

BEFORE THE HOWARD COUNTY PLANNING BOARD
FOR HOWARD COUNTY, MARYLAND

IN THE MATTER OF *
HOWARD RESEARCH AND *
DEVELOPMENT CORPORATION * CASE NO. PB 455
* Amended FDP-DC-L-2A
Petitioner *
*

* * * * *

OFFICIAL TRANSCRIPT OF PROCEEDINGS

HEARING HELD April 20, 2023

HOWARD COUNTY PLANNING BOARD:

Ed Coleman, Chair
Kevin McAliley, Vice-Chair
James Cecil
Barbara Mosier

BOARD COUNSEL: DAVID MOORE

COUNSEL FOR THE PETITIONER: TODD BROWN

COUNSEL FOR THE OPPOSITION: NICOLE CAMPBELL

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1 **April 20, 2023 - Howard County Planning Board**

2 **PB 455 - Howard Research and Development Corporation**

3

4 **The proceedings began on the record at 7:00 p.m.**

5 **Chairman Coleman:** Welcome to the April 20, 2023,
6 Howard County Planning Board meeting. We ask for your
7 patience as we try to conduct this meeting both in person
8 as well as virtual. If you are here via WebEx please
9 speak clearly in your phone or your computer microphone.
10 If you are experiencing technical issues, you may send an
11 email to PlanningBoard@HowardCountyMD.gov and that is
12 monitored during this meeting.

13 Do I hear approval of the WebEx meeting for the
14 April 11th meeting?

15 **Board Member McAliley:** I move that we approve the
16 minutes from the April 11 meeting from WebEx.

17 **Chairman Coleman:** Thank you.

18 **Board Member Cecil:** Second.

19 **Chairman Coleman:** All those in favor?

20 **All Members:** Aye.

21 **Chairman Coleman:** So, there's two items on the
22 agenda tonight. One of them was SDP-20-042, Lakefront
23 North and because we haven't completed the FDP section,
24 we are going to continue that meeting at a later date.
25 We will set that date after we hear the FDP case. The

1 reason we are doing it that way and the reason the notice
2 was up there was because of noticing requirements and if
3 we announce it publicly then we are okay with as far as
4 noticing goes, but we will have those discussion of when
5 that might occur after we conclude the FDP case.

6 So, now what we are going to hear is PB-455, FDP-DC-
7 L-2A, Howard Research and Development Corporation and
8 that's a continuation of the April 11 meeting. When we
9 concluded that meeting the applicant had completed their
10 presentation and we were going to start with people that
11 were in opposition to hear their testimony.

12 **Todd Brown:** Chairman Coleman, Ms. Campbell's office
13 on behalf of her client IMH had submitted some materials
14 that they were proposing to present tonight. I think
15 that was what the Board requested that they submit in
16 advance so that we would have an opportunity to comment
17 on that and we have. We have submitted an objection to
18 that. We filed that on April 19 and then Ms. Campbell had
19 filed an email shortly after we filed our objection with
20 her own comments. I do not know whether the Board has
21 had a chance to review those materials. If you have not,
22 and you wanted to speak with your counsel, we would have
23 no objection to that. We think that our objection, our
24 objection, should be ruled on before we begin anything
25 further this evening. We would be happy to present

1 argument on it as stated in our objection. We are
2 objecting to most of the materials that they are
3 proposing to submit.

4 **Chairman Coleman:** Got it. I did receive the
5 materials and I did receive your objection. What is the
6 proper way to handle this?

7 **Board Counsel Moore:** I suggest that you may want to
8 handle it item by item as they are offered as exhibits,
9 because they may not all deserve the same treatment.

10 **Chairman Coleman:** Okay.

11 **Board Counsel Moore:** My suggestion would be that if
12 a party offers an exhibit, the other party can raise
13 their objection. Obviously, the objections may already
14 be somewhat identified, but for clarity of the record it
15 would be more convenient if parties would raise their
16 objection at the time that the exhibit is being offered
17 and then the Board can determine whether there is a valid
18 objection or whether the evidence should be admitted.

19 **Chairman Coleman:** Okay. And part of it was the
20 hope that you guys -- things that were agreed upon would
21 just be agreed upon and could be entered into the record,
22 and then you objected, so that's not happening.

23 **Todd Brown:** Well, we have agreed on to.

24 **Chairman Coleman:** Yeah, on the first couple

25 **Todd Brown:** The first two that are relevant to this

1 proceeding, we have no objection to those coming in.

2 **Chairman Coleman:** So, those can be entered into the
3 record as is, and then we will handle the other ones as
4 Mr. Moore suggested as we go along. But thank you for
5 the objections too. It's nice to have it in front of me.
6 Yes, please?

7 **Nicole Campbell:** He needs to be sworn.

8

9 **OPPOSITION'S CASE-IN-CHIEF**

10 **TESTIMONY OF DAVID COSTELLO**

11 **Chairman Coleman:** Do you solemnly promise to speak
12 truthfully in the testimony you are about to give?

13 **David Costello:** Yes, I do

14 **Chairman Coleman:** Please state your name and
15 address for the record.

16 **David Costello:** David Costello, 10211 Wincopin
17 Circle, Columbia, Maryland is my work address.

18 Do you want to put up that first exhibit?

19 **Nicole Campbell:** Absolutely. Could I get the
20 control room to project please? Thank you.

21 Alright, for the record, this is one of the exhibits
22 that they agreed to, it's the first one, exhibit 1 on the
23 exhibit list. It's the Howard County Zoning Regulations,
24 section 125 and we are going to take it to page -- we'll
25 start here, it's section 4, Planning Board Review and

1 Approval Criteria.

2 **David Costello:** Do you want me to go down to the
3 one section?

4 **Nicole Campbell:** Uh-huh. And, again, this is what
5 the Planning Board shall approve.

6 "The Planning Board shall approve, approve with
7 conditions or deny the petition based on
8 whether the petition satisfies the following
9 criteria."

10 Mr. Costello will talk about Section I, which is
11 highlighted at the bottom of the page.

12 **David Costello:** Okay, so first of all for a little
13 context, I am a Howard County resident. I have lived in
14 the County my entire life. My business, my main
15 business, is Costello Construction. We are about a \$100
16 million a year general contractor and we also have a few
17 properties in Downtown Columbia, one of which is Little
18 Patuxent Square, which is at the corner of Wincopin
19 Circle and Little Patuxent Parkway, which I own with my
20 friend Kingdon Gould, I actually built it with his dad.
21 Mr. Gould passed away a few years ago and now it's
22 Kingdon and I primarily that own and manage that
23 property.

24 I own, along with Kingdon and his brother Caleb and
25 Dick Talkin, the building which replaced the Rusty

1 Scupper, right on the Lake next to the old Sheraton Hotel
2 which Caleb and I initial looked at in about 1999 and
3 then me and Kingdon and Caleb bought and Dick came in a
4 little bit later, and we own that office building
5 together.

6 Then the third property, my friend Brad Canfield and
7 Gene Parker (*sic*) and I bought the old Sheraton in 2017.

8 So, we are an interested party, and we believe that
9 this form, this venue, is appropriate for me to express
10 my concerns. It's the right outlet because of the
11 language of the FDP approval process which says it has to
12 be in harmony with existing and planned vicinal uses.
13 You know, I'm a poster child for vicinal uses here
14 because I think that we probably own, I think us and the
15 little condo project in HRD, own all of the land around
16 the Lakefront North property.

17 With regard to the FDP, there is a few things that
18 we don't think are harmonious with both our existing use
19 and our planned use and I'd like to walk through them
20 briefly.

21 First of all, with regard to existing, I don't know
22 if you know, but we own about six acres on the Lake. Our
23 property is about six acres, and it meanders all the way
24 up to the headwaters of the Lake which is the north end,
25 and those four or five acres currently have sitting on

1 them what was the old Cross-Keys Inn. Those buildings
2 are not currently occupied because of the expansion we
3 did to the tower of the Hotel which we opened at the end
4 of 2021.

5 So, number one, the proposed use, the FDP use, is a
6 bit of a pink elephant and an outlier with regard to
7 what's currently there, because what's currently there is
8 a two story, wood-framed, old lodge building as we call
9 it. It was built in, I think, like 1973 and those two
10 uses are clearly not in harmony with one another.

11 Number two, their plan fails to take advantage of
12 the Lake amenity entirely. Lake Kittamuqundi is the
13 heart and soul of Downtown Columbia. It was designed
14 that way. It's been that way from day one. There are
15 three major lakes in Columbia, Wilde Lake, Lake
16 Kittamuqundi, and Lake Elkhorn. Only one of those has
17 commercial zoning, and only one of those was zoned and
18 intended to be the commercial location for the heart and
19 soul of Columbia. The Plan has no connection whatsoever
20 with the Lake except that it meets up with a pathway that
21 sort of goes across a bridge to a stream and then down
22 around the corner and back down, or however it all works
23 out, but it's clearly not connected to the Lake.

24 Number three, it's unusual that the FDP has the
25 structured parking facing the Lake which to me is

1 inconsistent with the harmonious plan with the Lakefront
2 District. If we are going to do that, we ought to change
3 the name to not be Lakefront. The loading dock,
4 likewise, faces the Lake and also faces what is the
5 entrance to the old lodge buildings which one day we're
6 optimistic will be a future building, a nice building in
7 fact.

8 Number five, the road that they are proposing which
9 I think was called Road A maybe, which runs between the
10 old lodge buildings and the new proposed buildings, it's
11 like an ally way for the loading dock and it runs
12 parallel to the Lake. Again, the Lake is the crown jewel
13 of Columbia and for it to be harmonious we believe that
14 Road A and Road C should probably be at least equal in
15 terms of the amenities they provide. There is no
16 commercial engagement with the Lake. There's no shops.
17 There's no commercial uses whatsoever along that Road A.

18 Number six, the nicest part of the FRP is turned
19 inward in our opinion. Whereas we think that at least
20 the portion facing the Lake should embrace the Lake and
21 not alienate the Lake.

22 Number seven, the Plan completely ignores how access
23 would be provided to the customers of the hotel which is
24 very important to us to maintain a viable hotel which is
25 clearly important for the overall viability of Downtown

1 Columbia.

2 And then number eight has to do with -- I believe
3 that this also talks about plan vicinal uses and the plan
4 that we have seen doesn't take into account our planned
5 vicinal use at all and HRD has never made an effort to
6 incorporate our thoughts on what would be harmonious into
7 their plan. In fact, they've taken steps that have been
8 completely inconsistent with that.

9 So, I wanted to go back now and, Nicole, you were
10 going to show some exhibits. I think you were going to
11 put up their exhibit that showed the garage facing the
12 Lake which I think is germane. If you could do that?

13 **Chairman Coleman:** For the record here, what you are
14 showing is the Petitioner's presentation.

15 **David Costello:** Oh yes, Nicole is right. We put
16 this up. Off to the left is the old lodge buildings, and
17 then you can see the HRD, that's all of our property.
18 That represents about 4 1/2 acres there. As you can see,
19 the nice road is the one that runs to the west and it's
20 kind of just like a back alley almost along the lodges.

21 The next one that you were going to show, Nicole,
22 was the loading dock and the parking.

23 **Chairman Coleman:** Again, for clarification, this
24 was from the Petitioner's original presentation and it's
25 already been entered as an exhibit?

1 **Nicole Campbell:** That's correct.

2 **Chairman Coleman:** Okay.

3 **Nicole Campbell:** This is the second half of it. I'm
4 just going to page 54.

5 **David Costello:** Here it is. Parking garage,
6 loading dock facing the old lodge buildings which of
7 course faces the Lake. As an aside, we are going to show
8 you what we had proposed, which actually predated all
9 this. We made our initial submission back in 2018 and we
10 were very, very careful to make sure that we had no
11 structured parking, no parking at all exposed to the
12 Lakeside, which we think is harmonious with what should
13 be happening in Downtown Columbia in the Lakefront area.

14 The next exhibit you were going to show was -- so I
15 want to go back to --

16 **Todd Brown:** I'd go ahead and object to this and I'd
17 ask it be removed from the screen. This has to do with a
18 court case that is pending in the Howard County Circuit
19 Court. It has to do with Mr. Costello's desire to
20 redevelop his property. That's what all of his testimony
21 is about.

22 **David Costello:** No, it doesn't

23 **Chairman Coleman:** Please sir.

24 **Todd Brown:** That's what all of his testimony is
25 about, and this is an inappropriate use of this form and

1 this proceeding and the Board's time.

2 **David Costello:** Absolutely not.

3 **Todd Brown:** They're arguing about the ability for
4 him to develop his property and the effect the covenants
5 have on his ability or inability to develop his property.
6 That is not what is before the Board tonight. As we said
7 in our objection that we filed with the Board, that role
8 is for Court's to interpret the covenants.

9 **David Costello:** Mr. Brown doesn't know what's in my
10 head you guys.

11 **Todd Brown:** The role is for the Courts to interpret
12 covenants and private agreements and the case law in
13 Maryland which is more than half a century old has
14 established that Planning Boards are not to go into
15 private agreements and private covenants to interpret
16 them. That is for the role of the Courts. And I've cited
17 the cases in our opposition, the *Perry* case, the *Epert*
18 case and the *Capital Commercial Properties* case and I'd
19 actually like to read a section of it to the Board
20 Members so that they can hear this. This is a quote as
21 stated in the *Perry* case more than 60 years ago,

22 "The ordinance does not override or defeat
23 whatever private rights exist and are legally
24 enforceable. But, neither is a controlled in
25 the workings or affects by such rights. The

1 enforcement of restrictive covenants is a
2 matter for the exercise of the discretion of an
3 equity court in the light of attendant
4 circumstances. Such private restrictions
5 controlled by contract and real estate law are
6 entirely independent of zoning and have no
7 proper place in proceedings of this character,
8 notwithstanding that in any proper proceeding
9 the restrictions contended for are shown to be
10 binding upon the properties mentioned. Zoning
11 cannot nullify them. Neither the agency's
12 action nor the approval by a court of that
13 action would have any decision in a proceeding
14 in equity to enforce the covenant."

15 The Zoning Board is to apply the zoning regulations.
16 The Courts interpret private agreements and contract.
17 What this Board does or does not do with the petition
18 before it should be done without reference to these
19 covenants that they are going to try to get in that they
20 have submitted. And all of the information in the court
21 case is what that is about, and it doesn't belong in this
22 proceeding and we've said that and we've objected to it
23 and it should be excluded.

24 **Nicole Campbell:** May I address?

25 **Chairman Coleman:** Yes.

1 **David Costello:** Can I just say one thing?

2 **Chairman Coleman:** I would prefer to hear from --

3 **David Costello:** Okay, alright.

4 **Nicole Campbell:** Okay. I think that Mr. Brown has
5 jumped the gun. We are not offering the covenants in
6 this exhibit. This exhibit is not the covenants. It is
7 a text message between John DeWolf who before his
8 untimely death, was a member of HRD and was in Mr.
9 Fitchett's role as I understand it. He had communication
10 with Mr. Costello, this is a text message between the two
11 of them. It has to do with the two of them discussing
12 the planned vicinal use that Mr. Costello is talking
13 about in the IMH property in conjunction with what HRD
14 was planning to do on its property and it actually
15 references possibly submitting a joint FDP submission
16 which would go towards, I think, what the Zoning Board
17 regulations talk about in terms of being harmonious with
18 vicinal uses.

19 So, this document, while it might be something that
20 relates to the lawsuit, in the context of this has to do
21 with the harmony with vicinal uses that is part of the
22 Zoning Board regulations. So, I think he's jumped the
23 argument that he is trying to make with regard to this
24 exhibit.

25 **Todd Brown:** Let me respond --

1 **Chairman Coleman:** Hold on. When I saw this -- I'm
2 going to uphold your objection to entering that in, just
3 because of the provenance of it and what it is. It's
4 between somebody and another party that's not here and I
5 don't think it's germane to this case so I'm going to
6 exclude it. But the arguments that you are making can be
7 still made within the context of being harmonious with
8 Downtown. You just don't need that document to prove it.

9 **David Costello:** I'd agree with that. It's fine.

10 **Nicole Campbell:** Okay.

11 **Chairman Coleman:** Now, being that you opened up the
12 can of worms, we might as well try to handle those now.

13 **Nicole Campbell:** Okay.

14 **Chairman Coleman:** I have a question for our
15 counsel.

16 Is it your opinion that legal matters, or covenants
17 that are between these two parties do not play a role at
18 all in any of our decisions that we make tonight?

19 **Board Counsel Moore:** I have not heard either party
20 proffer why they are or are not relevant to the criteria
21 that you have to decide. If there is factual information
22 that may be germane to whatever litigation these private
23 parties may or may not be engaged in, it is germane to
24 these criteria. The Planning Board is certainly entitled
25 to hear it, despite the fact that it also may be germane

1 to some other litigation.

2 **Chairman Coleman:** Okay. So, then, the question if
3 you just heard what he had said, your counter of why I
4 shouldn't have sustained his objection to the rest of the
5 documents that you wanted to enter. Would you still want
6 to do those one at a time? They are all kind of grouped
7 together as far as the legal case goes?

8 **Nicole Campbell:** They are not necessarily grouped
9 together. He's grouped them together. I don't see them
10 as grouped together.

11 **Chairman Coleman:** Okay, then we'll take them one at
12 a time as they come up. Is that better, or no?

13 **Nicole Campbell:** We'll see how it goes.

14 **Chairman Coleman:** Okay. So, you can continue.

15 **David Costello:** Okay. So, in 2017 we got the
16 Sheraton property under contract. It was owned by a
17 subsidiary of Brookfield --

18 **Todd Brown:** Mr. Chairman, I'm going to interrupt
19 with respect to Mr. Costello --

20 **David Costello:** Of course you are.

21 **Todd Brown:** -- and raise my objection. And I'd
22 like to ask Mr. Costello a few questions about these to
23 establish whether they are or are not relevant, because I
24 think the answers to my questions are going to
25 demonstrate to the Board that this document is not

1 relevant to this proceeding.

2 **Nicole Campbell:** There is no document on the screen
3 at the moment. He's not --

4 **Todd Brown:** It was just up there.

5 **Nicole Campbell:** The text message?

6 **Todd Brown:** He was just going to go through his
7 plans. It was just up there.

8 **Nicole Campbell:** I'm sorry, I didn't see that it
9 was up there.

10 **Todd Brown:** Well, you put it there, you ought to
11 know.

12 **Nicole Campbell:** I did, but when I turned away,
13 David Costello was on the screen, so I don't know what's
14 up and what's not because I didn't say, "control room
15 project". So, at the time I thought it was Mr. Costello.

16 **Chairman Coleman:** There was something up there.

17 **Nicole Campbell:** Okay.

18 **Chairman Coleman:** I don't know how far you are
19 going to go into it.

20 **Todd Brown:** She wants to go very far.

21 **David Costello:** How do you know?

22 **Todd Brown:** What I would like to do is ask Mr.
23 Costello questions because he said something in his
24 testimony, if I might, he said that his initial
25 submission was back in 2018. So, I'd like to ask Mr.

1 Costello, with the Board's permission, is it true that
2 you had a pre-submission community meeting on a proposal
3 for your property in December 2018?

4 **Nicole Campbell:** Mr. Chairman, is it appropriate
5 for him to ask my witness questions before I even ask a
6 question about the document?

7 **Chairman Coleman:** No, not really.

8 **Todd Brown:** Well then, we are going to object and
9 I'm going to state my objection. The objection is that
10 Mr. Costello, the facts would show, that he submitted
11 these plans, or a version of these plans, for the
12 development of his property in December 2018 at pre-
13 submission community meeting. He has not filed a Site
14 Development Plan or a Final Development Plan with respect
15 to this with this County. He has not filed --

16 **David Costello:** Nor did I say that I did. I just
17 said that we made a submission.

18 **Todd Brown:** If I could continue, please. If he has
19 not submitted an application for those documents to the
20 County as either a Final Development Plan or as a Site
21 Development Plan and he's required to do so within a year
22 under the rules of the statute in the County, or the pre-
23 submission community meeting has to be held again. So,
24 not only doesn't he have a pre-submission community
25 meeting that's valid, the time has lapsed and he has not

1 filed anything with the County. This is an aspiration of
2 what he would like to do with his property. And they are
3 going to argue to you that this is what the Board should
4 take into consideration when it views planned vicinal
5 uses.

6 **David Costello:** This is not a planned vicinal use?

7 **Todd Brown:** This is an aspiration. That is not
8 what the zoning ordinance intends. The vicinal uses that
9 are planned are the uses that are planned per the
10 Downtown Columbia Plan and they are all Downtown mixed
11 uses.

12 **David Costello:** It sounds to me like Mr. Brown
13 wants to --

14 **Todd Brown:** If you would stop interrupting me sir.

15 **Nicole Campbell:** May I address what he said.

16 **David Costello:** We're the ones that are supposed to
17 have the floor here.

18 **Chairman Coleman:** Yeah, but he is allowed to
19 object.

20 **Todd Brown:** And I am objecting.

21 **Nicole Campbell:** May I address his comments please
22 Mr. Chairman?

23 **Chairman Coleman:** Is your objection done?

24 **Todd Brown:** I would like to say these plans are
25 not relevant because they have no standing in the County

1 whatsoever. It is as if I drew something on a piece of
2 paper and said, this is what I want to do with my
3 property, Board you better make sure that this next
4 property --

5 **Chairman Coleman:** You don't need the commentary to
6 it. You object to these plans, they are not an official
7 document and they don't apply, correct?

8 **Todd Brown:** They are not an official document, they
9 don't apply, and they don't fall within what is intended
10 in the statute for planned vicinal uses.

11 **Chairman Coleman:** Okay.

12 **Todd Brown:** They cannot possibly because they have
13 no standing. This is just one man's idea for what he
14 wants to do with his property.

15 **Chairman Coleman:** Okay.

16 **Nicole Campbell:** May I address that?

17 **Chairman Coleman:** Yes.

18 **Nicole Campbell:** Thank you. So, there was a
19 community meeting on this plan at the end of November of
20 2019. I want to say less than two weeks later HRD sent a
21 letter to IMH asserting that they were able to reject the
22 plan based on the covenants that he wants to not have
23 discussed here today because they are the subject of a
24 lawsuit. That is the reason why the plan didn't move
25 forward. It's because of their actions. It was a

1 planned vicinal use and there was a meeting before their
2 Architectural Review Committee in September 2019 which is
3 what we were going to show you today as to what the
4 planned vicinal use was. It included an apartment
5 building, an office building and beautiful access to the
6 Lake that could have been coordinated with their property
7 so that Downtown Columbia could have access to the Lake
8 that they will not have under this FDP.

9 So, I don't know where -- he hasn't identified where
10 a planned vicinal use can't be what this is. He just
11 asserts that he knows that it isn't. But, as far as I
12 can tell, the planned vicinal use, this would fall under
13 that. It's relevant for the Board to determine whether
14 or not their FDP is in harmony with IMH's planned vicinal
15 use on this property, that by their own actions have
16 prevented it from proceeding before this Board.

17 **Todd Brown:** May I respond Mr. Chairman?

18 **Chairman Coleman:** Go ahead.

19 **Todd Brown:** Briefly. Nothing that HRD has done
20 with respect to Ms. Campbell has said have prevented them
21 from filing an application. Nothing has. They could
22 file an application with this County anytime they want to
23 file an application. But, they have to comply with the
24 private covenants and that is not a proper subject before
25 this body.

1 **Chairman Coleman:** Okay.

2 **Nicole Campbell:** Just to respond, I believe that
3 they attempted to do that and they stopped it from
4 proceeding. In addition to that, the FDP requires their
5 consent, I guess.

6 **Todd Brown:** The FDP does not require consent. The
7 original petitioner objection was removed in Downtown
8 Columbia when the Downtown Columbia zoning ordinance was
9 revised for the Downtown revitalization provisions.
10 That's fee simple owner of a piece of property can file
11 an application in Downtown Columbia under the Downtown
12 revitalization provisions. That was done in 2014.

13 **Nicole Campbell:** In any case, the documents do not
14 indicate that a planned vicinal use is the only one that
15 is approved by the Board.

16 **Todd Brown:** That is not what I said. I didn't say
17 that it had to be approved. It has to have some standing
18 other than a drawing on a piece of paper that is
19 aspirational by a property owner's position.

20 **Nicole Campbell:** It's far more than that and we
21 would like to show it to you.

22 **Chairman Coleman:** Hold on. So, tonight in front of
23 us is an FDP which basically sets the land use that the
24 categories of uses that are permitted and their densities
25 and building heights, but it doesn't go into the detail

1 specificity that the SDP will give. So, considering the
2 FDP it's general in nature as far as meeting the Design
3 Guidelines and other criteria, but we're not actually
4 approving or disapproving specific designs tonight. Is
5 that correct?

6 **Board Counsel Moore:** You are not approving Site
7 Development Plans tonight, you are approving what an FDP
8 permits them to do. So, I think that Petitioner made
9 that case clearly when there was some prior discussion at
10 the prior hearing regarding specific depictions, that
11 they weren't offering in this hearing approval of
12 specific building plans for example.

13 **Chairman Coleman:** Okay.

14 **Nicole Campbell:** But Mr. Chairman, the requirements
15 under the zoning regulations for approval of an FDP do
16 require that they are harmonious with vicinal uses which
17 is what we are trying to address here today. Both
18 planned and existing.

19 **Chairman Coleman:** Okay.

20 **Todd Brown:** Mr. Chairman, we have no objection at
21 all to talking about the existing uses. Where we have an
22 objection is with their interpretation of what a planned
23 vicinal use is, and it needs to be something more than an
24 aspiration from an adjacent property owner. It has to
25 have done something in front of the County, submitted,

1 having been reviewed. I'm not saying it has to be
2 approved. When you look at the zoning ordinance and
3 what's required to be submitted with an application for
4 an FDP, it is approved SDP's in the area. It's not
5 somebody's idea of what they might want to build. It's
6 what SDP's have been approved. That's what the zoning
7 regulations require us to submit with an FDP application.
8 But, when you look at the Downtown Columbia Plan and the
9 exhibits in the plan, and they are part of the record in
10 this case, where they identify the land uses that are
11 recommended in that plan for Downtown Columbia you will
12 see that all of the Lakefront area, with the exception of
13 the environmentally sensitive areas, are recommended for
14 Downtown mixed-use area. That is the land use
15 recommendation. The vicinal use that is planned is what
16 is in the Downtown Columbia Plan, and it is planned for
17 mixed use. All of this area is. That is the planned
18 vicinal use. Unless there is an approved SDP or
19 something that is further along than what Mr. Costello
20 has described and Ms. Campbell has described.

21 **Nicole Campbell:** But Mr. Chairman, the reason why
22 it is not a mixed-use development is because HRD refused
23 in December 2019 for the project to continue. It reneged
24 its previous statements --

25 **Todd Brown:** That is the subject of the lawsuit.

1 **Nicole Campbell:** I agree.

2 **Chairman Coleman:** Folks, stop. I agree with parts
3 of what you are saying, and I will sustain your
4 objection, but the fact that the Downtown Plan
5 incorporates mixed uses for the properties that they are
6 talking about, that they can build mixed use as long as
7 it conforms to the Downtown Design Plan that they are
8 allowed to do that. And they should be allowed to talk
9 about how what you're proposing either enhances and works
10 with that, or precludes that potentially from being
11 realized. And I'm not saying you do, but they could try
12 to make the argument that it does. I don't think they
13 have to show an aspirational plan that may or may not be
14 submitted, but they can make the arguments that because
15 of a choice that you have presented here so far that the
16 rest of the Downtown Columbia Plan would be prohibited if
17 that would be their case. Does that make sense?

18 **Nicole Campbell:** To respond to that, if I may?

19 **Chairman Coleman:** Okay.

20 **Nicole Campbell:** The reason why there is not a
21 mixed-use development on IMH's property is because HRD
22 wouldn't let it happen. So, for them to say, okay, the
23 Downtown Columbia Plan permits mixed use on this
24 property, that's a wonderful admission for us, however
25 the reason why that doesn't exist today as we sit here is

1 because they have prevented it and instead have forced
2 that the 1971 Old Cross-Key Inn lodges remain on that
3 property. That is why it is not harmonious.

4 **Chairman Coleman:** Okay, but we can't fix that
5 through the upholding of the zoning or planning case.
6 That dispute is clearly outside of what is the scope of
7 our responsibility. We can't resolve that, correct?

8 **Board Counsel Moore:** All you can do is evaluate the
9 proposed plan in light of the criteria in the zoning
10 regulations.

11 **Chairman Coleman:** Okay. So, the other way that I
12 could ask it is, there was a plan, there was an FDP that
13 was previously approved, and they are asking for changes.
14 Can you highlight how those changes are detrimental to
15 the Downtown Columbia Plan?

16 **Nicole Campbell:** I think Mr. Costello started to do
17 that. He did that in his earlier portion of his
18 testimony with regard to the parking structure and the
19 fact that it wasn't harmonious with the Lake and some of
20 the other things. Look, I'm being told that because we
21 disagree with your ruling that I would make a proffer as
22 to what the evidence would show so that it could be
23 appealed.

24 But I have another item, I don't know where we are?
25 Are you not going to permit the continued testimony about

1 what the planned vicinal use was? Despite the fact that
2 Mr. Brown has not identified where in the documents the
3 planned vicinal use that Mr. Costello would testify to is
4 not sufficient for the standard that the Board needs to
5 consider. He has not identified anywhere in the zoning
6 regulations or elsewhere that indicates the planned
7 vicinal use is something other than what Mr. Costello was
8 about to testify about.

9 **Todd Brown:** It can't possibly be what Mr. Costello
10 was testifying about.

11 **Nicole Campbell:** Because he says it is the case.

12 **Todd Brown:** No, it cannot possibly be under the
13 construction of this statute. It's some property owner's
14 idea of what he wants to do with his property. You are
15 going to make a decision -- the Board is not, I would
16 suggest, going to make decisions about development
17 Downtown based upon something that someone has not even
18 submitted for review. It can't possibly be the
19 interpretation of this statute.

20 **Chairman Coleman:** No, but could they not present
21 their view of the realization of what the Downtown Plan
22 could look like?

23 **Todd Brown:** I think, Mr. Chairman, the amendment
24 question that you had asked is an appropriate and fair
25 question. I think Mr. Costello has identified issues

1 that he has from his perspective with the FDP that is
2 before you. Whether those are related strictly to the
3 amendments that are being proposed, or whether they
4 relate back to the original FDP elements that have
5 already been approved, they did not oppose it. Those, of
6 course, are final decisions. They didn't oppose those.
7 So, I think focusing on the amendments is appropriate,
8 and if that's what he wants to discuss I think that
9 that's appropriate and we will respond in kind. But I
10 think that the idea, the very notion, that plans, no
11 matter how much money is spent on them, that are not
12 submitted for review, they are aspirational. The
13 Downtown Plan tells us what the planned vicinal uses are
14 recommended to be in the future, and that is Downtown
15 mixed-use for this entire area.

16 You've heard what his aspirations are. He wants to
17 redo the lodges.

18 **Chairman Coleman:** Okay.

19 **David Costello:** So, as the guy that owns the land
20 here, and made a massive investment in the land and in
21 improving the land, according to this guy's theory, the
22 only way that I have a right to discuss my vicinal
23 proposed use is if I've made some sort of formal
24 submission. Don't interrupt me. That I've made some sort
25 of formal submission to somebody. That's not written in

1 any of the rules here. That argument is preposterous.

2 I have a right, as the guy that's invested a ton of
3 money, to come in and talk about what my vicinal use is
4 and what it might be and how what they are proposing to
5 do might affect me.

6 **Todd Brown:** I think that Mr. --

7 **Chairman Coleman:** Nope.

8 **David Costello:** Just because it was a twinkle in my
9 eye, or a full-blown set of drawings, or something that
10 was submitted, or something that wasn't submitted doesn't
11 mean that I give up my rights. It's a preposterous
12 argument.

13 **Chairman Coleman:** You are not giving up your
14 rights. The argument is that the hearing on this matter
15 is not the time for you to make an argument for uses on
16 your property.

17 **David Costello:** I understand that Chairman Coleman,
18 except for the fact that it says in writing in your rules
19 or whatever they are, that it does have to take into
20 account. That's where it comes from. I didn't write
21 that. I'm sitting here today as the guy, and not just me
22 Brad is with -- you know I have other people that have
23 invested also, but I'm the main guy that's invested. I
24 believe that I have a right now, based on that language,
25 to talk about what my proposed vicinal uses are. What's

1 the exact language?

2 **Nicole Campbell:** Planned vicinal land uses.

3 **David Costello:** Planned vicinal land uses are, and
4 I don't think that the litmus test -- I don't see it in
5 there and I think that if it was intended to be in there
6 it would be in there -- that the litmus test, the
7 barometer, is only if you submit it according to Todd
8 Brown. It doesn't say that. I don't see his name in
9 that document anywhere. It's a big deal for us.

10 **Chairman Coleman:** Mr. Moore, do you have any
11 suggestions on how to proceed with this?

12 **Board Counsel Moore:** I don't believe there is a
13 definition in the zoning regulations for planned vicinal
14 use. As the agency charged with applying these
15 regulations, you have a degree of deference in terms of
16 how you interpret what a planned vicinal use consists of.
17 I don't think either attorney has offered any particular
18 legislative history in support of exactly what that term
19 means. Normally the regulations would rely upon a
20 standard dictionary definition. Certainly, this has
21 context to it. It's within the New Town Regulations, it
22 has meaning within those regulations, but it's for the
23 Planning Board, this body, to interpret what a planned
24 vicinal use is, contemplated by Section 125.0.e is. I
25 mean there can be more than one way to look at it

1 certainly.

2 One way to look at it is planned vicinal uses may be
3 along a continuum, ranging from there is a planned
4 vicinal use that is at a more conceptual stage and there
5 is a planned vicinal use that is at a pre-construction
6 phase. It, however, might have a cut-off point somewhere
7 in between. The Planning Board would be the appropriate
8 body to decide what that term means in this context.

9 **Nicole Campbell:** Mr. Chairman, may I suggest that
10 you hear testimony about the planned vicinal use to
11 determine whether or not you believe that it meets the
12 standard since it is on a continuum.

13 **Board Counsel Moore:** That is up to the Board.

14 **Chairman Coleman:** You were going to say something
15 before?

16 **Board Member Cecil:** I was just going to say, we
17 would be able to hear it and then judge against what we
18 hear either way and we would still have the ability to
19 interpret it however we wish?

20 **Board Counsel Moore:** You can give it the value that
21 you find that it deserves, yes.

22 **Chairman Coleman:** Go ahead and proceed.

23 **Nicole Campbell:** Thank you.

24 **Chairman Coleman:** I'm going to overrule our
25 objection on this one item for his testimony for right

1 now.

2 **Nicole Campbell:** Okay, could we have the control
3 room -- thank you.

4 Alright, Mr. Costello, why you don't tell us what
5 this is and then we will go from there. I think we know,
6 we have talked about it a little bit.

7 **David Costello:** I've completely lost my train of
8 thought. Can you take a break in these things to re-
9 group?

10 **Nicole Campbell:** Sorry.

11 **David Costello:** It's okay. I just need one second
12 to catch back up on where we were.

13 **Nicole Campbell:** Okay.

14 **David Costello:** So, I think we were going through,
15 back sort of to the beginning, and I'll be super brief.

16 We got the property under contract in 2017. When I
17 said the word 'submission' which triggered all this, I
18 did not in any way mean to infer, mislead, anything, that
19 there was a formal DAP, DAK, anything. It was that we
20 made a submission to HRD, who in turn made the submission
21 to the Architectural Review Committee, which under the
22 covenants is called the ARC, that was the submission that
23 I was referring to. We made a submission to get the ball
24 rolling on what we were proposing. That was in the
25 beginning of 2018.

1 The Architectural Review Committee considered our
2 proposed development of what we call the lodge buildings,
3 which you saw earlier, and they opined on it. They gave
4 us their conditional approval, whatever you want to call
5 it. They said, it looks good, but this doesn't work, you
6 need to look at this, you need to consider that, and it
7 triggered a serious of back and forth discussions that
8 went over for a year, primarily around parking of all
9 things, which we are not allowed to talk about tonight I
10 guess.

11 Finally, we then got to a point where we were --
12 and, by the way, the overall plan was two phases. The
13 first phase of the project was to take the old -- can you
14 show a picture of the --

15 **Nicole Campbell:** The hotel?

16 **David Costello:** Are you familiar with the Sheraton,
17 the old Sheraton property? It had a tower and then it
18 had the old lodge buildings.

19 **Nicole Campbell:** I actually don't have a vision of
20 the old Sheraton. I do have what was renovated. I have
21 the new condition that is there today.

22 **David Costello:** I'll try to describe it. It had a
23 ten-story tower which was built in the mid 80's, which
24 was connected to the old lodge buildings which we showed
25 you in a previous slide. And the plan was, phase 1, to

1 add onto the tower and completely renovate the tower.
2 When that was done and we had put enough rooms in that
3 location, to then demolish and remove the old Cross-Keys
4 Inn and do a mixed-use building which I had described to
5 John as Little Patuxent Square, which we talked about
6 earlier, basically unfolded. Little Patuxent Square,
7 multi-family residential, connected to an office building
8 with a courtyard in between. I would say just slice it
9 open and we had this, and that was the way that I
10 described it.

11 So, fast-forward to 2019, we are advancing all of
12 our plans for phase 1, which is the hotel renovation and
13 addition, working our way through the Architectural
14 Review Committee, all the approvals. We finally get
15 somewhere towards the late summer of 2019 and that is all
16 moving forward and us and HRD agree that we are going to
17 present a brand new plan for the old Cross-Keys Inn.

18 **Todd Brown:** I've just got to object to him stating
19 what HRD did. You are allowing his testimony, but I've
20 got to object for the record about what he is stating HRD
21 agreed to.

22 **David Costello:** Okay. We then met with HRD and the
23 Architectural Review Committee, and I believe it was
24 September 19, 20--, I think I wrote that --

25 **Nicole Campbell:** It's actually -- what was on the

1 screen, the date is there.

2 **David Costello:** I had the date wrong. It was the
3 25th of September 2019. We re-presented our design for
4 the phase 2. Do you want to put it up?

5 **Nicole Campbell:** Yes, it's right here.

6 **David Costello:** Do you want me to go through it?

7 **Nicole Campbell:** Yes.

8 **Todd Brown:** I'm going to object again, because we
9 are talking about this whole ARC processed is under the
10 covenants. The covenants are before the Court, not
11 properly before this Board. All of his testimony is --

12 **Chairman Coleman:** We are going to overrule you on
13 this. But --

14 **David Costello:** We'll move quickly.

15 **Chairman Coleman:** You better hurry because so far
16 you haven't touched on anything that I think is relevant
17 to the case at hand tonight.

18 **David Costello:** Well, hopefully my first seven were
19 relevant.

20 **Chairman Coleman:** They were, but this last history
21 lesson is not helpful.

22 **David Costello:** It may be that you'll rule that it
23 wasn't useful. I'm not a lawyer, I don't know. I'm just
24 telling you our story. And it may be completely useless
25 in the grand scheme of things.

1 So, anyway, this was our phase 2 which we presented.
2 We put this slide up because it shows the general size
3 and scope of our land. It's a pretty big parcel of land.
4 We are a pretty interested party here. Nicole, do you
5 want to go to the next one? I do think that we need to
6 move through quickly.

7 That is across the Lake, a view rendering our
8 proposal of what we were going to do for phase 2. It
9 included an office building, a residential building.

10 Nicole if you could move forward.

11 **Nicole Campbell:** Do you want to talk about what is
12 going across the Lake?

13 **David Costello:** We had hoped that we could connect
14 the base of the Lake with the bridge that would gain
15 access at more the mid-point of the Lake and increase the
16 connectivity.

17 **Nicole Campbell:** And so, if this was here, next to
18 what HRD plans to do, there would be access --

19 **David Costello:** A continued connectivity, not only
20 down to the Lake but across the Lake. Okay, next.

21 This was sort of a grand entrance leading from the
22 parking lot, which is where HRD is, going down to the
23 Lake.

24 That cross-section is the one that I wanted to note.
25 This is a cross-section of our proposed development. It

1 had a tennis center which goes back to the old Columbia
2 tennis barn days. We wanted to have something similar to
3 that in Downtown Columbia, the office building to the
4 right and the residential building in the back.
5 Obviously, the relevance is this was our planned vicinal
6 use and what is happening to the west of us is really
7 important to us.

8 **Nicole Campbell:** Alright, I'm going to move through
9 some of these. Stop me if you want me to.

10 **David Costello:** No, I don't.

11 **Nicole Campbell:** This is one I think you wanted to
12 talk about.

13 **David Costello:** It's just another view and how our
14 planned vicinal use would be affected by what happens
15 next to us including the roadway there.

16 **Nicole Campbell:** This is just another view of it.

17 **David Costello:** And Nicole if you want to pull up
18 the video. So, we ended up -- let me just a little more
19 history, just 30 seconds worth.

20 After we submitted, we got our comments. Again,
21 they were very favorable. Then we proceeded with the
22 construction of phase 1, which was the redevelopment, if
23 you want to show the video, the reconstruction of the
24 hotel.

25 **Nicole Campbell:** You asked about the Sheraton a

1 moment ago. This is the renovated view of it. It's a
2 video so I'll just play it.

3 **David Costello:** So, at the end of 2019, we broke
4 ground and began construction on that. Shortly
5 thereafter, HRD sent a letter which basically retracted
6 prior conditional approvals and said you can't do
7 anything, and they listed a bunch of reasons at the end
8 which I don't think are really relevant at this point,
9 Nicole.

10 What has happened since is that HRD has made
11 submissions which are remarkably similar to the
12 residential stuff that we had proposed, with the podium
13 parking and they've leapfrogged us. They've got the APVO
14 or whatever you guys call it. Now they are ahead of us
15 and now we don't know if we will ever get to build our
16 mixed-use building because we are behind all of the
17 adequate public facilities.

18 That's my story.

19 **Chairman Coleman:** Thank you.

20 **David Costello:** It's an unfortunate story.

21 **Chairman Coleman:** Okay. Now, there's chance to
22 cross-examine the witness. Do Board Members have
23 questions? Please go ahead.

24 That presentation that was up, I would like to at
25 least go back to the overview that showed -- basically

1 the map.

2 **Nicole Campbell:** Let me go back to the beginning
3 and you can tell me which ones you want. I think we were
4 looking at this one?

5 **Chairman Coleman:** That one is sufficient for where
6 I was going.

7 **Board Member Mosier:** So, the buildings outlined in
8 pink on this are yours? That's your property? Your
9 vicinal uses?

10 **David Costello:** Yes Ma'am.

11 **Board Member Mosier:** Okay. Your planned vicinal
12 use for that property includes -- how tall are the
13 buildings that you intended?

14 **David Costello:** They were roughly 120 feet measured
15 from the front side because the site does slope.

16 **Board Member Mosier:** Where was your parking access?

17 **David Costello:** Below grade. Primarily below grade
18 for the new uses.

19 **Board Member Mosier:** On the side facing away from
20 the Lake I assume?

21 **David Costello:** Yeah, we had no parking visible
22 from the Lakeside. We had a terrace there.

23 **Nicole Campbell:** Is there one of those that show
24 it?

25 **Board Member Mosier:** No, that's fine, I don't need

1 to see that. Okay, that answers my questions.

2 **Chairman Coleman:** Go ahead.

3 **Board Member McAliley:** I was just going to ask, as
4 far as the connectivity between your buildings closest to
5 the street that divides the Howard Hughes properties,
6 looking at the close-ups that you showed a little while
7 ago, I was just curious, what is the concern about
8 vicinal use. Was it just that their parking garage
9 accesses were going to be closest to your buildings? You
10 made it very, very specific that there was a concern
11 about what was going to be across the street.

12 **David Costello:** The loading dock, the multi-level
13 parking, the road configuration, the lack of more
14 activated uses like restaurants, shops, along that road.

15 **Board Member McAliley:** Okay, because you had a
16 tennis facility right there, right?

17 **David Costello:** We do. We propose a tennis
18 facility.

19 **Board Member McAliley:** So, why would a tennis
20 facility be negative to loading docks?

21 **David Costello:** Well, the tennis facility was only
22 off, if you look at it to the left, and to the right was
23 our residential, but that's a good point.

24 **Board Member McAliley:** Thank you. Go ahead.

25 **Chairman Coleman:** So, back to the map, please.

1 So, within what the previous FDP had outlined versus
2 what they are proposing now, how does what they are
3 proposing now preclude you from building this?

4 **David Costello:** To be honest with you, I don't
5 remember. We'd have to go back. We didn't look at it in
6 that regard. I'd have to go back and look at the
7 original FDP, but Brad might be able to speak to that.

8 **Nicole Campbell:** So, the standard though isn't that
9 it prevents us from doing what we want to do. The
10 standard is whether or not their plan is in harmony with
11 the existing and planned vicinal uses. In this case
12 right now, all that's there are these old lodges. So,
13 from our perspective, they are not in harmony with the
14 old lodges. I mean, they are from 1971, they are one or
15 two stories. I think you saw probably from their
16 documentation you can see right here, these are the
17 lodges. This is just not in harmony with one and another
18 and it's because of the position they have taken. I know
19 they have said that this area is zoned for mixed use, but
20 they are the ones that are preventing it from being
21 anything other than the lodges. So, right now the
22 question is --

23 **Todd Brown:** I'm going to object again to that
24 statement.

25 **Nicole Campbell:** -- whether or not their planned

1 use, all of this, is in harmony with these old lodges
2 sitting here. We would say they are not.

3 And, you know, he pointed out some certain things
4 about it, he is saying well, you know, this road here is
5 planned to be more of a nice promenade, whereas this is
6 more of just a backyard street. You know, he said some
7 other things about, you know, that you were talking about
8 earlier about what was facing the Lake from their
9 property. So, those were all presented in his testimony.

10 I don't know what other questions you may have with
11 regard to the planned vicinal use.

12 **Chairman Coleman:** It's seems that when we get to
13 the next phase that the orientation of the parking lot
14 and the screening of the parking lot would become an
15 issue then. As far as harmonious with what's there now,
16 I mean, what's there now is there. They are proposing to
17 build something different and depending on what goes
18 there will determine how it has to be screened or not
19 screened. But if we want to look at the plan in the
20 context of what is allowed on that property, then the
21 Downtown Plan calls for mixed use, taller buildings, they
22 are going to have certain capacities. You could be
23 making the argument that the road proposed, that curves
24 around, has to have sufficient capacity to handle what
25 the Downtown Plan allows for if it was developed, in the

1 abstract.

2 Back to the map, you are still not telling me how I
3 can turn down what they are proposing because it doesn't
4 allow you to do what you are doing.

5 **Nicole Campbell:** Well, but your point was
6 different. Your point was that because the Downtown
7 Columbia Plan allows for mixed use development in IMH's
8 property, that certain things in their development would
9 need to be able to support that. One of the things that
10 you just pointed out and that Mr. Costello has pointed
11 out, is that this road is insufficient to meet those
12 needs.

13 **Chairman Coleman:** Okay. But you haven't said that,
14 that only took me 15 seconds to say.

15 **Nicole Campbell:** Well, he did testify about that
16 road, he did.

17 **Chairman Coleman:** Please go ahead.

18 **Board Member Cecil:** Earlier you talked about
19 points, differences in choices, you are looking to put
20 your parking on the back, versus they are looking to put
21 their parking on the front. But if their parking is
22 ground level or lower, none of that is going to be
23 visible from the Lake so far as I can tell in terms of
24 the view from the Lake which I think is important to you
25 and I think it's important to everybody. I don't see

1 that and I don't --

2 **David Costello:** Can I comment on that?

3 **Board Member Cecil:** Yeah.

4 **David Costello:** And I agree with you. If it's
5 below grade and you don't see it then why complain about
6 it, but it is the one section, if you go back to it, it's
7 fairly prominent in the one location.

8 **Board Member Cecil:** That's hard for me at this
9 phase to look at, because at this phase that doesn't
10 exist.

11 **David Costello:** Okay.

12 **Board Member Cecil:** For me, it's a placeholder and
13 we will one day get to looking at that. It's kind of
14 catch 22, because if they made Road A, I think that's
15 what that road is, if they made that the scenic road,
16 then nobody could use that for any deliveries or other
17 access. It would be a hotel that couldn't put a truck
18 above, whatever weight restrictions, on that type of
19 surface. That gets hard. I think, too, it's also hard
20 for us. You know, we are trying to take a broad
21 interpretation of the plan, at least for me, my thought
22 earlier, I'd rather take a broad approach to it and look
23 at it. I think when we get narrow, it gets really hard
24 because if we get narrow, you know, are we supposed to
25 focus on what's there presently in which case, you know,

1 new buildings would need to have boarded up windows, or
2 would we need to look at what's ahead and what it could
3 be on both properties. So, that part's hard, and I think
4 first we have to take a look at the totality, and we take
5 into account, you know, both sides of what goes into
6 that. I think some of this gets into details that are
7 tough for this stage and I think are very valid at later
8 stages. So, I just struggle with some of those because
9 when you come back, we will be looking at the
10 presentation of what you were looking at and we can't do
11 that at this stage either. We all probably have thoughts
12 of what we just saw. So, I guess --

13 **David Costello:** It's a tough one.

14 **Board Member Cecil:** It really is, and it's tough
15 for us because we are trying to manage multiple things.
16 We are trying to manage the FDP of this, which you know
17 is a broad interpretation. It's tough because initially
18 it was right up against the SDP so there is already those
19 documents that are available and it's hard to put that
20 genie back in the bottle of having seen that.

21 **David Costello:** I get it.

22 **Board Member Cecil:** Like with the exhibits and
23 giving deference and, you know, very often not a lot of
24 legal clarity on the Planning Board. It's very loose
25 wording, loose language, and so a lot of times we are

1 trying to figure that out as we go. For what it's worth,
2 I hope both sides know, everything is heard, everything
3 is taken in. It's hard and it's a lot. Obviously, we
4 understand everybody has their vested interests and us or
5 anybody that may testify later has a vested interest in
6 the future of the Lakefront and Downtown Columbia.

7 **David Costello:** It's unfortunate that we are here
8 having this discussion frankly. One other note, you guys
9 never met before, right? Never seen me before. A lot
10 of buildings have been built in Columbia, I've never been
11 here. Never argued against anything. Never took
12 exception. It's not, you know, I get it. But this one
13 matters, and it matters for a lot of reasons. So, you
14 know, I'm not here randomly or arbitrarily. I'm not here
15 to eliminate HRD's sort of inherent right to do things on
16 certain properties, but this one really matters to us.
17 We've got a massive investment. We just dumped \$30
18 million into that hotel. That thing that you just saw
19 didn't get built for nothing. What happens around us
20 really matters.

21 **Chairman Coleman:** Does anybody else have questions?
22 So, Mr. Brown you can cross.

23 **Todd Brown:** Thank you very much, Mr. Chairman. We
24 are going to submit on a previous and continuing
25 objection to the admission of these materials and to the

1 related testimony. Addressing private covenants and
2 agreements as we have objected, they are not properly
3 before this body. So, we are going to submit on our
4 objection. Of course, we reserve the right to address
5 this in the appropriate form and HRD is not admitting
6 anything by not contradicting our own objection in this
7 proceeding and by not cross-examining this witness. The
8 notion that Mr. Costello appears before the Planning
9 Board to present his own spin on the very items that he
10 elected to place before the jurisdiction of the Court is
11 inappropriate in our view and we reserve all of our
12 rights.

13 **Chairman Coleman:** Okay.

14 **Nicole Campbell:** That was more of a statement than
15 a cross.

16 **David Costello:** I guess he doesn't have any
17 questions.

18 **Nicole Campbell:** If I might respond. We didn't
19 offer the covenants and we focused on the vicinal use and
20 so I'm not sure what that statement was about. Maybe
21 it's for what he thinks we are going to offer later, I
22 don't know.

23 **Chairman Coleman:** Maybe.

24 **David Costello:** Done with me?

25 **Nicole Campbell:** Yes. Can I call another witness?

1 **Chairman Coleman:** No, wait. Is there anybody else
2 here that would like to ask question of Mr. Costello.
3 Okay, seeing none, you are done.

4 **David Costello:** Thank you.

5 **Chairman Coleman:** Thank you for your time.

6 **Nicole Campbell:** We will call Brad Canfield.

7 **Chairman Coleman:** Thank you.

8

9 **TESTIMONY OF BRAD CANFIELD**

10 **Chairman Coleman:** Do you solemnly promise to speak
11 truthfully in the testimony you are about to give?

12 **Brad Canfield:** I do.

13 **Chairman Coleman:** Thank you. State your name and
14 your address for the record please.

15 **Brad Canfield:** Brad Canfield, 10475 Little Patuxent
16 Parkway.

17 **Chairman Coleman:** Thank you.

18 **Brad Canfield:** So, I had a ton of notes, pages of
19 stuff and slides, but it sounds like they are going to
20 object to just about everything so I don't want to waste
21 everybody's time.

22 **Nicole Campbell:** Well, Brad, it did come in so you
23 can proceed as you intended I think and let him object if
24 he wants to.

25 **Brad Canfield:** Okay.

1 My name is Brad Canfield. I am opposed to this FDP.
2 I've lived in Columbia since 1969. I've worked my entire
3 life in Downtown Columbia. Starting at age 8 1/2 I
4 started delivering the Columbia Flyer and the Baltimore
5 Sun in the east Bryant Woods neighborhood. Sounds like a
6 simple paper route but it was actually pretty complex.
7 On my paper route I had Jean Moon, the editor of the
8 Flyer. Delivering the Flyer to her house had to be on
9 time. I had Pat Kennedy who was the President of CA
10 before they were as dysfunctional as CA might be called
11 now, back when CA was in a good place. I had Oprah
12 Winfrey on my route, but back then she was just Oprah
13 from channel 13, and I had Jim Rouse on my paper route.
14 Over the 5 1/2 years I got to know Jim Rouse really
15 well. Frequently he would come out and talk to me and he
16 would give me advice, suggestions. I was fascinated with
17 his electric car which he had 50 years ago, or 40 years
18 ago, he was driving an electric car. Then, one day, I
19 got a job at Merriweather Post and went and told Mr.
20 Rouse that I was no longer going to be his paper boy. He
21 gave me some advice and it stuck with me all this time,
22 which was always work as hard as you can, always treat
23 people with respect and most importantly, always be fair.
24 And that stuff really stuck with me. I wrote it down. I
25 saw him a few days after the paper route and he said, did

1 you remember my advice, and he was impressed that a 12-
2 year-old kid actually remembered what an 80 year old man
3 told him, but I repeated it verbatim. That made him
4 smile and he said, someday you are going to run that
5 place Merriweather, and 42 years later I'm still at
6 Merriweather running the place.

7 I bring this up because people like to bring Jim
8 Rouse in to all this and his vision and his thing. I'm
9 someone that had a personal reaction with it, and it
10 shaped who I am as a person and what I believe in and
11 what I stand for and this whole situation infuriates me.
12 I think it's irresponsible.

13 I guess if I was to make arguments now, I would say
14 that they should go back to making medical office
15 buildings. Reject this proposed change. Don't do 775
16 new units, because by doing those new units you are
17 preventing other people that are in the neighborhood from
18 building units. There are only so many schools, so many
19 roads, and the response we always get is we're the master
20 developer. We've done the CEPPA's. I don't want to hear
21 it.

22 If Columbia was built and Ryland Homes built every
23 single home in Columbia, can you imagine how boring it
24 would be? No, there was Columbia Builders, Ryland
25 Builders, Ryan Homes, Patriot Homes, there were a lot of

1 different builders. We are getting to the point where
2 there is going to be one monopoly owing all of the
3 apartments. So, I would say that approving this change
4 from medical office to apartments on the FDP, since
5 that's the only thing we are allowed to discuss tonight,
6 is in appropriate because it's putting too much inventory
7 in one person's control, and it doesn't allow for a
8 variety of flavor and different things. If somebody owns
9 90 percent of the apartments in Columbia, there's not a
10 lot of rent control going on.

11 I had a whole long story, but I'm not going to --
12 I've become really interested in Town Center. I was very
13 involved in setting the CEPPAs and working with the
14 County Council and setting what the actual CEPPAs were.
15 I'm familiar with them and I just had some questions
16 about that, but it seems like every time I ask a
17 question, I get an answer that it's getting kicked down.

18 The one thing that really sticks with me and what I
19 think the vicinal use is, is everyone agrees that the
20 current lakefront entrance, where the people tree is and
21 the fountain and the steps going down and soon the
22 library, that is the main entrance to the Lake, but the
23 CEPPAs, and everyone always said that there needed to be
24 a second major entrance way to the Lake. That's
25 something that I've thought if you have one on this side,

1 you should have one on that side. Well, the CEPPAs
2 called for a second entrance to the Lake and our plan and
3 our vision for our seven acres had a grand staircase down
4 to the Lake and it's just crazy to me that that's not
5 something that we are going to coordinate with this FDP.
6 If we are only allowed to talk about roadways and
7 buildings, well, if you take our plan and their plan,
8 we've got stairs here and they've got their pathway and
9 open space here. They don't meet up. It's crazy to me
10 that that's not being discussed and figuring out before
11 we do these projects.

12 I feel like this side, the developer, the master
13 developer, got a taste for how to go through this
14 process. I've sat on that side of the table with Todd
15 representing me before. So, I know both sides of the
16 story.

17 Most of the development they've done now has been on
18 the Merriweather Island, the Merriweather District and
19 what they call the Crescent. They were building a brand
20 new neighborhood in a field. They are bordered by 29,
21 Broken Land Parkway and Merriweather Post Pavilion,
22 nothing around.

23 Now they are coming into a 50 year old neighborhood,
24 Lakefront, but there is no coordination, no planning, no
25 talking and we get like the same answers all the time.

1 Everyone here has concerns and has rights to parking and
2 it's never been addressed. It's we're the master
3 developer, we are not talking about parking. Wait until
4 the -- I still don't understand why it's final
5 development now, and site development next, but wait
6 until the SDP to hear details on parking. Let's talk
7 about it now, let's figure it out, let's not go any
8 further until we take time to figure out where everybody
9 is going to park that has rights.

10 You can say that they are going to object and say,
11 that's a matter for the Courts. No, it's not, it's a
12 matter for common sense and people coming to these
13 properties, where are you going to park. I don't
14 understand how that's not addressed until we get to the
15 16th step of a 16-step process. It just makes no sense
16 to me.

17 I had a ton of stuff about the land uses, but I
18 guess given the constraints that we are allowed to argue
19 specifically on this FDP tonight, I would say too many
20 apartments, 775 is too many. Make them go back to the
21 original medical office building and don't build any
22 apartments and allow somebody else to build apartments in
23 Town Center so we get a little more variety and not
24 everything built from one single company.

25 This would also hold up AFHO, they are not building

1 a whole bunch of new schools that I'm aware of in Town
2 Center. Little Patuxent Parkway is not expanding to
3 seven lanes to handle more traffic. There's probably no
4 money in the budget for a new interchange off of 29 that
5 was talked about. So, this has consequences. By
6 approving just this piece, it has consequences for all
7 the other landowners Downtown of what can be built and
8 what's allowed.

9 The one thing I did see, and again, I'm a concert
10 guy, I work at concert facility. I met David Costello by
11 chance six years ago. We both shared a passion for music
12 and stuff down by the Lake and the fact that he is a
13 major landholder down by the Lake and appreciates the
14 Lake and concerts, that's how Merriweather Lakehouse was
15 formed. We both like the challenge of -- but it was
16 really important accepting the seven acres that -- our
17 little piece of the world down there, the seven acres, we
18 were excited to do it and we wanted to make sure we did
19 it right. We've played by all the rules, and we've done
20 everything right, and we've been met with less than Jim
21 Rouse's style, I should know these, I've known these
22 since I was ten, but fairness. No one has treated us
23 fair, and we are local guys. I grew up, like I said, I
24 lived in Columbia since '69 and I'm fighting a major
25 developer from Dallas or Houston, that changes

1 management. The new guys says, you know, we are no
2 longer doing medical office, we are doing apartment
3 buildings. Even though all of our other apartments in
4 Town Center are above ground parking, and we'll put a
5 five-story thing around it, all of sudden now they change
6 and they building exactly what we were talking about.
7 It's going to prevent us from ever doing it. It's just
8 not fair, it's not right. There is nothing about this
9 that is good.

10 The fact that we had to waste time and, like we've
11 said, obviously we are in Court on this matter. It's been
12 going on for a long time. Even the Court hasn't been --
13 it's not like two gentlemen agreeing that something needs
14 to be interpreted by the Court. We're getting games on
15 the other side, we're not moving anywhere.

16 There's a team over here that's really local,
17 longtime, lifetime people that care about this project
18 and want nothing more for them but to build a spectacular
19 project in Lakefront North and we build our spectacular
20 project and there's a grand new entrance. The end of
21 their little pathway connects right to ours like we own
22 the same land, and we are working together.

23 We tried to work together. When we originally
24 started this there was some synergy and some talking. We
25 hired JLW which is Dan's firm, they were onboard with us

1 and we had Design Collective as our architect. I've
2 known Carl Goodship (*sic*) for 30 years, consider him a
3 friend, he called me and said the master developer won't
4 let us work on both projects together. How is that
5 vicinal uses? How is that keeping everything together?
6 It's just crazy to me. It's crazy that we are even
7 having to sit here and to defend this stuff.

8 But I guess for an FDP I would say approve the
9 previously approved one and reject the 775 apartments
10 until we can get answers on a lot of other stuff. That's
11 it. I had a bunch of other stuff, but I'm not going to
12 bore anybody.

13 One other thing. I talked to Jill at Planning and
14 Zoning, and I just don't understand the CEPPA requirement
15 that calls for a second lakefront terrace steps to the
16 Lake. I don't know why I'm so excited by this because it
17 holds such passion for me on the original thing and to be
18 able to create a second one seems spectacular and could
19 be even an updated cooler version of what's already
20 there. It could be where people gather for the 4th of
21 July. There's so many potentials for that and the fact
22 that these two properties aren't working on that
23 together, and they get some type of CEPPA.

24 The CEPPAs were put down as alternate timing to meet
25 the CEPPAs, but no one can explain to me what that is. A

1 CEPPA is a Community Enhancement, something, something.
2 They have to do them. You have to do it before you do
3 this step, this step, this step, this step. This second
4 Lakefront step keeps getting kicked down. Everything
5 that I've heard is that it's going to happen between
6 Whole Foods and the apartments to the south of the Lake.
7 That's where the second grand staircase is -- there's
8 nothing over there, there's no density. They are
9 building dense 775 residential with mixed use and we're
10 going to somehow, someday build our project. That's the
11 dense area. That's where you want another grand
12 staircase going down.

13 On their presentation, I guess, this is specifically
14 on this FDP, I think it's a joke that it's a pathway that
15 winds around and basically goes to Vantage Point and
16 connects to a path that connects to the Lake. That's not
17 a lakefront connection, that's a modified CA path. They
18 said it has bike access and ADA access. So do all CA
19 paths. That's nothing exciting. That's not a connection
20 to the Lake. That's a roundabout way. That's like saying
21 you can go to Annapolis via Baltimore, instead of a
22 direct shot to Annapolis. It's not a connection.

23 So, it just seems like we are missing a big thing
24 there with the CEPPAs, and I can't get my hands around
25 what the CEPPAs mean. Are they just objectives, but they

1 can be pushed off into the distance, or are they specific
2 things that needs to happen. But I'm not a lawyer and I
3 don't understand that.

4 The other thing is when I was reading, I actually
5 did read all you guys, the Planning Board, I was so fired
6 up after the last meeting, that I read your whole by-
7 laws. And one thing I did say that was on page 5,
8 section J, is "a petition may not be heard if the
9 substantially same issues are before a court" --

10 **Todd Brown:** I'm going to object to that. That's a
11 --

12 **Brad Canfield:** It's right in there.

13 **Todd Brown:** That's a part of a rule that is not
14 part of the Planning Board's rules. He's reading from
15 something else. It's not from our rules. I don't know
16 what he's reading from, but it's not from your Rules.

17 **Brad Canfield:** Okay, can we take time to go to your
18 website and go to page 5, section J, where it says that
19 exact thing on the Planning Board's website? How can
20 that not be a part of their rules? I made it up? I'm
21 reading it verbatim. "A petition may not be heard if the
22 substantially same issues are before a Court of Law." I
23 ask the Planning Board to investigate these charter by-
24 laws because I believe this case involving the land and
25 the development is just that. I'd be happy to provide

1 further details up further request.

2 **Todd Brown:** I'd like to respond if I might Mr.
3 Chairman, when you are ready.

4 **Chairman Coleman:** So, on our rules and procedures?

5 **Brad Canfield:** Page 5, section J.

6 **Chairman Coleman:** That whole bottom of the section
7 is section 1.103 General Provisions. There is no J.
8 It's 'D', Appearances before the Planning Board.

9 **Board Member Cecil:** Is that from the exhibits we
10 received during the week?

11 **Nicole Campbell:** Yes.

12 **Board Member Cecil:** So, one of the notations --
13 that looks like it's from the Board of Appeals by-laws.

14 **Nicole Campbell:** It is.

15 **Brad Canfield:** Okay, I got it wrong.

16 **Nicole Campbell:** So, in other words, if this
17 proceeds and it gets appealed then the Appeals Board will
18 not proceed with a hearing on the matter because, in this
19 case, we have a pending lawsuit with regard to the issues
20 and, in particular, with regard to the parking that they
21 have planned. I guess it's in the SDP. But I will tell
22 you that, you know, it's not just in the SDP. We went
23 over the one provision the last time we were here that's
24 in their own FDP about the covenants and about the fact
25 that they have to provide parking to surrounding

1 properties. But, in addition to that, it's in your
2 Zoning Board regulations and the neighborhood specific
3 design guidelines, Section 2A on page 18, where for new
4 development "neighborhood specific design guidelines must
5 be submitted for an individual neighborhood with the
6 Final Development Plan and shall address the following"
7 and in (a) one of those things is parking.

8 So, the FDP process is not devoid of parking
9 obligations despite the fact that that is what they
10 maintain. But, in any case, this really should not
11 proceed give the fact that we have a declaratory judgment
12 action in Court that seeks to have the Court declare that
13 their SDP and FDP are in violation of the covenants
14 because they do not provide sufficient parking, in this
15 case, the vicinal uses that we have been talking about.

16 Therefore, really, this should not continue to any
17 further hearings.

18 **Chairman Coleman:** Okay. I'll come back to that in
19 a minute, but that's not in our Rules and Procedures that
20 has that language.

21 **Brad Canfield:** I made a mistake. That's why you
22 shouldn't give me power tools. I read something and I
23 guess I was reading the wrong thing. My wife tells me all
24 the time, just because you have tools doesn't mean you
25 can fix it.

1 **Nicole Campbell:** It's in the Administrative
2 Procedures Act, and the Appeals Board Rules, but it
3 wouldn't make --

4 **Chairman Coleman:** Yes, and we are not the Appeals
5 Board.

6 **Nicole Campbell:** Understood, but to the extent that
7 you did hold hearings on it, given that there is a Court
8 case about the very issues that are going to be
9 addressed, it wouldn't make sense to proceed,
10 particularly given that we would just appeal and then the
11 Appeals Board would stay it all.

12 **Chairman Coleman:** So, I don't understand that.
13 Because to me it goes the other way.

14 **Nicole Campbell:** It's within your discretion to
15 stay it, particularly given that rule.

16 **Chairman Coleman:** However we decide the case
17 tonight, the other party has chance to appeal. Now,
18 whether that appeal would go forward until the other case
19 is heard or not is for the Appeals Board to decide. But
20 it can't be a case where it's an automatic rejection of
21 your appeal, right?

22 **Board Counsel Moore:** The Rules provides that where
23 substantially the same issue is pending before a Court
24 the Board of Appeals, by its own rules, chooses to defer
25 hearing it pending the outcome of the Court. I'm not

1 saying that they have made a decision by adopting that
2 Rule that they won't proceed on a case where the same
3 issue is going to be decided by a Court. Whether it is
4 the same issue or not, they would have decided and it's
5 their rules, it doesn't apply to the Planning Board.

6 **Chairman Coleman:** But the issue in front of them
7 would be whether to proceed or continue, not just deny
8 the appeal?

9 **Board Counsel Moore:** They would not deny the
10 appeal. They would either stay the appeal so that the
11 Court could resolve the question and they would then
12 probably follow what the Court decided, or whether they
13 could continue because they decide that the issue isn't
14 the same issue as pending before the Court.

15 **Chairman Coleman:** Because, whichever way the coin
16 flip goes tonight, the other party still has a chance to
17 appeal, and it can either be stayed or it can be decided.

18 **Board Counsel Moore:** Correct.

19 **Chairman Coleman:** So, and I'm going to go further
20 out on the limb, being that I was actually correct on one
21 thing, let's see how far I can go until I'm wrong, but
22 the fact that it was brought to us by staff and by you,
23 we are clear to hear this regardless of what other
24 litigation is going on?

25 **Board Counsel Moore:** There is nothing about

1 anything pending in Circuit Court that prevents this
2 Board from hearing this case pursuant to the zoning
3 criteria that apply to this plan.

4 **Chairman Coleman:** Okay. So, is that clear?

5 **Todd Brown:** Yes, and we agree with that. We don't
6 agree with the reference to being substantially similar
7 issues. We don't agree with that. But we agree with
8 what seems to be the decision of the Board.

9 **Nicole Campbell:** If I may? What we are saying is
10 that you have the discretion to stay it because the
11 Appeals Board would stay it. The reason why we have some
12 of these documents in here including the Complaint and
13 the Orders of the Court and the Scheduling Order showing
14 that the case is going to go to trial in September is so
15 that the Board understands that, in particular, Count IV
16 of the Second Amended Complaint, addresses the fact that
17 this SDP and FDP is in violation of the covenants because
18 of the parking issues. So, we are asking the Court to
19 make a declaration that they can't do what they want to
20 do because it violates the covenants. So, they have to
21 plan something else and provide sufficient parking.

22 So, we are asking that you exercise that same
23 discretion, particularly given the parking issues, and
24 not hold further hearings because the parking is not -- I
25 mean, we are going to be here, I guess, again. If you

1 proceed with this FDP we will be here again on the SDP
2 asking for the very same thing. I wanted to try to get
3 ahead of it.

4 **Chairman Coleman:** Okay. So, unfortunately for you
5 that's not going to happen. From my understanding of the
6 scope of the changes in what we are discussing and
7 approving in FDP, the specific parking and locations and
8 other things like that are not part of the discussion for
9 this, unfortunately named, Final Development Plan.
10 Right? And I agree with you on the name, and I didn't
11 pick it either, but we are deciding land usages and
12 densities and heights and other things in general, not
13 the specifics that you guys, I know, are chomping at the
14 bit to get to. It's my understanding that that's not
15 what the role of the FDP is. Am I correct? We all
16 agree, so then that's the way it's going to be. Then you
17 can say we are wrong and appeal. Go ahead Brad.

18 **Brad Canfield:** Just one more comment. I get that
19 this is not the time, there are no specific details and
20 I've used those same arguments fighting for an FDP/SDP
21 process that I went through. But, I guess, the
22 difference is that we had that first meeting, step 8 in
23 the 16-step process last week and tonight was supposed to
24 be step 16. That's not enough time to come to a meeting
25 and see the presentation. That's not enough time for the

1 rest of the neighborhood to know what's going on. If we
2 are going to reschedule, you know, as the SDP
3 rescheduled, make it in three months, four months, where
4 people have time to digest this major development that's
5 happening in the middle of a 50-year-old neighborhood,
6 not just in a field. I'll leave it at that.

7 **Chairman Coleman:** Okay. Does anybody have
8 questions? Please go ahead.

9 **Board Member McAliley:** I'm going to address the --
10 well, the word parking continues to come up over and over
11 and over again. We heard it during the case for the
12 Sheraton when it was becoming the Merriweather Lakehouse.
13 Speaking of naming creativity, moving from Merriweather
14 Post Pavilion all the way across to the Lake and
15 continuing the Merriweather, so everyone's being creative
16 with naming.

17 **Brad Canfield:** It was part of my presentation
18 *(inaudible)*.

19 **Board Member McAliley:** Exactly, all right, so the
20 other thing I want to bring up, as far as parking is
21 concerned. We just say this beautiful plan that you
22 presented on what's to come, or from Mr. Costello, what's
23 to come. It looks great, looks fantastic. However,
24 nobody ever mentioned during that explanation of what
25 you're building, where is everybody going to park?

1 You've got all that land, why aren't you building your
2 own parking instead of suing others to build on their
3 land parking. I don't get it.

4 **Nicole Campbell:** To be clear, he did talk about the
5 parking. It might have been brushed over. We are
6 sensitive to the fact that the parking issue has been
7 articulated as part of an SDP process, but he testified
8 that the parking was underground. There was an
9 underground facility on the property for the new uses.

10 The issues with the parking with regard to HRD is
11 for the hotel, because the hotel has had parking from HRD
12 on the shared parking lot that they are trying to build
13 on and the parking garage that has been there for the
14 last however long the hotel has been in existence, since
15 at least the 80's, and he pays for it. When he purchased
16 the property, it had shared parking. So, they owe the
17 shared parking for the hotel.

18 The new uses, they have planned for parking to be on
19 the property underground primarily.

20 **Board Member McAliley:** So, why are you still
21 bringing it up here tonight? I'm sorry.

22 **Nicole Campbell:** Well, because their plan with
23 regard to taking that entire lot, it provides
24 insufficient parking. I can certainly go through the
25 parking issues and would love to do so. You are shaking

1 your head.

2 **Board Member McAliley:** Well, no, I just know that
3 several years ago when we approved the parking garage for
4 under the other Costello property up the street, you went
5 10 floors deep or something like that?

6 **Unknown:** Six

7 **Board Member McAliley:** Six, yeah, it was
8 phenomenal. How come you don't do that there?

9 **Nicole Campbell:** They are, the plans have parking
10 for the new buildings, underground, under those
11 buildings. In fact, there was a dispute about it and
12 they directed that the parking be on the property for
13 those new buildings, but the parking for the hotel is
14 still in the parking garage and in the shared parking
15 areas where they are intending to build. So, they admit
16 that they owe parking to the Kincade building and to the
17 hotel --

18 **Todd Brown:** I'm going to object to the comments
19 about this. I've tried to be patient, but I'm going to
20 object at this point about the parking.

21 **Nicole Campbell:** It's in the documents. Even in
22 the FDP it talks about owing parking under the covenants.

23 **Board Member McAliley:** I'm good, thank you very
24 much.

25 **Chairman Coleman:** I'll sustain your objection. He

1 brought it up and we are still not talking about it,
2 okay. I want to talk about it too, but we will just keep
3 quiet.

4 Do you have cross-examination?

5 **Todd Brown:** No questions.

6 **Chairman Coleman:** Does anybody else have questions?

7 **Nicole Campbell:** Another witness. I'm sorry, I
8 guess we have to wait, are there any more questions for
9 Brad?

10 **Chairman Coleman:** Go ahead.

11 **Board Member Cecil:** Was anything submitted for AFHO
12 for any of this?

13 **Brad Canfield:** For projects that we're working on?

14 **Board Member Cecil:** That you're working on.

15 **Brad Canfield:** We did the research for it but we
16 were never able to get past the step of not being told we
17 can't build on our own property, so we never moved
18 forward with it.

19 **Nicole Campbell:** But at the time they were planning
20 to build a medical office building on the lot, so --

21 **Todd Brown:** You know, people keep talking about the
22 medical office building. This original SDP that was
23 approved has 775 units in it. That was in the original
24 FDP for this site.

25 **Nicole Campbell:** That was in 2020. Before that it

1 was a medical office building.

2 **Chairman Coleman:** So, you had raised your hand. Do
3 you have a question or are you going to be the next
4 witness?

5 **Nicole Campbell:** He's the next witness.

6 **Chairman Coleman:** Okay, so no more questions?
7 Thank you for your time.

8

9 **TESIMONY OF KINGDON GOULD**

10 **Kingdon Gould:** Hi, my name is Kingdon Gould.

11 **Chairman Coleman:** Thank you. Do you promise to
12 speak truthfully in the testimony you are about to give?

13 **Kingdon Gould:** Yes.

14 **Chairman Coleman:** Thank you. Would you also state
15 your address please?

16 **Kingdon Gould:** 10150 Gorman Road.

17 **Chairman Coleman:** Thank you.

18 **Kingdon Gould:** I'm also an owner of Kincade with my
19 family, not to mention Little Patuxent Square, which my
20 father built with David Costello.

21 First of all, I was struck by Brad's testimony
22 because I also knew Jim Rouse. In fact, my brother
23 married his niece, one of them. There are a lot of
24 Goulds and there are a lot of Rouses. And what he said
25 about Jim was absolutely consistent with the Jim Rouse

1 that I knew and who founded Columbia, and my dad, by the
2 way, helped him do that. Fairness was what he wanted,
3 and that was through everything in Columbia. The idea
4 now that we are being hounded by HRD in everything, and
5 they don't want anybody to speak is like about as
6 opposite of Jim Rouse as you could be. He would be
7 turning in his grave if he listened to what his company
8 was saying now.

9 Anyway, we did build very deep in the ground when
10 David and my dad built Little Patuxent Square, but that
11 was because they got turned around by Howard Hughes and
12 they had to do that in order to get going. My dad was
13 getting a little older then and his comment to me on
14 everything that I was working on was, in my lifetime son.
15 So, that's the way that went, and you will never see
16 another building in Columbia with a four-story garage
17 underground, or even a three storey. That was a huge,
18 huge financial penalty that was imposed on Dad and David
19 when they did that. I went down and looked at it myself.
20 I've had a little experience developing in the City, so
21 I've built a number of garages, none six floors down
22 David, but five floors down. There was rock in there,
23 that was a huge expense and that was put on David and my
24 dad at the last moment by HRD and they gave up their
25 rights to park in the parking lot that now HRD wants to

1 develop.

2 By the way, what are they developing? They are
3 developing buildings that turn their backs on their
4 neighbors. No front yards there. They share that with
5 themselves. That was not the Rouse way.

6 I had a lot of experience with Rouse, because we
7 worked with them on financing a number of other projects.
8 As you probably know, he was a mortgage banker among
9 other things. I also worked with him to push Jubilee
10 housing downtown, so I know well Jim's ethics and his
11 morals.

12 The parking is critical and for us at Lakeside, a
13 little different from Little Patuxent Square, we added to
14 that garage, which was required by HRD. At that time, it
15 was Al Scavo who was making the requirements, because
16 that was going to provide all the parking we needed. We
17 added a floor, 125 more spaces there. But that's not
18 like we are going to keep those because now Howard Hughes
19 is trying to cram other parking in there and use that and
20 saying, well, but the area will have it, go up to the end
21 and park up there. Your customers can park there, your
22 tenants can park there. They wouldn't do that if they
23 were leasing our building. It just doesn't work.

24 I've run a lot of parking around in DC and I can
25 tell you the walk from the garage to the office or to the

1 apartment wants to be as short as possible.

2 So, we asked to meet with Howard Hughes for a long
3 period of time. They wouldn't meet with us. Then they
4 finally met with us the day before our hearing a week
5 ago, the morning before we had to come in. That's not
6 working with your neighbors. We've been asking. How
7 many times Dick did we ask to meet before you got a
8 meeting?

9 **Unknown:** (*inaudible*)

10 **Kingdon Gould:** Come on. They were sticking it to
11 us, and they will do it to everybody else because that's
12 what they do.

13 If you want them to continue as your master
14 developer of Columbia, you are going to end up being
15 unhappy. Some of the people have already invested their
16 money. You know, Lakeside is not a twinkle in my eye
17 anymore, it's a mortgage that we got to meet. So, it's
18 affecting real things for people who have already
19 invested millions of dollars in two different projects.

20 I was glad to see David bought the hotel because it
21 needed diversity, and the redoing of that hotel is great
22 for Columbia and it's great for this area. Quite aside
23 from whether it's compatible with the older part of the
24 Columbia Inn though, lack of parking and the way their
25 road network works, makes the hotel less valuable, less

1 attractive. I built hotels, 700 room hotels. I've owned
2 hotels in downtown D.C., historic hotels, and I know what
3 they need for parking and what the adjacency, how
4 critical that is for a convention that's coming in or
5 meetings, not to mention for just normal guests.

6 So, not meeting and not wanting to address the
7 parking is like saying, yeah, but we'll get this and then
8 we'll figure out if there's water to service it and then
9 I guess we will have to build another sewage plant if
10 that comes up. That's just wrong.

11 They are taking advantage of you as the Planning
12 Board.

13 **Todd Brown:** I'm going to object to that statement.

14 **Kingdon Gould:** Well, you've objected to everything
15 else, and I object to you.

16 **Todd Brown:** That's fine, sir. I object to the
17 statement, it's offensive.

18 **Chairman Coleman:** Overruled.

19 **Kingdon Gould:** So, we like to see what the parking
20 is going to be, because we need that for the tenants who
21 we've already committed to.

22 **Chairman Coleman:** Okay, thank you. Are there any
23 questions? Any cross?

24 **Todd Brown:** No.

25 **Chairman Coleman:** Any other questions from anybody?

1 Thank you for your time.

2 **Kingdon Gould:** Sorry to be aggravating.

3 **Chairman Coleman:** No, thank you for taking the time
4 to come out. Is there anybody else?

5 Let's take a ten-minute break.

6 ***Board Recessed at 8:45 p.m.***

7 ***Board Reconvened at 8:56 p.m.***

8 **Chairman Coleman:** Thank you, welcome back.

9

10 **TESTIMONY OF RICHARD TALKIN**

11 **Chairman Coleman:** Please state your name and your
12 address.

13 **Richard Talkin:** Richard Talkin, 5100 Dorsey Hall
14 Drive, Ellicott City.

15 **Chairman Coleman:** Do you solemnly promise to speak
16 truthfully in the testimony you are about to give?

17 **Richard Talkin:** I do.

18 **Chairman Coleman:** Thank you.

19 **Richard Talkin:** My name is Richard Talkin, and I've
20 practiced law in Howard County from January 1, 1968,
21 until 2018. I'm still in the office practically every
22 day I'm in town because of my interest in various real
23 estate investments, particularly in Columbia. I stopped
24 practicing in 2018 but I'm still very involved in the
25 County and have been.

1 I'm here as an individual tonight because of my
2 ownership interest in Kincade. I'm one of the owners
3 along with Kingdon and Caleb and David and I pointed out
4 the location of Kincade to you the other night which is
5 adjacent to the FDP.

6 Kincade has a right to park on the lot which is the
7 subject of this FDP. We don't own the lot and our
8 parking rights are given to us by virtue of the covenant,
9 and that's the same covenant that is the subject of the
10 case involving IMH and Mr. Costello. This FDP seeks to
11 change our rights without our consent. It should be
12 denied.

13 Until the decision of the Planning Board in the 2020
14 FDP, which has been referred to, I think it was filed in
15 2019 and I think you decided in 2020, residential had
16 never been on an FDP for this area. It was first put on
17 in 2020. In that decision, which I believe is part of
18 the record, if it's not we would like to introduce it
19 into the record, the commercial office was substantially
20 reduced in 2020 and residential became the focus. Now,
21 office space will further be reduced and there will be
22 the finalization of the conversion of this area from the
23 commercial area to a residential, a dramatic change in
24 the character of the neighborhood. As a result, with
25 required restrictive parking for residential.

1 You understand when there are apartments, certain
2 parking has to be set aside. I think it's one parking
3 space per residential unit. So, because this is now
4 changing to residential parking is now restricted. So,
5 Kincade has lost the use of about 400 parking spaces.
6 That's based on the numbers given to us in various
7 documents from HRD. I'm not sure that it's not more than
8 that, and we would probably get into that if we ever get
9 to an SDP if this were approved.

10 You should also note that there are no spaces for
11 public parking even though both the Downtown Columbia
12 Plan and HRD encourage and direct the public to come down
13 to use the Lake area.

14 So, we've lost the use of 400 spaces, and the County
15 has lost the use of 400 spaces in shared parking.

16 **Todd Brown:** I'm going to object to the discussion
17 about parking and the number of the parking and about him
18 saying he's lost spaces out of this. It's just not
19 accurate.

20 **Richard Talkin:** Mr. Brown, this is not about that.
21 This is about the Final Development Plan. Because if
22 residential is approved, the way this plan is, there will
23 be a loss of 400 parking spaces for shared parking and
24 you should be aware of that. In all of their documents,
25 they direct people down to the Lake. The Downtown

1 Columbia Plan directs people down to the Lake. Yet this
2 plan reduces the parking down by the Lake. This plan
3 should not be approved.

4 Now, if you look at your decision in 2020 one of the
5 basis for your written decision was that there would be a
6 comprehensive traffic study for Downtown Columbia. Four
7 years later, 2023, has not been finalized. Are you going
8 to approve their plan again without seeing that
9 comprehensive traffic plan on which you made a basis for
10 your prior decision?

11 There have been changes on the plan, to the 2020
12 FDP, they include in part, one, Road A. If you recall
13 during the examination Road A is that road they put on
14 the northern end of the FDP. I don't have the plan here
15 to show you, but it's at the northern most part, Road A.
16 In cross examination at that time, I was able to get the
17 testimony that Road A emptied into a parking lot. So,
18 now we are going to have traffic coming along Road A
19 emptying into a parking lot. That parking lot is a
20 parking lot for three existing buildings. I have an
21 ownership interest in one of those buildings. We have
22 never been contacted about the fact that they were going
23 to put a road into our parking lot. They have never
24 consulted with us. We have never consented to it. They
25 just show a Road A on this plan leaving and dumping into

1 a parking lot without any plan, without any context,
2 without any commitment from the parking lot people and
3 the people who use it. This plan cannot be approved the
4 way it's now set up.

5 By the way, that Road A was not on the Downtown
6 Columbia Plan, and it was not on the prior FDP at that
7 location. So, they made this change and they have dumped
8 this road onto that parking lot.

9 There have also been changes in height. Did you
10 want to ask about that? Maybe we can get a slide and
11 show Road A? I've got the plan here, it's page 23. It's
12 page 23 on that plan, I have it here.

13 *(Discussion on slides - inaudible)*

14 **Richard Talkin:** Alright, there's Road A, I don't
15 have a pointer here, that was not on any of the prior
16 plans. They have stuck it on this plan and dumped the
17 traffic into our parking lot.

18 So, it's our contention that this plan cannot be
19 approved because there is just nothing that they have
20 done to show why that's there, how it's going to be used,
21 no consent from the parking lot people.

22 Number two, they have asked for a change in the
23 height to 145 feet and you approved that in the prior
24 FDP. But when you approved that, the basis for that
25 approval was that they were putting up commercial

1 buildings which need larger floor to ceiling heights.
2 So, they put in the evidence, we need this because we
3 have commercial buildings so give us a higher distance
4 for commercial users when you approved that. They have
5 since said because we have the higher distance we now
6 need to go from nine stories to thirteen stories. We
7 won't be any higher than the commercial buildings. It's
8 a bait and switch. They go the height based on
9 commercial, and now they are deleting commercial, and the
10 office uses and they still want the additional number of
11 stories from nine to thirteen. So, in this plan it needs
12 to be reduced. There is no basis to go up to 145 feet.
13 The basis was, we are having office buildings. Now there
14 are now office buildings. So, this plan has to be denied
15 with respect to that issue.

16 From other testimony the petitioner has not shown
17 that -- let me go back. If you recall on prior
18 examination, I had the witness point out where the
19 location of a gas station was. That gas station is
20 adjacent to what will be a residential building. The
21 petitioner has not shown that that station will not
22 affect the general welfare and logical development of the
23 neighborhood, and hours of operation and lighting at the
24 station will have no adverse effect. They need to do
25 that, they haven't done it. This plan should be denied.

1 For those and other reasons that you have heard,
2 there is no real harmony with the neighboring properties
3 and uses. I've just pointed out a few of them and you
4 have heard some before. That is required in this FDP.

5 Lastly, there is a requirement in the FDP that there
6 be an agreement on a plan to hold, own and maintain in
7 perpetuity the maintenance of the land intended for
8 common quasi-public amenities use and public art. It's
9 section 125.o.e.3.t.9. It's hard to find, but there it
10 is.

11 So, they have an obligation to put in tonight before
12 the case is over an agreement providing for the perpetual
13 maintenance of these common facilities. They have not
14 done that. So, this plan leaves you no choice, you have
15 to deny it. They haven't complied with the provisions to
16 have an agreement for perpetual maintenance of these
17 common areas and the parking.

18 And by the way, I also want to mention that section
19 133, for off-street parking, also requires a guarantee
20 agreement as to maintenance of the parking. For those
21 reasons we think you cannot approve this tonight because
22 they have not complied with the regulations and their
23 plan is detrimental to the surrounding and neighboring
24 properties. Thank you.

25 **Chairman Coleman:** Thank you. Any questions? Thank

1 you, do you have cross?

2 **Todd Brown:** Just one question. Mr. Talkin, who
3 owns the land that the Road A, as you say, empties into?
4 Who owns that land?

5 **Richard Talkin:** I think it may be HRD, I'm not
6 sure.

7 **Todd Brown:** Okay, thank you.

8 **Richard Talkin:** It is also subject to covenants
9 granting rights to the three existing buildings to use
10 that.

11 **Chairman Coleman:** Thank you. Are there any other
12 questions anybody else would like to ask? Thank you.

13 Is there anybody else? You, sir?

14 **Phil Scherer:** Is this for the opposition?

15 **Chairman Coleman:** Yes.

16 **Phil Scherer:** Sorry, I'm not with them so that's
17 why I was confused.

18 **Chairman Coleman:** Are you done with your witnesses?

19 **Nicole Campbell:** *(inaudible)*

20

21 **TESTIMONY OF PHIL SCHERER**

22 **Chairman Coleman:** Please state your name and your
23 address and do you solemnly promise to speak truthfully
24 in the testimony you are about to give?

25 **Phil Scherer:** Yes.

1 **Chairman Coleman:** Thank you.

2 **Phil Scherer:** I'm Phil Scherer. I'm at 7577 Hearth
3 Side Way in Elkridge.

4 **Chairman Coleman:** Thank you.

5 **Phil Scherer:** So, this isn't really in opposition,
6 but there is no way to mark as favorable with amendments,
7 so that's technically what this is.

8 This is regarding -- actually page 52 on the
9 evidence that's already been introduced -- this page,
10 yes. This is specifically regarding the connection to the
11 Columbia Association trails, the shared use path there.
12 I'm introducing as evidence, I have a single page excerpt
13 from the Howard County Design Manual, Volume 3, the
14 Complete Streets and Bridges Construction. This is page
15 2-11 from the February 2022 revision, the most recent
16 Complete Streets revision guidelines. This is item
17 number 3, target speed.

18 "In most circumstances in Howard County a
19 target speed of 18 miles per hour should be
20 used for shared use paths. Long grades may
21 warrant a higher design speed for the downhill
22 direction, while shared use paths in more
23 developed areas with the greater mix of users
24 may be designed for a lower speed. Target
25 speeds may be reduced to 15 miles per hour or

1 12 per hour if a high percentage of pedestrian
2 path users is anticipated."

3 Earlier today I printed out the engineering plans
4 for this plan and marked them out with tape on the ground
5 and then spent about a half an hour riding my bike
6 basically through the tape to try and see how fast I
7 could go. I couldn't get anywhere near even 12 miles per
8 hour around that corner. My suggestion is that that be
9 redesigned so instead of being two right angles at a very
10 tight hairpin, that it be redesigned where the two legs
11 are basically pulled further apart so it's an easier
12 turn, and then you can maintain a higher speed on a bike
13 as you go around.

14 Additionally, in terms of sort of design here,
15 because that connection into the Columbia pathways that
16 is the Warfield Promenade area, I think it's referred to,
17 almost every single design element regarding pathways is
18 curvilinear. In fact, the sort of design philosophy of
19 that park is a lot of curves at every intersection. It's
20 very obvious, there is a lot of curves there and there is
21 none on that path. So, if you make that sort of a curved
22 path there it would tie the space together. That was my
23 one comment.

24 My second comment was actually in reference to
25 something that the gentlemen who just recently spoke was,

1 he made the comment that there was no public
2 accommodations for parking in this design. That's not
3 true. This is illustrative, so it's not 100 percent, but
4 there are actually 104 parking spots right here that are
5 publicly accessible for bicycles.

6 **Chairman Coleman:** Thank you. Are there any
7 questions?

8 **Board Member McAliley:** Hi Mr. Scherer.

9 **Phil Scherer:** Yes.

10 **Board Member McAliley:** Can you give us an idea of
11 what brought you out tonight and making the comments?
12 It's very unique for us to get that perspective.

13 **Phil Scherer:** Sure. I have a passion for non-car
14 transportation and it's a voice, particularly in the
15 North America and even here in Howard County, that
16 doesn't get voiced a lot. And it's not that expensive
17 and it's not that complicated to make small tweaks to
18 designs, either in land use or construction or roadways,
19 to make things far easier for people who are on bicycles
20 who want to use a bike as a method of transportation to
21 be accommodated. You know, we are not that big, we don't
22 go that fast. I mention my address, I live in Elkridge.
23 During the summer months I actually come into Downtown
24 Columbia most weekends. I never come by car.

25 **Board Member McAliley:** Well, thank you very much, I

1 appreciate it. Thanks for your testimony.

2 **Board Member Cecil:** I was just going to say, as an
3 Elkridge resident that's a bold move.

4 *(laughter)*

5 **Chairman Coleman:** Was there any cross for him?
6 That's okay, I think you are good. Thank you.

7 Is there anybody else that would like to submit
8 testimony that's here?

9 **Unknown:** *(inaudible)*

10 **Chairman Coleman:** So, do they want to -- let's go
11 through -- I mean, I can't be any clearer. If you are
12 here tonight and you want to testify now is your chance.
13 If you don't we are going to move on.

14 **Unknown:** *(inaudible)*

15 **Chairman Coleman:** You had previously signed up? I
16 don't see us having to go read through the list of
17 everybody if everybody is clear as to what's going on.
18 Thank you, sir.

19

20 **TESTIMONY OF LEONARDO MCCLARTY**

21 **Chairman Coleman:** So please state your name and
22 your address and do you solemnly promise to speak
23 truthfully to the testimony you are about to give?

24 **Leonard McClarty:** Yes

25 **Chairman Coleman:** Thank you.

1 **Leonard McClarty:** My name is Leonardo McClarty, I
2 live at 5950 Old Washington Road in Elkridge. However, I
3 am here on behalf of the Howard County Chamber of
4 Commerce.

5 So, again, I am here tonight on behalf of the Howard
6 County Chamber of Commerce which is a business
7 organization here in the County comprised of
8 approximately 700 member organizations of all various
9 sizes and types from not for profit to small business to
10 large organizations.

11 As an organization, at the Chamber, we are dedicated
12 to economic and community development in Howard County
13 and the Central Maryland region. In advancing this
14 mission, we advocate for policies, projects and
15 initiatives that lead to job creation and investment.
16 Along with various parties we work to ensure that Howard
17 County is one of the best places where everyone can live,
18 work, play, grow and thrive.

19 The economic well-being of the County that we all
20 seek to be a part of will depend upon our willingness to
21 judiciously continue with thoughtful plans for growth and
22 increased opportunity. We believe that the Lakefront
23 District's redevelopment provides significant benefit to
24 the County, including those businesses that will be
25 moving into that are and into those spaces, as well as

1 near the Mall and certainly that they will benefit from
2 additional residential development.

3 The Lakefront North project that has been unveiled,
4 certainly, I think will add continued energy and vitality
5 to the Lakefront and certainly will continue to provide
6 additional density to support the businesses that are
7 there now and certainly the businesses that are to come.

8 Certainly, we also see this effort as well from a
9 residential perspective as being part of the full
10 spectrum of housing that continues to be talked about
11 amongst the implementation of the Downtown Columbia Plan
12 that so many in this room for years have watched,
13 participated in, voiced opinions in and so forth.
14 Ultimately, for these reasons, the Chamber supports the
15 plans that have been proposed.

16 **Chairman Coleman:** Thank you. Any questions? Any
17 cross? Thank you.

18

19 **TESTIMONY OF REVEREND MARY KA NIPPARD KANAHAH**

20 **Chairman Coleman:** Please state your name and
21 address and do you solemnly promise to speak truthfully
22 in the testimony you are about to give?

23 **Reverand Kanahan:** I do

24 **Chairman Coleman:** Thank you.

25 **Reverand Kanahan:** Good evening Chair Coleman and

1 Vice-Chair McAliley, it's nice to see you and other
2 members of the Board. My name is Reverend Mary Ka
3 Nippard Kanahan. My work address is 10431 Twin Rivers
4 Road in Columbia, in the Wilde Lake community, where I
5 serve as pastor of a local church. I am the current
6 president of the Columbia Downtown Housing Corporation,
7 which I will refer to as CDHC.

8 CDHC is connected to the 2016 Development Rights and
9 Responsibilities Act which ensures a full spectrum of
10 housing in Downtown Columbia. We worked really hard to
11 bring that to fruition. CDCH also manages over \$8
12 million worth of funds to support the development of a
13 full spectrum of housing in Downtown Columbia.

14 I speak tonight on behalf of the Board in favor of
15 the amended request for PB-455. We support this measure
16 to bring more housing and more affordable housing in the
17 form of 475 units sooner to the Downtown area.

18 Columbia Downtown Housing Corporation is keenly
19 aware that both the pipeline and the timeline of
20 permitting for construction must be managed in order to
21 advance the overall forward movement on the DRRA projects
22 at the new cultural center, the Banneker Fire Station,
23 the Central Library and the proposed transit center. All
24 of these projects bring desperately needed affordable
25 housing for our most vulnerable families and senior

1 citizens in Howard County. We aim to get to at least 900
2 units of affordable housing in the fulfillment of that
3 DRRA.

4 Your approval of PB-455 for the Lakefront North
5 project will ensure that we will be able to bring that
6 greatly needed affordable housing in its projected
7 timeline along with mixed income units without delay or
8 interruption.

9 We support his amendment to the Plan and recognize
10 that this decision will require all the parties, private,
11 public and governmental, to work together to achieve or
12 exceed the aim of 900 units of affordable housing
13 outlined in the 2016 DRRA, and the Columbia Downtown
14 Housing Corporation is committed to doing that and
15 working with all parties involved. Thank you very much.

16 **Chairman Coleman:** Thank you. Any questions, any
17 cross? Okay, thank you.

18 Anybody else that is signed up, that is here
19 tonight, that would like to testify? Okay, let's go to
20 online.

21 **Unknown:** *(inaudible)*

22

23 **TESTIMONY OF PHILLIP DODGE**

24 **Chairman Coleman:** Thank you. Please state your
25 name and your address, and do you solemnly promise to

1 speak truthfully in the testimony you are about to give?

2 **Phillip Dodge:** I do. Good evening. My name is
3 Phillip Dodge and I am the Executive Director of the
4 Downtown Columbia Partnership. I'm here tonight to
5 testify in favor of the amendment to increase housing
6 units for the Lakefront North residential development and
7 other coming developments in Downtown Columbia.

8 One of the significant elements of the Downtown Plan
9 was the aim of bringing community life and activity to
10 the water's edge. This plan calls for revitalizing the
11 Lakefront area by adding cultural, retail, restaurant,
12 office, residential and hospitality uses that will help
13 bring people to this part of Downtown Columbia. The Plan
14 also notes that the Lakefront neighborhood will be a
15 walkable community.

16 The design of Lakefront North, as presented in the
17 FDP, is in keeping with the goals and objectives in the
18 Downtown Plan and the requested amendment to increase
19 housing units now while the market is desperate for a
20 full spectrum of housing options is a good idea. It's
21 not a change to the Plan, it's simply a change in the
22 timing on some of these housing units planned for the
23 future. We can add more than 500 units of affordable
24 housing simply by moving forward with this project as
25 amended. I would remind people that tonight is an

1 amendment of the FDP, not a new FDP process.

2 There will be 175 units in the new cultural center,
3 300 units in the Housing Commission's project that's
4 slated for Merriweather District and 77 units in the
5 Lakefront North residences. More housing in Downtown
6 means more community, more vibrancy in Downtown and it
7 gets us that much closer to our goal of a walkable urban
8 center. Thank you for your time.

9 **Chairman Coleman:** Thank you. Any cross-examination?
10 Thank you for your time.

11 **Phillip Dodge:** Thank you.

12

13 **TESTIMONY OF ALASTAIR SMITH**

14 **Chairman Coleman:** Please state your name and your
15 address and do you solemnly promise to speak truthfully
16 in the testimony you are about to give?

17 **Alastair Smith:** I do. My name is Alastair Smith,
18 address is 9770 Patuxent Woods Drive, Columbia, Maryland.
19 I'm the Director of Development for the Howard County
20 Housing Commission. I'm here tonight to speak on behalf
21 of the Commission.

22 I am testifying in support of the amendment to the
23 Final Development Plan. So, just letting everyone know,
24 the Housing Commission is the Public Housing Authority
25 for the County. We've been operating affordable housing

1 in the County for over 30 years. We own over 2,000 units
2 in mixed income housing in the County and administer over
3 1,500 housing choice vouchers.

4 The Commission has been given a critical role to
5 play in the implementation of the Downtown Plan. Per the
6 Development Rights and Responsibilities Agreement, the
7 Commission has the responsibility to develop no fewer
8 than 417 low-income housing units in mixed income
9 buildings across several sites downtown.

10 The proposed 775 residential unit increase in stage
11 1 provided for in the amendment includes a total of 475
12 allowances for the first two projects that the Commission
13 will develop Downtown. A couple of these have been
14 addressed in prior testimony, but just to highlight the
15 projects again, one is the 174-unit development that will
16 be constructed on top of the new Cultural Center. Half
17 of these units will be low-income units for a total of 87
18 low income units in this project. They will be in a
19 mixed income building and provide access to cultural
20 activities and classes, only an elevator ride for the
21 residents.

22 The second project is the new housing to be built in
23 the Merriweather District adjacent to the Juniper and
24 Marlow apartment buildings. Formerly this site was to
25 include the new Central Library as well, but with the new

1 plan for the library to be on the Lakefront, this site
2 will now include only housing. A great benefit of this
3 plan is that we can effectively double at least the
4 amount of housing units planned on this site. So, we are
5 looking at up to 300 units on this site that are
6 referenced in the amendment.

7 The Downtown Plan is truly a unique opportunity to
8 construct affordable housing with an idea setting in a
9 mixed income community with access to some of the best
10 employment, retail and cultural opportunities in the
11 State. Further, this amendment will allow both of these
12 projects to continue moving forward without any
13 additional delay.

14 The urgent need for affordable housing in our
15 County, means we need to enable construction of the new
16 Downtown housing and move forward as quickly as possible.

17 On behalf of the Housing Commission, I strongly urge
18 approval of the amendment. Thank you.

19 **Chairman Coleman:** Thank you. Any cross? Thank you
20 for your time.

21

22 **TESTIMONY OF JACKIE ENG**

23 **Chairman Coleman:** So, would you please state your
24 name and your address and do you solemnly promise to
25 speak truthfully in the testimony you are about to give?

1 You might be muted on our end.

2 **Jackie Eng:** Yes, I do solemnly swear that my
3 testimony will be accurate and whatever the end of your
4 comment was. I am Jackie Eng, I am coordinator for the
5 Housing Affordability Coalition and I'm testifying this
6 evening on behalf of our Coalition's 200 plus individual
7 and 40 organization members.

8 The Coalition supports this amendment's proposed
9 adjustment to phase 1 of the Downtown revitalization
10 phasing chart that will increase the maximum cap for
11 residential dwelling units from 2,296 to 2,921 by
12 including 475 units to accommodate the Downtown Columbia
13 Community Housing Program.

14 We want to be clear, however, that this support is
15 based on the supposition that permanent allocations for
16 the 475 total units will not be subjugated to the
17 development of other phase one market rate housing. The
18 housing community has long awaited development of the
19 first Downtown Columbia Housing Plan for affordable
20 properties, and wants to ensure that our Artists Flats,
21 the just proposed Merriweather District project and other
22 affordable housing projects will not be slowed or stopped
23 through Planning Board approval of this amendment.
24 Affordable housing is already extraordinarily challenging
25 to develop. The County's decision should not even

1 unintentionally create additional barriers.

2 On a separate issue, and I admit I'm not sure this
3 is procedurally possible, but the Coalition asks your
4 consideration of further amending the phasing chart to
5 include a requirement of a ten percent accessible ADA
6 complied allocation of all housing units built affordable
7 at market. This percentage is consistent with housing
8 opportunity's master plan recommendations. No matter
9 their income, too many County residents, including
10 seniors, simply cannot find housing that meets their
11 physically limited needs.

12 We appreciate this opportunity to provide testimony.
13 Thank you.

14 **Chairman Coleman:** Thank you. Any cross-
15 examination? Any questions? Thank you for your time.

16 So, I believe that concludes the testimony for this
17 case?

18 **Todd Brown:** We have some rebuttal.

19 **Chairman Coleman:** I know. And then there is sur-
20 sur rebuttal and then there's the rebuttal or the
21 rebuttal, rebuttal and, you know, it's fractal type of
22 thing that just keeps going.

23 So, testimony is closed for this evening, and we'll
24 move into Petitioner's rebuttal and then you have a
25 chance to rebut his rebuttal and then there's your

1 summation and then the Opposition's summation. That's
2 where we stand.

3

4 **PETITIONER'S REBUTAL CASE**

5 **Todd Brown:** Thank you. Cecily Bedwell, we would
6 like to bring her back to address some of the comments
7 made by some of the witnesses.

8 **Chairman Coleman:** Thank you.

9

10 **REBUTAL TESTIMONY OF CECILY BEDWELL**

11 **Chairman Coleman:** Are you ready?

12 **Cecily Bedwell:** Yes, we just needed the visual
13 connection. Do I have to be sworn in?

14 **Chairman Coleman:** You were already sworn in the
15 first time. You don't intend to speak untruthfully do
16 you?

17 **Cecily Bedwell:** No, I do not, I will speak
18 truthfully.

19 **Todd Brown:** Ms. Bedwell, if you could again just
20 briefly identify yourself for the record, and then were
21 you here listening to the testimony of Mr. Costello and
22 the other witnesses here tonight?

23 **Cecily Bedwell:** Yes.

24 **Todd Brown:** And do you have some comments about
25 those?

1 **Cecily Bedwell:** I do.

2 **Todd Brown:** Okay, so if you could identify yourself
3 and then go through your remarks.

4 **Cecily Bedwell:** Cecily Bedwell, happy to be here
5 again. Thank you for continuing this and listening
6 patiently. I'm with Design Collective at 100 East Pratt
7 Street, 18th Floor in Baltimore, Maryland. I'm a
8 certified planner and lead APBD&C professional and I'm
9 here tonight to talk through and to address the FDP
10 content related to the Neighborhood Design Guidelines and
11 the Neighborhood Implementation Plan.

12 Specifically, I'd like to address comments made
13 about Section 125.o.e.4 of the Howard County Zoning
14 Regulations which reads, "the Final Development Plan is
15 in harmony with existing and planned vicinal land uses."

16 Then in making that determination you all,

17 "the Planning Board shall consider if
18 appropriate these four criteria, landscape
19 features on the boundary of the plan area which
20 may include protection of existing vegetation
21 or grade changes that provide a natural
22 separation or landscape planting; the size of
23 buildings along the edges of the plan area
24 through limits on the building height or other
25 requirements; the use and design of nearby

1 properties and the adopted Downtown Columbia
2 Plan recommendations for height, building
3 massing and scale and neighborhood
4 connectivity."

5 So, looking to the right side of the slide, this is
6 directly from the Technical Staff Report dated March 28,
7 2023, related specifically to this criteria and then
8 found that the FDP, I won't read through it, I'll just
9 summarize, but they are in support and recommended
10 approval and found that we are consistent with our FDP
11 materials with meeting this criteria.

12 First, I'd just like to say, I think we pointed this
13 out previously, but there is environmental area and
14 forested area. We are looking south in this view that's
15 on the screen. The area to the --

16 **Unknown:** *(inaudible)*

17 **Cecily Bedwell:** Oh, sorry, I'm looking at my
18 screen. So, the area to the left of the slide is the
19 ravine that's heavily forested and, as Dan mentioned, you
20 know, we are addressing that sensitively with stormwater
21 and that does provide a buffer to the other uses across
22 the stream valley. Next slide please. Actually,
23 Valerie, could you go back, this slide will be dual
24 purpose because I'll talk about -- we are also talking
25 about building massing and use.

1 So, you know, we are compatible with the mixed-use
2 environment here. Again, we are looking south so we see
3 the hotel, a parking garage, the condo building, multi-
4 family building, and then the combined mixed use building
5 of Little Patuxent Square with multi-family and office.
6 There are other uses that we can see if we go to the next
7 slide. Again, we are looking more in a north, north-west
8 direction. Again, we see those buildings that I
9 identified in the reverse order, and then across Little
10 Patuxent are the senior apartments and then other
11 residential.

12 So, just to say, I think, you know, in terms of the
13 uses, we are compatible with that mix of uses that
14 already exist and creating an additional mix of uses with
15 our property.

16 Also, the heights, you know, we've talked a lot
17 about heights and talking about the variety of heights
18 around. You know, we see a twelve-story apartment
19 building in the senior building. Little Patuxent Square
20 is, I think, a 9/11 split. The condo building is five or
21 six stories. The hotel, depending on where you measure
22 it from, is five or six plus stories.

23 So, I think we are compatible with that variety and
24 the Downtown Columbia Plan is very clear as well as the
25 Downtown Wide Design Guidelines in that there should be a

1 mix and variety of plans up to twenty stories within this
2 area.

3 Okay, next slide. Here we see what was in the
4 Downtown Columbia Plan. Sorry, let me get the exhibit
5 number, F, maximum building height plan. That did look
6 at the nine stories and then there is also the corollary
7 feet that goes along with it.

8 In our last approved FDP, which you see on the left-
9 hand side, next slide, we see that the left side is the
10 2020 approved plan that showed nine stories. We're really
11 looking at that small area in the northeast of the area
12 and really affecting the one block within the FDP area to
13 look at thirteen stories.

14 Again, we are not requesting a modification to the
15 height limit that was previously approved. We are
16 staying within this limit. I think we talked about why
17 that was. The medical office built to the south,
18 changes, you know, for all of those reasons, very
19 practical reasons, we are looking at doing a residential
20 thirteen stories there. Next slide.

21 Okay, I think this just was in here, Todd's already
22 addressed the mixed-use environment that is approved with
23 the zoning regulations so I won't dwell on this one. We
24 can move on.

25 Then just to touch on this, Howard County Council

1 Resolution 138-2010 is an excerpt adopted in March of
2 2011, "whereas Downtown Columbia Plan recommends the
3 County Council adopt Downtown Wide Design Guidelines to
4 be used as a measure against which specific Neighborhood
5 Design Guidelines will be developed for each neighborhood
6 in Downtown Columbia." The Downtown Wide Design
7 Guidelines then go on to say on page 32, "at the north
8 end of this waterfront neighborhood there will be a
9 modestly scaled, primarily residential and hotel
10 community on redesigned Wincopin Street lined with trees
11 and fronted with mid-rise residential and some office
12 buildings."

13 So, I think with our portion of that we are
14 consistent with the Downtown Wide Design Guidelines, our
15 Neighborhood Design Guidelines are consistent with that
16 effort and the FDP that we are submitting is consistent
17 in every regard with that criteria.

18 Okay, moving on to Exhibit G. This is from the
19 Downtown Columbia Plan, Exhibit G, primary amenity space
20 framework diagram and on the right, you have the Exhibit
21 I, signal and pedestrian circulation plan. Again, both
22 from the Downtown Columbia Plan and carried forward in
23 the Downtown Wide Design Guidelines and then further
24 addressed in more specificity in our proposed design
25 guidelines. You can see one thing the Wincopin Promenade

1 is the hatched area, if Valerie can point it out for
2 those online, the Warfield Promenade, sorry.

3 **Unknown:** *(inaudible)*

4 **Cecily Bedwell:** I am specifically addressing the
5 comment that we didn't meet the criteria. I'm going line
6 by line through the criteria specifically.

7 **Chairman Coleman:** Please continue.

8 **Cecily Bedwell:** Thank you. Okay, so --

9 **Unknown:** *(inaudible)*

10 **Cecily Bedwell:** May I continue?

11 **Chairman Coleman:** You can continue, yes.

12 **Cecily Bedwell:** Thank you.

13 **Chairman Coleman:** If you have a formal objection --

14 **Cecily Bedwell:** Okay, so the Warfield Promenade is
15 the hatched area shown there. It's always intended that
16 that goes from the Mall side of Little Patuxent bearing
17 northeast to that ravine, that was always the intention.
18 Furthermore, we don't have the ability to connect through
19 another property, but that was the intended path of that
20 space and we have abided by that.

21 Wincopin Green, we did talk about shifting that, but
22 I think the shift is an improvement and we've talked
23 about that in the previous FDP and expanded it in this
24 one.

25 The right exhibit I think clearly shows that

1 Wincopin extended, that portion now called Road C, was
2 always meant to be the primary pedestrian street, the
3 activated street. That's what it talks about when it
4 talks about that location, and you can see clearly that
5 the street to the east of that curved up and connected in
6 a very similar way to what we have shown as the path of
7 Road A.

8 So, those were always shown and contemplated in the
9 Downtown Columbia Plan, and we are following this as
10 closely as possible and bringing forward the intent of
11 this plan into reality. So, I think for all those
12 reasons we are meeting the criteria put forth for this
13 FDP.

14 This just shows it in further detail, but again we
15 are really following the path of what was prescribed in
16 the Downtown Columbia Plan and bringing that to further
17 detail and further fruition. Next slide please.

18 Actually, Todd, I don't know that we need to talk
19 about the bike path or do you want me to address that at
20 this time?

21 **Todd Brown:** Why don't you go to the slide
22 *(inaudible)*.

23 **Cecily Bedwell:** Okay, so I just want to address the
24 design of this pathway that's come up a couple of times
25 in folks' testimony tonight and previously. The pathway

1 was designed much like the rest of the Columbia
2 waterfront or lakefront trail system to have portions of
3 it where you walk your wheels, or walk your bike. That
4 is so that, you know, pedestrian and bicycles in those
5 areas where there is steep slope, and we are talking
6 about slope that we have to navigate and have to provide
7 accessibility for, we need those switchbacks. It's not,
8 you know, a single curving line really won't provide the
9 ADA access. So, we do need that.

10 So, we do envision this area that's been talked
11 about, a small portion where you have to walk your bike
12 and be a courteous shared user of that path.

13 Then these are just photos of the existing signage,
14 this is not new to Columbia. You find these 'walk your
15 bike' wherever there are some, you know, have only
16 populated shared use spaces with pedestrians and
17 bicycles. So, this is from Downtown Columbia, along the
18 Lakefront, the area along the plaza requires this today.
19 At every point in which you enter that main plaza trail
20 area you are asked to dismount your bike, walk your bike
21 through that area. So, I think that is consistent with
22 that and, again we are trying to navigate slopes. So,
23 there is a very practical reason that we are doing that.

24 Could you go back two slides I believe? I just
25 wanted to point out one other thing for the cyclist. I

1 think our whole team would love for you to be able to
2 stay on your bike as much as possible. So, we offer this
3 looking at this plan, is that one switchback that does
4 have to navigate the slope below near the stream, that
5 would be the only area that you would have to dismount.
6 You can then use Road A to circulate up to Sterrett and
7 continue on your way, staying on your bike. So, it's a
8 very small portion where you would walk your bike along
9 that switchback and then you do not have to go through
10 the remainder of the neighborhood square. Again, we are
11 just trying to provide accessibility through those areas.

12 That concludes this, unless Todd has further
13 questions for me.

14 **Todd Brown:** Just one question about the building
15 height. Based upon your testimony about the existing
16 buildings and the building heights that are planned in
17 the Downtown Columbia Plan, is it your opinion that based
18 on the compatibility, character and height of the nearby
19 existing and planned development that those building
20 heights that you are proposing would be acceptable?

21 **Cecily Bedwell:** Yes.

22 **Todd Brown:** Do you want me to repeat it, I don't
23 know whether the Board heard.

24 **Chairman Coleman:** I can't hear you now.

25 **Todd Brown:** Okay. Based on your testimony and in

1 looking at the compatibility and the character and the
2 height of nearby existing and planned uses, do you think
3 the building height that is proposed in your design
4 guidelines and this FDP is compatible with the area that
5 is within this area that we are talking about?

6 **Cecily Bedwell:** Yes, absolutely. It makes a good
7 transition to the twenty story just adjacent to it.

8 **Todd Brown:** Thank you. That's all we have.

9 **Chairman Coleman:** Thank you. Do you have sur-
10 rebuttal?

11 *(Discussion inaudible)*

12 **Chairman Coleman:** There is cross-examination of
13 rebuttal? I'm sorry, please go ahead.

14 **William Sinclair:** Good evening my name is William
15 Sinclair and I represent Kincade, LLC. Can you go back
16 to exhibit G please? It was the hatched -- yeah, there
17 you go. On the left there you were talking about, I
18 believe, the green hatched area up at the sort of top.
19 Do you recall testifying about that particular area?

20 **Cecily Bedwell:** Yes.

21 **William Sinclair:** Yes, and I think you said that
22 you had no ability for connectivity with regard to that,
23 is that correct?

24 **Cecily Bedwell:** No, specifically what I said was
25 that the Downtown Columbia Plan, this is an exhibit from

1 the Downtown Columbia Plan, that it connected from the
2 Lakeside of LPP to the natural area, not directly to the
3 Lake. There wouldn't be an ability because it doesn't
4 connect to the Lake here.

5 **William Sinclair:** So, there's not ability
6 regardless of whether you develop or not develop? I'm
7 trying to understand --

8 **Cecily Bedwell:** I don't understand.

9 **William Sinclair:** I'm trying to understand the
10 connectivity issue.

11 **Cecily Bedwell:** I don't think that would be -- it's
12 not required to be built until development occurs that is
13 adjacent to it.

14 **William Sinclair:** Okay, so I'm focused on you using
15 the word 'ability'. When you say you don't have the
16 ability, why don't you have the ability?

17 **Cecily Bedwell:** Just geographically, that connects
18 to the stream, not east to the Lake.

19 **William Sinclair:** Okay, I understand. Thank you.

20 **Nicole Campbell:** Nicole Campbell again on behalf
21 IMH Columbia, LLC.

22 Ms. Bedwell, how is the FDP development compatible
23 with the old Cross Key lodges?

24 **Cecily Bedwell:** So, the development requires
25 different measures to, I guess, face or front adjacent

1 development regardless of its size, character. That is a
2 two-story structure and I think, you now, there are
3 guidelines. I'm going to talk specifically about the
4 guidelines that require addressing adjacent uses. So,
5 there are different ways that you can address it through
6 stepping of the building, orientation of the building,
7 features on the building. There are a variety of ways
8 that the Design Guidelines would require what would be
9 submitted in an SDP to address that. Overall, I mean, as
10 I mentioned the uses are compatible, the massing is
11 compatible and what we've written in the Design
12 Guidelines requires further addressing how you front
13 those other units, or those lodges.

14 **Chairman Coleman:** Are there any other questions?

15 **Nicole Campbell:** One more question. So, your
16 testimony is that it's compatible to have -- how tall are
17 the buildings that you are planning that are right next
18 to the lodges?

19 **Cecily Bedwell:** So, in the FDP we are asking for --
20 if we can go the height diagram? So, nine stories was
21 always envisioned in this area and that's all we are
22 asking for. That hasn't changed since the Downtown
23 Columbia Plan, so nothing has changed with the building
24 heights directly adjacent to the lodges.

25 **Nicole Campbell:** Okay, but you find that it's

1 compatible to have your -- is it a nine-story building?

2 Is that what you said?

3 **Cecily Bedwell:** It's allowing nine stories, yes.

4 **Nicole Campbell:** Well what the plan -- is it nine
5 stories?

6 **Todd Brown:** This is the FDP.

7 **Cecily Bedwell:** This the FDP, so it just sets what
8 the maximum building height --

9 **Nicole Campbell:** Okay assuming you are going to go
10 to the maximum and not something under that, is it
11 compatible to have a nine-story building next to the
12 lodges?

13 **Cecily Bedwell:** Yes, as long as the guidelines
14 require that those buildings address in a variety of ways
15 that are yet to be determined, right. The guidelines
16 require screening, they require again stepping of the
17 building, they require a variety of things that the
18 planning staff has reviewed to address that.

19 **Nicole Campbell:** Okay, but the FDP is supposed to
20 be in harmony with the existing vicinal uses, right?

21 **Cecily Bedwell:** Yes.

22 **Nicole Campbell:** So, how does the FDP handle that
23 then with regard to the lodges?

24 **Todd Brown:** She just answered that question.

25 **Nicole Campbell:** She said it's going to be on the

1 SDP didn't she?

2 **Todd Brown:** No, she's talking about the Design
3 Guidelines and the provisions of the Design Guidelines.

4 **Nicole Campbell:** Okay, so you just rely on the
5 Design Guidelines generally for the purposes of making it
6 in harmony with the existing lodges?

7 **Cecily Bedwell:** Well, I specifically am not. The
8 Downtown Columbia Plan requires that neighborhood
9 specific design guidelines are written that become the
10 measuring stick by which SDP's are to be reviewed.

11 **Nicole Campbell:** Okay. It's just the Design
12 Guidelines then? That's how you are dealing with it at
13 this point, correct?

14 **Cecily Bedwell:** That is what's required, yes.

15 **Nicole Campbell:** I'm just asking, it's the Design
16 Guidelines, there's nothing in the FDP itself that is
17 coordinated with or in harmony with the lodges.

18 **Cecily Bedwell:** I think I've already answered that
19 question.

20 **Chairman Coleman:** I think she's already answered
21 that. Do you have any other questions?

22 **Nicole Campbell:** I don't, no.

23 **Chairman Coleman:** Does anybody else have questions
24 or cross-examination maybe is the better word.

25 **Todd Brown:** We have nothing further.

1 testified to, to actually achieve what is intended by the
2 Downtown Columbia Plan and vehicle conflicts will be
3 minimized under this design.

4 As we have heard from several witnesses,
5 particularly this evening, this plan will allow for
6 additional housing which is a major objective of the
7 Downtown Columbia Plan, and in particular additional
8 affordable housing both within this plan area, which will
9 include very low, middle and moderate income housing
10 units under the requirements. But to also allow
11 additional affordable housing elsewhere in Downtown
12 Columbia as has been testified to.

13 Again, we just saw a moment ago, and I won't go
14 through this point, but the location of the Warfield
15 Promenade which is shown on the amenity space plan in the
16 Downtown Columbia Plan, that hasn't changed. That's
17 where it was when it was in the FDP that you previously
18 approved and that's where it's shown on the Downtown
19 Columbia Plan, and that's what we are doing. That's what
20 we are achieving, which is what the Downtown Plan calls
21 for.

22 We've talked a little bit about environmental
23 protection. Dan Sweeney talked about that, Cecily just
24 reiterated that. In traffic, we heard from Mr. Wachowski
25 that the traffic generated from this FDP will be less

1 than the traffic that was previously approved on the
2 prior FDP.

3 We think we have got abundant evidence in this case
4 to allow the Board to conclude that the criteria has been
5 met and that it should be approved. Again, I thank you
6 very much for your time, it's very much appreciated.

7 **Chairman Coleman:** Thank you.

8

9

OPPOSITION'S SUMMATION

10 **Nicole Campbell:** Thank you. What we would say in
11 summation is that the testimony of Mr. Costello, Mr.
12 Canfield, Mr., Gould and Mr. Talkin has established that
13 the Final Development Plan is not in harmony with vicinal
14 uses and therefore should be rejected for that reason.

15 **Chairman Coleman:** Thank you.

16 **Nicole Campbell:** Mr. Talkin has something to say.

17 **Chairman Coleman:** Please.

18 **Richard Talkin:** They haven't met their burden of
19 proof. There's no maintenance plan as required by the
20 regulations. This cannot be approved. Thank you.

21 **Chairman Coleman:** Thank you. Anybody else?

22 Okay, with that, testimony, everything else, that
23 part of the case is closed.

24 The next thing we have to do is go to work session.
25 Do you guys want to do work session tonight or would you

1 rather have time to review and continue this and just
2 open with work session?

3 **Board Member McAliley:** Tonight.

4 **Chairman Coleman:** Tonight? Okay. With that can I
5 have a motion to go to work session?

6 **Board Member McAliley:** I move we go into work
7 session.

8 **Board Member Cecil:** Second.

9 **Chairman Coleman:** All those in favor?

10 Board Members: Aye.

11 *Hearing adjourned and the board went into work*
12 *session at 10:01 p.m.*

13 *Board went back on the record at 10:46 p.m.*

14 **Board Member Cecil:** I'll move for approval of PB-
15 455, FDP-DC-L-2A, The Howard Research and Development.

16 **Board Member Mosier:** Second.

17 **Chairman Coleman:** Thank you. All in favor.

18 All Board Member: Aye

19 **Chairman Coleman:** So, it's approved. That
20 concludes this part of the case.

21

22

23

C E R T I F I C A T I O N

I, ALISON MATHIESON, official transcriber for the Howard County Planning Board, do hereby certify that I transcribed the hearing in in the Matter of PB 455, Howard Research and Development Corporation, Amended Final Development Plan for Downtown Columbia, Lakefront Neighborhood, Phase 1 (FDP-DC-L-2A) which hearing was held on April 20, 2023, and that I transcribed the testimony.

I FURTHER CERTIFY that the attached pages, numbering from 1 through 113, constitute the official transcript of this hearing as transcribed by me from the recordings of The Planning Board.

IN WITNESS WHEREOF, I have hereunto subscribed my name on the 1st day of September 2023.



ALISON MATHIESON