

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF:           |
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        Consolidated PUD and Map | Case No.
Amendment @ 1025 F Street, N.W. -- | 00-33C
Jemal's Cayre Woodies, LLC         |
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Thursday
February 8, 2001

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

The Public Hearing of Case No. 00-33C by the District of Columbia Zoning Commission convened at 7:00 p.m. in the Office of Zoning Hearing Room at 441 4th Street, Northwest, Washington, D.C., Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairperson
CAROL J. MITTEN	Vice Chairperson
HERBERT M. FRANKLIN	Commissioner
KWASI HOLMAN	Commissioner
JOHN G. PARSONS	Commissioner

COMMISSION STAFF PRESENT:

Alberto P. Bastida, Secretary, ZC
Gerald Forsburg, Office of Zoning

OTHER AGENCY STAFF PRESENT:

Andrew Altman, Director, Office of Planning
Arthur Jackson, Office of Planning
Ellen McCarthy, Deputy Director, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Mary Nagelhout, Esq.

APPEARANCES

On Behalf of the Applicant,
Jemal's Cayre Woodies, LLC

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APPLICATION OF CONSOLIDATED PUD & MAP AMENDMENT @ 1025 F STREET, N.W. - JEMAL'S CAYRE WOODIES, LLC:

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

7:03 p.m.

1 CHAIRPERSON HOOD: Good evening, ladies and
2 gentlemen. This is the public hearing of the Zoning Commission
3 of the District of Columbia for Thursday, October -- bear with
4 me one minute while I get this together.

5 (Whereupon, off the record.)

6 CHAIRPERSON HOOD: Okay. Good. I'm glad everyone
7 can take a joke. Let me try this again. Good evening, ladies
8 and gentlemen. This is a public hearing of the Zoning
9 Commission of the District of Columbia for February 8, 2001.
10 My name is Anthony J. Hood, Chairperson of the Zoning
11 Commission.

12 Joining me this evening are Commissioners Herbert
13 M. Franklin, Kwasi Holman, Carol Mitten, who serves as Vice
14 Chair, and John Parsons who will be joining us shortly.

15 Notice of today's hearing was published in the D.C.
16 Register on December 12, 2000, and in the Washington Times on
17 December 16, 2000. This hearing will be conducted in
18 accordance with the provisions of 11 DCMR Section 3022
19 contested cases.

20 The subject of this evening's hearing is Zoning
21 Commission case No. 00-33C, the former Woodward and Lothrop
22 Department Store Building.

23 The applicant, Jemal's Woodies, LLC, has requested
24 the Zoning Commission for consolidated review and approval of
25 planned unit development and a related zoning map amendment

1 from DD/C-4 to C-4 for 1025 F Street, N.W., Square 346, Lot
2 805.

3 The proposed amendments are intended to allow for
4 redevelopment of the existing building as a mixed-use project
5 with a combination of preferred retail, service, and arts-
6 related uses and for redevelopment of positions of Square 517
7 and Square 377 primarily for residential use with retail on the
8 first floor of Square 377.

9 The order of procedure will be as follows:

10 Preliminary matters, applicant's case; report of
11 the Office of Planning; report of other agencies; report of the
12 Advisory Neighborhood Commission ANC-2C; parties and persons in
13 support; parties and persons in opposition.

14 The following time constraints will be adhered to
15 in this meeting: The applicant, one hour; parties 15 minutes;
16 organizations 5 minutes; individuals 3 minutes. Opposition has
17 one hour. The hour is to be divided among the parties.

18 The Commission will adhere to this schedule as
19 strictly as possible. Those presenting testimony should be
20 brief and nonrepetitive. If you have a prepared statement,
21 please give copies to staff and orally summarize the highlights
22 only. Please provide these copies of your statement before
23 beginning your oral presentation.

24 Each individual appearing before the Commission
25 must complete two witness cards. These cards are located at

1 each end of the table in front of us. Upon coming forward to
2 speak to the Commission, please give both cards to the reporter
3 sitting to my right. If these guidelines are followed, an
4 adequate record can be developed in a reasonable length of
5 time.

6 The decision of the Commission in this case will be
7 based exclusively on the public record. To avoid any
8 appearance to the contrary, the Commission request that persons
9 present not engage the members of the Commission in
10 conversation during any recess or at anytime. The staff will
11 be available to discuss any procedural questions.

12 Please turn off all beepers and cell phones at this
13 time so not to disrupt these proceedings. Would all
14 individuals wishing to testify please rise to take the oath.

15 (Whereupon, the witnesses were sworn.)

16 CHAIRPERSON HOOD: First, let me say, Mr. Bastida,
17 do we have any preliminary matters?

18 SECRETARY BASTIDA: Yes. We have questions about
19 the posting. Has the affidavit of posting been filed?

20 Mr. Chairman, the applicant has fulfilled the
21 posted requirements.

22 CHAIRPERSON HOOD: Okay. Let me just ask a
23 question. I guess that makes the letter I saw in my packet
24 null and void, I believe.

25 MR. GLASGOW: Mr. Chairman, the applicant is still

1 requesting a waiver for the timing of the posting. That is
2 with respect to the affidavit that Mr. Bastida just stated,
3 that the signs after posting were properly maintained.

4 CHAIRPERSON HOOD: Okay. So we still have,
5 colleagues, in front of us a request for a waiver. Any
6 problems?

7 COMMISSIONER HOLMAN: No objection.

8 CHAIRPERSON HOOD: Okay. So we'll proceed. Do we
9 have anyone that has request for party status? Is there anyone
10 in the audience that -- we have a letter in the file.

11 Mr. Bastida, can you help me with that? Has that
12 been changed?

13 SECRETARY BASTIDA: Yes. Subsequent to the filing
14 of the letter for requesting party status, the applicant has
15 reached an agreement and the request for party status has been
16 verily withdrawn.

17 CHAIRPERSON HOOD: I would like the record just to
18 reflect the statement that the party status has been withdrawn
19 and that we have made an attempt to call for it and no one
20 present stepped forward for party status.

21 With that, I'll ask the applicant to come forward.

22 Mr. Glasgow, before you begin --

23 Mr. Jemal, good evening.

24 -- I would like to just ask is there anyone present
25 in opposition of what we have before us? Again, is there

1 anyone present in opposition of what we have before us?

2 Mr. Glasgow, while I'm sure my colleagues and I
3 have some questions, we have read your packet. I would say
4 don't give us the excursion but give us a brief presentation.

5 MR. GLASGOW: Yes, sir. We'll be extremely brief
6 and to the point and make the appropriate record. The
7 applicant has also reviewed the report of the Office of
8 Planning and it is in concurrence with the conditions set forth
9 on page 2. I believe that the Office of Planning will be
10 making some statements concerning those conditions.

11 Certainly this is one of the most innovative
12 projects that has come along in some time for the Commission to
13 deal with in that we had requested both a planned unit
14 development request. We had also asked for a request for
15 rezoning to C4.

16 Consistent with the Office of Planning Report we
17 are withdrawing the request for rezoning to C4 of the property.

18 We will be proceeding with the DD/C-4 PUD. That is contained
19 in the Office of Planning Report and we agree with that.

20 The project has three principal pieces. Obviously
21 the renovation and restoration of building additions to the
22 existing Woodies Department Store and the mixture of uses that
23 you've seen therein as discussed in the Office of Planning
24 Report.

25 Secondly, there will be a residential project with

1 ground floor retail at 910 to 916 F Street, N.W. It will have
2 a minimum of 88,000 square feet of residential FAR within that
3 project.

4 Thirdly, there is the project at Square 517 which
5 would have a minimum of 200,000 square feet of residential FAR.

6
7 It is our intention with respect to the Woodies
8 site to come to as close to 10 FAR total development on that
9 site as we would be permitted after design review by the
10 Historic Preservation Review Board for the 9th and 10th floor
11 addition which we will want to put on that property.
12 Otherwise, the uses would be as they are stated in the Office
13 of Planning Report.

14 I think that is a brief summary of the components
15 of the project. With that, I would like to call the first
16 witness, Mr. Douglas Jemal and then Mr. Steve Sher, and then
17 Mr. Shalom Baranes.

18 Mr. Jemal, would you please identify yourself for
19 the record and proceed with your testimony.

20 MR. JEMAL: Yes. My name is Douglas Jemal and I am
21 the owner of the Woodward and Lothrop Building as Mr. Glasgow
22 said. First I want to thank the Commission, I want to thank
23 Planning, I want to thank the community, and I want to thank
24 the city for hearing this case. I think it's an exciting time
25 for the city at the present time to bring back life back on F

1 Street and to reopen the former Woodward and Lothrop Department
2 Store.

3 As Mr. Glasgow stated, our plan is to do the lower
4 level, first floor, second floor, retail, the balance of the
5 building to be office space, and to go from 910 to 916. That
6 will be approximately 88,000 square feet of residential.

7 Square 517, which is approximately 27,000 square
8 feet of ground, which will probably house in excess of 200,000
9 FARs, 200,000 square feet over there for residential.

10 MR. GLASGOW: Mr. Jemal, do you have anything else
11 to add at this time?

12 MR. JEMAL: No, I don't.

13 MR. GLASGOW: Thank you.

14 Mr. Sher, would you please identify yourself for
15 the record and proceed with your testimony.

16 MR. SHER: Mr. Chairman, members of the Commission,
17 for the record my name is Steven E. Sher, the Director of
18 Zoning and Land Use Services with the law firm of Holland and
19 Knight, LLP. Following the Chairman's instructions to
20 summarize and be brief, I'll summarize and be brief.

21 What I would like to point out is just a few things
22 about this case for the Commission's attention. No. 1, and I
23 think most importantly, what this PUD is about is about use and
24 uses. It's not about design particularly. It's not about site
25 planning. It's not about street scape. It's about what goes

1 on in this building and what goes on associated with this
2 project.

3 In order to put that in a little bit of context, I
4 would just like to take you back to what is the existing
5 building and what is the status and the uses of that building.

6 No. 1, it is, obviously, empty at the moment. No.
7 2, it is the former Flagship Store, but also the corporate
8 headquarters for the Woodward and Lothrop Department Store
9 chain. It consist of a series of buildings built between 1902
10 and 1926. It's been vacant since the mid-1990s when the
11 Woodies chain went bankrupt and closed all their stores.

12 It contains eight full stories plus a partial 9th
13 and 10th floors. It has a lower level sometimes called a
14 basement. It's actually a cellar in zoning terms. It has
15 extensive vault space that projects out in the public space.
16 It also has a direct connection that goes down into the Metro
17 Rail station. There's some space actually below G Street that
18 is also within the control of the owner.

19 The height to the top of the eight floor is
20 slightly less than 110 feet. The building contains
21 approximately 445,000 square feet of gross floor area. That's
22 about 8.84 FAR.

23 Approximately half of the gross area, not the gross
24 floor area but the gross area, about 268,000 square feet was
25 used for retail functions and the remainder about 260,000

1 square feet was used for office space. In rough terms, about
2 half of that building was used for selling and half of that
3 building was used for office space.

4 I think the Commission is familiar with the area
5 and what's around it and all the rest of those things.

6 Let me then turn to what it is that happens as a
7 result of this PUD. As Mr. Jemal has already stated, what is
8 proposed is to use that cellar, the ground floor, and the
9 second floor for retail service arts and entertainment uses as
10 listed in Section 1710 and 1711 of the downtown development
11 District regulations. That would be equivalent to an FAR of
12 about 2.68.

13 Again, the cellar space doesn't count against FAR
14 but under the DD you are allowed to count that as if it were.
15 If you included the vaults and the Metro level space, you are
16 at about 3.11 FAR equivalent.

17 The rest of the building would be used for other
18 uses permitted in the C4 district. That includes office uses.

19 It could allow a hotel. It could allow an apartment house.

20 It could allow other retail and service uses
21 elsewhere in the building should tenants for those uses come
22 forward, should the owner decide that's what he wanted to do
23 with all the spaces in the building. But the commitment is
24 cellar, first, and second floor preferred uses, the remainder
25 of the building any permitted use in C4.

1 We would suggest that the maximum permitted height
2 is that which is allowed under the Act of 1910 which is 130
3 feet. There is the potential to remove the partial 9th and
4 10th floors which exist now and construct two additional
5 stories to replace them or surround them or renovate them,
6 modify them, incorporate them.

7 That would all be subject to approval by the
8 Historic Preservation Review Board. The building is itself a
9 historic landmark so anything that we do to the building in
10 that respect has to be approved by HPRB. The design of that is
11 subject to their absolute review and approval. We would have a
12 maximum FAR of 10. That's what's allowed in the C4 district as
13 a matter of right.

14 As to the off-site housing, there would be no
15 housing in this building on this property. We would have two
16 off-site housing projects, one at 910-916 F Street which would
17 have 95,000 square feet of floor area of which at least 88,000
18 square feet would be residential.

19 The first floor would probably be used for some
20 kind of retail or service use in that building as well. I
21 don't think first-floor retail in that -- first-floor
22 residential in that particular block of F Street is a
23 particularly desirable situation.

24 The second potential housing site is in Square 517
25 where 517 is the block bounded by Mass. Avenue and 4th and 5th

1 Streets and H Street on the south. The site that the applicant
2 controls is on the eastern part of that square and depending
3 upon whether a piece of property can be acquired from the
4 District, it will be somewhere between 25,000 and 27,000 square
5 feet. That site is zoned DD/C-2C now. It requires a minimum
6 of 4.5 FAR to satisfy its own residential requirements.

7 We have suggested that depending upon what the
8 Commission does with text amendments pending, which are going
9 to hearing on Monday, and how much density you can actually put
10 on that site, you could have upwards of 283,000 to close to
11 300,000 square feet of residential development on that site.

12 That's total. The minimum required would be
13 somewhere between 112 to 120 depending on what the ultimate
14 configuration of the site turns out to be. Again, to summarize
15 in sort of broad-brush terms, what happens with this site is
16 that on the Woodies site there would be at least 150,000 square
17 feet of retail. There would be at least 95,000 square
18 feet of new development, predominately residential on Square
19 377, and at least 200,000 square feet of residential on the
20 square 517 site. The total of that substantially exceeds the
21 amount of retail space which was formerly in the Woodies'
22 building. Again, that was 268,000 square feet. We are at
23 substantially more than that in the total of preferred uses.

24 We've done an extensive analysis of the
25 comprehensive plan as has the Office of Planning. I don't

1 think that bears discussion here this evening. It is not
2 inconsistent with the comprehensive plan. I don't think there
3 is any question about that.

4 We've looked at the applicable height and bulk of
5 the surrounding properties and conclude that this is consistent
6 with that. It is also consistent with the existing and
7 inspected character of the area. It puts those uses
8 that the city wants at Metro Center at the Metro Center. It
9 puts those uses, the residential uses, in the places where the
10 city wants residential uses. It is my opinion that you should
11 approve that which is before you.

12 MR. GLASGOW: Thank you, Mr. Sher.

13 I would like to call the next witness, Mr. Shalom
14 Baranes.

15 MR. BARANES: Good evening. I'll give you a very
16 brief overview of what we are proposing to do with the
17 building. My name is Shalom Baranes, by the way.

18 CHAIRPERSON HOOD: Let me just say I notice I'm
19 being quoted quite a bit about being brief. Let's make sure we
20 hit the points that need to be hit. That may cut back on some
21 of our questions. Still, let's keep it brief.

22 MR. BARANES: You are familiar with the building.
23 Obviously it's two separate structures actually built in five
24 different phases in the early part of the century. The
25 exterior is in fairly good condition and we'll actually be

1 making very few changes to the exterior other than the addition
2 which I'll talk about shortly.

3 Basically our intention is to try to restore as
4 much as possible and replace as little as possible. The
5 changes that will be visible will primarily be down at the base
6 of the building where we may introduce an additional retail
7 entrance or two or three.

8 We'll change the canopy certainly and we'll repair
9 the storefront as well as the masonry that needs to be repaired
10 at those locations. Other than that the building will really
11 not change significantly. We'll repair the facades all the way
12 up.

13 Now, it's interesting. The building does have a
14 series of additions on the roof which are not very visible from
15 these particular viewpoints which are taken up close. When you
16 move them back away from the building, you start to get a sense
17 for some of these additions.

18 A couple of the smaller ones are original but most
19 of these were built in the 1930s two or three decades after the
20 building was completed. These photographs were taken from the
21 sidewalk with a telephoto lens. I think it's important to see
22 these because you start to understand what's really happening
23 up here.

24 The 9th and 10th floors, as was mentioned earlier,
25 are partial floors. The overall building at the lower floors

1 is about a 50,000 square-foot footprint. When you get to the
2 upper floors, the floor plate drops down to 30,000 feet. Then
3 when you get to the top floor it drops down to about 10,000 or
4 12,000 feet.

5 Then on top of that you have all of these additions
6 here which are primarily for mechanical spaces and certainly
7 not complying with current zoning regulations. They are all
8 different heights and they are all separated. They are occur
9 in different locations on the roofs.

10 That is pretty much it for the existing conditions
11 of the building. Our proposal involves introducing a new
12 office core in the center of the building. Just to orient you,
13 this is F Street on my right and your right, J Street on the
14 left and, of course, north is to the left of the sheet.

15 Basically our intent is to take the primary
16 entrance on 11th Street and turn that or convert that into the
17 primary entrance for the office space which will occur above
18 the retail so that you'll be able to come through this
19 entrance, have a connection from the Metro on the corner
20 directly into a new lobby here which will occupy the ground
21 floor, the current ground floor. Then that will take you into
22 an elevator bank which will basically bypass through the retail
23 floors up to the office floors.

24 This is the part of the block that we don't
25 control. Everything else that you see here is part of our

1 project. The loading docks will remain in their current
2 locations on 10th Street. The existing retail entrances on the
3 north side as well as the south side as well as on 19th Street
4 here will all remain and be utilized for access into the
5 retail. The only real change will be, as I mentioned, down
6 here.

7 There are a series of freight elevators, stairways,
8 and escalators that currently run all the way up through the
9 building. We have retained some of those and dedicate them to
10 the retail uses and we'll retain others and dedicate them to
11 the office uses. Others we hope to remove. We don't exactly
12 know what the exact configuration of the interior support areas
13 will be like.

14 As you move, there is on level below this level
15 which has been referred to here as the cellar level. This
16 particular footprint is interesting in that, first of all, it
17 connects to the Metro here on the north side.

18 Also it extends out beyond the property line
19 underneath the sidewalks on both the east side and the west
20 side. You see that here and actually also on the north side as
21 well as here. So the footprint grows from 50,000 feet to
22 70,000 feet on this particular level.

23 When you get to the upper floors, the typical
24 floors, again we intend to maintain the overall configuration
25 of the building, the new proposed core for the offices will

1 come up through the center of the building so that basically
2 we'll be able to use the perimeter for offices. Then, of
3 course, this will penetrate down through the retails I just
4 showed you and give direct access out to 11th Street.

5 This footprint will continue all the way up as it
6 does today through the 8th floor. When you get to the top two
7 floors we actually don't know yet what the configuration of
8 this floor will be like.

9 What we're showing here is a full 50,000 square
10 foot. The likelihood of our doing this is pretty minimal. We
11 will work as we design this with a series of setbacks on all
12 four sides of the building. We will, of course, work with the
13 preservation review board to develop a scheme here that
14 involves adding two floors, 20 feet in height. The
15 building is currently 110 feet on one side, about 108 feet on
16 the other side. This will be between 20 and 22 feet tall. The
17 line that you see on the outside here is the extent of the
18 cornice which extends out over the properties lines.

19 Again, we will come back in some cases to the
20 structure and in other cases somewhere in between the first row
21 of columns that you see here and the property line as we design
22 this addition.

23 What I want to show you is an elevation of all four
24 sides of the building that basically just depicts the zoning
25 envelope. What you see in color here is the existing

1 conditions on all four sides. You can see that in some
2 instances the mechanical penthouses currently protrude beyond
3 the 130 foot line which we've shown here.

4 If it's a question of zoning, this is the maximum
5 that we would be allowed to build, what you see in the gray
6 here. As I said earlier, that is the envelope that we'll be
7 working within and setting back to design the two story
8 addition for office space.

9 What you see up on top here is just a possible
10 configuration of 18 feet 6 inches for an additional mechanical
11 penthouse which will be over the elevators and extend out to
12 incorporate some mechanical equipment beyond that.

13 The only other thing I want to show you on this is
14 the section which, again, is not particularly significant
15 except I should just indicate here that there is a change in
16 floor elevations from the north side to the south side. We
17 don't have any intention of changing that. We'll work with
18 that.

19 If you look at the building carefully from the
20 outside you'll see that the windows don't quite aline. Anyway,
21 the two story addition is shown right here and the existing
22 penthouses and 9th and 10th floor additions are shown in this
23 beige tone.

24 Also I want to show you a couple of sketches of the
25 other property we've been referring to on F Street just a block

1 over where we'll be saving and restoring some townhouses and
2 doing a residential development. That property, as you know,
3 is located between 9th and 10th and F Street. There's an alley
4 that runs into the block here as well as an east/west alley
5 running through the middle of the block here.

6 What we have in this mid-block site is three
7 existing townhouses which are historic that will restore.
8 We'll demolish the backs of them but this is not a facade
9 project. We'll save the full depths of the townhouses. Then
10 one existing townhouse which is not contributing which is
11 located on this side of the property and that we will demolish
12 and replace with new construction.

13 This is a very deep site. It's actually a fairly
14 challenging site in a lot of ways. Our intent is to build a
15 new building on the backside of the site here between the alley
16 and the backs of the townhouses and then basically to leave the
17 street scape intact except, of course, that we will restore it.

18 This is a section of a model photograph that gives
19 you an indication of the overall size of the project. This is
20 F Street through here. These are the three-story townhouses
21 that we'll be retaining. This is the backs of the
22 townhouses and our new construction will primarily be here in
23 the back and center of the block rising up to a height that
24 will be close to the existing height of the old Riggs Building
25 directly to the east.

1 In this Massey model here. It's a little hard to
2 see but, again, this is F Street. This is the current Marriot,
3 the Riggs Building, and this is the proposed new construction
4 with the existing townhouses left in place.

5 Directly to the west of that is a project that is
6 current under construction that we also designed. It's the
7 Atlantic Building which went through HPRB, the Mayor and all of
8 that.

9 Basically what we are proposing for this site here
10 is very similar in massing to the Atlantic Building site except
11 that our new construction in this instance will be further back
12 from the face of the historic buildings than it was in the
13 Atlantic Building site.

14 That's basically it. I would be happy to answer
15 any questions that you have.

16 CHAIRPERSON HOOD: I think what we'll do is ask
17 questions once you finish your presentation.

18 MR. GLASGOW: Mr. Chairman, the presentation is
19 finished.

20 CHAIRPERSON HOOD: Ask for it and it will happen
21 sometimes. Colleagues, do we have any questions of the panel?

22 COMMISSIONER FRANKLIN: I have a question.

23 CHAIRPERSON HOOD: Commissioner Franklin.

24 COMMISSIONER FRANKLIN: Mr. Chair, you said this
25 PUD was about uses. Was that meant to say that this Commission

1 shouldn't pay any attention to design and leave that all to the
2 HPRB?

3 MR. SHER: I think that would be appropriate in
4 this case. As Mr. Baranes just went through his preliminary
5 analysis of the building, there isn't much that's going to
6 happen to the building from the ground, at least through the
7 8th floor.

8 The 9th and 10th floors yet to be designed have to
9 go through that. We start preservation review process. Our
10 view is that is best left to the architects and the HPRB. In
11 this case I think the significant issue for the Commission is
12 the use rather than the design.

13 COMMISSIONER FRANKLIN: Would the HPRB also review
14 the residential developments?

15 MR. SHER: They would review the Square 377 project
16 because that's an historic district. The Square 517 is not
17 subject to HPRB. That would be a building that would have to
18 be built in accordance with the DD/C-2C district or whatever
19 regulations are applicable to it at the time that it's built.

20 COMMISSIONER FRANKLIN: What do we know about that
21 design?

22 MR. SHER: At the moment not much. Neither do we
23 actually.

24 COMMISSIONER FRANKLIN: Well, I was going to ask
25 that as the next question. What would we be approving in

1 connection with that?

2 MR. SHER: Well, what the Office of Planning has
3 recommended, and what we are prepared to submit to the
4 Commission at the conclusion of this hearing, is a set of
5 conditions which would require a minimum amount of residential
6 to be built on that site.

7 I think that is the important issue, not
8 necessarily what the design of that site looks like because no
9 relief is being asked for before this Commission with respect
10 to that site. Whatever the regulations permit with respect to
11 that site we would be designing within those regulations.

12 As I said, right now it's limited to 8 FAR. You
13 can go to 8.5 if you build the extra half FAR residential. If
14 the Commission were to adopt the amendments which have been
15 recommended and which will be heard on Monday, that number
16 could get up to 10, 10.5, or maybe even a little bit higher
17 than that.

18 Again, within the constraints of that district we
19 have rear yard, side yard, lot occupancy, height, etc., and
20 that's what would govern the development of that particular
21 site.

22 COMMISSIONER FRANKLIN: Has an architect been
23 chosen?

24 MR. JEMAL: Not yet.

25 COMMISSIONER FRANKLIN: Is that an amenity with

1 respect to the PUD?

2 MR. GLASGOW: Yes, it is an amenity with respect to
3 the PUD.

4 COMMISSIONER FRANKLIN: Don't we normally review
5 the character of such amenities?

6 MR. GLASGOW: Not necessarily with respect to
7 design. Sometimes we have and not because on this particular
8 property with the agreement that we have entered into, we are
9 obligating ourselves to utilize that property in a manner which
10 is more restrictive with respect to preferred uses than would
11 otherwise be required.

12 In other words, you have as a matter of right a 4.5
13 FAR, 3.5 FAR split residential commercial on that site. We
14 have covenanted that we would not utilize the commercial
15 portion of that FAR on the site, that we would only utilize
16 ground floor retail. We have reserved the right to do
17 that and below grade and the rest of that project will be
18 residential, must be at least 4.5 FAR and obviously from at
19 least from the cases that we've tried recently before the BZA,
20 once we go in for an apartment building, we do try to maximize
21 that apartment building.

22 MR. SHER: If I can just add a second to what Mr.
23 Glasgow just said. The Commission has gone both ways on that.
24 You have sometimes seen plans and sometimes not. There
25 haven't been many but there have been some cases that have had

1 housing linkage amenities before. You've sometimes seen plans
2 and sometimes not. Sometimes included them and sometimes not.

3 It is not an unequivocal one way or the other way all the
4 time.

5 VICE CHAIRPERSON MITTEN: Can I interject a
6 question that would just follow on this point? Depending on
7 whose list of amenities you're reading, think that the
8 historic preservation aspect of Square 377 in particular is
9 being offered as an amenity.

10 I think maybe part of Mr. Franklin's concern is
11 that if -- I mean, I think we're clear about the fact that
12 having housing there in the quantities that you're speaking of
13 is an amenity as it relates to housing.

14 Now, if you're offering that as an amenity as it
15 relates to historic preservation, I think something specific
16 needs to be put on the table that we can tie. Otherwise, it
17 won't be counted as an amenity so we get clear about what is
18 actually constituting the amenity package.

19 MR. SHER: In my mind the primary amenity there is
20 the housing. That property is in a historic district. They
21 are not individually designated landmarks. Whatever happens
22 there has to be done in accordance with the requirements of the
23 Historic Preservation Review Board.

24 Do we get anything extra for having to comply with
25 the Historic Preservation Review Board's requirements? I don't

1 know if that's an amenity. We have to do that anyhow.

2 How much of the preservation -- that property --
3 excuse me -- that property has been designed as an office
4 building, as a hotel, and now it's being designed as an
5 apartment house. Each of those projects had to go through the
6 whole historic preservation review process.

7 What I think is the most significant aspect of
8 what's before you is the fact that there is a commitment from
9 this applicant who also owns that site, that that building is
10 going to be an apartment house and not a hotel and not an
11 office building.

12 The designs have been more or less the same in the
13 sense that the lower historic structures in the front have been
14 retained. There's been some kind of atrium separation between
15 the amount of stuff saved in the front and a new construction
16 behind it. The facades may look different for an office
17 building than for an apartment house. The massing has been
18 pretty much the same.

19 We're not here telling you that the design of that
20 particular facade is what is the most significant aspect of
21 that case. It is obviously important because it has to go
22 through that process. Again, I believe that what is the most
23 important part of what goes on on that property is that it's
24 residential as opposed to anything else.

25 VICE CHAIRPERSON MITTEN: I understand what you

1 said about the fact that whatever is going to be built there
2 has to go through HPRB and they have whatever minimum
3 requirements that they have for structures of that type or
4 contributing structures in the historic district, I guess.

5 If you're suggesting that there is something in
6 addition to what would be their minimum standard that's being
7 offered as part of -- for instance, Mr. Baranes said that the
8 new construction on Square 377 will be further back than that
9 on the Atlantic Building site. Is this additional setback
10 being offered as the amenity? We just want to get some kind of
11 clarity on that.

12 MR. BARANES: I wouldn't describe it as an amenity
13 because that's always negotiable what the setback is. It might
14 be important to remember here that the last project that was
15 approved for the site, the hotel project, involved the
16 demolition of a portion of one of the historic buildings and,
17 therefore, had to go to the major agents.

18 The proposal we're proceeding with here will not
19 have to go to the mayor's agent because we're actually going to
20 retain more of the historic building than the former applicant
21 did. Now, again, is that an amenity? I'm not sure it should
22 be characterized that way even though it does involve
23 additional restoration and preservation.

24 VICE CHAIRPERSON MITTEN: Okay. Thank you.

25 Excuse me, Mr. Franklin.

1 MR. GLASGOW: I believe that does qualify as an
2 amenity. There was a case before the mayor's agent. There was
3 a contributing piece of the building which was being removed
4 which is now being retained.

5 VICE CHAIRPERSON MITTEN: If that's the case, then
6 I think we need to have something specific articulated about
7 the amount of retention on Square 377 so that will become a
8 binding requirement if you intend for it to be counted as an
9 amenity.

10 MR. GLASGOW: I think that with respect to this
11 particular case, because we are going to be going through the
12 process and the building has not been designed, I think that
13 the amenities in this case are so strong that we don't want to
14 be held up with (1) respect to the decision making process, and
15 (2) with respect to design when we're working with HPRB.

16 That is an issue as to getting some type of binding
17 decision from this Commission on that piece of the building.
18 We would just as soon forego that as being counted as an
19 amenity and stand on the strength of the preferred use
20 amenities that we are providing.

21 VICE CHAIRPERSON MITTEN: Okay. Thank you.

22 COMMISSIONER HOLMAN: Mr. Chairman --

23 CHAIRPERSON HOOD: Is it on that same --

24 COMMISSIONER HOLMAN: Yes.

25 CHAIRPERSON HOOD: Okay.

1 COMMISSIONER HOLMAN: In that regard, I think it
2 would be helpful just for the record just for you or Mr. Sher
3 or just go through very briefly in summary fashion what the
4 amenity package is that's before us so that's clear for the
5 record.

6 MR. GLASGOW: Mr. Sher, you want to testify as to
7 that and I'll follow up if necessary?

8 MR. SHER: Okay. We see the primary components of
9 the amenity package as being the minimum of three floors of
10 residential on the Woodies Building it self.

11 VICE CHAIRPERSON MITTEN: I think you mean retail.

12 MR. SHER: I give up. I get confused sometimes.
13 All right. Minimum of three floors of retail service, arts, or
14 entertainment uses in the Woodies Building encompassing
15 approximately 150,000 square feet of FAR equivalent.

16 Second, the construction of an apartment building
17 on the Square 377 site having a minimum total density of 95,000
18 square feet of which 88,000 square feet would be residential.

19 Third, the construction on the Square 517 site of
20 an apartment building having not less than 200,000 square feet
21 of gross floor area and potentially having significantly more
22 than that depending on what the size of the site ultimately
23 turns out to be, what the regulations are that govern that, and
24 so forth.

25 We have also proffered MBOC and DOES agreements

1 which are part of the record. I think I would stop there and
2 say those are the primary components of the amenity package.
3 There are obviously design things that are going to happen to
4 the building.

5 As Mr. Baranes mentioned, we've got to do some work
6 on the first floor that will improve the ground floor
7 appearance of all that. Those kinds of things are going to
8 happen and I think I would just exclude them and say the five
9 things that I've mentioned are essentially your primary amenity
10 package.

11 COMMISSIONER FRANKLIN: And there will be no design
12 review with respect to Square 517?

13 MR. SHER: No, sir. Not unless something we were
14 doing somehow didn't comply with the regulations in effect and
15 we had to seek a variance for some roof structure setback or
16 something like that. We are contemplating that to the extent
17 that we can. We're going to design that building within a
18 matter of right parameters that apply to that site.

19 MR. JEMAL: You know, I have to say something
20 regarding the amenity package. The amenity package, which I
21 think is in front of everybody tonight, is the fact that we can
22 restore F Street back to what it originally was as I certainly
23 can remember it over the last 35 years and certainly have seen
24 what happened to it over the last 20 years.

25 That's one strong amenity that we could put a

1 strong retail core back on F Street and that Woodward and
2 Lothrop Building is the anchor to our retail intersection over
3 there taking 910 to 916 that's been boarded up for close to 15
4 years.

5 There's been one tenant over there, Sunny Surplus, and then a
6 pornography shop to put some luxury garden apartments over
7 there.

8 The other amenity is taking Square 517 right across
9 the street from the GAO project and putting some great
10 residential units over there. I think that's the amenities
11 that I can say is the development that I think we can bring to
12 the Board. Thank you.

13 CHAIRPERSON HOOD: Commissioner Franklin, are you
14 finished? Okay.

15 Commissioner Mitten.

16 VICE CHAIRPERSON MITTEN: I just had one follow-on
17 question. Well, it's on a different matter actually but just
18 one other question. I guess this is for Mr. Sher. What is
19 your interpretation of our ability to give relief from this 6
20 FAR limitation of Section 1707.4?

21 MR. SHER: I have two or three thoughts about that.

22 No. 1, the Commission in -- well, to start with, if you look
23 at the provisions of Chapter 24 -- I even wrote down a section
24 number anticipating a question like you asked -- Section 2405.2
25 sets out the guideline standards for PUDs in the C4 district

1 and that provides that the maximum FAR on a C4 site on a street
2 having a width of 110 feet or greater is 11 FAR.

3 The Chapter 24 contains no other restrictions on
4 the C4 district for overlays. Overlays are not mentioned in
5 the PUD regulations. Unless you go back to the overlay and
6 find some language to restrict or some language with which the
7 Commission has chosen to restrict itself about what it would do
8 in a PUD. I think the guidelines in the PUD regulation is 11
9 FAR.

10 There are some overlay districts where the
11 Commission has said, "We will not permit a greater FAR than the
12 matter of right limits of the underlying zone." That isn't
13 said anywhere in the DD district. I believe that it is within
14 the Commission's authority to approve an FAR up to 11. As
15 we've indicated, we're asking for an FAR of 10 which is the
16 normal matter of right in a C4 district.

17 The second thing I would say is that the Commission
18 has within its authority under the PUD regulations the ability
19 to craft a set of loosely called the mini zoning regulations
20 applicable to this property.

21 At one point in time the Commission will remember
22 that we had proposed a number of text amendments as to how to
23 deal with this site. The general consensus was, "No. Come
24 here and bring this to us as a PUD."

25 Or OP recommended that we bring it to you as a PUD

1 and you all dismissed all those text amendments and said, "Go
2 away and don't mention them again." I mentioned them again.
3 I'm sorry. We brought this in as a PUD putting before you the
4 project.

5 Again, another factor to consider here is that the
6 existing building is already at 8.84 FAR. Notwithstanding the
7 6 FAR limitation we're already 40 percent over that.

8 I think all of those factors in my mind lead to the
9 conclusion that you have the authority to approve that which is
10 an appropriate FAR for the building considering all the
11 circumstances and we believe that FAR appropriately should be
12 kept.

13 VICE CHAIRPERSON MITTEN: Let me just see what else
14 you have to say about the fact that the language of 1707
15 anticipated that some buildings on the list, the list that were
16 limited to 6 FAR, that some did already exceed it because
17 there's a section that says if the building already exceeds it,
18 then that additional density can be put to any use that's
19 permitted.

20 MR. SHER: 1707.7.

21 VICE CHAIRPERSON MITTEN: Yes, 1707.7. Then
22 there's another section of the DD that speaks to the fact that
23 if you're on the list of being limited 6 FAR that any bonus
24 density or TDRs can't be constructed on that site kind of
25 reinforcing the fact that if you're on the list that it's

1 supposed to be meaningful.

2 I guess I would like to have you explain why it
3 would be preferable for us to sort of undermine the idea of the
4 restriction to 6 FAR for these properties that are on the list
5 as opposed to doing a text amendment in removing Square 346
6 from the list.

7 MR. SHER: Certainly doing a text amendment removes
8 any ambiguity as to it. If one looks at the character of the
9 downtown historic district in general starting on basically
10 across the street from Woodies on the northwest corner of 11th
11 and F Streets, going east on F Street to 7th, going up and down
12 7th and just sort of look at that whole character, most of
13 those buildings were smaller scale, smaller fabric buildings.

14 Many of them are two, three, four stories in
15 height. Even the ones that are higher than the two, three,
16 four stories, the old Riggs Bank Building that Mr. Baranes
17 referred to before, are converted now to the courtyard by
18 Marriot Hotel, the Landsburg Furniture Company Building across
19 the street from it, the Atlantic Building which had some height
20 to it. Even those buildings which were higher than
21 that were not big block large buildings so the character of the
22 historic district basically, when the Commission was looking at
23 this, the thought was reduce the on site FAR to take the
24 development pressure off those buildings, notwithstanding that
25 they were already controlled by the historic district.

1 The theory was, well, if you've got a building
2 that's 3 FAR and you're allowed to go up to 8.5 or 10, then
3 there's a substantial amount of unbuilt density there. Someone
4 is going to try to find a way to tear down the back of that
5 building and build something there.

6 The Woodies Building is probably the largest
7 exception to the general rule that these are small scale
8 buildings. There's a building that Mr. Jemal is fond of
9 telling me is 200 by 200 by 200 by 200. It's actually a little
10 bit bigger than that.

11 It's a 50,000 square foot floor plate that occupies
12 100 percent of the site and consumes all of that square except
13 for that one tiny corner at 1001 F Street.

14 This is not the typical kind of building in the
15 downtown historic district. I think in that respect, it would
16 not be inappropriate for the Commission to consider it in an
17 atypical way.

18 Now, the Commission basically took the whole
19 downtown historic district and applied that 6 FAR limitation
20 and applied it to a lot that was vacant where there was no
21 development pressure to remove an existing building. The
22 building was already gone. The only exception to that
23 was the Hecht's block between 6th and 7th on F Streets. No,
24 between E and F on 7th Street. Sorry about that. In that case
25 there was an agreement between the owner of that property and

1 the D.C. Preservation league not to include it within the scope
2 of that provision because there was already a development
3 agreement covering what was going to go on there.

4 That was probably the other example of a big
5 building within the scale of the downtown historic district.
6 That building subsequent to that time, a good part of that has
7 already also been included in the 6 FAR limitation.

8 The Commission just said we're going to take the
9 whole historic district and make it 6 without regard to whether
10 you are already over 6, already under 6, big building, small
11 building. Just take the whole thing. I think this site stands
12 as almost a singular exception to the sort of general rule of
13 the character of the historic district.

14 VICE CHAIRPERSON MITTEN: Okay. Thank you.

15 CHAIRPERSON HOOD: Colleagues, any other questions?

16 I just have one or two actually. I notice in the traffic
17 report -- well, what I saw of it. Well, first of all, I notice
18 that the traffic report wasn't mentioned. So is it safe for me
19 to assume that traffic conditions would increase minimally or
20 would it be a large impact? I know a report was done but I
21 guess Mr. George, I believe, didn't make it this evening.

22 MR. GLASGOW: It was determined in going through
23 part of the process that there was not a need to do a traffic
24 report given the unbelievable public transportation that we
25 have available to the site. We're right on top of a Metro

1 center. There's no way to provide parking within the building
2 or underneath the building and keep and renovate the building.

3
4 The building was essentially devoted to the same
5 uses that we're talking about now, namely retail on the lower
6 levels and office above and at an 8.8 4 FAR so that if we were
7 to go to 10 FAR and have essentially the same split of uses,
8 we'd have the same conditions as existed previously when the
9 building was in operation. It was determined in consultation
10 with the Office of Planning that no traffic report was deemed
11 necessary.

12 MR. SHER: Oh, good. Just again, just to have the
13 specific facts, 8.84 to 10 FAR is the 13 percent overall
14 increase in the size of the building given the location, given
15 the direct connection to Metro bus service on F Street and 11th
16 Street and in the vicinity as well.

17 We just didn't see that there would be any
18 noticeable impact from putting the building back to use.
19 Obviously, it's empty and there's no traffic going in and out
20 of it now at all other than an occasional event of one sort or
21 another. Restoring it to the equivalent kind of use that it
22 had will not create any adverse conditions as far as traffic
23 can be determined.

24 CHAIRPERSON HOOD: Mr. Baranes, and I hope I
25 pronounced your name correctly, the sketch that you had where

1 you were showing the core, could you put that back up? I have
2 a quick question for you. When you were doing your
3 presentation, apparently I got lost in the building. There are
4 three entrances. Could you show me those again?

5 MR. BARANES: Let me pull up the ground floor.

6 CHAIRPERSON HOOD: Okay. Yeah, that's a better
7 picture.

8 MR. BARANES: This is 11th and this is the Metro.
9 The primary entrance right now is on 11th Street. There is
10 another entrance on G Street, 10th Street, and then one off of
11 F Street.

12 CHAIRPERSON HOOD: I didn't follow you. Let's say
13 for the sake of discussion that we're going to get a major
14 department store. This is just a discussion. When I get ready
15 to enter and go up to the office use above, will I have to go
16 through where the retail is to get to the core to be able to go
17 upstairs?

18 MR. BARANES: No. Actually, the blue represents
19 the retail area and these other colors here represented are
20 devoted to the office.

21 CHAIRPERSON HOOD: Okay. That answers my question.
22 Thank you.

23 Any other questions, colleagues?

24 COMMISSIONER PARSONS: Mr. Chairman, I apologize
25 for being late.

1 Mr. Baranes, I ask you, please, hopefully you're
2 going to do something with the ugliest penthouses in
3 Washington. Have you discussed that tonight?

4 MR. BARANES: Yes.

5 COMMISSIONER PARSONS: And you will. It would be
6 ashamed, and I'm confused by our drawings that were submitted.
7 We simply have to take care of that amenity.

8 CHAIRPERSON HOOD: We have time. He can go through
9 it again.

10 COMMISSIONER FRANKLIN: He said he was going to
11 paint them yellow.

12 COMMISSIONER PARSONS: Oh, my gosh. I'm glad I
13 asked.

14 MR. BARANES: It turns out most of these
15 penthouses, almost all of them, were not original to the
16 building. They were built in the '30s. We are looking at -- I
17 discussed this with David Maloney and I think he agrees with us
18 that we should be able to remove those.

19 COMMISSIONER PARSONS: Oh, good.

20 MR. BARANES: And replace them with new
21 construction.

22 COMMISSIONER PARSONS: But you haven't designed
23 them yet and they're not here for us? It's very unusual for a
24 PUD but we'll trust the HPRB to take care of that.

25 MR. BARANES: Trust us.

1 COMMISSIONER PARSONS: Thank you. I have before
2 and it's in good hands. Thank you.

3 CHAIRPERSON HOOD: Any other questions, colleagues?
4 Okay. With that we'll move on the agenda to the report of the
5 Office of Planning.

6 MS. MCCARTHY: Good evening, Mr. Chairman. For the
7 record, my name is Ellen McCarthy, the Deputy Director of the
8 Office of Planning for Development Review. With me tonight are
9 my colleagues, Arthur Jackson, who is going to do the more
10 detailed report on the project, and Mr. Altman will do a
11 summary of the project and the benefits that the city sees it
12 providing to us.

13 I just wanted to do a brief context setting
14 particularly looking at the issue of downtown residential for
15 orientation and the map, the convention center, Mt. Vernon
16 Square, the Woodies Building here labeled A.

17 If we look at the residential projects that are in
18 the pipeline or are already under construction or are in the
19 planning stages, you can see that what we are talking about in
20 the location of the projects that are contemplated, the
21 residential projects that are contemplated in this application
22 compliment well the direction that we are trying to go with
23 respect to downtown retail starting in the Pennsylvania
24 corridor located down here.

25 You see just the tip of the Square 457 project

1 which will have over 400,000 square feet of retail. The 406
2 project, the northern part of that Mr. Jemal is also doing
3 which will have a small number of units. I think 19, 20 units
4 or something like that.

5 The JBG East Street project which was just approved
6 a few weeks ago. The proposed Square 377 housing on F Street.

7 The Convention Center site which is under discussion now by
8 the Convention Center task force but where there seems to be,
9 based on how the discussion and planning suggestions are going,
10 the likelihood of a major residential concentration coming out
11 of that.

12 Oh, sorry. I skipped the Mather Building located
13 on G Street across from the Martin Luther King Library which
14 the city is about to issue a request for proposals for which
15 will also be largely a residential project.

16 The gallery place site on 7th Street. The Avalon
17 Bay. In this general vicinity here we've got the Avalon Bay
18 project, both the main project that the BSA approved a short
19 while ago, an extension that they're doing over on 6th Street.

20 JBG has a housing project they are contemplating on 6th
21 Street.

22 The Bergman site is also looking at a housing
23 development there. The Gallery Place project, as I mentioned.

24 Going further up, Clark Realty now has a project which is
25 before the Board of Zoning Adjustment for additional housing

1 units here between 3rd and 4th.

2 At Massachusetts Avenue is Mr. Jemal's project
3 that's proposed on Square 517. DRI's project which was
4 approved by the Housing Requirement placed back on Square 517
5 earlier, the Salvation Army PUD, the K4 American Housing
6 Partnerships Project.

7 Then the city just announced this past week a
8 competition request for proposals being issued for the wax
9 museum site where we contemplated major residential
10 concentration and probably major retail like a grocery store on
11 that site as well.

12 It fits in well here with the downtown development
13 district. You see in brown here high priority area A north of
14 Massachusetts Avenue, priority area B here in the okra color,
15 and C in the olive color with the Woodies and the Square 377
16 project. Then the Square 517 project located within there.

17 Those that are outside are a very short distance
18 from the existing housing priority area for Square 377 and 517
19 is within the housing priority area. They are very consistent
20 with the emphasis that we've tried to place on downtown
21 residential.

22 I should add just as a prelude to what Mr. Jackson
23 is going to discuss with you tonight that this is, indeed, this
24 whole project is a bit of a work in progress. Things are
25 perhaps less tightly nailed down than would typically be the

1 case with a planned unit development that you would be looking
2 at. Largely that's because it has many moving parts and some
3 of them are still moving.

4 In terms of design, I think that the Office of
5 Planning is satisfied that because of Woodies status as a
6 landmark, the control that the Historic Preservation Review
7 Board has over any rooftop additions to the Woodies Building
8 itself, and the fact that Square 377 is in the downtown
9 historic district has been reviewed already by HPRB for the
10 previous hotel project that was proposed there.

11 We've talked to Mr. Jemal about something
12 relatively consistent with that design where a substantial
13 portion of the street level retail was saved and the hotel
14 building was actually 60 feet of the building stock for the
15 three contributing buildings and then the noncontributing
16 building was demolished. But it was a greater amount of
17 preservation than has typically been the case on many of the
18 facade oriented projects in downtown.

19 It is certainly true that Square 517 is not going
20 to -- we don't have design review over that but what the
21 applicant has promised us is basically to not only do the 4.5
22 FAR housing that is required on that site, but to do no
23 commercial development on that site other than ground floor
24 retail or perhaps at the cellar level retail, and to do the
25 rest of what they perceive to be marketable as residential.

1 It seems likely that the economic incentive is only
2 likely to make that the maximum amount of housing that works
3 and is marketable so we feel comfortable with the market
4 helping guide the development and design of that project.

5 Lastly, in terms of the status of retail on the
6 site, the city, the Deputy Mayor's Office, the Office of
7 Planning have been working very closely with the applicant and
8 with representatives of major department stores and major
9 retailers.

10 There's press here tonight. At this delicate stage
11 of negotiations we can't really go into specific details about
12 the status of the negotiations other than to say that we have a
13 high level of confidence that the city and the applicant can
14 secure a major retailer on the site and that we have discussed
15 a structure of the lease agreement which is mutually agreeable
16 to the various parties and we are moving forward as quickly as
17 possible to try to finalize those arrangements.

18 Lastly, as Mr. Sher alluded to, this project has
19 been proposed -- various aspects of this project were proposed
20 to the Commission before as a text amendment. We felt that
21 because of the importance of the building, because of the
22 significance of what was being offered in terms of residential
23 on other sites, that the only way to do this in a fashion that
24 the Commission could feel comfortable that it had sufficient
25 control was to do it as a planned unit development even though

1 that did mean a greater delay and more time spent structuring
2 this to bring it back to you.

3 Even though Mr. Jemal was very anxious to get the
4 project underway quickly, they agreed if that was the structure
5 that provided greater comfort to the Office of Planning and
6 would most likely provide you with greater sense of control and
7 comfort, then we could move forward but they were willing to
8 come back and restructure it as a PUD where we do have
9 covenants where we can put agreements and control in the PUD
10 covenant.

11 With that as a general introduction then, Mr.
12 Jackson was going to go into more detail about just what it is
13 that the Office of Planning is proposing in that covenant and
14 what we see as the benefits to be achieved from the project.

15 MR. JACKSON: Hello. My name is Arthur Jackson. I
16 work in the Office of Planning. Please excuse my voice. I'm
17 just getting over the flu. Briefly, I wanted to again state
18 what the PUD as modified by the applicant is proposing to
19 accomplish.

20 It's proposing to redevelop the existing Woodward
21 and Lothrop Building on Square 346 for a combination of
22 preferred retail, service, and arts-related uses on the first
23 two to three floors of the building, the basement areas
24 including the lower vaults and the Metro Rail mezzanine.
25 That's the first three floors and the lower levels.

1 The balance of the available floor area in the
2 existing building will be used for other uses including office.

3 This also includes the possibility of reconstructing the 8th,
4 9th, and 10th floors to also be used for office uses.

5 It proposes to redevelop property on Square 377 for
6 95,000 square feet of residential uses at a density which will
7 equate to 1.89 FAR on the Woodies site even though Woodies is
8 not in a housing priority area. These properties would become
9 part of housing priority area C.

10 The applicant would also preserve significant
11 portions of buildings, three buildings located at 910, 912, and
12 914 F Street N.W. that contribute to the downtown historic
13 district. Over time the applicant is proposing to redevelop
14 properties for residential use on Square 517 including the fire
15 station on Square 856.

16 I would also note that if the fire station was
17 included in the redevelopment proposal, any changes to that
18 building would be subject to review by the HPRB. Note, if the
19 fire station property is conveyed to the applicant, then HPRB
20 will then be involved with review of any design changes.

21 The Office of Planning did their own analysis and
22 we concur with the presentation by the applicant's expert
23 consultant. We think one of the key issues is the discussion
24 of amenities and benefits. At this time we will use the
25 balance of this presentation to go through those benefits.

1 The benefits are outlined in Section 2403.9 of the
2 zoning regulations. If you refer to your attachment pertinent
3 zoning regulations, I believe it's on the 4th page, but I'll
4 briefly go through them and highlight where we see the public
5 benefits and project amenities of this project.

6 The public benefits and project amenities include
7 the following: Urban design architecture, landscaping, and
8 preservation of open spaces. Essentially we think that the
9 urban design architecture is involved with the preservation of
10 the existing building, the historic restoration of a local
11 landmark, the new construction that will be associated with the
12 contributing buildings and, of course, whatever activity goes
13 on on Square 517, site planning, efficient and economic land
14 utilization.

15 We believe that is exemplified by the activities
16 associated with the development which will utilize an existing
17 building and make it again a principal generator of interest
18 and income for the downtown area.

19 Effective and safe vehicle circulation access,
20 transportation management measures. I think one of the most
21 beneficial aspects of this project is that it is putting
22 development exactly where we would like to see development put,
23 right over Metro Station, near another, in the midst of many
24 transit opportunities. This is exactly the type of development
25 we want to encourage in the downtown.

1 Historic preservation of public and private
2 properties. Obviously this application would address that
3 issue.

4 Employment and training opportunities. The
5 applicant based on estimates indicates that just one of the
6 national retailer expressing interest in locating in Woodies
7 would bring about 1,600 jobs to this part of downtown.

8 They also have agreed to participate in the
9 District's source employment program to promote and encourage
10 hiring of District residents and to work with the Local
11 Business Opportunity Commission to involve minority businesses.

12 Social services and facilities. I think the
13 outreach that they are willing to make to make this project a
14 benefit to the employees of downtown and, of course, other
15 smaller businesses would address that benefit.

16 Environmental concerns such as water run-off
17 control and preservation. The building is existing. The
18 infrastructure can support its existence and nothing in their
19 presentation indicates that they would be making the most of
20 the existing system.

21 The use of special values to the neighborhood and
22 the District. We think that the proposal to bring back retail
23 uses which is a prime objective of the comprehensive plan is
24 probably the special value of the neighborhood. The
25 possibility of bringing an apartment store to that town would

1 be the other public amenity.

2 Our assessment of this proposal, the revised PUD,
3 is that it is consistent with the regulations, is acceptable in
4 all categories, and more than acceptable in several.

5 Briefly we'll touch on some of the other standards
6 that were used to review this proposal. We think it is
7 consistent with the comprehensive plan. Community comments
8 made about other proposals relative to the Woodies project
9 indicated that one of the key concerns was the continued
10 importance of bringing major department stores back to
11 downtown, providing increased numbers of residential
12 opportunities in the DD, and this application would meet those
13 concerns.

14 In addition, Neighborhood Advisory Commission 2C
15 also voted four to zero in favor of the project. Agency
16 comments were principally from the Historic Preservation Review
17 Board which reviewed the preliminary proposal for new residents
18 but did not see any plans for office proposal. However, the
19 comments from the HPRB staff indicate that a proposal for
20 additional office area, a reconstruction of the 9th and 10th
21 floor, can be accommodated.

22 Based on that information, the Office of Planning
23 recommends that allowing the applicant to use the balance of
24 the existing Woodies site, redevelop the 9th and 10th floors,
25 and include office uses on the site can be supported in

1 exchange for the referenced public benefits.

2 The District was concerned, however, that the
3 proper mechanisms be in place to ensure that promised public
4 amenities are provided in a timely manner.

5 Besides the PUD conditions, the Downtown Cluster of
6 Congregations and the Downtown Housing Now Committee have been
7 negotiating with the applicant to establish property covered in
8 testifying the sequence, type, and extent of PUD development.

9 One requirement would be a performance bond for
10 residential construction on Square 377. The District of
11 Columbia would be a party to that performance bond.

12 Other requirements increase the amount of
13 residential construction that would be required on Square 377
14 and 517. Key conditions in this agreement are also reflected
15 in our suggested PUD conditions. Based on this
16 information, the Office of Planning recommends approval of the
17 revised PUD proposal with the following conditions. Please
18 note that these conditions have been somewhat modified from the
19 version that you have before you but this is as the result of
20 further negotiations and discussions with the applicant by the
21 Office of Planning.

22 With regard to Square 347, the applicant must
23 designate and secure instead of a shell certificate of
24 occupancy a letter of core completion for the basement or
25 cellar, vaults, and first two floors at a minimum in the

1 existing Woodies Building.

2 Now, I should explain that the shell certificate of
3 occupancy does not actually exist but what a letter of core
4 completion would be would be a statement that those areas
5 designated for retail use are basically outfitted and waiting
6 for a real tenant. When the tenant is selected and begins work
7 outfitting the space for actual use, that's when the CO will be
8 issued. The referenced letter of core completion would be
9 issued by DCRA.

10 Now, they had the option of various major retail
11 uses that they can have in that space. Specifically, one
12 anchor retail use on the floor area equal to or greater than
13 60,000 square feet along with and any combination of preferred
14 retail, service, and arts-related uses, two or more anchor
15 retail uses each with a floor area greater than or equal to
16 25,000 square feet and any combination of preferred retail,
17 service, and arts-related uses, or any combination of one or
18 two which would essentially mean they could have a 60,000
19 square foot retail use and a 25,000 square foot retail use and
20 an assortment of smaller ones, three 25,000 square foot uses on
21 the table, etc. This would total at least 150,000 square feet
22 of retail use in the existing building.

23 Once the referenced letter has been issued, the
24 applicant may then obtain COs to utilize the balance of the
25 existing building floor area in the former Woodies Building for

1 a combination of preferred retail, service, arts-related uses,
2 or office.

3 With regard to the associated development on Square
4 377, the referenced process will be designated as part of
5 housing priority area C. The minimum residential floor area to
6 be developed in this process would be 88,000 square feet.

7 Building permits for the referenced residential
8 development must be obtained within one year of the Zoning
9 Commission final order. To ensure construction of the building
10 the PUD conditions reinforces that the applicant will provide a
11 performance bond in the amount of not less than \$18 million
12 within 30 days of the date the building permits are issues for
13 the reference development on Square 377 naming the District of
14 Columbia as a beneficiary.

15 The bond would be structured so that if the
16 referenced housing is not completed within three years from
17 that date of issuance, then the bonds would be executed by the
18 District and the housing construction completed. Otherwise
19 amounts could be determined when the COs are issued or they
20 could be reduced in direct proportion to the amount of
21 construction that's been completed.

22 Finally, COs for referenced residential development
23 must be obtained within three years of the date of the COs
24 issued for the office space not associated with a preferred
25 retail, service, and arts-related use or any floor area

1 addition to the former Woodward and Lothrop Building.

2 Now, that just means if you have a retail use and
3 office space in the back, that won't trigger that
4 consideration. We're talking about a separate office use
5 independent of any other activity.

6 With regard to the associated development on 517
7 which may include the fire station if required as the
8 applicant, development is limited to residential uses with
9 retail and service uses allowing the ground floor and cellar
10 levels but no office.

11 The applicant must enter into a covenant for the
12 duration of the Square 346 PUD within 30 days of the Zoning
13 Commission final order restricting development of the
14 referenced lots to residential uses equal to a minimum of
15 200,000 square feet, commercial development on the first floor
16 and basement levels, but also no office uses.

17 This concludes the summary of the proposed
18 conditions to the PUD.

19 MR. ALTMAN: Members of the Commission, I will make
20 a very brief closing statement. I think a lot has already been
21 presented so I'm not going to repeat both what the applicant
22 presented and then what was in the Office of Planning report.

23 I really just wanted to note that this project has
24 come quite a long way since when we started, I think, over a
25 year ago when this first came before you and was postponed

1 numerous times as we established a task force, as we worked
2 with Doug Jemal and his staff, as we worked with members of the
3 downtown housing community, and we worked with the cultural
4 congregations, as well as with the business community over the
5 past year and with the Office of the Deputy Mayor to really
6 come forward with a proposal for a planned unit development
7 that we think achieves goals of the city.

8 I think it's been a long effort. I remember many
9 questions that the Commission had at the time. I think we feel
10 that two primary -- you've heard, and I think Ellen McCarthy
11 pointed out, the urban context which is important to what we
12 were trying to accomplish, but two fundamental goals are being
13 achieved here. There are many goals but two fundamental ones
14 related to retail and housing in the downtown.

15 As you know, the housing was a comprehensive plan
16 amendment. It's not a requirement of the zoning but it was
17 always a major objective of all the stakeholders downtown. We
18 brought forward a briefing on the downtown plan the other week
19 as we are trying to achieve our goal of 10,000 housing units
20 downtown as we looked at our retail and said that F Street, and
21 this building in particular, is the catalyst of the retail and
22 downtown, to the bringing back and the reinforcing of that
23 retail environment.

24 Without this building that really wasn't going to
25 be possible and wouldn't be the kind of strong destination

1 downtown that we are all working toward in trying to marry
2 those goals. The fact that what this building could handle
3 and, at the same time, how do we achieve these objectives for
4 both housing and retail.

5 What the applicant has agreed to in working very
6 closely with them and listening very closely to the
7 constituents, both downtown and citywide, about what we were
8 trying to accomplish said, "How can we structure this and bring
9 this forward in a fashion that achieves these primary
10 objectives and essentially is a win/win for all parties?"

11 I think that's what we believe that we are bringing
12 forward to you tonight. There are obviously a lot of details
13 associated with this. There are many other conditions because
14 we really wanted to be as specific as we could at this time in
15 terms of ensuring that the commitments are guaranteed.

16 I think that we've gone a long way toward
17 addressing that and really bringing forward that not only is it
18 housing downtown but it's housing that's just a block over on F
19 Street. It's housing that will be on Massachusetts Avenue
20 which is part, as Ellen mentioned earlier so it begins to help
21 us with our efforts of north of Massachusetts Avenue.

22 You are really getting two significant amenities as
23 part of this whole package that achieve not only the goal of
24 number of units, but also neighborhood goals both south and
25 heading toward north of Massachusetts and bringing the retail

1 back, allowing for the retail in this building to go forward in
2 a way by guaranteeing that there are minimum anchor uses as
3 specified in the conditions of the 60,000 square feet or two
4 anchors of 25,000 square feet, so that the nature of that
5 detail is preserved in terms of the kinds of user you want to
6 see there.

7 You have those protections and assurances that the
8 housing can be built which was very important. And, of course,
9 the preservation aspects of this project. It's come a long way
10 from where we started and I think it's been a concerted effort
11 of the downtown community as a whole to bring this to you
12 today.

13 As you know, we didn't bring this forward many
14 times because we felt, as was noted earlier, we had many
15 different pending cases but that wouldn't be productive because
16 this was the type of building and the type of program that
17 needed to be embraced by all because of its importance to the
18 city.

19 I think that's what we've been able to bring toward
20 to the Commission tonight which is why we support it and
21 continue to work with the applicant as well as with the
22 downtown community to see this happen.

23 We are hoping to take questions. There are
24 obviously many aspects to this that we are looking forward to
25 discussing with you and, as Ellen said, try to be as specific

1 as we could in terms of the PUD. At the same time, obviously,
2 there are things that we're trying to finalize. Thank you.

3 CHAIRPERSON HOOD: Okay. Thanks to the Office of
4 Planning for a very detailed and good report.

5 I just have one question I want to maybe lead off
6 before my colleagues. On your report on page 2, No. 4, has the
7 applicant agreed to what I guess I would call riders, the
8 recommendations that I see on page 2, especially No. 4?

9 MR. GLASGOW: Mr. Chairman, we have agreed to that.

10 CHAIRPERSON HOOD: Okay. All right, colleagues.
11 Any questions? Let me just make a comment.

12 Ms. McCarthy, in my reading I was kind of wondering
13 where we were going and I think you brought some finality to it
14 for me when you said it's a work in progress. That is one way
15 of looking at this. I thought it was rather unusual and it was
16 different. From my tenure on the Commission I saw a lot of
17 different things in motion and I was trying to pull it
18 together. I appreciate your comments.

19 Colleagues, any questions?

20 COMMISSIONER PARSONS: I'm trying to get used to
21 this performance bond idea, folks. Your statement says \$18
22 million. Apparently the agreement that Mr. Jemal has struck
23 says \$18 to \$20. I'm concerned about the District of Columbia
24 moving into this property and developing housing which is what
25 is provided for in these covenants.

1 I have three questions, I guess. One, is it legal?
2 You must have checked that out. Two, can it be done for \$18
3 to \$20 million? Three, who owns the property when we're done?
4 Hopefully this never occurs but, if it does occur, those three
5 questions. Let's start with is it legal. All right. Can you
6 do it for \$20?

7 MR. ALTMAN: If I might say something. First of
8 all, I want to give you a legal opinion. We've sent it to
9 corporation counsel to affirm that it's legal. The reason this
10 was an important provision is that one of the concerns is that
11 the housing, in fact, be built and that the applicant is making
12 good faith efforts.

13 We believe that will be the case. He's committed.
14 He's purchased properties but we wanted to make sure that
15 there was a default and to motivate, frankly, that the housing
16 would occur within an expeditious time frame, reasonable but
17 expeditious time frame.

18 My sense is that what would happen is that the
19 housing would be developed and it would still be the property
20 owners property but we would cause that housing to be
21 constructed through this amount of money that has been put, in
22 essence, in reserve.

23 COMMISSIONER PARSONS: I take it subject to the
24 bonding company's interest.

25 MR. ALTMAN: Correct.

1 MR. JEMAL: If I may add something, Mr. Parsons.

2 CHAIRPERSON HOOD: Microphone, please.

3 MR. JEMAL: Within 30 days after obtaining the
4 building permit we'll hire a contractor and we'll put a typical
5 performance bond. The morning it's going to start there's a
6 contractor on the job and he has a performance bond and we're
7 going to pay for the performance bond so that the job is
8 completed.

9 COMMISSIONER PARSONS: Then help me with the cost
10 estimate.

11 MR. JEMAL: We just took a back-of-the-envelope
12 typical type of building and it would be about \$200 a square
13 foot to build like a similar type building we are building
14 across the street from there with historic row. In our
15 experience and in speaking to Shalom and a few contractors, it
16 would be about \$200 a square foot to build and we're building
17 about 95,000 feet.

18 COMMISSIONER PARSONS: \$2 million is a lot of
19 money. Well, maybe not to you but it seems like a lot to me.
20 What is it, \$18 or \$20?

21 MR. JEMAL: That's the reason I put between \$18 and
22 \$20 because we don't have a set of plans yet. I would say the
23 minimum would be \$18 and I would say the maximum would be \$10.

24 COMMISSIONER PARSONS: So the bond should be \$20
25 then.

1 MR. JEMAL: The bond could be \$20. If you want a
2 \$20 million bond I'll do that.

3 COMMISSIONER FRANKLIN: It has to be enough to
4 complete the building in accordance with the plans and specs
5 and presumably you're going to have a cost estimate. I take it
6 that you're taking out a loan to do this.

7 MR. JEMAL: Correct.

8 COMMISSIONER FRANKLIN: All right. So the mortgage
9 lender is going to want to know how much it's going to cost.
10 The performance bond ought to be whatever is adequate to
11 complete in accordance with the plans and specs.

12 MR. JEMAL: Yes, sir.

13 COMMISSIONER FRANKLIN: So we don't have to at this
14 point determine ourselves what that amount is as long as the
15 plans and specs have been approved by the HPRB.

16 MR. JEMAL: That's correct.

17 COMMISSIONER FRANKLIN: Do the just look at the
18 exterior?

19 MR. JEMAL: It would be the entire building.

20 COMMISSIONER FRANKLIN: The entire building? Are
21 you sure about that?

22 MR. JEMAL: You mean HPRB or the --

23 COMMISSIONER FRANKLIN: HPRB.

24 MR. JEMAL: I'll defer to Shalom on that.

25 MR. GLASGOW: It's not going to be a set of working

1 drawings, Mr. Franklin, that they review.

2 COMMISSIONER FRANKLIN: They wouldn't, no.

3 MR. BARANES: No, they are not reviewing a set of
4 working drawings.

5 MS. MCCARTHY: But, Mr. Franklin, I think what Mr.
6 Jemal is saying is he would have a set of plans that he would
7 give to the contractor to bid on and based on that set of
8 plans, the contractor is providing an estimate of the cost and
9 guaranteeing that the work would be performed for the amount of
10 the performance bond.

11 The Commission could either specify a minimum of at
12 least \$18 million. I suppose we could make the condition read
13 the cost of the construction based on the estimate of the
14 contractor, \$18 million or whatever you may deem appropriate.
15 You could nail that down with the applicant.

16 As we've been looking at downtown housing, it's not
17 uncommon for developers or the financing side of the deal to
18 require that the contractor post a performance bond to make
19 sure that he's able to complete the construction. It wouldn't
20 be something that any of the parties would be unfamiliar with
21 or would be foreign to them.

22 COMMISSIONER FRANKLIN: I have one more question,
23 Mr. Jackson. On page 2 you were going through the conditions
24 and you got down to one that I didn't quite understand. You
25 were talking about the minimum residential floor area on 377

1 which in your typed version is 95,000 square feet and you said
2 88,000 square feet. Is that a typo or some reduction through
3 negotiation. Is it 95 or 88?

4 MR. JACKSON: Well, what we had discussed with the
5 applicant was 95,000 square feet of residential type uses. So,
6 in essence, that could include having first floor retail, a
7 health club or other types of uses that are not necessarily
8 residentially per se.

9 The other issue is that our goal in all of this was
10 that the applicant would provide at least 2.0 FAR residential
11 uses off site at a minimum of 2.0 FAR of the Woodies building
12 which would be about 100,000 square feet. So 88,000 square
13 feet on this property and a little over 13,000 square feet on
14 square 517 would meet that goal.

15 In essence, the goal and the covenant is still to
16 do 95,000 square feet of apartment type uses. However, we are
17 saying there would be at least 88,000 square feet of
18 residential use developed on the site. That's really a
19 clarification.

20 COMMISSIONER FRANKLIN: Thank you.

21 CHAIRPERSON HOOD: Any other questions, colleagues?

22 COMMISSIONER HOLMAN: Well, yeah. This is a
23 question for Mr. Altman and it's a very general question. You
24 said that there are still some moving parts here. I'm not
25 trying to pin down when or how long it's going to take

1 everything to get resolved but would you say you're close to
2 the end of this process and if you can characterize how you
3 plan to bring it to a conclusion would be appreciated.

4 MR. ALTMAN: There are a couple of different issues
5 when you refer to the moving parts. I guess when I refer to
6 the moving parts and you've now referred to them.

7 One question that was raised earlier is this
8 standard way of bringing forward a planned unit development.
9 We think there is a lot of material here sufficient to move
10 forward or we wouldn't have brought it to you.

11 But is the housing completely designed? No, not
12 yet. Do we trust that it will be and we're working to do that?

13 Yes. Do we believe the amenity package will be the remainder
14 of it on 517 and what that development looks like? That's
15 still something that is forthcoming.

16 When I said moving parts, I wasn't thinking so much
17 of something extraneous to this. I was thinking of something
18 specific. Obviously right now we are working very hard and
19 Doug Jemal is working very hard. We are challenging him and
20 he's challenging us to do the best thing we can for the city in
21 terms of the department store, but this wasn't dependent upon
22 that.

23 We think that there is a good proposal before us
24 but obviously that is the challenge before all of us. I think
25 Doug Jemal is working very hard on that. We're working hard on

1 that and we're challenged to do the right thing for the city
2 overall.

3 But the moving parts I was referring to really had
4 to do with some of the more specific details that you might
5 find in other applications and the reason we felt that wasn't
6 here but that we felt it was still justified to bring forward
7 in terms of what the commission usually sees.

8 CHAIRPERSON HOOD: Okay. Commissioner Mitten.

9 VICE CHAIRPERSON MITTEN: I have a couple of
10 questions about the conditions on page 2. I guess I'll begin
11 with asking what is the motivation behind including the site in
12 square 377 in housing priority area C?

13 MS. MCCARTHY: The basic reason we put it in area C
14 is because what had distinguished C from B and A was that they
15 were all C4 properties. Since this was in the DD/C-4 area we
16 thought it was consistent.

17 We didn't feel strongly about that. It could be in
18 other areas or it could be permitted to be in multiple area but
19 we thought it made sense because of the zoning that was on the
20 site.

21 VICE CHAIRPERSON MITTEN: Maybe I put the emphasis
22 on the wrong word. Why do you think it should be in a housing
23 priority area?

24 MS. MCCARTHY: Oh. Because it carried with it the
25 additional guarantee that there is now a housing requirement on

1 the site so that what you -- in terms of the Commission feeling
2 comfortable about changing this, there's a housing requirement
3 on the site now because it's in the housing priority area,
4 housing requirement of at least 2 FAR which is being met
5 through the PUD off site which it has that requirement.

6 There is the covenant which the outside parties are
7 placing on it. There's the covenant which the District is
8 participating in and they are all the PUD conditions. There
9 are layers and layers and layers that help assure the
10 Commission that, indeed, the housing amenities are going to be
11 constructed.

12 VICE CHAIRPERSON MITTEN: I guess one of my
13 concerns about that is that's a text amendment that we did not
14 advertise for us to include that site in Square 377 in any
15 housing priority area.

16 MR. GLASGOW: Ms. Mitten, we were intending on
17 promptly filing assuming the Commission were to act favorably
18 on this application and promptly file an application saying
19 based upon the PUD and the actions of the Commission we would
20 like to have this site included in the housing priority area.

21 VICE CHAIRPERSON MITTEN: Okay. So no one has the
22 misconception that any action on this PUD would accomplish
23 that?

24 MR. GLASGOW: That is correct. I think we've
25 discussed that. We will be filing an application to sort of

1 set a direction and tone and agreement that we have with the
2 Office of Planning that all of these properties would be in the
3 downtown development district. This was the only one out of
4 the three that was not and would be coming back around and
5 being put in the housing priority area.

6 VICE CHAIRPERSON MITTEN: Okay. And while you and
7 I are talking, would you have any problem with an additional
8 condition that would eliminate any potential for a combined lot
9 development with either of the amenity sites that are providing
10 housing so they wouldn't under someone's interpretation of the
11 zoning ordinance be allowed at some future date to count for
12 combined lot development as someone's housing requirement?

13 MR. GLASGOW: I think, as we had stated in all of
14 our filings that we had, and in the presentation that we had to
15 the ANC, and as was recognized in the report of the Office of
16 Planning, we were intending on being able to use the benefits
17 of the downtown development district with respect to the
18 housing that we are producing.

19 We are producing a tremendous amount of housing at
20 enormous cost. Mr. Jemal has bought these properties. We're
21 not in a situation where I am many times with a PUD site where
22 we have the site under contract or rezoning or all of this.

23 You only have two small parcels of all of this
24 property that you don't already own that are going to close in,
25 what, about a week?

1 MR. JEMAL: Yeah. 916 is closing February 28th and
2 the last piece where the carryout is on Square 517 is closing
3 90 days after the carryout moves out. Both of those are in the
4 contract now with deposits.

5 MR. GLASGOW: All the other property is owned.

6 VICE CHAIRPERSON MITTEN: Maybe I'm not making
7 myself clear. I understand that one of the reasons for
8 maintaining the downtown development district designation on
9 these properties is to participate in the incentives. I guess
10 I was thinking that there would be the opportunity to generate
11 TDRs for preferred uses.

12 I'm getting now a sense from you that's one aspect
13 of it and the other aspect of it is that you would want the
14 ability to be able to use either of these sites that are being
15 offered as amenities in this PUD to off load a housing
16 requirement from yet another site and combined lot development.

17 Am I misreading you?

18 MR. GLASGOW: We were looking at that with respect
19 to anything that was more than the requirement that would be
20 like, for instance, on Square 517 where we have a 4.5 FAR
21 requirement.

22 Then as was discussed by Mr. Jackson in getting to
23 the 2 FAR that the city was looking for with respect to housing
24 from the Woodies site, that additional, I'll call it, 13,000
25 square feet, if we build 250,000 square feet on that site, yes,

1 we would want to be able to do combined lot development once we
2 get over that threshold. We believe that's appropriate.

3 VICE CHAIRPERSON MITTEN: Okay.

4 COMMISSIONER FRANKLIN: With respect to the
5 overage?

6 MR. GLASGOW: Yes, with respect to the overage to
7 do combined lot. That's correct.

8 VICE CHAIRPERSON MITTEN: Ms. McCarthy, do you have
9 anything to add about the Office of Planning position on that?

10 MS. MCCARTHY: We have not had detailed discussions
11 with the applicant about that. It was partly hard because we
12 don't have a definite amount of square footage that we were
13 talking about so it's hard to know what the impact was going to
14 be in terms of combined lot or TDRs.

15 VICE CHAIRPERSON MITTEN: So when we talk about the
16 amenity in terms of housing, particularly on Square 517, it's a
17 finite amount that is the amenity. It's not this, well, we
18 might be able to build as much as, I think Mr. Sher said,
19 perhaps as much as 300,000 square feet depending on what the
20 Zoning Commission does with the DD housing components that
21 we're going to discuss in another session. It's really a very
22 definite amount. Is that true?

23 MS. MCCARTHY: The floor was a definite amount.

24 VICE CHAIRPERSON MITTEN: I'm getting that it is a
25 definite amount because they would like to use whatever is

1 above the equivalent of 2 FAR relative to the Woodies site.
2 They would like to use that in a potential combined lot
3 development to off load the housing requirement from some
4 property that has yet to be identified.

5 MS. MCCARTHY: When I said the floor was a definite
6 amount, the amount that we specified was that there would have
7 to be a minimum of the 2 FAR, the equivalent of 2 FAR of
8 Woodies or 100,000 square feet which would have to be
9 constructed off site. That was the minimum which was specified
10 with the applicant essentially as the tradeoff for permitting
11 office construction on that site.

12 VICE CHAIRPERSON MITTEN: Okay. As it relates to
13 the letter of core completion and for the area that would be
14 occupied by one or more large retail tenants. If I understand
15 the conditions as they are laid out, that would basically
16 trigger the opportunity for the balance of the building to be
17 occupied for whatever other uses, probably office. Is that
18 right?

19 MR. JACKSON: Yes.

20 VICE CHAIRPERSON MITTEN: So what happens if there
21 is no retail that is forthcoming? Whatever leverage there
22 would be would be gone at that point and the preferred uses
23 that I think are the core of the PUD, in terms of the amenities
24 that Mr. Sher described, and then Mr. Jemal elaborated on
25 relative to F Street as a core retail street, that would be

1 gone. Have you give any thought to what should appropriately
2 be done if that is the eventuality?

3 MS. MCCARTHY: You're talking about a situation
4 where the applicant would take the ground floor and the first
5 two floors, construct them to a basic retail shell level
6 certified by DCRA that they had completed that construction of
7 a retail shell, and then leave those empty and put office
8 construction on the floors above?

9 VICE CHAIRPERSON MITTEN: Yes. I'm thinking it's
10 probably not unlike what happened with the Arnold and Porter
11 Building which is they had reserved space for a department
12 store and what they got out of that is they generated a lot of
13 bonus density. Some was built in site and some were TDRs.

14 Well, they didn't sell the TDRs so when they came
15 back and they asked for some relief from what their original
16 promise had been to build a department store, then the number
17 of TDRs was reduced. In this case if they come back at some
18 point and say, "We tried and it just didn't work out," we don't
19 have anything to take away.

20 MS. MCCARTHY: That's true. We tried to be as
21 specific as possible and tried to figure out conditions that we
22 could effectuate through the PUD covenant that would have
23 something that was enforceable tied to them.

24 Our sense was if the applicant got to the point of
25 creating a retail shell and there's a PUD covenant that says

1 that shell can only be filled with either an anchor store of
2 60,000 square feet or more, or two anchor stores of at least
3 25,000 square feet, that it was unlikely that the applicant
4 would be interested in leaving that space vacant.

5 If the only way that space could be filled is with
6 that combination of anchor tenants and given the good faith
7 commitment of the applicant to fill that and the strong
8 interest that we know of, that at least two department stores
9 will be on the site, we felt that the risk was small, but there
10 is still obviously a risk.

11 There's nothing that we have that could absolutely
12 nail that down. One of our concerns was that because the
13 retailers that we had spoken to were desirous of doing their
14 own fit-out, it would be burdensome on the applicant to require
15 that a C of O be granted for that retail space in its final
16 form because the applicant would have no direct control over
17 the retailer and the retailer's construction of that fitted-out
18 space.

19 That's why we left it at the requirement as it
20 stands now to at least have the shell which is under the
21 control of the applicant.

22 COMMISSIONER FRANKLIN: Housing on 377 would still
23 have to proceed. Would it not?

24 MS. MCCARTHY: Yes.

25 COMMISSIONER HOLMAN: Could I interject just a

1 second? Would it be a fair statement to say that the situation
2 in the downtown regarding attraction of retail has changed
3 somewhat since the time of the Arnold and Porter Building? If
4 you want to respond to that, you can.

5 MS. MCCARTHY: That was one reason why we had a
6 level of confidence. Our own conversations with retailers who
7 are interested helped convince us that we could enjoy a level
8 of confidence now that was not necessarily the case when Arnold
9 and Porter was looking to market that space or when ManuLife
10 was looking for market that space.

11 As Mr. Franklin just pointed out, the other
12 amenities such as the housing on Square 377 have a separate
13 avenue of enforcement through the covenant with downtown
14 housing now that requires that if the building permits are not
15 achieved within a certain amount of time by the applicant, that
16 legal fees would be paid to downtown housing now to complete
17 the necessary building permits and then the obtaining of the
18 building permit triggers the performance bond.

19 We knew that that aspect of the amenity package was
20 provided for. We couldn't figure out a way to have a public
21 action where the District of Columbia would be responsible for
22 securing permits that the District of Columbia and the other
23 hand would be the regulator for. That had to remain a private
24 action. The performance bond could be -- you know, we could be
25 participating in the performance bond and that, we thought, was

1 a suitable PUD covenant.

2 MR. ALTMAN: And I would just add one point which
3 is that there is a delicate balancing here in terms of is there
4 a risk. There's always some level of risk here but in terms of
5 the retail, could the retail environment change? Absolutely.
6 It could always change. As everyone knows, the economy is
7 fluctuating.

8 The key point here was that, on the one hand,
9 crafting guarantees such as that with the housing guarantee
10 that we discussed but allowing the retail and the office, if
11 office is what the rest of preferred use -- not preferred use
12 but the remainder of the building goes to office, that the
13 economics are such that there is some need that if you can't
14 wait for the retail to be fully built out and done, then
15 sequence that and then do the office.

16 There was some need for flexibility in terms of the
17 financing of the building as a whole that we couldn't do
18 everything in sequence so do the retail first and then allow
19 you to do the remainder of the building and then allow for the
20 housing.

21 There had to be some ability so that the property
22 owner could proceed with development of the project as a whole.

23 We tried to build in at least some of those guarantees by
24 saying the shell and then that triggers the housing
25 requirement, etc., etc.

1 Is there a level of risk? Yes, but we felt that
2 otherwise it probably would have been very onerous to try to
3 craft that.

4 VICE CHAIRPERSON MITTEN: I have an additional
5 question which is why do you introduce this concept of a
6 performance bond only for the residential requirement on Square
7 377 and not in addition for Square 517?

8 MS. MCCARTHY: It was harder to come up with a time
9 frame that everybody could feel confident about on 517. (A)
10 It's further away from established housing. It's a little bit
11 more of a pioneering area and, (B) there are two projects that
12 are planned for one immediately adjacent to it on the west and
13 one immediately adjacent on the southeast.

14 Not knowing for sure what the timetable of those
15 projects were to require the applicant to go forward in a
16 timetable which might put him in direct competition with
17 projects on either side of him, we didn't want to put him in a
18 situation where the project could potentially fail or be very
19 unsuccessful and then scare off other housing developers.

20 MR. ALTMAN: So one of the guarantees that we
21 agreed to as a condition here is that there would be no office
22 use on that site so essentially removing the ability to do
23 office and that it becomes an all residential but for retail
24 and some other allowed uses. Office which would have been
25 really the competing use for that site has been removed.

1 MS. MCCARTHY: I think I should probably add also
2 that Mr. Jemal has given his personal guarantee that that
3 project would go forward as soon as possible and indicated that
4 he's working on predevelopment activities already. It's not
5 enforceable but it's publicly recognized as his commitment to
6 do that housing.

7 CHAIRPERSON HOOD: Okay. Commissioner Parsons.

8 COMMISSIONER PARSONS: I'm troubled here. Mr.
9 Jemal is one of the most trusted and best developers in the
10 city. I'm worried about the precedent that the Commission is
11 being asked to set here.

12 A PUD, and I've seen a few, this is not. It is not
13 ready in my judgment for a PUD as trusted as he is. What I
14 mean by that is that we are asked to set a new precedent here
15 that I'm fearful will be followed by others where a development
16 is not yet there, not yet defined, not yet designed, not yet
17 refined.

18 We have a provision in our regulations to
19 accommodate this kind of thing. It's called a two-step PUD.
20 That's not what's asked for here tonight. That is, a
21 consolidated one-step PUD is asked for.

22 We are going way beyond precedent here. We have
23 never in my experience approved a one-step consolidated PUD
24 with this lack of detail. I mean, not even the building is yet
25 designed on the top floors. I wanted to ask Mr. Altman what he

1 felt about a two-step process rather than a one-step process.

2 MR. ALTMAN: That's a question, Mr. Parsons, we
3 really hadn't contemplated, a two-step process. I'll have to
4 give that some thought and confer with the applicant.

5 We have brought this forward, obviously, as a one-
6 step PUD thinking that in many cases in terms of the design
7 it's not really a new construction. I hear what you're saying
8 in terms of the additional 9th floor or 10th floor, but that
9 essentially in terms of largely this being an historic
10 structure, and what's going to be returned as an historic
11 structure in terms of the building and the architecture and a
12 lot of that level of detail, I guess there was a greater level
13 of comfort on our part.

14 And also that there is the HPRB that we did not, in
15 this instance, say that we had to have as much nailed down in
16 terms of specificity. I would have to confer about the issue
17 of a two-step PUD because of the timing issue, the timing
18 implication.

19 COMMISSIONER PARSONS: The uniqueness of this would
20 give us cover, if you will, for further applicant's to come
21 along and say, gee, you really don't need designs anymore.
22 You're relying on other panels, the HPRB or others to pin down
23 the final design. We do have a unique circumstance here that
24 shouldn't trouble me as much as it does?

25 COMMISSIONER FRANKLIN: Before you arrived, Mr.

1 Parsons, I raised that question with Mr. Sher and said are you
2 basically saying we have to sort of defer to the HPRB on design
3 issues. The answer was yes.

4 COMMISSIONER PARSONS: But design is so much fun,
5 you know. All you need is more opinions.

6 MR. ALTMAN: You raise an interesting point. I do
7 think there's an argument that it is a unique case. I mean,
8 unique in the sense that I don't think it's saying that the
9 Zoning Commission defers necessarily always to other bodies.

10 The reason I really separated out the new
11 construction issue from the historic issue is that often the
12 level of detail we get into in new construction is the first
13 time you're seeing a building go up or it's a significant
14 alteration or modification to an existing building. It could
15 be an addition to it in square feet or change in the design.

16 Whereas, here from what's been presented to us and
17 in our discussions, it's largely going to be the
18 reestablishment of this building. The big questions of design
19 that often new construction raises are not ones that I think
20 are going to be raised here. There is a level of

21 detail in terms of the historic preservation and the historic
22 aspects of the site that would be in the purview of the HPRB to
23 look at the detailing and some of the other issues that may
24 come up. We felt that fundamentally the building was one of
25 unique circumstances given its historic structure and what the

1 intent of the applicant has been.

2 COMMISSIONER HOLMAN: Mr. Altman, since you're
3 leaning forward, this was basically what I was trying to get at
4 when I was talking about the moving parts because I'm trying to
5 figure out -- obviously the design issues are not going to get
6 resolved in the next couple of weeks but do you feel that --
7 I'm trying to move towards that sense of finality that I think
8 you hear the Commission trying to struggle for. Are
9 there parts of this that are going to be more final in, say, a
10 couple of weeks, a month, that will kind of bring this thing to
11 a point that increases the level of comfort is the question?

12 MR. JEMAL: Excuse me. Can I answer that? Pardon
13 me, Andy, for a minute. Like Andy and Ellen said, we're in
14 real serious negotiations right now. We have a window of
15 opportunity to really instill some greatness on F Street and I
16 don't think that window of opportunity is going to be there for
17 a long period of time.

18 We've all worked long and hard to try to put this
19 together. Unfortunately, we can't present something to you
20 concrete but I can tell you that myself as the owner of the
21 property and the city and the two department stores that are
22 looking are real close to getting this finalized.

23 Hopefully, Ms. Mitten, that will answer your
24 question regarding the retail. We are all committed to that.

25 As far as the Arnold and Porter Building, I might

1 add, the Arnold Porter Building, as we all know, really never
2 looked like a retail building. That's why that retail space
3 never went. It looked like an office building. But the
4 Woodward and Lothrop Building is a retail building.

5 I think putting that anchor retailer in that
6 Woodward and Lothrop Building is just going to do wonders for
7 the entire street corridor. I think that's the urgency of a
8 lot of moving parts that are going on tonight. We don't have
9 all the answers but, you know, we have an excellent
10 relationship that's been established over the last year and
11 we're real close to putting all the pieces together.

12 As far as the performance bond on F Street and not
13 on 517, I put it out there because I wanted Charlie Docter and
14 the Housing Committee to realize that I'm committed to building
15 the housing in that neighborhood as I'm committed to seeing
16 housing 24 hours downtown.

17 That's the reason for that happening that quick and
18 not anything happening on 517 yet because it's a different
19 project. It's a lot bigger project. It's probably in excess
20 of 250,000 to 300,000 square feet.

21 I'm not ready to give you an answer on that yet but
22 I am ready to give you an answer on 910 to 916. That will
23 start and Shalom was commissioned already to start design on
24 that project. Thank you.

25 MR. ALTMAN: One possibility to answer Commissioner

1 Holman's question -- and I don't know if this would really be a
2 question to maybe Shalom and to Doug Jemal -- really one of the
3 principal issues that we're nailing down in terms of the design
4 issue, getting to Mr. Parson's question, is the issue of the
5 9th and the 10th floor.

6 That's really the addition and essentially the
7 office entrance. That's really in terms of the character of
8 the building. The rest is pretty much as you see so I don't
9 think there's going to be a surprise there.

10 There will be some checking for consistency with
11 the HPRB but fundamentally, in terms of what the design is,
12 that may be something that can be done very quickly in terms of
13 giving that information to the Commission so they would have
14 that full information. I don't know. I don't want to speak
15 for the architect or the applicant how soon we can have that
16 kind of information.

17 MR. BARANES: As a matter of fact, Mr. Jemal made
18 the exact same request to me that you just suggested, that the
19 design could be done very quickly and we should have it here
20 tonight to present.

21 MR. ALTMAN: What happened?

22 MR. BARANES: I told Mr. Jemal that we just can't
23 work that fast.

24 MR. ALTMAN: Could you come back at 10:00? That is
25 something, for example, that I think we could bring back very

1 shortly to you after tonight, whatever that period of time is,
2 to show you what that 9th and 10th floor additions looks like.

3 I think that would address Mr. Parsons issue and still would
4 be within the frame work of your decision making.

5 CHAIRPERSON HOOD: Colleagues, any other questions
6 of the Office of Planning?

7 Commission Franklin.

8 COMMISSIONER FRANKLIN: I think I hear what you're
9 saying about the problems in 517 but, you know, the more we
10 sort of discuss the matter, the more the housing amenity that
11 was touted as a major element of this proposal begins to
12 dissipate a little bit. Essentially whatever
13 housing has been developed over and above the existing zoning
14 which was mentioned as an amenity and a special benefit can
15 also, as I hear, now be basically reduced on some other yet
16 unidentified site in terms of the colloquy with Commissioner
17 Mitten. Square 517 conceivably might not eventuate for a whole
18 variety of reasons so that whole amenity might not be there.

19 Maybe I should be posing this to the Office of
20 Planning. Am I being too pessimistic here? Am I misstating
21 the situation that combined lot development plus the fact that
22 517 may or may not go forward makes the housing amenity
23 proffered here potentially somewhat illusory, if I can use that
24 phrase?

25 MR. ALTMAN: I don't believe it's illusory. I

1 think that --

2 COMMISSIONER FRANKLIN: Potentially.

3 MR. ALTMAN: There are two things I would say. One
4 is that we looked in structuring this that there would be the
5 performance guarantee, the bond which is placed on the F Street
6 site.

7 We clearly felt that was something in terms of
8 sequencing, in terms of timing of the housing, in terms of what
9 we felt was a market and its impact on all of F Street in terms
10 of both the relationship of the Woodies site, housing on that
11 block next to it and what's happening that we really felt that
12 was fundamental to ensure that happens in a period of time.

13 Not less important, I think, as Ms. McCarthy said,
14 on Square 517 the real guarantee there is that it is now a
15 housing site. Does it have a guarantee of when the timing of
16 that housing is? No, it doesn't have a timing guarantee that
17 we've put in this.

18 We have Mr. Jemal's commitment to that but we do
19 not have that here. What we have ensured, and this is somewhat
20 that we've seen with combined lot, is that Mr. Jemal has taken
21 that requirement on that site, taken away the ability to do
22 office.

23 Again, I would point to there wasn't a requirement
24 to do that. Again, the housing here is an amenity, something
25 that we negotiated. Not only we negotiated but Downtown

1 Cluster of Congregations, Downtown Housing Now have looked at.

2

3 I guess we were trying, on the one hand, to
4 acknowledge some of the market reality. Allow projects to move
5 forward, put guarantees on F Street, remove the office from
6 Square 517 so that would not be a possibility and it would have
7 that additional FAR and the minimum guarantee of residential
8 that Mr. Jackson spoke to earlier.

9 Is there a risk that housing won't get built?
10 Sure. I mean, I would have to be honest about that. It is not
11 guaranteed in the same way that the other site is.

12 COMMISSIONER FRANKLIN: Going back to the other
13 site --

14 MR. ALTMAN: I guess just for clarification, as Ms.
15 McCarthy said, it's not a risk that it won't get built. The
16 question is when. The possibility is that it could stay with
17 residential FAR for a very long time but then Mr. Jemal is left
18 with a site that can only do residential development.

19 At one point he would want to have economic value
20 of that and he would only be able to transfer to someone else
21 or sell it. It would only be allowed for residential use.

22 COMMISSIONER FRANKLIN: Okay. Thank you. Now,
23 going back to 377, there seems to me to be a disjuncture
24 between the time periods referred to. The performance bond, it
25 says, would be structured so that the referenced housing is not

1 completed within three years from the date of issuance, the
2 bond can be called.

3 Then paragraph 5 says that the COs for the
4 referenced residential development must be obtained when three
5 years of the date COs are issued for any office space not
6 associated with the preferred retail, service, and art-related
7 use.

8 I think somebody has got to look at those two
9 provisions and see to what extent they need to be coordinated
10 unless I'm just misunderstanding them. Maybe Mr. Glasgow can
11 clarify.

12 MR. GLASGOW: I'm looking at it right now. You're
13 talking about between paragraphs 4 and 5.

14 COMMISSIONER FRANKLIN: Right.

15 MR. GLASGOW: Okay.

16 VICE CHAIRPERSON MITTEN: I think I could take a
17 stab at it. In 4 it says that the bond is, whatever you call
18 it, executed if the housing is not completed within three
19 years.

20 COMMISSIONER FRANKLIN: Of the issuance of the
21 bond.

22 VICE CHAIRPERSON MITTEN: Okay. I'm sorry. I
23 can't take a stab at it.

24 COMMISSIONER FRANKLIN: I mean, it's a technical
25 point but I think somebody's got to make sure that these

1 provisions work together.

2 MR. GLASGOW: I understand what your point is. You
3 want to make sure that there's not an extra year in there
4 depending upon how --

5 COMMISSIONER FRANKLIN: There may be some
6 disjuncture.

7 MR. GLASGOW: I can tell you what the issue is and
8 then we'll go back and in paragraphs 4 and 5 and make sure --
9 we think it could take us a year to get through the process
10 that we have with the Historic Preservation Review Board. That
11 site has over six FARs approved by BZA through variance 7.17.

12 As we are right now, we think we're going to give
13 that a few steroids and go a little bit more. We would like
14 to. I mean, we have a minimum residential requirement. If we
15 build an apartment building, we want to make it bigger rather
16 than not.

17 Because of the construction and the complexities of
18 the site, we think it may take two years to build that building
19 with working around the historic preservation and all the rest.

20 We have a three-year time frame that we need to deal with
21 there. Then we'll just make sure that there's not an extra
22 year sitting in paragraph 4 vis-a-vis what it is for paragraph
23 5.

24 I understand the question. I mean, we have our
25 agreement and we know what it is that we have to do. We're not

1 looking for any extra time in there, just what it is that the
2 agreement is.

3 COMMISSIONER FRANKLIN: I haven't had a chance, Mr.
4 Glasgow, to review the agreement with the Downtown Housing Now
5 Committee which was handed to me just before we walked in the
6 room. Could you clarify their role with respect to this
7 performance bond and the timing, etc.?

8 MR. GLASGOW: Right. They are a beneficiary under
9 the performance bond with the right if we are not going forward
10 to come in and force the issuance and utilization of the bond
11 including the right to go on the property, to have us bear cost
12 if we are at fault for not moving forward as we promised.

13 COMMISSIONER FRANKLIN: Does that displace the role
14 of the District under paragraph 4?

15 MR. GLASGOW: I believe that the District wanted
16 that role. We had no objection to them having that role.

17 COMMISSIONER FRANKLIN: Well, I would like to
18 suggest to the Office of Planning that somebody from the
19 Corporation Counsel's Office and the Office of Planning sit
20 down and mesh these things properly. Otherwise, the only ones
21 who are going to benefit are going to be lawyers.

22 MR. GLASGOW: We didn't have any objection that the
23 District wanted to be added as another beneficiary. We were
24 not going to substitute them for downtown housing now because
25 we have a written agreement with them so they are a beneficiary

1 under the performance bond. So what the District requested to
2 be, in my view, an additional beneficiary and we would name
3 them as an additional beneficiary if they so desired.

4 COMMISSIONER FRANKLIN: Well, when paragraph 4 says
5 the bond can be executed by the District and the property
6 entered to complete housing construction, who is entering to
7 complete housing, Downtown Now or the District?

8 MR. JEMAL: This bond thing, let me tell you how it
9 all came about. When I sat down and met with Mr. Docter, I
10 wanted to assure him that I was going to do what I said I was
11 going to do. The only way I could assure him that I'm going to
12 do it, I told him that I will put up a performance bond when I
13 start this job to see that this job gets finished no matter
14 what.

15 COMMISSIONER FRANKLIN: Your lender is going to
16 require that anyway.

17 MR. JEMAL: Some of the lenders aren't requiring
18 that. Mr. Franklin, some of them aren't requiring that.
19 Anyway, I wanted to give them every insurance that I was going
20 to do what I said I was going to do and that's how the bond
21 thing got into the whole thing. Then who does it go to? Does
22 it go to the city?

23 It was a good intention. It was a sincere
24 intention. I'm going to do it whether there's a bond or
25 whether there isn't a bond because I'm standing here in front

1 of everybody and telling them that I'm going to do that. If I
2 do that one time that I don't do it, I can never come back
3 again.

4 I am going to do what I said I was going to do with
5 the bond, without the bond, and I'm going to put the housing
6 over there. I've already commissioned and signed my contract
7 with Mr. Baranes to proceed with the design on this. It is not
8 something that is just being put on the back burner.

9 COMMISSIONER FRANKLIN: I suppose I shouldn't say
10 this but I'm more comfortable with downtown housing being the
11 beneficiary than I am with the District.

12 MR. ALTMAN: We believed that it was important --
13 it is important for the District to be a party to this. We
14 think it was important also that Downtown Housing Now signed
15 onto this. I think it showed the support of the downtown
16 community.

17 But in terms of an entity, that would cause the
18 housing to be constructed in the event, for any reason, this
19 time table is not achieved. That then becomes the
20 responsibility of the city in terms of housing development and
21 ensuring that there is an appropriate housing entity as opposed
22 to a private entity.

23 I think having them as a party, having the city as
24 a party, and all of us in this agreement is important but the
25 actual cause of action we thought should be left in terms of

1 the city as the enforcement.

2 COMMISSIONER FRANKLIN: Well, seriously I think
3 what has to happen is that it has to be structured so that we
4 don't end up in the unfortunate circumstance that the bond has
5 to be called a dispute between Downtown Now and the District in
6 terms of how to call that bond and who's to do what to whom and
7 with what. The lawyers should settle that at the front end and
8 not at the back end. That's all I have, Mr. Chairman.

9 MS. MCCARTHY: That's why, Mr. Franklin. The other
10 reason we wanted to put that in there was because if the city
11 had a cause of action, or if the city had an officially
12 recognized role as the beneficiary, then it was easier to also
13 include it as a condition of the PUD and to just make all the
14 conditions tighter.

15 It protects us against whether Charlie Docter
16 decides to retire to his beachfront property in Miami Beach and
17 we weren't quite sure what his successor, Downtown Housing
18 Now, would be -- whether they would be as diligent as Charlie
19 would be in pursuing the covenant.

20 COMMISSIONER FRANKLIN: Should the PUD conditions
21 in some way incorporate or reference this agreement?

22 MR. GLASGOW: We have agreed to that.

23 COMMISSIONER FRANKLIN: You have?

24 MR. GLASGOW: Yes.

25 MS. MCCARTHY: And that was our intention including

1 that in the set of conditions on page 2, that that be
2 officially part of the PUD covenant for this project.

3 COMMISSIONER FRANKLIN: Thank you.

4 CHAIRPERSON HOOD: Okay, colleagues, any further
5 questions of Office of Planning? Okay.

6 Does the applicant have any questions of the Office
7 of Planning?

8 MR. GLASGOW: No questions, Mr. Chairman.

9 CHAIRPERSON HOOD: Is there anyone in the audience
10 representing ANC which is the only party in this case? Is
11 there any representative of ANC-2C? Let the record reflect
12 that we've called for the ANC.

13 Report of other agencies?

14 SECRETARY BASTIDA: Mr. Chairman, there is no
15 report for other D.C. agencies.

16 CHAIRPERSON HOOD: Okay. Thank you, Mr. Bastida.

17 Report of the Advisory Neighborhood Commission ANC-
18 2C? Again, let the record reflect not in attendance but have
19 submitted a letter, I believe, in support.

20 Commissioner Mitten, would you like to take a stab
21 at just putting that on the record? Thank you.

22 VICE CHAIRPERSON MITTEN: We have a letter dated
23 December 7, 2000, from ANC-2C that references a duly noticed
24 public meeting at which there was a quorum present and they
25 voted four in favor and none opposed to the PUD that we have

1 before us.

2 CHAIRPERSON HOOD: Okay. Thank you Commission
3 Mitten.

4 Let me ask for the persons in support. If you
5 could just raise your hands so I can see who you are. Okay, we
6 have three in support.

7 Also, persons in opposition. Persons in
8 opposition. Okay. I'm going to ask if the applicant and the
9 panel could step back. I'm going to ask those who are in
10 support to come forward.

11 CHAIRPERSON HOOD: I've just been informed by staff
12 that we have an organization at the table. It was given to me
13 but if you could see behind here, you would know that I've
14 misplaced it by now. I will ask that the organization go
15 first. State your organization and then we'll proceed with Mr.
16 Lynch and then Mr. Docter.

17 Has everyone been sworn in? Can we do that? Let's
18 do that now before we get started.

19 (Whereupon, the witnesses were sworn.)

20 CHAIRPERSON HOOD: I'm going to ask the
21 organization to go first. Forgive me. I had it here but it's
22 been a long day. Could you turn your microphone on?

23 MR. MERSHA: I'm Wondimu Mersha, the founder and
24 the president of African American Coalition. I'm pleased to
25 come before you this evening to testify on behalf of the

1 African American Coalition in support of consolidated planning
2 and map amendment from DD/C-4 to C-4 for Lot 805 and Square 346
3 bounded by 10 and 11 F and G Street, N.W.

4 The building which has stayed vacant and unoccupied
5 for the last several years, I'm pleased to support the highest
6 and best use of vacant facilities with different
7 classifications and building mixtures.

8 The biggest dilemma to the Washington downtown
9 revitalization, zoning would change by building and would, in
10 effect, open the door for department stores.

11 The project would create new jobs in the District
12 of Columbia, especially in the middle or center, and generate
13 numerous millions of dollars in property taxes, sales taxes,
14 franchise taxes, and other taxes.

15 Mr. Chairman and members of the D.C. Zoning
16 Commission, I ask that you support Zoning Commission Case 00-
17 33C, Consolidated Planning Unit Development and Map Amendment
18 from DD/C-4 to C-4, former Woodward and Lothrop Department
19 Store Building at 1025 F Street, Square 324, Lot 805.

20 Mr. Chairperson, I thank you and members of the
21 Zoning Commission for the opportunity to testify today. I'll
22 be happy to answer any questions that you have. Thank you very
23 much.

24 CHAIRPERSON HOOD: Thank you, Mr. Merasha. Thank
25 you for your testimony. If you could hold your seat because we

1 may have some questions after the rest of the panel gets
2 through. Also I misspoke. I believe Mr. Lynch is representing
3 Downtown Clusters. Also Mr. Docter Downtown Housing Now
4 Committee.

5 Mr. Lynch.

6 MR. LYNCH: Good evening. I guess the first point
7 of note is two weeks ago that Office of Planning came before
8 you with adding additional lots in the 900 block of E Street to
9 housing priority area C two weeks ago.

10 Here we are two weeks later and they are asking
11 additional lots in the 900 block of F Street to be housing
12 priority area C. As we already know, the Mather Building in
13 the 900 block of G Street is to be RFP'ed for an all
14 residential building.

15 Per my request two weeks ago, I think it would be
16 helpful to the Zoning Commission members and the community if
17 the Office of Planning would conduct a study of all the sites
18 currently west of housing priority area C extending to 12th
19 Street that would be appropriately reclassified into housing
20 priority area C.

21 We note that the Woodies Building itself allows for
22 residential use on site which extends to 11th Street. We think
23 it would be very appropriate after 10 years that there are a
24 number of sites out there which are appropriate for housing
25 that you are being asked to designate as housing. We think

1 there is a number of these sites and would be helpful to you in
2 your deliberations to know what those are.

3 A very brief history with regards to how we got
4 here today. The Downtown Cluster of Congregations which has 37
5 member congregations is deeply concerned about job share and
6 shopping choices for District residents. It's been very
7 involved in the determinations of the department store sites
8 that are downtown, the Garfinckel site, the Arnold and Porter
9 site, and this one.

10 Very briefly, on this particular site, the Woodies
11 site, we did not support the zoning change that made possible
12 the opera proposal because we did not think it was a feasible
13 one. Unfortunately, it turned out to be the case that it was
14 not feasible. While that was developing, we convened
15 three community meetings, over a dozen community and civic
16 organizations, arts groups, historic preservation groups,
17 cultural groups, and others to look at what we thought might be
18 the best uses for the building.

19 The consensus of those three community meetings of
20 over a dozen community groups was to add residential so that
21 the whole building would be zoned for preferred uses, No. 1;
22 No. 2, that it be added to the National Register of Historic
23 Sites; and (3) that federal and District programs to facilitate
24 its redevelopment for those uses be identified.

25 Out of that the D.C. City Council in 1998 did

1 redesignate the entire building could be used for residential
2 as well as the other preferred uses which had been redesignated
3 when the opera came before you.

4 I'm proud to note that it was at the Downtown
5 Cluster of Congregations behest that the building was finally
6 added to the National Register of Historic Places prior to its
7 sale by the opera owners. It was at our behest that
8 finally the D.C. Office of Historic Preservation moved forward
9 and the application which we had prepared quite some time ago
10 was finally added to the National Register. We are proud about
11 that role in the building.

12 I would like to salute all the participants that
13 have gotten here tonight, particularly the Office of Planning,
14 and the owner, Mr. Jemal's efforts to get us here. We are far
15 light years ahead with the community proposal that is before
16 you than we were with the Garfinckel situation.

17 We could have done far better there if we had some
18 of the same players in the rooms than what we got out of the
19 Garfinckel situation. This proposal before you is light years
20 ahead of that.

21 Still, our two concerns about the proposal. We
22 support the proposal in general that is in front of you. We
23 realize there are some loose ends. Our two hopes would be
24 that, first and foremost, that the destination retail occur.
25 Preferably a department store. I think that has been held out

1 to you. There's negotiations. There's a player
2 that's not here. We would appreciate hearing from the Deputy
3 Mayor for Economic Development of just where we are with that.

4 It's our first and foremost hope that, yes, a department store
5 can get there.

6 We've been told that a national retailer of a
7 department store type will deliver 600 jobs, creation of that
8 number of jobs for District residents. We know District
9 residents will probably get over 50 percent of those jobs if we
10 get that kind of retailer in the building. We urge that every
11 effort be made to close that deal.

12 Should that not be feasible, we don't want to tie
13 the owner's hands in his negotiations with such a department
14 store of the city. We do concur with the Office of Planning's
15 recommendation that there be at least one 60,000 square foot or
16 more retail user there or two 25,000 square foot retail users
17 there.

18 In our testimony you'll see a recommendation to
19 that effect. Our first and fervent hope is that the Deputy
20 Mayor will get us to where we need to be for the department
21 store. We concur with the Office of Planning.

22 Second, it would be our hope that 10 percent of the
23 housing would be affordable housing that is delivered on the
24 alternative sites. We think it's a very critical goal of the
25 downtown action plan that affordable housing be included in the

1 downtown.

2 We think this administration has moved from sort of
3 the buy-out propositions which were always problematic at best,
4 the buy-out percentage idea that we felt was always problematic
5 in any case.

6 This administration and the downtown action plan
7 has moved for aggressive 20 percent affordable housing on city-
8 owned sites and for the zone itself and what housing is
9 created. The wax museum site last week. We know that 20
10 percent of the housing that should be delivered there should be
11 affordable housing.

12 In this particular case given that it's privately
13 owned, our recommendation is that 10 percent of the housing
14 should be designated as affordable housing which doesn't put
15 the onus on the owner. We think that the city can come
16 forward. The Deputy Mayor can step forward and see how that is
17 feasible to be done.

18 On the second page of our testimony you'll see our
19 two recommendations how to improve the proposal that is before
20 you.

21 I realize there are some loose ends. I think with
22 a short period of time perhaps some of those lose ends could be
23 tied up a little bit and I think you can hold all of out feet
24 to the fire to get that done in any case.

25 Thank you for your time.

1 CHAIRPERSON HOOD: Thank you. Let me acknowledge a
2 young lady here. We don't want to skip over here.

3 MS. ZIGNER: Jeannine Rustad Zigner, Mr. Chairman,
4 with Robins, Kaplan, Miller, the firm representing Downtown
5 Housing Now Committee. With me, of course, is Charlie Docter.

6 Just very briefly, we have submitted a letter late this
7 afternoon indicating that Downtown Housing Now has reached the
8 agreement with the applicant and has, thereby, withdrawn its
9 previously filed objection.

10 In addition, the Downtown Housing Now Committee is
11 requesting that the agreement be included in the conditions to
12 the PUD.

13 CHAIRPERSON HOOD: Mr. Docter.

14 MR. DOCTER: Charles Docter, Chairman of Downtown
15 Housing Now. I think the significance of this meeting and the
16 PUD is that finally we've broken the log jam on moving Woodies
17 forward and, in effect, this may not be the usual function of a
18 PUD. The PUD creates a vehicle for moving forward and getting
19 the moving parts that have been referred to to actually move
20 and gel.

21 I think it's very necessary that we move, although
22 there may be some, one or two items that maybe could be
23 straightened out quickly that you may feel uncomfortable about.

24 I think by in large this is the vehicle for going forward and
25 making sure that finally the Woodies Building moves forward

1 which certainly we as residents of downtown want to see.

2 We want to see the retail there, the 150,000 square
3 feet of retail. It has to be filled in and it requires other
4 people to negotiate. I think this way of resolving the
5 situation is an extremely important way to go forward.

6 As far as 377 F Street goes, I certainly concur
7 with Mr. Lynch in the recognition of the fact the private
8 market has done what the zoning map didn't do. That is,
9 basically the private market is going west of 9th Street and
10 putting housing in. You have it on the E Street property.

11 Now you're going to have it here on the F Street
12 property. The city has seen the light, too, with the Mather
13 Building. This is highly significant that there is real
14 possibility for getting more downtown housing.

15 I would rather restrict my comments on 377 to the
16 discussion of the performance bond for a moment. We certainly
17 have, and I don't want to be arguing with Commissioner
18 Franklin, but we have some confidence in the District as is
19 presently constituted.

20 We may not have had such confidence prior to this
21 but, therefore, we have absolutely no objection. In fact, we
22 welcome the fact that the District would be working with us if
23 there was a breakdown here. We don't think that with Mr. Jemal
24 there's going to be a breakdown. We think things are going to
25 move forward fast.

1 Just in case, we really hope that the Zoning
2 Commission's action will facilitate the ability of the District
3 to work with us on the performance bond and basically on the
4 covenants that are part of the agreement. This is why we want
5 the agreement entered into the record.

6 As far as the combined lot question goes, if I
7 understand correctly, and I haven't had time to discuss this
8 with the applicant, it seems to me that if you're talking about
9 100,000 square feet as being the requirement within the DDD on
10 the Woodies property.

11 Then, at least, as far as 377 F Street goes, you
12 couldn't really -- because that's your initial 88,000 square
13 feet of housing you couldn't use that as a combined lot.
14 Perhaps on 517 you can and I think that's what the applicant
15 was saying. I hope we agree on that interpretation. Of
16 course, the first 12,000 square feet on 517 would not be
17 subject to combined lot under that theory.

18 Finally, as to the questions that have been raised
19 about 517 and whether it is a little speculative, of course,
20 the entire thing is somewhat speculative, although I think with
21 this administration it will all come to past and with Mr. Jemal
22 in it.

23 I recall your attention to the fact that we are
24 requiring that the covenants that are part of our agreement are
25 to be recorded and that, therefore, not only will the zoning on

1 the existing property guarantee the housing but in addition to
2 that, the covenant will guarantee it so it is not so flimsy.

3 Yet we do need the market place and the time and
4 the development patterns to get us to the housing there. I
5 recognize that. I think we've set the stage and that's why we
6 hope you will approve the PUD.

7 CHAIRPERSON HOOD: Thank you. Let me thank each
8 and everyone of you for your testimony. With that, colleagues,
9 do we have any questions of this panel?

10 COMMISSIONER FRANKLIN: I had just one, Mr.
11 Chairman, to Mr. Lynch and Mr. Docter in terms of the longer
12 range issues of creating a critical mass of housing downtown.

13 As you know, the planning predicate has been that
14 housing needed to be somewhat concentrated to have the desired
15 impact. As we heard from Ms. McCarthy tonight, and I know we
16 have approved a housing development west of 15th Street, what
17 is your view? Should we or somebody as a planning reevaluation
18 look into this question of the critical mass?

19 Are we developing a sufficient volume of housing
20 that a certain amount of scattering can do the job under
21 changed conditions? Because what I think I heard Mr. Lynch
22 recommending was that we expand the priority area. Do any of
23 you want to take a crack at that?

24 MR. LYNCH: Well, we've clearly been up front in
25 trying to get a number of the buildings which were not included

1 in the DDD in 1990 included in there, everything from the
2 Tariff Building to the addition on the Hecht site opposite the
3 MCI Center, two appropriate historic buildings which we thought
4 lent themselves to adaptive reuses residential such as the
5 buildings you had a couple of weeks ago, these buildings and
6 the Mather Building.

7 We've been up front in trying to get those. None
8 of these buildings have been zoned for residential. We were
9 able to succeed in getting the Woodies added as a residential
10 use option in '98 with the council action.

11 Definitely, as I said earlier, I think it's time
12 for OP to review the number of potential sites. I think there
13 is a number of them such as these sites that come in every now
14 and then when it's a combined lot deal or something. They are
15 coming to you with a couple of sites. There's a bunch of other
16 sites out there that I believe are very via for them. I assume
17 Mr. Docter would concur.

18 MR. DOCTER: I definitely concur. I might want to
19 move the line not just up to 12th Street but to go closer to
20 15th because I think from the UMW hearing it was rather obvious
21 that the applicant made a presentation of possible buildings in
22 that area that could be converted to housing conveniently.

23 Therefore, I think it would be very good if the
24 Zoning Commission were to ask OP to basically do such a study.

25 I think it would accomplish quite a bit. Of course, I think

1 in some respects the private market place is moving in but it
2 doesn't hurt to have the zoning a little bit more structured so
3 as to encourage this.

4 MR. LYNCH: It would also help if OP came in with
5 its time line. I think you've got a number of projects there.

6 What is the time line for its delivery? I think that would
7 help the Commission members and the community to know what is a
8 realistic time line.

9 Obviously there are market factors and everything
10 else but I think the time line factor of their development is
11 certainly useful. There are so many projects in the pipeline.

12 If they could give us a little more accurate time line, I
13 think that would be helpful.

14 I just wanted to say on Ms. Mitten's point Woodies
15 had 400,000 square feet of preferred use. I had sort of seen
16 what was on the table as an equal deal. Mr. Jemal is going to
17 deliver 400,000 square feet of preferred uses on these combined
18 sites. I hadn't focused on the use of the one square for added
19 combined lot. That was a point well taken.

20 COMMISSIONER FRANKLIN: Thank you.

21 CHAIRPERSON HOOD: Colleagues, any further
22 questions of this panel?

23 Mr. Parsons.

24 COMMISSIONER PARSONS: Mr. Chairman, I just want to
25 personally and publicly thank these two gentlemen, Mr. Lynch

1 and Mr. Docter, for their tenacity and leadership in the last
2 10 to 15 years. I think we can attribute much of what's
3 happening in housing downtown to the two of you and I thank
4 you.

5 CHAIRPERSON HOOD: I agree. Let me just thank each
6 and everyone of you for offering testimony. Your points are
7 well taken and thank you for coming out to testify this
8 evening. Thank you.

9 Let me call for it again. Persons in opposition.
10 Seeing none, let the record reflect no one is here to testify
11 in opposition. Any closing remarks?

12 MR. GLASGOW: Mr. Chairman, just very briefly.
13 Obviously, great strides have been made over a year period of
14 time but it's been over a year period of time that we've been
15 working on this to get this to this situation.

16 I also noted the Office of Planning statement where
17 they talked about how we went back and restructured as a
18 planned unit development where we had filed a series of text
19 amendments back this past fall, in the early fall, and had then
20 requested to come restructure as a planned unit development,
21 did that as part of the process and that took time.

22 We have lost time but the time has been well spent
23 but we have to make up the time at some point. The window of
24 opportunity that Mr. Jemal was talking about, that does not
25 anure to our benefit.

1 I think that the structure is in place to properly
2 protect the District and the residents of the District and be
3 fair to Mr. Jemal as to how to proceed forward with this
4 project. We're not going to be able to move forward and get
5 the retail deal done until the zoning is finalized.

6 They are not going to sign. What are they signing
7 to? We have an open case here. We need to complete the case.

8 We need to get that in place and then move forward with the
9 conclusion of the discussions so that we can make this a
10 reality. Because of these extengencies and the time
11 period and the money that's been spent, and the success that
12 has been achieved, we are going to ask you for a bench decision
13 tonight. We think there is very little risk to the District in
14 doing that.

15 Just a brief sidebar. With respect to questions
16 where there is design review by multiple panels, there was a
17 decision in a case involving the International Association of
18 Machinists where the Zoning Commission is heading one way and
19 it's a historic site and the Historic Preservation Review Board
20 is heading another way. The Historic Preservation Review Board
21 controls.

22 We understand that everybody would like to see the
23 plans and all of that. I know we were all asking if Shalom
24 couldn't have a set of plans here tonight but we couldn't and
25 we didn't because we didn't have the plans. We are going to

1 have to have a set of plans to finalize that part.

2 We would hope that you could let us move forward,
3 that the city could be in a position to move forward, finalize
4 the discussions that are underway at this point in time, or at
5 least have the opportunity to finalize them. To do that
6 requires your action and your help.

7 Mr. Jemal, do you have anything?

8 MR. JEMAL: I would like to say I think we have an
9 opportunity and a very short window of opportunity to secure
10 all the things and take a giant step as a city and as a
11 community with everybody's help and diligence to secure the
12 retail base and the residential base. The market is changing
13 rapidly. Retail sales are declining and I just want to
14 have the ability along with Planning and Economic Development
15 to go in there and bring what we said we are all trying to
16 bring back to the city. I think it really requires just
17 lifting and freeing Woodies. That's why we ask you for that
18 bench decision tonight. I think that we made great
19 strides with Mr. Lynch and Mr. Docter and I think we're all
20 here as one community. I think it would send a great message
21 out there that we are able to make this decision. Thank you.

22 CHAIRPERSON HOOD: Are you finished?

23 MR. GLASGOW: That concludes my testimony.

24 CHAIRPERSON HOOD: I will just say that throughout
25 the hearing I have noted that there's been tremendous progress

1 made. There have been a lot of people at the table making good
2 progress, good efforts.

3 I understand the urgency to do a bench decision.
4 I'm speaking to my colleagues now. One of my concerns is that
5 I think we have some things that we opted out. For example, I
6 believe I heard whether this should be a two-stage PUD. There
7 were some things that were asked for. My concern is doing a
8 bench decision tonight may be a little premature.

9 What I would like to do, and I'm going to open it
10 up for discussion, colleagues, is to put it -- I believe
11 we can deal with this, Mr. Bastida. What is the soonest?

12 SECRETARY BASTIDA: If you want, we could have it
13 on the Monday meeting on the 12th as a proposed action.
14 Basically it would be three days or four days hence.

15 CHAIRPERSON HOOD: My concern is we have a list of
16 things that I believe we've asked for and I did not write them
17 down. I know my Vice Chair looks out for me. I know she wrote
18 them down. If we could go over that list and make sure we're
19 all on the same page.

20 First, colleagues, I mean, we have in front of us
21 asking for a bench decision.

22 COMMISSIONER FRANKLIN: I have a question of the
23 applicant in that connection.

24 What is it about the zoning that's now in place on
25 the Woodies property that inhibits a department store or

1 retail?

2 MR. JEMAL: The economics, Mr. Franklin. The
3 concessions we would have to make to get the department store
4 in there. They don't pay an ongoing market rent so there would
5 have to be a lot of concessions made to get them in and I can't
6 make those concessions unless I know that I have the rest of
7 the building to make up the loss that I'm going to take on the
8 retail and to make it up on the office space.

9 CHAIRPERSON HOOD: Okay. Again, I'm going to ask
10 Vice Chair Mitten if she could read over the list. Let's keep
11 in mind the tentative date that has been thrown out is Monday
12 which is not a lot of time. Today is Thursday. That means
13 some weekend work. Commissioner Mitten.

14 VICE CHAIRPERSON MITTEN: I'll just throw how what
15 I -- not necessarily that we will require this to be submitted
16 but things that were suggested. One was additional designs
17 from Mr. Baranes that people have been mentioning.

18 We were looking for clarification from the Office
19 of Planning on some of the conditions specifically as it
20 related to the performance bond and the timing of that which is
21 Nos. 4 and 5 in bullet No. 3 in your report.

22 I think perhaps in general recasting the Office of
23 Planning proposed conditions eliminating things like the notion
24 of the shell certificate of occupancy and inserting -- I mean,
25 many of the things that we've heard but just to have it all

1 articulated the way that we now intend would be helpful. Other
2 than that, I didn't have anything specific.

3 CHAIRPERSON HOOD: Okay. Colleagues, I'm open for
4 discussion again. We have in front of us -- I don't know what
5 was just read is to the magnitude that we need to delay a bench
6 decision or not. I want to open it up for discussion.

7 COMMISSIONER FRANKLIN: Could I ask Mr. Jemal
8 another question?

9 CHAIRPERSON HOOD: Yes.

10 MR. JEMAL: Are you saying that -- I mean, you know
11 if we were to go forward and approve this application, you know
12 basically what the concessions would be. Correct?

13 MR. JEMAL: Yes, I do.

14 COMMISSIONER FRANKLIN: Are you saying that you're
15 not even able to advance those because you're afraid that you
16 might not get the approval?

17 MR. JEMAL: I think, Mr. Franklin, it was said a
18 little bit earlier there's a lot of moving parts here and we
19 don't control all those moving parts. Planning doesn't control
20 them. I don't control them. There's a third party out there
21 that's a tenant.

22 I would say that we need to move away from here
23 just knowing that we can sit down and tell the tenant that we
24 are in a position and that building is freed up and ready to
25 go. That's why we're asking for the bench decision.

1 COMMISSIONER FRANKLIN: For example, if we were to
2 give you a bench decision tonight, are you saying that you
3 could tomorrow make a proffer to an identified party and do a
4 deal?

5 MR. JEMAL: Mr. Franklin, the department store
6 negotiations have been going on in the city for an excess of 15
7 years. I think after 15 years we have an opportunity right now
8 and that's why I'm asking for this bench decision to put
9 everybody together and get a department store back downtown.

10 COMMISSIONER FRANKLIN: So you're saying yes?

11 MR. JEMAL: Yes.

12 MR. JACKSON: Mr. Chairman, one point of
13 clarification. I believe there was a question about the
14 legality of some of these decisions, proffers particularly, but
15 the District being a party to the performance bond. I would
16 add that to the list and say we would have to defer that
17 information to the corporation counsel for their review.

18 COMMISSIONER HOLMAN: Excuse me. I'm really
19 getting unclear now because I thought I remember pretty clearly
20 the Office of Planning stating that Corporation Counsel had
21 reviewed the document. Was I correct in remembering that?

22 MR. JACKSON: No, we referred it to the Corporation
23 Counsel and we heard no comment back.

24 CHAIRPERSON HOOD: Let me just ask, Mr. Jackson,
25 the concern is I understand we have some things out there. I

1 think in line with Mr. Franklin's question about whether it's
2 done tonight or Monday is a concern.

3 There's some things that are out there and my
4 concern is will Corp. Counsel have it back so we can deal with
5 this on Monday? Is Monday time enough to get those two little
6 things in or three things in? That's where I'm going with
7 this.

8 MR. ALTMAN: Let me say first thing for the record
9 that I think is important is that whether or not there is a
10 bench decision, we've been working very hard with Mr. Jemal and
11 will continue to do that. Before we even had this
12 zoning issue before us over the past -- I don't know, we've
13 been at this for a while so we would wake up tomorrow and
14 continue to work as hard on this issue.

15 Whether that's Monday or a week from now, that
16 doesn't impede in terms of what we're doing and what I think
17 Mr. Jemal is doing in terms of working as aggressively as we
18 can on hopefully securing a major retailer.

19 I say that because I don't think by Monday we'll
20 have Corp. Counsel's answer. I don't know when your next
21 meeting is but I don't think -- what I'm assuring Mr. Jemal and
22 the Commission is that we'll continue to work very hard on
23 this.

24 I think we're at a huge milestone in terms of where
25 we are today. Obviously we're in support of the project but I

1 don't think the additional time -- I'm saying this as well to
2 Mr. Jemal is that for all of us who are working in very good
3 faith to bring this to fruition quickly and can get you the
4 answers you need quickly and we'll still be working on that
5 track.

6 CHAIRPERSON HOOD: Commissioner Mitten.

7 VICE CHAIRPERSON MITTEN: Just on the point to the
8 extent that we find the additional information beneficial,
9 particularly the information from the Corporation Counsel, what
10 we have done is on a night when we would normally have a
11 hearing scheduled we'll have a special public meeting prior to
12 that and take the vote.

13 I don't know if it's too open ended to say within a
14 reasonable time frame that we would seek -- we wouldn't wait
15 indefinitely for the Office of the Corporation Counsel to
16 respond but we set a time within which we would either have the
17 information and schedule a special public meeting for the next
18 hearing because we have many hearings coming up, or we would go
19 ahead and make a decision within a few weeks.

20 CHAIRPERSON HOOD: I would rather, colleagues,
21 proceed in that manner but I would also --

22 MR. GLASGOW: Mr. Chairman, may I make one
23 suggestion? With respect to Corporation Counsel, I mean,
24 there's a very limited issue for them. We have agreed and have
25 submitted into the record our commitment to do a performance

1 bond and a beneficiary for the performance bond.

2 The only issue is whether there's an additional
3 beneficiary or not. I think that the decision from the
4 Commission can be -- all right, we are requiring the
5 performance bond, you have a beneficiary, an agreement in
6 place. Either the District is or is not permitted to be an
7 additional beneficiary. The performance bond is already there
8 and has been agreed to in the amount and how it operates.

9 CHAIRPERSON HOOD: Even with that, Mr. Glasgow, we
10 still have another issue and I think I heard that correctly
11 about two-stage PUD. I think I heard the Director of the
12 Office of Planning state that he would need some time to look
13 into that. I think I'm correct. That's something we couldn't
14 resolve here tonight, I don't believe.

15 MR. ALTMAN: Let me suggest for you what I think we
16 could do is we have a number of questions that you've asked
17 tonight and I think it's all in the spirit of how this is, in
18 fact, implemented.

19 I think it's important to recognize that we're not
20 arguing over do we fundamentally agree or disagree with the
21 proposal. I mean, what's been forwarded is significant.

22 What we're talking about now are ensuring very
23 important details of implementation. The 9th and 10th floor,
24 the Commission would like to have some comfort about that and
25 what that looks like both because it's in the purview of the

1 Commission and for other precedental nature.

2 Conditions on the performance bond, that may be
3 satisfied very easily, as Mr. Glasgow said. But I think the
4 assurance from the Corp. Counsel, the cleaning up of the
5 conditions, as Ms. Mitten said, there was a question raised by
6 Mr. Lynch. The Commission hasn't raised this but he also had a
7 question about affordability of units.

8 There are a number of things that we could work on
9 here. What I suggest might be that on Monday we have our
10 Commission meeting, I believe. On Monday how about if we bring
11 forward to the Commission. In the next day we will be able to
12 determine a reasonable time line. We'll work with the
13 applicant and bring that to the Commission.

14 We can set a date on Monday that can be a very
15 reasonable and expeditious time and we'll be able to confer.
16 In the meantime we will continue to work very hard. I'm sure
17 Mr. Jemal will work very hard with us as we all are pushing
18 forward to all do the best for the city in trying to bring a
19 major retailer here that won't impede our effort or our
20 commitment to do that nor, I think, Mr. Jemal's.

21 Monday we'll just have a definitive date that I
22 think will be in a very reasonable and expeditious time frame
23 and resolve all these questions to your satisfaction.

24 CHAIRPERSON HOOD: Thank you, Mr. Altman. I hope
25 everyone involved agrees with that solution. I think it sounds

1 good. It will satisfy a number of colleagues and myself.

2 COMMISSIONER FRANKLIN: Does Mr. Glasgow have a
3 draft order?

4 MR. GLASGOW: We have draft conditions.

5 COMMISSIONER FRANKLIN: Well, you see, my thought,
6 just to follow up on what Mr. Altman said, some of these
7 technical issues need not interfere with a decision in
8 principle on the basic contours of the application because it
9 will have to be followed up by something in writing anyway.

10 Very frankly, Mr. Jemal, the lawyers for your
11 tenant are not going to want to proceed until they see
12 something in writing anyway. I think we are all on the same
13 page in terms of trying to get a decision in principle as soon
14 as possible and not have it delayed by some of the technical
15 details.

16 MR. ALTMAN: If it pleases the Commission, we would
17 suggest that Monday we'll come forward with a date and with
18 answers as to how we are going to address each of these issues.

19 CHAIRPERSON HOOD: Okay. So all the players are in
20 agreement. It sounds good.

21 With that, ladies and gentlemen, the other
22 Commissioners and I wish to thank you for your testimony and
23 assistance in this hearing. The record in this case will be
24 now closed except for information specifically requested by the
25 Commission.

1 Any special information or reports specifically
2 requested by the Commission will be delayed until Monday.
3 Parties in this case are invited to submit proposed findings of
4 fact and conclusions of law. Any party who submits proposed
5 findings and conclusions should do so by the date that we
6 designate on Monday.

7 Parties are reminded that their findings of fact
8 should not include findings stating how witnesses testify. The
9 findings should be those findings the party believes the
10 Commission should make based upon the testimony and other
11 evidence in the record.

12 Citations to exhibits and the transcript are
13 appropriate and encouraged. To assist parties in the
14 preparation of the findings of fact and conclusions of law, a
15 copy of the hearing transcript will be available for review in
16 the Office of Zoning in about two weeks.

17 Copies of the transcript may also be purchased from
18 the recording firm. When the transcript is received, the
19 Office of Zoning will contact the parties. The Commission will
20 make a decision on this case at one of the regular monthly
21 meetings following the closing of the record.

22 These meetings are held at 1:30 on the second
23 Monday of each month with some exceptions -- I'll say it again,
24 with some exceptions -- and are open to the public. If any
25 individual is interested in following this case further, I

1 suggest that you contact staff to determine whether this case
2 is on the agenda of a particular meeting.

3 You should also be aware that if the Commission
4 should propose affirmative action, the proposal will be
5 referred to the National Capital Planning Commission for
6 federal impact review. The Zoning Commission will then take
7 final action in a public meeting following receipt of the NCPC
8 comments after an order will be published.

9 If everything is in order, I now declare this
10 hearing adjourned.

11 (Whereupon, at 10:01 p.m. the hearing was
12 adjourned.)

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