

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA
ZONING COMMISSION
PUBLIC HEARING

IN THE MATTER OF:

PUD AND RELATED MAP
AMENDMENT @ 1000 16TH
STREET, N.W.

Case No. 98-14C

Thursday,
June 8, 2000

Room 220 South
441 4th Street, N.W.
Washington, D.C.

The above-entitled matter convened, pursuant to
notice, at 7:00 p.m.

ZONING COMMISSION MEMBERS PRESENT:

| | |
|---------------------|--------------|
| ANTHONY HOOD | Chairperson |
| HERBERT M. FRANKLIN | Commissioner |
| KWASI HOLMAN | Commissioner |
| JOHN F. PARSONS | Commissioner |

OFFICE OF ZONING STAFF PRESENT:

ALBERTO BASTIDA Secretary to the Zoning Commission

OTHER STAFF PRESENT:

| | |
|----------------|-------------------------------|
| ANDREW ALTMAN | Director, Office of Planning |
| STEVE COCHRAN | Office of Planning |
| ELLEN MCCARTHY | Office of Planning |
| MARIE SANSONE | Office of Corporation Counsel |

| <u>AGENDA ITEM</u> | <u>Page</u> |
|---|-------------|
| PRELIMINARY MATTERS | 8 |
| <u>APPLICATION OF JBG 6006 LIMITED PARTNERSHIP:</u> | |
| <u>98-14C ANC-2B</u> | |
| WHAYNE S. QUIN, ESQ. ALLISON C. PRINCE, ESQ. Wilkes & Artis, Chartered 1666 K Street, N.W. Suite 300 Washington, D.C. 20006-2897 (202) 457-7800 | |
| Applicants' Direct Presentation | 18 |
| <u>WITNESSES</u> | |
| MARC FAIRBROTHER | |
| BENJAMIN JACOBS | |
| Report of the Office of Planning, Steven Cochran | 71 |
| Reports of Other Agencies | 97 |
| Report of the Advisory Neighborhood, Commission 2B, Kyle Pitsor and Meredith DeHart | 97 |
| Persons and Parties in Support Charles Cotton | 115 |
| Persons and Parties in Opposition Desmond Foynes | 122 |
| John Chagnon | 134 |
| Closing Statement, Mr. Quin | 140 |
| Closing, Commissioner Hood | 154 |

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

(7:03 p.m.)

CHAIRPERSON HOOD: Good evening, ladies and gentlemen. I am Anthony J. Hood, Chairman of the Zoning Commission for the District of Columbia. Joining me this evening are Commissioners Franklin, Parsons, and Holman. I declare this further hearing open.

On June 29, 1998, the Office of Zoning received an application from the law firm of Wilkes, Artis, Hedrick & Lane on behalf of JBG 6006 Limited Partnership. This initial application requested the Zoning Commission for the District of Columbia to approve a planned unit development and to amend the zoning map from SP-2 to C-4 for a portion of the subject property in square 184, lots 59 and 842 located at 1016 Street, N.W.

The property comprises approximately 20,111 square feet of land area and is situated on the northwest corner of the intersection of 16th and K Streets, N.W. It is improved with the existing eight story Solar Building and a small adjacent six-story office structure on 16th Street. The property is currently split-zoned SP-2 and C-4.

The Office of Planning recommended approval of the initial application in a report submitted to the Commission on December 10, 1998. On December 17, 1998, the Commission conducted a public hearing to consider the proposal. At a regular monthly public meeting on January 11, 1999, the Commission requested that

1 the applicant restudy several aspects of the project design.

2 On March 25, 1999, the Commission held a further
3 public hearing to consider the revised design. On May 10, 1999,
4 the Commission took proposed action to approve and revise
5 proposals by a vote of three to two with final action scheduled
6 for September 13, 1999. Prior to taking final action, one of the
7 commissioners who had voted in favor of the application resigned
8 from the Zoning Commission leaving a likely final tie vote.

9 The applicant then asks that the proposal be placed
10 on hold in hopes that additional design changes could be made that
11 would be acceptable to all those concerned. This interim period
12 would also allow the Commission time to return to a full five
13 voting members.

14 At its regular monthly public meeting on March 13,
15 2000, the Zoning Commission reopened the case record to accept the
16 applicant's revised proposal and requested OP to provide a
17 recommendation as to whether a further public hearing in this case
18 should be held.

19 Accordingly, OP advised the Commission at its
20 meeting of April 10, 2000, that a further public hearing in this
21 case is warranted and should be held. The revised design of the
22 project incorporates significant changes to the building's
23 massings, building materials, signage, site lines, retail
24 entrances, and the distribution of the proposed zoning change.

25 Specifically, the revised proposal provides a 30-

1 foot deep strip of SP-2 zoning along 16th Street as opposed to the
2 original proposal of a 20-foot strip. The upper stories of the
3 building above the 90-foot level are setback from 16th Street a
4 minimum of 35 feet on floors nine and 10 as compared to 20 feet in
5 the previous design. The 11th floor is setback an additional 10
6 to 45 feet.

7 The project architect is now more traditional in
8 its design and massing. The accesses to the building's garage
9 remain on 16th Street incorporates a more sensitive residential
10 scale. As with the previous design, the existing adjacent six-
11 story office building to the north of 16th Street would be
12 replaced with an expanding floor area of the Solar Building and
13 would be the location of the garage entrance on 16th Street.

14 The order of procedure will be as follows:
15 preliminary matters, if any; applicants' further presentation;
16 report of the Office of Planning; reports of other agencies;
17 report of the Advisory Neighborhood Commission 2B; persons and
18 parties in support; persons and parties in opposition.

19 The following time limits will be imposed for all
20 oral presentations: applicant, 60 minutes; other parties 15
21 minutes; organizations 5 minutes; individuals 3 minutes.

22 The Commission will adhere to this schedule as
23 strictly as possible. Those presenting testimony should be brief
24 and nonrepetitive. If you have a prepared statement, please give
25 copies to staff and orally summarize the highlights only. Please

1 provide these copies of your statement before beginning your oral
2 presentation.

3 Each individual appearing before the Commission
4 must complete two identification cards and submit them to the
5 reporter at the time you make your statement. If these guidelines
6 are followed, the final record in this case can be developed
7 within a reasonable length of time.

8 The decision of the Commission in this case will be
9 based exclusively on the record. To avoid any appearance to the
10 contrary, the Commission request the parties, counsel, and
11 witnesses not engage the members of the Commission in conversation
12 during any recess or at the conclusion of the hearing.

13 The staff will be available to discuss any
14 procedural questions. All individuals who wish to testify, please
15 rise to take the oath.

16 MR. BASTIDA: Mr. Chairman, the individuals who
17 were previously sworn in, they don't have to be sworn again. I
18 should have written any new individuals who had not been
19 previously sworn.

20 CHAIRPERSON HOOD: Okay. Well, all those who have
21 not been previously sworn, could you please rise and take the
22 oath. Thank you.

23 MR. BASTIDA: Thank you, Mr. Chairman.

24 (Whereupon, the witnesses were sworn.)

25 CHAIRPERSON HOOD: Let me just state for the record

1 fellow Commissioner Mitten will not join us on this case because
2 of her previous involvement. Mr. Bastida, any preliminary
3 matters?

4 MR. BASTIDA: Yes, Mr. Chairman. I have several
5 preliminary matters. First, the Presidential Building was a party
6 in this case at the beginning of the case and Ms. Mitten was a
7 representative. That has been changed and Mr. Foynes is going to
8 be the one representing the Presidential Building.

9 In front of you there are several pieces of
10 correspondence, one from Mr. Foynes pointing out a discrepancy
11 with the zoning regulations. They are clearly stated and
12 elaborated in his correspondence to you dated June 2 which are in
13 front of you.

14 Also, in addition to that there is a letter from
15 Jack Evans dated June 6 in which he basically reaffirms his
16 previous position against the project and the concerns. There is
17 also a letter from Jim Mendelson dated June 7 in which he
18 reaffirms his position regarding this project and that he has
19 certain problems with it. Those letters are in front of you and I
20 will be glad to share them with anybody in the audience if they so
21 wish.

22 Last, the Office of Planning submitted about an
23 hour ago three reports regarding the housing concerns the
24 Department of Housing and Community Development had expressed.
25 They basically recommend favorable approval of this proposal. All

1 that correspondence is in front of you.

2 CHAIRPERSON HOOD: Thank you, Mr. Bastida. I'm
3 hoping that all parties have the late additions. Let me
4 recognize, before we find out whether all parties have the
5 additions, Mr. Cochran.

6 MR. COCHRAN: I simply have extra copies of the
7 June 8 Office of Planning Report. In addition, by the way, to it
8 addressing the housing issues, I believe that it's also relevant
9 to some of the procedural matters that were raised in Mr. Foynes'
10 letter.

11 CHAIRPERSON HOOD: And that's dated June 8th. Mr.
12 Bastida, if we can make sure that all parties have all
13 correspondence.

14 MR. BASTIDA: That's what I am trying to do
15 presently.

16 CHAIRPERSON HOOD: We'll give you a few minutes to
17 make sure.

18 (Whereupon, off the record.)

19 CHAIRPERSON HOOD: If you could come to the table
20 if you have a preliminary matter.

21 MR. FOYNES: Good evening. My name is Desmond
22 Foynes. I reside at the Presidential and I am a party to the
23 proceedings this evening. My preliminary matter is several fold.

24

25 One, am I correct in understanding that the Office

1 of Planning has responded today to the substantive matters raised
2 in my letter of last week?

3 CHAIRPERSON HOOD: Yes.

4 MR. FOYNES: I'm to absorb and respond to that
5 tonight?

6 CHAIRPERSON HOOD: Mr. Foynes, I would have to say
7 as commissioners we have quite a few letters up here. I was going
8 to speak on that before we even got started. I know that a lot of
9 people -- and since you raised the point, it puts at least Anthony
10 Hood at a disadvantage and my colleagues so we can weigh the
11 information in front of us.

12 While we are not the best speed readers, we do the
13 best that we can. I really think that sometime these decisions
14 and these submittals should be presented to us in a timely fashion
15 so that we can make intelligent decisions for the best interest of
16 the city.

17 Having to get stuff in five or 10 minutes is rather
18 annoying so I wish that all parties, not in this case, Office of
19 Planning or whoever, would take heed to that and realize that
20 Commissioner Franklin, Parsons, Holman, and myself and others do
21 have other things that we do.

22 We do this volunteer service and we try to do the
23 best that we can. We want to make sure that we make the best
24 decision that we can. We are at the same disadvantage that you
25 are, Mr. Foynes, but we are prepared to move forward.

1 COMMISSIONER FRANKLIN: Mr. Chairman, I wonder if
2 my colleagues would agree to the suggestion that since this
3 material has been presented to us and to all the other parties at
4 virtually the last minute by the Office of Planning that we leave
5 the record open subsequent to this hearing so that interested
6 parties and the applicant can comment in writing on these reports
7 and we can get them at the same time and take them into
8 consideration subsequently.

9 There may be reasons to come back but at this point
10 it seems to me everyone should have an opportunity to digest this
11 material and respond in writing.

12 CHAIRPERSON HOOD: Mr. Foynes, would that address
13 your concern?

14 MR. FOYNES: I can't tell because physically I
15 don't have in my hand yet what you have. A neighbor of mine is
16 gathering that information. What I want to suggest is that among
17 the preliminary matters that we raised was that the Office of
18 Planning had to make a referral to another city agency for a
19 compliance review of the housing linkage component of the
20 application. My question is as we begin this evening is that
21 compliance review before the Commission this evening?

22 CHAIRPERSON HOOD: Mr. Foynes, I'm going to have to
23 let Office of Planning answer that because I, too, have not had a
24 chance to look at the submittals.

25 MS. MCCARTHY: Let me address it first. Yes, Mr.

1 Hood and members of the Commission, we apologize about the
2 lateness of the submission. The letter that we received from the
3 Presidential that raised these issues, we were concerned because
4 we felt that they were correct, or at least that the issues that
5 they had raised were serious issues, so we did go out, reviewed
6 the record with regard to the establishment of the regulations,
7 and tried to negotiate what we felt was an agreement that did more
8 closely resemble or follow the regulations that were referenced in
9 the letter.

10 Our feeling was exactly what you suggested, that
11 the best thing to do was to bring that information and to put the
12 best agreement we could together to refer to the Department of
13 Housing and Community Development to see if they could certify
14 that they, in fact, felt it met the regulations and then to have
15 that available tonight so that representatives from the
16 Presidential and the ANC could cross-examine us so that you all
17 could ask questions about it so that the information could be
18 available to everybody as quickly as it became available to us and
19 we were able to put it together.

20 Then if the record were left open, it would give
21 the opportunity for the ANC, the Presidential, and any other
22 parties to review it and to have sufficient time to get comments
23 back to the Commission.

24 MR. COCHRAN: And, Mr. Foyne, if I could add to
25 what Ms. McCarthy said, obviously we did take your concerns very

1 seriously which is unfortunately one of the reasons that the
2 response to the letter that we received last week has come in so
3 late.

4 As far as other preliminary matters, we have been
5 able to refer the revised application to the Department of Housing
6 and Community Development. That has been reviewed and has been
7 certified or approved for compliance with the regulations. That
8 letter is attached to the report that we submitted today. It was
9 assigned by the Deputy Director of the Department.

10 MR. FOYNES: If I may?

11 CHAIRPERSON HOOD: Yes.

12 MR. FOYNES: For the record, and to sort of get
13 everyone up to the same level of knowledge, our correspondence
14 indicated that the PUD application did not raise to the threshold
15 indicated in the zoning code. My question is, does the Office of
16 Planning and the Referral Agency, do they come to the same
17 conclusion or did they come to a different conclusion?

18 MR. COCHRAN: We've come to a different conclusion
19 than you did.

20 MR. FOYNES: Could you state that conclusion,
21 please?

22 MR. COCHRAN: Mr. Chair, is it appropriate to state
23 it now or later?

24 CHAIRPERSON HOOD: We don't want to get into the
25 merits in the preliminary matters. Again, these are the problems.

1 I'm definitely at a disadvantage. These are the problems that we
2 run into with information. I understand trying to accommodate and
3 do the best effort of research, but these are the situations that
4 I'm seeing that we're getting into when we don't have information
5 in front of us.

6 I would ask, Mr. Foynes, that you go back and
7 compare the two and read, like I'm sure the rest of us are
8 probably going to be doing while the hearing is going on which is
9 unfortunate. Then maybe at the appropriate time we can address
10 that at the appropriate time.

11 MR. FOYNES: Thank you. So the record will be open
12 for parties to respond to the matters that were presented this
13 evening?

14 CHAIRPERSON HOOD: Right. We will leave the record
15 open for all additional comment. We have no choice. We have to
16 at this point.

17 MR. BASTIDA: Mr. Chairman, if I may make a
18 suggestion, I think that you will consider that at the end of the
19 hearing provided what transpired during the hearing waiting until
20 what time you will leave the record open if that is necessary. It
21 might prove that Mr. Desmond Foynes might be satisfied and he
22 might not be. You can consider that at the end of the hearing.

23 CHAIRPERSON HOOD: Okay. You are correct, but I
24 just want to make sure that all correspondence that was late is
25 open for response.

1 MR. COCHRAN: Mr. Chair --

2 MR. BASTIDA: If I may, if the ANC as a party
3 doesn't have copies of that correspondence, I'll be glad to
4 provide it.

5 MR. COCHRAN: Mr. Chair, obviously we have had the
6 opportunity to read our own report, but we have not had the
7 opportunity to review the material by Counsel Person Evans or
8 anything else that may have come in today by a party other than
9 ourselves and DHCD. I have no idea whether the rules allow it or
10 whether it's appropriate for the Office of Planning to yield some
11 of its 60 minutes of time so that all of us might catch up on what
12 was submitted today.

13 MR. BASTIDA: The Office of Planning doesn't have
14 60 minutes. The Office of Planning doesn't address traditionally
15 the counsel responses. The counsel responses stand on their own.
16 Thank you.

17 COMMISSIONER FRANKLIN: Mr. Chairman, could I just
18 add that having glanced at the material and not really having had
19 a chance to study it, it does seem to me that what we are
20 presented with here is really not an issue of fact so much as it
21 is an issue of interpretation of the regulation and how to apply
22 it to what is being proposed here.

23 I, for one, at the moment, I guess I agree that
24 maybe we should revisit this at the end of the hearing. I, for
25 one, think that the parties can confine themselves to making

1 statements to support whatever their interpretations are and we
2 can take that under advisement if they wish to add in writing
3 something to that, but I don't see this as a matter of a lot of
4 cross-examination in determination of fact.

5 CHAIRPERSON HOOD: Okay. That's the way we'll
6 proceed.

7 Mr. Quin, you had a preliminary matter?

8 MR. QUIN: Yes, Mr. Chairman. I just wanted to
9 respond. We didn't receive Mr. Foynes' letter raising the housing
10 linkage issue until either the afternoon of the 2nd or the 3rd. I
11 don't remember what day. I was prepared to address that either as
12 a preliminary matter or part of our case. I think Mr. Franklin is
13 absolutely correct. It doesn't require a lot of discussion and I
14 think I can respond to it. It's fairly easy to answer and could
15 be done probably in five minutes or less.

16 CHAIRPERSON HOOD: Okay. Try to make some
17 rationale out of the discussion. Let's go ahead and proceed.
18 Hopefully a lot of questions will be answered and, if not, we will
19 take it up at the end and we will proceed accordingly.

20 Mr. Foynes, are you satisfied so we can move
21 forward?

22 MR. FOYNES: Thank you, Mr. Chairman.

23 CHAIRPERSON HOOD: Thank you. We are now going to
24 take the applicant's presentation, Mr. Foynes.

25 MR. BASTIDA: Mr. Chairman, would you want to limit

1 the applicant's application to less than an hour?

2 CHAIRPERSON HOOD: I believe they asked for 45
3 minutes.

4 MR. BASTIDA: I will provide 45 minutes.

5 MR. QUIN: Mr. Chairman and members of the
6 Commission, shall I proceed at this point?

7 CHAIRPERSON HOOD: Yes.

8 MR. QUIN: This application -- first of all, my
9 name is Whayne Quin and with Allison Prince of the law firm of
10 Wilkes & Artis, Chartered. It's now Wilkes & Artis, Chartered and
11 not Wilkes, Artis, Hedrick & Lane. We represent the applicant. I
12 want to make sure that's on the record.

13 We believe this application continues to present an
14 exciting and significantly enhanced opportunity for this
15 Commission to revitalize a major intersection of the city and the
16 central employment area, K Street at the corner.

17 I don't need to go into too much detail because you
18 all know the location. It really deals with the rehab of the
19 Solar Building and the site of the Taca Building immediately north
20 to it.

21 It's had a long history, over two years at this
22 point, and I'm going to summarize briefly. Actually, the
23 Chairperson's statement will cut my opening statement pretty short
24 because you covered most of the procedural points that have led us
25 here tonight.

1 I did want to say two things, though. One, under
2 the Zoning Enabling Act the three votes; that is, the majority of
3 the Commission is required for an action of the Zoning Commission
4 and, therefore, we are hopeful of getting at least three votes.
5 We would love to see four votes.

6 We requested deferral, as the Chairman pointed out,
7 to allow us to meet with the neighbors and to see what we can come
8 up with. Unfortunately, we could not reach unanimous support for
9 this case but we did substantially revise the plans. We are
10 pleased with the Office of Planning Report and what we read so far
11 of the DHCD certification.

12 I'm going to go very quickly to the opening
13 statement that I have. Frankly, we believe that the only
14 substantive issue in this case at this time relates to the design
15 of the building and its setbacks.

16 The zoning boundary line, which has been moved 10
17 more feet to the west and is now 30 feet from 16th Street, we
18 really believe is a technical type provision and issue because we
19 are dealing with the PUD and a PUD is a floating type zone which
20 if the PUD does not go forward, the zoning lines revert back to
21 where they are.

22 There's no giving up of the zoning line except in
23 the context of what you specifically approve and the covenants
24 that tie that project to zoning to be accomplished. We have a
25 really unique situation here.

1 Secondly, I would like to point out that the Zoning
2 Commission in its previous vote, as well as NCPC and its
3 determination that there was no adverse impact, did approve this
4 project as the zoning line was 10 feet closer to 16th Street.

5 All of that really, I think, we tend to get lost in
6 the trees when we talk about the zoning line. What we should
7 really be focusing on is how this building relates to 16th Street
8 and how it relates to this important area of the city. That's the
9 real focus.

10 Our new setback, and you have some exhibits that
11 the architect will explain in more detail in just a moment, at the
12 11th floor is 45 feet back from 16th Street. That 45 feet happens
13 to be the same distance back as the existing zoning line. That
14 was moved 10 feet more.

15 At the 9th and 10th levels the setback has
16 increased by 10 feet to 35 feet back which is 10 more feet, as I
17 said earlier, than our previous plan. The height of the building
18 is about five feet less than what it could be. It's a little over
19 125 feet.

20 One point, before calling our witnesses, I would
21 like to make is I was walking southward, if you look at the
22 rendering to the left, down 16th Street on Wednesday and something
23 struck me which I don't know why no one has ever raised this
24 before in these hearings.

25 I suddenly realized that our setback is almost

1 twice the setback that is normally provided in the SP zone on this
2 same street because we have penthouses. They go on a one-to-one
3 setback and normally they go back 18 feet. The new ones go back
4 18 and a half feet and up 18 and a half feet.

5 Our setback is almost twice what we are going to be
6 providing in this case. There are other buildings which will be
7 described by the architect in this immediate area. One you can
8 see, the Lafayette Building, the roof structure right immediately
9 north, two buildings north of our site, the penthouse where it's
10 sitting.

11 If you're going down, you see the Motion Pictures
12 Building, again above 90 feet. The setback is less than what we
13 are providing. Always in the District of Columbia, at least as
14 far as roof structures when they've been dealt with, you focus on
15 a 45 degree angle of repose, so to speak, a setback of one to one.

16
17 We are providing a 30 percent setback and the
18 architects will cover that. A lot of these existing buildings do
19 not have what we provide. What I'm really saying is that our
20 building has a tremendous setback which will be described by the
21 architect and we take pride in that because we worked to move that
22 back a long way. The major exhibits that show that are on your
23 right.

24 You'll see the dark blue at the beginning above 90
25 feet. That was where the old building was, the old design.

1 That's been taken out. The lighter blue was at the 11th floor.

2 That's been taken out so you see a very significant shift.

3 All we're talking about at this point on the east
4 side of the 45-foot zoning line is a 10-foot portion of the
5 building that extends beyond 45 feet for two floors, on the 9th
6 and 10th floor. That's all we're talking about in this building.

7 The architects, as I said, will explain that.

8 If we did not have that setback and we did not have
9 that bump at the 10-foot bump, we would have a straight wall that
10 would be down 51 feet without any setback, without any stepping.

11 In short, we believe that what we will provide and
12 what the testimony will show is we are going to provide a first
13 class office building at this intersection. It has greater
14 setbacks than other buildings and than the regulations require,
15 and it has a very significant amenity package which we will submit
16 for the record.

17 We've already described that in previous cases but,
18 Allison, you're going to present a summary. There are 10 points
19 that we want to submit. It's just by way of summary of previous
20 testimony to try to shorten out testimony.

21 Now, I would like to proceed with our witnesses
22 unless there are further questions. Mr. Chairman, I did want to
23 make sure that I can address the housing linkage issues raised by
24 Mr. Foynes at some point. I can either do it now or I can do it
25 later, whichever your pleasure is.

1 CHAIRPERSON HOOD: You may want to do it right
2 after you finish your planned presentation and then you can
3 address that.

4 MR. QUIN: I will be delighted at that point. Mr.
5 Marc Fairbrother, RTKL Principal, who is the lead architect for
6 the new design team at RTKL. I would like to submit Mr.
7 Fairbrother's resume and ask that he be accepted as an expert in
8 the field of architecture.

9 CHAIRPERSON HOOD: Has he been accepted before in
10 front of this Commission?

11 MR. QUIN: I don't before this particular
12 Commission. Before other Commissions and Zoning Commissions, yes.

13 CHAIRPERSON HOOD: Give my colleagues a minute to
14 look over his resume.

15 Okay, colleagues, any problem with Mr. Fairbrother
16 being an expert witness? So ordered.

17 MR. QUIN: Proceed, Marc.

18 MR. FAIRBROTHER: As Wayne noted, my name is Marc
19 Fairbrother. I'm a Vice President with the architecture firm of
20 RTKL. It is my pleasure to be here tonight to explain the
21 redesign of this project.

22 I have not been involved in this project throughout
23 its history so some of the history of it I'm just not that aware
24 of. In beginning my work on this project, JBG requested that we
25 look at the building and address as many concerns about the

1 project as we could.

2 My design team took an entirely different approach
3 to the building which I would like to sort of walk you through in
4 the illustrations today.

5 Before I start that, though, I want to tell you
6 that we're going to look through these illustrations and I'm going
7 to describe some of the changes we've done. In the end we're
8 going to have a short video that kind of goes from the circle to
9 the north down 16th Street heading south all the way especially
10 where the church is, turning around and then going back toward the
11 corner of K and 16th.

12 I want to start out the discussion by noting a few
13 things that I think are worth keeping in mind as baseline
14 information. This is not a new building. We are renovating the
15 building. As such, we are working within the constraints of that
16 renovation. It's not practical economically to, for example, tear
17 down the structure and start all over. At that point we're
18 starting a new building.

19 We are honoring the fact that we have an existing
20 core we're working around, an existing structure, an existing
21 structural grid that we have to sort of work within. Obviously,
22 within that we are adding three floors to the building.

23 I want to start the discussion by just showing you
24 one graphic, if I may. This is a planned diagram showing a
25 typical floor plan below the 9th floor, below the expansion, and a

1 typical floor plan or the 9th and 10th floor that is being
2 expanded.

3 What I want to note is for the marketability of an
4 office building, especially a speculative office building, we have
5 to provide a contiguous lease line that runs around the core.
6 Now, in relooking at this building you'll notice this core is very
7 different than the last core.

8 This core has space that actually goes all the way
9 around it, whereas before the core was really pushed into this
10 corner. From a leasing perspective, it's really important that
11 space go around so that if a tenant wishes to, he can take the
12 entire floor plate.

13 This core as is currently shown here is about 45
14 feet back from the existing face of 16th Street. That is an
15 important point. You can see as we draw the building face in,
16 that dimension from the edge of the core to the glass line gets to
17 be much less. There are compromises we are making in terms of
18 just the leasability and the marketability of the building in
19 drawing that line forward.

20 When we get to the top floor, you can kind of note
21 at the top level the core is right at the glass line so we no
22 longer have contiguous lease space in front of the core on what is
23 essentially the best side of the building. That is just worth
24 keeping in mind.

25 In terms of the architecture, one of the things

1 that we thought was really important was the context of the
2 Washington urban environment. Just by way of illustration, the
3 boards over on the far side show the previous scheme and the one
4 next to it to the right is sort of the proposed design.

5 What we really wanted to do was get the building to
6 fit better contextually within the Washington urban environment.
7 Washington has a lot of buildings that are more based on a bay
8 system and a rhythm of bays. You can see here that we are
9 actually taking the building and starting to introduce that
10 rhythmic quality to it.

11 We are starting to say, "Okay, that's the sort of
12 dominant sort of architectural motif that we are using. Within
13 that we are using the spandrels, the glass, the detailing of the
14 window system, those kind of things to add interest and highlight
15 to the building. Overall you can see that now as contracted to
16 before, we are starting to try to create a sort of harmonious
17 whole by taking elements that are in -- is it okay if I stand up?

18 CHAIRPERSON HOOD: Sure. Let me just say we need
19 to keep a microphone.

20 MR. FAIRBROTHER: Oh, carry it with me. Okay.

21 CHAIRPERSON HOOD: Mr. Bastida, do we have the hand
22 microphone?

23 MR. BASTIDA: Mr. Chairman, it doesn't seem to be
24 working.

25 MR. FAIRBROTHER: I'll try not to drop it. You'll

1 know if I do.

2 As you can kind of see here, the bays are really
3 highlighted by stone masonry piers. Within the bay you can see
4 the glass system is sort of being highlighted by metal work that
5 sort of runs in front of the glass and sort of ties the building
6 together.

7 We are looking at the masonry architecture as more
8 the dominant work of materials and so the glass and metal, or
9 these spans are actually stone, as more sub-dominant. In order to
10 try to tie this building together, we are starting to take pieces
11 of the architecture in these bays and actually introducing it to
12 these areas here so they start to work as a harmonious whole.

13 In doing that, there's a relationship that is
14 established between the pieces of the building. I think that is
15 something that happens a lot in a renovation and expansion. You
16 are faced with the fact of an existing condition trying to make
17 that interesting and have enough highlight, and then making the
18 expansion pieces feel like they fit into the existing building.
19 We are actually doing that in this case.

20 The materials for the project will be of a very
21 high quality. It will consist of, as I mentioned, masonry stone,
22 piers, cornices, base, high quality window system that's very
23 articulated, and decorative metal panels.

24 The decorative metal panels occur on the projected
25 portions of the building and the spandrels and the bays are

1 actually picking up some of the detailing that we are starting to
2 design in these to sort of get them to relate together once again.

3 I would like to show you just a model of some of those ideas.

4 Can you guys see this? This is showing sort of the
5 ideas of actually developing some detailing in the punch metal
6 panel so it's not just a flat panel. It has quite a bit of
7 detailing. Then taking that same detailing and start to bring it
8 into the stone work which would be in this portion of the
9 building.

10 This illustration shows -- I think Whayne was
11 starting to bring some of this forward. The building has a bay
12 window that sort of projects over K Street. One of the things we
13 wanted to try to do is try to create a very interesting
14 composition of massing at the top of the building.

15 If we abided by the setback that is required, this
16 would essentially be a sheer wall so that facade would just simply
17 go up without any relief to it. We are looking at actually
18 creating a corner which really starts to make a very interesting
19 architectural statement at the corner.

20 You kind of see that this bay window sort of goes
21 north and south and this one is going east and west. They are
22 sort of pivoting around sort of an element coming up. Then the
23 lever is set back. We see that as a significant architectural
24 treatment that wouldn't otherwise be there if we went to 45 feet.

25 The other obvious problem if we go to a straight 45

1 feet is that we are right up against the elevator core and that
2 would solid. There wouldn't be any glass on that all the way up
3 the building. I think in the end this will be a trophy building
4 at this corner given its materials and its design.

5 One of the other contextual items I wanted to point
6 out is that as you move down 16th Street you'll notice that there
7 are a fair number of bay windows that really articulate what we
8 call the wall of the street.

9 Actually we are picking up that very idea in the
10 Solar Building over the entrance. We start picking up an all
11 glass bay window to really sort of get the building again to fit
12 into its context, but also start to highlight its entry.

13 As Whayne noted, we have in redesigning the
14 building essentially achieved addressing a lot of the concerns
15 about the project without really necessarily sacrificing the
16 design for the project. I just want to go over those one more
17 time.

18 As you can see, this illustration shows in color
19 version sort of where the project was and where it is today. On
20 the 11th floor the light blue line represents where the setback
21 was at 35 feet on the 11th floor. Actually, we're setting it back
22 10 more feet to 45 feet. You can also see that corresponds to the
23 section in that light blue line.

24 Previously on the 9th and 10th floors the building
25 is represented by the darker blue. You can also note that instead

1 of setting back 20 feet, we are actually at 35 feet. These are
2 practical terms. This is actually the design of the building, not
3 the theoretical aspects of how the zoning really divides itself
4 up.

5 You might also notice that in the previous design
6 there was a block that actually came out like this and we were
7 actually carving that away so that essentially that bay window
8 that I described previously allows us to sort of cut away at the
9 building at its edges to make that mass even recede further. That
10 happens at the 9th and 10th floor as well as the 11th floor.

11 If you were a pedestrian walking on the east side
12 of 16th Street and you were sort of slammed up against the
13 building, that is the line of sight that you would see looking
14 across the street, this red line. You can see that previously you
15 saw a small corner of the expansion but you saw more of the 11th
16 floor expansion. Now really you can't really see much of nine and
17 10. You can still see 11. That represents what you can see at an
18 angle of 30 degrees. It's actually less but it's approximately
19 30.

20 When Whayne described his stroll down 16th Street,
21 we thought it might be useful to come back and actually measure
22 and note the examples he was talking about. I would like to show
23 you that if I can.

24 We tried to color code these so it may get
25 confusing. I don't know if that helps. In terms of the by-right

1 penthouse massing, it's literally a one-to-one relationship. In
2 other words, it's allowed to be 18 and a half feet high and set
3 back 18 and a half feet. Essentially if there were a penthouse
4 here by right, it would sit in that position.

5 It's just interesting to note that a lot of
6 buildings going down 16th Street are either closer, taller than
7 the one we're proposing. You can kind of see that National
8 Education, 22-foot setback, 16 feet high. American Chemical
9 Society is a 20-foot setback, 14 foot high. American Society of
10 University Women, 23 feet and 22.

11 The Labor International Union of North America, 18
12 feet setback, 31 feet high. I'm not sure how they got away with
13 that. AFL-CIO, 30 and 30. The Lafayette, the building that
14 Wayne noted earlier, this one, 18 and 20. World Center, 20 and
15 22. Motion Picture Building down here, 20 and 20.

16 CHAIRPERSON HOOD: Compare that to where we are.

17 MR. FAIRBROTHER: We're actually 35 and 45. I
18 didn't drop it so I feel like I succeeded.

19 Other miscellaneous issues I think are worth noting
20 as far as some of the greater concerns that were negotiated in the
21 previous round: In terms of retail, no sidewalk cafes. We are
22 really limited to one tenant entry along 16th Street. We've
23 agreed to restrictions on the type of retail establishment.
24 That's all in the previous text. We've agreed to restrictions on
25 the type and size of retail signage.

1 In terms of parking, we have 95 spaces. They are
2 for tenants only. The parking controls for the garage have been
3 recessed away from the face of the building. We've actually tried
4 to disguise the parking entry as best as we can. We've dropped
5 the head height.

6 We've divided the entry into two isles with an
7 element going down the middle. We've eliminated the signage. We
8 have limitations on the lighting. No florescent lighting. We've
9 introduced glass block on the western facade to bring light into
10 the ramp area. We've provided special pavings at the entrance. I
11 think a lot of these concerns have been already addressed and
12 we've certainly come a long ways.

13 That concludes this part of the presentation.
14 Would you like to see the video now?

15 (Whereupon, off the record.)

16 MR. FAIRBROTHER: As I stated, this video goes from
17 the circle heading south first and then turns once it gets about
18 to the church and goes back north.

19 This is about M Street. I'm sorry. That was L
20 Street. This is the Solar Building here. You're going to cross K
21 at this point. You can see how the line of the roof is pretty
22 well disguised until you get to the very corner. At this point it
23 crosses the street. I think we're J walking. Luckily it's a
24 holiday. Crossing I Street once again.

25 I think what's worth noting about this is that

1 until you really get to the intersection, you really can't see the
2 corner very well because that's really where the massing actually
3 comes to the face of the building and goes down.

4 Are there any questions?

5 CHAIRPERSON HOOD: What we're going to do first is
6 let you finish your presentation and then we'll ask everyone
7 questions.

8 MR. QUIN: Our next witness is Mr. Benjamin Jacobs,
9 President, JBG Companies.

10 MR. JACOBS: Thank you. For the record, my name is
11 Benjamin Jacobs, President of the JBG Companies. Fortunately, Mr.
12 Hood gave a well and succinct chronology of how long we have been
13 before this Commission on this particular case. I appreciate
14 that.

15 In an effort to respect his request that there be
16 no repetitive testimony, I will step forward to what I think are
17 some of the broader issues in this case. While it was noted that
18 we filed our first application in June of 1998, in fact, our
19 efforts in terms of dialogue both with the Office of Planning and
20 with the community have preceded that by nearly six months.

21 It was in December of 1997 that we began the
22 dialogue to try and develop what we think is a special building at
23 a very important and special corner of the District of Columbia.
24 That has continued to be our goal.

25 While there continue to be differences between the

1 community and JBG and others who have endorsed this project both
2 in the initial zoning approval as well as the NCP approval of the
3 previous plan, we have, nevertheless, strived in the last several
4 months to accommodate a number of the concerns that have been
5 taken into the public forum with respect to it.

6 I believe we have achieved that in many respects.
7 There continue to be a few points that remain outstanding. One
8 being the garage which we think in our first presentation and
9 adaptation we resolved to the satisfaction of this commission and
10 to the satisfaction of the National Capital Planning Commission.

11 In addition to that, in dialogue with the community
12 we have voluntarily agreed to limit the use of the garage, that it
13 was not a commercial garage in the traditional sense. That is, a
14 publicly available garage, but rather would limit the garage to
15 the use of building tenants and their guests.

16 As one further clarification of that, we agreed
17 that were there to be a restaurant on the first floor, and we did
18 agree and reached agreement on the limitation of retail uses on
19 the first floor, as well as signage, as well as entry with the
20 community and with this Commission, there would only be public use
21 for valet parking with respect to that restaurant which was a
22 community request. We were willing and happy to exceed to that.

23 I think that there are a couple of points that I
24 would like to make and then I will close. It's important to note
25 that the request we are making before this Commission is not

1 driven by existing tenancies within this building. If we succeed
2 in our PUD approval and are successful in obtaining the
3 opportunity to build this building, we will continue to deal with
4 tenants that remain within the building.

5 The parking garage entrance has been studied.
6 There is material before you from our engineer pointing out, in
7 fact, the practical impossibility of reaching the garage from an
8 entry on K Street as well as the Department of Public Works having
9 objected to that entry on K Street.

10 Likewise, we considered and addressed an alley
11 entrance to the garage but there's been much testimony and study
12 with respect to whether or not the alley was an appropriate
13 entryway for a building of this caliber at a location of this
14 significance.

15 We did make a number of concessions or adjustments.
16 I would call them in a sense improvements to the project as a
17 result of all the input we have received both from the community
18 and Office of Planning.

19 As a final point I am certainly prepared to answer
20 questions. The housing linkage, which was an issue that was
21 addressed and endorsed by the Department of Housing as well as
22 Marshall Heights community project. We have, nevertheless,
23 reconsidered that in the passage of time and with some minor
24 changes in the square footage of the building interestingly bought
25 about by our election to extend further the SP line to the west.

1 That resulted in some additional square footage and
2 have reached an agreement with the Marshall Heights community as
3 well as the Office of Planning and district agencies to increase
4 our contribution to housing by a significant amount. I think you
5 see it on the summary. It's now \$280,000 which provides for the
6 underwriting and satisfaction of seven residential single family
7 homes at the Banneker Ridge development.

8 We are proud of the project. In many respects we
9 are proud of the dialogue that we've had with the community. We
10 think it's been additive to the project. We think we have a
11 project the city will be proud of and the community will be proud
12 of.

13 I'll be happy to answer questions on any point.

14 MR. QUIN: That completes our direct presentation.

15 I didn't know whether at this point I should go ahead and quickly
16 go through the housing linkage.

17 CHAIRPERSON HOOD: Yes, if you could go ahead with
18 that.

19 MR. QUIN: This is really in response to Mr.
20 Foynes' letter which we received. His question about whether we
21 complied with the -- complied today even with the linkage
22 requirement is readily answered. Under the PUD regulations, as
23 well as the Comprehensive Plan, there are two ways to meet the
24 requirement.

25 One is the contribution of money to a housing trust

1 fund where there are no specifics, no conditions as to whether,
2 when, or how the housing will be built. That's one alternative.
3 As yet I've never seen that.

4 No. 2, the second way, is the provision of square
5 footage of affordable housing to low and moderate income people
6 based on a formula which, as you know in the regulations, is the
7 amount of increase over your base zoning that you seek in the PUD
8 application.

9 There's no specific requirement for any
10 contribution of money for that square footage. The requirement is
11 square footage only and that's according to the formula. In other
12 words, in our particular case -- well, I'll come to that in just a
13 moment. The formula says that we have to provide about 9,500
14 square feet of affordable housing and that's all it says.

15 The important point about this is that when you
16 provide that square footage, it's the developer that takes the
17 risk because he can't build under the PUD regulations. He can't
18 occupy his office space until that affordable housing is actually
19 built. Unless he is successful in producing that housing, he
20 can't use his PUD.

21 As especially Mr. Parsons knows, in the history of
22 all of our PUDs, this is the way we produced housing is through a
23 contract and agreement with the provider. The first one was about
24 15 years ago in the mid 1980s with the acreage over at 13th and I.
25 And that's what we are doing in this case.

1 That's the second alternative and it's meaningful
2 because you can count on that housing. It's going to be built,
3 whereas if you put it in a trust fund, you don't know what's going
4 to happen to that or if it's ever going to be utilized. We've
5 never been able to find out how much money is in the trust fund.
6 We did make an inquiry.

7 Next, we agree with Mr. Foynes that this
8 application by formula requires the provision of about 9,500
9 square feet of affordable housing. But we disagree that any
10 specific amount of dollars is required to be contributed. This
11 has always been worked out with the provider because they have
12 different types of products.

13 They have different gaps whether it's single family
14 housing, whether it's an apartment, whether it needs \$10,000 as a
15 supplement to a unit, or whether it needs \$40,000. That's
16 something that we work out and the applicant must work out with
17 the developer.

18 But remember the risk of this matter is on the
19 developer. It's a real risk but the provision of housing is real.

20 In any event, the applicant in this discussion and in this case
21 has worked with the Marshall Heights Community Development
22 Organization and determined to make, as Mr. Jacobs just said,
23 \$280,000 available for new housing. That's going to be new
24 housing.

25 If you assume as correct, as Mr. Foynes as said,

1 and we agree, there's a 9,500 square foot requirement to be used
2 for new housing. You have a minimum of 1,500 square feet per
3 house. Then that results in seven new homes for this community.
4 It can be more because the Marshall Heights Community Development
5 Organization has the right to spread that perhaps in some other
6 way. We know that it's going to be a minimum of seven units.

7 We believe that what we do and what we've offered
8 fully complies not only with the letter of the law but the spirit
9 of the law. To us it's fairly simple and we do not see how there
10 could be any argument to the contrary.

11 That completes my statement and also our direct
12 presentation. We hope that you will see fit to grant our case as
13 soon as possible. We realize we still have to go through cross-
14 examination and some other presentations.

15 CHAIRPERSON HOOD: Okay. Thank you, Mr. Quin. I'm
16 going to ask that Mr. Fairbrother -- who else? Is that it? Okay.
17 I want to make sure everyone's at the table.

18 Colleagues, open it up for questions.
19 Mr. Franklin.

20 COMMISSIONER FRANKLIN: Mr. Fairbrother, I think
21 Mr. Quin accurately stated at the outset that the major issue
22 before us is how this building relates to 16th Street.

23 As you may know, I'm the remnant of the support for
24 this project under the former design and the setbacks that you
25 have provided, of course, improved on the situation before so I

1 don't want to address that particular issue.

2 Of course, you've come up with a rather significant
3 redesign of the building. I'm kind of curious. Apart from the
4 setbacks, what design elements in this redesign would you say are
5 contextual to 16th Street?

6 MR. FAIRBROTHER: Well, as I mentioned, you know, a
7 lot of our rethinking of the building is thought of in terms of an
8 office building in the Washington urban area and the sort of bay
9 nature of those buildings.

10 If you go down 16th Street, however, you'll find
11 there's a number of buildings that sort of work under this similar
12 premise. American Chemical Society does that. It's a 20-foot
13 column grid with in-fill bays and articulated spandrels and
14 windows. You could say that the Education Association building
15 has the same thing only the design is a little different. It has
16 more punch than it does vertical peers.

17 COMMISSIONER FRANKLIN: Could you put up the
18 drawing Roman VIII for us to focus on? Roman VIII. There we go.

19 It seems to me that you would agree that 16th Street is a rather
20 different Street from K Street.

21 MR. FAIRBROTHER: Right.

22 COMMISSIONER FRANKLIN: From where this perspective
23 comes from, it seems to me that the facade there is really a K
24 Street facade. Is that not a fair comment?

25 MR. FAIRBROTHER: I suppose you could say that.

1 You also must be aware that we have not completed this design
2 either. We are actually sort of mid schematics so we have quite a
3 bit more work to do. One of the things that we thought was
4 important was the building sort of as a whole was sort of a
5 harmonious architecture.

6 COMMISSIONER FRANKLIN: Well, it seems to me, Mr.
7 Fairbrother, that this building has to be bilingual even though
8 it's harmonious. It has to speak to K Street and it has to speak
9 to 16th Street and those are two very different streets. Now, the
10 old design, which I have some problems with, I think made an
11 effort.

12 MR. FAIRBROTHER: I have an illustration of that.
13 Would you like me to put that up?

14 COMMISSIONER FRANKLIN: No, it's not before us
15 anymore. Taking the blocks or just the block on which this
16 building sits, why choose a lot of glass and metal for the facade
17 on 16th Street?

18 MR. FAIRBROTHER: Actually, this facade does not
19 have metal. The spandrels actually are stone in this case.

20 COMMISSIONER FRANKLIN: They are not metal?

21 MR. FAIRBROTHER: No. The place where there is
22 decorative metal panels is on K Street, not on 16th.

23 COMMISSIONER FRANKLIN: Then I misread the plan --
24 the drawings. Why the rather high glass bays on 16th Street?
25 What other building on 16th Street has high glass bays?

1 MR. FAIRBROTHER: I think American Chemical Society
2 does.

3 COMMISSIONER FRANKLIN: Let's take the context of
4 this block in particular.

5 MR. FAIRBROTHER: I don't know that there is
6 another building on this block that has high glass bays. There
7 are more residential buildings with punched openings as opposed to
8 office buildings.

9 COMMISSIONER FRANKLIN: That's my point. You talk
10 about context but what I see in that drawing is a lack of context
11 in terms of materials and general appearance of a building which
12 makes it looks really very fitting on K Street. I think there are
13 a lot of elements of the design that are very sophisticated and
14 the subtlety of your metal panels, etc.

15 The overall vocabulary doesn't seem to me to be
16 very contextual with 16th Street which is a street, as you well
17 know, that has classic, traditional, in some cases monumental. I
18 mean, they are not all prize winners certainly but the vocabulary
19 on 16th Street is a fairly restrained residential stone oriented
20 vocabulary with not a great deal of glass.

21 It seems to me the design challenge at this
22 interesting corner, which is kind of unique, is to, as I say, have
23 a bilingual approach to something that has sort of an overall
24 harmony. I think that you've got one language done very well and
25 that is the K Street language. I'm not so sure that the 16th

1 Street side of it works as well.

2 MR. FAIRBROTHER: That's a fair point and I think
3 we can take that under advisement and think about that. As we
4 hopefully move forward, we'll hopefully be able to address those
5 concerns of yours.

6 COMMISSIONER FRANKLIN: Well, does that mean that
7 basically we are looking at a schematic design
8 which you are still in design develop on.

9 MR. FAIRBROTHER: We're actually not even in design
10 development. We're kind of, as I mentioned, mid schematics. In
11 this effort to redo some of the aspects of the building, our
12 mission has been slightly different. I think it's a fair point
13 and worthy of us doing further study.

14 COMMISSIONER FRANKLIN: Okay. Mr. Chairman, that's
15 all I have at the moment.

16 CHAIRPERSON HOOD: Mr. Holman.

17 COMMISSIONER HOLMAN: I guess, Mr. Chairman, I
18 wanted to hear some more about the parking entrance and why this
19 solution was chosen and why it appears to be the only one that
20 works for the project if I could just hear a little bit more about
21 that.

22 MR. JACOBS: If I may respond, I think there are
23 two points. One, just turning back Mr. Franklin, to the
24 architecture. Perhaps I should take some of the responsibility.
25 Among the concerns that were previously articulated by the

1 community even though the design was approved prior in the earlier
2 hearings was a desire from a refined and more traditional and more
3 stately materials and so stone was substituted for the metal which
4 was not as appealing and I will defer to further refinement.

5 Mr. Holman, with respect to the parking garage,
6 you'll find among the material that you have an engineering report
7 from our engineers pointing out the grade differential. I won't
8 be so presumptuous as to say I am the author of that, or even
9 fully understand all the great differentials, but we studied very
10 carefully three alternatives to the garage entrance.

11 One was in the alley, a very difficult alley which
12 is below standard in its dimensions. It was well discussed in the
13 earlier hearings. There's a PEPCO building that is on L Street
14 which services from the rear PEPCO substation to be precise.
15 There are very narrow, I believe 15 feet but I'm not looking at my
16 dimensions right now, access to the alley both from K Street off
17 the service lane.

18 You may bring to mind that K Street has a service
19 lane and K Street, too, is a much more crowded pedestrian area
20 than 16th Street. Notwithstanding that fact, in our discussions
21 with DPW, which drove us to the solution that we have presented
22 before you, the grade differential going down into the building
23 and then turning in was such that it was impractical, if not
24 infeasible, to approach the building from that direction.

25 In addition to the fact that DPW resisted the idea

1 of yet another garage entrance into a service lane over the K
2 Street sidewalk. From the rear we had a similar condition within
3 the building as well as an elevation change that made it very
4 difficult. In addition, we had the loading docks which we are
5 introducing to the building that don't exist today in order to
6 provide loading off of 16th -- rather than have it on 16th Street
7 or K Street.

8 We then turn to the 16th Street alternative and
9 work with the community that we never reach resolution but during
10 the course of our first several hearings reduce the scale of the
11 garage, the height of the entry, divided into what I would
12 characterize as a residential scale agreed that we would have no
13 signage and limit the use.

14 I would point out, sir, that the capacity of the
15 garage is at the most 90 some spaces under manage. That's of the
16 whole building. There are 14 parking spaces to the rear which
17 include van parking for the handicapped because the heights in the
18 garage would not permit van access. The garage is very limited.

19 As I think I stated earlier, we had discussed with
20 the community and agreed that the garage would be used only for
21 tenants and guests of the building as well as the retail use in
22 the evening to provide valet parking.

23 We also just remind everyone, but because you
24 weren't here, had agreed that there would be a stop sign within
25 the garage controls and the garage would be managed so that people

1 could not violate those sanctions.

2 COMMISSIONER HOLMAN: Is it fair to say that you
3 can't really have a Class A office building without providing some
4 on-site parking?

5 MR. JACOBS: That is our strong belief. We have
6 discussed that both in our own experience, which is modest but
7 extends over a number of years, as well as professionals within
8 the community. We are trying to create a building that is worthy
9 of the site and we do not believe that the kind of tenancies that
10 we would be attracting would come to a building without limited,
11 and this is very limited in comparison to parking ratios in other
12 buildings but it is available nevertheless.

13 COMMISSIONER HOLMAN: Thank you, Mr. Chairman.

14 COMMISSIONER FRANKLIN: Mr. Chairman, could I just
15 jump back in for a moment?

16 CHAIRPERSON HOOD: Sure. Go right ahead.

17 COMMISSIONER FRANKLIN: I have now gone back to the
18 plans and I did not misread them. The plan numbered A-12
19 indicates metal panels, hand metal verticals on the 16th Street
20 elevation.

21 MR. FAIRBROTHER: That's a mistake. That's a
22 mistake. We were actually having -- I was trying to point them
23 out in this illustration here with the model. That actually is
24 stone.

25 COMMISSIONER FRANKLIN: So what is indicated on the

1 16th Street elevation as metal panels is not?

2 MR. FAIRBROTHER: Is not. Right.

3 COMMISSIONER FRANKLIN: And what about the metal
4 verticals?

5 MR. FAIRBROTHER: There are metal vertical elements
6 that is represented by these.

7 COMMISSIONER FRANKLIN: Are there any other plans
8 that we should ignore as mistakes in this presentation?

9 MR. FAIRBROTHER: No. Not that I'm aware of.

10 COMMISSIONER FRANKLIN: Thank you.

11 CHAIRPERSON HOOD: Mr. Jacobs, let me just jump in
12 here right quick. Have you exhausted all your options with the
13 curve cut for K Street? I know from the previous hearing the
14 alley is out of the question. Have you exhausted all of your
15 options to put the parking entrance around on the K Street side.

16 MR. JACOBS: Yes. There was some discussion, sir,
17 that an existing tenant in the B-1 level was the -- it was raised,
18 in fact, in the ANC response, that there were existing tenancies
19 which were driving the direction of this PUD. That is not the
20 case.

21 It was for that reason that we introduced the study
22 by our structural engineer, KCE, which is there and, I think,
23 describes quite adequately that having a grade that is legal, that
24 is a descending or ascending grade, cannot be achieved. There are
25 setbacks and I don't want to get into territory where my knowledge

1 is not sufficient to give you a full and complete answer.

2 The letter from KCE describes that the way the
3 garage was created in the Solar Building originally is set back in
4 part and, therefore, the ramping down would have a grade that was
5 greater than is permissible and turns that were radius turns into
6 the garage parking area that would not be available.

7 Mr. Fairbrother, you may want to demonstrate or
8 show by this exhibit Mr. -- presentation.

9 MR. FAIRBROTHER: I'd love to do that. Also, I've
10 got some drawings here I would like to talk a little bit about and
11 to address your question further on this illustration, if that's
12 okay, after this.

13 Essentially, what this illustration is showing is
14 the impractical grade differences in terms of the dimensions and
15 the slope of the ramp. If you've ever been on a black diamond,
16 this is essentially an 18 percent sloped ramp which is very steep
17 and out of the bounds of what is normally provided in an entrance
18 ramp to a garage. That is the best we can achieve given the grade
19 differences is 18 percent which really does not work. That's just
20 infeasible in terms of parking.

21 MR. JACOBS: Mr. Hood, I would also point out that
22 in our extended discussions with DPW prior to our earlier
23 hearings, they had indicated an unwillingness to have a garage
24 entrance coming over the K Street sidewalk at that location.

25 CHAIRPERSON HOOD: So those three options we have

1 exhausted all of the avenues except for 16th Street?

2 MR. JACOBS: That is correct, sir. In an effort to
3 accommodate the 16th Street entrance, we took the steps that I had
4 earlier described.

5 CHAIRPERSON HOOD: In the earlier hearing we were
6 talking about the distance. What is the distance from the corner
7 to where the curb cut will be? I'm sure it's here in the
8 rendering but I just don't see it right now.

9 MR. FAIRBROTHER: The center line is approximately
10 160 feet from the face of the building. I think the sidewalk --

11 Do you know the width of the sidewalk?

12 CHAIRPERSON HOOD: You said 160 feet?

13 MR. FAIRBROTHER: From the south face of the
14 building to the center line of the drive.

15 MR. JACOBS: So the sidewalk is how wide?

16 MR. FAIRBROTHER: It is, Mr. Hood, at the northern
17 most portion of our site. It is approximately a 20-foot sidewalk
18 so you're looking at about 180 feet approximately.

19 Mr. Hood, there was another point that was
20 discussed in earlier hearings with respect to curb cuts. My
21 recollection is a little clouded but I believe there were 17 other
22 curb cuts between Scott Circle and Lafayette Park most of which
23 have far greater volume of traffic than we would have because of
24 the limited use of our garage. I believe the study that was in
25 the Office of Planning Report indicated about 32 peak-hour

1 transitions, a.m. and p.m., out of that garage which is quite
2 minimal.

3 CHAIRPERSON HOOD: Okay. You wanted to respond,
4 Mr. Fairbrother? You want to respond to Commissioner Franklin?

5 MR. FAIRBROTHER: If I may. If you look at
6 illustration A-14, that actually shows a color coding of the
7 materials on the facade. You can see the yellow is stone.

8 COMMISSIONER FRANKLIN: And there are metal parts
9 as well.

10 MR. FAIRBROTHER: Yes. That's correct. I
11 apologize that I answered your question incompletely. I also have
12 pictures of all the various office buildings that go up and down
13 16th Street which shows some of the other buildings of an office
14 nature that are on the street.

15 COMMISSIONER FRANKLIN: Do any of them have as much
16 expansive glass as this one?

17 MR. FAIRBROTHER: Actually this one has a similar
18 attitude toward the glass. And in terms of us developing the
19 detailing, we hope to achieve that level of detailing. This one
20 has a very similar although not quite as detailed facade. But in
21 terms of just its glazing orientation, this is similar. The same
22 base size.

23 COMMISSIONER FRANKLIN: As long as we've reopened
24 this discussion, what would you say is the likelihood of the play
25 of light and shadow on the 16th Street facade?

1 MR. FAIRBROTHER: Actually, I think it's well shown
2 in this model. This is an early study model, obviously, but you
3 can see that in having the metal pieces and the masonry and the
4 glass were actually creating a lot of profile and were actually
5 changing and detailing this stone facade with honed and polished
6 finishes along with reveals as well. We are attempting to really
7 heavily articulate this facade and create quite a bit of play and
8 shadow. Not only with the profiling but with the finishing.
9 Would you like to --

10 COMMISSIONER FRANKLIN: That's okay. I can see it
11 from here. Perhaps another way of rephrasing my first question is
12 could this building sit perfectly well on any other street corner
13 in downtown Washington, D.C.?

14 MR. FAIRBROTHER: I think that your original
15 suggestions actually are appropriate and bear study which we would
16 like to be able to do that. I think as we do move forward, we
17 will take those comments into consideration.

18 COMMISSIONER FRANKLIN: Thank you.

19 CHAIRPERSON HOOD: Commissioner Parsons.

20 COMMISSIONER PARSONS: I guess I should first say
21 that both of you have come a long way towards my way of thinking
22 on this project. As painful as it will be for me to look at the
23 previous facade on 16th Street, you said you had a previous
24 drawing.

25 MR. FAIRBROTHER: Would you like me to --

1 COMMISSIONER PARSONS: I have A-13.

2 MR. FAIRBROTHER: That's it. Yes.

3 COMMISSIONER PARSONS: Do you have that with you?

4 MR. FAIRBROTHER: Yes, I do actually. Would you
5 like me to put that up?

6 COMMISSIONER PARSONS: Very painfully, yes. I
7 wanted to have a discussion with Mr. Franklin because I'm
8 persuaded by his argument and have the same general reaction.

9 MR. FAIRBROTHER: That is the previous compared to
10 --

11 COMMISSIONER PARSONS: I think it's instructive to
12 me to look at that and say that is a much more compatible facade
13 to me on 16th Street when I look at the hotel across and the
14 buildings in this block that it's just a tad more limestone than
15 it is glass and that's your point. So I wanted to --

16 COMMISSIONER FRANKLIN: Plus it's more modeled. I
17 think the recesses are deeper and the corner is clearly a more
18 focal part of the building.

19 COMMISSIONER PARSONS: You've gotten ride of all of
20 this architectural nuisance, is what I would call it, on the roof,
21 calling more attention to that element of the building and I
22 congratulate you for that.

23 MR. JACOBS: Thank you.

24 COMMISSIONER PARSONS: I have an idea that you are
25 going to tell me won't work but that's what a hearing is about.

1 Given the steepness of this ramp into the garage and the limited
2 usage, is it possible to have one portal that serves an in-and-out
3 function.

4 Somehow controlling the exiting traffic at the
5 bottom so you don't have head-on collisions. I think you've come
6 a long way from the last time with these smaller portals and a
7 double car residential feeling. As I looked at I wonder if it was
8 possible. Maybe it doesn't meet the zoning code.

9 MR. FAIRBROTHER: It doesn't meet the actual --
10 yeah, you're right. It doesn't meet the zoning code.

11 COMMISSIONER PARSONS: You'll have to change some
12 kind of building code. There's only 90 cars and people coming and
13 going that frequent the place. I can't imagine, for instance, a
14 building of this size that you're going to have any opportunity to
15 park guests.

16 MR. JACOBS: It will be very limited, Mr. Parsons.
17 Again, I can't speak to the code issue. Mr. Fairbrother will be
18 more knowledgeable and Mr. Quin. I think the difficulty there
19 might be that while we will have very limited traffic as I've
20 described earlier. There is always the possibility that someone
21 will be entering and someone will be exiting.

22 If there are more than a car or two exiting and
23 someone entering, then the possibility arises that they would have
24 to back out onto a public street in order to make way for the
25 exiting car to come out. I think that would create a very

1 dangerous condition.

2 COMMISSIONER PARSONS: I had in mind somehow
3 controlling the exiting car.

4 MR. JACOBS: I understand. I understand but then
5 without speaking to all the details of garage control, what we've
6 tried to do is by breaking the entry, you can see from the
7 renderings, into two separate residential scale, I would say, try
8 and relieve that situation to the extent possible. We've done
9 other things you may recall but they were part of the last
10 presentation.

11 We agreed that we would have glass block at the
12 rear of the garage, the west end of the garage, so that natural
13 light would come through and we would not use florescent but
14 rather incandescent light and light finished wall treatment so
15 this would not appear as a dark abyss, but rather would be a
16 bright lighter and more inviting and less intimidating area.

17 MR. QUIN: Mr. Parsons, just to answer your
18 question on the code, the zoning regulations require 14 feet
19 anyway for two-way traffic so that would be minimum. What I think
20 the constraint really is, as Mr. Jacobs has described, is more
21 practical than anything because it could be a blockage and keep
22 people from coming in and start backing up on 16th Street.

23 COMMISSIONER PARSONS: Well, not in my scheme but
24 if it's illegal, let's not go further.

25 COMMISSIONER FRANKLIN: You might require all the

1 tenants to drive only Porches.

2 MR. FAIRBROTHER: Is that why they're more careful?

3 COMMISSIONER FRANKLIN: Cars are smaller.

4 CHAIRPERSON HOOD: Colleagues, any further
5 questions? Next we'll do cross-examination. I will ask the ANC.
6 Whoever is representing the ANC, if you want to come forward if
7 you have some questions you want to ask of the applicants.

8 PARTICIPANT: No, I don't.

9 CHAIRPERSON HOOD: Okay. Not at this time. We
10 have another party, the Presidential Building, Mr. Foynes.

11 MR. FOYNES: Yes. Thank you, Mr. Chairman.

12 CHAIRPERSON HOOD: You may have to come -- maybe if
13 someone can give their seat up. Thank you.

14 MR. FOYNES: Good evening again and thank you
15 again. With regard to housing linkage, the applicant originally
16 submitted an indication that they were going to provide about
17 7,500 square feet of housing. Was that calculation in error?

18 MR. JACOBS: The original application that we
19 reached with Marshall Heights were based on the application and
20 the differential and density that existed at that time. The
21 calculations that were made resulted in a contribution far in
22 excess by agreement by Marshall Heights at that time of the square
23 footage or the amount required to create the square footage.

24 When we saw the calculations that Mr. Foynes had
25 put forward, we agreed with them within a very narrow range and we

1 had further discussions because it was a valid point as many of
2 the points that the community has raised have been valid points
3 and many of them, I would say, by number the vast majority, have
4 been accommodated in this plan.

5 As a result of Mr. Foyne's bringing that to our
6 attention we had extended dialogue with Office of Planning. I
7 might add parenthetically we only became aware of this within the
8 last five or six days. All of the issues appropriately raised,
9 Mr. Hood, with regard to timing I think were brought about by the
10 fact that this issue was raised in the most recent days.

11 Still appropriate and I think still responded to
12 completely. We took into account the additional area that, as I
13 said earlier in my statement, was brought about by our desire to
14 pull back the SP lines so we were in a sense foisted on our own
15 petard in that particular point.

16 Having seen it we made the adjustment and then went
17 further, considerably further, because while the contribution made
18 earlier was developed approximately, I guess, a year ago, times
19 have changed and circumstances have changed. We went through
20 calculations.

21 Office of Planning and District Department of
22 Housing was very helpful and we developed a number of \$40,000 a
23 unit which was, I believe, based on the HUD standard for low and
24 moderate income housing to buy down mortgages and the like and 40
25 times seven which actually, I think, was 6.3 houses that we were

1 required to provide in terms of square footage so we rounded in a
2 logical way to seven. Then the \$280,000 contribution which I
3 referred to earlier is a product of the seven homes times \$40,000
4 per house.

5 MR. FOYNES: The testimony by the representative of
6 Marshall Heights preceded the current application, the current
7 variation of the application that we are listening to tonight.
8 Did you and the community recalculate to 9,400 since you revised
9 the application?

10 MR. JACOBS: I have to ask you to restate the
11 question, Mr. Foynes. I'm not certain I followed it. We looked
12 at your calculation. We recalculated the number. I believe we
13 were within a very narrowly and irrelevant differential in square
14 footage, accepted it and moved forward by correcting both the
15 numbers, the number of units, and then restated, or renegotiated
16 and agreed to a much larger per unit.

17 If we referred back to our earlier approved
18 application, I believe it was \$20,000 per unit. It was 10 and 10
19 but 20 for five units which was \$100,000. If we applied the same
20 \$10,000 per unit, it would have been -- \$20,000 a unit, excuse me
21 -- \$140,000.

22 We've now changed that to 40 based on information
23 that we have subsequently received because it seemed more
24 appropriate and more certainly to create the housing which is the
25 intention of this linkage program.

1 MR. FOYNES: The \$280,000 contribution divided by
2 seven dwellings equates to \$40,000 per dwelling. I believe when
3 the representative from Marshall Heights testified here, he
4 indicated that housing cost \$120,000 to \$140,000 per unit to
5 provide. Are you providing new housing or are you making a
6 contribution to housing?

7 MR. JACOBS: We are making a contribution to enable
8 the housing to be acquired by low and moderate income families.
9 There is a calculation which I would defer to others more
10 knowledgeable than me but it's based on the HUD standard at, I
11 believe, the 50 percent average income level which results in that
12 number being developed.

13 MR. FOYNES: Did you calculate the dollar amount
14 that you would have to pay under the housing trust criteria?

15 MR. QUIN: Mr. Chairman, I would like to object to
16 the question. We are not required to do anything other than one
17 of the options and we selected the option of the formula that is
18 under the paragraph that allows you to base it on the increased
19 FAR and one-third of the increased FAR over a base. That's how we
20 came with Mr. Foynes, concurred with him on the number of square
21 footage. We are not required to do anything with regard to the
22 trust fund.

23 CHAIRPERSON HOOD: Mr. Quin, because of the late
24 submittal, I'm going to let it proceed. I want to finish hearing
25 the question. Let me hear the question first and because of the

1 late submittal, I'm going to let him ask this question and get a
2 response.

3 MR. FOYNES: Thank you, Mr. Chairman.

4 Was the dollar value of the housing contribution
5 fund calculated and did it match our estimate of housing
6 contribution which was a million two.

7 MR. JACOBS: Mr. Foynes, our desire was to create
8 housing. We looked at the options that were available to us and
9 we believe having been in business in the District for nearly 40
10 years and been involved in a number of projects, some with
11 governmental sponsorship, most with private sponsorship, we
12 believe that to create housing the linkage program which we are
13 pursuing was the most effective way of doing so.

14 Given that election, we did not look to
15 alternatives which we felt would be less effective and we did not
16 look to any alternative other than that which was provided by the
17 regulations and which we felt would most certainly and
18 historically has proven to create housing most directly, most
19 promptly, and for the communities that are in need of housing.

20 MR. FOYNES: Mr. Chairman, I have a question of Mr.
21 Quin.

22 CHAIRPERSON HOOD: You may have to restate your
23 question and just make a statement because you can't ask Mr. Quin
24 a question.

25 MR. FOYNES: Oh, I'm sorry. I thought since each

1 testified, I could direct a question.

2 COMMISSIONER PARSONS: He is technically not
3 testifying. He's summarizing facts and so forth so hopefully the
4 same fact you're after might have come from Mr. Jacobs.

5 MR. FOYNES: In the collective testimony by the
6 applicant, it was indicated that -- well, I'm going to try again.
7 The housing linkage ordinance, when was it adopted?

8 MR. JACOBS: I would have to look at the
9 regulations. I couldn't quote that from memory.

10 MR. FOYNES: I believe Mr. Quin testified that he
11 has never heard of a dollar contribution made to the housing
12 linkage fund. Did I hear that correct?

13 MR. JACOBS: Are you asking me?

14 MR. FOYNES: I'll restate the question.

15 CHAIRPERSON HOOD: Mr. Foynes, I know you are
16 asking it of him but were you just trying to find that out in
17 general?

18 MR. QUIN: I'd be glad to answer that question if
19 you would like me to.

20 MR. FOYNES: My question is I heard testimony that
21 said they have never heard of contributions to the housing trust
22 fund of the housing linkage program.

23 MR. QUIN: Within the Zoning Commission cases.

24 MR. JACOBS: Are you looking for an answer from me,
25 Mr. Foynes? I'd be happy to give you my answer. I can't give you

1 Mr. Quin's answer.

2 CHAIRPERSON HOOD: Let me say this. If your
3 counsel could advise you. However you want to work it but we want
4 to keep this in an orderly fashion.

5 MR. JACOBS: I'll be happy to give my answer based
6 on my experience.

7 MR. FOYNES: May I withdraw my question?

8 CHAIRPERSON HOOD: Question withdrawn.

9 MR. FOYNES: Thank you.

10 Mr. Jacobs, you testified on the issue of parking.

11 Parking is not driven by existing tenancies. Is that correct?

12 MR. JACOBS: I think my testimony was very
13 specifically in response to a comment made in the ANC letter or
14 memorandum that there was a suggestion that our PUD request was
15 driven by existing tenancies. The answer to that was whether we
16 have the PUD approval or not, the existing tenancies remain.

17 I think what I said with respect to parking was
18 that there is -- and this is testimony that was well discussed in
19 the previous hearings -- there is a tenant in the B-1 level, that
20 is the first basement level. That is one factor that will limit
21 us from providing parking on that level for the duration of that
22 lease which, to my recollection, is about 2,007.

23 However, we pointed out that we would be providing
24 parking both on the lower B-2 level as well as in the rear of the
25 building to 14 spaces which I had described earlier. I went on to

1 say that while the existing tenancy was present, that the reason
2 we submitted the statement from KCE Engineering was to point out
3 that without that tenant independent of that tenancy, the garage
4 access from K Street was limited in several respects.

5 The Department of Public Works with whom we
6 discussed at length and the grades, which have nothing to do with
7 the tenancy that would have to be affected in order to achieve
8 parking at that level which Mr. Fairbrother amplified on.

9 MR. FOYNES: Thank you. You mentioned 94 parking
10 spaces. When will 94 parking spaces be available at the project?

11 MR. JACOBS: That would depend on the existing
12 tenancy. The number of parking spaces, and I'm going from memory,
13 Mr. Foynes, I believe is about 45 or 40 some spaces independent of
14 the B-1 level. Then that level becomes available, the parking can
15 increase on a managed basis to approximately 90 some spaces. That
16 is the full extent of the parking that would be available.

17 MR. FOYNES: Mr. Chairman, I have no further
18 questions.

19 CHAIRPERSON HOOD: Okay. Thank you, Mr. Foynes.
20 Moving right along, we're going to go into the Office of
21 Planning's report.

22 MR. COCHRAN: For the record, I'm Steve Cochran
23 with the District of Columbia Office of Planning. Mr. Chairman
24 and fellow commissioners, I think that you know just about how
25 much I relish the privilege I'm given to testify for the Office of

1 Planning usually. However, given the hour, I think I'm going to
2 pull a political move and tear up my prepared remarks which I
3 actually even quoted President Kennedy in favor of just being
4 brief for a change.

5 I would like to just quickly go through the reports
6 that we've produced in order to highlight some points and then
7 give you the opportunity to ask us questions on the ones you think
8 are important.

9 As you know, the Office of Planning had previously
10 recommended for this project. Since that time there's been a
11 change in the design. There's also been a change in the Office of
12 Planning. Nevertheless, we've approached this without any
13 preconceptions so we've arrived at much the same conclusion that
14 the Office of Planning had earlier which is that this project does
15 deserve your support.

16 It's a planned unit development. There's always a
17 certain amount of give and take in a planned unit development.
18 The whole idea behind it is that some things are taken but in a
19 good planned unit development more is given back.

20 We feel that this project does give back more
21 particularly with respect to the contribution to recreation at
22 Ross school to the tune of \$50,000, the library for \$100,000, the
23 way in which the project meets the requirements of Section 2404.6
24 of the zoning regulations through the provision of certain --
25 well, seven housing units.

1 I would like to stress here that I was getting a
2 bit concerned that Mr. Quin was praising our report too much and I
3 am pleased to be able to note that, in fact, we did find some
4 differences in opinion with what he stated earlier that we
5 certainly don't view this housing contribution as the be all and
6 end all of housing contributions but one that does meet the
7 requirements as they are now stipulated.

8 The office is always looking for ways to help
9 produce new housing. The mayor already has a task force on
10 housing production and there will be a new tactical plan for
11 downtown. We look forward to continued discussions on how we
12 might be able to link the production of office space downtown and
13 housing in the community.

14 We've gone back and reviewed the record Zoning
15 Commission order 795. We found that the city counsel actually
16 seemed to be of two minds on this in that the rhetoric was very
17 strong for the production of housing and then as it got closer to
18 even numbered years, some of the rhetoric backed off a little bit
19 from it.

20 There are, in fact, two ways that contributions can
21 be made to housing. One is the direct contribution to the housing
22 trust fund to which Mr. Foynes has eluded but the counsel very
23 clearly left the option of the applicant entering into a third
24 party agreement for the production of housing where the applicant
25 is taking the risk that in entering into this agreement it will,

1 in fact, unless the housing is produced, not be able to get a C of
2 O for discretionary approval that is got in the increase in the
3 office space.

4 We've gone back and done the calculations and we
5 are satisfied for now with what they are promising to the tune of
6 \$280,000 in the production of at least seven housing units.

7 There are other issues of concern with this
8 project. Certainly in an ideal world we would not like to see a
9 garage entrance on 16th Street but we are dealing with a very
10 prominent location in the city, one where both the federal and the
11 District interests have to be respected.

12 The federal interest where this is an approach to
13 the White House. The District interest where this is one of the
14 premiere intersections in the city, arguably K Street has been the
15 most important commercial street in Washington for the last 50
16 years.

17 We note that the applicant will provide more green
18 space than is there now on 16th Street. We feel that during the
19 times that the pedestrian experience on 16th Street may possibly
20 be compromised by the cars coming into the garage, the pedestrian
21 experience is probably attune to the pace of the traffic in the
22 downtown commercial district that it is approaching as opposed to
23 the pace of a boulevard on which people would be strolling.

24 Most people simply aren't out strolling during rush
25 hour. Therefore, we feel that the additional landscaping, the

1 superior landscape design does give back more to the street than
2 the garage entrance takes away. We did conclude that, however,
3 reluctantly. We recognize the desire to avoid these curb cuts.

4 We do note, though, that because the public space
5 is exceptionally wide through here, it's an exceptionally safe
6 garage entrance because of the lines of site that you'll have.
7 Those lines of site are the same as the lines of site that you
8 would have across the street from the turnaround, say, at the
9 Capitol Hilton or the St. Regis Hotel.

10 As far as the SP-2 zone goes, I hope that in our
11 earlier report we demonstrated that the intent behind SP-2 has
12 varied considerably over the last 15 years. It's only been
13 relatively recently that we've looked at it as a buffer zone
14 between the central employment area and the residential uses.

15 In fact, it had originally been designed to be a
16 place where parking structures are supposed to be built to serve
17 the fortunately unbuilt interloop freeway. The SP-2 zone, we
18 feel, is respected.

19 The applicant is also in the ironic position of
20 attempting to meet some of the communities concerns and not asking
21 for as much elimination of the SP-2 zone as he had in his earlier
22 application. In giving -- not necessarily in giving that back but
23 in taking less it also is required to give more in housing because
24 of the linkage that it has to the discretionary approval of office
25 space that you may consider granting to them.

1 All in all, we feel that they have met all of the
2 requirements and that the project does exhibit superior
3 architecture and a landscape design and will contribute to the
4 environment both of 16th Street and a very important commercial
5 street in Washington.

6 CHAIRPERSON HOOD: Thank you, Mr. Cochran.

7 First, colleagues, I would like for us to admit the
8 Office of Planning Report and waive our rules and do it on general
9 consensus. Any questions for the Office of Planning?

10 Mr. Holman.

11 CHAIRPERSON HOOD: Mr. Cochran, would you say that
12 the office took some degree of effort, I want to say great pains,
13 to try to resolve the parking entrance issue to the satisfaction
14 of all the parties?

15 MR. COCHRAN: We had meetings both with the
16 applicant and with the community. It was fairly clearly that
17 certainly the representatives of the community that we dealt with
18 regarded any type of entrance on 16th Street as being unacceptable
19 and that should there be any parking garage entrance on 16th
20 Street, they would oppose the project.

21 We do note that the applicant has redesigned the
22 entrance in a way to make a perhaps unfortunate condition as
23 unobtrusive as possible.

24 MS. MCCARTHY: But I think specifically if I
25 understand the drift of your question, yes. We looked at the

1 alley possibilities from 17th Street, from L Street. We looked at
2 the possibility from another piece of property that we understood
3 might be under control of the applicant.

4 We looked at the K Street entrance. We looked at
5 the DPW reports from before about using K Street in the hopes that
6 we could find some other way of dealing with the parking issue
7 besides a direct curb cutoff of 16th Street.

8 We also looked at the applicant's own KCE
9 Engineering report because we had suspected that the grades would
10 be steep but we were actually surprised to see just how far you
11 would have to go into the alley coming off of the K Street service
12 road to underpin the building. We explore things to the point of
13 noticing that PEPCO actually does have a secondary ingress and
14 egress that is possible from L Street.

15 I'm not sure that any trucks that they currently
16 use would be able to fit down there very easily but we looked at
17 all of those options. Those trucks would also run smack into a no
18 parking sign because there's no curb cut where the building has a
19 basically hidden entrance on L Street.

20 We note that standards may have changed over the
21 last 50 years with what constitutes a Class A office building
22 whereas it might have been acceptable to use a nearby parking
23 structure and a rear entrance to a Class A office building in
24 1955.

25 We are not aware of that kind of condition

1 occurring now, especially when you'd be entering the building next
2 to the dumpsters and the loading docks that the applicant is
3 constructing. It was a reluctant conclusion but I have to admit
4 that I've taken a lot of photographs of the site and two out of
5 the three times that I tried to get into the alley by car I
6 couldn't because the alley was blocked. I did not want to reach
7 that conclusion.

8 CHAIRPERSON HOOD: Thank you. Commissioner
9 Franklin.

10 COMMISSIONER FRANKLIN: Yes, Mr. Cochran, or Ms.
11 McCarthy, maybe you can help me a little bit. I've been trying to
12 determine what the gravement of the concern is in terms of this
13 so-called parking issue. There are so many curb cuts along 16th
14 Street and along that block alone and across the street there are
15 curb drives for cars to enter and leave. It seems to me an
16 additional curb cut as such is not something that is inharmonious
17 with the pattern on the street.

18 Then I hear a lot of focus on the fact that this is
19 a garage but we are told that the number of vehicles entering and
20 leaving is probably far less, for example, than the number of
21 vehicles that would be traversing the pedestrian pathway for the
22 hotels which are nearby. I mean, the amount of potential conflict
23 between vehicles and pedestrians can't be rationally, it seems to
24 me, a concern from a planning standpoint here.

25 Then we go to the garage and then there seems to be

1 a lot of attention paid to the redesign of the garage because
2 apparently maybe visually that is regarded as penetration of the
3 building that won't look very good. Which is it? Or is it all of
4 these in combination? I mean, if there weren't a garage and there
5 was just a sort of -- I know that's not feasible because the
6 parking is necessary but the curb cut alone can't be the problem.

7
8 If it's the garage and it's the appearance, is it
9 possible that maybe when the garage is not needed for exiting or
10 entering, the doors would be closed? Would that make a difference
11 visually? I mean, I'm trying to figure out what the concern is
12 here. I don't mean the concern of the opponents. I mean just the
13 concern from a rational planning standpoint.

14 MS. MCCARTHY: I think the concern -- Steve, feel
15 free to jump in. I think there is probably at least four aspects
16 of the concern. One is that 16th Street is officially in the
17 Comprehensive Plan a special street. In particular, lower 16th
18 Street because it's so close to the White House.

19 The idea was to try to encourage a boulevard sense,
20 a pedestrian friendly sense, an appearance of 16th Street that is
21 not necessarily contradicted by the curb cuts for the hotels as
22 they are sort of part and parcel the grand entrance to those
23 hotels, almost like old fashioned port coheres.

24 While I'll admit the comings and goings of a ton of
25 taxicabs and the taxicab drivers hanging out and doing what

1 taxicab drivers do is not necessarily consonate with a grand
2 boulevard, but it was the notion of a special street.

3 It was the President that overlays such as the
4 downtown development district and some of our neighborhood
5 commercial overlays said in which the zoning regulations
6 specifically state that streets like E and F Street in the
7 downtown development district overlay, for example, should be
8 discouraged from having any parking garage entrances and any
9 additional curb cuts beyond what's there because of the desire to
10 encourage them as pedestrian boulevards and making them as
11 pedestrian friendly as possible.

12 I think there's an element of it where you have
13 within the same block an apartment building so you have a clearly
14 more residential nature along this stretch of 16th Street than you
15 have in many other sections of the downtown and that apartment
16 building has no parking garage entrance and neither does the rest
17 of this section of 16th Street between K and L so that you would
18 be introducing a new curb cut and a new potential for pedestrian
19 vehicle conflicts where one had not existed so far. Our notion
20 was there already are plenty and we should try to minimize any
21 addition curb cuts.

22 COMMISSIONER FRANKLIN: Could I interrupt you just
23 for a moment with all of those considerations. If those were to
24 be dispositive of the situation, what could be developed at this
25 particular site feasibly?

1 MS. MCCARTHY: Well, I suspect the shortest answer
2 is to say if those were dispositive, the Office of Planning
3 wouldn't have given a positive report.

4 COMMISSIONER FRANKLIN: Okay.

5 MS. MCCARTHY: I mean, what we felt was --

6 COMMISSIONER FRANKLIN: It seems to me
7 that --

8 MS. MCCARTHY: -- those are all a number of
9 negatives to having a parking garage entrance on 16th Street. I
10 think Steve said it very well. In the end we said we had to
11 balance those things which we consider to be really serious
12 negatives against the fact that it is 16th and K.

13 It is a premiere business address. It is on the
14 avenue of the President where it intersects with K Street, an
15 important commercial street. I don't know if I would necessarily
16 give Steve that it's the most commercial address for the last 50
17 years but it's an important commercial street.

18 Therefore, in order to have something developed
19 there which did give some dignity to the corner and acknowledging
20 the fact that the applicant had proposed a very substantial
21 landscaping scheme that attempted to beautify that and to
22 contribute to the pedestrian character along 16th Street, we felt
23 that on balance weighing all of those we ought to recommend it in
24 favor of the building.

25 COMMISSIONER FRANKLIN: Well, it seems to me that -

1 - I hear what you say but it seems to me that what troubles me
2 about this issue is that I don't know that anything can be
3 developed at this site in view of its sort of almost land-lock
4 nature in terms of the alleys, etc., without some kind of direct
5 access to parking. Am I wrong?

6 MS. MCCARTHY: I would disagree somewhat and I
7 suspect that based on conversations we've had with the community,
8 it's an argument that they will develop in more length. A clear
9 alternative on this site would be to say, you know, it's a Class B
10 building. We'll reclad it. We'll make it as nice a renovation as
11 we can. We'll just decide it's going to stay Class B.

12 The entrance to the parking garage can, therefore,
13 either be from the alley on down in the back or we won't have a
14 parking garage directly connected with this site. We will look
15 for a market of the many nonprofit organizations that have been
16 displaced from places like the Investment Building on the same
17 block and others that are now looking somewhat disparately for
18 office space in downtown D.C.

19 That's another alternative and we are on a corner
20 not as prominent as 16th and K. There might be an alternative
21 that we would have considered to be a more favorable alternative.

22 MR. ALTMAN: I would just add that I think Ellen's
23 point and Steve's point and the way to look at this is that you
24 look at the project as a whole in terms of what it's providing and
25 you can take apart this element or that element of it. We're

1 looking at it as a package.

2 You're looking at the architecture. You're looking
3 at the rhythm of the street. You're looking at the landscaping.
4 You're looking at a number of elements to make this compatible
5 with the street and with its surroundings and actually add
6 tremendous value overall to the city in terms of what it's
7 bringing to this special corner.

8 I think you're right. You can always have
9 something that may be lesser but then you are trading off
10 something that we believe the benefits would outweigh any of those
11 negatives when you look at how it will fit in contextually given
12 the issue you are raising.

13 MR. COCHRAN: I also think it's worth noting that
14 only the latest plan for the landscaping illustrates just how much
15 landscaping there is. Most of the renderings that you've seen,
16 the visualization that you saw, are essentially geared to
17 marketing the building so essentially you want to show the
18 building.

19 The applicant has actually added additional
20 landscaping in response to some of our comments just in the last
21 three weeks.

22 CHAIRPERSON HOOD: In the Office of Planning
23 Report, you referred to this project as being a trophy. I think I
24 read it in the Office of Planning Report.

25 MR. COCHRAN: I apologize if I used that word. It

1 reminds me too much of certain gentlemen on their second or third
2 marriages in New York.

3 CHAIRPERSON HOOD: I guess I need some
4 clarification. I know I saw it in two places, in the applicant's
5 submission and also in the OP report.

6 MR. COCHRAN: I do agree with that.

7 CHAIRPERSON HOOD: I'll put it like this. I
8 believe it was in the OP report. I'm sitting here trying to find
9 it again. Let me ask you from a planning perspective what do you
10 consider a trophy project?

11 MR. COCHRAN: I really would object to using that
12 term. I think you simply have buildings in this case. First,
13 we're looking at this as a very important location. Then there's
14 the consideration of is this building worthy of the location or
15 conversely would it denigrate this location and its symbolic
16 importance if you simply develop a Class B office building at this
17 location.

18 We feel that this location does, in fact, deserve a
19 Class A office building and the superior architecture and the
20 landscape architecture that only the kinds of rents frankly that a
21 Class A office building are going to bring in that can allow the
22 developer to afford to provide those other amenities.

23 CHAIRPERSON HOOD: I still can't find it but I
24 guess I'll find it when I get home.

25 MR. COCHRAN: Thank you.

1 CHAIRPERSON HOOD: Any further questions? Next
2 we'll have cross-examination of Office of Planning by the parties.
3 ANC? None? I'm sorry. The applicant. Mr. Foynes, Presidential
4 condominiums.

5 MR. FOYNES: Mr. Cochran, nice to meet you.

6 MR. COCHRAN: It's nice to meet you, Mr. Foynes.

7 MR. FOYNES: I've heard fine and respectful things
8 about you. Could you turn to the exhibit, please, of your report?
9 Do you have it handy?

10 MR. COCHRAN: Which date of the report? There are
11 two reports. There is the one that talks about everything except
12 housing, and then there's today's report on housing.

13 MR. FOYNES: This is dated June 6. Mr. Altman
14 prepared it on his behalf. There are several exhibits at the
15 back.

16 MR. COCHRAN: Yes. I suspect you might be
17 referring to Attachment A, 1 and 1?

18 MR. FOYNES: It's not labeled that way. It simply
19 says first level plan and it pertains to the garage.

20 MR. COCHRAN: Yes. And it also shows the
21 landscaping.

22 MR. FOYNES: Correct.

23 MR. COCHRAN: Yes.

24 MR. FOYNES: If I look at the exhibit, I see 11
25 parking spaces on level 1. Is that correct?

1 MR. COCHRAN: I believe that is at ground level,
2 not the level of the parking garage. I would have to defer to the
3 architect.

4 MR. FOYNES: Let me state my question. This is
5 street level?

6 MR. COCHRAN: Street level.

7 MR. FOYNES: Are there 11 spaces provided at street
8 level in this exhibit?

9 MR. COCHRAN: That's how I would read it, yes.

10 MR. FOYNES: And is there a loading dock provided
11 here as well?

12 MR. COCHRAN: Yes, there is a loading dock at the
13 north end of the building.

14 MR. FOYNES: Can you suggest how cars and trucks
15 are going to gain access to those 11 parking spaces in those
16 loading docks?

17 MR. COCHRAN: They would come through the alley
18 system.

19 MR. FOYNES: So the alley system is adequate to
20 serve as those 11 spaces and loading trucks?

21 MR. COCHRAN: I have no idea whether those 11
22 spaces will be assigned to tenants of the building or visitors. I
23 assume that most of these would be service areas but that is
24 simply an assumption, sir.

25 CHAIRPERSON HOOD: Excuse me. Which rendering are

1 you looking at?

2 MR. COCHRAN: It's labeled in our report,
3 Attachment C.1.

4 MR. FOYNES: My observation is that trucks and 11
5 vehicles will use this part of the building and only have access
6 from the alley. My question is why is the alley adequate for this
7 function of the property but deficient for the other 80 or 75
8 parking spaces?

9 MR. COCHRAN: Because I haven't discussed this with
10 the applicant, I can only give you my assumption and you may want
11 to ask if there is any other opportunity of the applicant. I had
12 looked at these and simply assumed that since they are next to the
13 loading dock, you would be looking at things like UPS, Federal
14 Express, repair, etc., but this is a service area. That would
15 avoid double parking in the service lane if K Street or double
16 parking on 16th Street by providing such an area.

17 MR. FOYNES: In the engineering report that was
18 done, and I believe is attached to your report, did the engineer
19 evaluate the slope and the approach from the alley into the
20 garage?

21 MR. COCHRAN: I believe that the engineer looked
22 primarily at the underpinnings on the west side of the K Street
23 facade. I would actually have to refer back to the report.

24 MR. FOYNES: It should be an adjacent office
25 building.

1 MR. COCHRAN: It would, I believe, go into the
2 alley and actually go underneath the adjacent Commonwealth
3 Building.

4 MR. FOYNES: I'm not sure I'm following you. When
5 the engineer did the evaluation, was he looking at an approach --
6 the building to the west is the Commonwealth Building?

7 MR. COCHRAN: Yes. There's the alley and then
8 there's the Commonwealth Building.

9 MR. FOYNES: Did the engineer evaluate garage
10 access adjacent to the Commonwealth Building from K Street or from
11 the alley when he deemed it inefficient or inappropriate?

12 MR. COCHRAN: Again, the client for the engineer
13 was the applicant but I believe that the engineer's report was
14 referring to any entrance at that west side of the building
15 because any entrance, be it from the alley or from K Street, would
16 require the underpinning of the building. Again, I may well be
17 corrected on that.

18 MR. FOYNES: Did the applicant bring you any
19 technical information that suggested that there was an engineering
20 problem that precluded access to the garage from the alley?

21 MR. COCHRAN: An engineering problem? No.

22 MR. FOYNES: Thank you. Mr. Cochran, in reviewing
23 what I suspect is a dense file on this application, did you read
24 and did you review the findings of facts and conclusions of law
25 that were prepared by the Presidential co-owners?

1 MR. COCHRAN: I'm not certain. What was the date
2 on that?

3 MR. FOYNES: I can't say to be honest with you.
4 Did you read a parking report that was prepared by the
5 Presidential owners that dealt with the extensive presence of
6 garages in the vicinity for which access was from alleys?

7 MR. COCHRAN: Yes, I did. I remember a report that
8 demonstrated that a number of office buildings did have access
9 primarily through alleys within that general Connecticut and K
10 vicinity.

11 MR. FOYNES: Do you recall the general number of
12 instances that were cited?

13 MR. COCHRAN: I apologize but the number 17 or
14 somewhere in the 30s sticks out in my mind.

15 MR. FOYNES: How did that information influence
16 your analysis of this alley and this alley suitability relative to
17 this application?

18 MR. COCHRAN: I didn't go back and look at the date
19 of construction on each of those buildings and whether standards
20 had changed. I actually did notice that the Davis Building, which
21 is next to the Commonwealth Building, actually has a garage that
22 is entered from that alley which I viewed to be yet another
23 problem because the Davis Building has something like 70 parking
24 spaces entered from the alley but that alley is more easily
25 entered from the wider entrance which is the alley off of 17th

1 Street.

2 I did take at face value the PEPCO report that they
3 would prefer not to have additional congestion in this alley. I
4 did also take at fact value the Department of Public Works
5 preference that there not be an entrance on K Street but when it
6 came to actually looking at an entrance from the alley, it
7 appeared to me as a planner, not an architect or an engineer, that
8 the only entrance with this configuration for the building would
9 be on the west side of the building.

10 This was before I saw that engineer's report. The
11 engineer's report pretty much indicates that it's not possible to
12 have an entrance even on the west side of the building. When you
13 look at the cores to the building, there's just no entrance left
14 form the alley system.

15 MR. FOYNES: Did you read or review the BZA
16 decision of 1955 that pertained to the Solar Building and
17 preconditioned the Solar Building construction to the construction
18 of a garage on L Street?

19 MR. COCHRAN: No, I've got to admit. I read the
20 Louis Report of 1955 but I did not read that particular decision.

21 I was made aware of there having been an informal understanding
22 that the garage that still exist actually on L Street o the south
23 side in the 1600 block was supposed to be linked to the
24 construction of the Solar Building but that linkage was never
25 formally covenanted.

1 MR. FOYNES: When you say never formally
2 covenanted, does that mean that someone didn't go to the
3 courthouse and record it?

4 MR. COCHRAN: I admit I was alive in 1955 but I
5 don't know.

6 MR. FOYNES: In the 1955 agreement or statement of
7 BZA, they indicated that 16th and K was horribly congested and
8 inappropriate for a garage.

9 MR. QUIN: Mr. Chairman, may I interpose an
10 objection? All of these questions go outside the scope of direct
11 testimony and, therefore, they are beyond the appropriate cross-
12 examination permission.

13 CHAIRPERSON HOOD: Mr. Foynes, I'm going to ask if
14 you could stick to the testimony. Also, if you can go right to
15 the point.

16 MR. FOYNES: I would like the answer to that
17 question. In 1955 BZA indicated that 16th and K was too
18 congested. My question is what's changed since then that makes
19 16th Street an appropriate point for a garage to this property?

20 MR. COCHRAN: I think that there is a distinction
21 between an intersection and a street. The applicant's garage is
22 as far north as you can get on this property. In fact, it's
23 actually, I believe, at the location of the currently adjacent
24 Taca Building as opposed to where all of the turning movements are
25 occurring at the intersection of 16th and K.

1 MR. FOYNES: Thank you.

2 Mr. Chairman, I have a request for guidance.

3 CHAIRPERSON HOOD: Sure. I'll see what I can do.

4 MR. FOYNES: Thank you. I realize the hour and I
5 recognize and acknowledge good will and graciousness and
6 accommodation here this evening in timing. Mr. Cochran, I
7 believe, indicated he wasn't sure if he read the findings of fact
8 and conclusions of law of the community. Several bullets, if you
9 will, about five or six paragraphs site the zoning code and give
10 guidance on placement of parking garages in relation to pedestrian
11 areas in relation to public space.

12 My question, Mr. Chairman, is how do I determine
13 whether or not Mr. Cochran considered the Comprehensive Plan and
14 the guidance therein when he formulated his position on the
15 parking garage for this property? I don't want to be tedious.

16 CHAIRPERSON HOOD: I guess we just have to ask him
17 and see. Just ask him the question.

18 MR. FOYNES: Thank you.

19 Mr. Cochran, Section 709.2 of the Comprehensive
20 Plan says, "Reduce conflicts between pedestrians of vehicular
21 traffic in order to increase pedestrian safety and comfort." Were
22 you familiar or did you consider that text when you embraced
23 parking access from 16th Street?

24 MR. COCHRAN: I didn't consider that text at that
25 time. I would be prepared to address that now, however.

1 MR. FOYNES: Section 805 of the Comp. Plan
2 indicates landscapes, green space on publicly owned privately
3 maintained front and side yards in historic districts on historic
4 landmarks should be preserved. Special care should be taken to
5 protect historic green areas from being paved over by vehicular
6 access and parking.

7 MR. COCHRAN: I am aware of that regulation which
8 is why I particularly noted that there would be more green space
9 provided under this development than there is currently.

10 CHAIRPERSON HOOD: Thank you.

11 MR. FOYNES: One other section, Mr. Chairman.
12 Section 917 indicates, "Prohibit and restrict parking entrances
13 onto pedestrian oriented and critical access streets and instead
14 require and encourage access to off-street parking facilities
15 through public alleys." That's in the downtown plan element --

16 MR. COCHRAN: Yes, I'm aware of that and the
17 requirement and the guidance on the special streets. I think
18 there's no question that we would encourage -- I'm sorry. What
19 was the other word there?

20 MR. FOYNES: Can we stick with encourage?

21 MR. COCHRAN: Encourage the access to be from the
22 alley where at all possible. I would note, tough, that the
23 pedestrian counsel on 16th Street are less than they are on K
24 Street so the pedestrian conflicts are likely to be fewer on 16th
25 Street than on K Street were there a garage entrance on either of

1 those facades.

2 MR. FOYNES: One final broad question. Will the
3 character of 16th Street or lower 16th Street be improved by
4 virtue of having garage access from 16th Street?

5 MR. COCHRAN: As I stated, I think in a PUD you're
6 looking at tradeoffs. I certainly feel strongly that the general
7 character of lower 16th Street will be enhanced by the overall
8 project including the garage entrance.

9 MR. FOYNES: Thank you, Mr. Chairman.

10 CHAIRPERSON HOOD: Thank you.

11 Next, moving right along, report of other agencies.
12 I believe we have something from the Department of Housing and
13 Community Development.

14 MR. BASTIDA: That is correct. The Office of
15 Planning submitted for the record and I think that the Office of
16 Planning has alluded in its testimony to it. I would just state
17 for the record that basically the Office of Housing and Community
18 Development recommends favorable on this proposal.

19 CHAIRPERSON HOOD: No further reports?

20 MR. BASTIDA: No further reports, Mr. Chairman.

21 CHAIRPERSON HOOD: Next we have report of Advisory
22 Neighborhood Commission 2B.

23 If you could state your name and the SMD you
24 represent.

25 MR. PITSOR: Good evening, Mr. Chairman, members of

1 the Zoning Commission. My name is Kyle Pitsor. I serve as the
2 Chairman of the Dupont Circle Advisory Neighborhood Commission and
3 I'm the Single Member District Commissioner for Single Member
4 District 07 within our territory.

5 MS. DEHART: Good evening. My name is Meredith
6 DeHart. I serve on ANC 2B as well. The Solar Building is within
7 my single member district which is 2B-05.

8 CHAIRPERSON HOOD: You may proceed.

9 MR. PITSOR: Thank you, Mr. Chairman. Briefly, the
10 ANC has also heard and considered this application on a number of
11 occasions, the last occasion being at our March 8, 2000, public
12 meeting where the revised PUD that is present before us today was
13 presented to the ANC and to the community. The ANC voted
14 unanimously as it has in the previous two cases to oppose the PUD
15 as proposed.

16 In weighing the pros and cons and the benefits and
17 costs associated with the PUD and the proposed amenities versus
18 the potential adverse impacts, the ANC reluctantly was in a
19 position of not supporting and opposing the PUD.

20 Commissioner DeHart, whose single member district
21 includes the PUD area, will discuss the specifics of our
22 opposition.

23 MS. DEHART: In the prehearing submission, the
24 applicant has made the statement that the ANC has not moved from
25 its position that the 45-foot strip of the site should be retained

1 as SP. The ANC would like this statement to be put into proper
2 perspective. Our adoption of the 45-foot minimum depth is in
3 itself a significant compromise and accommodation to the applicant
4 to provide a little more explanation to that.

5 As one of our concessions, we did agree that the SP
6 line could or should be redrawn to a uniform 45-foot depth there
7 so that on that point we did compromise.

8 The ANC has been concerned throughout this
9 application process that the special character of lower 16th
10 Street be maintained. In this ANC and elsewhere downtown much of
11 the special purpose zoning has been lost.

12 In the 1997 zoning case regarding the SP zone
13 language and map amendments, the SP-2 zoning of lower 16th Street
14 was reaffirmed. To us the priority along lower 16th Street is
15 clear that the special character is to be protected.

16 The ANC has not been persuaded that there is a
17 compelling reason to alter the zoning line of the Solar Building
18 from its current configuration. Section 107.4 of the zoning
19 ordinance specifies that whenever a portion of any district is
20 indicated as a strip paralleling an opened or unopened street, the
21 width of the strip, unless delimited by lot lines and other wise
22 dimensions, gets fairly technical at any rate. It is assumed to
23 be 100 feet.

24 At this point, however, in the SP-2 zone the 45-
25 foot depth is the narrowest of anywhere along this 16th Street

1 corridor. The ANC acknowledges that the depth of the SP-2 zoning
2 along lower 16th Street sufficient to appropriately maintain the
3 special character of the neighborhood is subjective.

4 Placement of the zoning line is not, however,
5 arbitrary. There are compelling policy reasons why the line
6 should not be altered and there are compelling policy reasons why
7 the line should be at 45 feet. There are no compelling reasons
8 that serve the public interest which suggest the zoning lines
9 should be at the request of 30 feet.

10 The applicant is asking the community to accept
11 changes that will affect lower 16th Street in perpetuity. In
12 perpetuity, I think, is a very strong term forever for those
13 people whose lives are centered in this particular neighborhood.

14 The applicant is requesting a public subsidy for a
15 private project in one of the best locations of the city. We've
16 heard repeatedly this evening that this is a trophy location, a
17 very special site. Yet, public subsidies are being requested for
18 this particular project.

19 Through actions of the ANC the community has
20 rejected the request. The ANC has scrutinized the proffered
21 benefits associated with the project and rejects them as
22 insufficient to compensate for the permanent changes that are
23 proposed.

24 To make the point further, the ANC has decided that
25 the degree of development incentives requested and the potential

1 adverse effects of this project cannot be reconciled with the
2 relative value of the project amenities in this case. The ANC
3 challenges the Commission to make an alternative reconciliation
4 while still giving great weight to the ANC's position.

5 The ANC remains opposed to the parking garage
6 entrance from the 16th Street side notwithstanding the design
7 accommodations by the applicant, the essential problems with the
8 proposed garage entrance cannot be relieved by design. These
9 problems are increased traffic at an already congested
10 intersection of 16th and K and the inevitable conflicts between
11 vehicles and pedestrians that will occur where this driveway
12 crosses the sidewalk.

13 The ANC and the Zoning Commission are aware of the
14 fact that numerous parking garages are accessed through alley
15 entrances and many of those alleys are narrower than the standard
16 required width. The Investment Building one block away at 15th
17 and K will include a parking garage in the renovated building that
18 will be accessed via an alley of substandard width.

19 Notwithstanding their complaint that the subject
20 alley is too narrow to provide access to the parking garage
21 entrance, the applicant had originally proposed access to as many
22 as 14 parking spaces on the first floor from the alley. We have
23 reviewed that drawing already this evening.

24 The ANC and the Zoning Commissioner, where that
25 alley is congested, I don't think there is any dispute over that

1 point. Some control over traffic flow in the alley could be
2 implemented making one way designations perhaps from K Street and
3 existing through 17th Street. It is an alley system that flows
4 through there.

5 We have overlay districts in the city. We have the
6 Dupont Circle overlay which prohibits driveways and curb cuts
7 along pedestrian oriented Connecticut Avenue. In part, these
8 limitations are intended to eliminate the potential for pedestrian
9 and vehicular conflicts.

10 The ANC and the Zoning Commissioner are also aware
11 of the fact that the lower level tenant impairs the applicant's
12 ability to construct a parking garage entrance from the alley.
13 We've been hearing about this tenant since the beginning and the
14 necessity of working around the tenant rather than simply thinking
15 in terms of the longer picture.

16 There is no benefit to the community with this
17 parking garage entrance from 16th Street. The applicant
18 represents that the amount of green space along 16th Street will
19 actually be increased there unless there have been calculations
20 within the three weeks that I'm unaware of. It's an increase of
21 20 square feet. It is fairly minimal. It's four by five, sort of
22 a small rug.

23 The ANC emphatically opposes a parking garage
24 entrance from 16th Street in any decision to the contrary is not
25 in the public interest. The ANC has concluded that the potential

1 adverse effects related to a parking garage entrance from 16th
2 Street cannot be reconciled with the relative value of the project
3 amenities in this case.

4 In accordance with the special procedure applicable
5 to this case, the ANC request the maximum time for parties of 15
6 minutes, which I have about exhausted here, I believe.

7 I do have some thoughts about this. It has been a
8 very long case. Different players have commented how their lives
9 have changed within that time frame. I thought more in terms of
10 the impact on the people who live in this neighborhood, the people
11 who are left behind when all of those 94 cars go home, the people
12 whose lives are centered here, and the difference it makes to be
13 dealing with 94 cars within a few feet of what has been your
14 fairly quiet apartment building entrance.

15 The impact also of unregulated left turns in and
16 out of that garage. One of the things I've learned from this case
17 is the double up yellow lines throughout the city prohibit left
18 turns. If you drive downtown, or actually anywhere in the city,
19 you'll see that the double yellow lines are universally ignored.

20 This is a busy intersection at 16th and K. The
21 proposed garage entrance would be just north of this. You add the
22 possibility of left turns both from northbound and from southbound
23 traffic. The south bound would be making right turns into the
24 garage but on exiting would be very tempted instead of making a
25 right turn to make that left turn to head north again.

1 You have northbound traffic approaching the garage
2 from the south and also making illegal left turns into the garage.

3 I am trying to point out the additional traffic problems in an
4 intersection that is already one of the busiest of the city and
5 just generally the impact on that particular stretch of 16th
6 Street and the lives of those people whose lives are centered
7 there. Thank you.

8 CHAIRPERSON HOOD: Okay, colleagues, any question?

9 COMMISSIONER HOLMAN: I have a couple.

10 CHAIRPERSON HOOD: Mr. Holman.

11 COMMISSIONER HOLMAN: Ms. DeHart, you mentioned, I
12 think your term was alternative reconciliations. I'm just trying
13 to visualize what that means in light of your desire not to have a
14 curb cut on 16th Street. There wasn't any real testimony in this
15 case that I'm a part of about the tenant.

16 I don't really understand that part as well as I
17 might otherwise except just having read something. What is your
18 alternative vision of what this project should be as opposed to
19 what the applicant has proposed?

20 MS. DEHART: From the beginning I have maintained
21 that an alley entrance would be more appropriate for this
22 particular neighborhood instead of setting the precedent of a
23 first garage entrance from 16th Street. An alternative might also
24 be not to do this Class A trophy building. Trophy for whom I'm
25 not sure.

1 I don't believe it would necessarily be the
2 residents of the neighborhood. The alley entrance, I think, would
3 definitely be preferable. I have walked the alley system. It's
4 not especially pretty but then alley systems in the downtown area
5 weren't designed to be pretty I suspect.

6 I think the applicant's viewpoint of this is that
7 for his tenants it would compensate him more if they could make
8 this entrance to the garage from 16th Street rather than going a
9 securitous route through the alley and into a garage entrance.

10 COMMISSIONER HOLMAN: So you're saying a Class B
11 office building at that site is the preference of the ANC as
12 opposed to having a garage entrance on 16th Street? Is that over
13 simplifying things?

14 MS. DEHART: Yes.

15 COMMISSIONER HOLMAN: Okay.

16 MS. DEHART: That's pretty much it. We aren't
17 saying forget about the parking, although that is another option
18 as well. Certainly other buildings have been renovated in that
19 area and successfully renovated and leased without the addition of
20 a garage.

21 COMMISSIONER HOLMAN: Okay. Thank you, Mr.
22 Chairman.

23 CHAIRPERSON HOOD: Commissioner Franklin.

24 COMMISSIONER FRANKLIN: Yes. I have two questions
25 essentially. With the curb cuts that now exist along 16th Street

1 primarily for the hotels, the university club, the Presidential,
2 which are curbed driveways in and out, what has been your
3 observation as to the illegal left turns that take place in those
4 instances?

5 MS. DEHART: In truth, I think, Connecticut Avenue
6 because traffic is not as heavy, the left turns are not the same
7 problem that they are on Connecticut Avenue and on Massachusetts
8 Avenue.

9 COMMISSIONER FRANKLIN: Did you mean to say 16th is
10 not as problematic as Connecticut?

11 MS. DEHART: I believe it is not. Connecticut
12 Avenue is wild.

13 COMMISSIONER FRANKLIN: Of course, we're focusing
14 on 16th.

15 MS. DEHART: Right. We are focusing on 16th
16 Street.

17 COMMISSIONER FRANKLIN: Are you saying that the --

18 MS. DEHART: Traffic is currently lighter on that
19 part of 16th Street, I believe.

20 COMMISSIONER FRANKLIN: So that the left turn
21 situation, which you previously characterized as a problem, is
22 less of a problem on 16th Street than on Connecticut?

23 MS. DEHART: Yes. In terms of the illegal left
24 turn, my observation as a resident of the neighborhood, who is
25 both a pedestrian at times and behind the wheel at other times, is

1 that the left turn problems seem to be usually associated with
2 garage entrances.

3 It's as if people have made that commute into the
4 city and they are ready to leave the city using the most direct
5 means which may be a left turn depending upon if they are coming
6 and going without regard to, "Gee, I could make a right turn, go
7 around the circle, come back, and make a legal turn into the
8 garage." Or, "Make a right turn out of the garage, go around a
9 circle, and then be on my way home." It's more, "I'm going to
10 drive across three lanes of traffic and take the most direct route
11 to be on my way home."

12 COMMISSIONER FRANKLIN: You mean to say that a cab
13 driver picking somebody up at the Statler Hilton on 16th Street
14 and coming out of that driveway to go to the airport would not
15 turn left on 16th Street?

16 MS. DEHART: I can't guarantee that he would not.
17 That's true.

18 COMMISSIONER FRANKLIN: That seems to me that is
19 more likely than not.

20 MS. DEHART: Probably cab drivers are among the
21 worse offenders.

22 COMMISSIONER FRANKLIN: Right. So obviously I
23 haven't done a study and obviously perhaps you haven't either but
24 it seems to me that the frequency of left turns from all the other
25 driveways including the Presidential, why wouldn't cars coming to

1 the Presidential apartment and then leaving who have to go north,
2 why wouldn't they make a left turn, perhaps illegally, on 16th
3 Street?

4 MS. DEHART: There is, of course, the possibility
5 of that. I'm speaking more in terms of my own observations,
6 although I can't declare this to be any sort of scientific study
7 for which I can present any sort of statistical analysis on who
8 does what at what time or under what circumstances. It's more of
9 an observation circumstance.

10 COMMISSIONER FRANKLIN: You made some statements
11 earlier -- or perhaps your colleague did. I can't remember which
12 -- about the balance of the amenities compared to the detriment of
13 this garage entrance. If the applicant were providing one or two
14 million dollars for the Marshall Heights development, would that
15 make the curb cut and the garage entrance acceptable?

16 MS. DEHART: From my own standpoint where this is
17 my home, my life entered in this Dupont Circle area. This is part
18 of my single member district. The Marshall Heights development is
19 more distant. Closer to where I work but still distant from my
20 daily life.

21 I would say that the amenities of this building do
22 not accrue any great benefit to the people whose lives center on
23 the neighborhood who make their home there. I would find it
24 preferable if there were a larger contribution to the Marshall
25 Heights development but still --

1 COMMISSIONER FRANKLIN: Sounds like I wouldn't push
2 the ball over the goal line so far as you're concerned.

3 MS. DEHART: No. I keep weighing the consequences
4 of the proposal against the impact on the daily lives of the
5 people who live there.

6 COMMISSIONER FRANKLIN: Suppose the major
7 contribution were going to housing close by? Would that make a
8 difference?

9 MR. PITSOR: I guess in terms of the Commission,
10 it's never been presented to the Commission in that sense. This
11 housing linkage development wrinkle is something that just
12 recently was brought to our attention in terms of the application
13 of the new housing linkage provisions and this being the first
14 case where this is being considered.

15 We are obviously concerned that this is fully
16 explored by the Commission in making a decision on this revised
17 PUD. The ANC itself hasn't been presented the issue of housing
18 linkage at that magnitude within the community as a project
19 amenity.

20 COMMISSIONER FRANKLIN: As you can see, what I'm
21 trying to find out is if the core concern is the curb cut and the
22 garage entrance, whether there is anything in the off-site
23 amenities that could make a difference to you in regard to that
24 perceived detriment to your quality of life. I'm not hearing
25 anything that it would.

1 MR. PITSOR: I think in our discussions and the
2 testimony presented to the Commission during the three hearings we
3 held, the special street character of 16th Street and the special
4 treatment area of 16th Street was paramount in the concern of what
5 the first garage entrance would do as a precedent in terms of
6 future actions on 16th Street. The Comprehensive Plan provisions
7 that have been spoken to earlier were of great concern to the
8 Commission in terms of supporting those tenants.

9 COMMISSIONER FRANKLIN: Thank you very much.

10 CHAIRPERSON HOOD: Ms. DeHart, your SMD
11 constituents, how close are they to this project?

12 MS. DEHART: Let's see. The Presidential is just
13 north of this project. I'm not sure in terms of feet. There's
14 the Taca Building and then -- I've forgotten. There's a building
15 in between.

16 MR. PITSOR: Make reference to the map?

17 CHAIRPERSON HOOD: Yes, you can, if you need to use
18 it but take the mic. I want to know how close the --

19 MS. DEHART: It's within a few feet. The
20 Presidential is on the corner of 16th and L. Here's the Solar
21 Building. Here's the Solar Building and the Presidential is here.

22 CHAIRPERSON HOOD: Okay. Those are your closest
23 constituents?

24 MS. DEHART: Yes.

25 CHAIRPERSON HOOD: Thank you. Have you had a

1 single member district meeting with your constituents?

2 MS. DEHART: I have not met with all of the
3 residents of the building. I have met with individual
4 constituents under different circumstances. Most recently one of
5 the attendees here this morning walking dogs.

6 CHAIRPERSON HOOD: Let me rephrase. Did you put
7 out a notice so those folks who are most affected right in your
8 SMD? I'm not talking about a meeting of the full Commission. I
9 mean, just those people who you referred to as being affected.
10 Were they notified to the best you could have done?

11 MS. DEHART: Yes, they were aware of the ANC
12 meetings. I've been in contact with residents of the building
13 with representatives representing them for this particular
14 proposal.

15 CHAIRPERSON HOOD: From the first hearing until
16 now, would you say that the applicant has made some progress?

17 MS. DEHART: I would say that the applicant has
18 made some progress. We certainly have met. We reached a
19 community consensus where we gave some -- the redrawing of the SP-
20 2 zone or the line for the SP-2 is better. We have at least made
21 some progress from the 20-foot depth to the 30 feet, although up
22 front the ANC, the community, were willing to make concessions on
23 that line so that it be drawn uniformly at 45 feet.

24 CHAIRPERSON HOOD: Okay. Any further questions?

25 Thank you, ANC.

1 Let me just see by a show of hands at 9:45 persons
2 and parties in support that are going to testify. Can I just see
3 by a show of hands?

4 MR. BASTIDA: You said in support, Mr. Chairman?

5 CHAIRPERSON HOOD: Persons and parties in support.

6 MR. BASTIDA: Oh, okay.

7 CHAIRPERSON HOOD: I saw two hands.

8 MR. BASTIDA: Right. I think that you were not
9 totally understood.

10 CHAIRPERSON HOOD: Okay. I see one hand. Okay.
11 I'm sorry. Persons in parties in opposition? Okay. Nobody
12 behind me? Okay. All right. Let's move on. Persons and parties
13 in support.

14 MR. BASTIDA: Mr. Chairman, you might want to ask
15 the applicant and the other parties if they want to cross-examine
16 the ANC.

17 CHAIRPERSON HOOD: Would any of the parties like to
18 cross-examine the ANC? No one? Okay. Thank you.

19 Persons and parties in support.

20 MR. COTTON: Good evening, Mr. Chairman, and
21 members of the Commission. My name is Charles Cotton. I am here
22 this evening as a member of the Marshall Heights Board of
23 Directors, a Ward 7 resident, and a person involved in real estate
24 in the District.

25 My purpose in coming before you is to address the issue of the

1 adequacy of the housing linkage arrangement between the applicant
2 and Marshall Heights, a nonprofit development and builder.

3 I provided some copies. Are you going to give
4 those copies to the Commissioner? In there is a package of my
5 testimony as well as some exhibits, Mr. Chairman. Along that
6 line, I would like to be able to present some photos to you of
7 some of the development that we have done in the Marshall Heights
8 area.

9 As I stated before, my purpose coming before you is
10 to address issues of the adequacy of the housing linkage
11 arrangement negotiated between the applicant in this case and
12 Marshall Heights, a nonprofit development and builder.

13 As an organization, Marshall Heights vigorously
14 supports the concept and the practices of home linkage between
15 development in the downtown area of the city and the neighborhood
16 needs of new development.

17 Nonprofit organizations such as Marshall Heights
18 build an unserved and traditional neighborhood where marketplaces
19 allow profit to build in hot real estate areas. We build homes
20 that people want to buy at a price that meets the buyer's need.

21 The value of home linkage for nonprofit
22 organizations such as Marshall Heights is that the linkage funds
23 is often the difference between being able to proceed with the
24 project or being in a situation where the cost of production
25 cannot be recaptured in the sales price.

1 This is due to market constraints and the sale
2 price required which would push the project beyond the scope of
3 affordability for first time home buyers that Marshall Heights is
4 trying to serve.

5 The use of linkage funds is to facilitate the
6 successful development of a project that is critical in the land
7 development phase where lenders require development equity. Also
8 in the sales price where the linkage funds would allow the write-
9 down of the sales price to allow the homes to be sold to lower and
10 moderate income buyers.

11 In this particular linkage transaction \$280,000
12 will come to Marshall Heights to facilitate the development and
13 the construction of seven homes in the Banneker Ridge project.
14 The linkage fund will assist Marshall Heights to write-down the
15 land development cost, particularly those associated with the
16 removal of construction rubble left by the prior use of the site as
17 part of the Greenway apartment building.

18 Without the linkage funds from this transaction,
19 the sales price would be \$10,000 per home higher, plus pushing the
20 sales price beyond the range of affordability. Without a linkage
21 fund from this application, Marshall Heights is at risk to lose
22 all of its own equity involved in this project.

23 Banneker Ridge is the reality of all such projects
24 that Marshall Heights undertakes in order to help finalize,
25 stabilize, and transform transitional areas like Ward 7.

1 Banneker Ridge is a special project. This
2 subdivision of 27 single family homes range in the size from 1,500
3 to 1,875. It is the first such subdivision to be built in Ward 7
4 in over four years.

5 Such it is unique that it was the site of the press
6 conference in April of this year held by Congressmen Lazio and
7 Watts to introduce the Home Opportunity Act of 2000 primarily
8 because it's is a home ownership opportunity for first-time buyers
9 such as police, firemen, and other civic servants which the
10 legislation is designed to assist.

11 This site was designed to reduce housing density,
12 increase the housing mix by adding for sale affordable homes.
13 Marshall Heights and CRH homes, D.C. Housing Authority, Edelman,
14 and Gallagher have all made contribution to this effort over the
15 last five years.

16 Marshall Heights, Edelman, and Gallagher purchased
17 and renovated the Greenway apartments from Caifritz Foundation and
18 in the process of reducing the density from 840 units to 469 units
19 would convey the complexity from 70 percent one-bedroom units to
20 75 percent two to three-bedroom units.

21 The DCHA is in the process of renovating its
22 adjacent public housing units and has reduced its overall unit
23 density sufficiently by selecting demolition of the buildings that
24 were no longer livable.

25 The Caifritz Foundation has made possible to

1 Marshall Heights to take to the Banneker Ridge site by giving
2 Marshall Heights a recoverable grant to fund the demolition of the
3 17 apartment buildings on the current Banneker Ridge site.

4 CIA Homes has worked as the Marshall Heights
5 builder to design and plan the Banneker Ridge project including
6 the selection of home planning to fit the old city neighborhood
7 look that is found in Hillcrest and Penn Branch in Ward 7, in
8 Mount Pleasant AU Park and Chevy Chase in northwest D.C.

9 The Banneker Ridge is a project that fits all of
10 the criteria of spot growth development. It is a reuse of sites
11 that has outlived its economic value. It is located in walking
12 distance of two major metro stations, Minnesota Avenue, Benning
13 Road, and at the southern end of the Minnesota commercial
14 corridor.

15 It is a project that will offer home opportunities
16 to low and moderate income buyers at prices that are typically
17 available only in the outer suburban, if at all. A project like
18 Banneker Ridge are very difficult to do. That is why it took a
19 nonprofit organization like Marshall Heights to develop them and
20 that it is why linkage funds are so valuable. The \$280,000 may
21 seem adequate to some but to Marshall Heights the \$280,000 may be
22 the difference between success and the failure, between doing a
23 project or not doing it.

24 In this case the linkage funds offered by the
25 applicants are adequate for the project and will also allow

1 Marshall Heights to build seven new homes of superior quality in a
2 project that I as a Ward 7 resident welcome with pride into my
3 ward.

4 Marshall Heights humbly request that the Commission
5 decide this case on its merit, not on the issue of adequacy of the
6 linkage contribution negotiated between the applicants and
7 Marshall Heights. The linkage offer is fair, meets the square
8 footage requirement, and will facilitate the successful
9 development of Banneker Ridge.

10 Marshall Heights invite all involved in this case
11 to come see for yourself what is happening in Banneker Ridge, how
12 it has improved the quality of life in Ward 7, and what the
13 linkage fund will provide. I thank you again on behalf of the
14 Board of Directors of Marshall Heights for having given us this
15 opportunity to address the Commission on the linkage fund
16 associated with the case before you. Mr. Chairman, here is some
17 of the photos I made.

18 CHAIRPERSON HOOD: Let me just add if you give
19 those to us, I don't think we can give them back.

20 MR. COTTON: That's okay.

21 CHAIRPERSON HOOD: You can pass them to me. We'll
22 keep them for the record. I hope you have two copies.

23 Any questions for Mr. Cotton? No questions?

24 Mr. Cotton, I just wanted to ask one question. I'm
25 going to ask you this for the record because I know you wear many

1 hats. You're also on the Committee 100. They have a letter of
2 opposition. If you could just state for the record representing
3 what you've already done in Marshall Heights. You parted, I
4 guess, away from the Committee 100 on this issue.

5 MR. COTTON: Marshall Heights is not testifying on
6 behalf of the Heights. That is what the Committee 100 in
7 opposition to, the Heights. We have no play in that discussion.

8 CHAIRPERSON HOOD: Thank you for that
9 clarification. There are no other questions and thank you.

10 Next persons and parties in opposition. I'll ask,
11 Mr. Bastida, if you would set a time limit which is for
12 individuals, 15 minutes.

13 MR. FOYNES: Because of the clock, I think I'm
14 going to need to hand out materials all at once to do it
15 efficiently on reconsideration.

16 MR. BASTIDA: If you would like to do that at the
17 beginning, we will be glad to do it before I start the clock.

18 MR. FOYNES: That would be great. That would be
19 great.

20 MR. BASTIDA: Is there only one handout? I thought
21 that you had --

22 MR. FOYNES: No, sir.

23 MR. BASTIDA: Okay. Thank you. Have I received
24 all the handouts?

25 MR. FOYNES: I am looking for my testimony on --

1 MR. BASTIDA: That is the first handout you gave
2 me. It said "Testimony."

3 MR. FOYNES: I'm embarrassed to say there's a
4 section on housing linkage and then there's something titled
5 "Primary Testimony." Then there is a numeric summary. I'm at a
6 loss.

7 MR. BASTIDA: That's not included in any of your
8 attachments?

9 COMMISSIONER PARSONS: Mr. Foynes, I think, as we
10 discussed earlier, the record might be left open for your response
11 to the Office of Planning's memorandum. Maybe that's the way we
12 can get through this this evening.

13 MR. FOYNES: Mr. Chairman, I think I'm ready to
14 proceed and I think I'm willing to take the guidance of Mr.
15 Parsons with regard to housing linkage and the idea that that
16 matter is open for discussion.

17 On a philosophical ground, what I'm going to
18 suggest is that there's an issue of to build in housing linkage
19 and a cash contribution. I believe that in the information you've
20 heard before you tonight, there is an immense disparity between
21 the dollar value of building and the dollar value of a cash
22 contribution.

23 It's my assertion that disparity is inappropriate
24 and is not the intent of the code in the legislation. That's all
25 I'm going to say on housing linkage.

1 By way of summary, I have an exhibit, the top page
2 of which is in small print lots of numbers. Behind it there are
3 some attachments. If you turn to page 2 of those attachments,
4 there's a zoning map and that zoning map is just to present a
5 context.

6 The bottom is the White House, lower 16th Street,
7 and the average depth of lower 16th Street, the average depth of
8 the SP zone in the neighborhood, is considerably wider than 45
9 feet, considerably wider than 30 feet.

10 As is appropriate, the zone is typically 100 feet
11 or more. 45 feet is atypical. That's all I'm going to say about
12 the zoning map. Behind the zoning map there are exhibits to
13 illustrate the present configuration of the site and the
14 allocation of the SP zone and C4 zone. As I see people leafing
15 through, I'm concerned that people don't have this exhibit.

16 PARTICIPANTS: Yes.

17 MR. FOYNES: Okay. Thank you. The development
18 site, currently 60 percent of it is SP-2. The applicant wants to
19 reduce that to 23 percent.

20 There is a massive rezoning. It's unprecedented for a zone in the
21 District to have a depth of 30 feet. The standard is 100 feet.
22 It's in the code. We made reference to that in our findings of
23 fact and conclusions of law. I invite you all to revisit our
24 findings of fact and conclusions of law which are in the file.

25 With regard to this numeric summary sheet that is

1 before you, there are certain key facts on zoning. Bullet 4
2 defines the zoning parameters for C4 and SP-2. Bullet 5 has
3 several columns and I'll invite you to focus on the column labeled
4 "PUD Rezoned and Pending Application." The pending application
5 before you exceeds the guidelines for the PUD.

6 Mr. Chairman, the representative of the Office of
7 Planning is sort of suggesting he doesn't have what I'm speaking
8 from. Is that relevant or am I speaking just to the Commissioner?

9 CHAIRPERSON HOOD: If he doesn't -- the main thing
10 --

11 MR. FOYNES: And the clock is ticking.

12 CHAIRPERSON HOOD: Okay. We'll provide it. The
13 main thing is you want to make sure the Commissioners have it and
14 we do have it.

15 MR. FOYNES: Okay. Thank you, sir. In this
16 summary sheet what I want to make clear to you is that the maximum
17 development of this site, according to the PUD requirements, is
18 190,000 feet. The application exceeds the PUD guidelines. That's
19 all I want to say about those exhibits and those attachments. As
20 I look at the Office of Planning frowning a little bit, I
21 encourage you to visit that and consider that it exceeds the
22 guidelines.

23 CHAIRPERSON HOOD: Mr. Foynes, let me just
24 encourage you not to go by gestures and just get through your
25 testimony.

1 MR. FOYNES: Thank you, sir. My name is Desmond
2 Foynes and I'm doing this out of order. My name is Desmond Foynes
3 and I'm testifying on behalf of the Presidential.

4 I want to focus your attention on two issues that
5 remain unresolved from the Consensus Memorandum that was signed by
6 the representatives of the ANC, the Presidential, and other
7 parties including the Committee 100 and counsel member Evans.

8 These issues relate to the parking garage and its
9 operations and its impact on the neighborhood and 16th Street, and
10 also the drawing of the SP zone to a depth that is less than 45
11 feet.

12 With regard to the parking garage, the applicant
13 has stated the reason for its unwillingness to locate the garage
14 on either 16th Street or the alley. These conditions or these
15 circumstances pertain to safety, congestion, and economics.

16 With regard to safety, we have previously submitted
17 to you and we have reproduced a Tab L of my exhibit today, a
18 summary of the many instances of parking garages with entrances
19 from alley that are narrower than the standard 20 feet.

20 In addition to those cited on Tab L, we would like
21 you to be aware that the recently approved access of the new
22 parking garage being excavated under the Investment Building. The
23 Investment Building is a block east of the subject.

24 The illustration of the Investment Building floor
25 plan and a plat of that project is on Tab M for your

1 consideration. What is of particular interest about the
2 Investment Building parking garage entrance is that one access
3 point exits to the alley system which is along K Street so the
4 two-way traffic along the narrow section of alley is required.

5 This leads to the second issue of congestion within
6 the alley system. The congestion problem in the alley system
7 where the Solar Building is located is caused by two problems both
8 of which are solvable. Two-way traffic in narrow alleys and
9 illegally parked cars are the problems.

10 There is no reason why the section of the alley
11 from K Street cannot be one way northbound into the alley and the
12 section of the alley from 17th Street could be one way out of the
13 alley system. That is the solution that no one has brought to
14 you.

15 With regard to economics, the real issue driving
16 the applicant's resistance to the parking garage from anywhere
17 other than 16th Street is economics. They have a tenant on the
18 lower level for several years. They claim that to construct the
19 garage beneath this -- excuse me.

20 The applicant has repeatedly made claims of
21 economic hardship in this case and has yet to produce any analysis
22 for the Zoning Commission that supports this claim. In fact, the
23 only engineering feasibility analysis that was made relates to the
24 parking garage entrance from K Street. That engineering analysis
25 did not evaluate parking access from the alley.

1 In addition, we have reason to believe that in June
2 of last year an entity controlled by the applicant purchased the
3 parking garage at 1602 L Street. That was originally intended to
4 be linked to the Solar Building by a recorded legal covenant. Our
5 evidence for this belief is illustrated on Tab N and includes the
6 deed of sale and the mailing address for the real estate bill.
7 The purchasing entity is faceless. The tax bill is JBG.

8 We weren't able to examine the applicant about L
9 Street garage because it's not part of their direct testimony.
10 What is clear, however, is that it is within the applicant's
11 control to provide parking for the Solar Building without access
12 from 16th Street. The applicant also has the financial ability,
13 we believe, since it paid \$3.6 million for the L Street parking
14 garage.

15 Will a parking garage entrance from the alley or
16 using L Street parking make as much money? Probably not. Is the
17 difference sufficient, however, to make the project economically
18 infeasible? That has not been proven and it is the applicant's
19 burden of proof to suggest that.

20 With regard to the SP zoning line, I would like you
21 to take note, please, and write down Section 107.4 of the code.
22 If you turn to Tab O you will see an updated version of the plats
23 to illustrate the existing zoning configuration, the proposed
24 zoning line at 30 feet, and the consensus zoning line at 45 feet.

25 We had discussed at length in the past and we feel

1 the minimum of 45 feet is necessary to protect the integrity of
2 lower 16th Street and the special area.

3 I might also add that the 45 feet is a compromised
4 position of the community. It was not the community's preference.

5 We listened to the commissioners. We listened carefully and at
6 least one commissioner said 45 feet is an appropriate standard.

7 During the past two years we've seen different
8 design treatments of the area above 90 feet in the SP zone. If
9 you turn to Tab P you'll see how little this building has changed
10 over the past two years. In the application you considered in
11 December of 1998, the proposed building was to have a floor area
12 of 209,000 square feet for a density of 9.9.

13 For a March '99 hearing the floor area was 200,000
14 square feet and a density of 9.94. The application before you
15 today is 200,200 square feet, a density of 9.96.

16 There's been a remarkable compromise and
17 accommodation here clearly and I shouldn't be sarcastic and I
18 apologize for that. Even the original 1999 application which
19 never reached the public hearing because it included a complete
20 elimination of the SP zone along 16th Street showed a zoning
21 density of 205,000 square feet.

22 In presentations of the applicant where SP was
23 eradicated, the building was going to have 205. Now the building
24 after two years is going to have 200,000 square feet of floor
25 area, 200,000 square feet of density, 9.9 FAR is a CBD high-

1 density office building.

2 In December of '98 the Comp. Plan was amended. The
3 general land use map was amended to make the land use map
4 consistent with the Comp. Plan. The Comp. Plan and the Comp. Plan
5 map do not map this location for high-density office. The map it
6 for mixed use, medium high residential and medium density office.

7 This application is inconsistent with those things.

8 What we object to is the bulk of this building.
9 It's simply too big. The building is effectively a 10 FAR. A 10
10 FAR building absent a PUD is a C4 zone. This is absolutely a C4
11 building on 16th Street and the street is not designed for that.
12 That is not the character that we have here today.

13 As you notice on the chart in Tab P with the zoning
14 line at 30 feet, the applicant has now reached the limit of the
15 zoning ordinance which will allow and maintain the size of his
16 200,000 square foot building.

17 In fact, the applicant requires the Zoning
18 Commission to exercise your discretion under Section 2405.3 if the
19 PUD guidelines are to be exceeded. Under the PUD guidelines for
20 the C4 zone and SP-2 zone the threshold is five percent for
21 exceeding the guidelines. This pushes that envelope.

22 I'm leafing through and I'm watching the clock as
23 well. I have additional points.

24 In the prehearing submission prepared by the
25 applicant in advance of this hearing, they presented a list of

1 project amenities. I would like to comment briefly on two of
2 these items. At the top of the list of amenities is exemplary
3 architecture. Although there is no such standard for exemplary
4 architecture, there is a standard for you to consider in the
5 context of the PUD.

6 At Tab R we have highlighted the provision of
7 Section 2403.12 that requires that the benefits offered be
8 superior in quality and quantity to typical development of the
9 type posed. Quite frankly, Mr. Commissioners, it is unimaginable
10 that at such a prominent corner any developer would produce
11 anything other than exemplary architecture. Given that fact to
12 consider then, exemplary architecture as an amenity is a
13 disconnect.

14 The applicant reportedly has a temporary problem
15 with too long-term tenants that create an economic obstacle to
16 development. How many other instances do you know where gut
17 renovation went forward and the development made money but never
18 asked for an increase in the size of his building.

19 How many of those instances included partial or
20 total reskinning. We have included a partial list at Tab S. The
21 fact is, if you reject this application, the Solar Building will
22 have to wait a few years for its face lift but will eventually get
23 one because it makes economic sense. That is the standard against
24 which you should be comparing this design.

25 We also want to remind the Commission that the

1 second amenity that the application enumerates is the affordable
2 housing contribution. This contribution is not -- repeat not a
3 discretionary item. It is not an amenity. This is a requirement
4 of the code and should be treated as such.

5 Quoting from the code, "A planned used development
6 that is subject to the housing requirement of this section shall
7 not be relieved of that requirement to be found meritorious under
8 the evaluation standards of another section of the code."

9 After you strip away all the issues that have been
10 raised, policies, preferences, and requirements, what you are left
11 with is the fact that the applicant claims that without your
12 approval of this application, a first class renovation of the
13 Solar Building is not economically feasible but they have not
14 proved that to you. They expect you to take their word for it. I
15 know the Commission has a higher standard for burden of proof.

16 Thank you and that concludes my testimony.

17 CHAIRPERSON HOOD: Thank you, Mr. Foyne. Any
18 questions of Mr. Foyne? Okay. We'll continue.

19 MR. BASTIDA: Mr. Chairman, you would like to do
20 cross-examination now?

21 CHAIRPERSON HOOD: I'm sorry. Young lady at the
22 table. I didn't get your name. I'm sorry.

23 MS. BRICKLEY: Me?

24 CHAIRPERSON HOOD: Yes.

25 MS. BRICKLEY: I'm Bea Brickley, President of the

1 Presidential and I'm just here to assist Des.

2 CHAIRPERSON HOOD: Okay. We need to cross-examine?

3 MR. BASTIDA: Yeah, because it's a party.

4 CHAIRPERSON HOOD: Okay. The applicant?

5 MR. QUIN: No questions.

6 MR. BASTIDA: ANC.

7 CHAIRPERSON HOOD: ANC? Thank you, Mr. Bastida.

8 It's getting late. ANC? Okay. Thank you.

9 MR. FOYNES: Thank you all.

10 CHAIRPERSON HOOD: Do we have anymore persons or
11 parties in opposition? I believe we had someone else. Any
12 persons in opposition.

13 MR. BASTIDA: Persons in opposition.

14 CHAIRPERSON HOOD: You have three minutes. We only
15 have one? Okay. Thank you. You may proceed.

16 MR. CHAGNON: Mr. Chair, my name is John Chagnon.
17 I'm, in fact, an ANC Commissioner in Ward 4 and we recently
18 purchased the unit in the Presidential Building. Unfortunately,
19 it had been my misimpression that the garage issue had been
20 resolved and that the garage was going to be in the alley. My
21 mistake.

22 In any event, I would ask the Board, the Office of
23 Planning, along with the applicant, has invited you down a path
24 that you should reject. Basically they are trying to put a garage
25 off 16th Street. I don't know what the engineering plan says but

1 I can tell you from practically walking on that block for years --

2 CHAIRPERSON HOOD: Excuse me. Could I get you to
3 state your name?

4 MR. CHAGNON: Sure. John Chagnon.

5 CHAIRPERSON HOOD: Okay. Thank you.

6 MR. CHAGNON: I've walked that blocks for years.
7 My offices have always been downtown either 17th, 15th,
8 Pennsylvania Avenue. I'm very familiar with the area. I've
9 ridden the bus, the S1 and the S2, down that street every day for
10 years. That is a very heavily traveled bus route. No one is
11 mentioning these buses. There's a bus stop right at the corner of
12 16th and K on 16th Street side.

13 Nobody is discussing snow. When there's snow,
14 you're talking huge problems. Then you add another garage in the
15 mix with an entrance off of 16th Street, it's an awful situation.

16 I don't think that is an invitation you should accept. This is
17 not a place where another parking garage is appropriate.

18 I've walked through that alley. I paced off the
19 alley today. Each entrance appears to be about 16 feet which is
20 certainly adequate for the ample cars and trucks that make it in
21 and out of that alley every day. As Mr. Foynes so capably was
22 presenting, there are parking garages back there, a number of
23 them, that seem to operate quite well.

24 It's lacking enforcement by the city but, of
25 course, if they enforce the parking violations in the alley, then

1 there would be a much simpler passage in and out of those alleys
2 every day.

3 When I walked through there was no double parking in the alley.

4 There was no double parking out front.

5 I was looking at this particular handout that the
6 applicant has given you and it doesn't reflect the alley coming in
7 off K Street. When you look at that, it's a bit deceptive that
8 when you see here is the Solar Building, there's an alley right
9 here.

10 They have the foot alley here and the main alley
11 coming off 17th Street is here. It's completely eliminated the
12 alley coming off K Street. There's definitely an alley there but
13 it's not on the picture. Once again, as Mr. Franklin noted, there
14 were some errors in what is being presented. If the architects
15 are wrong in something as basic as an alley, what else are they
16 incorrect about? I don't think we should be guessing.

17 I'm a little disappointed in the Office of
18 Planning. I don't think the citizens should be guessing. We
19 should have known where they were long ago. The video that was
20 being presented shows no traffic whatsoever.

21 CHAIRPERSON HOOD: Continue.

22 MR. CHAGNON: Okay. It's been identified any
23 number of times before you. This is a special building on a
24 special corner. Well, trust me. It's a special building and a
25 special corner to me. I bought an apartment there. That's where

1 I'm going to live and I don't want a garage there.

2 It's unsafe. I'll be walking past that driveway
3 every day. My office is at 15th and I. I'll be going by it
4 several times a day. If I'm coming home for lunch, I'm crossing
5 that garage. If I'm going to work, I'm crossing that garage.

6 Again, the bus traffic and, again, the elements.
7 We get snow in Washington. You add parking garages and I don't
8 know how many feet it is from the sidewalk to the actual building
9 line but it looks like somewhere around 30 feet. Are they going
10 to have that going down right on the public space or not until
11 they hit the wall? I don't know.

12 CHAIRPERSON HOOD: Mr. Chagnon, I would ask if you
13 could wrap it up.

14 MR. CHAGNON: Okay. The last item I would just
15 like to mention is that this differentiation between A and B
16 space. I've been in both. I've had office in both. Saying to be
17 A space you have to have access from the front of the building is
18 just ridiculous. There is plenty of A space out there without
19 parking at all or with parking from an alley.

20 The Office of Planning says that it's possible in a
21 B structure to have space at that site. I would invite you to day
22 let them build what they will but let them put the parking garage
23 off the alley.

24 CHAIRPERSON HOOD: Thank you. Any questions of Mr.
25 Chagnon?

1 Mr. Chagnon, one quick question. You say you are
2 ANC Commissioner in Ward 4.

3 MR. CHAGNON: That's correct.

4 CHAIRPERSON HOOD: You have now invested in a new
5 neighborhood.

6 MR. CHAGNON: That's right.

7 CHAIRPERSON HOOD: Did you know what may be getting
8 ready to transpire in that neighborhood before you bought it?

9 MR. CHAGNON: I knew the Solar Building was going
10 to be renovated and that's one of the reasons I purchased it. I
11 would like to see A space on that corner. It certainly helps my
12 investment. I was under the impression that the whole garage
13 issue had been settled and it was going to be off the alley.

14 CHAIRPERSON HOOD: I want to find out how much that
15 meant for you to move into that area. If it was a curb cut on
16 16th Street, would you still have bought?

17 MR. CHAGNON: If it were a curb cut somewhere
18 towards the front of the Presidential, that would not have
19 bothered me because the amount of traffic would be very limited.
20 It's much like our driveway. There's very little traffic in the
21 Presidential driveway and it's not traffic that is constant. They
22 are talking about having a valet. If they've got valets parking
23 cars at all hours of the night, that means that garage is in use
24 much more than just normal office hours.

25 CHAIRPERSON HOOD: I guess I want to make sure

1 would that have deterred you. If it was already there, would you
2 have bought down there anyway?

3 MR. CHAGNON: If the garage was there, I don't know
4 because, quite frankly, I bought a unit on the third floor which
5 has the only balcony on the face of the building. I'm sorry,
6 there are two balconies on the face of the building. I'm on the
7 third floor. I've got a balcony that is about 15 feet by about 5
8 and a half feet.

9 I overlook everything so if I'm out on my balcony,
10 I prefer to watch the tree line, what's going on out in front, and
11 seeing the trees. There are trees all the way up and down. I
12 don't know if trees are going to be lost by what's happening here
13 but it would have had an impact on me, yes.

14 CHAIRPERSON HOOD: Any further questions? No
15 further questions. Thank you, Mr. Chagnon.

16 Now we'll do the wrap up. Can we do it in about
17 five minutes?

18 MR. QUIN: Less.

19 CHAIRPERSON HOOD: Okay. Good.

20 MR. QUIN: Mr. Chairman and members of the
21 Commission, we do not intend to call any witnesses. We do have a
22 record here that is quite extensive. We understand that for those
23 members -- for that member, I guess, who has not read the record
24 before that it is available for the full panoply of information
25 including a lot of testimony on the garage which we went through

1 before.

2 I think you can see that there's been a real effort
3 by the applicant to meet the concerns of the neighborhood. As Mr.
4 Jacobs said, we think that the building is better than it was and
5 we hope that you feel the same.

6 The building, we believe, does have a superior
7 design and we would like within the time frame of filing
8 responses, especially from Mr. Franklin but for Mr. Parsons and
9 other members of the Commission, to take another look on the 16th
10 Street frontage and file with the Commission a response to the
11 comments that have been made.

12 It sounds to me like the comments that have been
13 made are going to the difference between K Street and 16th Street
14 and perhaps the architect should be looking at different options
15 like maybe reducing glass space, but at least looking at the
16 character of 16th Street and making it different from K Street.

17 What to me as an attorney representing clients
18 before this Commission is important here is the dependability of
19 the applicant. JBG has a terrific reputation in delivering what
20 they promise and I believe they will do that here.

21 You also have the covenant obligations under PUD
22 but I think what JBG has described and their cooperation for this
23 particular project will be a real asset to this corner. I believe
24 that the Class A building is the right answer, not a Class B
25 building.

1 That's really all I wanted to say. We would like
2 the opportunity to respond to the additional pleadings that were
3 entered tonight as well as the one area of design. Let me just
4 ask to see if Mr. Jacobs has anything else he wants to add.

5 MR. JACOBS: No.

6 MR. QUIN: That would conclude our rebuttal and our
7 closing statement.

8 CHAIRPERSON HOOD: Okay. Good. Thank you.

9 COMMISSIONER FRANKLIN: Could I ask Mr. Quin a
10 question?

11 CHAIRPERSON HOOD: Sure.

12 COMMISSIONER FRANKLIN: When you say you would like
13 to respond, would that be also a response to Mr. Foynes' tabs and
14 very well organized presentation?

15 MR. QUIN: You'll find that most of those have
16 already been answered in the record but we will file a new
17 pleading to respond to his old pleading.

18 COMMISSIONER FRANKLIN: Okay. Thank you.

19 CHAIRPERSON HOOD: Colleagues, what I have so far
20 is that we need to leave the record open to accept -- I believe
21 Mr. Jacobs mentioned something about -- it may be in a file but
22 Mr. Jacobs mentioned something about a letter from DPW that put
23 him in a position where they could not do a curb cut on K Street.

24 MR. BASTIDA: That letter is in the file
25 previously.

1 CHAIRPERSON HOOD: Also, if we can obtain the 1955
2 BZA order. It's a few years before I was born so I'll make sure I
3 read that.

4 MR. BASTIDA: I think it's part of the record.

5 MR. QUIN: It's in the record but I'm going to
6 check and file it again.

7 CHAIRPERSON HOOD: Okay. I just want to make sure
8 we have it. Final drawings which you said you would submit.

9 MR. QUIN: Yes.

10 CHAIRPERSON HOOD: Anything else that I missed,
11 colleagues and Mr. Bastida?

12 COMMISSIONER PARSONS: I want to make a comment
13 about the level of detail that we've got here. This is a
14 consolidated PUD. The drawings that you've got so far and samples
15 of materials and so forth that aren't here are really at a
16 preliminary stage as the architect stated. If it's going to
17 remain this sketchy, I don't think it's approvable.

18 I mean, you know what our standard is for PUDs. We
19 don't get down to the doorknob hardware but we're pretty sure what
20 we're getting here. If these new facade studies could be more
21 refined and samples and so forth, I think we would be ready but I
22 don't think we should with what we've got so far.

23 MR. QUIN: We understand.

24 MR. BASTIDA: Mr. chairman, what staff has recorded
25 is further study, and first, the Commission has final drawings.

1 Secondly, the Commission needs full details on the materials of
2 both K Street and 16th Street that I am making based on your
3 questioning.

4 Also, samples of materials, glass, standards that
5 we use for PUD for the record. You have the ability either to
6 make a decision after that is put into the record, or if you are
7 not satisfied, then you can request a further hearing or set up a
8 further hearing. That's up to you.

9 CHAIRPERSON HOOD: Let me throw that out.
10 Colleagues, how would you like to proceed? I agree with
11 Commissioner Parsons that we are still preliminary so which
12 direction would you guys like to go? It's getting late. I said
13 "you guys."

14 COMMISSIONER FRANKLIN: I think that depends on
15 what we get.

16 CHAIRPERSON HOOD: And the time frame. What kind
17 of time frame, Mr. Quin, are we looking at?

18 MR. QUIN: One week.

19 CHAIRPERSON HOOD: One week. Is that okay with the
20 parties that we respond --

21 MR. BASTIDA: Excuse me, Mr. Foynes. I didn't
22 mention that we will leave the record open to get a rebuttal on
23 Mr. Foynes' testimony from Mr. Quin because basically the rebuttal
24 is already on the record. Would you like that added, rebuttal?
25 Then we will have to leave the record open for Mr. Foynes to rebut

1 the rebuttal.

2 CHAIRPERSON HOOD: Why don't we just leave the
3 record open for a sufficient amount of time to get everything in
4 because, again, the materials, the drawings are very preliminary.

5 MR. BASTIDA: That's right.

6 CHAIRPERSON HOOD: I'm trying to make sure all
7 sides and all parties -- that we are being fair on all sides. I'm
8 open for suggestions.

9 MR. BASTIDA: My main concern having a degree in
10 architecture is that, with all due respect to the applicant, I
11 don't see how he can produce the final drawings that is really
12 basically 40 percent completion within a week of what he has now.

13 MR. FAIRBROTHER: What we can do is --

14 CHAIRPERSON HOOD: You need to come to the mic. If
15 anybody wants to speak, at the appropriate time you need to come
16 to the mic.

17 MR. FAIRBROTHER: What we can do is provide the
18 materials and some of the large bay studies to show the real
19 detailing. We can do that in a week. What we were talking about
20 doing is providing some revised sketches of addressing your
21 comment about 16th Street but we can include the material.

22 MR. BASTIDA: That means that you are inferring
23 that you will have 40 percent completion and basically your --

24 MR. FAIRBROTHER: We won't have --

25 MR. BASTIDA: Excuse me. You would not deviate

1 from that because otherwise the zoning administrator will not be
2 able to approve it.

3 MR. FAIRBROTHER: I'm not sure. We'll be at 40
4 percent completion of what?

5 MR. BASTIDA: Of design drawings.

6 MR. FAIRBROTHER: We won't be at 40 percent
7 completion of design drawings.

8 MR. BASTIDA: I think that one of the request of
9 the PUD is that you have that level of detail.

10 MR. FAIRBROTHER: Maybe we need to talk about this.

11 CHAIRPERSON HOOD: Let's --

12 MR. QUIN: Could we inquire as to when the next
13 meeting of the Zoning Commission would be?

14 MR. BASTIDA: The next meeting is --

15 CHAIRPERSON HOOD: It's Monday.

16 MR. BASTIDA: It would be July. It's a Monday.

17 CHAIRPERSON HOOD: It's a Monday and that
18 definitely is not going to work.

19 MR. BASTIDA: July 10.

20 MR. QUIN: July 10th.

21 COMMISSIONER FRANKLIN: I will not be present, Mr.
22 Chairman.

23 CHAIRPERSON HOOD: We will probably not be dealing
24 with that until September.

25 MR. BASTIDA: Well, you might have a late July

1 meeting or an early August meeting.

2 CHAIRPERSON HOOD: We don't meet in August, do we?

3 MR. BASTIDA: It has been at the discretion of the
4 Commission to meet in August or not.

5 CHAIRPERSON HOOD: Okay. The reason is we need to
6 make sure we have a full Commission. We need every member
7 present.

8 MR. BASTIDA: Yes, we do. My main concern is also
9 that the guidelines of the procedures of the zoning regulations
10 are followed regarding the level of detail that requires to be on
11 the record for the Commission to act upon it.

12 CHAIRPERSON HOOD: I think September is sufficient
13 and satisfactory.

14 MR. BASTIDA: It's your privilege. You're the
15 Chairman.

16 CHAIRPERSON HOOD: Let me just say that because of
17 the situation we're in, I think that July obviously -- I don't
18 think you're going to be ready.

19 MR. QUIN: I think we can do it in two weeks.
20 We've just discussed how we think we can file our materials and
21 design drawings that are necessary for approval within two weeks.

22 CHAIRPERSON HOOD: Two weeks?

23 MR. QUIN: Yes, sir.

24 COMMISSIONER FRANKLIN: It doesn't necessarily
25 follow, however, that the Commission will be prepared on the basis

1 of what you submit to actually go to a decision. In any event,
2 Mr. Chairman, I won't be present for the July meeting and I will
3 leave it to your discretion how you want to handle that. I will
4 be present in August, however.

5 CHAIRPERSON HOOD: I can assure you that with one
6 of us being absent, we need to move it back to maybe August or
7 September. I don't know what the agenda looks like to have a
8 meeting in August. I thought we normally don't meet in August.

9 MR. BASTIDA: That is correct unless there is an
10 emergency or something pending. It is more likely that the August
11 meeting -- besides, Mr. Parsons will not be here for the August
12 meeting.

13 COMMISSIONER PARSONS: I was going to suggest that
14 we pull it back to the first week in August.

15 CHAIRPERSON HOOD: First week in August special
16 meeting?

17 COMMISSIONER PARSONS: I think it's now scheduled
18 for August 7 or 9 and that's the second Monday. I would suggest
19 we move it back.

20 MR. BASTIDA: I think it is scheduled now for
21 August the 14th which is the latest that actually we can have a
22 meeting but that's how the schedule works. My concern is that
23 many times the August meeting is canceled unless there is
24 something of extreme urgency and that brings us to September.
25 With Mr. Franklin being gone in July and Mr. Parsons in August, I

1 am a little hesitant about having a quorum. I believe that you
2 would be wise to have the four commissioners.

3 CHAIRPERSON HOOD: I insist that we have four
4 commissioners. That's why I think September would be --

5 COMMISSIONER PARSONS: I need some help with
6 September, too.

7 CHAIRPERSON HOOD: You need some help with
8 September? We're going to need some help.

9 MR. QUIN: I thought Mr. Parsons said you could
10 move it to the first week in August.

11 COMMISSIONER PARSONS: I don't know what my
12 colleagues think.

13 CHAIRPERSON HOOD: We do want to expedite this as
14 fast as possible but we want to make sure we proceed with caution.

15 MR. BASTIDA: Mr. Chairman, you can suggest that
16 all the material will be submitted by a given time and then at the
17 next possible meeting you will take it and you don't have to
18 commit yourself to any specific day. It might be God knows when
19 but you have the flexibility and you can have a special meeting
20 just to consider it also if you so choose and the commissioners
21 are available.

22 CHAIRPERSON HOOD: Okay. I think we will take that
23 recommendation and then we will proceed. I really think it's
24 going to move into September but Mr. Parsons has another issue.
25 Is that agreeable to all parties? I'm looking for a sign.

1 Can you come to the table? Can you come to the
2 table, Mr. Pitsor?

3 MR. BASTIDA: I think, Mr. Chairman, that since
4 spoke out of turn for you, maybe I should not put my foot in my
5 mouth and --

6 CHAIRPERSON HOOD: What I was going to do, Mr.
7 Bastida, is let you reiterate what you just said.

8 MR. BASTIDA: We are going to do a time certain for
9 when things should be submitted into the record. Then the
10 Commission will take it at the earliest possible available time to
11 make a decision.

12 In other words, the Commission is not committing itself to any
13 specific date to make a decision.

14 MR. PITSOR: I understand. In terms of the
15 submission of information in terms of the specific time period for
16 that?

17 MR. BASTIDA: I was going to say that now. I was
18 going to suggest that it be submitted by July 14. There is no
19 need for responses since -- well no. Actually, since the facade
20 will change you have to give parties the opportunity to make
21 comments. Then those comments will be submitted by July 21st.

22 CHAIRPERSON HOOD: You said July 21st?

23 MR. BASTIDA: Yes.

24 CHAIRPERSON HOOD: Is that agreeable to all
25 parties?

1 MR. BASTIDA: The standard procedure is a week for
2 responses to any other submission. That is the norm for the
3 Zoning Commission.

4 CHAIRPERSON HOOD: Okay.

5 MR. BASTIDA: I can also, if the applicant is
6 willing, move it to have the material submitted by July 7th and
7 responses will be due July 14th but you have the Independence Day
8 in between.

9 CHAIRPERSON HOOD: Mr. Bastida, I think we were
10 doing good where we were and let's hold what we have.

11 MR. BASTIDA: Okay, fine.

12 CHAIRPERSON HOOD: July 21st.

13 MR. BASTIDA: Okay.

14 CHAIRPERSON HOOD: Mr. Foynes.

15 MR. FOYNES: Comment. The one week period between
16 submissions due July 14th and the 21st is a week.

17 MR. BASTIDA: That is correct.

18 MR. FOYNES: That's a little tight for those of us
19 who don't do this for a living. If you could make it two weeks,
20 we would appreciate it.

21 CHAIRPERSON HOOD: Mr. Bastida, can we --
22 colleagues, unless you have a problem, I think there is a valid
23 point.

24 MR. QUIN: Can we go the other way? We will file
25 by July 7th and then give him two weeks to file after that.

1 CHAIRPERSON HOOD: Yeah, that's fine.

2 MR. BASTIDA: The applicant is aware that you have
3 to serve whatever you are submitting to the parties and there are
4 two parties, the ANC and the ambassador of the building.

5 CHAIRPERSON HOOD: So we are in agreement. I'm
6 going to read the closing statement. Mr. Bastida, I'm going to
7 ask while I'm reading the closing statement that you fill in the
8 blanks with the dates.

9 MR. BASTIDA: I would be glad to do that, Mr.
10 Chairman.

11 CHAIRPERSON HOOD: Ladies and gentleman, thank you
12 for your testimony and assistance in this hearing. The record in
13 this case will not be closed except for information specifically
14 requested by the Commission. Any special information or reports
15 specifically requested by the Commission should be filed during
16 the period ending on --

17 MR. BASTIDA: Friday, July 7th.

18 CHAIRPERSON HOOD: -- Friday, July 7th in Suite 210
19 of 441 4th Street N.W. Any party to the case may file a written
20 response to any information or report filed after the close of the
21 hearing. Such responses should be filed no later than seven days
22 after --

23 MR. BASTIDA: I'm sorry, Mr. Chairman. You allowed
24 for the extra seven days so it should read now 14th.

25 CHAIRPERSON HOOD: July 14th?

1 MR. BASTIDA: After 14 days.

2 CHAIRPERSON HOOD: Oh, after 14 days.

3 MR. BASTIDA: After the July 7th.

4 CHAIRPERSON HOOD: Okay, 14 days after July 7th.

5 MR. BASTIDA: 2000 which is July 21st, 2000.

6 CHAIRPERSON HOOD: Parties in this case are invited
7 to submit proposed findings of fact and conclusions of law. Any
8 party who submits proposed findings and conclusions should do so
9 by --

10 MR. BASTIDA: July 21st.

11 CHAIRPERSON HOOD: The parties are reminded that
12 their findings of fact should not include findings stating how
13 witnesses testified. The findings should be those findings the
14 party believes the Commission should make based upon the testimony
15 and other evidence in the record. Citations to the exhibits and
16 the transcript are appropriate and encouraged.

17 To assist parties in the preparation of these
18 findings of facts and conclusions of law, a copy of the hearing
19 transcript will be available for review in the Office of Zoning in
20 about two weeks. Copies of the transcript may also be purchased
21 from the recording firm. When the transcript is received, the
22 Office of Zoning will contact the parties.

23 After the record is closed, the Commission will
24 make a decision on this case in one of its regular monthly
25 meetings. These meetings are generally held at 1:30 p.m. on the

1 second Monday of each month and are open to the public. Any
2 person who is interested in following this case further may
3 contact the staff to determine whether this case is on the agenda
4 of a particular meeting.

5 You should also be aware that if the Commission
6 proposes to approve the application, the proposed decision must be
7 referred to the National Capital Planning Commission for federal
8 impact review. The Zoning Commission will take final action at a
9 public meeting following receipt of the NCPC comments after which
10 a written order will be published. I declare this hearing closed.

11 Thank you.

12 (Whereupon, at 10:43 p.m. the hearing was
13 adjourned.)
14