
9 we were talking about doing a moratorium, and  
10 I knew that I was going to be doing another  
11 restaurant, and that's why I let them choose  
12 independently the company to do it. They chose  
13 John Stover & Associates; they did a great job.

14 I have a copy of it here. It's about  
15 60 days. I'll have copies made and sent to you  
16 guys tomorrow. But the main theme-- the main  
17 theme -- there's 741 respondents to this;  
18 door-to-door, people on the street emails and  
19 so forth. The main thing that they wanted is  
20 retail and services over and over and over again.

21 Traffic is not a concern, parking  
22 was. This development gives 320 parking

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1 spaces, 120 that are used during the day that  
2 will be empty by 5:00 in the afternoon from the  
3 office people, 75,000 square feet of retail  
4 spaces could mean medical clinics, doctors,  
5 lawyers, services. Obviously retail which we  
6 all want.

7 The parking is key, but one thing  
8 I was a little stunned, the last hearing there  
9 was a lot of discussion and witnesses coming  
10 up about traffic patterns. I can tell you from  
11 someone who lives in Independence and have to  
12 cross the street to build six restaurants in  
13 three years probably ten times a day there is  
14 no traffic issues. Capitol Hill is always  
15 probably the least congested area as far as  
16 traffic in the city. Parking I agree with, but  
17 as far a traffic I'm just back and forth and  
18 I never have issues with traffic. It doesn't  
19 compare with 14th Street or Northwest, or you  
20 know maybe a little more than Southwest, of  
21 course, but I haven't seen a big issue with that.

22 With that being said, I fully

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1 support this. I know it's not perfect, can't  
2 even pretend that it's perfect, but I think it's  
3 pretty close. And I think them for their  
4 efforts. And again my ANC Commissioners, I'm  
5 really proud of the way they've handled this.

6 CHAIRMAN HOOD: Thank you.

7 Next.

8 MR. KATZ: My name is Peter Katz.  
9 I'm here to speak in support of the Hine School  
10 project.

11 I was a Capitol Hill resident and  
12 property owner for our years in the early 2000s.

13 It was during that time that I came to know  
14 and admire the work of Stanton-Eastbanc, mostly  
15 centered in the area of where this project is.

16 I'm involved with planning. My  
17 credentials are as follow:

18 In 1984 I wrote a book on new and  
19 infill neighborhoods called *The New Urbanism*;

20 I'm a practitioner as well; a  
21 transit-oriented developed that I coordinated  
22 on behalf of a county redevelopment agency in

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1 Northern California received just this year an  
2 American Planning Association National award  
3 for excellence;

4 I was a member of the faculty at the  
5 School of Urban Affairs and Planning at Virginia  
6 Tech in Alexandria;

7 Later I was Director of Smart Growth  
8 and Urban Planning for Sarasota County Florida,  
9 and more recently the Planning Director here  
10 in Arlington County;

11 I lecture extensively on planning  
12 issues and have written a number of articles.

13 In the mid-1900s I was the First  
14 Executive Director of a group called The  
15 Congress for the New Urbanism, an organized  
16 movement that advocates return to living in  
17 great places like Capitol Hill. *The New York*  
18 *Times* referred to our organization as the most  
19 important organization phenomena to emerge in  
20 American architecture in the first cold war era.

21 Here's why I feel compelled to spend  
22 my own time, three evenings so far, waiting for

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1 the chance to speak to tonight. It pains me to  
2 see so many people spending so much time and  
3 energy arguing about planning issues that don't  
4 matter, beating each other bloody while the  
5 really important stuff slips through almost  
6 unnoticed.

7           What's the important stuff? All  
8 around us every day really terrible places are  
9 getting approved, typically on an as-of-right  
10 basis in the development hungry suburban  
11 municipalities that surround the edges of the  
12 Washington, D.C. region and in other parts of  
13 the country. They're what we call sprawl, and  
14 they're going to be building new roads, water  
15 and sewer systems that are eventually going to  
16 bankrupt the municipalities that are approving  
17 them. Meanwhile, a well conceived project that  
18 puts residents and jobs right at a Metro station  
19 where a great amount of civic and transportation  
20 infrastructure already exists is raked over the  
21 coals by a detail intensive process that has  
22 relatively little regard for those larger

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1 regional issues. They may get mentioned, but  
2 often don't count for very much.

3 The situation pains me, but it's  
4 probably of little concern to the appliance of  
5 the project. That said, it should be said of  
6 concern to the members of the Zoning Commission.

7 You have an obligation to balance the highly  
8 local concerns of neighbors who by nature are  
9 going to be focused mostly on impacts with the  
10 concerns of the larger metropolitan region.

11 So, I'll accept the fact that I may  
12 be in a minority, but again it's important to  
13 remind opponents that they're swimming against  
14 the tide of the progressive ideas that are really  
15 turning around Washington, D.C. in a pretty  
16 amazing ways; bringing new and diverse  
17 businesses a true sense of vitality to a city  
18 that not long ago was given up for dead.

19 Am I at the end? There you go.

20 CHAIRMAN HOOD: Do we have your  
21 testimony?

22 MR. KATZ: You do. And apologizes.

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1 My name was called earlier and I had not yet  
2 gotten here.

3 CHAIRMAN HOOD: Okay. What's your  
4 name?

5 MR. KATZ: Peter Katz.

6 CHAIRMAN HOOD: Oh. So you're the  
7 parent--

8 MR. KATZ: No, I'm not.

9 CHAIRMAN HOOD: Okay. And you live  
10 in the city?

11 MR. KATZ: Live in Alexandria,  
12 Virginia.

13 CHAIRMAN HOOD: Okay.

14 MR. KATZ: But I lived on Capitol  
15 Hill, and it's a great neighborhood.

16 CHAIRMAN HOOD: Okay. Okay. Let  
17 me see, Commissioners, any questions?

18 COMMISSIONER MAY: I'm sorry. I  
19 don't have your testimony, Mr. Katz.

20 MR. KATZ: I believe it was given  
21 to the Clerk. Unfortunately, I don't have the  
22 13 copies, but I'm glad you --

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1                   COMMISSIONER MAY: Oh, okay. So  
2 we'll eventually get a copy of it. I mean, how  
3 much of your testimony did we actually hear?

4                   MR. KATZ: You hear -- let's see,  
5 what page was on? Three. And I have seven  
6 pages.

7                   COMMISSIONER MAY: Yes.

8                   MR. KATZ: And what's odd, is I  
9 actually read during the three minute period  
10 I read through it at a normal pace and was able  
11 to complete it reading through. So I must have  
12 spoke more slowly than I --

13                   COMMISSIONER MAY: It happens all  
14 the time. Well, anyway, we would appreciate  
15 seeing the full text of it. If you will give  
16 it to Ms. Schellin, then we should be getting  
17 it.

18                   And if you don't mind, Mr. Chairman,  
19 I'm going to continue with the question, also  
20 for you, Mr. Katz.

21                   I'm curious. I mean, I know you're  
22 a former resident and I'm familiar with your

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1 work and your credentials and so on. I mean,  
2 exactly why are you here? I mean are you here  
3 at the urging of -- I mean, out of your own  
4 interest in this project or are you-- do you  
5 seek other good projects to come and speak in  
6 favor of and devote evenings to?

7 MR. KATZ: From time-to-time. I'm  
8 colleagues and friends of the developer.

9 COMMISSIONER MAY: Yes.

10 MR. KATZ: But I also feel strongly  
11 about appropriate development and when I see  
12 folks struggling with a process that goes on  
13 and on and grinds with detail, I feel that  
14 perhaps my comments can be helpful--

15 COMMISSIONER MAY: Yes.

16 MR. KATZ: -- in focusing on the  
17 important issues that need to be considered.

18 COMMISSIONER MAY: Okay. Another  
19 question: When was it that you lived on Federal  
20 Hill?

21 MR. KATZ: From about 2000 to about  
22 2004. And I own property on The Hill, too.

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1 COMMISSIONER MAY: Okay. All  
2 right. So that's relatively recently. Okay.

3 I don't have any other questions,  
4 but I appreciate everyone's testimony.

5 CHAIRMAN HOOD: Okay. Any other  
6 questions? Vice Chair?

7 VICE CHAIRPERSON COHEN: Mr.  
8 Parker, do we have your testimony? Okay.  
9 Thank you. We'd like it.

10 MR. PARKER: You have it.

11 VICE CHAIRPERSON COHEN: Okay.  
12 Good.

13 CHAIRMAN HOOD: Any other  
14 questions? I don't have any.

15 I want to thank this panel -- oh,  
16 do we have any cross-examination by Applicant?

17 ANC 6B?

18 CHAMPS?

19 Hine School?

20 Eyes on Hine?

21 EMMCA? I want to pronounce it the  
22 way I want to pronounce it.

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1 MS. RIEHLE: So Capitol Hill  
2 Village is all of our aging --

3 CHAIRMAN HOOD: Let me say  
4 something, they're not able to hear --

5 MS. RIEHLE: Oh, I'm sorry. Let me  
6 say it again.

7 Part of your testimony is part of  
8 the mission of Capitol Hill Village is to help  
9 people age in place or, you know not --

10 MR. SISOLAK: That's correct.

11 MS. RIEHLE: Okay. I know that a  
12 lot of testimony from the Applicant early on  
13 was about elderly housing in the North Building  
14 specifically.

15 MR. SISOLAK: Yes.

16 MS. RIEHLE: So, I'm really curious  
17 because I don't know the answer to this. I  
18 know when people get older they usually have  
19 mobility issues, right? That's a frequent  
20 concern.

21 MR. SISOLAK: Yes.

22 MS. RIEHLE: So if you are an

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1 elderly person in a wheelchair, do you know if  
2 you're able to turnaround in the narrow hallway  
3 of the North Building?

4 MR. SISOLAK: Actually, the couple  
5 of paragraphs that I didn't get the opportunity  
6 because I ran out of time, in fact may I say  
7 them in response to her question? Our members  
8 need units that are accessible with a range of  
9 disabilities so they can remain as their ability  
10 decreases.

11 And one of the issues that we have  
12 found is that a lot of developers now are not  
13 meeting the requirements, certainly some  
14 developers, of the Fair Housing Act, for  
15 example. And we have a study by the Washington  
16 Lawyer's Committee, they surveyed 19 to 22  
17 properties in D.C. with units with inaccessible  
18 bathrooms and so forth.

19 In this case the developer have  
20 stated to s that they will follow the structures  
21 of the Fair Housing Act and kind of a little  
22 mushier concept of universal design.

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1 MS. RIEHLE: Yes.

2 MR. SISOLAK: So, I can't speak to  
3 the exact details, but my understanding is that  
4 things like the hallways in the North Building  
5 will meet ADA requirements.

6 MS. RIEHLE: Okay.

7 MR. SISOLAK: I would ask you to ask  
8 them for more specific details, however.

9 MS. RIEHLE: Is that something that  
10 you can find out, Chairman?

11 VICE CHAIRPERSON COHEN: Let me  
12 just see if I can take a crack at that.

13 They're going to be using tax  
14 credits to finance the North Building, and there  
15 is a requirement that ADA standards be met. On  
16 a number of the units there's a percentage that's  
17 required.

18 MS. RIEHLE: Okay. And does that  
19 include for all of it?

20 VICE CHAIRPERSON COHEN: I do not  
21 know about the hallways. I presume so, because  
22 there has to be that ADA compliance. But the

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1 Applicant will answer that.

2 MS. RIEHLE: Great. Thank you.

3 MR. SISOLAK: I would say certainly  
4 a hallway that leads to an accessible unit is  
5 going to have to be accessible. I'm pretty sure.

6 CHAIRMAN HOOD: Okay. Oh, I do  
7 want to make comment about the traffic issue.

8 Diverse Markets? Okay.

9 I listened to the testimony, the one  
10 that have the restaurants and you mentioned  
11 about the parking. And I've always just thought  
12 it's been congested. But the next time I go  
13 in that area, I'm going to refocus my thinking.

14 Because I think you bring up a good point.  
15 Maybe I'm thinking because I can't ever find  
16 nowhere to park. I'm going to have to relook  
17 at that. I really do, after your comment, I  
18 had to think about that. Because I'm saying "I  
19 don't know what neighborhood he was in," but  
20 I really have to rethink that because I think  
21 you bring up a good point.

22 MR. CERVERA: Well, you know,

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1 parking was a big problem. In the study they  
2 showed -- they interviewed residents within one  
3 block, two blocks, three blocks and four blocks  
4 of Barracks Row. Within one block it was a huge  
5 problem. Within two blocks, it was certainly  
6 a big problems. That to minimal third and forth  
7 block away, the study shows that. The traffic  
8 did not seem to be the issue, but the parking  
9 was a big issue.

10 So the 320 spaces, 200 allocated  
11 towards the retail and then 120 more which would  
12 be opened up by 5:00 p.m.; that's 320 spaces  
13 that will help alleviate the traffic around the  
14 Barracks Row area.

15 CHAIRMAN HOOD: Okay. And you're  
16 going to give us the 60 page document?

17 MR. CERVERA: I'll have copies made  
18 tomorrow and I'll give them to Stanton  
19 Development and they'll get them to you. I'm  
20 sure they'll get them right out to you

21 CHAIRMAN HOOD: Great.

22 MR. CERVERA: It's a pretty

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1 intense study. There's lot of information.

2 CHAIRMAN HOOD: Sixty pages, I'm  
3 really looking forward to it. Okay. Okay.

4 I want to thank this panel. I appreciate  
5 your testimony.

6 Okay. Now we're going to persons  
7 in opposition.

8 My friend Mr. Hacker. We finally Mr.  
9 Hacker to the table. Okay.

10 Okay. Ms. Misty Bells? Misty  
11 Bells? Carol Wright.

12 MS. WRIGHT: I'm here, but I'm not  
13 going to speak. Thank you.

14 CHAIRMAN HOOD: Okay. John Wesley  
15 Wright?

16 MR. WRIGHT: I also defer.

17 CHAIRMAN HOOD: Okay. Bobbi  
18 Krengesz?

19 Francis Campbell?

20 Randy Steer?

21 Jane Fisher?

22 Okay. And some more. Christopher

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1 Hurdein.

2 PARTICIPANT: He's out of town.

3 CHAIRMAN HOOD: He's out of town?

4 Okay.

5 Marcie Selkin?

6 Well tell her we all say  
7 congratulations and hope her son-in-law, I'm  
8 sure he'll -- okay. Robert Tauss?

9 Okay. We have one more seat. Do we  
10 have one more seat? Okay. Susan Johnson? Is  
11 Susan Johnson here? I don't see Susan Johnson,  
12 so Inez Sletta? Okay. All right. We got  
13 eight.

14 I'm going to start with you, Mr.  
15 Hacker.

16 MR. HACKER: My name is Leonard  
17 Hacker, 319 9th Street Southeast. I am  
18 testifying on behalf of the more than 87 percent  
19 of the residents of the 300 block of 9th Street,  
20 the 800 block of C and D Street and the 600 block  
21 of C Street as shown on the party status  
22 application.

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1           We have joined to strongly oppose  
2           the request for a Zoning change for the Hine  
3           site. We live less than 500 feet from the Hine  
4           Project. We will be adversely affected because  
5           the project will tower over our houses once the  
6           buildings exceed four stories and have no break  
7           on 7th or 8th Street.

8           The builder states that with the  
9           setback height, would not be noticed on the  
10          sidewalk. However, we would be living with it  
11          for 24/7 and the dramatic effect such additional  
12          heights would cover up and deprive us of light,  
13          air, wind presently available to us which Zoning  
14          was designed to protect. It would darken our  
15          neighborhood earlier, our privacy would be less  
16          because taller buildings would look down into  
17          our backyards.

18          The present open school yard covers  
19          more than 40 percent of the plat. It too provides  
20          sunlight to our plants, warm winter and cool  
21          summer breezes, loss of which would be  
22          irrevocable and would increase our utility

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1 costs.

2 Any structure greater than the  
3 present four story school would deprive us of  
4 full use of full use of solar panels and other  
5 future environmental aids. With each successive  
6 design change the developers move further from  
7 their original promise of buildings to conform  
8 to our environmental to our environmental  
9 concerns.

10 Further, the tall massive  
11 structures proposed does not provide for a  
12 physical break of open space. All green space  
13 in the development would be enclosed, private  
14 and on the roof, unavailable to neighbors.

15 Our tennis and basketball courts are  
16 now -- they're designated as parking.

17 Our unique enclosed dog run,  
18 community constructed and maintained so enjoyed  
19 by the neighborhood is lost.

20 These neighborhood assets would be  
21 replaced by a proposed six story building with  
22 no compensating amenities to the neighborhood

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1 that takes their place.

2 The 8th Street Building would be  
3 granted the addition of a floor for shower  
4 facilities and dressing rooms to accommodate  
5 a private roof pool while the community pool  
6 is one block away. This demonstrates the  
7 builder's lack of concern for the neighbor's  
8 building height objections.

9 Further, the development team does  
10 not have any member with expertise to resolve  
11 the asbestos problem, nor the ability to deal  
12 with the rat problem which will exacerbate by  
13 demolition.

14 The purpose of Zoning is to protect  
15 the integrity of the neighborhood. This  
16 developer seeks many exceptions that are  
17 shockingly in violation of this premise,  
18 particularly to minimize the fact that the D  
19 and H site exists. The developer seeks your  
20 overturn of the 1910 Height Act which stipulates  
21 that the height of a building should be 20 feet  
22 plus the width of the street. D Street is less

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1 than 18 feet wide.

2 The request is to build a six story  
3 building three times higher than the existing  
4 two story auditorium with complete coverage over  
5 and loss of the existing 30 percent green space.

6 This is unacceptable.

7 These exceptions together with a  
8 major Zoning change is so devastating in their  
9 impact on the neighborhood that they should be  
10 denied. What happened to the original site  
11 criteria that all developers agreed was very  
12 important. In the building for this project ANC  
13 6B made clear to all bidders that they should  
14 resist and restrict the development height to  
15 60 feet in Pennsylvania, 50 feet on 7th Street  
16 and 40 feet on 8th and D. These terms were  
17 reported on *Voice on The Hill* in the summer of  
18 2009. The goal was to have the design blend with  
19 the Capitol Hill Historic District.

20 The hulking behemoth that is the  
21 Hine project at a half million square feet will  
22 be the largest commercial development ever

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1 forced on a residential zone Historic District  
2 in D.C. and would be precedent shattering. Our  
3 old established resident friendly homes would  
4 be overwhelmed and the character and charm of  
5 our Eastern Market neighborhood and two of the  
6 three residents would forever change. Hundreds  
7 of deeply troubled Eastern Market area  
8 homeowners and residents asked why is the  
9 development totally out of scale in character  
10 with our neighborhood even under consideration  
11 for such a radical zoning change. Please do not  
12 grant it.

13 Thank you.

14 I would also like to add about the  
15 disabled and the parking facilities that have  
16 never been mentioned. I was told that it is  
17 not part of Zoning, but I would like you to  
18 consider the fact that no provisions have been  
19 made anywhere for Disabled Veterans parking in  
20 terms of the complete project.

21 CHAIRMAN HOOD: Okay. Thank you  
22 very much. Thank you.

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1 Ms. Oppper-Weiner?

2 MS. OPPPER-WEINER: Yes. Thank you.

3 Good evening. My name is Ellen  
4 Oppper-Weiner and I live in the 200 block of 10th  
5 Street Southeast. I --

6 CHAIRMAN HOOD: Sorry. They're  
7 raising their hand. You can't hear. Okay.  
8 Please speak louder and into the mike.

9 MS. OPPPER-WEINER: So I have to  
10 start again?

11 Well, I've lived in the immediate  
12 neighborhood for 34 years and raised my three  
13 children there.

14 I'm testifying in opposition to the  
15 proposed project for a number of reasons,  
16 including that the size and scale will overwhelm  
17 the surrounding neighborhood and is completely  
18 out of scale and character with the existing  
19 residential and commercial buildings in the  
20 Capitol Hill Historic District. In other words,  
21 it's just too big.

22 One of my major concerns is the

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1 planned privatization of the newly reopened 700  
2 block of C Street Southeast which will permit  
3 the developer to program use of the street  
4 whenever they decide outside of the purview of  
5 the city government and its Special Events Task  
6 Force which requires the approval of the  
7 abutting neighbors and business owners as you  
8 know, the police, fire and emergency services  
9 departments when public events are planned on  
10 public streets.

11 The privatization of a public street  
12 and residential neighborhood in a Historic  
13 District is unprecedented in the District and  
14 puts the residents and business owners in  
15 jeopardy of having unwarranted and unacceptable  
16 intrusion into their personal and business lives  
17 while having no recourse or protections from  
18 the D.C. Government.

19 The proposal to ground lease the 700  
20 block of C Street Southeast to the Applicant  
21 came from the Applicant, not the city. The  
22 privatization of the 700 block appears to be

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1 chiefly a mechanism to justify the FAR, higher  
2 FAR than the city has requested. The city --  
3 agreement to this proposal is an abdication of  
4 its responsibilities to D.C. residents and  
5 taxpayers. There was no public notice of this  
6 action and management of the street to  
7 accommodate the existing flea market is still  
8 undecided. As you heard earlier, the proposed  
9 Eastern Market Special Use District was not  
10 moved because the Mayor presented opposition  
11 and is apparently of the opinion that this  
12 legislation is bad public policy.

13 Further, the city's decision to  
14 privatize the newly reopened street was done  
15 without meaningful notice or an adequate  
16 opportunity for public comment and discussion.  
17 Some of us discovered this decision when we met  
18 with DDOT employees in November 2011.

19 We've also been told that the  
20 developer plans to place an arch at 7th and C  
21 Southeast which further suggests that the  
22 developers plan to create a festival and

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1 entertainment venue abutting an already  
2 existing residential and commercial  
3 neighborhood located in a Historic District.

4 If the developers have control over  
5 this street, they will be able to do whatever  
6 they want on their street and can sponsor  
7 programs and events at anytime. In that case,  
8 the community will have nothing to say about  
9 what the developers can or cannot do, nor will  
10 we have a way to obtain relief from their  
11 decision that negatively impact our life.

12 We currently have a wonderful  
13 neighborhood that has evolved over time and the  
14 various elements are working to support --

15 CHAIRMAN HOOD: Ms. Opper-Weiner?

16 MS. OPPER-WEINER: Am I done?

17 CHAIRMAN HOOD: Yes. I've been  
18 knowing you a long time.

19 MS. OPPER-WEINER: Yes. I know. I  
20 ran out of time?

21 CHAIRMAN HOOD: It's hard when you  
22 cut off your friends.

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1 MS. OPPER-WEINER: Okay. Thank  
2 you, Chairman Hood. You can read the rest.

3 CHAIRMAN HOOD: Okay. Thank you.

4 Next?

5 MR. BRESNAHAN: Good evening. My  
6 name is Bob Bresnahan. I'm a resident of 314  
7 8th Street Southeast.

8 First off, let me point out, I admit  
9 I'm not an attorney and I don't understand the  
10 Zoning Regulations, or even most of the process.

11 What I've learned over the last two years of  
12 this emerging process has been a journey, it's  
13 like peeling layers of the onions to learn more  
14 or more or to sending into Dante's rings to find  
15 out what you have to know the next time you go  
16 around. So, I've got a few disparate points  
17 I'd like to make, so forgive me if my testimony  
18 jumps around a bit.

19 From what I can see about the legal  
20 justification or the legal or the legal guidance  
21 in choosing the C-2-B designation, it really  
22 depends on what the National Capital's

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1 Comprehensive Plan, and under that plan I can't  
2 find any justification whatever for this extreme  
3 jump from R-4 to the C-2-B. According to what  
4 little of my understanding is that this is just  
5 a random designation that should not be granted.

6 Now, this designation is just  
7 different than anything else in the immediate  
8 area. This high-rise mixed-used gated community  
9 is going to be given this designation, and the  
10 closest thing from the Historic District is  
11 Barracks Row, which is not in the Historic  
12 District. So it's dramatically different from  
13 what its surroundings are going to be.

14 So, using Barracks Row is not  
15 applicable.

16 And why this building, why this  
17 development is being separated out to the spot  
18 zoning, I don't understand, except that the LDDA  
19 in the original documents were set with the  
20 assumption that eventually they would get this  
21 zoning.

22 Now, it seems to me that if a

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1 document or a legal document was written in such  
2 a way where it's depending upon a change  
3 somewhere down the road, that's a spurious  
4 contract that's been -- that's gone under  
5 agreement. So, I just don't understand how that  
6 could possibly have come through.

7 Another issue that has -- that the  
8 building plans themselves are designated and  
9 laid out as three separate buildings. In every  
10 presentation that I've gone through, they've  
11 been designed and described as three separate  
12 buildings, yet this whole plot is being asked  
13 to be designated as C-2-B, which might be  
14 acceptable under some justification for what  
15 goes on on Pennsylvania Avenue, but it certainly  
16 shouldn't be for a residential apartment or  
17 house that's fronting two story residential  
18 on 8th Street, is where I live or maybe even  
19 the soon to be maybe once and maybe will again  
20 hotel that will be facing the Eastern Market  
21 area.

22 We also have the question of the

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1 Eastern Market, one of the things we've all asked  
2 was that the flea market continue. And that's  
3 always been designated on this something else  
4 happening, which hasn't.

5 Okay.

6 CHAIRMAN HOOD: Thank you very  
7 much.

8 Next.

9 MS. KRENGEL: Good evening.  
10 Chairman Hood and Commissioners. My name is  
11 Bobbi Krengel and I'm here tonight in my capacity  
12 as Chair of the Capitol Hill Coalition for  
13 Sensible Development.

14 Let me be clear about the  
15 controversy. There's unanimous support in the  
16 neighborhood for the redevelopment of the Hine  
17 and for reasonable increase in designing in  
18 order to permit mixed-used. The opposition is  
19 based only on the side of the proposed project  
20 and can be summed up in two words "size matters."

21 Proponents imply that any  
22 opposition to the size will fatally doom the

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1 project, characterizing opposition based solely  
2 on objection to the size as opposition to  
3 redevelopment and to progress. Likewise,  
4 favoring redevelopment is being construed as  
5 implicit support for the application and its  
6 successful Zoning increase.

7           Neither of the letters bore any  
8 testimony thus far expresses support or  
9 justification for the application's high-rise  
10 Zoning, but only for the development in general  
11 and suspiciously silent on the subject of the  
12 Zoning designation. And so we were gratified  
13 to hear Commissioner May remark to the Office  
14 of Planning that he would be interested to hear  
15 how the extra height is justified. To date,  
16 we have heard no justification other than  
17 references to the five year's investment and  
18 planning that is predicated upon it. Thus, the  
19 Herculean effort to justify the height has  
20 become the justification for it. And I'm sorry  
21 to have to say this, but the emperor has no  
22 clothes.

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1           In truth, it is both possible and  
2 reasonable to support the project while opposing  
3 the Zoning designation. The question is whether  
4 an oversized building with its concomitant  
5 oversized impacts will jeopardize what we have  
6 now: A little jewel of a market district  
7 perfectly adapted to its residential  
8 neighborhood. And we believe that it will.

9           The very last survivor of early  
10 Washington's municipal public markets, Eastern  
11 Market is the oldest municipal fresh food public  
12 market in continuous operation in the country.

13       It has survived intact for 139 years due to  
14 the support of its neighborhood and the help  
15 of its habitat. A market district in the delicate  
16 organic synergy with its surrounding small scale  
17 independent retailers, restaurants and  
18 rowhouses. Overwhelming any of these elements  
19 could damage the whole ecosystem irreparably  
20 being Eastern Market itself at risk of decline  
21 and become a relic, ripe for repurposing rather  
22 than the beating heart, soul and anchor of its

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1 thriving neighborhood.

2           It's iconic buildings constitutes  
3 a landmark of the geographic and sentimental  
4 heart of the Capitol Hill Historic District,  
5 and its visual prominence amid the small scale  
6 of its surroundings allows it to breath freely  
7 and signals its importance and centrality to  
8 the community. These are the types of values  
9 which underlay the aims of the guiding Zoning  
10 principles of protecting property from adverse  
11 impacts and preserving the character of existing  
12 neighborhood as codified in the Comprehensive  
13 Plan for the national capital.

14           The adjacent projects sits among  
15 residential rowhouses, small retail beautifully  
16 retrofitted into former rowhouses and a few  
17 early slightly larger scale commercial  
18 buildings. The fact that an urban transit hub  
19 has been successfully integrated into this small  
20 scale neighborhood should not then be allowed  
21 to redefine the character of the neighborhood,  
22 but rather to be celebrated as a validation for

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1 the relevancy of both preservation and Zoning  
2 goals as the adjacent Zone designations are R-4  
3 and C-2\_A with and without overlays, the  
4 proposed plat with C-2-B Map Amendment allowing  
5 a height of over 90 feet would be the largest  
6 development ever built in a D.C. Historic  
7 District and twice as tall as the rest of the  
8 neighborhood. There is no other C-2-B Zoning  
9 anywhere nearby, nor in fact, anywhere else in  
10 the entire Historic District, not even along  
11 Pennsylvania and consequently such a  
12 designation for the site would be inappropriate,  
13 out of scale and sufficiently anomalous as to  
14 be considered spot zoning in clear violation  
15 of the Comprehensive Plan in myriad ways.

16 There are lots of places to build  
17 large buildings, but only very few where small  
18 ones are saved. It is regrettable that this  
19 proposal has been advanced so far without  
20 adequate scrutiny of its alignment with guiding,  
21 planning and Zoning principles. But ushering  
22 into fruition with all of its flaw simply because

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1 of the investment in it thus far only compounds  
2 the errors.

3 There is no amount of money,  
4 benefits or amenities that can mitigate the  
5 fundamental harm to our market district that  
6 can be caused by these inadvisable plans; out  
7 of scale, oversized building, insensitive  
8 design, private sale of north parcel of land,  
9 privatization of L'Enfant Street still title  
10 in the Federal Government --

11 CHAIRMAN HOOD: Thank you -- thank  
12 you, Ms. Krengel.

13 MS. KRENGEL: Thank you.

14 CHAIRMAN HOOD: Thank you.

15 Next.

16 ANC COMMISSIONER CAMPBELL: Good  
17 evening, Mr. Chairman and Members of the  
18 Commission.

19 My name is Francis Campbell. I'm the  
20 ANC Commissioner for Single-Member District  
21 6B10. I want to be sure it's noted that I voted  
22 in opposition of the project that are the views

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1 of my own and I'm not representing ANC 6B which  
2 voted in the majority to support this project.

3 Let me say that I support the  
4 childcare component of the development, but I  
5 think it's too small and that more space needs  
6 to be dedicated to something other than the  
7 select 24 infants.

8 Secondly, that any proposal to  
9 erect, build or place a memorial arch or some  
10 such construct along a further extension of  
11 select pavers in and of itself is an asinine  
12 proposal. The way city funds that could be  
13 better spent for housing or remediation of  
14 historic structures such as Archibald Hall is  
15 a travesty.

16 Lastly, this ward is a residential  
17 neighborhood. As a child going to school at  
18 St. Cyprian=s School that used to exist and 8  
19 and D Street, we walked through residential  
20 neighbors. It has been for many of us who grow  
21 up in the area a home type feeling. Houses didn't  
22 cost \$600,000 and this wasn't a destination

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1 place.

2 To build such a monolithic and  
3 imposing structure without thinking that it will  
4 negatively affect this residential neighborhood  
5 without widening streets and access roads and  
6 thinking that bringing potentially thousands  
7 of extra people and vehicles into that same  
8 neighborhood without detrimental effects is to  
9 stick their collective heads in the sand and  
10 hope for the best.

11 I urge you to oppose this proposal  
12 or to allow more time for the developer to come  
13 back with a plan that is more in keeping with  
14 the existing residential neighborhood and that  
15 won't overwhelm it in its size, scope and  
16 density.

17 I'm done.

18 CHAIRMAN HOOD: Okay. Thank you  
19 very much.

20 Next.

21 MR. STEER: I'm Randy Steer. I live  
22 about 22 blocks away on the 500 block of 7th

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1 Street.

2 I've got illustration here. I'm  
3 going to jump first to something just to respond  
4 to a lot of support you heard and comments other  
5 people said that the people speaking in  
6 opposition are not opposed to development, not  
7 opposed to meeting density, transit, center of  
8 development.

9 In 2007 the American Planning  
10 Association picked Eastern Market as one of the  
11 ten best urban developed neighbors in the  
12 country --

13 CHAIRMAN HOOD: Stop for one  
14 second. Let me stop the clock.

15 They're waiving their hands, so they  
16 can't hear you. So you might want to speak in  
17 the mike.

18 Most people don't want to hear me,  
19 but they want to hear you. Okay.

20 MR. STEER: Am I clean without  
21 distortion? Because there's a narrow line  
22 between distortion and --

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1 CHAIRMAN HOOD: Hold it like right  
2 there, I think you're good.

3 MR. STEER: Okay. In 2007 the  
4 American Planning Association picked Eastern  
5 Market as one of the ten best urban neighborhoods  
6 in the country. They based that on how we  
7 balanced growth. I think they called this  
8 neighborhood "unique characteristic." And  
9 they praised the neighborhood's past activism  
10 against oversized office development.

11 There's a sidewalk life here that  
12 virtually no other neighborhood in D.C. has that  
13 pedestrians, dogs, and sidewalk diners  
14 everywhere. The original proposal was  
15 consistent with all the things that APA liked  
16 about the Eastern Market and current opposition  
17 the bait and switch from the original design  
18 to the new design was also consistent with the  
19 activism that they praised.

20 I'd like to point out a couple of  
21 things here on the corners. On the corners you  
22 could see a significant different in the

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1 heights. There is a wider 7th Street on the  
2 original design. The original massing would  
3 allow you to enter 7th Street or 8th Street at  
4 a more pedestrian friendly human scale height,  
5 the perceived height of the building would be  
6 a lot lower and would carry on that pedestrian  
7 friendly character that makes this neighborhood  
8 unique.

9           The people who live here, apologies  
10 to the people who live in Alexandria and The  
11 Navy Yard, but if we wanted to live in a new  
12 development area next to King Street, you lived  
13 there. If you wanted to live in The Navy Yard,  
14 you'd live there. This area is different, it's  
15 unique. We don't want building that you would  
16 find in those areas, or in Arlington or Tyson's  
17 Corner.

18           Let me go to the second slide, which  
19 uses a little bit of an overlay. Again, it  
20 emphasizes the differences.

21           The original design -- this was  
22 based on a competition. I was actually a

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1 supporter of the Stanton-Eastbanc proposal. I  
2 circulated an analysis of all the bids to ANC  
3 Commissioners and other people in the  
4 neighborhood supporting the Stanton-Eastbanc  
5 original proposal. But what they've come back  
6 with has become a sort of hulking you know  
7 office building on the corner. And you know  
8 putting a sort of a bunch of fancy bricks in  
9 it does not compensate for having this sort of  
10 cliff like presence when you walk around the  
11 corner and head towards Eastern Market.

12 I would urge changes to the size,  
13 to bring the corners down, make it scale better.

14 CHAIRMAN HOOD: Okay. Thank you  
15 very much.

16 Next?

17 MR. TAUSS: I'm Roger Tauss,  
18 resident. And I was a member of the ANC Hine  
19 Subcommittee.

20 Developers by their nature --

21 CHAIRMAN HOOD: Okay. You're  
22 going to have to lean into it.

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1 MR. TAUSS: Developers by their  
2 nature are sales people. And all of the things  
3 that we've heard promoting this thing are how  
4 wonderful it would be when everything works out.

5 My mother always taught me, was it  
6 Robert Burns' "The best laid plans of mice and  
7 men." "Think what can go wrong, will go wrong,"  
8 and I think it's very important we look at what  
9 can go wrong.

10 This is not just a blighted  
11 community that could benefit from the economic  
12 jump-start or a bunch of vacant lots and  
13 warehouses; if you get it wrong, you tear it  
14 down and put something else up.

15 Not only is it a strickenly  
16 wonderful place to live, but it is also one of  
17 the top tourist destination in the city. Over  
18 a million people a year are drawn here, and  
19 they're drawn by the historic character, they're  
20 drawn by the openness and the feeling of  
21 airiness. And this is not inevitable. This can  
22 be lost, it can be broken.

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1 I think it's a very real question  
2 as to whether you got a million people here to  
3 come to see something they can find in any  
4 downtown suburban mall?

5 The developers talk about 141  
6 community meetings. But the point was not to  
7 hold them, but to listen. I want to many of them  
8 and the overwhelming sentiment was the thing  
9 was too big. And yet we come out the other side  
10 even bigger. ANC Commissioner Pate said "It's  
11 five percent larger." And they talk about,  
12 "Well, we took a floor down." Again,  
13 Commissioner Pate said "The 17,000 feet that  
14 were removed netted out to 4,000 because you  
15 squeeze it here and they push it out and took  
16 out all the setbacks that were there." And they  
17 were there for a reason; to make it feel less  
18 looming and less dominating the street.

19 We talk about the floor they added,  
20 everyone knows, above ground. They also added  
21 a second floor below grade. This was a suggestion  
22 from the ANC as a trade-off for the height, but

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1 they added a floor on top anyway. I  
2 want to go quickly to the question of public  
3 space. The ANC showed the original design with  
4 the interior courtyard in the South Building  
5 and a passageway and a very attractive public  
6 space. I think nothing they did so much as  
7 closing that off contributed to the feeling in  
8 the community that is a gated community, an alien  
9 fortress type thing dropped on us. If we do  
10 nothing else, we have to open up that courtyard.

11 And finally I ask you to take  
12 judicial notice, as the lawyer's say, of the  
13 Mayor says he's opposed, he sat the hearing.  
14 He opposes the legislature for 7th Street. The  
15 developer can no longer say they don't have to  
16 mitigate what's being done to the flea market  
17 because that legislation is in deep question.

18 And I recommend to you the Office of Planning's  
19 recommendation to hallow out one floor on the  
20 plaza and make it rectangular.

21 CHAIRMAN HOOD: Okay. Thank you  
22 very much.

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1 (Applause).

2 Okay. Well, you know one thing we  
3 do, we adopt what the City Council does as far  
4 as hearings. And I would ask that we not  
5 demonstrate.

6 If you agree or disagree, when he  
7 leaves this evening, congratulate him, tell him  
8 you appreciate his testimony. But don't do it  
9 here.

10 Okay. Next.

11 MS. SLETTA: I'm Inez Sletta. I  
12 reside at 5th and Independence Southeast. I  
13 speak as the --

14 CHAIRMAN HOOD: Hold one second.

15 Is it that she is too close the mike?

16 Okay. Can you kind of -- I do the same thing.  
17 I'm all over the place. And we have to kind of  
18 push back a little.

19 MS. SLETTA: All right. I speak as  
20 a spokesperson for the individual residential  
21 homeowners. For the record, we want to make it  
22 clear we are not opposed to the entire mixed-use

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1 redevelopment project. We feel compelled to  
2 express our opposition to certain major aspects  
3 that we feel have not been adequately addressed,  
4 resolved or otherwise under testifiably denied  
5 by the developer Commissioner or Board Members.

6 We adamantly oppose  
7 Stanton-Eastbanc's proposed redevelopment  
8 request to change all R-4 to C-2-B PUD. If  
9 approved by the Zoning Board the allowable  
10 building height would increase from 40 feet to  
11 94.6 under the flexibility of 90 plus five  
12 percent. This is excessive and it would  
13 establish a totally unacceptable precedent for  
14 the Capitol Hill Historic District. In fact,  
15 there are no other C-2-B existing zoning within  
16 the official Capitol Hill District.

17 We emphatically request that the  
18 rezoning be denied, but we're offering a  
19 compromise. Change the rezoning category to  
20 C-2-A thereby allowing office and retail  
21 buildings to reach a height of 50 feet or the  
22 flexibility of 68.5 feet under PUD. It would

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1 be in keeping with the C-2-A Zoning that exists  
2 now in the north, west and south side of the  
3 Hine site. And we also say retain the R-4 for  
4 the residential rowhouses.

5 Since 1973 the major portion of  
6 Capitol Hill has been specifically designed as  
7 a Historic District legally protected by laws  
8 and regulations designed to preserve the  
9 Historic District of Capitol Hill. Our major  
10 obstacles are:

11 We continue to regard the height,  
12 design, scale and density of the development  
13 to be incompatible with the historical  
14 architectural size, style and character of the  
15 official Capitol Hill District. We feel the  
16 review of the Office of Planning and the Office  
17 of Historic Preservation Review to be  
18 disappointing because of its reference made to  
19 the site would be -- recommended that would avoid  
20 large box scale buildings, avoid over crowding  
21 scale, height and density.

22 CHAIRMAN HOOD: I have to cut you

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1 off. We have your testimony.

2 MS. SLETTA: Okay.

3 CHAIRMAN HOOD: Okay.

4 Commissioners, any questions?  
5 Commissioner May?

6 COMMISSIONER MAY: Mr. Hacker, you  
7 testified at the beginning of your testimony  
8 about the impact of the building on the solar  
9 exposure, I guess for lack of a better term.  
10 Your block?

11 MR. HACKER: Yes.

12 COMMISSIONER MAY: Is it your  
13 block?

14 So have you looked at the sun  
15 diagrams that were produced by the Applicant,  
16 or have you done any of your own, or gotten any  
17 back?

18 MR. HACKER: I looked at the  
19 original ones which were taken across the 12:00  
20 or 2:00.

21 COMMISSIONER MAY: You do the  
22 latest ones on the original submission?

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1 MR. HACKER: Well, if you look, I  
2 went into my backyard. I went up on top of my  
3 garage at 8:00 and there was a definite shadow  
4 coming down, and this was with the four story  
5 building now.

6 COMMISSIONER MAY: Yes.

7 MR. HACKER: And if the building was  
8 increased, it would definitely have a half hour  
9 possibly because --

10 COMMISSIONER MAY: So 8:00 right  
11 now behind the existing Hine structure is  
12 casting a shadow in your yard?

13 MR. HACKER: It is just about  
14 casting a shadow at the 210 foot mark. I'm 220  
15 feet exactly from the Hine.

16 COMMISSIONER MAY: Okay. So the  
17 answer is no, it's not casting a shadow on--

18 MR. HACKER: That is correct.

19 COMMISSIONER MAY: Okay. And I  
20 know we requested additional sun diagrams. Did  
21 we receive those yet? Today we received them.

22 We don't need a conversation. But

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1 I don't think we received them. I don't think  
2 I've seen them yet, although it's a lot of paper.

3 It might have been submitted.

4 I would suggest that you look at  
5 those when they come in to see if that addresses  
6 that you have. Because it's very hard to  
7 understand how a building that far away from  
8 your property is actually going to cast  
9 significant shadow. So, unless we see it in a  
10 diagram, it's kind of hard to appreciate.

11 Ms. Oppenheimer, you were  
12 particularly concerned about the closure of C  
13 Street as it processed through the site. C  
14 Street is closed right now, right?

15 MS. OPPENHEIMER: Yes.

16 COMMISSIONER MAY: Is it--

17 MS. OPPENHEIMER: It's really the  
18 privatization --

19 COMMISSIONER MAY: It's the  
20 privatization of a street that's being reopened.

21 Are you saying that that's unprecedented?  
22 You're saying it's unprecedented for a street

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1 in the old city? I mean, there are many, many  
2 private streets in the city, so tell me what's  
3 unprecedented.

4 MS. OPPER-WEINER: I think it's  
5 unprecedented in a Historic District to turn  
6 a public street -- or I mean it hasn't been  
7 reopened yet, but when it gets reopened the deal  
8 is, because I've looked at the documents, that  
9 it's going to be privatized and there's going  
10 to be a ground lease, and whatever --

11 COMMISSIONER MAY: I'm not totally  
12 certain that that's correct that it's  
13 unprecedented. I think we may have seen it  
14 other recent PUDs.

15 MS. OPPER-WEINER: Okay. Well --

16 COMMISSIONER MAY: But your  
17 concerns are noted. I was just wondering about  
18 the -- whether you new something that I didn't  
19 know about.

20 MS. OPPER-WEINER: Well, I think--  
21 probably not. I would doubt that.

22 Let me tell you, though, my concern

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1 is that the -- this is a small neighborhood.  
2 It's opening street has been desired, and the  
3 idea was to return it to the L'Enfant Grid. And  
4 then out of the blue, we had no notice, there  
5 was no public discussion about it.

6 COMMISSIONER MAY: Yes.

7 MS. OPPER-WEINER: And whatever the  
8 impact will be have not even been discussed.  
9 And then there's the unsettled issue as to what  
10 happens with Eastern Market and the vendors and  
11 the flea market. I mean, that has created in  
12 some ways a lot of confusion and who has  
13 jurisdiction over it.

14 I personally think that it would be  
15 best to leave it as a public street and to have  
16 the District protect what is there and to follow  
17 the rules that already exist.

18 COMMISSIONER MAY: All right. So  
19 there's already a process for what you can do  
20 to close a street for an activity?

21 MS. OPPER-WEINER: Absolutely.  
22 Yes. Special events.

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1                   COMMISSIONER MAY:     So was that  
2 followed when they closed 7th Street north of  
3 C and North Carolina?

4                   MS. OPPER-WEINER:  No.  As a matter  
5 of fact --

6                   COMMISSIONER MAY:  No, it wasn't?

7                   MS.  OPPER-WEINER:       --  that's  
8 another issue.  And if you'd like, I could spend  
9 some time talking about it.

10                  COMMISSIONER  MAY:        No,  I  
11 understand.

12                  MS. OPPER-WEINER:  As a matter of  
13 fact, but --

14                  COMMISSIONER MAY:  I did not think  
15 it had been followed.

16                  MS. OPPER-WEINER:  It had not been  
17 followed.  And in fact there is a serious issue  
18 about how our city does business.  So --

19                  COMMISSIONER MAY:  Right.  I guess  
20 the point I would make is that even if it's in  
21 public ownership or public control, it doesn't  
22 necessarily mean that you're going to get the

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1 public process that you'd like to have; that  
2 the Mayor can simply close it with a order.

3 MS. OPFER-WEINER: Actually, the  
4 Mayor cannot close it with an order. I disagree  
5 with you, and I've been doing --

6 COMMISSIONER MAY: How did it  
7 happen on 7th Street between C and --

8 MS. OPFER-WEINER: Well, it  
9 happened illegally and there was a permit issued  
10 illegally, and there was a new one that was just  
11 issued, which by the way I have a copy of and  
12 I'm more than happy to send it on to you. It's  
13 of great concern to me, and I'm dealing with  
14 the Office of Attorney General on this issue.

15 COMMISSIONER MAY: Okay. So  
16 you're saying that that was done illegally, and  
17 I think previously we had gotten testimony that  
18 that could be down with the lower half of 7th  
19 Street.

20 MS. OPFER-WEINER: Well,  
21 that is incorrect. I have spoken to the City  
22 Administrator's Office, to the Secretary  
Office, and to the Office of Attorney General.

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1 COMMISSIONER MAY: Okay.

2 MS. OPPER-WEINER: And as a  
3 matter--

4 COMMISSIONER MAY: And they agree  
5 that it's illegal?

6 MS. OPPER-WEINER: They agree with  
7 me that this is done improperly. Now, I don't  
8 have any of it in writing yet.

9 COMMISSIONER MAY: Yes. Well, that  
10 is what we would like to see is if it's --

11 MS. OPPER-WEINER: Yes. I'm happy  
12 -- I will give you what I have.

13 COMMISSIONER MAY: Oh, okay.

14 MS. OPPER-WEINER: I'll be happy to  
15 submit it. I can do that tomorrow. I have two  
16 things that were done just recently, and when  
17 I get the opinion from the Attorney General's  
18 Office, I'll transit it as well.

19 COMMISSIONER MAY: Okay. I think  
20 maybe the Office of Planning would want to submit  
21 something that speaks to the question of whether  
22 the street -- you know, what process would have

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1 to happen for 7th Street to be closed. I think  
2 the Applicant has a certain idea about how that  
3 would be. I assume the Applicant is going to  
4 want to do something in rebuttal to explain how  
5 they think the process would work.

6 MS. OPPER-WEINER: Okay.

7 COMMISSIONER MAY: But further  
8 information from all parties in this topic I  
9 think would be helpful if the potential future  
10 closure of that portion of 7th street is, in  
11 fact, part of what we consider as a pertinent  
12 as we made decision on this.

13 Mr. Bresnahan, you had a particular  
14 object to the C-2-B designation, and you think  
15 that that's contrary to the Comprehensive Plan.

16 And I'm not quite sure I understand why you  
17 think that. I mean, in my reading of the  
18 Comprehensive Plan C-2-B is one of the zones  
19 that would be applicable under the circumstance  
20 based on the Future Land Use Map.

21 MR. BRESNAHAN: You obviously are  
22 much more aware of all the nuances, and like

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1 I say, I just read what I got.

2 My understanding was that it has to  
3 match surrounding; that the Zoning changes and  
4 Map Amendments have to match or be close to and  
5 coordinate with -- whatever the phrase is, the  
6 surrounding Zonings.

7 There's nothing like C-2-B anywhere  
8 near this place. So how do you jump from R-4  
9 to C-2-B?

10 COMMISSIONER MAY: Right. But  
11 there's C-20-A across the street as well and  
12 transitions are from one Zone to another aren't  
13 that far away.

14 I'm not even sure that there's  
15 anything in the Comprehensive Plan that says  
16 you can't have a C-2-B next to an R-4. I mean,  
17 certainly nothing like that that happens -- we  
18 have a lot more than C-2-B density to R-4  
19 neighborhoods and even R-2 neighborhoods.

20 MR. BRESNAHAN: Okay. Obviously,  
21 you understand it more than I do. And as I said,  
22 I don't follow it. It's just when it comes up

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1 and says it has to match and go with the rest  
2 of the neighborhood --

3 COMMISSIONER MAY: Yes.

4 MR. BRESNAHAN: -- and that the  
5 preponderance of the Zoning around that space  
6 is not C-2-B and the fact that the three separate  
7 buildings and they want the entire lot to be  
8 C-2-B when it could be done other ways, and  
9 hasn't been looked at in other ways was a  
10 concern.

11 COMMISSIONER MAY: Okay. Thanks.

12 Commissioner Campbell, you  
13 mentioned this arch, and I think somebody else  
14 mentioned it as well. I mean, where is that in  
15 the plans?

16 ANC COMMISSIONER CAMPBELL: It's  
17 not. It's the MOA, and I believe it's number  
18 40 in the MOA from the ANC.

19 COMMISSIONER MAY: Okay. I'll  
20 look at that.

21 ANC COMMISSIONER CAMPBELL: MOA  
22 agreement, it's there and it talks about the--

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1 I don't recall the exact wording, but it's either  
2 a memorial arch or a decorative arch along with  
3 mentioning the pavers extending them further  
4 down 7th Street.

5 COMMISSIONER MAY: And what's your  
6 specific objection to the pavers? Just that  
7 they're costly?

8 ANC COMMISSIONER CAMPBELL: My  
9 objection to the pavers is that the cost -- if  
10 I recall in the MOA it was that the Stanton was  
11 not fostering the cost of it, but they were  
12 encouraging the city to spend money to do so.

13 COMMISSIONER MAY: Oh. So similar  
14 to the pavers that are now on 7th Street --

15 ANC COMMISSIONER CAMPBELL: Right.

16 COMMISSIONER MAY: -- or the  
17 pressed bricks that are on 7th Street as opposed  
18 to the standard wire-cut brick and the standard  
19 asphalt?

20 ANC COMMISSIONER CAMPBELL: Well,  
21 you have to understand I'm a neighbor, and I  
22 still think it's a -- it's a wasteful suggestion

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1 to even take money to do that --

2 COMMISSIONER MAY: Yes.

3 ANC COMMISSIONER CAMPBELL: -- when  
4 it could be better spent. I mean, understand,  
5 I live across the street from Reservation 13,  
6 and I --

7 COMMISSIONER MAY: I remember where  
8 you live. I know where you live. I know where.

9 ANC COMMISSIONER CAMPBELL: Yes. So  
10 the city is already talking about the fact that  
11 it doesn't have money for infrastructure, but  
12 then somehow they're going to find whatever  
13 money necessary to put in more pavers?

14 COMMISSIONER MAY: More pavers now?

15 ANC COMMISSIONER CAMPBELL: Pavers  
16 at all. I mean why doesn't somebody just put  
17 in concrete.

18 COMMISSIONER MAY: Please,  
19 somebody tell me we're not going to have people's  
20 names carved in the place.

21 ANC COMMISSIONER CAMPBELL: You  
22 know, when I first --

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1                   COMMISSIONER MAY:       Maybe the  
2 Applicant will address that in rebuttal.

3                   ANC COMMISSIONER CAMPBELL: When I  
4 first heard about that, that's the first thing  
5 I thought about. And I said "It'll be fine if  
6 everybody wants to contribute a \$100 for a  
7 brick." But, obviously, that's not going to  
8 be the case. But again, the city has already  
9 said the fact that they don't have money for  
10 infrastructure. And when we've had these talks  
11 about Reservation 13 and International Hall and  
12 things that are taking place there, and yet still  
13 they would end up trying at some point in time  
14 money to put in pavers and whatever kind of  
15 pavers they are, if they aren't something with  
16 brick or concrete or asphalt --

17                   COMMISSIONER MAY: Yes.

18                   ANC COMMISSIONER CAMPBELL: -- it's  
19 an asinine proposal to put those in and waste  
20 money on that.

21                   COMMISSIONER MAY: Well, okay.  
22 Now I understand the point very clearly. And

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1 I appreciate it. It didn't quite make sense to  
2 me, but there's already been an expenditure of  
3 city funds to make the area around Eastern Market  
4 a very special place; the level of finish that  
5 we have in the street and the sidewalk and even  
6 frankly the money that was put in the market  
7 itself shows an extraordinary commitment on the  
8 part of the city --

9 ANC COMMISSIONER CAMPBELL: Oh, I  
10 agree.

11 COMMISSIONER MAY: -- to doing  
12 something special there.

13 ANC COMMISSIONER CAMPBELL: But  
14 again, I mean again --

15 COMMISSIONER MAY: It's just got to  
16 stop somewhere?

17 ANC COMMISSIONER CAMPBELL: Yes.  
18 And I think the pavers is a far stretch, it's  
19 a reaching.

20 COMMISSIONER MAY: All right.  
21 That's it for me. Thank you.

22 CHAIRMAN HOOD: Any other questions

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1 at this time. Commissioner Turnbull?

2 COMMISSIONER TURNBULL: Yes, thank  
3 you, Mr. Chair.

4 Several of you have mentioned, and  
5 as Commissioner May was talking about, the C-2-B  
6 and preferring the C-2-A Zoning. And you heard  
7 President Quigley from Capitol Hill Restoration  
8 Society talk about the changes the they would  
9 like to see done. If those changes were made,  
10 would that alleviate your concerns about C-2-B.  
11 It wouldn't? You still want it lower?

12 ANC COMMISSIONER CAMPBELL: Well,  
13 Mr. Turnbull, I was a Commissioner on the ANC  
14 at that time. I've been a Commissioner for ten  
15 years. And when we had originally looked at this,  
16 it wasn't Stanton. And now I had to go back in  
17 my notes to be certain, but we did vote for these  
18 height limitations in the C-2-A. And so this  
19 has changed significantly from when that came  
20 before the Commissioner then in 2009. So we  
21 asked for those height limitations simply  
22 because of these problems that we thought were

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1 going to come up at some point in the future,  
2 which obviously are here now. So there was a  
3 major concern by Commissioner at the time. We  
4 were making sure that there wasn't something  
5 that loomed over the residential buildings that  
6 were already present on 8th Street, and we know  
7 of the commercial corridor on 7th Street.

8 COMMISSIONER TURNBULL: But you  
9 support their changes, the Restoration's  
10 changes, at least?

11 ANC COMMISSIONER CAMPBELL: Yes.

12 COMMISSIONER TURNBULL: Okay.  
13 Thank you.

14 CHAIRMAN HOOD: Any other  
15 questions?

16 Ms. Kregel, you mentioned in your  
17 testimony about spot zoning. I'm not putting  
18 you on a spot, but what's your definition of  
19 spot zoning?

20 MS. KRENGEL: I actually looked in  
21 the code for it and couldn't find it. I think  
22 it may have come in up case law or something,

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1 but I remember it from when we were before you,  
2 my group was before you in 2005 and 2006 the  
3 Square 895, the Medlink proposal. And that was  
4 an example when you first brought it up to the  
5 representatives. Anyway, I remember it came up.

6 But to me any spot zoning is  
7 something that's different from every other  
8 designation around it; in other words it doesn't  
9 match anything. And the entire Historic  
10 District is either R-4 or C-2-A with or without  
11 an overlay. There is not an example of a single  
12 zoned district of C-2-B in the entire Historic  
13 District, and the differences in the heights  
14 are outstanding. The entire neighborhood is  
15 limited to 40 or 50 feet. Now you're talking  
16 about going up to 65 with a PUD over C-2-A. That's  
17 already 15 feet higher than anything else. To  
18 jack it all the way up to 90 feet means a height  
19 that's double anything else.

20 So if I may speak to both -- the  
21 questions. The Future Land Use Map in general  
22 as well as the map that designates the

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1 conservation areas says that these areas should  
2 maintained and new development and alterations  
3 should be compatible with the existing scale  
4 and architectural character of each area.

5 And so it seems like something  
6 that's twice as tall as anything else in the  
7 entire neighborhood is not compatible with  
8 existing scale. I mean, it's twice as tall.  
9 And we're not talking about a few stories.  
10 We're talking about an entire neighborhood  
11 that's 40 to 50, and when you're talking about  
12 going to 90 that's essentially -- I mean at 94.6  
13 with the margin you're essentially going to  
14 double. It's going to stuck up like a sore thumb.

15 CHAIRMAN HOOD: I just wanted to  
16 know. You mentioned the term "spot zoning."  
17 I think it's a little bit more clearer than that.

18 MS. KRENGEL: Yes.

19 CHAIRMAN HOOD: But I will ask the  
20 Applicant, tell us why it's not spot zoning.

21 MS. KRENGEL: I'm thinking. I'd  
22 like to hear that.

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1 CHAIRMAN HOOD: Okay. Yes. I'm not  
2 even going to ask you what the case that we  
3 previously, because I probably -- so I don't  
4 event want to what happened.

5 MS. KRENGEL: We'll split the  
6 difference.

7 CHAIRMAN HOOD: Okay. I was going  
8 to ask you was everybody satisfied, but I'm not  
9 going to set myself up. So, moving on-- never  
10 set myself up.

11 MS. KRENGEL: We were expired by the  
12 enlightenment of the process. It was--

13 CHAIRMAN HOOD: Oh, okay. Could  
14 you say that again

15 MS. KRENGEL: We were. We were.  
16 We're still moved by how the journey went.

17 CHAIRMAN HOOD: Okay. Good  
18 enough.

19 Sometime you set yourself up.

20 Okay. Any other questions?

21 Okay. Does the Applicant have any  
22 cross-examination of anyone on this panel?

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1 ANC 6B?

2 ANC COMMISSIONER FRISHBERG: I'm  
3 not sure if this is cross-examination here, but  
4 some of the issues around the market legislation  
5 that have come up here, and also an update on  
6 construction management. And my understanding  
7 is that some of that may come up in the rebuttal  
8 in the end from developers. And I wanted to  
9 understand if the Commission would provide the  
10 ANC an opportunity to discuss those issues at  
11 that point?

12 CHAIRMAN HOOD: What happens is we  
13 cross and rebuttal also. Parties will have an  
14 opportunity to cross and rebuttal.

15 ANC COMMISSIONER FRISHBERG: Okay.  
16 Thank you.

17 CHAIRMAN HOOD: Okay. CHAMPS?  
18 Okay. CHAMPS is all right.

19 Okay. Hine School North?

20 Eyes on Hine?

21 Okay. EMMCA?

22 And Diverse Markets?

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1                   Okay. Thank you all. We appreciate  
2 this panel.

3                   COMMISSIONER MAY: Mr. Hacker, one  
4 of my colleagues pointed out that we do in fact  
5 have the shadow studies in the record. And I  
6 had it here a second ago. So it's Exhibit --  
7 oh, I don't have an exhibit number on it. But  
8 we received it the last hearing. So, Ms.  
9 Schellin could help you find that so you can  
10 take a look at it. Thanks.

11                   It's been in the record since the  
12 last hearing, so --

13                   CHAIRMAN HOOD: Okay. Let's move  
14 right on. I think we're on 37, right?

15                   Let me just ask this question. Okay.  
16 I called Sally Burk. right? I didn't? How did  
17 I miss Sally Burk?

18                   Did I miss Jane Fisher? Did I call  
19 Jane Fisher?

20                   And did I call -- I know I called  
21 Randy Steer. Okay. I just missed --okay, I  
22 missed Sally Burk and I called Jane Fisher?

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1 Okay.

2 Thirty-four. Oh, I was going by the  
3 green marks. Oh, okay. All right.

4 Mohammad? Mohammad, that's all  
5 we could make out. Is Mohammad here? Anybody  
6 named Mohammad? Okay. Well, that's all I  
7 could make out.

8 Tenzen, T-E-N-Z-E-N? Okay. Thank  
9 you.

10 And the next name I just could not  
11 -- it starts with a C. Clayton?

12 Please print your name below. I  
13 mean, if you want to guess at number 36, good  
14 luck.

15 Okay. So let's move on. Anybody  
16 with a C, first initial with a C.

17 Did you sign in to testify? Okay.  
18 Could you go up and see if that's your name?  
19 Could you walk up --

20 MS. SCHELLIN: I think it was a flea  
21 market person who held a booth or something of  
22 the flea market.

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1 CHAIRMAN HOOD: Okay. Okay.  
2 We'll get to you. Can somebody make it out?  
3 No. Okay. So, let's do that. You're not  
4 going to make that out. Okay.

5 Mary Wadlee? Mary Wadless? Okay.

6 Naomi Thompson? Okay.

7 Karen Police? Police. Okay.

8 H.C. Wright? H.C. Wright.

9 Norma Wright? Okay.

10 Moses Kamara? Okay.

11 We're going to finish tonight.

12 Jim Cannon?

13 Jamal Couser? Okay.

14 Matthew Doe? Matthew Doe?

15 Mike -- can you make -- Mike Rodin?

16

17 Any Stuliz?

18 Oh, okay. So 57 I can't make that  
19 out. And 58. I mean, we have some weird  
20 handwriting.

21 Deborah -- Deborah. Okay.

22 Let's see, Mary Fraker. Is Mary

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1 Fraker B okay.

2 Okay. Alexander Christophalo?

3 Okay. You're right. Yes. That's Suzanne.

4 Okay. Come right on.

5 Wendy Wright? Oh, it's Wendy

6 Wicktum? Wendy Wicktum or Wright? Wicktum,

7 is she here?

8 Okay. Buel Owen? Is Buel Owen

9 here? Okay.

10 The next one, Kindell Hodge?

11 Amy Hakeen?

12 Mehina Zunn?

13 Karen Howell?

14 Christopher Howell?

15 Peter Hackett? Peter Hackett

16 Carolyn Peterman?

17 Karen Kimball? I think I called

18 Karen Kimball? Okay.

19 Peter Hackett?

20 Carolyn Peterman?

21 Debra Chapman?

22 Elaine -- Eleanor --is Eleanor here?

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1 Elmer? Oh, okay.

2 Ester Alvia?

3 Susan -- Susan Segwich? Segwich.

4 Okay.

5 Brad Connelly?

6 And I want you all to know that I  
7 can read, I'm just having some problems with  
8 the way we form our letters.

9 Gerald -- okay, let me see how many  
10 we have.

11 So the last name I called was Brad  
12 Connelly, that was the last name?

13 Okay. Mr. Connelly, if you can hold  
14 tight. You just don't go too far, because you'll  
15 be coming right now.

16 Okay. We're going to start with Mr.  
17 Berk to my right, and let's go from my right  
18 to my left and maybe get --

19 MS. BERK: I'm Sally Berk testify  
20 today on my own behalf as a 25 preservation  
21 consultant in Washington, actually more than  
22 25 years.

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1 I have previously been qualified as  
2 an expert witness before this Board.

3 While much has been said, I attended  
4 the first hearing, watched the second one on  
5 video, I've heard much said about the  
6 inappropriate scale of the project and the  
7 amenities being proffered, and the impact that  
8 the project would have on residents and  
9 businesses. Little mention has been made,  
10 although I was glad to hear mention has been  
11 made, of the fact that the project includes the  
12 proposal to lease L'Enfant Street the 700 block  
13 of C Street Southeast to a private entity.

14 While I would be opposed to the  
15 conveyance of any public right-of-way to a  
16 private entity, it seems particularly egregious  
17 in the case of along L'Enfant Street. The  
18 L'Enfant plan was added to the inventory of  
19 historic sites in 1997 during my term as  
20 President of the D.C. Preservation League which  
21 sponsored that nomination. The plan was found  
22 to be significant as a nonhierarchical

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1 representation of the government and its  
2 citizens. There is some hierarchy; it is in the  
3 Capitol, the White House and the Supreme Court  
4 that they are buildings that are representative  
5 of the democratic government.

6 Because the L'Enfant plan is a  
7 landmark and because it constitutes the  
8 infrastructure that has guided the development  
9 of our city, the reinstatement of this portion  
10 of C Street Southeast would be laudable if the  
11 street were not to be leased to a private entity.

12  
13 I'm aware of at three recent  
14 projects that include the transfer of streets,  
15 all of them L'Enfant Streets, to the  
16 development. I think 4th Street was recently  
17 a couple of years ago reopened; a fabulous  
18 project that connected -- that reconnected parts  
19 of L'Enfant plan. But it's my understanding that  
20 the developer leases that street.

21 And then in the case of Center City,  
22 D.C. the two streets that are to be reopened,

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1 10th and I Street, are being reopened at the  
2 expense of the developers and when the  
3 construction is complete, they will revert to  
4 the District of Columbia. I was told this by  
5 the developer.

6 In addition, the developers would  
7 provide a two year warranty secured by a cash  
8 fund of half a million dollars. Quite a  
9 different and a more palpable scenario, though  
10 still one I would not prefer.

11 This case is further complicated by  
12 the fact that while the city has jurisdiction  
13 over the street, they are still titled in the  
14 Federal Government. The city, therefore,  
15 doesn't have the authority to lease the streets.  
16 They belong to the people of the United States.  
17 To privatize them would be to break the social  
18 contract with the country's citizens as well  
19 as to make a mockery of the very democracy that  
20 the plan represents.

21 I ask that the Zoning Commission not  
22 approve at least this aspect of the proposed

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1 Hine School project.

2 I made it.

3 CHAIRMAN HOOD: Thank you.

4 Next.

5 MS. EDAM: Chairman Hood, Members  
6 of the Zoning Commission, my name is Suzanne  
7 Edam. I live on Stewart Square, a couple of  
8 blocks away from Stanton-Eastbanc's proposed  
9 Hine development project.

10 I'm testifying here today in  
11 opposition to the plan. Neither the ANC nor my  
12 ANC Commissioner Ivan Frishberg represents my  
13 position or the position of my immediate  
14 neighbors on this issue.

15 By well intention, the positions of  
16 the ANC and the Stanton-Eastbanc are  
17 inconsistent with my understanding of the  
18 Comprehensive Plan, and I would not go in to  
19 argument with Mr. May on this, but it just seems  
20 like the Zoning as to this project is totally  
21 different from the surrounding zoning and that  
22 worries me.

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1           There have been a lot of other  
2           comments made and I remember from the first  
3           meeting, Chairman Hood, that you asked that we  
4           would not repeat. So, I had crossed out  
5           everything that has already been said. And I  
6           wanted to just move forward to a final argument  
7           which is to tie in with Barracks Row.

8           The argument has been made that the  
9           C-2-B Zoning is necessary to tie the commercial  
10          development on 7th Street north of Pennsylvania  
11          Avenue with that on 8th Street to the south of  
12          the Avenue. However, when we look at the zone,  
13          the retail area will if I understand correctly,  
14          be on the lower floors of the development. So  
15          the overall height of the structure as of now  
16          proposed to 90 feet under C-2-B Zoning would  
17          make little difference on the overall retail  
18          experience.

19          If you walk down 7th Street  
20          currently there are two or three floor heights.  
21          If you want on 8th Street, a very nice street,  
22          very nicely developed, I also see two or three

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1 floors. To come into the suggestion to make a  
2 C-2-B Zoning and raise the building on  
3 Pennsylvania Avenue to 97 feet seems to in a  
4 position to the proposal.

5 I've been to many hearings for this,  
6 and I have yet to understand. Maybe the  
7 developers would like to expand on that why we  
8 need a C-2-B Zoning and why you would want to  
9 have a building in a Historic District of Capitol  
10 Hill that is 90 feet high.

11 Thank you very much.

12 CHAIRMAN HOOD: Thank you.

13 Next. Turn your mike on, should be  
14 the green light.

15 MR. HOWELL: Christopher Howell.

16 Our local drugstore used to have in  
17 its window an enlarged photo taken sometime in  
18 the last 1880s facing to the east from the  
19 building of the U.S. Capitol. Although large  
20 spots of land lay undeveloped, one could see  
21 the nation's Pennsylvania Avenue commercial  
22 corridor began to develop towards the southeast.

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1 And several blocks away directly to the east  
2 fully built and already in business on 7th Street  
3 stood the great Eastern Market. In the next  
4 40 odd years the village grew out from the  
5 Capitol surrounding the market, a neighborhood  
6 of handsome townhouses and commercial  
7 buildings. As luck and good planning would have  
8 it, that mix has pertained to this day.

9 If one just takes a casual walk  
10 around The Hill it quickly becomes clear that  
11 is a neighborhood of two and three story rowhomes  
12 and two, three and four story commercial  
13 buildings. In the language of Zoning, it is  
14 R-4 and C-2-A with building heights of 40 feet  
15 for homes and 50 feet for business properties.  
16 That is Capitol Hill.

17 In November of 2002 preceding a need  
18 to encourage commercial growth on Capitol Hill  
19 while recognizing the wisdom of maintaining its  
20 exceptional character, the Zoning Commission  
21 established the Capitol Hill Commercial Overlay  
22 District to encourage Capitol Hill's commercial

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1 activities it increased the permitted floor area  
2 ratio to 3.0. But to ensure Capitol Hill's unique  
3 character it specifically limited the height  
4 of commercial buildings to 50 feet.

5 In the act establishing it, the  
6 Capitol Hill Commercial Overlay District is  
7 defined as encompassing, among others, the  
8 geographic areas of Pennsylvania Avenue between  
9 6th Street and 13th Street. The Hine School site  
10 is the only property in the 700 block and is  
11 now in dispute within the geographic area  
12 encompassed by the Overlay District. It is  
13 submitted that by law the Hine School site is  
14 limited to a maximum building height of 50 feet.

15 I have previously submitted a more  
16 complete argument as to why the requirements  
17 of the overlay must apply to the Hine School  
18 property. I have attached copies of that  
19 argument to my written testimony. However,  
20 irrespective of its legal force, it's underlying  
21 reasoning and logic and intent are surely  
22 unassailable. The language of the regulations

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1 is clear. The Capitol Hill Commercial Overlay  
2 is meant to implement the Comprehensive Plan  
3 including "ensuring the integrity of the Capitol  
4 Hill Historic District." One of its favorite  
5 purposes is to "provide appropriate incentives  
6 for new constructive that is compatible with  
7 the Capitol Hill Historic District and its  
8 predominance of low scale low structures."

9 Stanton Development is today  
10 building an additional three stories on an  
11 existing one-story restaurant building, just  
12 across 7th Street from the Hine School site.  
13 Thank to the wisdom of the Capitol Hill  
14 Commercial Overlay it is understood by all that  
15 they can go no higher. It would stand reason  
16 on its head to permit construction beyond 50  
17 feet in height on one side of 7th  
18 Street in order to preserve the integrity of  
19 the Capitol Hill Historic District while  
20 allowing heights of 90 feet on the other.  
21 Neither law nor logic allow it.

22 Make their project smaller. Keep the

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1 greatness of the market great.

2 CHAIRMAN HOOD: Okay. Thank you.

3 Next?

4 MS. HOWELL: Okay. Got it.

5 My name is Karen Howell, and I have  
6 been a resident of the Unit Block of 7th Street  
7 Southeast for 40 years. I really love this  
8 neighborhood, and I'm not going to make a dime  
9 out of being here for three conservative nights  
10 and I have no money weighing on this development.  
11 I'm just here because I love the neighborhood.

12 And I think one of you said you don't  
13 come to Capitol Hill because it's so hard to  
14 park. And I do home -- I don't mean this  
15 facetiously at all, I really hope that all of  
16 you will come to the sight before you vote  
17 because I think it is crystal clear that this  
18 massive development is way out of character for  
19 this neighborhood.

20 We now look at the neighborhood from  
21 say upon the Southeast Freeway, or as I walked  
22 down 7th Street toward it, and what you see are

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1 church steeples, they're kind of the highest  
2 things there. And you see the great Eastern  
3 Market. The great Eastern Market is now going  
4 to get made into a minuscule little building  
5 by this development.

6 Now you know a little more of what  
7 I've written.

8 Of the proposed Hine School plan is  
9 not appropriate, compatible and complimentary  
10 to its surroundings, it ought not to be approved.  
11 On this our Zoning laws are clear and replete  
12 with admonitions. Of course, the judgment as  
13 to what may meet the rest of being appropriate,  
14 compatible and complimentary is ordinarily a  
15 factual question that you as judge and jury must  
16 grapple with based on the evidence presented.

17 In this case you have heard hours  
18 of testimony and received great numbers of  
19 written submissions offering those lay  
20 arguments and expert opinion which have  
21 overwhelming suggested the incompatibility of  
22 the proposed Hine School PUD with its Capitol

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1 Hill Historic District site. But unlike most  
2 cases, the Zoning Commission through its own  
3 Zoning Regulations has already made that  
4 judgment.

5 In November of 2002 Title II,  
6 Chapter 1570 establishing the Capitol Hill  
7 Commercial Overlay District was enacted to  
8 incentivize infill construction that is  
9 compatible with the Capitol Hill Historic  
10 District in its predominance of low scale, low  
11 house structure. To achieve this purpose of  
12 compatibility it expressly placed a limit on  
13 commercial building heights at 50 feet. This  
14 height limitation was imposed to protect the  
15 integrity of and secure compatibility with the  
16 Historic District. The Hine School site is in  
17 the Capitol Hill Historic District. Proposed  
18 commercial structures in the Historic District  
19 great than 50 feet in height have already been  
20 judged by you to be incompatible.

21 CHAIRMAN HOOD: Okay.

22 MS. HOWELL: That judgment is as

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1 correct and vital today as it was then.

2 CHAIRMAN HOOD: Thank you very  
3 much.

4 Next?

5 MS. SEDGEWICK: My name is Susan  
6 Sedgewick. I moved to Capitol Hill in 1979 when  
7 I married. John and I commuted to work way out  
8 in Virginia, but preferred to live in this  
9 wonderfully economically and racially diverse  
10 family-oriented community. We reared our son  
11 here. We hope to continue to live here for a  
12 long time.

13 I am supportive of redeveloping the  
14 site of where the now closed Hine High School  
15 sits along with the open space that served as  
16 its playground and as a community recreation  
17 site. I urge you to carefully consider the Zoning  
18 for this redevelopment to ensure it is in keeping  
19 with the Capitol Hill community and the city  
20 as a whole.

21 I want a project that reflects our  
22 basic community values of inclusion and being

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1 there for one another. My husband and I want  
2 a project that enhances life in our community.

3 As noted in Steven Holtzman's  
4 testimony on behalf of EMMCA we have seen a  
5 gradual loss of recreational amenities this site  
6 has offered over the years. Specifically, we  
7 lost the famous Eastern Market Basketball Court  
8 where young men met and played together, we lost  
9 tennis courts.

10 Even the purposes of the Hine's  
11 playground have changed to meet other community  
12 needs, I currently enjoy the open space that  
13 remains. While walking home from the Metro it's  
14 great to look across this open space to see  
15 the beautiful Eastern Market.

16 With the proposed project, the view  
17 of the market will be gone as well the open space,  
18 air and light the community now enjoys. It's  
19 particularly irksome to think our access to  
20 publicly owned land will end. The proposed  
21 interior courtyard will not be visible or  
22 accessible to the community. The only visible

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1 green space will be the private front yards of  
2 the 8th Street condos?

3 Another item: As a part of my  
4 volunteer service with Capitol Hill Group  
5 Ministry, the social service organization  
6 serving needy and homeless neighbors in Ward  
7 6, I follow affordable housing issues. I urge  
8 the Commission to carefully examine the  
9 Applicant's testimony on affordable housing  
10 investors. While it's true it's harder to  
11 interest investors where the land is not owned,  
12 it is not impossible. I would think a 99 year  
13 ground lease offers investors essentially the  
14 same benefits and protections as if the land  
15 is owned outright.

16 Also, I urge you to examine the 30  
17 year commitment to affordable housing in the  
18 proposed North Building. Is this a sufficient  
19 return to the city for selling the land at fee  
20 simple to the developer at a substantially  
21 reduced value.

22 In the interest of supporting the

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1 District's Inclusionary Zoning Policy, the  
2 affordable units currently segregated in the  
3 North Building could be incorporated into the  
4 Plaza Building. The city should retain the  
5 North Building land for green space; it could  
6 be a park the community used for visiting the  
7 market and offer some space to flee market.

8 Thank you for hearing me.

9 CHAIRMAN HOOD: Thank you.

10 Next?

11 MS. FRACKER: Before you start my  
12 talk, I just want to thank the developer's  
13 architect Amy Weinstein for letting me use her  
14 computer for my PowerPoint. So thank you.

15 CHAIRMAN HOOD: We'll put that on  
16 our time.

17 MS. FRACKER: Amy, I would have done  
18 it even if I had to take my own time.

19 Good evening I'm Mary Fracker. I  
20 live at basically the corner of 4th and  
21 Pennsylvania. I cannot see the Hine site from  
22 my house, but I consider Eastern Market the

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1 center of my neighborhood and I really  
2 appreciate the opportunity to testify tonight.

3 I know the Commission has heard a  
4 lot about bait and switch and about the excessive  
5 height and mass of the proposed development.  
6 Tonight I want to focus on one very specific  
7 aspect of the height issue.

8 If the developer would reduce the  
9 height issue by one story all the way around,  
10 that would go a long way toward making the  
11 proposed development more comparable with its  
12 surroundings. In addition to removing the top  
13 story from each component, though, it's also  
14 crucial to setback the resulting top stories.  
15 I'll show you why in a moment.

16 To its credit, the developer had  
17 planned to setback the top stories of the various  
18 components to reduce their apparent height. To  
19 illustrate the effect of these setbacks, the  
20 developer produced sight line drawings showing  
21 how the different components would look from  
22 various critical vantage points. The developer

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1 included these drawings in its PUD application,  
2 and here's an example.

3 This drawing from page 827 of the  
4 PUD application shows the slight line from the  
5 vantage point of Eastern Market Metro. The  
6 little figure down in the lower left hand corner  
7 if you can see it, is a person standing at the  
8 top of the Eastern Market escalator as if he  
9 had just come up from Eastern Market. The  
10 person is looking across Pennsylvania Avenue  
11 at the office building at 7th and Penn, and as  
12 you can see by the diagonal red sight line, the  
13 setback 7th floor is not visible. So to this  
14 observer in front of the Eastern Market Metro,  
15 it looks like a six story building.

16 In addition to including the sight  
17 line drawings in the PUD application, the  
18 developer also included them in community  
19 meetings. In response to our concerns about  
20 height, the developer would show these drawings  
21 as reassurance that you won't see the top story.

22 In recent negotiations with the ANC,

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1 one of the developer's concessions -- and this  
2 is the same picture -- was to move the setback  
3 7th story of the office component, the one that  
4 you won't see. Unfortunately the developer did  
5 not setback the sixth story so from the critical  
6 vantage point of Eastern Market Metro, the  
7 building still looks as tall as it did before.  
8 What the developers did do. however, was produce  
9 new drawings showing different vantage points  
10 from which one would have been able to see the  
11 setback 7th story. The developer included these  
12 drawings in its presentation to the Commission  
13 to the last month. This isn't bait and switch,  
14 it's more like now you see, now you don't. Well,  
15 actually you really could see it but now you  
16 really can't.

17 Thank you.

18 CHAIRMAN HOOD: Thank you.

19 Next?

20 MR. FARFOUR: My name is Elmer  
21 Farfour. I am for long time --

22 MS. SCHELLIN: Chairman Hood, I

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1 believe that he had someone who was going to  
2 read his testimony for him. English is not his  
3 first language. So, I'll restart the clock.

4 CHAIRMAN HOOD: Thank you.

5 INTERPRETER FOR ELMER FARFOUR: My  
6 name is Elmer Farfour. I'm a long-time vendor  
7 of the flea market, the Capitol Hill Flea Market  
8 in the Hine School yard.

9 I'm testifying in opposition of the  
10 proposal project as there is not enough space  
11 for the market and for the vendors -- the  
12 livelihood of the business as a fellow vendor,  
13 as well as the market operator.

14 My company, Cuatro Suyos, provides  
15 a unique quantity of quality craft and clothes,  
16 and specialize in cotton ekkat sarees from my  
17 home country, Peru. My town, Cuzco, is a city  
18 internationally recognized as a wonder of the  
19 world. Because of the clothes I sell, the  
20 nature of my set-up, requires for me to have  
21 a 10 by 20 foot space.

22 As a vendor with a large booth

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1 display, it would be very hard for me to fit  
2 in the very small space, a space also needed  
3 for loading and unloading. It would be extremely  
4 difficult to unload in time and I might not be  
5 able to unload next to my space. Instead, I  
6 may have to dolly from 50 to 80 feet away which  
7 we then must be able to unload next to my space.

8 This plan would be extremely hardship for me  
9 each week.

10 The flea market's management  
11 understand my space, my clothes and my business  
12 needs. The market has a friendly, family  
13 atmosphere. New management, Eastern Market=s  
14 management may not guarantee my space  
15 considering my needs, my size of the space, my  
16 attendance, my seniority over the years -- might  
17 not be unloading or parking for me. Marketing,  
18 promotion and advertising might be uncertain  
19 in all of these markets.

20 Eastern Market square does not have  
21 the space to accommodate me nor guarantee space  
22 for my future at 7<sup>th</sup> Street. I have no protection

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1 for the future. The market allows for me to  
2 support myself, my family and a small business  
3 on my home country, Peru. Allows for me and  
4 my customers around the world a chance to discuss  
5 culture and educate people about a unique  
6 product. The market helps to run my business.  
7 The flea market is important for my business,  
8 to Eastern Market, and the community and other  
9 small business. The plan must be changed to  
10 provide more space for vendors and for these  
11 important activities and my business can  
12 continue.

13 Thank you for the opportunity to  
14 testify.

15 CHAIRMAN HOOD: Okay. Thank you  
16 very much.

17 Next.

18 MS. UZUN: Hi. My name is Dilek  
19 Uzun. I'm a vendor at flea market both Saturday  
20 and Sunday.

21 This is the only income I have.  
22 Working on the weekends is my only chance because

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1 I have to take care of my son weekdays. That's  
2 why it is very important to be a vendor at the  
3 flea market.

4 This Hine project never effects the  
5 flea market and its vendors. As proposed, this  
6 Hine project will take our spaces and many  
7 vendors will lost their jobs. When  
8 construction begins even we have a space, there  
9 will be a lot of problems like loading,  
10 unloading, especially for large venders.

11 There will be a definitely parking  
12 problem for vendors and customers. It will be  
13 extremely difficult to unload in a reasonable  
14 time as the space is narrow and cannot fit more  
15 than one vehicle at a time near the booth  
16 assignment.

17 And also we need the market  
18 management who is not about our vendor space  
19 considerations for that.

20 Our market management stuff  
21 operates about 100 vendors every week. Over  
22 the years the market management and vendors

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1 serve together as a family and help each other  
2 our every chance. However, new management or  
3 Eastern Market management cannot give us any  
4 guarantee that our current management provides.

5 First of all, there is not enough  
6 space for all vendors.

7 Second, our seniority builds up over  
8 the years and we cannot have a regularly assigned  
9 space.

10 Spaces are marketing promotion and  
11 advertising advantages and there is no guarantee  
12 that your product line can be expected by them.

13 This project doesn't look to protect  
14 flea market and its vendors. I feel that we  
15 are a part of the community and after 28 years  
16 the people at the flea market, we deserve better  
17 than this project. For all these reasons I am  
18 against it and I believe that the Zoning  
19 Commission has the power to provide us our needs.

20 Thank you.

21 CHAIRMAN HOOD: Okay. Thank you  
22 very much.

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1                   Commissioners, any questions up  
2 here at this time? Commissioner Turnbull?

3                   COMMISSIONER TURNBULL: Yes. Thank  
4 you, Mr. Chair.

5                   Ms. Fracker, I consider myself  
6 fairly adapt at reading drawings and analyzing  
7 drawings and explaining drawings to other  
8 people. Could you please go over what you said  
9 about seeing and not seeing?

10                  MS. FRACKER: Sure.

11                  COMMISSIONER TURNBULL: I'm not  
12 sure. Either I closed my eyes or blinked, or  
13 did something, but not really --

14                  MS. FRACKER: Sure.

15                  COMMISSIONER TURNBULL: --  
16 understanding what you were showing on that  
17 drawing that's there or not there. Something  
18 about magic, I guess, but --

19                  MS. FRACKER: Yes. Well, it is  
20 magic. Hold on just a second.

21                  COMMISSIONER TURNBULL: And I  
22 didn't have my glasses, so I'll do that now.

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1 MS. FRACKER: Yes. Okay.

2 Let me make it big again, I hope.

3 Okay.

4 So, this is the drawing that was  
5 included in the PUD application. There were  
6 several of these sight line drawings showing  
7 various pointed to the different facades from  
8 different critical spots around the building.

9 COMMISSIONER TURNBULL: Right.

10 MS. FRACKER: Okay. This is  
11 looking from the top of the Eastern Market Metro  
12 escalator, across Pennsylvania Avenue at the  
13 office building at 7th and Pennsylvania. This  
14 is back when it was seven stories with the 7th  
15 story setback.

16 And, granted, I was trying to use  
17 my laser pointer but forget that.

18 If you look at the diagonal redline,  
19 that is the sight line. It shows this person  
20 standing in front of the Metro looking across  
21 the street and up at the top of the office  
22 building. Now because the developer setback

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1 the 7th floor, the developer set it back far  
2 enough so that if you're standing in front of  
3 the Eastern Market Metro and looking at the  
4 building, the building doesn't look like it's  
5 seven stories, it looks like it's six stories.  
6 And the developer did that, you know to reduce  
7 what the height looked like. I mean, that's  
8 a good thing --

9 COMMISSIONER TURNBULL: The  
10 overall effect --

11 MS. FRACKER: Right, right. Okay.

12 So then the developer and our ANC  
13 had a number of negotiating sessions which  
14 people have talked to you about, the Memorandum  
15 of Understanding and so forth.

16 And this is the same drawing. The  
17 new drawings the developer showed you a couple  
18 of weeks ago. But what the developer agreed  
19 to do in these negotiations is to remove the  
20 seventh story. So, they basically removed the  
21 story that this person standing in front of  
22 Eastern Market Metro was not able to see in the

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1 first place. So even though they had removed  
2 the story, it really didn't change the apparent  
3 height from the critical vantage point of the  
4 top of Eastern Market Metro.

5 COMMISSIONER TURNBULL: Now I  
6 understand. I missed your point at which you  
7 were getting it, but I understand what you're  
8 saying now.

9 MS. FRACKER: Okay. Thank you.

10 CHAIRMAN HOOD: Any other questions  
11 up here? Commissioner May?

12 COMMISSIONER MAY: Yes. Ms. Berk,  
13 thank you for the information on other street  
14 closings. I did have a --

15 MS. BERK: I'm sorry. Weren't you  
16 involved in those.

17 COMMISSIONER MAY: Yes.

18 MS. BERK: Okay. Thank you.

19 COMMISSIONER MAY: It's hard to  
20 remember all the different cases, but I  
21 appreciate being refreshed.

22 MS. BERK: No. It was an honest

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1 question.

2 COMMISSIONER MAY: Yes. I just had  
3 a big recollection of having seen other streets  
4 closing and, you know was that really true that  
5 there weren't any? I appreciate being  
6 reminded.

7 Now, but I had a question for you.

8 You made the point that the fact that the street  
9 or the right-of-way itself is federally owned  
10 and that leasing it out in itself is improper.  
11 So, are you aware that the District regularly  
12 leases federal property for other purposes  
13 elsewhere in the city?

14 MS. BERK: No, I'm not aware of  
15 that. I only did some research into the streets.

16 COMMISSIONER MAY: I mean if you did  
17 look into that, you would find that there are  
18 multiple other instances of the city -- the city  
19 in essence acts as if it were a federal agency  
20 when it comes to its jurisdiction.

21 MS. BERK: I mean, most people  
22 prefer accessible and not necessarily so?

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1           COMMISSIONER MAY: I mean, it's not  
2 quite analogous to the streets, its just that  
3 the principle of the city having the authority  
4 to lease the property that it holds that belongs  
5 to the Federal Government is well established  
6 and it's occurred in a number of circumstances.  
7 It occurs when the city leases out charter  
8 schools that happen to exist on federal property  
9 because many of the schools in the city are  
10 actually on federal property.

11           It occurred with the ARC facility  
12 out in Oxon Run Southeast where that land was  
13 transferred for the District specifically so  
14 that it could be leased to a private entity.

15           So, things like that happen. I  
16 happen to know about that particular one, so  
17 I could share that.

18           Mr. Howell, I am particularly  
19 interested in your arguments regarding the  
20 Capitol Hill Overlay. And I'm wondering, were  
21 you involved in that when that case first case  
22 the Zoning Commission how ever many years it

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1 was? It was eight, ten years ago.

2 You need to be on the microphone?

3 MR HOWELL: Ten years.

4 COMMISSIONER TURNBULL: Yes. So it  
5 was ten years ago.

6 MR. HOWELL: No, I wasn't involved  
7 with it.

8 COMMISSIONER TURNBULL: Yes.  
9 Because I'm curious about what the history of  
10 it was. I mean, I was here for that case, and  
11 a few cases since then, so it's hard to remember  
12 whether there was actually any specific  
13 consideration of the Hine site. So, that's why  
14 I'm wondering whether you participated in that.

15 MR. HOWELL: I looked in -- is it  
16 the rulemaking opinion?

17 COMMISSIONER TURNBULL: Right, the  
18 order.

19 MR. HOWELL: Yes. And it did not,  
20 as I recall, make any reference to the Hine  
21 School site in particular.

22 COMMISSIONER TURNBULL: All right.

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1       Okay.

2                   As I recall, it was not a  
3 particularly well attended hearing. I mean, a  
4 few of the regular folks who came out on Capitol  
5 Hill issues were there. And I just don't recall  
6 if there was any specific discussion other than  
7 at the hearing, but I'd be interested to know  
8 whether in fact that was something that was  
9 explicitly considered or not.

10                   You also understand that if the  
11 Zoning Commission has the authority to establish  
12 the overlay, that we have the authority to do  
13 things that may be outside of that, right?

14                   MR. HOWELL:     Yes. But as Karen  
15 pointed out, it was concluded then that the  
16 Historic District needed to be protected and  
17 that the --

18                   COMMISSIONER TURNBULL: Right.

19                   MR. HOWELL:     -- objective was to  
20 limit the heights of buildings, and so it  
21 specifically said don't go above 50 feet because  
22 that will be I think incompatible with the

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1 Historic District --

2 COMMISSIONER TURNBULL: Right.

3 But the actions of the Zoning Commission back  
4 then don't necessarily bind the Zoning  
5 Commission in the future. It does bind things  
6 like the BZA, which is one of the reasons --  
7 the Board of Zoning Adjustment, which is one  
8 of the reasons why it's done that way.

9 MR. HOWELL: The justifications --  
10 the logic behind in 2002 haven't changed one  
11 bit.

12 COMMISSIONER TURNBULL: Right.

13 MR. HOWELL: It would be the logical  
14 thing to do, I would think.

15 COMMISSIONER TURNBULL: Well, and  
16 I think you're making a different point, which  
17 is that the principle still exists, the fact  
18 that the overlay still exists doesn't really  
19 have any specific legal bearing on what we do;  
20 that's all.

21 MR. HOWELL: Well, it does until you  
22 do it.

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1 COMMISSIONER TURNBULL: Right.  
2 But not on us, because we can change it, right?  
3 Okay. Thanks.

4 I do appreciate that analysis of it,  
5 and I'll be considering that.

6 CHAIRMAN HOOD: Let me just say, I  
7 do want to follow-up on Mr. Howell's point.  
8 Being here in 2002, I do want to look at that,  
9 and I'm sure that will come up in our discussion.

10 Commissioner Turnbull?

11 COMMISSIONER TURNBULL: Yes. I  
12 just got a follow-up on the C-2-B/C-2-A question  
13 and a lot of you have expressed interest in that.

14 If this body approved C-2-B, and I'm  
15 not saying it's going to, but if the Applicant  
16 made additional setbacks, would that alleviate  
17 any of your concerns or are you looking strictly  
18 at the C-2-A Zoning, per se?

19 In other words, what I'm saying is  
20 what is they made an accommodation to create  
21 setbacks to alleviate some of the concerns of  
22 the neighbors?

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1           MR. HOWELL:    My concern is the  
2 height of the scale of the thing. And if you  
3 can hide some of the height and scale, that's  
4 good. The setbacks can do that --

5           COMMISSIONER TURNBULL:   Right.

6           MR. HOWELL:    -- to a certain extent.  
7        I don't know if you can do it with a seven story  
8 -- a six story building and --

9           COMMISSIONER TURNBULL:   Well, you  
10 heard what the Capitol Hill Restoration Society  
11 main concern.    They are in support of the  
12 project with certain changes. So I'm just  
13 looking at them in the forefront of preservation  
14 and looking at trying to keep scale and they've  
15 made suggestions to the Applicant that they  
16 would like to see in the project.

17                        I'm not sure if you're familiar with  
18 all of the recommendations and changes that they  
19 have into the Applicant.   And I just wanted to  
20 hear any of your concerns or comments.

21           MS. EDAM:    My comments would be that  
22 the Eastern Market building itself, is if I

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1 understand correctly, 44 feet and currently the  
2 proposed as it stands is over 90 feet. And to  
3 me that is a little bit -- I'm not that good  
4 at math, but it seems slightly twice as big.  
5 And that is a concern.

6 I agree with Mr. Howell that if you  
7 do setbacks, it would visually seem like it's  
8 not as tall, but we're still talking about a  
9 massive increase in the Capitol Hill Historic  
10 District. So, yes, smaller but setbacks  
11 unfortunately wouldn't do it for me.

12 COMMISSIONER TURNBULL: Okay.  
13 Thank you.

14 CHAIRMAN HOOD: Any other  
15 questions?

16 Okay. Let's go to  
17 cross-examination. Does the Applicant have any  
18 cross?

19 Any ANC 6B any cross-examination?

20 CHAMPS, I believe, has left. Any  
21 cross? Okay.

22 Hine School?

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1 Eyes on Hine?

2 EMMCA?

3 Diverse Markets?

4 Okay. Thank you all very much. We  
5 appreciate your testimony.

6 Okay. Mr. Connelly, you can come  
7 on up now.

8 Gerald S-C-O-U-F-E. Scoufe, okay.

9 Okay.

10 K-E -- is that a T? Ketsanke? Okay.

11 Wong? Okay.

12 Joanne McGuinness? Joanne

13 McGuinness. That's fine. She's helping me out,

14 letting me move fast. Joanne McGuinness?

15 Daffney Jamal?

16 Okay. Here's the thing: If it  
17 sounds like your name -- if I give you all the  
18 sheet, you all can help me. But if it sounds  
19 like your name, Daffney Jamal? Okay.

20 Testin? Okay. I can't give you  
21 the list and you -- definitely 94.

22 Fishborn? Fishban?

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1 Okay. Nancy Sturm? Nancy Sturm?

2 Okay.

3 Jay Lawrence? No.

4 Sharon, am I at 126?

5 March Sleen?

6 I Soleta -- I think she already  
7 testified. I Soleta?

8 Okay. John Hunter?

9 P. Hackett?

10 Robert Paul? Robert Paul?

11 Steve Solar?

12 Carol Press?

13 Jim Kaheel? Okay. I did <r. Solar?

14 Kimberley Knee?

15 Suzanne Edam? I think she already  
16 testified. Edam. Okay.

17 And Ronda Goldman? So, come on up.

18 Come up. You all look just alike, I can tell  
19 you that.

20 So nobody think he's testifying  
21 twice. I think he read some else's testify first  
22 who was on the list that I called, and now he's

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1 going to do his testimony.

2 Okay. We'll start to my right, Mr.  
3 Connelly and work our way to the right.

4 Whenever you're ready.

5 COMMISSIONER MAY: Your microphone  
6 is not on, sir. It's not on. No, it's not. It's  
7 just a green bulb.

8 MR. CONNOLLY: I have lived on  
9 Capitol Hill now these two score and five years.  
10 For those who are poetically challenged, that's  
11 45 years.

12 I met and married the girl next door  
13 on Capitol Hill. My daughter was born here.  
14 She went to school here. She was educated at  
15 Capital Arts Workshop. She worked at the  
16 Capital Hill Arts Workshop after she came back  
17 from the University of Pennsylvania with a  
18 degree in history.

19 So we have a lot of ties, I think  
20 to The Hill. And unlike so many of the other  
21 folks that have talked ahead me, I feel a little  
22 bit like the subject of one of the -- I won't

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1 say which one, but it goes something like this  
2 "I'm nobody? Are you nobody, too?" But I am  
3 somebody because I live on Capitol Hill, and  
4 I've lived there on 8th Street since 1985 and  
5 contrary to what a lot of folks said today, even  
6 though I live there and I'm on the con side here,  
7 I do support mixed-use development of the Hine  
8 School site. However, and not sing the same song  
9 you've heard so often up to this point, I do  
10 oppose the C-2-B Zoning for the entire Square  
11 of 901.

12 George Overlander, who spoke a few  
13 weeks ago before you gentlemen and lady and gave  
14 a report in which it was his recommendation was  
15 to retain the R-4 Zoning for the residential  
16 buildings on the site and to limit the commercial  
17 office buildings, the C-2-A. And I think this  
18 approach has several benefits:

19 It implements the D.C.  
20 Comprehensive Plan;

21 It respects the characters and  
22 values of the Capitol Hill Historic District,

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1 and;

2 Achieve mixed-use development in  
3 which the city desires on this site.

4 I think the C-2-B Zoning would  
5 create a level of commercial activity that will  
6 literally overwhelm the adjacent neighbors.

7 I can see this with just what's  
8 happened with the growth along 7th Street, and  
9 what's happening just in that alley behind us,  
10 an east/west alley filled with trucks, several  
11 at a time idling away. Now add the skinny North  
12 Building with its two levels of retail; how  
13 many more trucks can that alley handle?

14 The restaurants particularly  
15 result, and I do know that Xavier is very upset  
16 about this, but several restaurants do have a  
17 lot of issues with HVAC and other noises coming  
18 from there.

19 The Applicant proposes a  
20 substantial number of food purveyors at the Hine  
21 site. This would bring more delivery in garage  
22 trucks, more smells, more rooftop HVAC and more

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1 traffic.

2 I ask the Commission to save their  
3 near neighborhood and their homes from this  
4 disproportionate burden.

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

7 Next?

8 MR. STROUFE: Good evening. I'm  
9 Gerry Stroufe. I live at 129 6th Street, a home  
10 that we've owned for some 40 years.

11 I think we've reached the point in  
12 the hearing where almost everything that can  
13 be said has been said, perhaps not by everyone  
14 yet. I'm going to try to abridge my comments  
15 and just hit a few things that I have not heard  
16 from other persons.

17 I certainly associate myself with  
18 the comments about a very large, very dense  
19 structure that is much too large for the site.

20 And I noticed that the Chairman is going to  
21 visit and look at traffic on Capitol Hill. I  
22 hope you'll also just stand and look at the

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1 building and imagine what it's going to look  
2 like if built as proposed.

3           There's been a lot of positive  
4 comments about the developers. And I find that  
5 interesting. I'm not an architect, and I only  
6 know what I know about them from what I've heard  
7 in these few hearings. But it seems to me that  
8 if we can eliminate a whole story overnight  
9 didn't have much of a belief that that was  
10 important at the outset. And when we talked about  
11 the traffic patterns and having trucks back up  
12 into 7th Street to deliver good to this building,  
13 you just kind of wonder if they really have a  
14 concept here.

15           The second point I'd like to raise  
16 is that the memorandum of agreement, the MLA,  
17 is actually dependent on economic conditions  
18 and there's no bounding hold on those things,  
19 and these are the things that are promised to  
20 the community. But right now there's a very  
21 attractive building right across from the south  
22 end of Eastern Market designed by Amy Weinstein

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1 that was intended to be shots each one opening  
2 out onto the street in the way of a Greek store.

3 And I was quite taken with it, still am quite  
4 taken with it, but it has never been shopped.

5 It's the headquarters national organization  
6 and it has simply created a dead zone on 7th  
7 Street.

8 Finally, I heard the buzzer. I'm  
9 really just surprised at the hearings to find  
10 out that the low income housing which many on  
11 Capitol Hill have felt we needed, were going  
12 to be a segregated community. I think that is  
13 just untenable in this day and age.

14 Thank you.

15 CHAIRMAN HOOD: Thank you very  
16 much.

17 Next?

18 MS. STURM: Hello. I'm Nancy  
19 Sturm, I live two blocks from the proposed  
20 developed at 10th Street at 306.

21 I am here in opposition to the  
22 proposed development as it is before you. I

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1 really can't say it better than my neighbors  
2 have, or EMMCA, or Eyes on Hine, or Hine School  
3 North, which I wholeheartedly support.

4           It's not clear to me how important  
5 the numbers of individuals that come out on  
6 either side of this proposal are to you. I've  
7 gotten conflicting reporting. But I do want  
8 to remind you that we've over nine plus residents  
9 at each of the past two hearings of coming before  
10 in opposition to this planned development as  
11 it appears before you, and at this third meeting  
12 it seems we've actually been worn down a bit  
13 and we are in a hearing with as great a number  
14 as we'd like.

15           Make no mistake, there's a silent  
16 majority of us on Capitol Hill within eight  
17 blocks of the neighborhood of the proposed  
18 development that are concerned about the scale  
19 and size of this development.

20           I've sent letter to the effect, I  
21 don't have the testimony before you to hand you,  
22 but just to say that I'm going to speak from

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1 the heart for a minute because I can't replicate  
2 well what these people have said. But, you know  
3 if you want to maximize tax revenue for the  
4 District of Columbia, this development as it  
5 stands before you makes sense. However on the  
6 other hand if you care about the unique historic  
7 residential character of Eastern Market, of our  
8 neighborhood and preserving the liveable  
9 pastoral community that those of us who invested  
10 in 25, 40 years ago had stood by for thick and  
11 thin when our friends and neighbors that we were  
12 nuts to live on The Hill because you'd walk out  
13 of your door and get mugged, then I ask you to  
14 go back and demand that the developers go back  
15 to the drawing board and look at a C-2-A sort  
16 of schematic.

17 I don't want Capitol Hill to become  
18 Dupont Circle, Upper Northwest, Logan Circle,  
19 much less Balston or Shirlington and Tyson.  
20 This development is out of scale with our  
21 neighborhood and it deemed inappropriate to  
22 those of us who have been in it for the long

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1 haul. And we're talking about the reasons that  
2 we invested in Capitol Hill, and if you did.

3 I urge you to adapt this variance  
4 for C-2-B and insist the developers redesign  
5 this development with a C-2-A designation so  
6 that it is compatible with the sale and character  
7 and density of our Historic District, and as  
8 Commissioner Turnbull might suggest, at the very  
9 least a C-2-B with appropriate setbacks.

10 Thank you.

11 CHAIRMAN HOOD: Thank you. Okay.

12 Next?

13 MS. NEAD: My name is Kim Nead. I  
14 live at 535 7th Street, which is approximately  
15 two blocks away from the Hine development.

16 I have no direct stake in this  
17 development. I have no investment in the  
18 project. I'm not a vendor or a manager of the  
19 flea market and I don't own a business or a home  
20 in the immediate vicinity.

21 My interest in the proposed  
22 development is twofold. First, I love my

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1 neighborhood and appreciate the Eastern Market  
2 area's unique charms, historic significance and  
3 centrality to a vibrant and liveable Capitol  
4 Hill.

5 Second, the city has a once in a  
6 lifetime chance to develop this key property  
7 in a way that will enhance the neighborhood and  
8 the city, a chance that will be squandered if  
9 this ill-advised development project goes  
10 forward as currently designed.

11 C-2-B Zoning is inappropriate for  
12 this site. If approved, this will be the first  
13 C-2-B Zoned property ever permitted in a  
14 Historic District. Currently, the nearest C-2-B  
15 Zoned lot is the Jenkins Row development in the  
16 1300 block of Pennsylvania Avenue, which is  
17 outside the Historic District. Every time I  
18 go past Jenkins Row I think how grateful I am  
19 that it is located where it is and not near  
20 Eastern Market.

21 C-2-A Zoning for that Hine site with  
22 the PUD would allow buildings heights of 65 feet.

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1       This seems like a good compromise between the  
2       need on the one hand for higher density near  
3       public transit, more residential units  
4       particularly affordable housing, increased foot  
5       traffic near weekends and more retail options  
6       in the area and the need on the other hand to  
7       protect the very special assets that Eastern  
8       Market represents both to Capitol Hill and the  
9       city as a whole.

10               Moreover, approving C-2-B Zoning  
11       for the Hine site would set a dangerous zoning  
12       precedent for the Historic District. I worry  
13       that in 15 or 20 years when we find ourselves  
14       wondering how we ended up with an overbuilt  
15       Historic District that retains little of the  
16       special character and charm it once had.

17               Because of its sensitive location,  
18       the Hine site development will have a profound  
19       impact on the Eastern Market neighborhood. The  
20       development site directly across from the Metro  
21       station and its side extending the entire block  
22       from 7th to 8th Street means that it will provide

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1 any visitors with their first impression of the  
2 area. The development's location on 7th Street  
3 across from the shops now having dining options  
4 and catty-corner to historic Eastern Market  
5 means that it will effect for better or worse  
6 the very center of the Capitol Hill community.  
7 This is where neighbors meet and tourist flock  
8 on a weekly basis.

9           Unfortunately, the current design,  
10 unlike the initial plan, is overly tall, overly  
11 monolithic and just too big. Developers have  
12 increased the proposed project's gross floor  
13 area from 405,793 square feet in the June 20,  
14 2010 term sheet for the LLDA to 451,132 square  
15 feet, an increase of 11 percent. If above  
16 groundloading facilities are included, the  
17 gross floor area has been increased by 14  
18 percent. The building in heights have increased  
19 as well.

20           While I appreciate the high quality  
21 materials for construction, the efforts to  
22 include architectural interesting and

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1 neighborhood compatible sign elements, somehow  
2 the sum is less than its parts.

3 Also the proposed leasing to the  
4 developer of the to be reopened C Street on the  
5 basis of a 99 year lease seems --

6 CHAIRMAN HOOD: I have to cut you  
7 off.

8 MS. NEAD: Oh, I'm sorry.

9 CHAIRMAN HOOD: That was your  
10 second bell.

11 MS. NEAD: I didn't hear the first  
12 one.

13 CHAIRMAN HOOD: You didn't hear the  
14 first one?

15 MS. NEAD: Sorry.

16 CHAIRMAN HOOD: Okay. Thanks.

17 MS. GOLDMAN: Good evening, Board  
18 of Commissioners. Thank you for the opportunity  
19 to testify on behalf of the Capitol Hill flea  
20 market that operates on Saturdays and Sundays.

21 My name is Ronda Goldman, and I am  
22 with the Eating Company which operates in that

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1 market. As an entrepreneur I have delights that  
2 Washington, D.C. has provided a place where  
3 small business owners can build reputable  
4 companies, provide goods and services to the  
5 public and contribute to creating a fabulous  
6 outdoor market environment that can rival some  
7 of the famous markets of Europe.

8 I am here tonight to express my  
9 concern that there are plans to decrease the  
10 current market from approximately 150 vendors  
11 to 68. Currently, America is experiencing a  
12 severe job crises which will be the subject of  
13 the next election as well as the most significant  
14 topic in the next State of the Union Address.

15 As I stated before, I am an entrepreneur,  
16 however I am also an educator and I often use  
17 local markets as laboratories to study the most  
18 significant economic driver in our nation,  
19 entrepreneurship: What makes it work, who  
20 makes it work? It is appealing or are  
21 entrepreneurs developed? What is it about  
22 owning your own piece of commerce that

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1 captivates our attention and moves us to  
2 applaud?

3 As I labor alongside my colleagues  
4 I cannot help but admire their courage,  
5 creativity and their ability to employ  
6 themselves and others.

7 Please do not underestimate the  
8 value of what you have in the market as it already  
9 exists. I believe that you have a working model  
10 of the answer that many Americans are looking  
11 for. When you can't find a job, it's time to  
12 create one, and that's the Capitol Hill flea  
13 market.

14 I also want to applaud the efforts  
15 of the owners of each market. Through their hard  
16 work, dedication, sacrifice and excellent  
17 decision making they have built successful  
18 enterprises for which they should not have to  
19 defend nor apologize.

20 Success is the hallmark of a job well  
21 done, and their achievements have become the  
22 achievements of others.

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1 I have the opportunity to  
2 participate in other markets in D.C., Maryland  
3 and Virginia and the Capitol Hill flea market  
4 and the Holiday Market have been the best.

5 I believe that altering the  
6 infrastructure, design and organization of the  
7 market will disrupt its natural momentum which  
8 can have an adverse effect on the current state  
9 of functionality and at a time when American  
10 desperately needs economic examples the most.

11 In November we will be casting our  
12 votes in the next presidential election, but  
13 tonight I cast my vote for small businesses.  
14 I cast my vote for the Capitol Hill flea market.

15 My time is up and I thank you for  
16 yours.

17 CHAIRMAN HOOD: Good. Thank you.

18 Next.

19 MR. SISOLAK: Okay. Before you  
20 start the clock, just let me make it really clear  
21 that I'm testifying now as an individual and  
22 in no way in my role earlier as a substitute

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1 for Capitol Hill Village, okay?

2           Again, my name is Bill Sisolak. I  
3 live in the 600 block of A Street Northeast.  
4 My wife and I have been on Capitol Hill since  
5 1967. We've been in our current home for over  
6 35 years, we've raised our sons in this wonderful  
7 community.

8           Let me start by saying something  
9 that you probably don't hear very often at these  
10 meetings. Thank you for your service.

11           I'm a former ANC 6C Commissioner.

12           As a Commissioner, I serve as the Chair of our  
13 Planning and Zoning Committee. Since stepping  
14 down as Commissioner, I've served for years as  
15 a citizen member of 6C's Planning, Zoning and  
16 Environment Committee faithfully attending our  
17 monthly meetings and dealing with matters so  
18 rich they've ended up here like major  
19 developments

20           My wife and I also active volunteers  
21 in a number of other Capitol Hill community  
22 organizations, but by volunteer activities

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1 don't nearly approach the time and effort that  
2 each of you devotes to the Zoning Commission.  
3 I'm sure there are times in these meetings that  
4 you think to your self "I don't need this  
5 aggravation." And you don't, but you do it  
6 because you live the city and are committed to  
7 fairly and accurately upholding its own laws  
8 and regulations. Thanks again for doing that  
9 for us.

10 Now let me turn to the Hine project.

11 I associate myself with all the concerns about  
12 this project that have been raised by others  
13 before me. Let me focus on just one thing for  
14 a second, the North Building.

15 The concentration of virtually all  
16 the affordable housing in one building, isolated  
17 from the main development but the rebuilt C  
18 Street is wrong. It smacks of things that we  
19 as a society left behind us long ago.

20 I think what galls me the most is  
21 that Stanton Development will not allow the  
22 residents of the North Building to have access

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1 to the amenities of the South Building. "Oh,  
2 but they have their own amenities," if I recall  
3 the quote correctly. Am I the only one for whom  
4 the phrase "separate but equal" comes to mind?

5 At your first hearing the  
6 representative of Dantes Partners justified  
7 this approach by saying that financing sources  
8 for affordable housing aren't crazy about  
9 putting their money into a development with both  
10 market rate and affordable units in the same  
11 building. Well, excuse my French, but that's  
12 too damn bad. And they need to find new sources  
13 of financing because I and many in this community  
14 are not crazy about a project that says the  
15 teachers, the police officers, single moms  
16 struggling until their ends meets and seniors  
17 on fixed income stay on your own side of the  
18 street and out of our swimming pool. I have  
19 no doubt that the people behind Stanton-Eastbanc  
20 are good people, but they have made a mistake  
21 in the North Building and the need to fix it.  
22 And if they can't or won't then you need to

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1 step in.

2 I don't know if you have any  
3 authority through the Zoning process to right  
4 this wrong. But at a minimum, you can use your  
5 bully pulpit up there to make it clear that you  
6 want to see a change in the North Building.

7 And thank you.

8 CHAIRMAN HOOD: Thank you.

9 Next?

10 MR. SHLIEH: Chairman Hood and  
11 Members of the Commission, thank you for your  
12 service and thank you for allowing me to talk  
13 this evening.

14 I purchased my home at 221 8th Street  
15 Southeast almost 20 years ago. Although my home  
16 is just 200 feet or less from the Hine project,  
17 I am here today not to discuss the design of  
18 this project, the traffic or the density. I'm  
19 here to share with you a tale about Tootsie  
20 Rolls. And I have on this desk some Tootsie  
21 Rolls for each one of you.

22 In 1963 as a seven year old with no

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1 gray hair, my father and I walked into a small  
2 newspaper shop in Middletown, Connecticut.  
3 Upon leaving the store we returned to the car  
4 we arrived in. As my dad and I drove away, I  
5 pulled out a couple of Tootsie Rolls where my  
6 dad looked at me and asked "Where did you get  
7 those?" I replied "The store." His next  
8 question to me was "Did you pay for them?" My  
9 answer was "No."

10 Our car quickly stopped its forward  
11 motion and we returned to the scene of the crime.

12 Back at the store my father asked  
13 to speak to the owner, whom he personally knew  
14 for many years. In front of my father humiliated,  
15 embarrassed and as frightened as I was, I  
16 apologized to the proprietor for stealing, for  
17 taking something that was not mine to take.

18 This was my first lesson in life that  
19 each decision we make as an associated  
20 consequence to it. It was not until years later  
21 that realized it was my father who was  
22 embarrassed by his son's behavior, and I

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1 realized how difficult it must have been for  
2 him to bring me back to the store to hold me  
3 accountable for my actions when he could have  
4 just lectured me for stealing or given me the  
5 spanking I well deserved and probably would have  
6 preferred.

7           So, Chairman Hood and the other  
8 Members of this Commission, you are faced with  
9 the most difficult decision to take the easy  
10 path and approve the change in Zoning or to take  
11 a difficult path and say no. I ask that this  
12 Commission stand together for what is truly in  
13 the best interest of this neighborhood and just  
14 not simply "go with the path of least residence."

15       As I learned at age seven that each decision  
16 we make has consequences, this is a moment for  
17 this Commission to be remembers in 50 years and  
18 100 years and 200 years as the Commission that  
19 stood tall, took the correct path and did the  
20 right thing by not approving the change in Zoning  
21 from R-4 to C-2-A to R-4 for the Hine School  
22 project.

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1 In closing, let me be clear: This  
2 is not about mending, it is about ensuring that  
3 this project when completed is something that  
4 we can all be proud of.

5 I thank you for the opportunity to  
6 share my thoughts with you.

7 CHAIRMAN HOOD: Okay. Thank you  
8 very much.

9 The Commissioners have any  
10 questions to this panel? Any questions.

11 Okay. Let's go to any  
12 cross-examination. The Applicant?

13 ANC 6B?

14 CHAMPS?

15 Hine School North?

16 Okay. Eyes on Hine?

17 EMMCA?

18 And Diverse Markets?

19 Okay. Thanks to this panel. We  
20 greatly appreciate it.

21 CHAIRMAN HOOD: If you want to leave  
22 is all one Tootsie Roll, you do that. You want

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1 to hand it to --

2 MR. SHLIEH: Bribing a  
3 Commissioner?

4 CHAIRMAN HOOD: I didn't say I was  
5 going to eat it, I just said if you want -- one  
6 thing about it, we may put it in the record.  
7 Okay. If somebody wants a Tootsie Roll.

8 I heard somebody say the *Washington*  
9 *Post* was being bribed -- let me tell you  
10 something: We work too hard to be bribed with  
11 Tootsie Rolls. Trust me. Tomorrow night while  
12 you're home enjoying yourself, you know what  
13 we're going to be doing? Sitting right here.

14 Okay.

15 You got me all messed up.

16 Okay. Rebuttal and closing?  
17 We're ready for rebuttal and closing.

18 If you're going to tell us about how  
19 much time you're going to need. I'm sure we have  
20 some questions. And I think, Commissioners,  
21 we may want to throw some things that we may  
22 want them to respond to in rebuttal. I'm not

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1 sure how you want to do this.

2 The good news: I have three days  
3 for us to continue this. We don't need them.  
4 July the 17th, July the 24th and July 25th.  
5 So you all enjoy those three days, you don't  
6 have to come back.

7 Okay. Mr. DePuy, can you tell us  
8 about how much time you think you'll need for  
9 rebuttal? I don't know how we're going to proceed  
10 yet, but --

11 MR. DePUY: For the record, Jacques  
12 DePuy, Greenstein, Delorme and Luchs.

13 We've tried to limit our rebuttal  
14 as much as we could, and we would anticipate  
15 approximately 10 or 12 minutes.

16 CHAIRMAN HOOD: Okay.

17 VICE CHAIRPERSON COHEN: Can we  
18 have copies of your presentation? The  
19 Commissioners like it while it's being given.

20 MR. DePUY: Sure. We will provide  
21 copies of the slides.

22 VICE CHAIRPERSON COHEN: Okay.

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1 MR. DePUY: Do you want the  
2 documents that we're going to offer as well?

3 VICE CHAIRPERSON COHEN: No. Just  
4 give us everything.

5 MR. DePUY: Okay. We will.

6 CHAIRMAN HOOD: Okay.

7 MR. DePUY: Shall we proceed or  
8 wait?

9 CHAIRMAN HOOD: Let me just make  
10 sure we're on the same page. I think what we'll  
11 do is go through rebuttal, go through cross and  
12 rebuttal and then if we have an outstanding  
13 issue, we'll do ours -- we'll just mention it  
14 to them and they can give it to us at a later  
15 date, okay? That's what we do propose.

16 MR. DePUY: Okay.

17 MR. DePUY: Okay. Whenever you're  
18 ready to, DePuy.

19 MR. DePUY: Okay. Thank you.

20 Mr. Chair, Members of the  
21 Commission. Our three rebuttal witnesses are  
22 Amy Weinstein, Buwa Binitie and Joe Sternlieb

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1 in that order. We'll start first with Ms.  
2 Weinstein.

3 MS. WEINSTEIN: Thank you.

4 Okay. I will do this as fast as I  
5 can because I know the hour is late.

6 I'd like to first respond to some  
7 of the questions and comments from the  
8 Commission and then respond to some of the  
9 community remarks.

10 I think someone asked us to explain  
11 our request for the five percent height  
12 flexibility that the PUD process allows. And  
13 I have here two building sections. The one on  
14 the left is the pre-hearing design for the  
15 tallest part of the project, the office  
16 building. That's where we had a seventh floor  
17 of office space and then we had a rooftop  
18 structure above that for the elevator that  
19 overruns the mechanical room and the cooling  
20 towers.

21 After the Historic Preservation  
22 Review Board approved this height and mass for

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1 this part of the project, Stanton-Eastbanc  
2 decided to remove the office space from the  
3 seventh floor, lower the cooling tower down a  
4 floor and retain some conference area at that  
5 levels.

6 So what happens is we now have  
7 instead of the seventh floor with a rooftop  
8 structure on top of it, we have a seventh floor  
9 part of which is the mechanical penthouse and  
10 the elevator overrun.

11 So what happens is that whereas the  
12 floor, the height of the overall structure from  
13 the measuring point to the highest point to the  
14 penthouse with 106 feet, that height has dropped  
15 to 94 feet 6 inches, dropped 11 feet 8. But  
16 because this does meet the criteria of a rooftop  
17 structure, we do not get that extra 18.6 above  
18 the roof. So what happens is that to get the  
19 elevator over around then, we're 42 feet above  
20 the 90 foot height limit, and that is why we're  
21 requesting the flexibility. And it is the  
22 elevator overruns that without which we could

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1 not successfully develop this project, there  
2 would be no accessible access to the conference  
3 rooms or the roof terrace out there. And it  
4 is those overruns that are causing the 4 foot  
5 6 overage of the 90 foot height limit. They're  
6 established by that, and then to keep the height  
7 of the tallest part consistent around the  
8 cooling tower, you bring that line across.  
9 Everything else up that level is lower than that  
10 94.6 inch.

11 We were asked to provide more shadow  
12 studies. So, what we have here are additional  
13 shadow studies.

14 The top row is June 21st. We've  
15 started now at 7:00 a.m. We have a 10:00 a.m.,  
16 a 4:00 p.m. and a 7:00 p.m. We also have the  
17 sunrise and sunset times down here so you can  
18 see how close we got to each one.

19 Now what we're looking at here, you  
20 see gray shadows and you see blue shadows. The  
21 gray shadows are shadows that are cast today  
22 from existing buildings, either on the Hine site

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1 or by structures on surrounding property. The  
2 blue shadow is the additional shadow cast by  
3 the proposed project.

4 Down, the lower line here we added  
5 an equinox on March 20th where we have an 8:00  
6 a.m. a 10:00 a.m., a 3:00 p.m. and a 6:00 p.m.

7 And then we have the shortest day  
8 of the year, December 21st where we start at  
9 8:00 a.m., the sun rose at 8:23. We have a 10:00  
10 a.m., a 2:00 p.m. and then a 4:00 p.m. And again,  
11 looking at the 4:00 p.m. the gray is shadowed  
12 there already today from existing buildings in  
13 the community. And the blue is the additional  
14 shadow which you see here on the intersection.  
15 The blue, of course, is us casting a shadow on  
16 ourself up at the roof level.

17 We also have here on the left is the  
18 4:00 December 21st shadow that we just looked  
19 at, though note that it's all gray. And then  
20 in the middle is an R-4 matter-of-right  
21 development and the shadows that it would cast.

22 This would be 56 townhouses, each would have

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1 to flats for a total 112 units. We brought C  
2 Street through so there are townhouses to the  
3 north and then townhouses to the south. And this  
4 represents the shadows cast by both a  
5 matter-of-right development and then also the  
6 existing shadows cast by buildings outside of  
7 our site.

8 The image on the right takes the  
9 shadowed cars by just the proposed project and  
10 overlays it on the matter-of-right shadow. And  
11 what you see in blue is the additional shadow  
12 from our proposed shadow over an R-4  
13 matter-of-right.

14 Now, the 4:00 December 21st to me  
15 is always a hard shadow study because the shadows  
16 are so -- the sun is so low they go really out.

17 So here's the same thing at 3:00 p.m. where  
18 we have the proposed development, the R-4  
19 matter-of-right and then the overlay of the  
20 proposed development over the R-4  
21 matter-of-right shadow.

22 And then finally is the shadow

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1 diagram of the larger community context, and  
2 in this case we've outlined here just the shadow  
3 from our proposed project to show how far it  
4 extends. But again what is in gray within that  
5 shadow is existing shadow today and what is blue  
6 is what would be new added shadow to the project.

7 And as you can see the shadow of this project  
8 is at 4:00 on the shortest day of the year does  
9 not reach the west edge of the 30 foot alley  
10 that is behind Mr. Hacker's property.

11 I would like to now address the kind  
12 of bait and switch discussion that we've heard.  
13 And there is a certain amount of confusion over  
14 square footages. And so I'd like to clarify this.

15 What we have here at the top of this  
16 chart is the gross floor area calculated like  
17 you would for FAR calculations, true zoning  
18 closed floor area for the August 2009 the RFP  
19 BAFO. It was a total of 442,849 square feet.

20 The numbers lower than that that you hear the  
21 community talk about is taken from a partial  
22 list of these numbers that was used in different

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1 term documents and things like that. But this  
2 is the total gross floor area.

3 The current proposed one is 461,900  
4 square feet. The delta between those two would  
5 be an additional 18,900 square feet. However,  
6 parts of that 18,000 number includes a rooftop  
7 mechanical spaces that because we opted not to  
8 put them on top of the top floor of the building  
9 but to push them down into the top floor of the  
10 building, they count in FAR and in gross floor  
11 area.

12 In the BAFO scheme those did not  
13 count. So we to get apples-to-apples here, we've  
14 subtracted that from the delta and the true delta  
15 is 122,880 square feet, which is 2.9 percent  
16 of the original BAFO square footage.

17 Another change if we look at the  
18 below grade development is that the BAFO project  
19 had a 63,000 square feet of below grade  
20 development. The current project has only  
21 14,900 square feet. So there's a difference  
22 there os 48,000 square feet. And if you back

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1 that out, we actually when you compare the BAFO  
2 to the current proposed, you couldn't go below  
3 grade and above grade development; and that is  
4 habitable space below grade not parking. And  
5 we actually have a decrease from the BAFO of  
6 7.9 percent. We're actually smaller from that  
7 point.

8           There are many other similarities  
9 between the BAFO and the current project. Here  
10 we have the BAFO ground floor plan at the bottom  
11 and the current proposed ground floor above  
12 that. And as you can see, the light blue is retail  
13 in both of these drawings. But the retail at  
14 the BAFO did come around Pennsylvania Avenue  
15 and return and go all the way to the corner of  
16 8th and D just like it does now.

17           Both of these internal courtyards  
18 were not accessible to the public in any way.

19           They were solely for the use of the people  
20 within the project.

21           And all the buildings were built out  
22 to the property line, with the exception around

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1 the Plaza was this configuration in the BAFO  
2 and then eventually became this configuration  
3 in the current project.

4 Other changes since the BAFO is that  
5 we used to have three floors of office use at  
6 8th and D Street with office windows looking  
7 to 8th Street. And because the 8th Street  
8 residents did not want to have commercial  
9 presence with windows looking to their houses,  
10 we changed that use to residential there.

11 We also went from 391 parking spaces  
12 down to 321 parking spaces.

13 So here we have at the top the  
14 current 8th Street elevation of the proposed  
15 project and below it we have the massing diagram  
16 that was included in the RFP BAFO. And this  
17 represents the outline of the of the BAFO  
18 proposal superimposed over the proposed one so  
19 that you can see how much the massing has changed  
20 or not changed since the BAFO.

21 The same thing for the Pennsylvania  
22 Avenue facade, and this has already been shown

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1 to you by one of the community members.

2 Here is the BAFO massing diagram.  
3 This is the current one. And when we overlay  
4 the two, you can see the difference between the  
5 massing. And what we have done quite  
6 intentionally was to remove massing that was  
7 closer to the residential area and push it over  
8 to the corner of 7th and Penn where the Metro  
9 stop is.

10 And then finally the North Building,  
11 this is the BAFO and the current one. And that's  
12 the overlay of the BAFO outline on top of the  
13 existing proposed North Building.

14 A comparison of the two plazas. The  
15 proposed one currently is a little bit larger  
16 than the original one.

17 And this is a comparison of flea  
18 market space where in red would be the tent  
19 areas, in blue are where the flea market vendors  
20 park. "Today" was the 2/20/12 Google Earth.

21 And then the same use areas from the  
22 proposed project and then placed next to each

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1 other. This is the amount of space in the current  
2 project that is useable by the flea market, and  
3 that's what they currently have on the  
4 playground.

5 And then finally we showed you a tent  
6 layout in the Plaza of 68 tents. But we also  
7 mentioned that there are other ways to layout  
8 tents. Here is 73 tent layout in the same space.  
9 This one gives us an 182 wide foot drive, which  
10 is plenty for two vans to pass each other and  
11 plenty for vans that park and they won't have  
12 to wheel their goods 50 or 60 feet to get there.  
13 And another possible one. There are many  
14 different ways of tents. This one is 71.

15 MR. STERNLIEB: Thank you.

16 Mr. Binitie?

17 MR. BINITIE: Good evening,  
18 Commissioners and Chairman. And thank you for  
19 your time.

20 Again, my name is Buwa Binitie, and  
21 I represent Dantes Partners.

22 I would like to address some

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1 questions that came up earlier in the hearing  
2 about the negotiations between the North and  
3 South residential buildings. I would like to  
4 point out that what the Stanton-Eastbanc team  
5 is proposing as an affordable housing program  
6 is quite typical and fulfills all of the goals  
7 of the District's affordable housing policy.

8 This project balances the wishes of  
9 the community, the District and our equity  
10 investors and lenders. We have heard from  
11 multiple capital partners of which their  
12 responses included in your package that they  
13 cannot combine the financing of low income  
14 housing tax credits and taxes and bonds with  
15 conventional debt and equity. So as a way to  
16 address the desires of the stakeholders, we have  
17 programmed a stand alone separately financed  
18 residential property with its own superior  
19 architecture and amenities package that maybe  
20 separately owned and managed in addition to a  
21 mixed income residential property that is  
22 conventionally financed and may also be

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1 separately owned and managed.

2 Our plan is by no means different  
3 than the Donatelli Development/Victory Housing  
4 joint venture that is currently located at 14th  
5 and Irving Street Northwest. This development  
6 includes a separate stand alone senior housing  
7 building that is directly adjacent to separately  
8 market-rate building. It is also no different  
9 than the approved PUD plan for the city market  
10 at all. We have a senior housing building, the  
11 senior affordable housing building will be part  
12 of an overall million square foot development  
13 yet in the distinct building that is also  
14 separately financed.

15 Similar to the Hine project, the  
16 superior architecture of the aforementioned  
17 massive development are not compromised such  
18 that you can differentiate the marketed building  
19 from the affordable building. And similar to  
20 examples cited above or examples cited earlier  
21 built stand alone properties have their own  
22 dedicated amenity package for their specific

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1 residents. In all of these cases the tenants  
2 get to enjoy the daily amenities and the fact  
3 that they're residing in the stellar desirable  
4 neighborhood. The community at the end of the  
5 day will see a cohesive and well planned  
6 development. The developer is able to separate  
7 the ownership and management of the building  
8 as appropriate, and finally our financiers have  
9 something they can wrap their arms around so  
10 that the project can get built.

11 Thank you, and I'm happy to address  
12 any questions you may have.

13 Oh yes. And in this slide this is  
14 I wanted to highlight the amenities package that  
15 we actually have for the seniors and residents  
16 of the North Building. And again, we've  
17 actually gone above and beyond what is typically  
18 provided in other tax credit properties, and  
19 I'll tell you how we accomplished that.

20 And the reason we have accomplished  
21 that is, obviously, is typically you only see  
22 a computer room or lounge. And what we're doing

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1 here is we're actually providing both.

2 You see a fitness room as well in  
3 addition to other storage areas and bike storage  
4 as well for the residents.

5 So that total square footage for the  
6 tenants that reside on this property is a little  
7 over 2,000 square feet, 2,000 square feet.

8 Thank you.

9 MR. STERNLIEB: I'm mostly here to  
10 answer questions, but there are a few things  
11 that came up during the testimony earlier that  
12 I will address, just to fill you in on the arch  
13 of progress over the last three hearings on a  
14 few issues.

15 One of the Memorandum of Agreement  
16 that the ANC passed prior to the last hearing.  
17 We are down to, I believe -- although they passed  
18 it, as you heard this evening there was a hearing  
19 held by the Council last week last week on the  
20 Eastern Market legislation. There were a  
21 number of provisions on the MOA that referred  
22 to how we would deal with things, like the

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1 management of the C Street right-of-way and  
2 Plaza for special events. What we had agreed  
3 with the ANC to do is to set up a special  
4 committee that would issue policies and  
5 procedures of how it would work, and it wouldn't  
6 just be the developer who would make this  
7 decisions. But it would be the ANC along with  
8 the Eastern Market Trust and the developer, and  
9 the three of them would sit together and come  
10 up with the procedures and policies.

11 Well, there is no Eastern Market  
12 Trust then we're missing one character actor,  
13 and I think that the community felt strongly  
14 that they didn't want the developer to have the  
15 upper hand in that. So, we've had to have the  
16 conversation about who that third party would  
17 be, whether it would be EMMCA, which is a  
18 semi-quasi publicly appointed group or some  
19 other group, or some other group within the  
20 neighborhood.

21 What we've said to the ANC is we're  
22 open to any reasonable suggestion. And I

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1 believe, Ivan or Brian can connect me if I'm  
2 wrong, but I think that's the only outstanding  
3 issue of 40 or 46 items.

4           There are a few things that were  
5 raised today that you'll see are not really  
6 correct. We had been asked if you'll recall,  
7 the ANC set up a special committee with five  
8 different working groups. One of the working  
9 groups had asked us to proffer special pavers  
10 down 7th Street so that 7th Street would look  
11 like C Street, would also look like the existing 7th  
12 Street as it was done when the market was redone.  
13 We agreed to do that and when it came back to  
14 the full committee it said "No, that's too much  
15 money to go into that. The city has capital  
16 dollars for that. We want you to put the money  
17 into some other things that you're going to  
18 proffer, like the day care and the contribution  
19 to the playground and a couple of other things,  
20 free office space for the ANC."

21           So one of the subgroups of the ANC  
22 asked for it and the larger subgroup traded it

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1 away for other things that they preferred to  
2 have. So, I wanted to make that clear.

3 We've agreed on five of the six  
4 exhibits to the MOA. The only thing that's  
5 outstanding now is one sentence in the Open Space  
6 Management Plan that's, I believe, that's  
7 related to the same issues and I think  
8 Commissioner Pate when he crosses us if he  
9 crosses us will answer what that that's  
10 outstanding. All the other issues have been  
11 settled: The location, the vendor tents, the  
12 retail plan, the -- I should go through them  
13 one-by-one.

14 The loading plan and management. the  
15 map of the loading plan and management, the map  
16 of, the vending sites, the Open Space Management  
17 Plan which I think has one paragraph on the 8  
18 page or something exhibit and where the setback  
19 has to be for restaurants on C Street. So that's  
20 all of them.

21 And the last piece is the  
22 Construction Management Agreement that we'd

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1 like to proffer this evening.

2 I'd like to say that there's a signed  
3 agreement that is not a signed agreement. We  
4 initially provided a draft Construction  
5 Management Agreement to the ANC, Eyes on Hine  
6 and other community members in January. We  
7 received comments back in April from one of the  
8 groups and in late May, early June from another.

9 We've had a number of conversations and  
10 meetings with the attorneys for Eyes on Hine  
11 and a number of meetings with the ANC on this.

12 We've got, I believe, a 44 -- don't  
13 want to misquote it, so bear with me for one  
14 second. I'm sorry. Twenty-six provisions in  
15 the Construction Management Agreement. On  
16 Monday morning we were asked by the attorneys  
17 for Eyes on Hine to provide an exhibit showing  
18 exactly how many trucks it will take to demolish  
19 the building and excavate the site, and where  
20 they will drive. And it took our construction  
21 people until about 11:30 today to provide that.  
22 I believe it's the only outstanding issue is

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1       how the trucks exit the site.

2                       What we've said to the community is  
3       there's language in the Construction Management  
4       Agreement saying that we acknowledge the fact  
5       that there will be a lot of impact from exiting  
6       trucks, dump trucks especially. And we will work  
7       with our construction firm who has yet to be  
8       selected, so we're just getting quotes from some  
9       different groups. So we'll work with them on  
10      what is technically possible to ramp down into  
11      the site and get trucks out, and with DDOT and  
12      what the public space will allow to minimize  
13      impacts on 7th and 8th Street. And to the extent  
14      that we can reduce or eliminate as many trucks  
15      as possible from 7th and 8th Street, that's what  
16      we will advocate doing with the community. But,  
17      we can't promise that we will do it and to date  
18      all we've gotten from the construction companies  
19      and DDOT is a plan to use 7th Street and 8th  
20      Street for demolition and to use Pennsylvania  
21      Avenue and 8th Street for excavation. And we  
22      will continue to work with them to figure out

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1 how to mitigate; whether we move the fences out  
2 into the sidewalk to keep the trucks within the  
3 site or move them out into the parking lane to  
4 keep them in the parking lane. But we'll do  
5 anything we can to mitigate.

6 We have, I will say, done more than  
7 our company has ever done in terms of  
8 indemnifying all the houses within 200 feet  
9 of any damage and agreeing to an arbitration  
10 process in the event that there's any damage  
11 caused that we don't fix that they don't think  
12 that we are responsible for.

13 Having done that, we're not sitting  
14 on the same tables trying to minimize impact  
15 as much as possible in order to minimize our  
16 legal liability as much as possible.

17 So with that, we'd like to proffer  
18 the CMA that we thought was fully negotiated  
19 but just one issue. Will not be settled until  
20 probably February or March after we've got  
21 through the public space process.

22 And let me see if there are any

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1 others?

2 MR. DePUY: Mr. Sternlieb, could  
3 you summarize the report regarding an update  
4 on First Source Agreement?

5 MR. STERNLIEB: I could if I had a  
6 copy of it in my hand. Has we already turned  
7 that over? The First Source report from  
8 Caldwell & Associates?

9 Chairman Hood, you asked about this  
10 at the last meeting. Ms. Caldwell's staff  
11 provide a report for you which we're going to  
12 submit for the record tonight. And if I can  
13 just --I won't read the whole thing. I'll just  
14 say that she would you to know that the developer  
15 is in compliance; over 51 percent of new hires  
16 so far, that includes the architecture firm and  
17 Stanton and Eastbanc which is an update over  
18 the email that you received from the DOES staff  
19 the week before last, I believe, said 44 percent.

20 That was only reporting the architecture firm's  
21 new hires. It didn't include the Stanton new  
22 hired or the Eastbanc new hires, which brings

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1 up to like 55 percent. And to date, 93 percent  
2 of all dollars spent on the project have been  
3 spent on CDE firms, and that's a continuing  
4 number, over \$100 million, I think. A little  
5 over \$5 million have been spent so far 93 percent  
6 on CDE firms.

7           There was one other thing that I just  
8 to address very quickly to clarify. C Street  
9 is not open. It's L'Enfant that was closed  
10 around 1960. The city made a decision not to  
11 reopen it. It will not be on L'Enfant Street  
12 in the legal sense, although it will look a  
13 street, it was quack like a street, you can walk  
14 on it and drive on it like a street, but it will  
15 not legally be a street after the development  
16 is completed. And I just wanted to sure that  
17 -- the city owns it. I don't believe it's federal  
18 property. It is federal property?

19           COMMISSIONER MAY: There's a very  
20 specific list of what actually is titled to the  
21 District. But for the most part, the street  
22 grid of Washington is in the old city is

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1 federally owned and there's a broad authority  
2 that the city has to operate the street network  
3 in that area.

4 MR. STERNLIEB: And so once it's--

5 COMMISSIONER MAY: So it's probably  
6 -- probably technically federal property.

7 MR. STERNLIEB: Okay. I think that  
8 our title search did not find it. It found once  
9 it was closed, it may have been retitled. But  
10 I could be wrong.

11 COMMISSIONER MAY: Yes. I don't  
12 know the specifics about it here, but I mean  
13 if you really want to find out, you can contact  
14 my office.

15 MR. STERNLIEB: I plan to do that.

16 COMMISSIONER MAY: I have records  
17 on stuff like that.

18 MR. STERNLIEB: Because I know that  
19 Ellen Opper-Weiner said I was wrong. We have  
20 to stay up with the neighbors.

21 Okay. I think that's everything  
22 that I needed to address at this point, and I'm

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1 happy to answer any questions.

2 CHAIRMAN HOOD: Okay. I want to  
3 thank you--

4 MR. DePUY: And that concludes our  
5 rebuttal.

6 CHAIRMAN HOOD: Okay. Thank you  
7 very much for your rebuttal. I may have some  
8 follow-up issues and questions, especially with  
9 the First Source

10 MR. STERNLIEB: Yes.

11 CHAIRMAN HOOD: I don't know if I'm  
12 satisfied yet, but I will tell you that I am  
13 going to do some research and follow-up with  
14 what's been provided from Ms. Caldwell.

15 MR. STERNLIEB: What I will say is  
16 that between the two companies we've hired seven  
17 people, six of whom were D.C. residents and  
18 simply didn't fill out the paperwork in time  
19 and have to go back and fill that out. And I  
20 don't know if all those people will be credited  
21 to this project. It's a little funny that they  
22 only ask you to report on the specific project

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1 that our company, as you know, we're a CDE firm,  
2 all our principals live in the District, we're  
3 very committed. So that five of the six people  
4 that we've hired in the last year are DC resident  
5 and we were thinking that we --

6 CHAIRMAN HOOD: Five or four? Five  
7 or four?

8 MR. STERNLIEB: I believe all but  
9 one are D.C. residents at Eastbanc. And then  
10 Stanton has hired one and we had to discredit  
11 him.

12 MR. BINITIE: We've hired two and  
13 one is dedicated to the --

14 CHAIRMAN HOOD: Okay. All right.

15 MR. STERNLIEB: So we just need to  
16 report these to DOES.

17 CHAIRMAN HOOD: Okay. And I'll be  
18 looking to see how that progresses.

19 What I'm going to do is open it up  
20 for any questions that we have on rebuttal. And  
21 then anything else we want to see, we can do  
22 that after we do cross-examination of all the

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1 parties. Okay.

2 Commissioner May?

3 COMMISSIONER MAY: I just have one  
4 quick question for Mr. Sternlieb. You said that  
5 the city decided not to close -- or not to reopen  
6 C Street. So was that in response to a proposal  
7 from you as was alleged earlier here, or was  
8 it their idea, or you want --

9 MR. STERNLIEB: It was 2009. We had  
10 a discussion about it. I know we made an offer  
11 and suggested that, you know, that it would be  
12 easier to limit market, easier to do things like  
13 the markets in the space where it not officially  
14 open and turned back the city. And we  
15 negotiated provisions, you know back and forth  
16 over many months with DMPED, and OAG and  
17 ourselves to try to figure out, you know how  
18 to best do this. We agreed that we would maintain  
19 the street, clean the street and plaza in  
20 exchange for the ability to activate it.

21 And I -- when you said "sounds like  
22 something I would propose," so my guess is yes

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1 it was from us but it was a long conversation  
2 back and forth over many months.

3 COMMISSIONER MAY: That's fine. I  
4 appreciate all of the information you provided.

5 CHAIRMAN HOOD: Okay. Vice Chair?

6 VICE CHAIRPERSON COHEN: Oh, thank  
7 you, Mr. Chairman.

8 Mr. Binitie, you mentioned that  
9 there were letters in your file that you got  
10 from investors. I haven't seen them. Are they  
11 going to be submitted?

12 MR. BINITIE: There are letters.  
13 We actually have three letters from three  
14 separate investors.

15 VICE CHAIRPERSON COHEN: Because I  
16 haven't seen them and one of the things that  
17 I just want to say is that -- I don't know if  
18 this is a question or just a comment.

19 Mr. Sisolak, his testimony was  
20 pretty much reflective along what I am thinking  
21 as well about the separation. And I've heard  
22 anecdotal evidence. I've been in the

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1 affordable housing field for 40 years, so  
2 everybody I know is indirectly affiliated with  
3 that. So I've heard anecdotal evidence that  
4 supports your position, and I've heard the  
5 opposite as well. So those letters are very  
6 important to submit.

7 In addition, though I think you  
8 should consider carefully the 2,000 square feet  
9 versus again almost a gated community of poor  
10 -- I think these are things that you need to  
11 consider why you don't open up to the residents  
12 in the North Building. If you're going to have  
13 two separate building, believe me every  
14 affordable housing unit is appreciated,  
15 especially those with the depth that you're  
16 trying to reach in affordability. But I need  
17 to know why we're having two separate buildings  
18 and why we can't have comparability. So, that's  
19 my question for you and comment.

20 MR. STERNLIEB: I wanted to present  
21 this is the sense that I can't think of an  
22 apartment building in the District of Columbia

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1 that's not a gated community. I don't believe  
2 that there's a single one that doesn't have a  
3 lock on the front door to keep out everybody  
4 except for the people who live in that building.

5 And if you choose to live in multi-family  
6 buildings, one of the reasons is because it's  
7 more secure than having a house on the street  
8 and one of the reasons that I can live on a single  
9 level. But I look at a lot of multi-family  
10 buildings over the course of one month and I  
11 can't think of one in the city that's not a gated  
12 community. So I would hope that we can move away  
13 from that distinction.

14 The reason we put a pool, I think  
15 a pool is the only thing that's really different  
16 than the amenity package in the other building.

17 The reason that we put it there is to try to  
18 attract market-rate buyers to that building who  
19 will pay us more money to live in that building  
20 so that we can afford to build a building and  
21 make the money back. It's purely an economic  
22 decision.

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1           When you're putting all this up  
2 together, we're having a really very convoluted  
3 and complicated funding package that's going  
4 out to investors. And the North Building is  
5 completely separately financed from the rest  
6 of the project because of the low income housing  
7 tax credits and our needs to access federal  
8 funds.

9           It will possibly be managed  
10 separately, and it's quite possible that we'll  
11 sell the South Building to another operator at  
12 some point or have a different management  
13 company. And it's inconceivable because we're  
14 more likely simply to remove the pool than we  
15 would to hand a set of keys to 35 or 50 or 60  
16 residents in the building across the street,  
17 even if it was a market-rate building. They're  
18 not people that live in the same building and  
19 there's no nexus there, except for the fact that  
20 we're building them at the same time.

21           So, I'm hopefully that -- you know,  
22 it's not that there aren't public amenities in

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1 the neighborhood. There's a public pool one  
2 block away from the site. Everything else we're  
3 trying to do equally. But, again, everything  
4 is being subsidized in the North Building to  
5 make it possible. And so it has to come out  
6 of some pocket. And we're hopefully that you  
7 would recognize that and not put an imposition  
8 that would make it more difficult to market these  
9 units or get them financed.

10 MR. BINITIE: And the one that I  
11 would really like to add is that it's a purely  
12 economics. And again, it's just the bottom,  
13 it's separately or separately financed.  
14 Taxpayer equity investors do not take  
15 market-rate.

16 I'm very, very familiar with your  
17 history and your background, and I hope that  
18 you're somewhat familiar with mine as well given  
19 that we've over 700 properties that's in the  
20 District for our very own firm.

21 So, I am in touch with equity  
22 investors and lenders pretty much every single

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1 day because we touch a lot of units.

2 The one thing that I really want to  
3 add is I want to emphasize is there really isn't  
4 any new market-rate product that is delivered  
5 in the District of Columbia where the tenants  
6 don't pay additional levies. And that's  
7 evidence right now. You can go to the Highland,  
8 you can go the Kenyon Street, you can go to 1021  
9 Mass Avenue; any new product tenants pay on an  
10 average anywhere 130 bucks a month just for the  
11 amenities package that the developers are  
12 providing to those units.

13 So, the question is: How do we go  
14 about making it affordable for the residents  
15 of the nonresidential to reside in an extremely  
16 desirable location by asking them to pay  
17 additional to benefit from something that they  
18 may or may not even use. And my role, one of  
19 my primary roles in addition to other roles that  
20 I play in this development is to really ensure  
21 that the individuals and the seniors that reside  
22 on this property get to do so in a extremely

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1 affordable way. And that having not having it  
2 to be a burden to them.

3 VICE CHAIRPERSON COHEN: I thank  
4 you. However, those letters will be very  
5 helpful.

6 CHAIRMAN HOOD: Commissioner  
7 Turnbull?

8 COMMISSIONER TURNBULL: Yes,  
9 thanks, Mr. Chair. I just wanted to maybe touch  
10 a little bit on what Commission Cohen. I still  
11 feel that North Building in a but a stepchild.  
12 I think it's an awkward site. It fronts on an  
13 alley and on a commercial sheet. And I know  
14 Ms. Weinstein has done her best with the  
15 architecture to try to make it look-- but I don't  
16 know if it's really there yet. And I'm just  
17 concerned that it's going to be a busy alley,  
18 a dirty alley, trash removal. There's no loading  
19 dock, per se. It's out there in the open. And  
20 I'm just concerned that it is a step back.

21 From an operational standpoint I see  
22 problems with that building, not only for the

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1 building but for the neighbors next door and  
2 the alley that goes down. I just see some  
3 problems with how that's going to be managed  
4 and I think you're maybe underestimating with  
5 the traffic that's going to be dealing with  
6 service in and out. And the front of the  
7 building also.

8 Plus, I don't know if the entrance  
9 really speaks as the place you want to live.  
10 And I'm just concerned of --if I was going to  
11 live there, I want it to look like I'm going  
12 to live at home. And I'm just not convinced that  
13 it's there yet.

14 The amenity package that shows that  
15 plan, it's in the basement. That's where you  
16 got to put it. It's across from the mechanical  
17 room, the main electric room, probably going  
18 to be noisy, dirty. It's got a single door  
19 running going into a social room which in any  
20 other development might have a double pair of  
21 doors to make it more inviting.

22 You know, guys, I understand it's

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1 a risk. We're talking about lives in an  
2 Historic District and an integral part of  
3 Capitol Hill you've got to reach out and try  
4 to make this part of your regular other  
5 development. This has got to speak a little  
6 bit more.

7 And I understand, it's a different  
8 development, you got different money, you got  
9 different financing. But I think the concerns  
10 that you're hearing is that people are concerned  
11 that it really doesn't step up the way it should.

12  
13 I guess the other thing is on the  
14 flea market. I still don't know if we have a  
15 plan or a concept yet of where we're going with  
16 the flea market, or a temporary plan. We've seen  
17 some ideas, proposals for tents. You've heard  
18 from the vendors that the tents don't work.  
19 I don't know if you've had communication back  
20 with some them, but it sounds like the whole  
21 tent scenario and the flea market and in  
22 additional how we handle that really that's

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1 still up in the air. I don't know where you're  
2 going with that. And I don't know if you know  
3 yet where you're going yet with that.

4 So, I think that by the time we sit  
5 down -- we're getting a little bit more  
6 information. Some kind of -- even if it's soft  
7 and mushy, we need some kind of a game plan to  
8 know your focus is, what you can do and how you're  
9 going to try and steer those two to help make  
10 a decision on this.

11 MR. STERNLIEB: I thought we were  
12 pretty clear the last time we turned to the  
13 outline. The redline, I don't know if you can  
14 see it with the lights on, but the redline on  
15 the side is the area of the street and plaza  
16 that we are dedicating to flea market activities  
17 from 8:00 a.m. to 6:00 p.m. 104 days a year --  
18 well, in perpetuity.

19 COMMISSIONER TURNBULL: But you  
20 don't have agreement yet with the people who  
21 are there that this works. Well, I mean they  
22 have their own different viewpoint.

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1                   MR. STERNLIEB:    The point is, I  
2                   think I mentioned at the last hearing, there  
3                   are flea markets of this size that have been  
4                   thriving for many years, the Georgetown Flea  
5                   Market has about 60/65 tents --

6                   COMMISSIONER TURNBULL:   Yes.

7                   MR. STERNLIEB:    -- on a slightly  
8                   larger site because they park their trucks on  
9                   the site.

10                  COMMISSIONER TURNBULL:   Yes.

11                  MR. STERNLIEB:    What we've done is  
12                  we've defined it so that we can have double  
13                  loaded corners for vehicles, for vans to pass  
14                  each other. We've provided parking off site so  
15                  that they don't have to keep the vehicles on.

16                  And what we've said is it's the -- and the city  
17                  responsibility -- and the city, DMPED, I think  
18                  presented a letter where the testified because  
19                  I don't think they actually testified, that it's  
20                  the city's responsibility to find additional  
21                  space for additional vending. And we've been  
22                  talking to them above 7th Street south of C,

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1 which is between Pennsylvania and C.

2 I think everybody's in favor of  
3 that, it's just that nobody has pulled the  
4 trigger to make it happen. And it doesn't have  
5 to happen for, you know another 13/14 months.

6 MS. WEINSTEIN: I would just like  
7 to add to that. The revised ten layouts that  
8 we've shown tonight solved the problem of  
9 access, the technical problem of access and  
10 being able to park, unload and have another vans  
11 pull past you.

12 COMMISSIONER TURNBULL: Okay.  
13 We'll have to take another look at it then.

14 MR. STERNLIEB: We're not going to  
15 run the market, we're not going to organize the  
16 market.

17 COMMISSIONER TURNBULL: Right.

18 MR. STERNLIEB: We're not going to  
19 design the market. And what we have done is we've  
20 met with or talked to the folks who run the market  
21 now, we've talked to the Public Spaces about  
22 other markets of similar size in other

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1 locations. And what we know is that market  
2 spaces are created; the people are  
3 entrepreneurs, they figure out a way to take  
4 a space and put a market in it. And that's what  
5 we've told, that's what Mike did and I've seen  
6 him do it other places.

7 COMMISSIONER TURNBULL: And we're  
8 looking at a possibility of how many vendors  
9 now could be out there.

10 MS. WEINSTEIN: So far we've  
11 developed alternates that allow 73 tents.

12 MR. STERNLIEB: And maybe as few as  
13 50. I don't want to make a promise --

14 COMMISSIONER TURNBULL: Right.  
15 No, I know.

16 MR. STERNLIEB: But what we're  
17 doing is we're giving them a space.

18 COMMISSIONER TURNBULL: Well,  
19 you're heard people come in and say "We're  
20 reducing it from 150 to 68," is what I heard.  
21 So now it's somewhere between 50 and 73?

22 MR. STERNLIEB: Well, we think of

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1 it a little differently. We think if there 150  
2 -- on the best days. I mean, I've been out there  
3 on days when there are eight. You know, in the  
4 spring in the thriving rain --

5 COMMISSIONER TURNBULL: Yes, sir.

6 MR. STERNLIEB: There are really  
7 bad weather days when very few people show up.

8 COMMISSIONER TURNBULL: Yes.

9 MR. STERNLIEB: And I think at the  
10 maximum there's about 150.

11 What we've said from the very  
12 beginning when we forwarded our key response  
13 is that we make space available in the defined  
14 area for vending all the time. We'll build it,  
15 we'll maintain it, we'll fix it when something  
16 goes wrong, we'll provide electricity and water  
17 and other things that they don't currently have.  
18 But, we didn't say that we would take  
19 responsibility for replacing on a one-to-one  
20 places what was there.

21 COMMISSIONER TURNBULL: Yes.

22 MR. STERNLIEB: But I believe that

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1 there's a commitment to work with the city and  
2 the vending community and use to put together  
3 a plan that allows 120/'150 vending tents in  
4 the neighborhood.

5 COMMISSIONER TURNBULL: We just got  
6 a new report from DDOT talking about the loading,  
7 and they're not thrilled with -- I mean they're  
8 basically saying they're not going to go along  
9 with what's shown right now backing in on 7th  
10 Street; wasn't that the latest report?

11 MR. STERNLIEB: Well, we didn't  
12 propose that. Can DDOT answer that?

13 COMMISSIONER TURNBULL: Yes. Well,  
14 I mean the latest report by DDOT addresses  
15 several things on your plan. You haven't seen  
16 it, or maybe --

17 MR. STERNLIEB: Yes, they sent it  
18 to us this afternoon.

19 COMMISSIONER TURNBULL: Okay. So  
20 you've got to respond to that before we take  
21 final action--

22 MR. STERNLIEB: I think that the

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1       only thing that's outstanding from my  
2       understanding is the issue of the mitigation  
3       plan on the number of people using the parking  
4       lot and the impact on the roadway network.

5                   COMMISSIONER TURNBULL:     Is that  
6       correct?

7                   MR. HENSON:     Yes, I think so.   And  
8       I think we're actually in general agreement on  
9       the mitigation.

10                   COMMISSIONER TURNBULL:    Okay.   All  
11       right.

12                   I guess my last thing is for Ms.  
13       Weinstein.   Just for the record the sun shading,  
14       basically I think what you're trying to say is  
15       that the impact of this building will be minimal  
16       to the people on 8th Street?   I mean, if you  
17       could summarize for me in a very basic way?

18                   MS. WEINSTEIN:   That's what our sun  
19       shadows study showed which are, you know, cast  
20       through a three dimensional computer model of  
21       --

22                   COMMISSIONER TURNBULL:    Right.

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1 MS. WEINSTEIN: -- is that there are  
2 already is a lot of shadow there and that we  
3 have masked this project with the tallest part  
4 being the corner of 7th and Penn, which has the  
5 least effect then on the 8th Street residents.

6 COMMISSIONER TURNBULL: Okay.  
7 Thank you.

8 CHAIRMAN HOOD: Any other questions  
9 on rebuttal?

10 Okay. I do have some comments. I  
11 don't have any questions. Let's see if we have  
12 cross on rebuttal only.

13 Now, we asked the other two nights,  
14 this is on rebuttal. ANC 6B, do you have any  
15 cross on rebuttal?

16 ANC COMMISSIONER FRISHBERG: Thank  
17 you, Mr. Chairman.

18 To clarify, this is the place where  
19 you talked about the Construction Management  
20 Agreement and the status of the Memorandum of  
21 Agreement. It's less that we have particular  
22 questions at this point for the developer and

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1 more that I think we want to share our version  
2 of where we stand with these agreements.

3 CHAIRMAN HOOD: Can you frame it  
4 because it is presented to night in rebuttal?

5 Can you frame it in the form of a question for  
6 that? If not, that it's to the point that where  
7 you just want to give us, convey your comments  
8 to us about it, I would ask that you all put  
9 together a one page or something --

10 ANC COMMISSIONER FRISHBERG: I  
11 will. I'll do my best. I'll do my best. I'll  
12 give it a shot.

13 First off, I'd like to actually just  
14 thank all of you for the time and attention  
15 you've given to -- and the respect that you've  
16 given to the testimony from the community on  
17 all sides of this, and to some extent it's clear.  
18 So welcome to our sock and a hard place as you  
19 sort of wade through all of this.

20 Joe, is it your understanding of  
21 where we started our negotiation with you with  
22 regard to public space and the flea market that

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1 the development did not provide adequate public  
2 space for the market in the eyes of Brian and  
3 myself and the large part of the community,  
4 certainly did in your eyes. But our starting  
5 point was it didn't. And that there was almost  
6 no way for you to provide adequate public space  
7 to continue the weekend markets and to provide  
8 the same sense of open space as the community's  
9 come to expect and enjoy in that we have taken  
10 on the understanding that this was -- our  
11 negotiations with you were to complete half of  
12 the piece of the puzzle. The other half being  
13 the city's commitment to a market management  
14 structure that would take care of the other half.  
15 And that there was no way for you to directly  
16 mitigation that loss of public space?

17 MR. STERNLIEB: Yes.

18 ANC COMMISSIONER FRISHBERG: And so  
19 it's fair to say then that our Memorandum of  
20 Agreement as you mentioned is really in a fairly  
21 detailed way the parking spaces underground and  
22 their relationship to the Trust, the loading

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1 docks on 7th Street and their relationship to  
2 the Trust on the weekends and they're being  
3 provided to the Trust on the C Street area, your  
4 engagement in actually working to support the  
5 Trust and the availability of 7th Street; all  
6 of those things are pretty inherent in our  
7 agreement, right

8 MR. STERNLIEB: Not specifically.

9 And what I'll take issue is that what we agreed  
10 to do is provide it to the market manager,  
11 whoever that may be. And if it is the Trust and  
12 it goes to the Trust, and if Mr. Berman and Ms,  
13 Wright, it would go to them. But we are making  
14 the amenity package available of the site and  
15 the things that go with it to whoever is managing  
16 the space.

17 ANC COMMISSIONER FRISHBERG: If  
18 there's no Trust, who do you give the loading  
19 dock to? Who manages the loading dock?

20 MR. STERNLIEB: The language in the  
21 MOA now says that we went back and forth in the  
22 last couple of days. It that in the absence

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1 of a Trust within 18 months of the development  
2 opening we want to ensure the ability to have  
3 a flea market open the day that we're ready to  
4 take the sand off the bricks and take the  
5 construction fence down. So we would enter into  
6 an agreement for not more than three years with  
7 a third party and sort of give the best of the  
8 doubt to the people who are currently managing  
9 it unless there was some other provision.

10 You would change that, I believe,  
11 to say whoever has the contract to manage the  
12 street, presuming that we were able to get the  
13 street designed as a market space, we would also  
14 contract with, and we agreed to that.

15 So, whoever that is whether it's the  
16 current flea market operators, whether it's an  
17 Eastern Market Trust, whether EMMCA takes out  
18 we will turn over the amenity package to that  
19 group to manage --

20 ANC COMMISSIONER FRISHBERG: It may  
21 actually end up being two different groups that  
22 are even then separate from Eastern Market,

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1 correct.

2 MR. STERNLIEB: We would hope not,  
3 but it's possible.

4 ANC COMMISSIONER FRISHBERG: Yes.

5 MR. STERNLIEB: You know, our goal  
6 is not to manage the markets. Our goal is to  
7 make sure that the markets thrive and to help  
8 do that anyway that we can on the space that  
9 we're making available.

10 ANC COMMISSIONER FRISHBERG: When  
11 I cross-examined Mr. Berman from Diverse Markets  
12 I was pretty hard on him about understanding  
13 the impact of the market legislation and how  
14 that was going to keep the flea market, the  
15 weekend markets whole, is that correct?

16 MR. STERNLIEB: I believe that is  
17 correct.

18 CHAIRMAN HOOD: I want to make sure  
19 we gear the questions towards the  
20 cross-examination of what was said on rebuttal.  
21 Who you crossed last time, I don't want to go  
22 back now. I think what we need to do for the

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1     sake of making sure we keep things on a level  
2     playing field, is the cross-examination goes  
3     to the rebuttal comments. And I think it took  
4     about 15 minutes or so -- or maybe 20, whatever.

5     Whatever took that much time, you kind of  
6     balance it.

7                   ANC COMMISSIONER FRISHBERG:    Sir,  
8     let me move on from there.    The market  
9     legislation which we obviously view as a  
10    significant change in circumstances and the  
11    Mayor's position is very unfortunate, you  
12    testified that there had been a letter from DMPED  
13    which we have not seen, but that they were --  
14    can you recharacterize that letter?

15                   MR. STERNLIEB:    I believe on the  
16    first night of testimony they just submitted  
17    testimony but didn't testify.   I can't recall  
18    specifically everything that was in the letter.  
19    I know that ut made some mentioned of the market,  
20    I believe.

21                   ANC COMMISSIONER FRISHBERG:    It  
22    sounded like you were saying they had committed

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1 to additional-- finding additional space for  
2 the weekend markets?

3 MR. STERNLIEB: You know, I may have  
4 testified -- I remember just saying that, but  
5 now that I'm thinking about it I don't want to  
6 -- I should withdraw that without having it in  
7 front of me because I don't remember exactly  
8 what's in there.

9 ANC COMMISSIONER FRISHBERG: If  
10 that were true, that would be a complete  
11 contradiction to what the Mayor's testimony was  
12 before the Council --

13 MR. STERNLIEB: It was still a  
14 temporary, I believe, but as you'll recall, we  
15 said that once it was closed on a temporary basis  
16 it was very likely to remain closed.

17 ANC COMMISSIONER FRISHBERG: Let me  
18 move on to the Construction Management Agreement  
19 which I think accurately characterizes sort of  
20 the last major piece that we have to sort  
21 through.

22 You proffered this agreement. There

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1 is no information today with regard to the amount  
2 of trucks. My understanding is that it's 10,200  
3 trucks over a 6 day period, is that correct?

4 MR. STERNLIEB: Yes, it's quite a  
5 but longer than 60 days. I think it's -- it may  
6 be as much as six months between the demolition  
7 and the -- the number of trucks here you're  
8 referring to is I think is an entire demolition  
9 phase of 13 to 15 weeks and then an excavation  
10 phase of 16 to 18 weeks. So you're talking about  
11 a total of -- I can't do the math in my head  
12 at this hour.

13 ANC COMMISSIONER FRISHBERG: How  
14 many trucks during the demolition and excavation  
15 phase?

16 MR. STERNLIEB: I think your  
17 number was right. You know, it's about 3,000  
18 and 7,000, give or take, so you know between  
19 10 and 11,000.

20 ANC COMMISSIONER FRISHBERG: And  
21 your current math or plan is for them all to  
22 exit at the northern end of 8th Street from the

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1 development, is that correct?

2 MR. STERNLIEB: That's the plan  
3 that's been provided to us by the two  
4 construction consultants that we've been  
5 working with saying that this is the most  
6 efficient way to do it in the least amount of  
7 time. And so what we've said back to them is  
8 figure out a way to have less impact on 7th and  
9 8th Street, and figure out a way to make sure  
10 that DDOT says yes.

11 ANC COMMISSIONER FRISHBERG: And  
12 have we had an opportunity to meet with DDOT  
13 to discuss the alternatives there that we had  
14 previously been assumed?

15 MR. STERNLIEB: Not to my  
16 knowledge, but --

17 ANC COMMISSIONER FRISHBERG: Would  
18 that be a reasonable request for us to meet with  
19 your construction team or with DDOT --

20 MR. STERNLIEB: I would say it's a  
21 perfectly reasonable request, although I don't  
22 think it should hold up the Zoning decision.

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1 If I could wave a wand and remove the buildings  
2 and all the soil without any impacts on the local  
3 neighborhoods, I certainly would do that.

4 ANC COMMISSIONER FRISHBERG: If we  
5 were to ask for a few weeks latitude to have  
6 those meetings with discussion, understanding  
7 that they'll still be preliminary because they  
8 don't begin the real public space process until  
9 after the Commission's order comes down, but  
10 to allow a couple of weeks to investigate that  
11 with DDOT --

12 MR. STERNLIEB: I don't know that  
13 it would make --

14 ANC COMMISSIONER FRISHBERG: --  
15 signing an agreement, that's not going to stop  
16 the Commission's work in terms of establishing  
17 an order, is it?

18 MR. STERNLIEB: You'd have to ask  
19 the Commission that. I don't know.

20 CHAIRMAN HOOD: Let's say, the  
21 Commission goes recess -- like I say, we follow  
22 the Council. We're going on recess in August.

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1 We're going to take the whole month. We're  
2 not going to come in this hearing room are we?

3 So we're going to take a break.

4 COMMISSIONER MAY: We might if we  
5 don't speed up a little bit.

6 CHAIRMAN HOOD: Well, that is true.

7 MR. STERNLIEB: I guess my answer  
8 is that we would object to anything that slows  
9 the Zoning part of the case down. Our feeling  
10 is that the ultimate decision is that's made  
11 by DDOT and the construction folks in their  
12 negotiation on how to mitigate this with us  
13 pushing like heck to make sure to have the  
14 minimum impact is going to be exactly the same  
15 decision whether it's made today or six months  
16 from now or a year from now when we're ready  
17 to break ground. It'll be the least impactful  
18 and we'll continue to work with you for the next  
19 year in doing that. But I really don't want to  
20 agree as the Applicant that we would slow the  
21 process down in making the Zoning decision  
22 because it won't make -- you know, the buildings

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1 have to come down and the soil has to get out  
2 of there.

3 ANC COMMISSIONER FRISHBERG: Maybe  
4 the Commission can provide with us with an  
5 opportunity to have some discussions with DDOT  
6 without interrupting the August recess or  
7 slowing down the process, and we'll leave that  
8 to you.

9 I don't know, Brian, do you have  
10 anything else?

11 Okay. Thank you.

12 CHAIRMAN HOOD: Thank you.

13 CHAMPS? CHAMPS has left for the  
14 evening, I believe.

15 Hine School North?

16 MR. HITCHCOCK: For the record, Con  
17 Hitchcock for the Hine School North Neighbors.

18 Which we are quite concerned about  
19 the North Building, but that's been covered  
20 quite a bit so I won't ask any additional  
21 questions.

22 I did want to ask Mr. Sternlieb if

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1 he could clarify his comment again on C Street:  
2 It's not a public street?

3 MR. STERNLIEB: To the best of my  
4 knowledge the District of Columbia closed the  
5 700 block of C Street and took by purchase  
6 amendment of domain the buildings that were  
7 originally on the north side of C Street between  
8 1958 and 1960, and they were actually closed  
9 officially on the map through the NCPC process  
10 that one uses to close a street. I guess at  
11 the time it was done by the City Commissioners;  
12 there wasn't a City Council at the time. So  
13 that's my understanding but, you know  
14 Commissioner May pointed out that I may be  
15 incorrect in some of those facts.

16 MR. HITCHCOCK: But when C Street  
17 is opened it will be as a private street, it will  
18 not be a public street, is that true?

19 MR. STERNLIEB: It's going to be  
20 opened in the legal sense of what you go through.  
21 The process that one goes through to open a  
22 street in the District is the same as one goes

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1 through to close a street. It takes about a year  
2 and a half, you go through the Surveyor's Office,  
3 every D.C. agency comments on it. There's an  
4 ANC process. NCPC comments on it. And then  
5 it goes to the Council to be reopened. There  
6 was a decision made not to do that. So for the  
7 purposes of Square 901 in the land records of  
8 the District there will be no street there.  
9 However, we will be constructing that looks like  
10 a street and acts like a street and is used like  
11 a street in that space. Okay.

12 MR. HITCHCOCK: So you said, if I  
13 remember, that this would not be a L'Enfant  
14 Street. So I take it --

15 MR. STERNLIEB: Well, I --

16 MR. HITCHCOCK: Let me finish.

17 So I take it then that anyone who  
18 supports this on the theory that a L'Enfant  
19 street would be reopened is mistaken?

20 MR. STERNLIEB: I would try to make  
21 a different point. What I was trying to say  
22 is that to the average person they'll never know

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1 the difference between whether it's a L'Enfant  
2 street or not a L'Enfant. It will look like a  
3 street, it will behave -- and you can't build  
4 anything on it because we've said to the city  
5 under the ground lease that nothing will be built  
6 there.

7 MR. HITCHCOCK: So somebody who  
8 looks at it would be mistaken to assume that  
9 it is a L'Enfant Street, is that your testimony.

10 MR. STERNLIEB: No. I don't know  
11 what a L'Enfant Street is, so I can't offer an  
12 opinion on that.

13 MR. HITCHCOCK: Are you familiar  
14 with the L'Enfant Plan?

15 MR. STERNLIEB: I am.

16 MR. HITCHCOCK: And does it not show  
17 streets?

18 MR. STERNLIEB: It shows streets on  
19 it, yes.

20 MR. HITCHCOCK: And so you are  
21 familiar with L'Enfant Streets?

22 MR. STERNLIEB: Right.

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1 MR. HITCHCOCK: And was this at one  
2 time a L'Enfant Street?

3 MR. STERNLIEB: I believe it was.

4 MR. HITCHCOCK: Okay. Thank you.

5 One final question: What's the  
6 status of the Open Space Management Plan?

7 MR. STERNLIEB: The Open Space  
8 Management Plan is in draft form. It's been  
9 negotiated with the ANC in draft form with the  
10 understanding that it will be completed prior  
11 to closing because it's actually DMPED that has  
12 to approve it accept it prior to closing as a  
13 condition of closing

14 MR. HITCHCOCK: Okay. Thank you.

15 Mr. Chairman, I have nothing further  
16 in terms of questions. I do have one procedural  
17 point to raise when we get to final matters.

18 CHAIRMAN HOOD: You can go ahead and  
19 raise it.

20 MR. HITCHCOCK: Okay. As  
21 Commissioner Turnbull mentioned, DDOT did file  
22 a report that I received around 3:30 this

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1 afternoon. As we pointed out I guess last time,  
2 we've not had an opportunity to look at it or  
3 to respond to it. You know, but I raised the  
4 option last time of being able to have Mr, Myer  
5 submit additional comments.

6 An alternative that I've raised that  
7 the Commission followed in the GW Campus plan  
8 case, was months we have a chance to look at  
9 it, send questions to DDOT which they would then  
10 answer and file.

11 CHAIRMAN HOOD: Okay.

12 MR. HITCHCOCK: That would be my  
13 request.

14 CHAIRMAN HOOD: There will be an  
15 opportunity.

16 MR. HITCHCOCK: Okay. I wanted to  
17 raise that point.

18 CHAIRMAN HOOD: We'll definitely  
19 make an opportunity on that other submission.

20 MR. HITCHCOCK: Okay. Thank you.

21 CHAIRMAN HOOD: Okay. Eyes on  
22 Hine?

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1 MR. PAGE: Thank you. Jonathan  
2 Page with Eyes on Hine.

3 I have one question, initially.  
4 About 45 seconds of comments regarding the CMA.

5 I brought it up as a preliminary matter. I was  
6 told to deal with it here.

7 Does everyone has to rephrase in the  
8 form of question or -- okay. Then we will go  
9 through this.

10 Mr. Sternlieb, do you see that  
11 10,200 trucks as purely a traffic control plan  
12 issue or something that has to be approved by  
13 DDOT operations, or as a possible land use issue  
14 that has land use impact?

15 MR. STERNLIEB: I think that's  
16 actually a question to the Zoning Commission,  
17 not for me. I'm not sure I'm qualified to answer  
18 the question.

19 I can tell you what the procedure  
20 is, but I don't know how the Zoning Commission  
21 feels about it.

22 COMMISSIONER MAY: No. I think he

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1 asked you a question, you just answer it to the  
2 best of your ability; that's it.

3 MR. STERNLIEB: Okay.

4 MR. PAGE: When did the Eyes on Hine  
5 and the ANC, for that matter, know about the  
6 truck count for the two initial phases of  
7 construction meaning demolition and excavation?

8 MR. STERNLIEB: I think we said  
9 about an hour after we learned it. So, you asked  
10 for us to get through your attorney on Monday.  
11 We got today and sent it directly to you.

12 MR. PAGE: I would state that I  
13 believe our attorney had a 6:00 conference call  
14 with you last week on Friday, and she asked for  
15 it then.

16 MR. STERNLIEB: Last Monday.

17 MR. PAGE: It could be. I know we  
18 had a bunch of problems.

19 MR. STERNLIEB: Sure. Yes. We're  
20 all had a lot of calls on this.

21 MR. PAGE: When was the first  
22 version of the CMA that made note o egress on

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1 8th Street.

2 MR. STERNLIEB: I believe it was in  
3 the November filing to the Zoning Commission.  
4 I believe that the map that we provided -- can  
5 you help me here?

6 CHAIRMAN HOOD: He's not going to  
7 be able to talk from there.

8 MR. STERNLIEB: Well, can he just  
9 answer it for me and I'll --

10 CHAIRMAN HOOD: No, but what he can  
11 do is come and tell you, and you'll be able to  
12 turn your mike off and then you can say it on  
13 the microphone.

14 MR. STERNLIEB: On the November  
15 23rd filing to the Zoning Commission that was  
16 circulated to the community we had a  
17 construction management map in there that showed  
18 the C Street and 8th Street exit for construction  
19 management.

20 MR. PAGE: C Street and 8th Street?

21 MR. STERNLIEB: I believe it's onto  
22 8th Street from around -- it's 7th Street and

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1 8th Street.

2 MR. PAGE: Okay. Did you proffer  
3 a CMP at that time, that is a Construction  
4 Management Plan not a Construction Management  
5 Agreement on January 16th of this year that  
6 stated all ingress and egress to the site would  
7 be from the construction entrances on 7th  
8 Street, mid-block between 10 and C and  
9 Pennsylvania Avenue near the intersection of  
10 Pennsylvania Avenue and D Street? The trucks  
11 will enter the site at Pennsylvania at D and  
12 exit the site at 7th mid-block?

13 MR. STERNLIEB: I'll take your word  
14 that that was the language that we put in in  
15 the first draft, yes.

16 MR. PAGE: So the logic for having  
17 a January 16th CMP that differs from the  
18 November--

19 MR. STERNLIEB: We're trying like  
20 hell to get you what you want; that's what's  
21 going on. We're telling our construction  
22 people try to figure this out. We've been told

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1 repeatedly by DDOT that they don't want us to  
2 use Pennsylvania Avenue, that they want us to  
3 use 7th and 8th Street. And we've been telling  
4 them that this is not acceptable to the  
5 community.

6 We really are sympathetic to your  
7 concerns and we're going to try to work them  
8 out to the best our ability.

9 MR. PAGE: Well, you're doing  
10 better in January.

11 You state that we asked for the truck  
12 numbers Monday to Friday. There was a January  
13 25th meeting as part of the Transportation  
14 Working Group with the ANC that listed specific  
15 groups or what specific groups are being  
16 proposed for entrance and exit, what are  
17 proposed for hauling debris, how much debris,  
18 specific hours? Is that something that you were  
19 made aware of?

20 MR. STERNLIEB: I just don't  
21 recall.

22 MR. PAGE: Okay. And then the last

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1 think that I ask would be -- I think last thing,  
2 the June 15th CMP or CMA at this point that we  
3 received, I think we sent to the ANC and Eyes  
4 on Hine and our attorney on the 20th of June  
5 or 21st, had language once again "to the extent  
6 possible egress and ingress to the south portion  
7 of the project site during demolition and  
8 excavation would be from construction entrances  
9 located on D Street or Penn between 7th and 8th.

10 During later phases of construction the  
11 developer would use C Street for ingress and  
12 egress."

13 Is it safe to assume that the first  
14 knowledge our attorney was asking for details  
15 on truck traffic? Because up to this point every  
16 version that you proffered had truck traffic  
17 not on 8th, no egress on 8th?

18 MR. STERNLIEB: I believe at about  
19 two weeks ago the groups and the attorneys all  
20 met and went through this issue and showed the  
21 truck entrances and egresses on 7th and 8th  
22 Street and explained at that time that the

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1 construction folks were not terribly optimistic  
2 about the use of Pennsylvania Avenue for a  
3 variety of reasons. Everything from  
4 interference from mature trees that we proffered  
5 but we're not going to cut down to DDOT's  
6 disinterest in using Pennsylvania Avenue, to  
7 the slope of the site and that we would continue  
8 working on it. But I believe it was at least  
9 two weeks ago that all the parties sat down and  
10 looked at the plan. So it's been longer than  
11 --

12 MR. PAGE: Longer than a week?

13 MR. STERNLIEB: Yes.

14 MR. PAGE: At that meeting at Hine=s  
15 attorney's office, Saul Ewing, the diagram was  
16 shown. Was that diagram positioned as simply  
17 one example or was it illustrated to be a  
18 somewhat definitive ingress and egress for all  
19 phase of construction?

20 CHAIRMAN HOOD: And I missed it, but  
21 was that mentioned in rebuttal? Were we talking  
22 about that in rebuttal? We=ve got a division

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1 in the house. I just don't know. If that  
2 wasn't--

3 MR. DePUY: We mentioned the  
4 Construction Management Plan, but didn't go into  
5 that level of detail. So we did not specifically  
6 address that.

7 CHAIRMAN HOOD: Okay. Go ahead and  
8 ask your question.

9 MR. PAGE: I think I did ask the  
10 question.

11 MR. STERNLIEB: Can you repeat it?  
12 I'm sorry

13 MR. PAGE: I don't know if I can  
14 repeat it.

15 The question was in the meeting at  
16 Hine=s attorney's office a plan was offered  
17 showing --

18 CHAIRMAN HOOD: Yes, okay. Okay.

19 MR. STERNLIEB: So in a perfect  
20 world a year before construction starts before  
21 you actually know your lender is, before you  
22 know who your construction company is and six

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1 to eight months before you've had your public  
2 space meeting, you could define all this stuff  
3 and put it on paper and say this is the way it's  
4 going to be. But we don't live in a public  
5 world.

6 We're projected to get our public  
7 space meeting in February on this project. What  
8 we've been told by DDOT's public space folks  
9 is that after the Zoning order is issued and  
10 after we have a higher level of plans, we will  
11 apply and get a date on their calendar. And  
12 that's after the final order. And we'll likely,  
13 you know assuming everything goes well and we  
14 get done with this by the process in the month  
15 of July before the recess, and get a fall final  
16 order and apply a date, they're looking at  
17 February.

18 Between now and February what I hope  
19 will happen is we'll have some informal meetings  
20 with the construction company that are  
21 consulting with us on this plan and with DDOT  
22 and the neighbors and the developer and all in

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1 the same room trying to figure out how to  
2 mitigate to the greatest extent possible the  
3 impacts on the 7th and 8th Street neighbors.  
4 But until we've actually gone through that  
5 public space process, we won't have an answer.  
6 And so I can't give you one that's any better  
7 than that tonight. And I won't be able to give  
8 you one that's any better than that in September,  
9 unfortunately. It's an ongoing process that  
10 we're constantly learning new things about the  
11 site, we're continuing to work on the  
12 construction drawings. And at some point, you  
13 know in the coming months we'll have a  
14 definitively plan that I hope everybody will  
15 be pleased be. But I don't think it'll be --  
16 under -- you know, in the same time frame as  
17 we're going through the design processing.

18 MR. PAGE: Okay. Final question.  
19 Knowing what I've known about 10,200 trucks  
20 for maybe 102 hours that would be wheeling past  
21 my house daily for six months, do you think it's  
22 reasonable to request a little latitude to talk

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1 DDOT operations, talk more with yourself,  
2 discuss possible alternatives, possible  
3 mitigations?

4 MR. STERNLIEB: I certainly think  
5 so. And I actually answered the same question  
6 she asked. I don't think that the outcome of  
7 those discussions, even if we start to tomorrow,  
8 will have any impact on what the Zoning case.

9 And so I would hope that we could continue  
10 working and we will pledge to the Zoning  
11 Commission that we'll continue to work.

12 And I hope that nobody has a false  
13 impression that we're unwilling to meet and  
14 unwilling to work with people. I think this is  
15 our 120 meeting tonight, maybe it's over 120.

16 We're very dedicated to working with this  
17 community to make this work. But I don't think  
18 it has any impact on the actual Zoning order.

19 MR. PAGE: If this was governed by  
20 a new truck plan with different egress and  
21 ingress was proffered in a signed CMA and part  
22 of the PUD Order would that give it anymore

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1 authority than if it's something that we !work  
2 on --

3 MR. STERNLIEB: That's a question  
4 for DDOT, and they're shaking their head no.  
5 This is purely a public space issue that DDOT  
6 is going to make a decision with their technical  
7 experts on the safety of moving trucks into and  
8 out of the site and that's the only thing they're  
9 going to consider.

10 MR. PAGE: Okay. Thank you.

11 CHAIRMAN HOOD: Okay. Thank you.

12 EMMCA any cross?

13 Diverse Market, did you have any  
14 cross?

15 You can come on up.

16 MR. WEINHEIMER: May I ask about  
17 DDOT about the issues that are supposed to have  
18 been resolved in their document today? Is that  
19 fair?

20 CHAIRMAN HOOD: Ask DDOT? No,  
21 you're going to cross-examine. We're doing  
22 rebuttal.

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1 MR. WEINHEIMER: Yes, well.

2 CHAIRMAN HOOD: Some of those  
3 questions you'll probably hear us ask at some  
4 point in time.

5 MR. WEINHEIMER: Okay. DDOT  
6 didn't mention that all of the outstanding  
7 issues had been resolved, but I know in the  
8 document that they've submitted today, they said  
9 that the 50 issue of the 55 foot trucks loading  
10 they would continue to work with the Applicant  
11 on resolving, but they have closed obviously  
12 the crazy backing into the loading dock. So  
13 my question really is that resolved, can you  
14 consider it resolved if the answer is we continue  
15 to work with DDOT on this?

16 I guess that's for you, Mr.  
17 Sternlieb?

18 MR. STERNLIEB: I think it's  
19 resolved in the minds of the people who have  
20 looked at it so far. But again, what we've been  
21 advised by DDOT is that this is an issue that  
22 is completely within the purview of the Public

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1 Space Committee and we have met with the Public  
2 Space Committee yet. And so we've being advised  
3 by the planning folks at DDOT that we have yet  
4 to go through the formal process. We've made  
5 some suggestions. The planning folks are going  
6 to make some suggestions. And this will get  
7 worked out.

8 I think that what they said in the  
9 report was that they've informed the Applicant  
10 that that they're opposed to backing up 55 foot  
11 trucks into the loading dock, although it is  
12 the way around the city everybody else gets into  
13 55 foot docks; they decided that that's not going  
14 to be allowed any more. And so what we said was  
15 we would put a 55 foot dock, not dock just a  
16 unloading zone for limited hours. And they  
17 concurred with that that it would have to be  
18 limited hours.

19 MR. WEINHEIMER: Okay. You talked  
20 quite a bit about the reopening C Street and  
21 explained that while it's a benefit that you're  
22 restoring the L'Enfant Plan, you're not really

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1 doing that because you're not reopening C  
2 Street. And you explained that --

3 MR. STERNLIEB: I don't know where  
4 I'm going with this. I really just got myself  
5 in a lot of trouble here. But, you know I don't  
6 want to play a lawyer. I'm not a lawyer.

7 MR. WEINHEIMER: Can I ask my question?

8 MR. STERNLIEB: Yes. I'm sorry. I  
9 thought that was it.

10 MR. WEINHEIMER: No, I hadn't asked  
11 the question.

12 MR. STERNLIEB: Sorry.

13 MR. WEINHEIMER: My question was  
14 really simple. You said that -- I think what  
15 you were saying is that it would take a year  
16 or a year and a half to go through the public  
17 process to reopen the street, just as it takes  
18 a long time to close a street.

19 So, you've had three years, which  
20 you told us at the beginning in your opening  
21 statement, you could have built Eiffel Tower.

22 So you've had three years, yet you and the city

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1       agreed to circumvent this year and a half  
2       process. Is there a reason for that?

3                   MR. STERNLIEB:   Yes.

4                   MR. WEINHEIMER:   Okay.  Let's hear  
5       it.

6                   MR. STERNLIEB:   We decided that  
7       nobody's driven on this street for over 50 years  
8       and that there was a great opportunity in not  
9       reopening the street.  Because if you don't  
10      reopen to the street and it's not under DDOT  
11      control  and it's under the control of the city  
12      agencies that manage streets, you can really  
13      treat it like a plaza that can function like  
14      a street rather than a street that can function  
15      like plaza.  And it was quite intentional.

16                   The idea was that this has been a  
17      very special area for 50 years and there's no  
18      reason not to keep it a special area for the  
19      next 99 years.  And the minute you turn it back  
20      over a street, it's like everyone one of the  
21      thousand streets in the District.  And instead,  
22      this was a unique opportunity to have a place

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1 for the public markets that could be designed  
2 differently, managed differently and also have  
3 other events during the week. And so I think  
4 the folks at DMPED who go through this deal  
5 thought it was a real benefit. And I think that  
6 through the conversations with the folks at the  
7 ANC, the language we developed for how decisions  
8 are going to be made about this space, I think  
9 they've become comfortable with it. That it's  
10 not going to be, you know what T-shirt contest  
11 and beach parties, it's really supposed to be  
12 a place that enhances the experience of the  
13 Eastern Market for the entire community. And  
14 that's what we're dedicated to.

15 MR. WEINHEIMER: Okay. All right.  
16 That sounds to me like a unique opportunity  
17 to circumstance public policy procedures.

18 In your construction --

19 MR. STERNLIEB: Is that a question?

20 MR. WEINHEIMER: No, it was a  
21 statement.

22 In your construction management

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1 plan or agreement, which I haven't actually  
2 seen, do you have a plan included in that for  
3 how the flea market operates during the  
4 construction?

5 MR. STERNLIEB: We have some  
6 language on that, but we'll cooperate to the  
7 extent that we can with the city to help find  
8 a temporary location for the site. And we  
9 testified at the last hearing, although this  
10 was nonrebuttal, that we would support the  
11 closing of 7th Street on the weekends to help  
12 with that. And that we may be able to phase  
13 the construction in such a way that we might  
14 be able to allow the flea market the northern  
15 section because it should take a little less  
16 time to build that section.

17 MR. WEINHEIMER: Thanks.

18 VICE CHAIRPERSON COHEN: Ms.  
19 Ferster?

20 MS. FERSTER: Good evening, Mr.  
21 Chairman, Members of the Commission. I'm Andrea  
22 Ferster. I represent Diverse Markets

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1 Management.

2 I have a couple of questions for Mr.  
3 Weinstein, and if you wouldn't mind pulling up  
4 your slide of the reconfigured tent area? Yes.

5 Okay.

6 So you had indicated that you had  
7 increased the width of the driveway, and I just  
8 wanted to ask you what the new width would be?

9 MS. WEINSTEIN: Eighteen feet four  
10 inches.

11 MS. FERSTER: Okay. Thank you.

12 And so the tent area, which is  
13 outlined in the red dots, you indicated is a  
14 reconfigured space but you haven't actually  
15 allocated more square feet --

16 MS. WEINSTEIN: That was not a  
17 reconfigured space. It's a reconfiguration of  
18 the tent layout within that space.

19 MS. FERSTER: Right. And so your  
20 answer to my question that you haven't actually  
21 allocated more square feet to the tent area,  
22 you've simply reconfigured within that tent

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1 area, is that correct?

2 MS. WEINSTEIN: That's correct.

3 MS. FERSTER: Okay. So now you  
4 have also testified that as a result of that  
5 reconfiguration you were going to be able to  
6 fit more vendor space within this reconfigured  
7 area. So how are you going to do that? What  
8 changes will be made?

9 MS. WEINSTEIN: You'd have to  
10 compare the old to show how they got  
11 reconfigured. These double rows actually moved  
12 over to the north somewhat. And then this got  
13 reconfigured.

14 MS. FERSTER: Okay. So it seems  
15 then that you're decreasing the width the aisle  
16 then between the vendor areas to get more tents?

17 MS. WEINSTEIN: No. no.

18 MS. FERSTER: Then I missed it.  
19 What's getting decreased in order to add more  
20 tents, vendor spaces?

21 MS. WEINSTEIN: The positions of  
22 the tents within the relationship to the

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1 bollards and things like that is what has  
2 changed.

3 MS. FERSTER: Okay. And so the  
4 aisles between the tents remain the same and  
5 sizes previously?

6 MS. WEINSTEIN: Essentially, yes.

7 MS. FERSTER: And what's the width  
8 of that aisle?

9 MS. WEINSTEIN: This one is also 18  
10 feet 4. This row of tents is pushed up against  
11 the bollards, so that would be the back of the  
12 tents.

13 MS. FERSTER: Yes.

14 MS. WEINSTEIN: The front of the  
15 tent is here. So this actually works within the  
16 bollards. It removes the issue of the bollards  
17 from detracting from the use of the tents.

18 MS. FERSTER: Okay.

19 MS. WEINSTEIN: Here we have 18 X  
20 4 foot drive or walkway with a row of tents  
21 fronting onto it. They could back merchandise  
22 out the back if they wanted to, but that's not

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1 necessary.

2 And then here the bollards are  
3 between the two rows of tents. This row fronts  
4 onto the back and this row front onto that.

5 MS. FERSTER: Okay. And then the  
6 aisle that's closest to the building, what is  
7 that on?

8 MS. WEINSTEIN: This one?

9 MS. FERSTER: Yes.

10 MS. WEINSTEIN: Ten feet.

11 MS. FERSTER: Okay. Okay. So  
12 thank you.

13 I have a question of Mr. Sternlieb.

14 Okay. You have indicated in your previous  
15 testimony in your opening that you would meet  
16 with the Eastern Market Trust to discuss  
17 accommodating the weekend flea markets during  
18 construction, and now in rebuttal as you've  
19 acknowledged there is no Eastern Market Trust.

20 So, who will you be working with specifically  
21 to accommodate the weekend market during the  
22 construction activity?

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1                   MR. STERNLIEB:     Right now the  
2 weekend markets are owned or operated by Carol  
3 Wright and Mike Berman, my understanding, under  
4 leased with DCPS.

5                   If on the day that we're ready to  
6 break ground or you know six months before we're  
7 ready to break ground they're still operating  
8 those markets, my presumption is that it would  
9 go to them, and with the ANC we would go to the  
10 city and try to work something out so that  
11 they're accommodated. And we would be an  
12 advocate on their behalf.

13                  MR. FESTER:     Okay.     Okay.     And  
14 then my last question is, again, going now to  
15 your knowledge of the Eastern Market legislation  
16 is stalled and that the closure of 7th Street  
17 as a space for the weekend markets is now in  
18 doubt, will you be willing now to make changes  
19 to the space allocated to the weekend flea market  
20 to compensate for the loss of the 7th Street  
21 area that has been previously envisioned to  
22 accommodate flea market activity as the Office

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1 of Planning has recommended in its own --

2 MR. STERNLIEB: We don't believe  
3 the Office of Planning proposal was one that  
4 was viable for the design of this project. We  
5 think that the Plaza building is an integral  
6 part of the design of the project and we really  
7 just can't carve out the front -- you know, the  
8 first floor and cantilever it and have a viable  
9 project there or a viable architectural  
10 statement or viable retail. So the answer is  
11 we don't think -- at least I'll just answer  
12 personally because I don't think  
13 Stanton-Eastbanc as a corporate entity has a  
14 position on this.

15 I don't think that the outcome of  
16 the hearing on the Eastern Market Trust  
17 legislation the other day has any bearing at  
18 all on the temporary flea market or the ability  
19 of 7th Street in the future. I think that they're  
20 really very much independent decisions that will  
21 be made whoever the Mayor is at the time. You  
22 know, and the reason I say whoever the Mayor,

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1 because this project won't be done until, you  
2 know the next mayoral race in 2014. So there  
3 is plenty of opportunities to make these  
4 decisions over the next four years. And so I'm  
5 really, frankly, not worried about it. This is  
6 something that's supported by the  
7 Councilmember, by the ANC, by EMMCA and the  
8 markets. It's just a matter of getting it done  
9 procedurally.

10 MS. FERSTER: Okay. So just to  
11 follow up on. So your testimony now is that  
12 it's really irrelevant for purposes of the  
13 Zoning Commission proceeding what may or may  
14 not happen with regard to the Eastern Market  
15 legislation and a possible 7th Street closure?

16 MR. STERNLIEB: Yes. I think that  
17 that's my personal feeling.

18 MS. FERSTER: Okay. Okay. Thank  
19 you.

20 That's all.

21 CHAIRMAN HOOD: Okay. Thank you  
22 very much.

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1                   Okay. I think we've got everybody  
2 cross-examination. Do you have any closing  
3 remarks?

4                   MR. DePUY: I'll be brief, Mr.  
5 Chair, given the hour.

6                   We think that the record is  
7 complete. That the standards for demonstrating  
8 to this Commission the rezoning requested to  
9 C-2-B and the application for a planned unit  
10 development have been fully and adequately  
11 documented so that this case is ripe for a  
12 decision by the Commission, and we would  
13 respectfully request that you approve both the  
14 Map Amendment and the PUD, and you do so in the  
15 fashion that would allow a decision that this  
16 matter can be taken up by the Commission in its  
17 first meeting or early meeting in September.

18                   Thank you.

19                   CHAIRMAN HOOD: Okay. Thank you  
20 very much.

21                   Let me ask this: Do we need  
22 anything else?

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1 MS. SCHELLIN: I have a list.

2 CHAIRMAN HOOD: Let's go over the  
3 list.

4 MS. SCHELLIN: I know that the  
5 Applicant has provided several of the items that  
6 were asked, and I'm not sure about some of the  
7 things. So I need you guys to let me know.  
8 And plus there's some documents from others that  
9 was requested.

10 Mr. Turnbull, I think even tonight  
11 still has concern about the North Building  
12 saying it needed more work, wasn't detailed like  
13 the other, fell short. He's concerned about the  
14 alley. And he didn't think the entrance was  
15 very attractive.

16 Are you still looking or are you just  
17 saying they hear you, if they respond they can  
18 respond?

19 COMMISSIONER TURNBULL: Yes. It's  
20 up to them. I mean, I think the amenity area  
21 doesn't really work that well. I just have  
22 concerns with the whole building.

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1 MS. SCHELLIN: Commissioner May  
2 brought up, and I thought that the Applicant  
3 has agreed to it but I don't recall seeing  
4 anything in the record yet. I know that he asked  
5 that this be put in the order if they're going  
6 to do that about no RPP for the South Building?  
7 So if guys could address that.

8 Diverse Market has asked the  
9 question during cross-examination what the  
10 width of fire trucks are. I don't know if anybody  
11 ever answered that for them.

12 Eastern Market Community Advisory  
13 Committee, Ms. Ferster asked them to provide  
14 a copy of the resolutions authorizing the  
15 testimony that they gave. I don't know that  
16 they provided that.

17 DDOT has provided a revised report  
18 which per the ANC they'd like an opportunity--  
19 or Commissioner Hitchcock, actually. They'd  
20 like an opportunity to review that report since  
21 it was just provided today and provide  
22 additional questions to DDOT and have DDOT

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1 respond.

2 COMMISSIONER MAY: Well, I think we  
3 have to make a decision about that, right?

4 MS. SCHELLIN: Yes.

5 COMMISSIONER MAY: Whether we  
6 simply want --

7 MS. SCHELLIN: Responses to the  
8 report or --

9 COMMISSIONER MAY: -- responses to  
10 the report, which they're entitled to do  
11 normally or whether we want them to get something  
12 from -- I mean, put their questions to DDOT and  
13 then have DDOT submit something.

14 I mean, I don't know that we  
15 necessarily need anything more from DDOT, you  
16 know if they want to talk to DDOT and get  
17 something more, I think that's fine.

18 MS. SCHELLIN: Is the record  
19 then--

20 COMMISSIONER MAY: I mean, it seems  
21 like they're adding a step in the process.

22 CHAIRMAN HOOD: Well, I think that

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1 Commissioner -- I think Commissioner Hitchcock  
2 to responded, wanted Mr. Myer, his traffic  
3 expert to respond to the DDOT report. And I think  
4 we should allow that.

5 COMMISSIONER MAY: Absolutely.

6 MS. SCHELLIN: Right.

7 COMMISSIONER MAY: That's it.

8 MS. SCHELLIN: That's not what he  
9 had asked for, but that's what you guys are  
10 allowing? I just wanted to make sure. Okay.

11 CHAIRMAN HOOD: IS that okay,  
12 Commissioner?

13 MS. SCHELLIN: Okay. The  
14 Construction Management Plan, has that been  
15 submitted to the record? It's not signed. I  
16 don't know if it's any good for you guys or not  
17 if it's not signed.

18 CHAIRMAN HOOD: If we want to read  
19 it and just look at it, I would like to see one  
20 signed.

21 MR. DePUY: Yes. Right.

22 CHAIRMAN HOOD: So we'll take it and

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1 look at what's going to be signed. But for me  
2 as far as -- it doesn't have any validity for  
3 me.

4 MS. SCHELLIN: Right.

5 COMMISSIONER MAY: We have time  
6 before we make a decision, right?

7 CHAIRMAN HOOD: Oh, yes. Yes.

8 COMMISSIONER MAY: You guys could  
9 work on getting it signed.

10 MS. SCHELLIN: Okay. Commissioner  
11 May said that Diverse Markets would have an  
12 opportunity to comment on the flea market  
13 configuration that was presented. I don't know  
14 that they've done that.

15 Janet Quigley's testimony asked for  
16 that to be submitted. I think she may have left.

17 Mr. Cerevea was going to provide a  
18 study that was done.

19 The Applicant should address the ADA  
20 compliance that was questioned.

21 Ms. Opper-Weiner was going to submit  
22 documents regarding the street closure.

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1                   Did the Applicant address why this  
2 was not spot zoning? Did they do that? If not,  
3 they need to do that.

4                   Letters from the investors.

5                   Commissioner Turnbull also made  
6 another comment on the North Building amenities  
7 that they didn't think that they were ideal,  
8 that they were in the basement, just one entrance  
9 to the social room which didn't seem idea.

10                  He was concerned about the plan for  
11 the flea market not being finalized. So any  
12 additional information on that he would like  
13 to have. however soft or hard it might be.

14                  The ANC during rebuttal said they'd  
15 like to meet with DDOT regarding the public space  
16 in the construction period. I don't know that  
17 you guys need anything from that. They can meet  
18 with DDOT if they want.

19                  CHAIRMAN HOOD: Yes, I'm hoping  
20 that that can happen.

21                  MS. SCHELLIN: And that's it.

22                  CHAIRMAN HOOD: Okay. Anything

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1 else?

2 MS. SCHELLIN: So we just need  
3 dates.

4 VICE CHAIRPERSON COHEN: Excuse me.  
5 Are we entitled to the Memorandum of  
6 Understanding between the Applicant and the ANC?

7 MS. SCHELLIN: The MOA? I don't  
8 think that -- is that finalized?

9 MR. STERNLIEB: We were asked by the  
10 ANC not to submit it until we finalized the  
11 language and they wanted the CMA to be a part  
12 of that. My sense is we're working on a few  
13 days, or maybe less. We're down to about two  
14 sentences. So, we'll have to you soon.

15 CHAIRMAN HOOD: Okay. Do we need  
16 anything else --

17 MS. SCHELLIN: Dates.

18 CHAIRMAN HOOD: Let's do some  
19 dates.

20 And let me just say this: after we  
21 finish this, we're going to close out. I'm going  
22 to ask everybody -- because tomorrow night we're

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1 going to be here the same time, so if everybody  
2 leave, so Ms. Schellin, is we can get everything  
3 closed and we can come back in tomorrow.

4 MS. SCHELLIN: I think so we can all  
5 have time for OAG to review everything, three  
6 weeks, leaving the record open for three weeks  
7 for those documents. Just to make it clear, the  
8 record is closed to everything else. Individuals  
9 are no longer submitting letter in support, no  
10 longer submitted letter in opposition. Only the  
11 parties or the individuals that were actually  
12 specifically called out this evening can submit  
13 just the documents requested.

14 That would be by August 1st, 3:00  
15 p.m.

16 Then August 8th, 3:00 p.m. the  
17 parties only get to respond to anything that  
18 was filed on August 1st.

19 And then draft Findings of Facts  
20 Conclusions of Law can be submitted by parties  
21 if they choose to do so by August 15th, 3:00  
22 p.m.

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1                   And then we would take this at our  
2                   September 10th meeting.

3                   CHAIRMAN HOOD:   Let me ask, do we  
4                   want know --

5                   MS. SCHELLIN:   It's not heavy.

6                   CHAIRMAN HOOD:   It's not heavy?

7                   MS. SCHELLIN:   Okay.

8                   CHAIRMAN HOOD:   Okay.

9                   MS. SCHELLIN:   It probably won't be  
10                  since we're almost at the end.

11                  CHAIRMAN HOOD:       Okay.       Good.  
12                  Okay.

13                  COMMISSIONER MAY:    Ms. Schellin,  
14                  I'm wondering. There are a number of things in  
15                  there that might take some time to get that --  
16                  well, I'm just thinking that, you know while  
17                  we're sitting this on the normal kind of time  
18                  lines, I mean why don't we --

19                  MS. SCHELLIN:    Actually,

20                  COMMISSIONER MAY:    -- work it  
21                  backwards from the date that we need to have  
22                  the information? I'm just saying that some of

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1 these things where they have to come to agreement  
2 and we're getting into summer, and you know it  
3 just takes time to negotiate these things.  
4 Otherwise, we're going to wind up opening the  
5 record and voting to open the record again to  
6 submit materials that we had requested.

7 MS. SCHELLIN: Okay.

8 COMMISSIONER MAY: Does it make a  
9 difference? I mean, does it give them another  
10 week or two?

11 MS. SCHELLIN: Yes, it's going to  
12 give them some more time. Let me just look at  
13 the dates.

14 Okay. I'll repeat everything.

15 August 15th, 3:00 p.m. for the  
16 additional documents to give them another two  
17 weeks. So that there's a total of five.

18 Responses from the parties only  
19 would be 3:00 p.m. August 22nd.

20 Draft Findings, Facts Conclusions  
21 of Law if they choose to do so 3:00 p.m. the  
22 29th.

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1                   And again, we would take this up at  
2                   September 15th meeting. I mean, September  
3                   10th, I'm sorry.

4                   COMMISSIONER MAY: Mr. Chair, I  
5                   mean do you agree within that philology giving  
6                   the Applicant more time to provide the  
7                   information?

8                   CHAIRMAN HOOD: Yes. Thank you,  
9                   Commissioner May.

10                  MS. SCHELLIN: And if we could just  
11                  make sure that they did add a signed Construction  
12                  Management Agreement to the list.

13                  MR. DePUY: On that point, we'll  
14                  certainly try to have a signed agreement, but  
15                  we can't guarantee since there two parties.

16                  MS. SCHELLIN: Then you can  
17                  respond, you can provide a response and it will  
18                  be up to the Commission to decide.

19                  CHAIRMAN HOOD: Okay. Anything  
20                  else?

21                  MR. DePUY: Mr. Schellin or Mr.  
22                  Chairman, just to respond to Ms. Cohen's

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1 request, we also will submit the letters  
2 regarding the points made by Mr. Binitie.

3 VICE CHAIRPERSON COHEN: Okay.  
4 Thank you.

5 CHAIRMAN HOOD: Okay. Anything  
6 else?

7 I thank everyone. And I would just  
8 ask that you expeditiously leave. Not that we  
9 don't like you, but we need to come back  
10 tomorrow. We need to get ready. So good night,  
11 and this hearing is adjourned.

12 (Whereupon, at 11:24 p.m. the  
13 Hearing was adjourned.)

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