

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

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:
IN THE MATTER OF: :
: Case No.
EastBanc-W.D.C. Partners LLC : 11-12
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Monday,
December 19, 2011

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

The Public Hearing of Case No.
11-12 by the District of Columbia Zoning
Commission convened at 06:30 p.m. in the
Jerrily R. Kress Memorial Hearing Room at
441 4th Street, N.W., Washington, D.C.,
20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

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OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation

JOEL LAWSON

MAXINE BROWN-ROBERTS

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF
PRESENT:

JEFF JENNINGS

JACK KORBA

The transcript constitutes the
minutes from the Public Hearing held on
December 19, 2011.

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Partners, LLC - Approval of Consolidated PUD
and Related Map Amendment

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

2 6:31 p.m.

3 CHAIRPERSON HOOD: Good evening,
4 ladies and gentlemen. This is a public
5 hearing of the Zoning Commission for the
6 District of Columbia for Monday, December
7 19th, 2011.

8 My name is Anthony Hood. Joining
9 me are Commissioners Cohen, May and Turnbull.
10 We're also joined by the Office of Zoning
11 staff, Ms. Sharon Schellin. We're also joined
12 by the Office of Planning staff, Mrs.
13 Steingasser, Ms. -- I mean, I'm sorry. Ms.
14 Brown-Roberts. Y'all changed your seats on
15 me, I think. Ms. Brown-Roberts and Mr.
16 Lawson. Also Mr. Jennings and Mr. Korba from
17 the District Department of Transportation.
18 Thank you.

19 This proceeding is being recorded
20 by a court reporter and is also Webcast live.
21 Accordingly, we must ask you to refrain from
22 any disruptive noises or actions in the

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1 hearing room.

2 The subject of this evening's
3 hearing is Zoning Commission case No. 11-12.
4 This is a request by Eastbanc-W.D.C. Partners
5 for approval of a consolidated PUD and related
6 map amendment for property located at Square
7 37.

8 Notice of today's hearing was
9 published in the D.C. Register on September
10 23rd, 2011 and copies of that announcement are
11 available to my left on the wall near the
12 door.

13 The hearing will be conducted in
14 accordance of provisions of 11 DCMR 3022 as
15 follows: Preliminary matters, Applicant's
16 case, report of the Office of Planning, report
17 of other government agencies, report of the
18 ANC; in this case ANC 2A, organizations and
19 persons in support, organizations and persons
20 in opposition, rebuttal and closing by the
21 Applicant.

22 The following time constraints

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1 will be maintained in this meeting: The
2 Applicant, 50 minutes; organizations, 5
3 minutes; individuals, 3 minutes. The
4 Commission intends to adhere to the time
5 limits as strictly as possible in order to
6 hear the case in a reasonable period of time.
7 The Commission reserves the right to change
8 the time limits for presentations if necessary
9 and notes that no time shall be ceded.

10 All persons appearing before the
11 Commission are to fill out two witness cards.
12 These cards are located to my left on the
13 table near the door. Upon coming forward to
14 speak to the Commission, please give both
15 cards to the reporter sitting to my right
16 before taking a seat at the table.

17 When presenting information to the
18 Commission, please turn on and speak into the
19 microphone, first stating your name and home
20 address. When you are finished speaking,
21 please turn your microphone off so that your
22 microphone is no longer picking up sound or

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1 background noise.

2 The decision of the Commission in
3 this case must be based exclusively on the
4 public record. To avoid any appearance to the
5 contrary, the Commission requests that persons
6 present not engage the members of the
7 Commission in conversation during any recess
8 or at any time.

9 The staff will be available
10 throughout the hearing to discuss procedural
11 questions.

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

15 Would all individuals wishing to
16 testify please rise to take the oath.

17 Ms. Schellin, would you please
18 administer the oath?

19 MS. SCHELLIN: Please raise your
20 right hand.

21 (The witnesses were sworn.)

22 MS. SCHELLIN: Thank you.

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1 CHAIRPERSON HOOD: Okay. Let me
2 just say for the record, typically we take
3 representatives from our Government officials.
4 The Deputy Mayor for Planning and Economic
5 Development has two employees who are here.
6 We typically take them first, but I understand
7 they're going to be part of the presentation.
8 I just want you to know that -- I want you
9 tell the Deputy Mayor that we did not
10 acknowledge his acknowledge, and so we will
11 take you first if you need be. If not, we
12 understand that you want to be part of the
13 presentation.

14 Okay. Ms. Schellin, do we have
15 any preliminary matters?

16 MS. SCHELLIN: Yes, sir. Of
17 course the Applicant has some experts that
18 they want to proffer, or witnesses they want
19 proffer as experts. But before you get there,
20 we have quite a few party status requests.

21 Staff would like to give an update
22 on the D.C. Library Renaissance Project, West

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1 End Library Advisory Group. I did speak to
2 Ms. Diener at approximately 5:15 this
3 afternoon and she advised that their request
4 should be in opposition and not in support.
5 That's at Exhibit 35.

6 And also, at Exhibit 25 the
7 Columbia Residences, staff received an email
8 on December 15th from Mr. Johnson withdrawing
9 the objecting and retracting their request for
10 party status.

11 CHAIRPERSON HOOD: Okay. Thank
12 you, Ms. Schellin. I may, as go through that
13 -- because we have, as you stated, a number of
14 party status requests, as we go through them,
15 I may need to have that repeated.

16 Okay. Anything else? Are we
17 ready to do party status?

18 MS. SCHELLIN: I think that's it.

19 CHAIRPERSON HOOD: Commissioners,
20 let's do party status.

21 Okay. Exhibit No. 24, the West
22 End Citizens Association. My recommendation,

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1 Commissioners -- and I know typically I think
2 there have only been a few times that I have
3 denied the West End Citizens Association party
4 status. And in this case they're in support.
5 When I look at their submittal 5 and 6; I'm
6 going by the submission, they say none. And
7 then if you look at 6, it says affected
8 property values, reduce on-street parking,
9 increase traffic, increase noise, etcetera.
10 The bottom line is that WECA members'
11 interests will be more significantly,
12 distinctly and uniquely affected. I don't see
13 where in this case that is true. I don't see
14 where they stand out any more than others who
15 live in the area. And I'm going by their
16 submission.

17 So I would be in favor of
18 declining party status for Exhibit 24, which
19 is a request by West End Citizens Association,
20 and ask for any comments. Agreeable?
21 Commissioner Cohen?

22 COMMISSIONER COHEN: Yes, I

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1 support your suggestion.

2 CHAIRPERSON HOOD: Anyone else?

3 (No audible response.)

4 CHAIRPERSON HOOD: Okay. Mr. May?
5 Commissioner May?

6 COMMISSIONER MAY: Sorry, I need a
7 minute.

8 Just to clarify, Mr. Chairman, is
9 your opinion of this based on No. 5 primarily?

10 CHAIRPERSON HOOD: Five and six.

11 COMMISSIONER MAY: Well, I'm not
12 sure why -- I mean, do you disagree with 6,
13 that WECA members could have affected property
14 values, reduced on-street parking, increased
15 traffic, increased noise, etcetera?

16 CHAIRPERSON HOOD: Well, I think
17 the way I read it is that others would have
18 the same issues there. And I think those
19 issues will be vetted and I don't think it
20 would warrant. And they will be -- whether
21 other groups get it or not, I think these
22 issues are going to be vetted anyway.

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1 I think that what is germane in
2 No. 6 -- and I hate to be put on the witness
3 stand, but I don't mind. But what is germane
4 to No. 6 is that that -- what they mention in
5 their submission affects everyone in that
6 area.

7 COMMISSIONER MAY: Right, but
8 they're a community group representing a
9 substantial number of citizens and it's a way
10 for that group of citizens to have a voice.

11 CHAIRPERSON HOOD: Okay. But, you
12 know --

13 COMMISSIONER MAY: That's
14 typically the basis upon which I've been --
15 I've thought about groups like WECA.

16 CHAIRPERSON HOOD: I usually go by
17 their submissions and then the folks that --

18 COMMISSIONER MAY: Well, I
19 understand that.

20 CHAIRPERSON HOOD: Let me just say
21 this: The folks at WECA are -- I think they
22 do a lot of great work, but I'm going by the

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1 submission I have here. And if you look at
2 No. 5, it says none. So, I mean, 5 and 6 is
3 what I'm basing my position on.

4 COMMISSIONER MAY: Five, I
5 understand. Six, I'm not sure I do. And 5
6 the way it's been answered --

7 CHAIRPERSON HOOD: Does anyone
8 else feel -- I don't want to spend a -- I
9 mean, you know, I appreciate -- I'm not going
10 to spend 30 minutes on WECA, because I could
11 withdraw it. If I'm outvoted, I'm just
12 outvoted.

13 But let me do this: Does anyone
14 else feel the same way Commissioner May?

15 COMMISSIONER TURNBULL: No, I
16 could either way. Plus, I think if there's
17 two of you voting, it would not pass. So they
18 would not get party status, if I understand
19 what we've done before, if there's only four
20 of us. So if there's two, it won't pass. So
21 they would not get party status. But I can go
22 along with the way you're thinking.

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1 CHAIRPERSON HOOD: Okay.
2 Commissioner Cohen?

3 COMMISSIONER COHEN: I mean, the
4 issues will be covered and I think other
5 people are more -- their -- the impact is
6 greater on some other groups that have come
7 forward, or people.

8 CHAIRPERSON HOOD: Okay.
9 Commissioner May, would you like to make a
10 motion?

11 COMMISSIONER MAY: That's okay.
12 If you'd like to make your motion.

13 CHAIRPERSON HOOD: Okay. I would
14 move that we deny -- can't say I'm not fair --
15 I would move that we would deny West End
16 Citizens Association party status in this
17 case, but with the knowledge, as they already
18 know, that they will be able to have opportune
19 time as an organization to bring comments, and
20 ask for a second.

21 COMMISSIONER COHEN: I'll second.

22 CHAIRPERSON HOOD: It's been moved

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1 and properly seconded. Any further
2 discussion?

3 (No audible response.)

4 CHAIRPERSON HOOD: Are you ready
5 for the question? All those in favor? Aye.

6 COMMISSIONER COHEN: Aye.

7 COMMISSIONER TURNBULL: Aye.

8 CHAIRPERSON HOOD: Not hearing any
9 opposition, Ms. Schellin, would you please --

10 COMMISSIONER MAY: I'm sorry, you
11 didn't ask for nos. No. Opposed to the
12 motion.

13 CHAIRPERSON HOOD: Okay. Didn't I
14 ask for opposition?

15 COMMISSIONER MAY: No.

16 CHAIRPERSON HOOD: Okay. Well,
17 it's -- okay. Any opposition?

18 COMMISSIONER MAY: No.

19 CHAIRPERSON HOOD: Okay. Ms.
20 Schellin, would you record the vote?

21 MS. SCHELLIN: Yes, staff records
22 the vote 3-1-1 to deny party status in support

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1 to the West End Citizens Association;
2 Commissioner Hood moving; Commissioner Cohen
3 seconding; Commissioner Turnbull in support,
4 Commissioner May opposed, Commissioner
5 Schlater, not present, not voting.

6 CHAIRPERSON HOOD: Okay. Next we
7 have Exhibit No. 27. I'd like to take up
8 Exhibits 27 and 33 at the same time. Exhibit
9 33 is a resident/owner of Unit 803 at the
10 Gibson Condominium and they are directly next
11 door to the proposed project, as put in their
12 submission. Current party loading plan will;
13 I can't read all this, result in making the --
14 I can't read 5, but I think 6 gives them the
15 threshold of being a party in this case. The
16 Gibson is directly next door to this proposed
17 project.

18 The only thing that I would say
19 that I would not be in favor of granting party
20 status to the single unit owner, which is our
21 Exhibit No. 33. I would be in favor of
22 granting party status to the Gibson

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1 Condominium Association, Inc., but not to
2 Sayuri Rajapakse. I messed that name all up,
3 but anyway, it's Exhibit No. 33.

4 Any comments?

5 COMMISSIONER MAY: I would, with
6 regard to Exhibit No. 33, Sayuri Rajapakse,
7 the -- I can understand why there's a sense
8 that the unit is uniquely affected, but
9 actually I think that the effects that they're
10 talking about are common to a number of the
11 units at the Gibson and I would be more
12 comfortable if the issues of the Gibson
13 Condominium Building were represented
14 holistically. So I would support your
15 inclination, Mr. Chairman.

16 CHAIRPERSON HOOD: Okay. Would
17 you like to make a motion now?

18 Anybody, any other comments first?

19 (No audible response.)

20 CHAIRPERSON HOOD: Okay.

21 COMMISSIONER MAY: All right. So
22 I would move we approve party status for the

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1 Gibson Condominium Association and deny party
2 status for Sayuri Rajapakse.

3 COMMISSIONER COHEN: And I'll
4 second that.

5 CHAIRPERSON HOOD: Okay. It's
6 been moved and properly seconded. Any further
7 discussion?

8 (No audible response.)

9 CHAIRPERSON HOOD: Are you ready
10 for the question? All those in favor? Aye.

11 COMMISSIONER COHEN: Aye.

12 COMMISSIONER MAY: Aye.

13 COMMISSIONER TURNBULL: Aye.

14 CHAIRPERSON HOOD: Any opposition?
15 So ordered. Staff, would you record the vote?

16 MS. SCHELLIN: Staff records the
17 vote 4-0-1 to grant party status in opposition
18 to the Gibson Condominium Association, Inc.,
19 and to deny party status to Sayuri Rajapakse.

20 CHAIRPERSON HOOD: Okay.
21 Commissioner Cohen --

22 MS. SCHELLIN: Commissioner May

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1 moving; Commissioner Cohen seconding;
2 Commissioners Hood and Turnbull in support,
3 Commissioner Schlater, not present, not
4 voting.

5 CHAIRPERSON HOOD: Commissioner
6 Cohen had a question.

7 COMMISSIONER COHEN: No, that's
8 okay. I misheard her.

9 CHAIRPERSON HOOD: Okay. Okay.
10 Exhibit 25, Ms. Schellin, I'm being told we
11 don't have to deal with that, the Columbia
12 Residents, which is Mr. Johnston?

13 MS. SCHELLIN: Correct. Staff
14 received an email. We asked him to submit
15 something to the record, but as of today we
16 had not received anything, but he did send an
17 email.

18 CHAIRPERSON HOOD: Okay. I
19 guess --

20 MS. SCHELLIN: If the Commissioner
21 wants, I can read it. It's up to you. But he
22 did submit an email. You want to read it?

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1 COMMISSIONER MAY: Yes, or
2 incorporate the email in the record. I think
3 it needs to be in the record.

4 MS. SCHELLIN: Okay. It says, "I
5 submitted an application for party status
6 party status on behalf of the Columbia
7 Residences and Adjacent Condominium
8 Association. I indicated that we opposed and
9 requested time to speak. After extensive
10 discussions with the developer orchestrated by
11 our ANC Commissioner Rebecca Coder we support
12 the application as now configured. We
13 withdraw our objection and retract our request
14 for an opportunity to speak. Thank you for
15 your consideration. Tom Johnson.

16 CHAIRPERSON HOOD: Okay. We can
17 just incorporate that -- copy that email into
18 the record.

19 Okay. Next, Exhibit No. 32. This
20 is Howard Biel, I believe, an individual and
21 on behalf of the Residents of the Ritz-
22 Carlton. Let me refresh my memory.

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1 MS. SCHELLIN: It's -- I'm trying
2 to --

3 CHAIRPERSON HOOD: I'm trying to
4 remember. I think as stated in No. 5 they are
5 directly across the street.

6 MS. SCHELLIN: Yes, 90 feet.

7 CHAIRPERSON HOOD: Density will be
8 significantly increased. Okay. I would -- if
9 I just look at No. 5 in this case, I would not
10 be supportive of it. But I'm looking at No.
11 6, the proximity, directly across the street.
12 And I would say that Mr. Biel -- this is
13 individually and on behalf of Residents at
14 Ritz-Carlton. I would say that we would make
15 that the Howard -- if we approve, that would
16 be Howard Biel who will be representing Ritz-
17 Carlton. Hopefully I'm pronouncing that
18 correctly.

19 Let me open it up for any
20 comments.

21 COMMISSIONER TURNBULL: No, I
22 would agree. Just like we've done before.

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1 It's not the individual. It's the condominium
2 group. That's the more significant.

3 COMMISSIONER COHEN: And we don't
4 have any indication that the condominium is
5 supporting him as a spokesperson. Or do we?

6 COMMISSIONER MAY: Yes.

7 COMMISSIONER COHEN: Yes, we do.
8 I'm sorry.

9 CHAIRPERSON HOOD: Yes, it's in
10 their minutes.

11 COMMISSIONER COHEN: Yes.

12 CHAIRPERSON HOOD: Okay. So I
13 would move that we grant Exhibit 32 party
14 status, the Howard Biel/Ritz Carlton, and ask
15 for a second.

16 COMMISSIONER TURNBULL: Second.

17 CHAIRPERSON HOOD: It's moved and
18 properly seconded. Any further discussion?

19 (No audible response.)

20 CHAIRPERSON HOOD: Are you ready
21 for the question? All those in favor? Aye.

22 COMMISSIONER COHEN: Aye.

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1 COMMISSIONER MAY: Aye.

2 COMMISSIONER TURNBULL: Aye.

3 CHAIRPERSON HOOD: I didn't hear
4 any -- any opposition?

5 (No audible response.)

6 CHAIRPERSON HOOD: Not hearing any
7 opposition, so ordered.

8 Staff, would you record the vote?

9 MS. SCHELLIN: Chairman Hood, if I
10 may, is the party status being granted to the
11 residences at Ritz-Carlton and Mr. Biel, or
12 just the residences at -- I just wanted to
13 clarify.

14 CHAIRPERSON HOOD: I said Howard
15 Biel and Ritz-Carlton, but really Ritz-Carlton
16 but --

17 MS. SCHELLIN: Ritz-Carlton?
18 Okay.

19 CHAIRPERSON HOOD: -- Howard Biel,
20 I guess, hopefully will be representing them.

21 MS. SCHELLIN: Will be
22 representing, correct. Okay. So staff would

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1 record the vote 4-0-1 to grant party status in
2 opposition to the Residences at Ritz-Carlton.
3 Commissioner Hood moving -- and that's in
4 opposition. Commissioner moving; Commissioner
5 Turnbull seconding; Commissioners Cohen and
6 May in support, Commissioner Schlater, not
7 present, not voting.

8 CHAIRPERSON HOOD: Okay. Next,
9 Commissioners, Exhibit No. 34. This is Mr.
10 Kenneth L. Wnuck. Hopefully I'm pronouncing
11 that correctly. If you look at his submission
12 on page 2, as stated, Mr. Wnuck's home is 15
13 feet from the development site. It is one of
14 the two town homes which is in direct
15 proximity of the proposed property. Mr. Wnuck
16 will be able to see the towering buildings
17 from his rear windows and his yard. He will
18 experience a dramatic loss of light, air and
19 privacy. And I know there's case law dealing
20 with that, but I think due to the proximity of
21 Mr. Wnuck's town home; and another one, I
22 understand, from what I read, I would be in

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1 favor of granting him party status.

2 Let me open it up for any
3 comments.

4 COMMISSIONER MAY: I would just
5 say I agree. He's close by and --

6 CHAIRPERSON HOOD: Okay.

7 COMMISSIONER MAY: -- clearly
8 affected.

9 CHAIRPERSON HOOD: All right. Any
10 other comments?

11 (No audible response.)

12 CHAIRPERSON HOOD: Okay. I would
13 move --

14 COMMISSIONER TURNBULL: I would
15 agree.

16 CHAIRPERSON HOOD: I would move
17 approval of granting Mr. Wnuck party status,
18 Exhibit No. 34, and ask for a second.

19 COMMISSIONER COHEN: I second.

20 CHAIRPERSON HOOD: It's been moved
21 and properly seconded. Any further
22 discussion?

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1 (No audible response.)

2 CHAIRPERSON HOOD: Are you ready
3 for the question? All those in favor? Aye.

4 COMMISSIONER COHEN: Aye.

5 COMMISSIONER MAY: Aye.

6 COMMISSIONER TURNBULL: Aye.

7 CHAIRPERSON HOOD: Not hearing any
8 opposition, Ms. Schellin, would you record the
9 vote?

10 MS. SCHELLIN: The staff records
11 the vote 4-0-1 to grant party status in
12 opposition to Kenneth Wnuck. Commissioner
13 Hood moving; Commissioner Cohen seconding;
14 Commissioners Turnbull and May in support;
15 Commissioner Schlater, not present, not
16 voting.

17 CHAIRPERSON HOOD: Okay. Exhibit
18 No. 36. This is the West End Flats
19 Condominium Association.

20 COMMISSIONER COHEN: (Off
21 microphone.)

22 CHAIRPERSON HOOD: Ms. Cohen wants

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1 to go in order, so let me go back to 35. I
2 don't usually go in order. I move these
3 things around and -- so Ms. Cohen wants me to
4 go in order. Let's do Exhibit No. 35. I'm
5 not hard to get along with. Let's go to
6 Exhibit No. 35.

7 Let's see, who is this? Ms.
8 Cohen, could you tell us who -- this is
9 Robin --

10 COMMISSIONER COHEN: Robin Diener.

11 CHAIRPERSON HOOD: Diener. Okay.

12 COMMISSIONER COHEN: The D.C.
13 Library Renaissance Project.

14 MS. SCHELLIN: West End Library
15 Advisory Group.

16 CHAIRPERSON HOOD: Okay. Is this
17 -- they're in opposition. Is this a support
18 letter from Ms. Elliott? No. No. That's the
19 wrong case. Okay. Is this the one that's --
20 okay. Let me -- okay. I had it. Let me
21 reshuffle things, Ms. Cohen.

22 Okay. We have a support letter

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1 also. While I really appreciate Ms. Elliott's
2 tenure -- Ms. Elliott's been here much longer
3 than I have. She's really been on it. And
4 I've never seen anyone endorse someone to get
5 party status. So I've never seen that before,
6 but I guess there's a first time for
7 everything. But anyway, let's take up the
8 party status request. While I understand --
9 I think Mrs. -- and we don't take that
10 lightly, Ms. Elliott's request of Mrs. Diener
11 to get party status, and all the work they've
12 done over the years. We don't take that
13 lightly.

14 Let's look at the party status
15 request. West End -- okay. First of all,
16 this one's late, am I correct? It's looks
17 like a day late. Oh, not this one? Okay.
18 I'm out of sequence.

19 Okay. "West End Library users who
20 reside in the library service area or who
21 support the West End Library through their
22 activities as volunteers, advocates and all

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1 dues-paying membership in the West End Library
2 Friends will be more significantly, distinctly
3 or uniquely affected than users of other
4 libraries."

5 Again, for me, while I appreciate
6 Ms. Elliott's support; I guess I'm losing a
7 lot of friends today, but I think looking at
8 the submission and looking at what I have in
9 front of me, I cannot see the -- granting the
10 party status on what's written here for No. 6.

11 But let me open it up for any
12 comments.

13 COMMISSIONER MAY: Am I
14 understanding this correctly, that -- I mean,
15 this is essentially the library friends group?
16 The supporters of this individual library?

17 CHAIRPERSON HOOD: Well --

18 COMMISSIONER MAY: But it's more
19 than just the --

20 CHAIRPERSON HOOD: -- D.C. Library
21 Renaissance Project for the West End --

22 COMMISSIONER COHEN: More than

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1 just this particular library.

2 COMMISSIONER MAY: More than this
3 particular library?

4 COMMISSIONER COHEN: That's what
5 it appears to my reading.

6 COMMISSIONER MAY: Well, it's West
7 End Library Advisory Group and D.C. Library
8 Renaissance Project. I mean, the D.C. Library
9 Renaissance Project -- I mean, it sounds like
10 an advocacy group for libraries in general,
11 and I would say that's not necessarily so
12 special in the context of a PUD, but if it is
13 in fact the West End Library Friends Group and
14 it's people who volunteer and support the
15 library itself, then, no, I think they are
16 uniquely affect and I'd support it.

17 CHAIRPERSON HOOD: I am just
18 really --

19 MS. SCHELLIN: The West End
20 Friends, just to clarify, they submitted an
21 application at Exhibit 39. Their's was late.

22 CHAIRPERSON HOOD: Right, West End

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1 is Anita Diliberto, who -- but I still think
2 that -- at the end of the day I think Mrs.
3 Elliott's request is really for Ms. Diliberto
4 and -- no, I'm sorry -- Mrs. Diener. It is
5 for Mrs. Diener.

6 But anyway, I'm looking at No. 6.
7 Again, the threshold has to be met and No. 6
8 is always been the case for the Commission.
9 I mean, I understand -- I'm going by what's
10 submitted and what's written. I mean, if I'm
11 doing something wrong, then I would need my
12 legal counsel to tell me that I'm looking at
13 it at the wrong way. But I felt we've always
14 looked at what's written in the submission.

15 It says, "The West End Library
16 Users who reside in the library service area
17 or who support the West End Library through
18 their activities as volunteers, advocates and
19 are dues-paying members in the West End
20 Library Friends will be more significantly,
21 distinctly or uniquely affected that users of
22 other libraries."

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1 We're talking about libraries in
2 my neighborhood. I'm just trying to figure
3 out what I have written here as far as giving
4 them party status in this case.

5 COMMISSIONER MAY: I agree it
6 tends not to be particularly well written in
7 describing the role of the group. But again,
8 if this is in fact the friends group that
9 supports this individual library, I would tend
10 to think that they are worthy of party status.

11 COMMISSIONER COHEN: Chairman
12 Hood? Yes, I agree with Commissioner May on
13 this.

14 CHAIRPERSON HOOD: Okay. If you
15 want to make a motion, you can.

16 COMMISSIONER COHEN: I move to
17 designate party status to the West End Library
18 Advisory Group.

19 COMMISSIONER TURNBULL: Second.

20 CHAIRPERSON HOOD: Okay. It's
21 been moved and properly seconded. Any further
22 discussion?

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1 (No audible response.)

2 CHAIRPERSON HOOD: All those in
3 favor?

4 COMMISSIONER COHEN: Aye.

5 COMMISSIONER MAY: Aye.

6 COMMISSIONER TURNBULL: Aye.

7 CHAIRPERSON HOOD: Any opposed?

8 Opposed. So ordered.

9 Staff, would you record the vote?

10 MS. SCHELLIN: The staff records
11 the vote 3-1-1 to grant party status in
12 opposition to the D.C. Library Renaissance
13 Project/West End Library Advisory Group.
14 Commissioner Cohen moving; Commissioner
15 Turnbull seconding; Commissioner May in
16 support; Commissioner Hood opposed;
17 Commissioner Schlater, not present, not
18 voting.

19 CHAIRPERSON HOOD: Okay. Let's go
20 with Exhibit 39. Well, let's do 36. Okay.
21 "Our close proximity will cause our" -- oh,
22 this is what the West End Flats Condominium

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1 Association says. Again, "The safety of
2 residents entering and exiting the building
3 may be affected. Our close proximity will
4 cause our building to be affected more
5 significantly."

6 Do we know whether or not, Ms.
7 Schellin, this -- and I don't know, West End
8 Flats are right next door or something?

9 MS. SCHELLIN: It says that
10 they're approximately 30 feet. That's all
11 I've got, and that's on their application
12 form.

13 COMMISSIONER MAY: It looks like
14 they're on 24th Street just up the street from
15 Mr. Wnuck. And so, 30 feet -- I mean, it's
16 the width of the alley plus whatever the -- I
17 don't know if there's one house or two houses
18 there that separate them from the building,
19 but they're well within 200 feet, which is
20 often our threshold.

21 CHAIRPERSON HOOD: Okay.

22 MS. SCHELLIN: This application

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1 was one day late, so the Commission would need
2 to also accept their late filing if they
3 accept this.

4 CHAIRPERSON HOOD: One thing I'm
5 looking at on there that really strikes me is
6 they said they could have potential damage.
7 The loss of view is -- there's case law about
8 that, but the potential damage is an issue,
9 and I think I would be in favor of granting
10 them party status, again, looking at the
11 application. So would somebody like to make
12 a motion? Mr. Turnbull?

13 COMMISSIONER TURNBULL: Mr. Chair,
14 I move that we accept West End Flats
15 Condominium Association as a party in
16 opposition.

17 COMMISSIONER COHEN: I'll second
18 that.

19 CHAIRPERSON HOOD: Okay. It's
20 been moved and properly seconded. Any further
21 discussion?

22 (No audible response.)

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1 CHAIRPERSON HOOD: All those in
2 favor? Aye.

3 COMMISSIONER COHEN: Aye.

4 COMMISSIONER MAY: Aye.

5 COMMISSIONER TURNBULL: Aye.

6 CHAIRPERSON HOOD: Not hearing any
7 opposition, Ms. Schellin, would you record the
8 vote?

9 MS. SCHELLIN: Yes, staff records
10 the vote 4-0-1 to approve party status in
11 opposition to the West End Flats Condominium
12 Association. Commissioner Turnbull moving;
13 Commissioner Cohen seconding, Commissioners
14 Hood and May in support; Commissioner
15 Schlater, not present, not voting.

16 CHAIRPERSON HOOD: Okay. Thank
17 you. Next, I think this is the last one,
18 Exhibit No. 39. Exhibit 39, that's the
19 support letter from Ms. Elliott. Exhibit No.
20 39. Okay. This was filed late, so we have to
21 do a waiver request for that. But also, for
22 me, unless I'm missing something, I don't even

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1 see No. 6 even being answered. Maybe it's in
2 No. 5, but that doesn't get it for me. But
3 then again, to Mr. May, this is the West End
4 Friends.

5 COMMISSIONER MAY: No, this is not
6 the West End -- I mean, it's West End Friends,
7 yes, but it's not the West End Library
8 Friends, which is what we were talking about
9 before.

10 Yes, I mean, I don't see this
11 group being particularly unique. I mean, it
12 includes folks who are represented by the
13 other parties, West End Flats and the Gibson.
14 I mean, not the Columbia, but I don't -- I
15 think if they're going in as a neighborhood
16 friends group, it needs to be a little bit
17 more well formed than this application seems
18 to be.

19 CHAIRPERSON HOOD: Okay. Anybody
20 -- any other comments?

21 (No audible response.)

22 CHAIRPERSON HOOD: Anybody like to

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1 make a motion?

2 COMMISSIONER MAY: I would move
3 that we deny party status to Anita Diliberto
4 and the West End Friends. I'm not sure what
5 else.

6 COMMISSIONER TURNBULL: Second.

7 CHAIRPERSON HOOD: Okay. It's
8 been moved and properly seconded. Any further
9 discussion?

10 (No audible response.)

11 CHAIRPERSON HOOD: I'd just like
12 to add that No. 6 was actually not properly
13 addressed for me. And then again I stick with
14 going by the submissions. No. 6 was not even
15 answered, so I am in support of the denial.

16 Any further discussion?

17 (No audible response.)

18 CHAIRPERSON HOOD: All those in
19 favor? Aye.

20 COMMISSIONER COHEN: Aye.

21 COMMISSIONER MAY: Aye.

22 COMMISSIONER TURNBULL: Aye.

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1 CHAIRPERSON HOOD: Any opposition?

2 (No audible response.)

3 CHAIRPERSON HOOD: So ordered.

4 Staff, would you record the vote?

5 MS. SCHELLIN: Yes. Staff records
6 the 4-0-1 to deny party status to the West
7 Friends and Anita Diliberto. Commissioner May
8 moving; Commissioner Turnbull seconding;
9 Commissioners Hood and Cohen in support;
10 Commissioner Schlater, not present, not
11 voting.

12 CHAIRPERSON HOOD: And all those
13 who were denied party status, you know, we're
14 a fair group down here. We will hear your
15 concerns and comments at the appropriate time.

16 Ms. Schellin, could you also
17 prepare for a second night? Just let's just
18 do that to start with.

19 Okay. Ms. Batties, good evening.
20 Mr. Glasgow. Who's presenting? Ms. Batties?
21 Oh, okay. You must know her record. I don't
22 think it's going to be the same tonight, but

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1 anyway.

2 Let's go by the experts. I think
3 two experts have already been previously
4 accepted, Ms. White and Mr. Sher, naturally.
5 We just might as well grandfather Mr. Sher in
6 instead of me having to -- I'm going to
7 recommend that at one of the meetings that we
8 grandfather people like Mr. Sher and others
9 in.

10 COMMISSIONER MAY: But I think we
11 should make him wear a special T-shirt or hat,
12 or something like that. What do you think?

13 CHAIRPERSON HOOD: Long as it's
14 not a Redskins hat.

15 Okay. So, let's do a -- let's go
16 with Mr. Norten. And I believe it's Enrique?

17 MS. SCHELLIN: Enrique Norten.

18 CHAIRPERSON HOOD: Enrique Norten
19 and Erik Lang. Commissioners, their résumés
20 are behind Exhibits H and I in Exhibit 17.

21 Ms. Batties, you're proffering
22 them as -- one is an architect -- both as

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1 architects?

2 MS. BATTIES: Correct.

3 CHAIRPERSON HOOD: Okay.

4 COMMISSIONER TURNBULL: Mr. Chair,
5 I have no problem with Mr. Norten. Mr. Lang's
6 résumé is extremely de minimis, one page. It
7 references three projects, one of which is the
8 current project. To me that doesn't show me
9 he's an expert, so right now I -- based upon
10 what I have in front of me, I could not go on
11 with that.

12 CHAIRPERSON HOOD: And that was
13 Mr. Lang. I didn't catch that. Thank you,
14 Commissioner Turnbull.

15 Okay. I would agree with Mr.
16 Turnbull after looking back at the résumé. I
17 missed it.

18 COMMISSIONER COHEN: I am familiar
19 with Ten Arquitectos. A lot of their work is
20 in Mexico City. They are really an
21 established firm. I think they may have short
22 sold themselves. Is that a term? But I think

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1 that they are an extremely well-qualified
2 architectural firm that has done quite a bit
3 of work throughout the world. So I would
4 think that we should grant them expert --

5 COMMISSIONER TURNBULL: Ms. Cohen,
6 we're not challenging the firm. We're
7 challenging the individual proffered. The
8 firm Arquitectos is obviously very
9 internationally well known. We're questioning
10 the qualifications that have been presented
11 before us of Mr. Lang, which are -- which is
12 sloppy. It's very unprofessionally -- I'm
13 surprised Holland & Knight let this through.
14 But it's just the individual, not the firm.

15 COMMISSIONER COHEN: I --

16 CHAIRPERSON HOOD: Yes, so I think
17 what I would do in that case, let me hear from
18 -- any other comments?

19 COMMISSIONER MAY: Yes, I would
20 agree it's not here on paper. I will say that
21 in the past we have actually allowed the
22 proffered expert to provide something verbally

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1 as a testament to his or her status as an
2 expert. And I agree that what we have on
3 paper is lacking and frankly should have been
4 a lot more detailed, but it may be possible
5 that Mr. Lang could convince us that he should
6 be qualified as an expert.

7 CHAIRPERSON HOOD: Okay. Well,
8 let's deal with Enrique Norten. Hopefully I'm
9 pronouncing that correctly. Architecture and
10 site planning is what they are being proffered
11 as. So I think we can -- can we accept
12 Norten, Architect Norten?

13 COMMISSIONER TURNBULL:
14 Absolutely.

15 CHAIRPERSON HOOD: Okay. So we
16 will do that. We will ask Erik Lang if he can
17 come forward and tell us more than what we
18 have here on the résumé, things that you have
19 probably worked on.

20 MS. BATTIES: Mr. Hood?

21 CHAIRPERSON HOOD: Yes?

22 MS. BATTIES: If the Zoning

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1 Commission is not inclined to accept Mr. Lang
2 as an expert, we would ask that -- I mean, he
3 is available to answer questions about the
4 project. He worked extensively on this
5 project, so if he can -- he's still here to
6 answer questions.

7 CHAIRPERSON HOOD: We want to know
8 his résumé. His résumé only lists -- as Mr.
9 Turnbull has pointed out, it lists Square 37
10 and Square 50. I don't even know --

11 COMMISSIONER MAY: I think she's
12 suggesting that maybe he would not be
13 proffered as an expert.

14 CHAIRPERSON HOOD: She --

15 MS. BATTIES: But be available to
16 answer --

17 CHAIRPERSON HOOD: You said it;
18 she didn't.

19 COMMISSIONER MAY: That's what I
20 thought she was suggesting.

21 CHAIRPERSON HOOD: She was
22 suggesting, but she didn't say it. So I

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1 wanted us to go through the voir dire process.

2 COMMISSIONER MAY: That's fine.

3 CHAIRPERSON HOOD: If that's what
4 -- if that would make Mr. Turnbull happy. I'm
5 trying to appease Mr. Turnbull to make sure
6 he's straight. Would you like to go through
7 that, Mr. Turnbull?

8 COMMISSIONER TURNBULL: I don't
9 care. I'm -- you know, if they don't want to
10 proffer him, they don't want to proffer him.

11 CHAIRPERSON HOOD: Are you
12 rescinding the proffer?

13 COMMISSIONER TURNBULL: He can
14 still testify.

15 CHAIRPERSON HOOD: This is getting
16 to be longer than the hearing.

17 COMMISSIONER TURNBULL: He can
18 still testify. He can still answer.

19 MS. BATTIES: We'll rescind the
20 proffer and Mr. Lang will be available to
21 answer questions that may come up about the
22 project.

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1 CHAIRPERSON HOOD: Okay.

2 COMMISSIONER TURNBULL: I'm not
3 trying to be difficult. I'm just looking --

4 CHAIRPERSON HOOD: Oh, no, but I
5 appreciate --

6 COMMISSIONER TURNBULL: -- at
7 what's before us.

8 CHAIRPERSON HOOD: You're not
9 trying to be like Commissioner May, and I
10 appreciate --

11 COMMISSIONER TURNBULL: All right.

12 CHAIRPERSON HOOD: Okay. Thank
13 you. So we will withdraw the proffer. We
14 have three proffered witnesses and we will
15 withdraw the proffer of Mr. Lang.

16 MS. BATTIES: The Applicant
17 actually has one more expert witness to
18 proffer. We have provided Ms. Schellin a copy
19 of her résumé. It's Ms. Lisa Delplace. She's
20 a landscape architect with Oehme van Sweden
21 and we'd ask that the Commission Ms. Delplace
22 as an expert.

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1 COMMISSIONER MAY: I think it's
2 fine. I have no objection to her status as an
3 expert.

4 COMMISSIONER TURNBULL: I have no
5 objection either.

6 CHAIRPERSON HOOD: Commissioner
7 Cohen?

8 COMMISSIONER COHEN: I have no
9 objection.

10 CHAIRPERSON HOOD: Okay. So we
11 will move in that fashion.

12 Ms. Batties, is there anything
13 else we need to do?

14 MS. SCHELLIN: Just is that in
15 landscape architecture, just to clarify?

16 MS. BATTIES: (Off microphone.)

17 MS. SCHELLIN: Okay.

18 MS. BATTIES: Landscape
19 architecture. We have some other preliminary
20 matters.

21 CHAIRPERSON HOOD: Thank you.
22 Could you proceed and let us know what they

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1 are?

2 MS. BATTIES: Sure. We have
3 submitted to Ms. Schellin a couple of items to
4 supplement the record. First is a
5 construction management plan dated December
6 16th, 2011. That has been accepted or has
7 been agreed to by ANC 2A.

8 We've also submitted into the
9 record a draft of the best and final offer as
10 it relates to the benefits and amenities
11 package and the conditions for the PUD
12 approval.

13 The third item we've submitted is
14 a memorandum prepared by Symmetra Design.
15 This memo was requested by DDoT in response to
16 the residential parking ratio of 1.5 spaces
17 per unit.

18 The fourth item we've submitted
19 into the record is a set of alternative
20 drawings for the garage entrance on 24th
21 Street. That will be included in the
22 PowerPoint presentation that will be given by

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1 the Applicant. So we wanted to make sure that
2 you guys -- that supplemented the plans that
3 we've submitted previously.

4 We'd ask the Commission to accept
5 these items into the record. I also have
6 extra copies here for persons in the audience.

7 CHAIRPERSON HOOD: Okay, Ms.
8 Batties. We're getting those now. And once
9 we get those, I guess you can begin. You can
10 bring your folks up. Are you ready after
11 that, or something else? Are you ready to
12 proceed?

13 MS. BATTIES: We're ready, yes.

14 CHAIRPERSON HOOD: Okay.

15 MS. BATTIES: Thank you. Again
16 for the record, Leila Batties and Chip Glasgow
17 with the law firm of Holland & Knight. In
18 addition to the expert witnesses that we've
19 proffered, Mr. Anthony Lanier will speak as a
20 developer for this project. And we have the
21 Deputy Mayor's Office represented by his chief
22 of staff Brian Kenner, as well as Matthew

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1 Troy, who is the project manager for this
2 project.

3 It's my understanding -- is Ms.
4 Ginnie Cooper here from D.C. Public Library?
5 And Mr. David Foust from D.C. Fire and
6 Emergency Medical Services will be here this
7 evening. And it may be useful to the Zoning
8 Commission after we present our direct
9 testimony for you to have those two agencies
10 come up and speak prior to cross-examination.

11 The application before --

12 CHAIRPERSON HOOD: So, let me
13 say --

14 MS. BATTIES: Oh, go ahead.

15 CHAIRPERSON HOOD: So those two
16 agencies, are they going to be included in
17 your testimony? You're saying bringing them
18 up after you finish your testimony.

19 MS. BATTIES: I think it would be
20 helpful after our direct testimony.

21 CHAIRPERSON HOOD: Okay.

22 MS. BATTIES: Okay?

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1 CHAIRPERSON HOOD: I'm sorry for
2 interrupting you.

3 MS. BATTIES: All right. The
4 application before you presents an exciting
5 opportunity for the District and the West End
6 neighborhood on multiple fronts. First, it
7 allows for the construction of two new state-
8 of-the art public facilities and the West End
9 Branch Library and the Engine Company No. 1
10 fire station without the use of funds from the
11 District's coffers.

12 Second, it brings new housing and
13 retail onto one of the last developable sites
14 in the West End generating new revenues for
15 the city.

16 And third, it takes what would
17 otherwise be an ordinary or typical mixed-use
18 project and transforms it through the vision
19 of one of the city's more relevant developers
20 and a world-renowned architect.

21 Anthony Lanier and Enrique Norten
22 and their team of professionals have given

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1 exceptional level of attention to every aspect
2 of this project. On October 20th the project
3 was reviewed by the U.S. Commission of Fine
4 Arts which praised the project design as
5 "quite brilliant."

6 This project includes the
7 redevelopment of 46,764 square feet located on
8 the north side of L Street between 23rd and
9 24th Streets. The existing facilities on the
10 site, the West End Branch Library and the
11 Police Special Operations facility, will be
12 replaced with a new single-story library that
13 will have frontage along L Street,
14 approximately 7,617 square feet of retail
15 along 23rd Street, and a residential building
16 above with approximately 164 units.

17 The average unit size will be
18 1,500 square feet, which, as you know, is
19 significantly larger than most of the recent
20 multi-family projects in the city. The
21 Applicant has had approximately 65 community
22 meetings on this project and the community has

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1 consistently demanded that this project have
2 larger units in order to encourage owner-
3 occupied units versus units that are likely to
4 be rented to the college students.

5 So according to a third-party real
6 estate study that we've submitted to the
7 Office of Planning, the parking demand for the
8 type of residential project desired by the
9 community is 1.5 spaces per unit, which is
10 reflected in the most recent version of the
11 PUD plans.

12 In addition, the recent version of
13 the plans shows an increase library footprint.
14 It's now approximately 20,164 square feet.
15 And while the Applicant has requested
16 flexibility to provide six parking spaces
17 where the Zoning Regulations require more,
18 D.C. Public Library has indicated to the
19 Applicant that the amount of parking is
20 sufficient to support this specific branch of
21 the library.

22 The fire station that's proffered

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1 in connection with this application will be
2 located one block north of the PUD site at the
3 corner of M and 23rd Streets. While the plans
4 for the fire station are not part of the PUD
5 approval, the construction of the fire station
6 is proffered as one of the extraordinary
7 benefits of this PUD. And as such, one of the
8 conditions that is being proffered as part of
9 the PUD approval is the completion of the fire
10 station site prior to the issuance of a CO for
11 the PUD building.

12 The Applicant has had multiple
13 meetings with the ANC 2A, the Office of
14 Planning, as well as DDoT, and the benefits
15 and amenities package before you represents
16 the feedback we received from all of these
17 various stakeholders. The conditions and
18 benefits and amenities include: the
19 implementation of the construction management
20 plan, which we've submitted earlier; the
21 repaving of the entire alley along the north
22 side of the property from 23rd to 24th Street;

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1 the installation of safety devices such as
2 mirrors and stop signs within the adjoining
3 alley, as warranted; a monetary contribution
4 in the amount of \$2,500 related to the
5 relocation of a bus stop from 23rd and L to
6 New Hampshire; two electric car charging
7 stations. And the project will also achieve
8 a minimum of 60 LEED points equivalent to LEED
9 Gold.

10 In addition, the project
11 incorporates several transportation demand
12 measures as recited in the DDoT report. The
13 Applicant has agreed to limit the residential
14 parking within the projects to persons that
15 live in the project and their guest only.
16 They will not be able to lease those spaces to
17 people outside of the building. And that was
18 again in direct response to the increased
19 parking ratio. Additionally, the parking
20 spaces will be decoupled from the units,
21 meaning that they will be sold separately from
22 the residential units.

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1 The conditions and the
2 extraordinary public benefits and amenities
3 resulting from this project are to be weighed
4 against six areas of flexibility being
5 requested by the Applicant, the most
6 significant of which and most critical to the
7 economic feasibility of this project is the
8 waiver of the inclusionary zoning units.

9 The other areas of flexibility are
10 for minor relief from the requirements for
11 roof structures, open space, lot occupancy,
12 loading and the library parking, all of which
13 will be addressed in more detail during the
14 direct testimony.

15 And with that, I'm going to now
16 turn it over to DMPED to give their remarks on
17 the application.

18 MR. KENNER: Thank you,
19 Commissioners, very much for allowing me to
20 provide just a few words of testimony before
21 the project manager for our project begins.

22 My name is Brian Kenner. I'm the

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1 chief of staff in the Deputy Mayor's Office
2 for Planning and Economic Development. The
3 Deputy Mayor himself apologizes for not being
4 able to attend. He had a meeting with the
5 mayor this evening, but wanted for me to come
6 and just reiterate the support that the Deputy
7 Mayor's Office has for this project.

8 We understand that there are two
9 very important public benefits that are
10 occurring out of this project. One is the
11 construction of a new public library and the
12 other is the construction of a fire station
13 that's desperately needed in this
14 neighborhood. And it is because of those
15 needs that the District and the Applicant are
16 requesting a waiver of the inclusionary
17 zoning's affordable housing requirement.

18 With that, I'll turn it over to
19 Matt to provide some more testimony from the
20 Deputy Mayor's Office.

21 MR. TROY: Sure. Thank you. Good
22 evening, Chairman Hood, members of the

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1 Commission. My name is Matthew Troy and I am
2 a project manager in the Office of the Deputy
3 Mayor for Planning and Economic Development.
4 I'm here to discuss with you today and testify
5 in support of the planned unit development for
6 the West End Square 37 redevelopment project.

7 The District of Columbia in
8 partnership with Eastbanc-W.D.C. plan to
9 redevelop two District-owned parcels on Square
10 37 along with an adjacent parcel controlled by
11 the Applicant into a mixed-use building that
12 will include a brand new world-class library
13 for the West End neighborhood. This project
14 is extraordinarily important to the District
15 of Columbia and has been in the queue in some
16 form or fashion for many years now.

17 In July of 2009, the District
18 released an RFP seeking a development partner
19 for three publicly-owned sites in the West
20 End, two of which are on Square 37, which is
21 the library and the MPD Special Ops Building.
22 The third District site included in the RFP

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1 was the West End fire station site located on
2 Square 50 at 23rd and M Streets. The main
3 goal of the RFP was to leverage the value of
4 these Square 37 parcels to fund the
5 development of a new library, and, if
6 possible, a new fire station, since both
7 facilities are over 40 years old and in need
8 of replacing.

9 The District received two
10 responses the following October, and of the
11 two only Eastbanc-W.D.C.'s planned to
12 redevelop all three District parcels and
13 provide enough value to fund the development
14 of both a new library and a new fire station
15 without any subsidy from the District. This
16 reason, coupled with the community support for
17 the project and the ANC 2A's unanimous vote in
18 January of 2010 supporting the Applicant's
19 proposal led the District to award the project
20 to Eastbanc-W.D.C. that March.

21 Because so much was asked for in
22 the 2009 RFP, both the District and the

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1 Applicant had to get very, very creative and
2 make some very difficult decisions regarding
3 the development of Square 37. The only way to
4 generate enough funds for the public benefits
5 is to have the developer pay market rate for
6 every FAR foot approved on the District's two
7 Square 37 parcels. It is because of this need
8 that both the District and the Applicant are
9 requesting a waiver from the inclusionary
10 zoning's affordable housing requirement.

11 This is not something that we are
12 doing flippantly. The development of
13 affordable housing in the District is a top
14 priority of DMPED's and is illustrated by the
15 affordable housing requirements we impose on
16 virtually every single project with a
17 residential component. However, affordable
18 housing is typically paid for out of land sale
19 proceeds. This is why some of the District's
20 larger projects with significant affordable
21 housing requirements generate little land
22 value. Unfortunately, in this case the

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1 District does not have the luxury of having
2 additional value up front to subsidize units
3 in this building and we need the Applicant to
4 pay for all of the approved density, so we are
5 asking for the waiver.

6 I am aware that this is a
7 difficult decision, but the District is still
8 in very difficult budgetary times. And if we
9 are in a position to provide a community with
10 a new library and a new fire station, both of
11 which are sorely needed, without having to
12 come out of pocket for any of the costs, then
13 I think asking for the waiver is the right
14 thing to do.

15 The District does still have the
16 opportunity to develop the Square 50 parcel as
17 a Low-Income Housing Tax Credit or LIHTC
18 building as was originally envisioned, and
19 it's something we want to do. Under the
20 original proposal from Eastbanc-W.D.C., which
21 was accepted by the District, the funding for
22 the affordable housing was to come from a

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1 PILOT on the Square 37 site, but debt cap
2 constraints and declining revenues to the
3 general fund have prevented us from being able
4 to use that strategy. We have been working
5 tirelessly to look for alternative ways to
6 finance the affordable housing on Square 50,
7 but have been unsuccessful so far.

8 The District has until April 1st
9 of next year to fund the construction of the
10 LIHTC building. And if we cannot, the project
11 will move forward as a market rate building
12 with as many affordable units as possible
13 created through either inclusionary zoning or
14 remaining land value that we can use to
15 develop that affordable housing.

16 I would like to focus though on
17 the significant public benefits the District
18 will receive should the PUD be approved and
19 the project able to expeditiously move forward
20 to closing.

21 First and most importantly are the
22 two public amenities that I've already touched

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1 on, the amount of value being generated by the
2 development. The District will be able to
3 support a brand new library and fire station.
4 Since being awarded the project in March of
5 2010, the Applicant has been working
6 tirelessly with DCPL and DCFEMS on the designs
7 for each amenity with excellent results.

8 The library will be slightly over
9 20,000 gross square feet and will be located
10 on the first floor of the proposed building on
11 Square 37. The fire station will be
12 approximately 16,000 square feet and will be
13 located on Square 50. They will replace the
14 outdated facilities that currently exist in
15 each location and will be models for public
16 amenities within the larger mixed-use
17 structures. The total dollar value of the
18 structures approaches \$20 million and will be
19 completely covered by the District parcels
20 should the PUD be approved.

21 The redevelopment of Square 37
22 also meets what I'll call the spirit of the

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1 2006 Library Enhancement Assessment and
2 Development, or LEAD Act, which stipulates
3 that all revenue received from the sale of air
4 rights facilities or land used by or under
5 control of DCPL goes towards the construction
6 of a new library or the renovation of an
7 existing library.

8 The District's two parcels on
9 Square 37 are approximately 34,900 square feet
10 combined, of which the library parcel accounts
11 for 45 percent. The LEAD Act would stipulate
12 then that 45 percent of the total value
13 generated by the redevelopment go to DCPL,
14 however, current estimates show DCPL receiving
15 approximately 50 or 55 percent of the total
16 value through the development of their new
17 library.

18 I would also like to highlight for
19 the Commission the amount of community input
20 that went into the design of this mixed-use
21 building.

22 The Applicant has been to

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1 countless -- well, not countless anymore --
2 it's 64 or 65 community meetings throughout
3 the design phase of the building and has
4 modified the design to accommodate concerns of
5 the community that range from unit size to the
6 layout of the ground floor community-serving
7 retail space to the building setbacks from the
8 property line. The District also has been
9 actively engaging the community starting
10 during the RFP process and continuing today.
11 I have personally been to numerous ANC and
12 stakeholder's meetings starting in May of 2010
13 when I was first tasked with this project and
14 as recently as two weeks ago discussing
15 everything from building design to the
16 maintenance fund, which I'll speak about in a
17 minute, to the ownership structure of the
18 public facilities.

19 Finally, the redevelopment of
20 Square 37 will generate a significant amount
21 of tax revenue for the District. Current
22 estimates of the sales, property and income

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1 taxes are between \$5 million and \$7 million
2 annually starting at stabilization, which is
3 significantly greater than the amount the
4 District currently receives in tax revenue,
5 which is nothing. Taxes are also important
6 because a portion of the deed and recordation
7 taxes funds the ongoing maintenance of the new
8 public facilities.

9 In December of 2010, the District
10 created a fund with the specific purpose of
11 supplementing the regular maintenance of the
12 new library and the new fire station. Given
13 that each is going to be part of a larger
14 development with new residents living in them,
15 the District felt that there was an
16 affirmative obligation to maintain the public
17 facilities to the highest standard possible,
18 and this fund will ensure that happens.

19 In conclusion, I would like to
20 state my support for the proposed PUD. This
21 project has been vetted extensively with the
22 community and replaces two deteriorating

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1 public buildings with no public subsidy
2 needed. The maintenance fund that has been
3 created and will be funded by a portion of the
4 taxes generated by the project is
5 unprecedented and could very well serve as a
6 model for similar mixed-use developments
7 elsewhere.

8 I urge the Commission to approve
9 the PUD and I'm happy to answer any questions
10 you may have at this time or later. Thank
11 you.

12 CHAIRPERSON HOOD: Can we stop the
13 clock for a moment? Do you two gentlemen have
14 time? Are you going to stay for the whole
15 hearing? Are you going to leave now. Or how
16 do you want --

17 MR. TROY: I'm going to stay for
18 the whole hearing.

19 CHAIRPERSON HOOD: Oh, you are?

20 MR. TROY: Yes.

21 CHAIRPERSON HOOD: Okay. I think
22 we're going to have some questions for them.

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1 Okay. So we'll wait and ask -- we'll ask them
2 questions all --

3 MS. BATTIES: I didn't realize
4 they were going to take so long. I would have
5 asked them to go separate from our time. But
6 I think we may need some additional time
7 coming toward the end of our direct testimony.

8 MS. SCHELLIN: We can make their's
9 60 now that there's no parties in support. So
10 that's another 10 minutes. I'll go ahead and
11 add it.

12 CHAIRPERSON HOOD: I'm sure I'm
13 going to hear about that before the evening's
14 over.

15 Let's do this: This go ahead and
16 ask the questions of them now. Can we do
17 that? And then that way that will free them
18 up at some point whether you may have to leave
19 or something. Okay? And then we will give
20 you the 59 minutes. Not 60. We're going to
21 give you 59. Fifty-nine minute rule.

22 Okay. Let's open it up for -- I'm

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1 just joking. Sixty minutes.

2 Okay. Let's open it up. Any
3 questions? Commissioner Cohen?

4 COMMISSIONER COHEN: How many
5 units the city provided under the inclusionary
6 zoning law?

7 MR. TROY: I actually do not have
8 that answer off the top of my head. I'm
9 really only prepared here to talk about the
10 Square 37 PUD and not a larger IZ discussion.

11 COMMISSIONER COHEN: All right.
12 So I don't think it's a very large number. So
13 this gives me great concern that we have this
14 law and somehow the regs didn't come out on
15 time, but that's not your issue.

16 The other issue that I have is the
17 term "virtually." "Virtually every project
18 will have." And I don't like that word
19 "virtually," because it really doesn't provide
20 any concrete units.

21 MR. TROY: Is that in reference to
22 the --

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1 COMMISSIONER COHEN: Your comment
2 that you --

3 MR. TROY: -- self-imposed
4 affordable housing requirements?

5 COMMISSIONER COHEN: No, you had
6 made the comment "virtually every other
7 project will have."

8 COMMISSIONER COHEN: Has.

9 MR. TROY: And I say the word
10 "virtually," and I said that specifically
11 because I'm asking for a waiver for this
12 specific project.

13 COMMISSIONER COHEN: No, I
14 understand. I understand. All right. Let me
15 go on.

16 The city's land is 20.9 million,
17 roughly. It's at \$91 in FAR. When was that
18 appraisal made?

19 MR. TROY: The appraisal came in
20 -- it's part of the overall 10-801 disposition
21 process. We have to, prior to submitting a
22 resolution to Council, provide an appraisal,

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1 as well as a term sheet and a materially
2 complete disposition agreement. So that was
3 May of 2010, or June of 2010, about there.
4 End of spring, early summer 2010.

5 COMMISSIONER COHEN: And is the
6 city then getting paid that amount, or is that
7 being put into the project?

8 MR. TROY: So the library and the
9 fire station are part of the project. The
10 District is not touching any money as long as
11 the library and the fire station absorb it
12 all. If there is additional funds available,
13 there is a provision in the disposition
14 agreement to deal with that, which the
15 District would be paid essentially.

16 So if you're asking me what
17 happens if the library and the fire station
18 are developed for a total of \$15 million and
19 where does that other \$5.9 millions go, that
20 comes to the District.

21 COMMISSIONER COHEN: So at closing
22 the District will get the \$20 million or not?

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1 MR. TROY: At closing the District
2 is approved a budget for a fire station and a
3 library, and I expect that that budget will
4 probably be pretty darn close to the \$20
5 million, \$20.9 million.

6 COMMISSIONER COHEN: Yes, it says
7 \$18.8 million, roughly.

8 MR. TROY: Right. Right.

9 COMMISSIONER COHEN: And I think
10 that's what's kind of confusing me is then if
11 the District is putting in the land, in effect
12 the District is contributing to the cost of
13 the library and the fire house.

14 MR. TROY: I'm not sure I follow.

15 COMMISSIONER COHEN: It's called
16 total development costs?

17 MR. TROY: Right.

18 COMMISSIONER COHEN: Land?

19 MR. TROY: Right.

20 COMMISSIONER COHEN: Hard and soft
21 costs?

22 MR. TROY: Right.

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1 COMMISSIONER COHEN: Developer
2 fee?

3 MR. TROY: Right.

4 COMMISSIONER COHEN: Total
5 development costs. So land is \$20 million.

6 MR. TROY: Right.

7 COMMISSIONER COHEN: So there is a
8 contribution the city is making.

9 MR. TROY: Right. So, okay.

10 But --

11 MR. KENNER: Right. So, let me
12 sure I -- so, is your question whether or not
13 the District is receiving anything in excess
14 of the new fire station and the new library?

15 COMMISSIONER COHEN: No, I don't
16 think they're getting enough. That's my
17 point.

18 MR. KENNER: Out of the land is
19 what you're referring to? You think the
20 land --

21 COMMISSIONER COHEN: Well, they're
22 getting -- they are getting something out of

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1 the land. Keep in mind I think the library is
2 just about maybe 15, 16 percent of the total
3 square footage. It's rough. I mean, I really
4 did it in my head. So what I'm saying is is
5 that the city is making a contribution to the
6 total development and in exchange, yes, they
7 are getting amenities, but the amenity, in my
8 opinion, is adding value. I mean, a library
9 and a particular housing project, that's
10 adding value to that property.

11 And so, what I'm saying is where
12 is the city getting more than they're putting
13 in?

14 MR. KENNER: So, I will say this:
15 Ninety-one dollars in FAR a foot today for
16 condo development is at the top of the market.
17 It was in 2010 above the appraised value of
18 the land. And if -- I'm sensitive to your
19 position, and if you're asking for an -- what
20 aside from a brand new library and a brand new
21 fire station, which the community wants, the
22 District is getting, I don't have a good

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1 answer for you, unfortunately.

2 COMMISSIONER COHEN: No, I don't
3 think so. I think there is no answer other
4 than they are contributing to it. You can't
5 say it's a gift in my opinion.

6 Also, the condo market, which now
7 is softened -- we've talked about this project
8 as a potential rental project as well. In
9 some discussions I've seen "rental." I've
10 seen the term "condo." So in two years from
11 now; and Washington, D.C. happens to be a very
12 strong market, it may come back. And as I
13 say, I think the library adds a lot of value
14 to the complete, you know, building envelope
15 and the cost of the condos.

16 MR. KENNER: I'm not trying to
17 make --

18 COMMISSIONER COHEN: Of the
19 premise.

20 MR. KENNER: Right, I'm not trying
21 to make the argument that the developer
22 Eastbanc-W.D.C. is giving the District

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1 anything. The argument I'm trying to make
2 here is that the density and the IZ relief is
3 needed to maximize land value so that we can
4 fund a new library and a new fire station
5 without having to go and find capital dollars
6 or touch the District's coffers. That's all.

7 COMMISSIONER COHEN: Just one last
8 question. Square 50 has a right development?

9 MR. KENNER: Yes.

10 CHAIRPERSON HOOD: Okay. Any
11 other -- Commissioner May?

12 COMMISSIONER MAY: Yes, what's the
13 value of the inclusionary zoning units that
14 are being -- that we won't get as a result of
15 this?

16 MR. TROY: Impact on the amount
17 that the District would get paid I believe is
18 between \$4 million and \$5 million.

19 COMMISSIONER MAY: So \$4 million
20 to \$5 million, if the developer hadn't
21 developed it with IZ, they would have --

22 MR. TROY: I would be getting --

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1 COMMISSIONER MAY: -- the total
2 value of the project would have been \$4
3 million or \$5 million less --

4 MR. TROY: Yes.

5 COMMISSIONER MAY: -- as a result?
6 Okay. What is the ownership structure of the
7 library when you're done?

8 MR. TROY: DCPL owns it and DCFEMS
9 owns --

10 COMMISSIONER MAY: As a
11 condominium essentially?

12 MR. TROY: No, it's a very
13 creative legal description in the closing
14 documents. Basically what we're disposing of
15 is everything but the space that the library
16 is occupying, and that's how we're doing it.

17 COMMISSIONER MAY: Sort of an
18 inside-out condominium?

19 MR. TROY: Yes.

20 COMMISSIONER MAY: Okay.
21 Interesting. Okay. I think that's it for my
22 questions for you.

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1 CHAIRPERSON HOOD: Any other
2 questions? Commissioner Turnbull?

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

5 It sounds like we have a little
6 bit of work, legal work to do on our order on
7 trying to structure how that is and if that's
8 in -- forever, or it just sounds like that
9 that's -- the library's the library. That
10 space is in perpetuity?

11 MR. TROY: Oh, yes, forever. DCPL
12 owns it.

13 COMMISSIONER TURNBULL: Okay. So
14 we have to -- let me ask you something, Mr.
15 Troy. In your very positive remarks you had
16 said that this project had been well vetted
17 before the community.

18 MR. TROY: Right.

19 COMMISSIONER TURNBULL: And it
20 sounds like you were there, attended numerous
21 meetings. Could you, without hearing the
22 comments from the rest of the community,

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1 explain why there are some many people
2 opposed?

3 MR. TROY: May I ask you a
4 question? Are you asking me -- do you want me
5 to predict what the --

6 COMMISSIONER TURNBULL: No, I'm
7 just saying from after going to all these
8 meetings what's your --

9 MR. TROY: I think --

10 COMMISSIONER TURNBULL: -- kind of
11 feeling on what's wrong, what's happening
12 here?

13 MR. TROY: I think that you're --
14 what the Commission's going to find is that
15 some folks don't like certain aspects of the
16 design of the building. I think some folks
17 are going to have questions about the LEAD
18 Act.

19 COMMISSIONER TURNBULL: The
20 neighbors?

21 MR. TROY: The neighbors and --
22 yes, the neighbors. Some folks are going to

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1 have questions about the LEAD Act and some
2 folks are going to have questions about the
3 affordable housing.

4 COMMISSIONER TURNBULL: But from
5 your standpoint you have no issues? Deputy
6 Mayor's Office has no issues that the
7 neighbors' concerns have not been addressed?

8 MR. TROY: It's not that --

9 COMMISSIONER TURNBULL: I'm
10 putting you on the spot.

11 MR. TROY: You are.

12 COMMISSIONER TURNBULL: But I do
13 that.

14 MR. TROY: You are, and that's
15 fine. I'll be very frank with you: I think
16 that this building has been designed in such
17 a way that it will -- it minimizes as much
18 impact as possible on the surrounding
19 neighbors. I know that there's a pay
20 projection issue with a person who lived in
21 the Gibson. I know that there is -- there
22 could possibly be a height issue. I know that

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1 there might be an impact issue on an adjacent
2 town home owner. I can tell you that anybody
3 who called me and anybody who emailed me and
4 anybody who came to the ANC meetings, I met
5 with everybody. And I've seen the building
6 evolve over time to accommodate as much of the
7 community's concerns as possible, right down
8 to literally the mezzanine level of retail,
9 which is now gone.

10 So I admit that there are impacts
11 and I admit some people might be opposed to
12 those impacts, but I do believe that the
13 community involvement process for this project
14 was very good.

15 COMMISSIONER TURNBULL: Okay.
16 Thank you.

17 CHAIRPERSON HOOD: I'm sorry, your
18 last statement you said the community
19 involvement in the process was very good?

20 MR. TROY: Yes.

21 CHAIRPERSON HOOD: Okay. Now you
22 went to 64 meetings. I think you said roughly

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1 64. Did I get that right?

2 MR. TROY: I'm sorry, I didn't
3 hear you.

4 CHAIRPERSON HOOD: Did you say 64,
5 or is that something I put in there?

6 MR. TROY: Oh, no, no. The
7 Eastbanc folks went to 64 meetings.

8 CHAIRPERSON HOOD: Oh.

9 MR. TROY: I went to less. I'm
10 not going to claim going to 64 meetings, but
11 I -- the ANC recognizes my face now when they
12 see me outside on the street, so --

13 CHAIRPERSON HOOD: So the
14 developers has -- it included a total of maybe
15 about 64 meetings?

16 MR. TROY: The developer's been to
17 64. I'll ballpark mine around 20, 25.

18 CHAIRPERSON HOOD: Okay. And when
19 I looked at the Deputy Mayor's letter, what I
20 underlined was the part where it says that the
21 facilities at Square 37 and Square 50 were at
22 the end of their useful lives and needed to be

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1 fully renovated or replaced.

2 So, I guess from the Deputy
3 Mayor's standpoint or from the office's
4 standpoint that's the trade-off. You know,
5 this is why we're asking you to relieve this
6 IZ requirement.

7 MR. TROY: Right.

8 CHAIRPERSON HOOD: But this is
9 what -- it's a benefit to the city. This is
10 what the city is gaining. We're gaining a
11 fire house, which I know West End has worked
12 on for a long time, and the library. I know
13 those have been issues over in the West End
14 for awhile. So this is what you all see as
15 asking us to relax the IZ requirement, or
16 waive the IZ requirement in this instance

17 MR. TROY: Exactly correct.

18 CHAIRPERSON HOOD: Okay. Let me
19 just ask this; and I'm asking you to predict
20 something: Do you think that the Commission
21 will see more of that as we move forward, not
22 just in the West End. Maybe over in some of

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1 the other areas of the city?

2 MR. TROY: It's hard for me to
3 say. If the goal of an RFP is to generate
4 enough value, dollars value to replace
5 facilities that frankly need to be replaced
6 and are very expensive to build, you shouldn't
7 be surprised to see it again. But affordable
8 housing is at the top of the list as far as
9 priorities go for the Mayor and for DMPED. So
10 I wouldn't -- unless it's a unique project
11 like this, I wouldn't expect it.

12 MR. KENNER: Chairman Hood, let me
13 add, no, I do -- our goal is to not have many
14 more instances like this. We understand that
15 affordable housing is an important component
16 of development for this administration. Our
17 goal is to not have as many cases going
18 forward we're asking for a waiver for
19 inclusionary zoning units.

20 CHAIRPERSON HOOD: But I think
21 this is a unique situation, and that's what
22 I'm trying to grapple with, not that I'm

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1 looking for any. But I think if they meet
2 this threshold, at least for this Commission,
3 I would be more than happy to see it if it
4 moves forward. And I haven't heard a whole
5 lot of other testimony, but I think -- to me
6 that is a benefit. When I look at what was
7 written about the fire house -- I haven't been
8 there, so I don't know. I've probably ridden
9 -- rode past it or something, but when it says
10 "its useful lives and needed to be fully
11 renovated," "at their end of their useful
12 live," I mean, I've never just imagined a
13 building. You know, that just means -- that
14 means there's just totally -- I'm surprised
15 they're not demolished. I'm not sure.

16 But anyway, I'm just curious,
17 because I know this Commission and the Council
18 are really looking at IZ. And that was a big
19 issue under then-chairman and now Mayor Gray.
20 That was a major issue. That's why I'm just
21 wondering. It would have to meet this
22 threshold, at least for me, to even realize

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1 and say, okay, I will be willing to do it. I
2 think is one of those rare cases. That's just
3 my opinion.

4 Okay. Any other comments,
5 questions?

6 (No audible response.)

7 CHAIRPERSON HOOD: Okay. I want
8 to thank you both. You're more than welcome
9 to stay. The same thing I tell the council
10 member and the former mayors that have been
11 here. You're welcome to stay. We're not
12 kicking you out, but I know sometimes your
13 schedules can be tight, so we appreciate you
14 coming down.

15 Okay. Ms. Batties, you want to --
16 oh, cross. No, let me not -- let me do this:
17 We need to do cross-examination first.

18 Does the Applicant have any cross-
19 examination?

20 MS. BATTIES: No.

21 CHAIRPERSON HOOD: Does ANC 2A
22 have any cross-examination? ANC 2A, are they

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1 here? Ms. Coder? Commissioner Coder? I
2 don't see her.

3 (No audible response.)

4 CHAIRPERSON HOOD: Okay. Just on
5 these two individuals from the Deputy Mayor's
6 Office. D.C. Library Renaissance, you have
7 any cross-examination? Robin Diener, you have
8 any cross? You can come forward. You need to
9 come up and have a seat. And one of you are
10 going to have to do the cross, so is he going
11 to do cross? He's going to do it from here
12 out? Okay. Mike? Oh, I thought she said
13 Mike. Chris?

14 MR. OTTEN: Hi, my name is Chris
15 Otten. I'm a member of the West End Library
16 Advisory Group.

17 Just had several questions on --
18 if I can move this out of the way -- is that
19 okay -- for the Office of DPEMD.

20 MR. TROY: DMPED.

21 MR. OTTEN: DMPED. Let me just
22 get my stuff together here. We had questions

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1 -- obviously our group is concerned about what
2 happens to the future of the library. And as
3 it was pointed out, there are concerns around
4 the evaluation of the library land in addition
5 to the affordable housing, issues around the
6 West End maintenance fund. And so, would I be
7 able to ask you questions about the appraisal
8 of the land? Would you have any role in that?

9 MR. TROY: The only role I had in
10 the appraisal was getting a contract to get an
11 appraisal done.

12 MR. OTTEN: Okay.

13 MR. TROY: That's it.

14 MR. OTTEN: Okay. So to that end,
15 let me ask you this: We notice that the
16 appraisal was for zoning, the underlying
17 zoning of the library land and the police
18 station land, which is R-5-B.

19 MR. TROY: Right.

20 MR. OTTEN: But it does not
21 include appraisal of the land at what the
22 potential could be, which is the CR PUD. By

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1 the table I see in the Applicant's prehearing
2 statement. We're looking at essentially a
3 doubling of the value of the land in the sense
4 R-5-B allows you to four to five stories up,
5 whereas --

6 CHAIRPERSON HOOD: Okay. I need
7 to say something. Cross-examination is a
8 question.

9 MR. OTTEN: Okay. So --

10 CHAIRPERSON HOOD: Let me also
11 finish.

12 MR. OTTEN: All right.

13 CHAIRPERSON HOOD: And it also has
14 to be a question to what they testified to.

15 MR. OTTEN: Okay.

16 CHAIRPERSON HOOD: Okay? Those
17 are the rules. That's the parameters.

18 MR. OTTEN: Very good.

19 CHAIRPERSON HOOD: A question.
20 Let's ask a specific question.

21 MR. OTTEN: Yes.

22 CHAIRPERSON HOOD: They're going

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1 to respond, and something that they testified
2 to.

3 MR. OTTEN: Got it.

4 CHAIRPERSON HOOD: Okay.

5 MR. OTTEN: So in the evaluation
6 of the land value, you set the contract up for
7 the appraisal. To your knowledge what was the
8 assignment of the appraisals -- the appraisers
9 of that land? Were they assigned -- for
10 example, were they assigned to just appraise
11 the land at the R-5-B zoning, underlying
12 zoning, and that's it?

13 MR. TROY: I can tell you
14 generally the way MIA certified appraisers
15 work. It's been awhile since I've looked at
16 that particular appraisal. Generally the
17 appraiser is the one who determines how they
18 want to appraise a piece of property. I don't
19 -- I write a scope of work and they appraise
20 a piece of land. We can argue about whether
21 or not the zoning in the appraisal was
22 appropriate, but ultimately I just don't

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1 remember if I made that decision for the
2 appraiser or not. So I'm sorry, I just -- I
3 would have to go look at the scope of work
4 that I drafted like a year-and-a-half ago.

5 MR. OTTEN: Okay. We have a copy
6 of the appraisal that we could share with you
7 and the Board perhaps, if you don't already
8 have it. Robin, if you could?

9 In the meanwhile, page 11 of this
10 document speaks to -- from the appraisers that
11 their assignment is to estimate the market
12 value as is under R-5-B zoning. I guess I
13 just wanted to ask why weren't the appraisers
14 assigned to look at R-5-B, the underlying
15 zoning? And the reason for the appraisal was
16 this PUD. Why not look at the value of the
17 land -- also to look at the value of the land
18 under the CR PUD?

19 CHAIRPERSON HOOD: Let me just
20 say: I'm surprised that -- let me just say:
21 I'm very surprised that counsel's not
22 objecting, because technically I cannot allow

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1 you to go ahead and ask those questions in the
2 way you're asking them. We need to deal with
3 zoning issues and zoning purposes. I don't
4 think -- at least I didn't hear it. Now, I
5 will stand to be corrected. I didn't hear
6 anyone talk about -- did you talk about
7 appraisal of the land? I'm not sure. In your
8 question was that mentioned?

9 MR. OTTEN: Yes. It was. Cohen
10 had -- Commissioner Cohen.

11 CHAIRPERSON HOOD: Oh.

12 MR. OTTEN: So the --

13 MR. GLASGOW: Mr. Chairman, can we
14 -- we wanted to make sure that we had the
15 rules here. Since they were not technically
16 part of our case -- I know counsel, co-counsel
17 and I were sort of discussing internally
18 whether or not we should be objecting because
19 this was DMPED's testimony and they don't have
20 counsel here. But we would certainly agree --

21 CHAIRPERSON HOOD: Originally it
22 started off as being part of your case and

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1 then we separated it out.

2 MR. GLASGOW: Right.

3 CHAIRPERSON HOOD: So --

4 MR. GLASGOW: We certainly would
5 object as to the scope of the testimony.

6 CHAIRPERSON HOOD: I was wondering
7 why you all weren't. But I think that one of
8 the colleagues brought that up, so let's ask
9 that question.

10 I think if you could just ask the
11 question --

12 MR. OTTEN: Okay.

13 CHAIRPERSON HOOD: -- without
14 giving us all the background.

15 MR. OTTEN: Got it, Commissioner.

16 CHAIRPERSON HOOD: Okay. That
17 would help out.

18 MR. OTTEN: Okay. So let me
19 understand again. We'll start from scratch.
20 To your understanding and from what I heard
21 you testify is that this developer would like
22 the three parcels of land on Square 37 to be

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1 up-zoned from an R-5-B to a CR PUD, correct?

2 MR. TROY: Yes.

3 MR. OTTEN: Yet from what we
4 understand the appraisal valuation of the land
5 was strictly R-5-B, correct?

6 MR. TROY: So this appraisal's
7 dated May 31st, 2010 and on June 1st, 2010 is
8 when I read it. And unless the Commission
9 wants to give me enough time to read it again,
10 I don't know if I can answer that question
11 appropriately.

12 MR. OTTEN: Well, let me ask you
13 this: Can you turn to page 11 and --

14 MR. TROY: Yes.

15 MR. OTTEN: The last paragraph on
16 page 11, would you like to read that into the
17 record?

18 MR. TROY: Is this where you're
19 referring to the as-is condition?

20 MR. OTTEN: Yes.

21 MR. TROY: "Published reports
22 indicate" -- I will say that the estimate of

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1 the fair market value of the property is in
2 as-is condition according to the appraisal,
3 yes.

4 MR. OTTEN: Yes. And but the
5 appraisal itself here, the last sentence
6 essentially on this page --

7 MR. TROY: I just don't understand
8 the question.

9 MR. OTTEN: I'm trying to
10 establish why the appraisers were not assigned
11 to both appraise the value of our public
12 property both at the current underlying
13 zoning, R-5-B, and to which this PUD request
14 is going towards, which is a CR PUD, which
15 doubles the height and density allowable under
16 Zoning Regulations.

17 COMMISSIONER MAY: Mr. Chairman?

18 CHAIRPERSON HOOD: Yes?

19 COMMISSIONER MAY: Can I ask a
20 question of Mr. Troy to try to get to the
21 answer here?

22 CHAIRPERSON HOOD: Sure. If

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1 anything would help, then yes.

2 COMMISSIONER MAY: Okay. I mean,
3 the bottom line is that he's trying to find
4 out what the value is that the District
5 believes that they received and whether they
6 had actually appraised this correctly.

7 MR. TROY: Right.

8 COMMISSIONER MAY: Do you feel
9 that you appraised this property correctly in
10 order to realize the maximum value for D.C.
11 taxpayers?

12 MR. TROY: Yes.

13 COMMISSIONER MAY: Can you explain
14 how?

15 MR. TROY: Every --

16 COMMISSIONER MAY: Outside of -- I
17 mean, you can use the appraisal report or not.
18 Whatever way.

19 MR. TROY: The appraisal is
20 required not through a PUD hearing. It's
21 required because of the Council requires us to
22 get one.

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1 COMMISSIONER MAY: All right.

2 MR. TROY: Before Act 10-801
3 sometimes we didn't get them. Act 10-801
4 requires the District to provide an appraisal
5 to Council which is in the disposition package
6 which they read along with the disposition
7 agreement to determine whether or not the fair
8 market value's been achieved for the District,
9 the public benefits are good enough to approve
10 the disposition to in this case Eastbanc-
11 W.D.C. And not only did DMPED believe that
12 fair market value was achieved and the public
13 benefits were there, but the Council I believe
14 unanimously voted for the disposition.

15 COMMISSIONER MAY: Yes.

16 MR. TROY: I think that this was a
17 package of a number of appraisals done, and I
18 think they were all done as is.

19 COMMISSIONER MAY: Yes. So can
20 you explain how an as is with an underlying
21 zoning of R-5-B can actually reflect the
22 potential value of this site knowing that it

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1 may eventually become zoned CR and therefore
2 have more than twice the density of an R-5-B?

3 MR. TROY: It's really a question
4 of -- so I'm not an MIA certified appraiser.

5 COMMISSIONER MAY: Yes.

6 MR. TROY: I'll say that. We
7 believe -- can you give me one second?

8 COMMISSIONER MAY: Yes.

9 MR. TROY: Thank you.

10 MS. BATTIES: Mr. Chair, if I may,
11 while DMPED is talking, there -- when we went
12 through the requests for party status you,
13 Commissioner May and Commissioner Cohen had
14 suggested that if this was the friends group
15 for the West End Library they should be
16 granted party status. The chairperson for the
17 West End Library Friends Group is actually
18 here.

19 The organization that is
20 represented to my right is not the friends
21 group for the West End Branch Library. And I
22 tried to interject while you guys were going

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1 through your deliberations, but I didn't get
2 a chance. And so, we would like to have this
3 clarified on the record. We have a letter
4 from the West End Library Friends here and we
5 just want to make that known for the record.
6 So I don't know how we procedurally correct
7 that at this point, but we didn't get an
8 opportunity to.

9 CHAIRPERSON HOOD: Is this the one
10 where I voted in opposition?

11 MS. BATTIES: Yes.

12 CHAIRPERSON HOOD: So I can't
13 bring it back to the table. It would have to
14 be somebody who voted in favor of it. And
15 then the other thing is -- let's get through
16 this question and I will deal with that right
17 after that.

18 MS. BATTIES: Thank you.

19 CHAIRPERSON HOOD: And I will stop
20 the clock.

21 MR. TROY: Okay. Here I am back.

22 Thank you, by the way.

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1 So the question, just to clarify,
2 is how does an as-is appraisal reflect
3 appropriate value for what is now a PUD
4 project, yes?

5 MR. OTTEN: Yes.

6 MR. TROY: Okay. All I can
7 actually tell you is that typically the
8 District gets appraisals as is. When we get
9 into issues of zoning risk and PUD, our
10 appraisals just generally don't reflect that.

11 MR. KENNER: And part of the
12 reason I think why they don't reflect that is
13 because we can't effectively quantify the
14 development risk that some developers take on.
15 We have to deal with the fact of what the
16 current zoning, the as-is condition of our
17 parcels -- as an example, if there was a
18 proposal to change zoning on a parcel, we
19 couldn't have an appraisal that would
20 necessarily try to quantify that and sell that
21 as the real value to the Council, not knowing
22 whether or not that would actually be approved

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1 by a commission like this.

2 MR. TROY: And to Brian's point,
3 the appraisals actually -- the point of the
4 appraisal is to say if the District of
5 Columbia took that property now and sold it
6 next day, what would we get for it? And
7 that's what we would get for it, because a
8 developer would only pay us what the property
9 is currently zoned for. The reason why we
10 were getting any amount above what the
11 property is currently zoned for is because we
12 enter into these private/private partnerships,
13 we share a little bit of the -- in this case
14 the zoning risk with the developer and we're
15 able to bump up or density and then bump up
16 our value.

17 COMMISSIONER MAY: So what would
18 you have gotten if you had just sold it?

19 MR. TROY: The appraisal says I
20 would have gotten -- the land, \$12.5 million.

21 COMMISSIONER MAY: \$12.5 million?

22 MR. TROY: Yes.

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1 COMMISSIONER MAY: And the
2 calculation that was in your prehearing
3 statement that reflected the \$91 per square
4 foot FAR --

5 MR. TROY: Ninety-one dollars per
6 FAR foot is --

7 COMMISSIONER MAY: Based on the
8 FAR of what zone?

9 MR. TROY: It's the CR Zone. CR
10 Zone.

11 COMMISSIONER MAY: Yes. Right.
12 Yes.

13 MR. TROY: And that's
14 approximately 20 --

15 COMMISSIONER MAY: So instead of
16 \$12 million, you're realizing close to 21?

17 MR. TROY: Correct.

18 MR. OTTEN: Can I continue just to
19 follow up?

20 COMMISSIONER MAY: Just to clarify
21 -- so it's \$91 for every FAR foot you approve?

22 MR. TROY: So if that -- that's

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1 what it is.

2 COMMISSIONER MAY: Thanks. That
3 was a helpful exchange.

4 CHAIRPERSON HOOD: Okay. Let me
5 stop right here. Ms. Batties, are you saying
6 -- I think -- and I would have to ask my
7 colleagues when we voted to give this group
8 party status you thought it was friends of the
9 library. Is this the group, Friends of the
10 West End Library?

11 MS. BATTIES: No, this is not
12 Friends of the West End Library, which is what
13 I was trying to interject during your
14 deliberations. They are the D.C. Library
15 Renaissance Project.

16 MR. OTTEN: We are the D.C.
17 Library Renaissance Project/West End Library
18 Advisory Group, which --

19 MS. BATTIES: They're not the --

20 MR. OTTEN: -- consists of members
21 that are friends and members who live in the
22 area. And that was supplemented in the --

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1 CHAIRPERSON HOOD: So let me do
2 this:

3 MR. OTTEN: -- and noted by --

4 CHAIRPERSON HOOD: Let me ask:
5 Commissioners, does anyone -- because I think
6 in the comments at least; and I stand to be
7 corrected, that what I heard from Commissioner
8 May was about Friends of the West End. Does
9 anyone want to revisit that, or keep it as it
10 is?

11 MR. GLASGOW: Mr. Chairman, can we
12 have the Chairman have the letter?

13 COMMISSIONER MAY: I don't think
14 we really understood that they were the West
15 End Friends Group, that they were a friends
16 group of the library. I think that's -- I
17 mean, maybe that wasn't very clear in the
18 discussion of it, but the application wasn't
19 very clear. But I was inclined to give them
20 the benefit of the doubt. I mean, if they are
21 advocates specifically related to this library
22 as opposed to all libraries; that was the key

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1 question for me, and whether they are actively
2 involved in the library as it is.

3 MR. OTTEN: Yes.

4 COMMISSIONER MAY: Can you explain
5 to me how you are actively involved in this
6 library as it is?

7 MR. OTTEN: So, and Robin could
8 fully -- more fully -- if I miss anything.
9 The D.C. Library Renaissance Project is
10 located -- our advisement is for all city
11 libraries. However, we created the West End
12 Advisory Group, which consists of a subset of
13 the friends and other uses of the libraries.
14 The letters that came with your application
15 are friends of the library members. They're
16 also members of the West End Library Advisory
17 Group.

18 You can see the Office of Deputy
19 Mayor for Planning and Economic Development
20 Web sites lists the D.C. Renaissance Project
21 as one of the key stakeholders in this
22 process, in this project and --

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1 MS. HAIGHT: Excuse me,
2 Commissioners. That's absolutely not true.

3 CHAIRPERSON HOOD: Hold on. Hold
4 on. Let's do this. One thing we are going to
5 do, while it might not look like it, we are
6 going to have some order. I go to enough ANC
7 meetings, but downtown here we're going to
8 have some order. Sometimes we get confused
9 and we get things, but we will get to the
10 bottom of it.

11 And, Ms. Batties, let me
12 apologize, because typically I am supposed to
13 ask about opposition. I was so worried about
14 trying to get through it. Let me apologize.
15 That was my fault. I should have come to you
16 or said something before we denied or accepted
17 any party, and I did not do that, and I will
18 publicly acknowledge that.

19 But let's go to finish off -- and
20 I'm going to ask Mr. -- I forgot your name.

21 MR. OTTEN: Otten.

22 CHAIRPERSON HOOD: Mr. Otten, I'm

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1 going to ask you to just hold off for a
2 moment. I think -- I'm not going to say -- I
3 don't want to use the word "deception" because
4 I think that at least the comments I heard
5 from my colleague, unless I stand to be
6 corrected, was that the Friends of the West
7 End was, I think, one of the nucleuses of --

8 MR. OTTEN: Right.

9 CHAIRPERSON HOOD: -- the status
10 of giving --

11 MR. OTTEN: One of the factors,
12 yes.

13 CHAIRPERSON HOOD: -- of granting
14 -- one of the factors of granting party
15 status, which I basically did not agree with.
16 And again, by me being in opposition of it, I
17 would not be the one to bring it back to the
18 table.

19 COMMISSIONER MAY: Mr. Chairman, I
20 have no trouble with revisiting this request
21 for party status, particularly given the fact
22 that Ms. Batties was not given the opportunity

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1 to object.

2 CHAIRPERSON HOOD: Okay. Can I
3 get a motion from somebody on the affirmative
4 side?

5 COMMISSIONER MAY: Well, what does
6 that mean? I mean --

7 CHAIRPERSON HOOD: That means --

8 COMMISSIONER MAY: I'm not saying
9 I'm for denying.

10 CHAIRPERSON HOOD: You're talking
11 about revisiting.

12 COMMISSIONER MAY: I'm just saying
13 I don't have any problem with discussing it.

14 CHAIRPERSON HOOD: Right, but we
15 need --

16 COMMISSIONER MAY: Whether or not
17 the --

18 CHAIRPERSON HOOD: to make a
19 motion to bring it back up to revisit.

20 COMMISSIONER MAY: Okay.

21 CHAIRPERSON HOOD: And we can stop
22 the clock and whatever. Yes. Okay.

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1 COMMISSIONER MAY: Okay. I would
2 move that we reconsider the party status for
3 the D.C. Library Renaissance Project/West End
4 Library Advisory Group.

5 COMMISSIONER TURNBULL: Second.

6 CHAIRPERSON HOOD: Okay. It's
7 been moved and properly seconded. Any further
8 discussion?

9 (No audible response.)

10 CHAIRPERSON HOOD: All those in
11 favor? Aye.

12 COMMISSIONER COHEN: Aye.

13 COMMISSIONER MAY: Aye.

14 COMMISSIONER TURNBULL: Aye.

15 CHAIRPERSON HOOD: Any opposition?

16 (No audible response.)

17 CHAIRPERSON HOOD: So ordered.

18 Staff, would you record the vote?

19 MS. SCHELLIN: Staff records the
20 vote 4-0-1 to reconsider party status given to
21 D.C. Library Renaissance Project/West End
22 Library Advisory Group. Commissioner May

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1 moving; Commissioner Turnbull seconding;
2 Commissioners Hood and Cohen in support;
3 Commissioner Schlater, not present, not
4 voting.

5 CHAIRPERSON HOOD: Okay.
6 Commissioner May, you want to start us off?

7 COMMISSIONER MAY: No, I'm just
8 curious to see what Ms. Batties -- whether Ms.
9 Batties actually objects.

10 CHAIRPERSON HOOD: Ms. Batties,
11 let me just say the motion wasn't moving
12 favorable to grant the D.C. Renaissance and
13 the Advisory Group party status in this case.
14 We're revisiting that issue and I want to give
15 you a chance -- any comments?

16 MS. BATTIES: Yes. Yes, the
17 Applicant does object to their request for
18 party status. We believe the D.C. Library
19 Renaissance Project is not uniquely or
20 distinctly affected by the PUD application.
21 And it's my understanding that they've only
22 recently formed this West End Library Advisory

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1 Group.

2 Ms. Susan Haight, who is the
3 chairperson for the friends group is here.
4 She has a letter in support of the application
5 that we'd like to submit into the record.

6 CHAIRPERSON HOOD: Okay. Let me
7 ask: Did this friends of the library submit
8 anything? Was that the group that we denied?

9 PARTICIPANT: No.

10 CHAIRPERSON HOOD: Okay. Okay.

11 MS. BATTIES: They didn't --

12 CHAIRPERSON HOOD: So they never
13 submitted for party status? Okay. And this
14 I think goes to Commissioner -- I believe goes
15 to Commissioner May's -- when you say "the
16 friends." I'm going by what you said.

17 COMMISSIONER MAY: In part, yes,
18 but not completely. And I did not believe
19 that they were representing themselves as the
20 West End Friends Group, but that was part of
21 what contributed. But, I mean, to me it
22 doesn't really matter as much. The question

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1 is whether this group as they are right now is
2 worthy of party status, and I would still like
3 to hear from Ms. Batties why she thinks they
4 are not.

5 MS. BATTIES: Right. My
6 understanding is that the D.C. Library
7 Renaissance Project within only the last two
8 weeks formed this West End Advisory --

9 MR. OTTEN: That's not true.

10 MS. BATTIES: -- West End Advisory
11 Group.

12 COMMISSIONER MAY: Okay. We're
13 speaking to Ms. Batties.

14 MR. OTTEN: Okay.

15 COMMISSIONER MAY: This is not an
16 open debate.

17 MS. BATTIES: Right. And the
18 Friends Group has been established since 1999
19 and actively involved in this --

20 COMMISSIONER MAY: Please do not
21 compare the two. Please address your comments
22 to this group that has requested party status,

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1 and only that.

2 MS. BATTIES: This group, the D.C.
3 Library Renaissance Project, in our people is
4 not uniquely impacted by this PUD. Their
5 status and their impact is no different than
6 any other person that would use the West End
7 Branch Library. And the patrons of the --
8 they are not uniquely affected.

9 COMMISSIONER MAY: I guess I'd
10 like --

11 MS. BATTIES: And it's my
12 understanding actually that they form these
13 groups for libraries all around the city, so
14 it's not specific to this West End Branch
15 Library.

16 COMMISSIONER MAY: Okay. And I
17 guess I would be -- Mr. Chairman, would it be
18 appropriate to ask Mr. Otten or Mr. Diener
19 some questions?

20 CHAIRPERSON HOOD: Go right ahead.

21 COMMISSIONER MAY: Okay. So I
22 would like you to explain why you believe you

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1 are uniquely affected by this project.

2 MR. OTTEN: Okay. The West End
3 Library Advisory Group, as a component of the
4 D.C. Library Renaissance Project, was formed
5 in 2006 when the initial disposition of the
6 library land was foisted on the community. We
7 worked vigorously to rescind that legislation
8 in 2007, I believe it was. Members of this
9 unincorporated non-profit association, the
10 West End Library Group, had the governing
11 principal to protect the public interest in
12 the West End Public Library.

13 Our members receive regular
14 updates and alert notices since 2006, since
15 that initial disposition about, you know,
16 what's going to happen to the future of our
17 West End Library. We've assisted with rallies
18 and legislative work. We've sent news about
19 what's happening with the current RFP and this
20 PUD project. In fact, the Office of the
21 Deputy Mayor for Planning and Economic
22 Development, which was just submitted to you,

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1 lists us as one of the key stakeholders in
2 this development. And, you know --

3 COMMISSIONER MAY: Can you explain
4 the difference between the Library Renaissance
5 Project and the West End Advisory Group?

6 MR. OTTEN: Well, the Library
7 Renaissance Project is a non-profit
8 corporation, whereas the West End Advisory
9 Group is a non-profit unincorporated
10 association of residents living in the West
11 End, some of them who are individual library
12 friends, like friends of the library. But
13 they have joined our advisory group because
14 they had concerns, they've raised issues about
15 this project since 2006, about this library
16 since 2006. It affects them specifically and
17 uniquely because they use this library
18 regularly and they're involved in it through
19 the friends group and they're involved in it
20 through our advisory group.

21 COMMISSIONER MAY: And what has
22 the Library Renaissance Project's involvement

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1 been in the future or the planning or whatever
2 for this library?

3 MR. OTTEN: Well, part of the what
4 we submitted to you, you'll see, is the West
5 End community visiting sessions that we had in
6 2008 about the future of our library. And
7 that was compiled by Robin Diener who's
8 sitting next to me with the Library
9 Renaissance Project; Elizabeth Elliott, who's
10 the executive board member of the Foggy Bottom
11 Association, also a member of the West End
12 Library Advisory Group; and Richard Lehman,
13 who's a planning consultant who's sponsored by
14 the Foggy Bottom Association/DCCA, Dupont
15 Circle Citizens Association. This was
16 visioning sessions to help with the future of
17 the project, you know, getting people's
18 comments, alerting people about the RFP and
19 staying on top of this project from the
20 announcement that there would be an RFP for
21 selling this library.

22 COMMISSIONER MAY: Yes. Okay.

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1 MR. OTTEN: We have the visioning
2 session report, if you'd like to have it.

3 COMMISSIONER TURNBULL: Mr. Chair,
4 I wonder if I could continue the questioning?

5 You have been to the meetings with
6 the developer and the Deputy Mayor's Office?

7 MS. DIENER: Yes.

8 COMMISSIONER TURNBULL: You've
9 been represented? You've been noted as being
10 present at those meetings?

11 MS. DIENER: Yes, we would have
12 signed all the sign-in sheets. ANC meetings,
13 individual meetings with people. But, yes,
14 our name -- my name, Robin Diener, and the
15 Library Renaissance Project email and phone
16 number and address would have been on those
17 lists, yes.

18 COMMISSIONER TURNBULL: Now many
19 members do you have?

20 MS. DIENER: Of the West End
21 Advisory Group?

22 COMMISSIONER TURNBULL: Yes.

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1 MS. DIENER: It's a group of about
2 11. Not a lot. But people who -- and people
3 have -- the initial unhappiness with the
4 emergency legislation in 2006 that was opposed
5 by many people including the friends group and
6 others gathered a lot of people, and some have
7 been persuaded by what's gone forward since
8 then, the RFP and the new plans for the
9 library. But quite a few people remain
10 unhappy with it and have asked us to raise
11 these several issues. I don't --

12 COMMISSIONER MAY: Well, Ms. --

13 MS. DIENER: I'm sorry.

14 COMMISSIONER MAY: That's all
15 right.

16 MS. DIENER: I don't know if you
17 feel that this is worthwhile. I know you have
18 restrictions on who can be a part of it based
19 on their location and being immediately
20 affected by it. And our members are, but --
21 this may be irrelevant and correct me if it
22 is, but there are city-wide concerns. The

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1 LEAD Act has never been invoked before because
2 no library land has ever been sold. No one in
3 the West End besides our members seems
4 concerned about that, so we feel that that's
5 an issue we have to bring up. The potential
6 disparity of having a maintenance fund just
7 for the West End Library affects our view of
8 the library system as a whole, so we feel that
9 those issues need to be brought up. And our
10 members have written letters to support our
11 application for standing.

12 COMMISSIONER COHEN: I guess I
13 just want to say that I read the application
14 for party status before we got into the cross-
15 examination and I think they answered the
16 questions that we want to focus on. And I
17 don't see why we would renege on that now, but
18 I'm just one vote.

19 COMMISSIONER MAY: Mr. Chairman, I
20 am still inclined to support this group as a
21 party.

22 CHAIRPERSON HOOD: Well, nothing's

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1 changed. I'm still in opposition. I think
2 she just made the case why she shouldn't be.
3 I really do. You are really presenting your
4 case why you shouldn't be party status. Well,
5 actually both of you all, but you just really
6 -- you just presented it, because basically
7 what you're basically -- what you just said
8 was I live way across town and I'm aggrieved,
9 too.

10 MS. DIENER: Well, actually I'm a
11 member of the friends group.

12 CHAIRPERSON HOOD: Okay. Okay.
13 But that's --

14 MS. DIENER: I don't live far
15 across town personally.

16 CHAIRPERSON HOOD: Okay. But be
17 as it may I can count the votes. That's one
18 thing I learned early. I know there's four of
19 us up here and it seems like I'm by myself,
20 but that's all right. It's not the first
21 time.

22 So let's go ahead and let's go

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1 back and reaffirm.

2 COMMISSIONER MAY: Okay. I would
3 move that we grant party status to the D.C.
4 Library Renaissance Project/West End Library
5 Advisory Group.

6 COMMISSIONER COHEN: And I would
7 second that, Chairman.

8 CHAIRPERSON HOOD: Okay. It's
9 been moved and properly seconded. Any further
10 discussion? This is just reaffirming some
11 clarification for the record of our giving
12 party status to the Friends Renaissance
13 Project/West End Library Advisory Group.

14 It's been moved and properly
15 seconded. Any further discussion?

16 (No audible response.)

17 CHAIRPERSON HOOD: Are you ready
18 for the question? All those in favor?

19 COMMISSIONER COHEN: Aye.

20 COMMISSIONER MAY: Aye.

21 COMMISSIONER TURNBULL: Aye.

22 CHAIRPERSON HOOD: Any opposition?

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1 Opposed.

2 Ms. Schellin, would you record the
3 vote? And I'm opposed specifically for the
4 testimony I just heard obviously and also in
5 the submission as I stated earlier.

6 MS. SCHELLIN: Yes, staff would
7 record the vote 3-1-1 to reconfirm the party
8 status given in opposition to the D.C. Library
9 Renaissance Project/West End Library Advisory
10 Group. Commissioner May moving; Commissioner
11 Cohen seconding; Commissioner Turnbull in
12 support; Commissioner Hood opposed;
13 Commissioner Schlater, not present, not
14 voting.

15 CHAIRPERSON HOOD: Okay. I'm
16 sorry, what's your name again? Forgive me.

17 MR. OTTEN: Chris. Chris Otten.

18 CHAIRPERSON HOOD: Mr. Otten?

19 MR. OTTEN: Yes.

20 CHAIRPERSON HOOD: Let's work with
21 those questions. Okay? Because I'm going to
22 be on you know, because those questions become

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1 dissertations and then we get to the question.
2 Cross-examination is a question, get an
3 answer. If they can't answer, say I don't
4 have an answer. And then we go back and
5 forth. That's how cross-examination is.

6 MR. OTTEN: Okay. Let's go back
7 to the questions. So the upzoning on this
8 project essentially doubles the density and
9 height allowable above the library land and
10 the police station land, correct, through the
11 PUD?

12 MR. TROY: Yes.

13 MR. OTTEN: Okay. Would you say
14 this PUD is therefore stimulating the value of
15 the land?

16 MR. TROY: What does "stimulating"
17 mean?

18 MR. OTTEN: Increasing it.

19 MR. TROY: Yes.

20 MR. OTTEN: Okay. On page 2 of
21 the appraisal, the second -- it doesn't have
22 a page number, but the second page in what I

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1 gave you. Sure. Yes.

2 MR. GLASGOW: Mr. Chairman, he
3 didn't have the appraisal out here. He's been
4 given a document cold and asked to look at it
5 and respond when that isn't what he testified
6 to. And we have had testimony by the witness
7 and the cross-examination and the comments by
8 Mr. May saying that the city's going to be
9 paid \$91 per FAR foot whatever the FAR that is
10 achieved. And that's the crux of all of this
11 line of questioning over the past 20 minutes.
12 So that if the Commission approves the PUD as
13 approved, it's going to be one value and it's
14 going to be on \$91 an FAR foot. And so that's
15 all taken into account in the application. I
16 think that's all been established by a lot of
17 questions and answers that have already
18 occurred.

19 CHAIRPERSON HOOD: So could you
20 let me know what you're -- what are you trying
21 to get out? What are you trying to get from
22 the Deputy Mayor's Office?

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1 MR. OTTEN: Thank you, Chair Hood.
2 Essentially, you know, what we're trying to
3 understand is that we're getting equal value
4 for what the city's putting in versus what the
5 developer's getting out of this, as
6 Commissioner Cohen pointed out. It says in
7 the second page of this report, by which DPEMD
8 has asked to be done because of this PUD, that
9 the definition "market value" is "the most
10 probable price which a property should bring
11 in a competitive and open market under all
12 conditions requisite to a fair space, the
13 buyer and seller each acting prudently and
14 knowledgeably and assuming the price is not
15 affected by undue stimulus."

16 Now, this PUD is going to
17 stimulate the value of that land. But in
18 terms of buildable space it's doubling the
19 height and doubling the density.

20 MS. BATTIES: And that's reflected
21 by the \$91.

22 MR. OTTEN: But it's only at the

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1 R-5-B Zoning.

2 PARTICIPANT: No, it's not.

3 MR. GLASGOW: I object to that
4 characterization, Mr. Chairman.

5 CHAIRPERSON HOOD: Okay.

6 MR. GLASGOW: That's not what the
7 appraisal said or what the testimony was.

8 MR. OTTEN: Well, that's what I'm
9 reading in this --

10 CHAIRPERSON HOOD: Okay. Here's
11 what I'm going to do, because I can tell you,
12 I was not favorable for you to even have party
13 status. What I need you to do now though is
14 to ask a question, get an answer, and then
15 let's go back -- let's do that, because my
16 colleagues obviously -- this must be something
17 that they would like to hear, because I think
18 it started from one of my colleagues and I
19 want to be amenable to any of my colleagues if
20 they have a question. So what I'm going to
21 ask you to do is ask the question. And if
22 they're not going to answer it, they'll tell

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1 you no, and we will move on. That's how we're
2 going to proceed.

3 MR. OTTEN: Okay.

4 COMMISSIONER MAY: Yes, Mr.
5 Chairman, if I could add. I don't believe
6 that -- repeated questions with regard to the
7 appraisal of somebody who didn't testify about
8 it I don't believe is relevant. The earlier
9 discussion about value I thought was very
10 helpful and I appreciate the answers that we
11 received to the question. So it was good to
12 get at that point, but we can't -- you know,
13 repeatedly questioning how the appraisal was
14 done is not relevant.

15 CHAIRPERSON HOOD: And I think,
16 Commissioner May, the way you asked it solved
17 that, so we need to move to the next line of
18 questioning.

19 MR. OTTEN: Okay. So just so I
20 can understand this, the \$12 million that's in
21 the appraised land value of what we're seeing
22 in front of us is the appraisal at the R-5-B

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1 and not the CR PUD?

2 MR. TROY: I think picking a word
3 out of the definition that I did not write and
4 cherry picking it and then trying to craft
5 your entire argument around that is frankly
6 disingenuous. The definition of the market
7 value in the appraisal was not written by me,
8 nor anybody else at DMPED. It was written by
9 the appraiser and it is from their MIA book.
10 I have nothing to do with it.

11 The whole crux of the definition
12 of market value is revolving around an arm's
13 length transaction between a motivated buyer
14 and a motivated seller, period.

15 CHAIRPERSON HOOD: Okay. That's
16 the answer. Next question? Another line of
17 questioning, actually.

18 MR. OTTEN: Okay. So you
19 discussed the LEAD Act. I was hoping to kind
20 of get a sense of what was involved in the
21 discussions around that. You said you had
22 many community meetings. Did the LEAD Act

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1 come up in any of these community meetings?

2 MR. TROY: I sat down with Robin
3 Diener before I testified in front of Council
4 in June of 2010 for the disposition of this
5 project and walked through with her how this
6 project met the spirit of the LEAD Act
7 specifically with --

8 CHAIRPERSON HOOD: You know what,
9 I think we need to ask zoning -- I think what
10 I'm starting to hear here is a reenactment of
11 something. It then goes away. Somebody may
12 want it to go in front of the City Council.
13 And I don't appreciate that being brought to
14 the Zoning Commission. I think we -- unless
15 you all want to hear it. I think what we need
16 to do is ask questions that are pertaining to
17 zoning and let's deal with that.

18 Now the LEAD Act is, but whatever
19 went on at the Council, obviously you all --
20 you're rehashing it obviously -- apparently at
21 a hearing that happened -- and I don't even
22 know this; I'm going by that last question --

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1 obviously rehashing a hearing that happened
2 some months ago, and we don't rehash down
3 here.

4 MR. OTTEN: I'm not trying to
5 rehash anything, Chair Hood. What we're
6 trying to establish here is the value of
7 potential amenities, which is what the Zoning
8 Commission is charged to do. One of the
9 potential amenities I've heard in this case is
10 the West End Library Maintenance Fund, which
11 -- not withstanding any other provisions of
12 law, which law I question here is the LEAD
13 Act, will channel deed and recordation taxes
14 to a special fund.

15 MS. BATTIES: Mr. Chair, we have
16 submitted to you a list of benefits and
17 amenities and the maintenance fund is not
18 listed as one of the amenities for this --

19 CHAIRPERSON HOOD: Ms. Schellin,
20 schedule another meeting, long as I'm here,
21 the week of the holiday. My holiday's going
22 to go down the tube.

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1 So let's do this: Let's go back
2 to you asking questions, and let's just ask
3 questions and make it consistent. We'll
4 reconcile the public benefits. We'll deal
5 with that. But right now your position is
6 just to ask questions, do some cross-
7 examination.

8 MR. OTTEN: But it was your
9 testimony that a West End Library Maintenance
10 Fund is established through this PUD, correct,
11 or through the arrangements around this PUD?

12 MR. TROY: Through the project.

13 MR. OTTEN: Through the project?

14 MR. TROY: Right.

15 MS. BATTIES: If I may just
16 clarify, the maintenance fund was created by
17 Council. It has nothing to do with the PUD
18 process.

19 MR. OTTEN: Okay.

20 MS. BATTIES: It was created by
21 Council a couple years ago. Thank you.

22 MR. OTTEN: Okay. So am I

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1 understanding from Council that the West End
2 Maintenance Fund is not an amenity in this --

3 MS. BATTIES: It is not listed as
4 a benefit or amenity to this PUD.

5 MR. OTTEN: Do you believe the
6 Zoning Commission will have to write in their
7 final order anything associated with this?

8 MS. BATTIES: I'm not going to
9 answer that question, but it's not listed,
10 it's not proffered a benefit or amenity.

11 COMMISSIONER COHEN: I think this
12 is to ask questions just of the two gentlemen
13 who testified.

14 MR. OTTEN: Okay. So then is the
15 Deputy Mayor's Office under the impression
16 that the Zoning Commission will have to write
17 in their final order --

18 CHAIRPERSON HOOD: Next question.
19 That's out of order. Next question.

20 MR. OTTEN: Why is that out of
21 order?

22 CHAIRPERSON HOOD: I ruled. I

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1 have ruled. Next question. That's out of
2 order. We will deal with that. Next
3 question.

4 MR. OTTEN: That you have to write
5 that in your final order?

6 CHAIRPERSON HOOD: Next question.

7 MR. OTTEN: Well, that's where we
8 believe --

9 CHAIRPERSON HOOD: Next question.

10 COMMISSIONER MAY: You can testify
11 about this if you'd like.

12 MR. OTTEN: Okay.

13 COMMISSIONER MAY: You can enter
14 all the things that you want to say in your
15 testimony when you give it.

16 MR. OTTEN: Okay. Let's see. For
17 that fund, for the maintenance fund how do you
18 -- what are you expecting the annual payment
19 of this fund to be and how will it be derived?

20 MR. TROY: Okay. The majority of
21 the fund is from -- is loaded through the deed
22 and recordation taxes that will be received

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1 once the developer transfers each individual
2 condo unit to the first purchaser. Obviously
3 as the units turn over and there are more deed
4 and recordation taxes, more money will go into
5 the fund. But the initial capitalization of
6 the fund is the most significant piece.

7 I'm sorry. What was your second
8 part of that question?

9 MR. OTTEN: What your projections
10 of the annual fund will actually raise from
11 the condos being sold.

12 MR. TROY: Off the top of my head
13 I don't have the number for you. It's in the
14 millions of dollars and it's great enough to
15 maintain, supplementally maintain the library
16 and the fire station for what is probably
17 going to be the course of their lives, the
18 buildings'. It's a substantial investment.

19 MR. OTTEN: So millions of dollars
20 a year is what I'm hearing. That's based
21 on --

22 MR. TROY: That's not what I said.

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1 I said that the fund will be -- the majority
2 of the funds come on the initial transfer from
3 the developer to the first-time buyers where
4 the whole building turns over in the matter of
5 hopefully, you know, as short a time as
6 possible. As units turn over, maybe one or
7 two units a year turn over, the deed and
8 recordation taxes from that one or two sale
9 will then -- 85 percent of it anyway will come
10 into this fund. The other 15 percent goes to
11 a housing production trust fund.

12 MR. OTTEN: Would you say it's
13 impossible to judge how much might go into
14 this fund, either initially or annually,
15 because of the fluidity of the unit mix showed
16 by the PUD application, like unit mix amongst
17 apartments/condos?

18 COMMISSIONER MAY: It's okay to
19 answer that you don't know.

20 I mean, Mr. Otten, you really need
21 to focus on what's helpful for the Zoning
22 Commission to consider. And if the

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1 maintenance fund is not a proffered amenity,
2 it's not going to be really relevant in our
3 decision making. So you need to focus on the
4 issues that he testified on and that will be
5 helpful in deciding the zoning case.

6 MR. OTTEN: Okay.

7 COMMISSIONER MAY: And anything
8 else that you want to say you're free to say
9 during your testimony. So do you have any
10 further questions?

11 MR. OTTEN: Do you feel that the
12 fund contravenes the LEAD Act in this case?

13 MR. TROY: No.

14 MR. OTTEN: Okay. Thank you. Is
15 this an unprecedented --

16 MR. TROY: I have no idea whether
17 or not it's unprecedented or not.

18 MR. OTTEN: So a particular fund
19 generated by deed and recordation taxes, you
20 don't recall of any other situation where
21 that's happened?

22 MR. TROY: I'm not familiar with

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1 that, no. I don't know.

2 MS. BATTIES: I'm going to object.
3 This is way outside the scope of the PUD
4 application and the benefits and amenities
5 that have been proffered.

6 COMMISSIONER COHEN: Are you
7 almost finished, sir?

8 MR. OTTEN: I do want to
9 understand -- yes, I'm almost there.

10 So the city is selling the library
11 land to the developer in this case, correct?

12 MR. TROY: Yes.

13 MR. OTTEN: Okay. And how does --

14 MR. TROY: I'll clarify. It's the
15 excess library land. The District is selling
16 to the developer that which is not the
17 library.

18 MR. OTTEN: Yes.

19 MR. TROY: Or the fire station.

20 MR. OTTEN: And you testified
21 about the IZ requirements. Is this a unique
22 situation where -- there's a huge building

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1 being proposed here. Is it unique that the
2 city is not pushing the developer to guarantee
3 affordable units or IZ in this case?

4 MR. KENNER: I don't understand
5 your definition of "unique."

6 MR. OTTEN: Is it unusual that IZ
7 is being requested to be waived in this case?

8 MR. KENNER: I don't know if it's
9 unusual or not for this to happen when you're
10 getting significant public benefits. So I
11 don't know if there's ever been a case like
12 this or not.

13 MR. OTTEN: Okay. And would you
14 consider the parcels in play for this PUD some
15 of the most valuable land in the city?

16 MR. KENNER: Depends on your
17 definition of "most valuable land." So I
18 don't know.

19 MR. OTTEN: How about in the
20 central city? Is it valuable in terms of
21 where it's located and what can be done with
22 it?

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1 MS. BATTIES: I'm going to
2 actually object because I don't understand how
3 this line of questioning is relevant to the
4 PUD application.

5 MR. OTTEN: The PUD's considering
6 this a --

7 CHAIRPERSON HOOD: She objected.

8 MR. OTTEN: Okay.

9 CHAIRPERSON HOOD: The issue is
10 whether I'm going to uphold her objection. I
11 actually do. So move to your next line of
12 questioning. It's not for you to answer.
13 It's for you to move to your next line of
14 questioning if I uphold the objection.

15 MR. OTTEN: Just so we all
16 understand this, how would you define a
17 "subsidy" from the city. What does that
18 include?

19 MS. BATTIES: I'm going to object.
20 I don't believe that's relevant to the PUD
21 application and I don't recall that Mr. Troy
22 testified with regard to subsidies from the

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1 city.

2 CHAIRPERSON HOOD: What are you
3 trying to ascertain? What are you trying to
4 get?

5 MR. OTTEN: I recall from your
6 testimony that he mentioned that there was no
7 city subsidy for this PUD, that nothing was
8 coming from the city. And I just wanted to
9 understand how they defined "subsidy." Does
10 that include tax relief, externalizing costs?

11 MR. TROY: Subsidies -- typically
12 in the District of Columbia, when we discuss
13 subsidies we're talking about TIFs, PILOTs,
14 tax abatements, things of this nature.

15 MR. OTTEN: So in this case would
16 you say that D.C. is not offering additional
17 subsidies for this PUD to happen?

18 MR. TROY: We have no TIF, no
19 PILOT, no tax abatement, no grant. So, yes,
20 no subsidy.

21 MR. OTTEN: Have you read the
22 Office of Chief Financial Officer's Fiscal

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1 Impact Statement regarding this PUD?

2 MR. TROY: The OCFO actually
3 prepared a FIS -- are you talking about the
4 FIS that they prepared with the Omnibus Act of
5 2010?

6 MR. OTTEN: I'm talking about the
7 -- yes, this -- that's right.

8 MR. TROY: We haven't been
9 provided that information, so I don't know.

10 MR. OTTEN: What's that?

11 MR. TROY: I said we haven't been
12 provided that information yet, so I don't
13 know.

14 MS. BATTIES: Excuse me, this
15 report was --

16 CHAIRPERSON HOOD: Okay. That's
17 -- hold on. Hold on. Hold on. That's the
18 answer. Next question.

19 MR. OTTEN: To your understanding
20 are the interim library -- who will be paying
21 for interim library services during the
22 construction of this PUD?

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1 MR. TROY: The District will.

2 MR. OTTEN: Is that considered a
3 subsidy given --

4 MR. TROY: No.

5 MR. OTTEN: -- this PUD? Most
6 recently my understanding is that the
7 developer's asking for an additional subsidy
8 for the construction of affordable housing
9 units. Is this your understanding?

10 MR. TROY: If you read the
11 developer's original proposal, which again was
12 accepted by the District of Columbia in March
13 of 2010 and then approved by Council in June
14 of July of 2010, you noticed that the delivery
15 of the affordable housing, as I testified, was
16 contingent on a PILOT on the Square 37 to
17 provide the funds to develop the 52-unit LIHTC
18 building on Square 50, which is not part of
19 this PUD.

20 My testimony revolved specifically
21 around Square 37 and the delivery of a library
22 and a fire station with no subsidy.

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1 MR. OTTEN: But you mentioned
2 earlier that a PILOT is a subsidy. How is
3 that not related to this?

4 MR. TROY: There's no PILOT in --
5 right now in this deal. There's none.
6 There's no TIF, there's no PILOT, there's no
7 nothing.

8 MR. OTTEN: Okay. Thank you,
9 Commissioners.

10 CHAIRPERSON HOOD: Okay. Next,
11 let's go to Gibson Condominium Association,
12 Inc. Gibson? Scott -- who's representing --
13 okay. Gibson is -- nobody's here from Gibson.

14 Okay. Residents of Ritz-Carlton,
15 you have any cross-examination of just these
16 two gentlemen?

17 (No audible response.)

18 CHAIRPERSON HOOD: Okay. Thank
19 you. Kenneth Wnuck? Ms. Horvitz, if you can
20 come forward. Do you have any cross-
21 examination of just these two gentlemen?

22 MS. HORVITZ: Good evening.

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1 Laurie Horvitz on behalf of Mr. Wnuck. Just
2 a couple of questions just to clarify.

3 You referred several times to the
4 Council's resolution in June of July, which
5 approved this disposition, correct?

6 MR. TROY: Yes.

7 MS. HORVITZ: Okay. And that
8 resolution did contemplate the provision of
9 affordable housing, did it not?

10 MR. TROY: On Square 50.

11 MS. HORVITZ: Okay. That's all I
12 have.

13 CHAIRPERSON HOOD: Thank you.
14 West End Flats Condominium Association, you
15 have any cross?

16 PARTICIPANT: (Off microphone.)

17 CHAIRPERSON HOOD: No cross?

18 Okay. Great.

19 Okay. Believe it or not, Ms.
20 Batties, you can begin your presentation for
21 60 minutes. I thank you two gentlemen. What
22 I'd say, 59? I done forgot what I said now.

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1 MS. BATTIES: That's okay.

2 CHAIRPERSON HOOD: You guys want
3 to stay with us?

4 PARTICIPANT: (Off microphone.)

5 CHAIRPERSON HOOD: I'd like to see
6 both of you all -- okay. Well, thank you all
7 very much. We appreciate your testimony.

8 Ms. Batties, you may begin. You
9 have 60 minutes.

10 MS. BATTIES: Okay. Great. And
11 I'm going to ask Mr. Anthony Lanier, who's the
12 president of Eastbanc to give his testimony on
13 this application.

14 MR. LANIER: Good evening,
15 Chairman Hood and members of the Zoning
16 Commission. I'm Anthony Lanier, president of
17 Eastbanc, Inc. and the managing member of the
18 developer of the Applicant. Joining me are
19 Mary Mottershead and Joe Sternlieb from
20 Eastbanc, as well, some of our partners, Jay
21 Green from Dantes Partners, Duane Oates from
22 the Warrenton Group. And unfortunately

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1 Loretta Caldwell and Eugene Harvey are ill
2 disposed.

3 Eastbanc was founded 25 years ago
4 as a District of Columbia development company.
5 We're a CB and we develop exclusively in the
6 District. All of our principals have lived in
7 the District for over 25 years. We
8 specialized in mixed-use projects similar to
9 the one we're discussing tonight.

10 Our past projects include the West
11 End Ritz-Carlton, which was a PUD; the
12 Georgetown Incinerator, which was both a PUD
13 and a District disposition; the 25-building
14 assembly Cady's Alley retail/office/
15 residential project; and 22 West, a BZA-
16 approved West End condo built on top of an
17 Exxon gas station. We've built around gas
18 stations, power stations, converted
19 incinerators and here are proposing to
20 incorporate a library and a fire station into
21 mixed-used buildings.

22 When Eastbanc and Millennium

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1 Partners assembled land for our first West End
2 project some 15 years ago, the District was
3 losing about 20,000 residents per year and
4 people thought we were deranged to be
5 investing in high-end condominiums downtown.
6 However, we envisioned the eventual
7 transformation of this area into a vibrant
8 urban neighborhood. Since that first
9 development we have delivered over 500
10 condominium units in the District, all within
11 walking distance of this project.

12 We specialize in the high-quality,
13 high-service niche where a few others have
14 chosen to develop. Our projects have won
15 major local and national design awards and
16 have pumped many millions of tax dollars in
17 the District General Fund.

18 The project we're discussing
19 tonight has four major components: A new
20 20,164 square foot West End library, 7,700
21 square feet of retail space, 164 residential
22 units, and the proffer of a new fire station

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1 in Square 50.

2 The new library has been designed
3 with significant input from D.C. Public
4 Library Chief and her staff and provides the
5 program on a single level. We have estimated
6 that our efficiency factor will yield about
7 the same usable square feet as the new D.C.
8 public library branches across the city. We
9 are also building six parking spaces in the
10 garage as requested by DCPL.

11 The residential building has been
12 designed to satisfy the demands of both the
13 West End community and to create sufficient
14 land value for the District government so that
15 we can deliver both the new library and the
16 fire station with no General Fund expenditure.

17 Throughout the RFP process the
18 West End/Foggy Bottom community insisted that
19 this project be built for permanent residents
20 and not for students. As you also know, many
21 West End buildings have become de facto GW
22 dorms and long-term residents find that

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1 student-occupied buildings negatively impact
2 the neighbors. As we saw at the Stevens
3 School in 2010, this community will vocally
4 oppose any city disposition that could be
5 tenanted by students. So our first task was
6 to create a residential program to satisfy the
7 community. Second one, to be accepted by the
8 market.

9 Our initial task was to satisfy
10 the District government which issued a
11 solicitation for a new library, fire station
12 and affordable housing using only the city's
13 land value. We took this request seriously
14 and put two affordable housing developers and
15 a talented consultant on our team to figure
16 out how to best provide all three amenities.
17 I don't believe there's any other project in
18 the District that has been asked to provide so
19 much from the land value without providing any
20 direct or indirect subsidy, and it is no
21 accident that only one other developer bid on
22 this RFP.

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1 We concluded on a strategy that
2 required us to maximize the value of every
3 square foot that could be built on Square 37,
4 however, no matter how we sliced the numbers,
5 we could not afford to deliver the library,
6 fire station and affordable housing on Square
7 37 from land value alone. In fact, the minute
8 affordable units in Square 37 were introduced,
9 we no longer generated enough land value to
10 pay for the entire fire station.

11 We ultimately decided to drive up
12 land value by proposing to build large units
13 that average 1,500 square feet while the
14 average new unit size in D.C. is about 700
15 square feet, or less than half our size. We
16 also committed to design and finish the entire
17 building to attract high-income residents in
18 the hope that it would partially price
19 students out of the market.

20 After working closely with the
21 Office of the Deputy Mayor during our LDA
22 negotiations; limited disposition agreement,

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1 we finally decided to request a waiver from
2 the IZ requirement to pay market value for 100
3 percent of the FAR that is ultimately entitled
4 by the Zoning Commission and to offer to build
5 a LIHTC building on top of the Square 50 fire
6 station in the event that there is excess land
7 value and District subsidies sufficient to
8 fill the affordable housing gap. This allows
9 us to maximize land value in Square 37 to pay
10 for the entire library and fire station.

11 The District would be informing us
12 by April 1, 2012, as mentioned previously, as
13 to whether and how much additional subsidy
14 they will provide for the affordable housing
15 units on Square 50. And if it is not
16 sufficient to allow us to use LIHTC funding,
17 we will build an IZ building above the fire
18 station with as many additional affordable
19 housing units as funding allows.

20 I say this because I'm aware that
21 we're asking for a good deal of flexibility
22 from the Zoning Commission tonight. We

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1 believe we understand this housing market as
2 well as anybody and we have done our best to
3 propose a project that creates as much value
4 to the District as we are able to pull out of
5 the land value. The project's success will
6 also affect the long-term success of the
7 library and fire station because the project
8 will generate taxes for a maintenance fund
9 that the Council created to keep this facility
10 in first-class condition.

11 The retail in this project is
12 designed as neighborhood service retail.
13 We're confident that this option won't be
14 generating any car traffic, but will be
15 something that neighborhood residents can
16 support. One retail space will be physically
17 connected to the library, but will be
18 independently owned and leased to a café and
19 bakery that can be seamlessly opened to the
20 library during library hours and separated for
21 security reasons when the library is closed.

22 The users of Square 37 will share

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1 a below-grade parking garage. We've been
2 asked to provide six spaces for the library,
3 none retail spaces per zoning, and we are
4 proffering two car sharing spaces and two EV
5 charging stations that will be available to
6 the public. One of the few disagreements
7 about this proposal that you will hear from
8 our friends at the Office of Planning is that
9 we are asking for the flexibility to provide
10 too high a parking ratio. I want to address
11 this head on so that you have no questions as
12 to our needs on this issue.

13 From years of experience marketing
14 condominiums in D.C., we know that buyers of
15 large units in this neighborhood do not rely
16 heavily on their cars. They do, however, even
17 those who neither own nor drive a car, want to
18 make sure that they can resell their units in
19 the future to somebody who does own one or
20 more cars. The availability of parking spaces
21 for resale is a key purchasing decision
22 factor, a liquidity factor, one might say, for

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1 purchasers of new units. Our financial
2 partner's recently completed market study
3 shows that -- or approves what we have
4 provided to the Zoning Commission and the
5 Office of Planning. It recommended a minimum
6 of 1.5 to 1 parking ratio for a building in
7 our competitive range. With 164 large units
8 we're depending on a reliable sales pace to
9 make this a viable project.

10 In evaluating this issue we must
11 not simply look at spaces per unit as
12 submitted in other PUDs, but also analyze
13 residential square footage per parking spaces,
14 spaces per resident, or project value plus
15 parking space. The range of parking spaces
16 we're requesting flexibility to build is at
17 least as favorable as other projects approved
18 by the Zoning Commission, BZA and OP.

19 If we were to build the same
20 number of square feet for the same number of
21 people, but cutting the unit size in half and
22 doubling our unit count, we will be presenting

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1 a ration of 0.75 spaces per unit. Therefore,
2 we ask for the flexibility to provide up to
3 1.5 spaces per unit, confident that a smaller
4 unit building would result in the same parking
5 count. We have agreed to a request by the
6 Planning Director that we will decouple the
7 sale of parking spaces which can be used for
8 either parking or storage from the purchase
9 price of units so that people can see the real
10 cost of these spaces.

11 Another area that we have found
12 makes a big difference in the marketability of
13 condominiums is communal recreation space
14 around the rooftop pool. Buyers and residents
15 socialize in those outdoor spaces resulting in
16 better building communities. We believe that
17 the Zoning Regulations specifically allow for
18 communal recreation space in rooftop
19 structures that fall within the other
20 requirements of such structures. The Zoning
21 Administrator has asked to bring this request
22 directly to the Commission. While I think it

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1 is impractical to predict every potential use
2 of this space in the future, it is safe to say
3 that any activity at the rooftop pool can be
4 moved inside in inclement weather.

5 We also like to provide storage
6 areas for setting up a place for residents to
7 meet and gather in the winter months with
8 tables, comfortable seating, in short, a place
9 where the residents can program space for
10 their own chosen activities so long as they
11 are not occupying the space for other
12 residential or commercial use.

13 Eastbanc first discussed this site
14 with the District in 1999 under the Williams
15 administration. Since 2007, Eastbanc has
16 participated in again over 64 meetings on this
17 site. Both our supporters and opponents have
18 expressed their appreciation for the amount of
19 time and attention we have given to their
20 concerns.

21 We have worked closely with the
22 library and the fire department to ensure that

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1 their needs are met in the new building and we
2 will continue to work with them, the ANC,
3 community groups, library friends and
4 immediate neighbors to ensure that the project
5 is built with the least amount of
6 inconvenience possible and operated as an
7 amenity to the entire community.

8 Finally, I want to give you some
9 insight into how I came to select Enrique
10 Norten to design this project. Since the '60s
11 when the West End still had both an operating
12 dairy barn and rendering plant, the West End's
13 industrial service and low-scale housing have
14 been steadily replaced by high-end density
15 uses that are an extension of the central
16 business district from the east in Georgetown
17 and Dupont Circles residential districts from
18 the west and the north. Much of the
19 neighborhood was torn down and converted into
20 development sites or surface parking lots in
21 the '50s, '60s and '70s, and we have seen
22 almost all of these lots developed over the

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1 last 40 years.

2 If you look at the neighborhood
3 today, it is a mix of small scale 19th Century
4 buildings, mid-scale early 20th Century
5 buildings, some pretty awful looking buildings
6 from the '70s and '80s, and an eclectic mix of
7 traditional and modern higher-density
8 residential, hotel and office buildings built
9 over the last 20 years. In short, there is no
10 single West End architectural style that I can
11 point to. This is one reason that I was
12 initially attracted to the neighborhood 20
13 years ago. It's one of the only places in the
14 District where you can create truly unique
15 architecture and not be stymied by historical
16 design context.

17 When I heard Enrique Norten speak
18 at the Building Museum in 2006, I decided that
19 he would be a wonderful person to work with
20 and ultimately we picked him for the West End.
21 He has a fresh approach to modern
22 architecture, designing buildings that are

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1 both light and sculptural and working both
2 with institutions like public libraries like
3 the Brooklyn Library and residential
4 developers like Eastbanc.

5 We gave him very specific
6 direction that we did not want another
7 Washington box, that we wanted to maximize the
8 green and sustainable features of the
9 building, that we wanted to maximize corner
10 views and that we wanted a building that
11 people around the region and the country who
12 care about architecture would talk about and
13 come to see.

14 Most of all we challenged him to
15 design a building in place of excellence,
16 something we all know does not come easily and
17 involves understanding and sometimes
18 sacrifices to do it successfully. I am
19 confident that he has provided us with just
20 such a building and am excited to have him
21 walk you through his design and to answer your
22 questions at the end of the presentation.

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1 In closing, I would like to thank
2 all parties, the Commission, our neighbors,
3 the various city agencies for their input and
4 close cooperation. I would like to emphasize
5 that the building we are representing has been
6 arrived at after careful consideration of all
7 aspects, some difficult decisions and a desire
8 to excel and provide a meaningful positive
9 impact on the community and the city. Thank
10 you for your time.

11 MR. NORTEN: Good evening.

12 MS. BATTIES: Before you begin,
13 Enrique, can we dim the lights so that we can
14 better see?

15 MS. SCHELLIN: I'll take care of
16 it, but I'm just warning you he's not going to
17 be able to see what he's holding there unless
18 you turn that on. I'm just giving you a pre-
19 warning. When the lights go out, it's dark
20 there. Okay?

21 CHAIRPERSON HOOD: Is this one
22 down here working, because that one's not

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1 working?

2 MR. NORTEN: Yes, it's fine.

3 CHAIRPERSON HOOD: That works.

4 MR. NORTEN: It's fine. Thank
5 you.

6 CHAIRPERSON HOOD: Mr. Glasgow,
7 next time you come bring a bulb.

8 MR. NORTEN: We're good. Good
9 evening, ladies and gentlemen. I'm very
10 honored to be here. I very much appreciate
11 you giving me the opportunity to present this
12 design in front of such a distinguished group
13 and to be part of this process.

14 I am Enrique Norten. I am founder
15 and principal of Ten Arquitectos. We've been
16 practicing architecture for over 25 years and
17 we have built and designed many million of
18 square feet around the world in very, I would
19 say, complex situations, very complex urban
20 situations, not dissimilar to what we're
21 encountering here in Washington. It's never
22 the less a great privilege to be able to

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1 design this building and to build this
2 building in the center of the Capital of the
3 United States.

4 The context has already been
5 presented and there's a series of diagrams.
6 This panel is a very important panel where we
7 can see on top of it the envelope that we are
8 allowed to build traditionally according to
9 the zoning of the area. Every one of the
10 other diagrams represent one of the various
11 strategies; they cannot be seen independently,
12 that would allow us to fulfill the objectives
13 of the building.

14 In the first one, it's about
15 creating what Anthony mentioned, the corner
16 views. Washington being a city that has been
17 defined and determined in its height, has
18 always more important tangential views than
19 frontal views.

20 The second one is about creating
21 -- fragmenting the building and creating the
22 residential scale that would bring the

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1 character to this building, which part of it
2 will be an institution, one of the most
3 prestigious and important institutions in the
4 city, the public library with another
5 component in residential. By fragmenting the
6 because we will be allowed to achieve the
7 necessary articulation to create the
8 appropriate scale to this building.

9 The next two refer to issues of
10 sustainability, as it's been such an important
11 condition that we have set up, which is to
12 bring up the best respect and recognition to
13 the natural resources to be able to have the
14 best relationship with our environment. And
15 that is achieved by creating a series of
16 terraces in bas-relief, I would say, that
17 would create the appropriate light and the
18 appropriate shade and at the same time the
19 appropriate air that relates to the building.

20 The last one refers basically to
21 the condition that would allow us to recognize
22 all of the neighbors into the building. And

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1 by that I mean the opportunities to give all
2 of the surrounding buildings, all of the
3 surrounded residents the opportunities to
4 increase their views and to increase their
5 conditions of light and their conditions of
6 sun incidence into their own apartment.

7 And in the bottom one, which is
8 the next one, is a summary where we have
9 overlaid all of the previews and sketches, all
10 of the previews diagrammed in order to be able
11 to provide everybody -- or to achieve this, I
12 would say, special, unique and very site-
13 specific form.

14 In this case, in the first one the
15 creation of the views.

16 The next one represents how the
17 sun moves around the building and brings into
18 the building and into the neighbors the best
19 conditions of light and air.

20 The next one is the relationships
21 with the different buildings across the street
22 in all three sites and how the forces of the

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1 buildings would somehow create or produce the
2 different movements that we have achieved
3 within the volume.

4 And the last one -- no, the
5 previous one -- considers the different
6 position from the Columbia Building, the
7 Gibson Building, the Ritz-Carlton Building
8 that we have very carefully analyzed trying to
9 give all of the surrounding neighbors and
10 residents the best possible conditions ever.
11 I must say that if we would have just kept the
12 traditional box that is prescribed by the
13 approved envelope, the conditions for all of
14 the neighbors would have been way, way worse
15 than what they are now, which I think are
16 very, very good.

17 Next, please? This is the
18 existing envelope. This is a rendering that
19 suggests the prescribed the envelope, the
20 approved envelope by the zoning of the site.

21 The next one is what traditionally
22 would be the possible type of projections that

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1 would be usually applied in a building like
2 this traditionally in the District of
3 Columbia, which we from the beginning we
4 decided wouldn't be the case because it would
5 give us the worst of conditions for the
6 neighborhood.

7 We have used a technique that we
8 have called the torquing of the façade or the
9 warping of the façade and what allows us is to
10 manipulate and to mold the volume of the
11 building in a way that would take the best
12 advantage and bring the best benefits to the
13 neighbors. Here you can -- back, please.
14 Here you can see the red line is the existing
15 approved zoning envelope, and the volume
16 obviously is an obstruction of the proposed
17 project.

18 Next, please? These are the
19 projections that are allowed and that we have
20 proposed. And as you see, it's a very, very
21 systematic methodology that has been applied
22 in that it have arithmetically and

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1 geometrically very carefully studied that
2 cannot be -- it's not randomly applied and
3 cannot be randomly modified. Any
4 modification, as little as possible would
5 bring enormous efforts and changes into the
6 full project.

7 The next one explains -- all the
8 blues are the carved out spaces of the
9 project, meaning that all of the blues, which
10 here also rendered by blue -- next -- would be
11 the pieces that would be sculpted or carved
12 out or gained in space and air and light by
13 the neighborhood and by the city.

14 Next, please? We see here, we see
15 the same thing in plan, how the building as it
16 moves through the different stages creates
17 this dynamic condition that would allow the
18 majority of the -- not only the neighbors that
19 live here, but also the passerbys and the
20 people that come and visit the area to have a
21 new dynamic and a new opportunity to have
22 better views and to have better conditions in

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1 whatever their point of view are.

2 This is the basic configuration of
3 the building. We have the retail spaces on
4 here. The building is one building, one
5 residential building with two lobbies that
6 also will ameliorate any impact of pedestrians
7 in and out of the street. Then the library,
8 which occupies all of this space in the ground
9 floor of the building.

10 Next, please? This is the ground
11 floor of the building. And basically here you
12 can appreciate the majority of the ground
13 floor is occupied by the library. There's a
14 little bit of retail here. One of the
15 pedestrian lobbies to the building on 23rd
16 Street. One of the pedestrian lobbies to the
17 same building on 24th Street. And very
18 importantly, if you follow the red dot of the
19 property line, the different recessions that
20 we have accommodated into the building as a
21 response to many of the neighboring requests,
22 especially of the neighboring buildings, both

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1 here and here, as they relate to their
2 immediate neighbors. We have given back in
3 response to their requests an important amount
4 of ground floor.

5 Next, please? Here in yellow we
6 can see what we have called the open space
7 diagram. All the yellow is space again that
8 the city and the neighbors are winning from
9 the property at the ground floor.

10 Next? And here is the courtyard
11 that is also an open space for the use of the
12 public that also the neighborhood and the
13 neighbors are winning from the property, from
14 the private property.

15 I will go just very fast through
16 all of the floors. This is the mezzanine
17 floor with the green roofs of the library as
18 it opens more and more, as it goes up. And
19 I'll just go fast through all of them.

20 Here is only to notice perhaps the
21 two cores that have been established in order
22 to be able to accommodate the different codes

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1 and the different necessities of the building.

2 It's this one building with two
3 different entrances that diminishes, as I said
4 before, the impact to the neighborhood.

5 These are all of the different
6 floors. As you see, every different floor is
7 different creating the views, the air and
8 everything.

9 This is the penthouse floor. Here
10 we can see the green roofs that have been
11 accommodated in the footprint of the
12 penthouse, which responds again to the
13 accepted conditions of the zoning delineations
14 of the District of Columbia.

15 And the rooftop plan. That shows
16 basically the swimming pool and the overheads
17 of the cores and the green spaces at the top
18 of the building.

19 This diagram represents parking
20 conditions and basically explains the parkings
21 that are assigned both to the library -- to
22 the library, to the retail and to other

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1 services and uses and to the neighbors. And
2 the arrows show the entrances and circulation
3 patterns and divisions between the parkings
4 that are assigned to the residents and the
5 parking that is assigned to the building -- to
6 the public. Everything has been very
7 carefully studied and defined.

8 This is just a criteria, a general
9 criteria of materials. And basically all I
10 could say now because of the time limit is
11 that it's based on the traditional vocabulary
12 of modern architecture and have been carefully
13 applied to identify the different uses and the
14 different conditions of the various façade.
15 And we can go very fast through the different
16 façades.

17 These are some -- this chart is a
18 chart based on our commitment to make it a
19 totally sustainable building, what we consider
20 a sustainable building. It's been based on a
21 chart of the LEED system. And we can see that
22 we're trying to achieve an equivalent of a

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1 Gold level, which is a huge, huge commitment
2 of the developer in a building like this.

3 And I will just let you appreciate
4 the different renderings of the building from
5 the different point of views, the street
6 levels. Go ahead. Go ahead.

7 PARTICIPANT: (Off microphone.)

8 MR. NORTEN: Yes, the building is
9 all surrounded by glass and louvers that the
10 louvers are there -- are moveable louvers that
11 will allow the residents to control the
12 incidence of light and incidence of sun, which
13 will reduce enormously the consumption of
14 energy within the building.

15 This is a night view. This is a
16 view of the corner of the library. And here
17 is again from 24th Street towards the site.

18 And with this, I will pass to my
19 colleagues to explain you the scheme of the
20 landscape architecture, please.

21 MS. BATTIES: Actually, in the
22 interest of time we're going to have our

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1 landscape architect available for questions
2 from the Commission, if necessary.

3 I'm going to ask our traffic
4 consultant, Ms. White, to come up. And then
5 we'll conclude with Steve Sher's testimony.

6 MS. WHITE: Hi, good evening. Can
7 you hear me okay? Good evening. Nicole
8 White, principal with Symmetra Design.

9 Should I tease you about the
10 Redskins/Giants game while we wait for --

11 CHAIRPERSON HOOD: Considering I'm
12 a Giants fan, that might not be a good idea.

13 MS. BATTIES: There's still a
14 chance for you all. No chance for us.

15 Okay. So let me just begin. If
16 we go to the first slide, this just gives an
17 overall transportation context. You can see
18 the Square 37 project here. Twenty-third
19 Street is a one-way southbound principal
20 arterial. L Street goes eastbound only and M
21 Street goes westbound only. Twenty-fourth is
22 a collector street and it's a two-way street.

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1 Also, I'll note -- oh, could you
2 go back just one second? This is always
3 important to point out. Transit, we're just
4 a five-minute walk here from the Foggy Bottom
5 Metrorail Station.

6 So the site is currently a parking
7 lot. There are 65 commuter parking spaces, 13
8 spaces for the public library, 36 spaces for
9 the special operations center, plus an
10 additional 40 motorcycle parking spaces for
11 special ops, and that gives us a total of 154
12 existing parking spaces on the site. That
13 doesn't include -- I don't know if you can
14 see; maybe it's not showing in this area,
15 there are often a number of police that park
16 on the sidewalk here. So we are going to
17 replace this 154 parking spaces with -- the
18 project described, with 270 parking spaces.

19 Also the blue circles represent
20 areas where there are existing curb cuts, so
21 there are five total. And so, we would
22 improve that condition by replacing the five

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1 existing curb cuts with one curb cut, a very
2 narrow 12-foot curb cut located off of 24th
3 Street.

4 So, Mr. Hood, I know you always
5 enjoy discussion about level of service, but
6 in the interest of time we're not going to
7 discuss that. That's in our traffic study.
8 What I will instead do is focus on topics that
9 we've heard most recently from DDoT, Office of
10 Planning and the community.

11 So first let me start with 24th
12 Street. If we can go to the next slide,
13 please? Twenty-fourth Street, I described
14 earlier is a two-way collector street. There
15 are 627 A.M. peak hour trips there and 500
16 P.M. peak our trips there. Twenty-fourth
17 Street provides access to the 2400 M Street
18 Apartments, the West End, the Columbia Center.
19 There's also a loading driveway that's
20 provided off of 24th Street. And so, we have
21 heard concerns about adding another driveway
22 to 24th Street.

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1 So if we go to the next slide,
2 just to show you how we've responded to
3 earlier comments, not just from the community
4 but also from DDoT. So this was an earlier
5 plan, and I believe this was submitted and you
6 reviewed it during the setdown process. It
7 provided two-way ingress/egress. We had this
8 lay-by here and cars that use this lay-by as
9 a drop off use this corner and exit through
10 the north-south alley. So during earlier
11 meeting with DDoT we were asked if we could
12 use the alley network in order to access the
13 garage. And so, what we've done to respond is
14 provide inbound only from 24th Street and
15 outbound egress through the north-south alley
16 into the east-west alley.

17 Also, just to note that we heard
18 concerns about cars backing up from the garage
19 doors onto 24th Street as this could cause an
20 impact. And so, the garage door would remain
21 open during library operating hours. During
22 the times when the garage door is closed there

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1 would be adequate space so that cars did not
2 queue back on 24th Street.

3 So if we go -- this is the
4 existing east-west alley and north-south
5 alley. The alley provides access for loading
6 and deliveries and trash for the West End.
7 Also access to parking for the West End Flats
8 and also the 2300 M Street office building
9 which is not shown here, but going north
10 through the alley. This portion of the alley
11 is closer to 20 feet, whereas this portion
12 adjacent to our site is very narrow at under
13 15 feet.

14 I will point out this one image
15 here. This is the Westin Hotel. And often we
16 get the trucks that just park here because of
17 the vertical clearance is inadequate. And so,
18 trucks find it inconvenient to load from
19 inside of that loading area.

20 So what we are doing here, if we
21 go to the next slide, I think we are widening
22 the effective alley width to 20 feet, so this

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1 is a benefit to all of the alley users. Also,
2 I show here inbound and outbound maneuvering
3 diagrams. Important that we can show how easy
4 it is for our delivery vehicles to get into
5 and out of the loading dock so as not to
6 adversely impact the alley.

7 I mentioned in an earlier slide
8 this is a 30-foot width here. This is a 12-
9 foot setback here, so there's more than
10 adequate room for a 30-foot truck to maneuver.
11 We are seeking an exemption for the 55-truck,
12 which is I'm sure you hear commonly now cases
13 and it's common in the District.

14 So in addition to increasing the
15 effective width of the alley, we are also
16 proposing safety improvements such as
17 providing mirrors in the alley so that people
18 coming out of this north-south alley can see
19 vehicles in the east-west alley and vice
20 versa, and also we would provide a stop sign
21 for motorists in the north-south alley.

22 It is important for us to have

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1 some sort of drop off/pick up area for
2 residents of this lobby area here off of 23rd
3 Street. So we initially proposed this lay-by
4 here which would allow for the temporary drop
5 off and pick up of the residents, and the
6 community supported that proposal. We
7 submitted that to DDoT and DDoT asked us to
8 instead look at a recess parking alternative,
9 which you'll see to the right. So the
10 recessed parking alternative would provide the
11 neighborhood with the amenity of additional
12 on-street parking spaces.

13 Just one difference that I will
14 note in terms of the landscape. Both of these
15 alternatives allow you to maintain the
16 existing trees. This alternative does allow
17 for two additional trees. So we're not asking
18 the Zoning Commission to decide on this.
19 Instead, we've been in discussions with DDoT
20 and with continued work with them as part of
21 the public space process. And so, they've
22 asked that you approve both of these options

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1 and that we continue to work this out later on
2 in the process.

3 In terms of parking, we are
4 proposing a maximum of 270 parking spaces. We
5 will satisfy the zoning requirements for
6 retail and we will also satisfy the parking
7 needs for the library, although this is just
8 below what is required in accordance with
9 zoning.

10 So the next slide. We've heard
11 testimony already about how important it is to
12 provide parking at slightly higher ratios, and
13 of course we've also heard or you've probably
14 read from DDoT and Office of Planning reports
15 about the District's policies and about the
16 concern that how additional parking would
17 create additional traffic. So we did a recent
18 survey of two condominium projects in the West
19 End area, very convenient to Metrorail. And
20 you can see the two survey locations'
21 proximity to the project.

22 The first table in the upper right

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1 corner provides us some background information
2 about both of the survey projects. So the
3 Columbia residence has 225 residential units,
4 a parking ratio of 1.31. And you can see the
5 trips we counted 25 A.M. and 25 P.M. The 22
6 West Condominiums has only 92 units, a parking
7 ratio in excess of 1.5 and provides -- and we
8 counted 17 A.M. and 15 P.M. peak hour trips.
9 So since there is a big difference in the
10 number of units, in order to give you an
11 apples to apples comparison, the bottom table
12 shows the rates based on the number of units.
13 So that is the number of peak hour trips based
14 on the number of units. And you can see that
15 the two survey sites were pretty comparable,
16 higher for the A.M. peak for the 22 West
17 Condominiums, but of course that does have
18 higher parking.

19 So what I've done is created a
20 linear equation that would look at the parking
21 ratio of the 1.31 and the 1.77 so that I could
22 get an equation for the 1.5, which is what the

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1 Applicant is seeking here. And so, when I did
2 that linear equation, the bottom row shows the
3 rates that we get, which is the 0.14 trips per
4 unit for the A.M. and the 0.16 trips per unit
5 for the P.M.

6 Now, we compared this to the
7 Institute of Transportation Engineers with
8 WMATA transit reductions and those are the
9 rates that we used in the earlier versions of
10 our traffic study. So if you look at the
11 comparison, the rate that we calculated based
12 on the higher parking ratios is identical to
13 what we had for ITE for the P.M. peak and very
14 comparable to what we see for the A.M. peak.

15 So what does this mean in terms of
16 traffic? If we go to the next slide, we can
17 see that for the survey rates, the 0.14 and
18 the 0.16, we have 23 A.M. and 26 P.M. compared
19 to what we get using the Institute of
20 Transportation Engineers' rates, the earlier
21 rates from our report, 19 A.M. and 26 P.M. So
22 this is a difference of -- we're talking about

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1 four additional A.M. trips. We don't see any
2 difference in the P.M. trips. And so, what
3 this tell us is that just because a household
4 has more parking it does not necessarily mean
5 that the household creates more traffic during
6 the peak time periods. Also to stress,
7 liveability is about having transportation
8 options. That includes access to Metro,
9 access to bike trails and bike lanes, a
10 walkable environment, and, in some cases,
11 access to a second car for some residents.

12 So while I understand DDoT and OP
13 have policies to level of car ownership, in
14 this case we have found that increased car
15 ownership for this project will not result in
16 increased traffic congestion. But as you
17 heard earlier in Mr. Lanier's testimony, the
18 additional parking is very critical to support
19 the viability of the project.

20 Finally, we have submitted a
21 transportation demand management plan as part
22 of our traffic study. The TDM measures are

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1 consistent with DDoT's TDM guidelines given
2 the size of this development. This slide
3 highlights just a few of the key measures
4 including providing Zipcar spaces and bicycle
5 racks. Also the developer will donate a
6 monetary contribution toward the relocation of
7 a bus stop from 23rd Street to New Hampshire
8 Avenue.

9 And finally, parking will be
10 decoupled from the purchase price of a unit so
11 that residents will have to purchase parking
12 spaces separately.

13 I think this concludes my
14 presentation and I'll pass it back to Ms.
15 Batties.

16 MS. BATTIES: Thank you. Steve is
17 going to go right into his presentation.

18 MR. SHER: Mr. Chairman and
19 members of the Commission, for the record my
20 name is Steven E. Sher, the Director of Zoning
21 and Land Use Services with the law firm of
22 Holland & Knight. In the interest of using

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1 the time I have left, I'd like to focus on a
2 few points.

3 Number one, the Comprehensive Plan
4 Future Land Use Map, a portion of which is
5 shown following page 15 of the outline; and
6 I'll hold it up so you can see what it looks
7 like; it's this drawing here, shows this site
8 to be included in a mixed-use category with a
9 combination of high-density residential and
10 medium-density commercial.

11 If you look at the Zoning Map,
12 which is the map which immediately follows
13 page 6, and which looks like this one in the
14 report, you will see that all of that area
15 that is designated in that same mixed-use
16 category is zoned either CR or C-2-C. So
17 based on those two maps and on the extensive
18 analysis I've done of the Comprehensive Plan,
19 I conclude that the existing R-5-B zoning is
20 not consistent with the Comprehensive Plan,
21 but that changing the zoning to CR would be
22 consistent or would be not inconsistent with

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1 the Comprehensive Plan.

2 In terms of the character of the
3 neighborhood, you've seen various slides and
4 pictures of what goes on in that neighborhood.
5 Since 1974 when the District did the first
6 plan for the West End it's been envisioned
7 that that neighborhood would be a high-density
8 mixed-use neighborhood. And over time as the
9 market has allowed the development to occur,
10 that's what's happened. It's a mix of high
11 rise hotels, office buildings, apartment
12 houses with a mix of public facilities in
13 appropriate locations. What you have here is
14 a continuation of that same development
15 pattern, a high-rise apartment house with some
16 retail and the library on the ground floor.

17 In the report I have listed and
18 denoted many projects in this neighborhood
19 which exceed the 90-foot height limit,
20 projects which this Commission has approved as
21 planned unit developments, many of them built,
22 some of the approved but not yet constructed.

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1 I've also looked at the requirements of the
2 PUD regulations in chapter 24 in terms of
3 balancing the amenities and benefits that are
4 offered with the development and the centers
5 and flexibility requested by the developer;
6 and that's found beginning on page 9 of the
7 outline.

8 You've heard a lot about what the
9 amenities and benefits are. I'm not going to
10 repeat them. What I would like to just
11 summarize again are the areas of flexibility
12 that we're seeking as has been discussed in
13 much detail. The requirement not to have to
14 provide inclusionary units on this property.
15 A slight variation on the percentage of lot
16 occupancy. The public space at ground level.
17 We're short about 180 square feet. The roof
18 structure requirements to have walls of
19 multiple heights and not meeting the one to
20 one setbacks on all sides. The parking for
21 the library reduced from 18 to 6 spaces so
22 we'd like relief on 12 there. We have one

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1 loading berth that's 12 by 30 in lieu of 12 by
2 55. And Nicole just spoke to that. And
3 Anthony in his original remarks at the
4 beginning talked about the space we'd like to
5 have on the roof for communal recreation space
6 incidental to the rooftop pool and the other
7 rooftop terrace areas.

8 Beginning on page 14 and going
9 through many pages beyond that I have done a
10 complete review of the Comprehensive Plan
11 policies, guidelines, standards and
12 requirements and looking at the overall
13 framework element, the housing element, the
14 land use element, and in particular the public
15 facilities element, which is not one that gets
16 invoked much before this Commission, but
17 because of the library and the fire station is
18 important here. And those polices can be
19 found on pages 29 and 30 of the outline.

20 I would just complete -- and I
21 invoke my right to take one minute of
22 carryover from the last time when I didn't use

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1 it all.

2 My conclusions are that the
3 project is -- that's what you get for being a
4 grandfather, I guess. The project is not
5 inconsistent with the Comprehensive Plan.
6 It's within the applicable height and bulk
7 standards of the Zoning Regulations, provides
8 an appropriate balance between the development
9 proposed, the flexibility requested and the
10 benefits and amenities provided. Obviously it
11 allows this Commission to condition approval
12 to what's specifically proposed without
13 allowing more density or uncontrolled
14 development. And in my opinion, for all those
15 reasons the project should be approved.

16 MS. BATTIES: And that concludes
17 our direct testimony.

18 CHAIRPERSON HOOD: Okay.
19 Commissioners, do we have any questions?

20 (No audible response.)

21 CHAIRPERSON HOOD: Okay. Since we
22 don't have any questions.

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1 COMMISSIONER MAY: You didn't look
2 to --

3 CHAIRPERSON HOOD: Yes.

4 COMMISSIONER MAY: Ha, ha, ha.

5 CHAIRPERSON HOOD: I haven't
6 looked to my right lately, but let me look to
7 my left. Mr. Turnbull?

8 COMMISSIONER TURNBULL: Oh, thank
9 you, Mr. Chair.

10 Well, I think at setdown -- I
11 think my remarks -- I said I was very
12 favorable of this project. I think it had a
13 lot going for it. I think even -- I said at
14 the time I think it reminded me of Habitat in
15 Montreal, the sculptural qualities of Safdie's
16 work, although it's been updated. And it's
17 more ethereal, more glass. And it had a lot
18 of it. And I liked it. I guess -- and -- but
19 it's massive. It's still massive. It reminds
20 me of one of these metal magnetic puzzles that
21 you can push in and out. You push in here and
22 it moves out there. It's very -- it's

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1 interesting. I appreciate what you're trying
2 to do with the light and to pick up on the
3 streetscape.

4 I guess what troubles me though
5 are the ends, and especially the smaller --
6 the one condo on 24th. It just looks like
7 it's a sausage that's been cut off. The
8 language. And I'm looking at that one
9 elevation. It just ends. You have all those
10 wonderful forms going in and out and back and
11 forth and then it just sort of truncates. And
12 I almost want to push it in a bit more and go
13 back and get more relief. And I don't know
14 what you do about that. I mean, but that's
15 just my one feeling, that as an urban gesture
16 you've done so much to the streets, but at the
17 ends it just sort of like -- I don't know,
18 something. And I understand the one building
19 at the one end is a lot taller. By the one
20 alley it's a lot taller. But the one at the
21 other end on 24th, I almost -- you want to try
22 to push the magnets in a bit to try to create

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1 some more sculptural.

2 The other aspect from an -- the
3 roof, the penthouse is massive. It is a
4 massive penthouse. And again, I don't know
5 how much of that you're going to really see
6 from the ground, but it's just a massive bulk
7 for amenities for this sort of -- the people
8 in the building. It's sort of this -- I don't
9 want to call it elitist, but it's a very
10 specific use to the building and I'm just
11 worried about the overall light and shadow on
12 the other buildings next to it and what we
13 might be giving back to the neighborhood and
14 what we could do to try to --

15 I like it. I like the shape of
16 the building. I think it's got a unique
17 character to it. I still have -- I need time
18 to study the model a little bit more and I
19 want to look at the material board. We
20 haven't had a chance to look at it. I'm very
21 interested in the glass and the dots and the
22 fretting and how that works on the ground

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1 floor. That's a library, but you got the
2 café. We need some more time to really look
3 at that and see how that actually works.

4 I'm not sure what the library's
5 going to look like with all these little dots.
6 It's kind of unique. It might be wonderful.
7 But again, I'd like to take -- I need some
8 time to study the materials and really take a
9 good look at it.

10 But it's -- I mean, there are
11 things of it from the -- from an architectural
12 concept that I really -- I think are wonderful
13 and unique for the city, and I think it's
14 going to be a good -- a nice statement. But
15 there are other things that just worry me
16 about the massiveness and just of the aspects
17 about trying to finesse it a little bit more
18 to create just a -- as I say, it's the ends.
19 And it's mainly on the one end by the condo
20 where you sort of just -- you see it, because
21 the other condos are so low, the buildings are
22 low, and you see this blank wall with just a

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1 few windows on the side.

2 The IZ, I guess I'm -- and I'm --
3 I know we're not -- the IZ is proffered as
4 part of the other building on Square 50, and
5 I'm not sure -- if that doesn't go through, is
6 IZ -- I was unsure whether IZ comes back to
7 this building. It sounds like it's -- this is
8 going to happen.

9 MR. LANIER: Is this a question to
10 me?

11 COMMISSIONER TURNBULL: Yes.

12 MR. LANIER: If the funding for
13 the affordable housing component does not come
14 through, there's no IZ that reverts to this
15 building because we have neutralized
16 everything that this building can provide as
17 far as value.

18 COMMISSIONER TURNBULL: So what
19 happens at Square 50?

20 MS. BATTIES: So we -- our only
21 option is to then go to market-rate housing on
22 the other building. And in the context of

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1 that market-rate housing, provide the required
2 IZ units there that would apply to the future
3 market-rate housing.

4 MS. BATTIES: It would be a
5 matter-of-right building and they would meet
6 the IZ requirements for that site.

7 COMMISSIONER TURNBULL: For that
8 site?

9 MS. BATTIES: Correct.

10 MR. LANIER: Plus, any excess
11 funds that would remain available should the
12 library and the police -- fire station result
13 in less expenditures than budgeted for, then
14 those would also be applied towards affordable
15 housing units.

16 COMMISSIONER TURNBULL: Okay.
17 Have you looked from architecturally --

18 MR. LANIER: I as going to ask you
19 if that was a question.

20 COMMISSIONER TURNBULL: Okay.

21 MR. LANIER: If you wanted me to
22 respond to your comment.

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1 COMMISSIONER TURNBULL: If you
2 could. I'm just considering how you --

3 MR. LANIER: I think -- I must
4 tell you, Mr. Turnbull, that I appreciate very
5 much that observation on the ends. It's been
6 an issue that we have been going over and over
7 and over. And there are obviously two ways of
8 doing it: One is those sort of like very
9 strict cuts. The other one is to create, sort
10 of with the same vocabulary, a more sculpted
11 condition on those ends.

12 What we considered is because
13 those are not real city corners they should
14 not be celebrated in the same manner because
15 that would only bring sort of like a -- I
16 would say a little bit of an urban confusion
17 into creating something that it's not. And
18 somehow what it implies is exactly that, is
19 the cut of a block that, you know, we're only
20 using, you know, partially that sort of
21 perimeter. If you would see any of the other
22 projects where sort of the same projects

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1 occupies the full block, then sort of the same
2 vocabulary goes all around.

3 In this case I think that implying
4 the continuation of the block with a different
5 vocabulary creates much better backdrops to
6 the existing buildings and creates a more
7 truthful urban condition to the building by
8 representing and celebrating the corners where
9 they are and the sort of party walls where
10 they are. Although they're not party walls,
11 because there are also windows there behind
12 the louvers and everything.

13 So maybe it's with a little bit of
14 the representation that it should be a little
15 bit more transparent, but it was definitely an
16 issue that took a lot of consideration and a
17 lot of thinking. And I understand why you see
18 the other way, because we've also seen it the
19 other way. Thank you.

20 COMMISSIONER TURNBULL: I'll
21 relinquish my time and maybe come back with
22 some more questions.

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1 CHAIRPERSON HOOD: Okay. Any
2 other questions? Commissioner May?

3 COMMISSIONER MAY: Yes. Yes, I
4 think architecturally this is a very
5 interesting and unusual project and exciting
6 in many ways. It's also a little difficult in
7 some others.

8 I would agree with Commissioner
9 Turnbull that the penthouse is really immense
10 and I think problematic in several significant
11 ways. The roof setbacks seem to be driven by
12 the fact that the major portion -- the major
13 -- I guess the deepest portion of the roof is
14 dominated by the pool structure and everything
15 that goes with it and some desire to create
16 community space that's immediately adjacent to
17 it. And it seems to me that things could be
18 moved around in such a way and made smaller
19 and so on so that you don't have that same
20 massive penthouse.

21 Now, I understand that, you know,
22 the penthouse itself may not be taller than an

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1 ordinary penthouse and all that sort of thing,
2 but you know, when you do the -- what -- make
3 the moves that you've made with the
4 architecture of the building, it reveals the
5 penthouse to a much greater extent than an
6 ordinary building would.

7 And so, you know, I mean, and the
8 whole point of having the one to one setback
9 of penthouses has to do with not perceiving
10 the height of the building being that much
11 taller. And it's really showing at the
12 corners like this is a 130-foot tall building,
13 not like 110 feet. And that's -- you know, I
14 mean, it shows up in some of these views. It
15 shows up in the very cover of your
16 presentation. You know, we're not even
17 standing all the way across the street and I
18 can see the penthouse in all its glory. I
19 think that's a mistake. I think it needs to
20 be trimmed back.

21 I understand sometimes you have
22 the need for relief, particularly when you're

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1 dealing with residential buildings which have
2 mechanical needs on the roof and you have a
3 narrower, or a shallower fore-plate. I
4 understand why it's sometimes necessary. I
5 also understand sometimes why it's necessary
6 to have more than one penthouse, because you
7 might have remote stairwells and things like
8 that. But penthouses are not supposed to be
9 objects under themselves. It's just that
10 extra space that you have to have and you want
11 to try to make it as uniform and bland and
12 hidden as possible, and that's not what we're
13 seeing. And I think it needs work, no doubt
14 about it.

15 I also think you may actually have
16 Height Act concerns given the setback
17 situation. The Height Act's where you're
18 pushing the building back because it has to do
19 with, you know, the one to one setback for the
20 immediately adjacent roof. That's not really
21 a zoning concern, but, you know, it could wind
22 up in one of those sort of tangles between us

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1 and the NCPC again speaking up on that topic.
2 I don't know. Just think it needs to be
3 looked at carefully.

4 I'm also concerned because the --
5 I mean, if I understand correctly, the
6 penthouse is two stories, two occupied
7 stories. Is that right?

8 MS. BATTIES: Enrique or Erik, do
9 you want to answer that question?

10 MR. STER: It has multiple levels,
11 but it doesn't have more than one story over
12 each other. And we'll get the drawing --

13 COMMISSIONER MAY: Well, what
14 about -- I mean --

15 MR. STER: We'll get the drawing
16 up and show you.

17 COMMISSIONER MAY: -- what about
18 the community room? Okay.

19 MR. STER: Well, that's not true.
20 There's mechanical space under the pool --

21 COMMISSIONER MAY: Right.

22 MR. STER: -- which conceivably

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1 constitutes another level, but the rooms on
2 either side, the mechanical space other than
3 the pool mechanical is only one level.

4 COMMISSIONER MAY: It's only
5 level, but there's -- isn't there --

6 MR. STER: Different heights.

7 COMMISSIONER MAY: What's the
8 height of the ceiling in the community room?

9 MR. STER: It is just below 120
10 feet. It's at 119-something-or-other, which
11 is --

12 COMMISSIONER MAY: And then the
13 penthouse continues --

14 MR. STER: Which is just within
15 the Height Act.

16 COMMISSIONER MAY: And the
17 penthouse continues above that? That's the
18 way I was reading the plans.

19 MR. STER: Can you bring it up a
20 little clearer?

21 MR. NORTEN: There's a section of
22 the penthouse; I don't know if you have it.

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1 COMMISSIONER MAY: I assume I do.
2 Did we just get it today?

3 MR. STER: No, that's been in the
4 plans.

5 COMMISSIONER MAY: Right. Okay.

6 MR. NORTEN: Can I -- you want me
7 to show it to you?

8 COMMISSIONER MAY: Which number is
9 it?

10 MR. NORTEN: Oh, it's the very --
11 I have it in my packet. It's the very last
12 plan before it says -- thank you.

13 MS. BATTIES: I put that in the
14 PowerPoint. In the Powerpoint presentation.

15 COMMISSIONER MAY: It's in the
16 PowerPoint today? Okay.

17 MS. BATTIES: Yes.

18 MR. NORTEN: Oh, here it is. Here
19 it is, sir. Okay. You can -- I think this is
20 what you're referring to. And there is one
21 level here. Obviously the level or the height
22 of the level changes when it cuts the pool.

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1 This is the recreation room, but it's -- I
2 don't think it can be considered as two
3 levels. There's not like two --

4 COMMISSIONER MAY: Okay. But
5 maybe I'm misreading the plans. What I'm
6 looking at is the -- I mean, the area all the
7 way to the left on that top section between
8 column lines 2 and 4. On the upper level you
9 have something with a solid surface on it.
10 What's behind that?

11 MR. LANG: Sorry, that's an
12 extension of the pool deck. So there's some
13 sun shading around that area as well as the
14 overruns for the cores, the elevator overrun
15 and the --

16 COMMISSIONER MAY: Okay. So we
17 don't have -- at any point we don't have an
18 occupiable space with an occupiable space
19 above it?

20 MR. LANG: That's correct.

21 MR. STER: And there's no
22 occupiable space above the 120-foot limit

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1 allowed by the Height Act.

2 MR. NORTEN: Can you show please
3 the transverse section A, Erik? That also I
4 think is very explanatory to Mr. May's
5 comments.

6 I think here it explains very
7 clearly. There's one level. There's the
8 pool. And these two little elements are the
9 overpasses of the stairs and the elevators,
10 the overheads.

11 COMMISSIONER MAY: Okay.

12 MR. STER: The height of the
13 building is 110 feet to the top of the roof.
14 The highest point above that is a 18'6" to get
15 to that point.

16 COMMISSIONER MAY: Right.

17 MR. STER: Because the Height Act
18 allows a greater height than the Zoning
19 Regulations, we have that 10 feet between 110
20 and 120, which is above -- in the penthouse,
21 but not above the Height Act limitation.

22 COMMISSIONER MAY: Right.

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1 MR. STER: And that's the space
2 that we're proposing for those two communal
3 rooms. Above 110, but less than 120.

4 COMMISSIONER MAY: Okay. And
5 above the communal recreation space is that --
6 I mean --

7 MR. STER: There's --

8 COMMISSIONER MAY: -- above that
9 height you have some overruns and things like
10 that.

11 MR. STER: Right, that gets to
12 the --

13 COMMISSIONER MAY: But there's
14 nothing actually on top of those --

15 MR. STER: No.

16 COMMISSIONER MAY: -- other than
17 the green roof?

18 MR. STER: No.

19 COMMISSIONER MAY: No?

20 MR. STER: No.

21 COMMISSIONER MAY: Okay. There is
22 some sort of a passage, but it's all outdoor,

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1 is that right?

2 MR. NORTEN: Correct.

3 COMMISSIONER MAY: Okay. Because
4 there's a passage that wraps around both of
5 the cores?

6 MR. STER: Yes.

7 MR. NORTEN: Correct.

8 COMMISSIONER MAY: Okay. All
9 right. Well, thanks for clarifying that. I'm
10 not sure what I feel about -- I mean, I'm very
11 concerned about occupiable space on the
12 penthouse levels to begin with.

13 MR. NORTEN: Understand.

14 COMMISSIONER MAY: And
15 particularly in light of how we're
16 contemplating rewriting the Zoning
17 Regulations.

18 Let's see. The relief required
19 for lot occupancy for the residential at 82
20 percent, is that driven in part by the fact
21 that the building is sort of shifting, or --
22 I mean, because it seems to me that on the

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1 ground floor you're not really occupying more
2 than 75 percent.

3 MR. STER: No, the only place
4 where we occupy more than 75 percent is
5 actually at the mezzanine level.

6 COMMISSIONER MAY: Right at the
7 mezzanine level?

8 MR. STER: At the mezzanine level
9 we're at 82 percent. At the second floor and
10 every floor higher than that where there
11 actually are residential units we're at less
12 than 70 percent.

13 COMMISSIONER MAY: Right.

14 MR. STER: We're at 69 or lower.

15 COMMISSIONER MAY: Okay.

16 MR. STER: But because it talks
17 about lot occupancy applying to a residential
18 building or part -- and because the mezzanine
19 is part of the residential building, that's
20 where we sliced that plane for calculating lot
21 occupancy. It's really a technicality more
22 than a substantive issue. On any floor where

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1 there are actually units we are well below 75
2 percent. I can give you the exact figures for
3 each floor; we've run them, but they differ a
4 little bit on each one. But they're all below
5 70.

6 COMMISSIONER MAY: Lot occupancy
7 when you are overhanging something though. In
8 other words, when you have occupied space
9 that's overhanging, that contributes to lot
10 occupancy, does it not?

11 MR. STER: It does at that 82-
12 percent level. It wouldn't affect the
13 calculations at -- we're still under on all
14 the upper floors. We ran those numbers.

15 COMMISSIONER MAY: Okay. But the
16 fact that might have upper floors that are
17 overhanging, even the mezzanine level doesn't
18 drive that higher?

19 MR. STER: Not in that case. We
20 took the --

21 COMMISSIONER MAY: Calculation of
22 lot occupancy is not an extrapolation of the

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1 widest footprint above that?

2 MR. STER: At that point that's
3 where the widest footprint is.

4 COMMISSIONER MAY: Right.

5 MR. STER: That's where the 82
6 percent is.

7 COMMISSIONER MAY: But then above
8 that you have things that are expanding over
9 that, right?

10 MR. STER: Expanding and
11 contracting, both.

12 COMMISSIONER MAY: Right, but the
13 expanding adds, but the subtracting doesn't
14 necessary subtract.

15 MR. STER: Well again, there are
16 places where it does because of the way the
17 building is designed, but --

18 COMMISSIONER MAY: Well, I know
19 that actually it does --

20 MR. STER: Yes.

21 COMMISSIONER MAY: -- in terms of
22 the zoning and how you calculate it. We don't

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1 necessarily do things the way things happen in
2 the real world when it comes to zoning.

3 MR. STER: I think we need the
4 relief on 82 percent. Eighty-two percent is
5 the maximum lot occupancy. If you took -- to
6 use the technical term, if you squash the
7 building down into a flat plane --

8 COMMISSIONER MAY: Yes.

9 MR. STER: -- that would be the
10 amount that's occupied.

11 COMMISSIONER MAY: So if you
12 squashed everything above the mezzanine level
13 down --

14 MR. STER: Down, you would only
15 see that.

16 COMMISSIONER MAY: -- it be 82
17 percent?

18 MR. STER: That's correct.

19 COMMISSIONER MAY: Okay. That's
20 what I wanted be --

21 MR. STER: Yes.

22 COMMISSIONER MAY: -- clear on.

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1 MR. STER: Sorry.

2 COMMISSIONER MAY: And I
3 understand how -- no, no, no. That's okay.
4 It took a while to get there. And because it
5 didn't -- I mean, it didn't seem to me like it
6 was more than a 75-percent footprint anyway,
7 so it's helpful to have that explained.

8 MR. STER: Yes.

9 COMMISSIONER MAY: I'm glad that
10 -- one of my questions was why only LEED
11 Silver, which was what was in the submission,
12 but I'm glad you're going to LEED Gold.

13 Regarding the alley and the garage
14 access, did you look at providing all access
15 to the garage through the alley rather than
16 splitting it, because I can imagine myself
17 going in one entrance and coming out the other
18 and being completely confused.

19 MS. WHITE: Yes. No, I think
20 that's a good question. I'll note that we
21 have heard -- well, we've heard from the
22 residents who live off of a 24th Street about

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1 the concern for providing access from 24th
2 Street. Similarly we've heard from residents
3 that are access from -- who have access from
4 the alley and views of the alley about
5 concerns of providing egress from the alley.
6 And so what we think we've done is done a good
7 job of compromising that situation on
8 balancing it out so that traffic is well
9 distributed.

10 And to answer your question, yes,
11 we did consider it initially earlier on in the
12 process, but because of -- I showed you an
13 illustration of what happens with Westin and
14 some of the loading there.

15 COMMISSIONER MAY: Yes.

16 MS. WHITE: We didn't want to put
17 too much demand in the alley. And also, I
18 think the benefit of having access from 24th
19 Street is this provides I guess a greater
20 presence for the retail parkers and people who
21 are going into the library to see it from the
22 public roadway network as opposed to going

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1 through an alley.

2 COMMISSIONER MAY: Okay. I'm a
3 little surprised DDoT was happy with that, but
4 maybe they can tell us how happy they are.

5 I didn't understand what the
6 actual functional difference was between the
7 lay-by that was proposed and the recessed
8 parking. I mean, is it anything --

9 MS. WHITE: Can we go back to that
10 image, please?

11 COMMISSIONER MAY: I mean, does it
12 just mean that recessed parking is a bigger
13 lay-by with two reserved spaces in it? Is
14 that all it is?

15 MS. WHITE: Yes, recessed parking
16 does provide the benefit of -- well, 23rd
17 Street is a restricted street, and so there is
18 parking there during non-rush hour periods.

19 COMMISSIONER MAY: Right.

20 MS. WHITE: And so this recessed
21 parking does provide two parking spaces for
22 the community to use during those time periods

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1 when parking is restricted. So that is --

2 COMMISSIONER MAY: Yes.

3 MS. WHITE: -- you know, what DDoT
4 has asked us to provide.

5 COMMISSIONER MAY: So, and it's a
6 full depth --

7 MS. WHITE: Yes.

8 COMMISSIONER MAY: -- lay-by
9 parking space, or whatever?

10 MS. WHITE: Yes, it is.

11 COMMISSIONER MAY: What is it, 8
12 feet, or 10 feet, or --

13 MS. WHITE: I'm pretty sure.

14 Eight feet? Yes, it is eight feet.

15 COMMISSIONER MAY: Okay. You
16 know, I guess the last question or comment
17 that I had; and I don't know what to make of
18 this, is that the -- you know, I'm very
19 concerned about the -- on the architecture of
20 the building the attitude toward the town
21 houses immediately to the north. I mean, very
22 often when we see buildings like this that are

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1 in a context like that, that there is some
2 acknowledgement of a lower height context, not
3 necessarily dropping the entire building down
4 to that level, but just an acknowledgement of
5 it. And this really seems to just have no
6 acknowledgement of that context whatsoever.

7 And I don't know whether that
8 building -- those town houses and the smaller
9 apartment building there are destined to be
10 there forever, or whether they're -- you know,
11 they may eventually be redeveloped or what.
12 It just seems to me that there's just
13 absolutely not recognition of it and I'm kind
14 of puzzled as to why. So, I mean, is there a
15 reason why you just --

16 MR. NORTEN: Is that a question?

17 COMMISSIONER MAY: Yes. I mean,
18 why is the building seeming to ignore those
19 smaller scale buildings to the north?

20 MR. NORTEN: No, I don't think
21 we're trying to ignore it; the contrary. What
22 we have tried to do; and I don't know if that

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1 shows in the rendering, is to create a space
2 there that would even -- we're even proposing
3 a wall where one of the town houses sort of
4 turns around into a little space, into a
5 little plaza.

6 So the texture of, the historic
7 texture of the block sort of doesn't end with
8 a site condition or doesn't continue in an
9 untruthful way into a much bigger building.
10 So we're sort of turning it around, creating
11 a little space and creating a new façade,
12 which is a green façade that recuperates the
13 same rhythms and the same vocabulary of the
14 existing town houses into a green façade that
15 also has that same texture.

16 Do we have that, Erik?

17 COMMISSIONER MAY: Where is the
18 green façade?

19 MR. NORTEN: If you turn off
20 the --

21 COMMISSIONER MAY: You need to be
22 a microphone no matter what you do.

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1 MR. NORTEN: Oh, sorry. Sorry.

2 COMMISSIONER MAY: That's all
3 right.

4 MR. NORTEN: Okay. It's right
5 here. You see? This house doesn't have a
6 façade there.

7 COMMISSIONER MAY: Yes.

8 MR. NORTEN: You just have a party
9 wall. What we do is we turn around. We
10 create a space over here. There is a total
11 transparency at this floor and we sort of turn
12 around the little house, create a new façade.
13 All of this is green. We've sort of carved a
14 bas-relief sort of windows that sort of
15 simulate the same windows on this side and
16 terminate the line of historic buildings over
17 here by creating a space instead of by
18 creating mass. So I think it's -- I believe
19 it's a very strong way of recognizing the
20 existence of those two historic houses.

21 COMMISSIONER MAY: Okay. I'm not
22 sure I fully understand that, but I don't want

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1 to belabor the point. Maybe you can submit
2 something that describes this --

3 MR. NORTEN: We can.

4 COMMISSIONER MAY: -- a little bit
5 better.

6 MR. NORTEN: Yes, we can.

7 COMMISSIONER MAY: And, I don't
8 know, close up or a view from the other
9 direction or something like that so we
10 understand something about that.

11 One last question that I had
12 forgotten: The louvers; and we've gotten a
13 sample or whatever, is this just an interior
14 treatment, or is it exterior?

15 MR. NORTEN: Exterior.

16 COMMISSIONER MAY: It's all
17 exterior? Is it adjustable at all?

18 MR. NORTEN: Yes.

19 COMMISSIONER MAY: From the
20 interior you can adjust these out?

21 MR. NORTEN: Yes.

22 COMMISSIONER MAY: These exterior

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1 shades?

2 MR. NORTEN: And move them.

3 COMMISSIONER MAY: And do they
4 wrap around all sides of the building, or
5 just --

6 MR. NORTEN: Correct.

7 COMMISSIONER MAY: Okay. So even
8 on the alley side where it's showing to be a
9 much simpler façade and a flat façade, it's
10 all louvers and you're just showing certain --

11 MR. NORTEN: Correct.

12 COMMISSIONER MAY: And so that's
13 all glass?

14 MR. NORTEN: Well, not -- in those
15 tiny little façades --

16 COMMISSIONER MAY: Yes?

17 MR. NORTEN: -- it's not all
18 glass. You know, parts are glass --

19 COMMISSIONER MAY: Oh.

20 MR. NORTEN: -- and parts are not
21 glass.

22 COMMISSIONER MAY: I see. But the

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1 ones that are showing as windows would have
2 the louvers?

3 MR. NORTEN: Yes.

4 COMMISSIONER MAY: And the other
5 ones it's a solid panel?

6 MR. NORTEN: Yes.

7 COMMISSIONER MAY: Okay. Thanks.

8 CHAIRPERSON HOOD: Okay.

9 Commissioner Cohen?

10 COMMISSIONER COHEN: Thank you,
11 Chair.

12 I actually think this is a
13 beautiful building. I actually created
14 something like this with my Legos a long time
15 ago, but it wasn't quite as beautiful.

16 I guess my concern is -- I mean,
17 if you read my bio, you know that for many,
18 many years I have been an activist in
19 affordable housing. And so having this
20 inclusionary zoning law made me very pleased
21 because we really do have an issue in the
22 District of Columbia for housing people, the

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1 workforce, let's say.

2 So if I had some assurance that
3 the affordable units were going to be created
4 on Lot 50, I'd feel a lot more comfortable,
5 but I have no assurance. That may never
6 happen, and therefore I am very concerned with
7 this particular property and asking for a
8 waiver of a law that was created just to make
9 sure that we did have inclusionary zoning.

10 So units that were available, for
11 people who even work in the hospitals, they'll
12 never be able to afford the condo prices here.
13 You know, the librarian couldn't even afford
14 to live here. So that is my major concern
15 that I have.

16 My colleagues are well known in
17 their fields. They're architects. I think I
18 do have some of their concerns about looking
19 up and seeing that penthouse. That's that --
20 you know, looks like it's just a plain white
21 wall. So again, I have to take a more closer
22 look at that.

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1 And in addition, I guess my
2 biggest question is the day of the hearing to
3 give us a bunch of stuff that we haven't had
4 a chance to review -- Chair, I hope that we'll
5 have another opportunity to question the
6 Applicant, because there's a lot of stuff here
7 that may end up changing my mind. It may end
8 up making me even more adamant about certain
9 issues. So I just hope that we will have
10 another opportunity, because right now I'm not
11 going to spend my time up here reading.

12 CHAIRPERSON HOOD: Okay. Thank
13 you, Commissioner Cohen.

14 And I, too, want to -- I'm going
15 to cut some of my questions because I do want
16 to hear from the community. If we have to
17 come back, then, you know, that's our jobs.
18 We'll come back. But I think the community
19 has sat here long enough through that cross-
20 examination and we need to be able to not have
21 to keep inconveniencing folks who I think --
22 especially ANC, who I think work very hard in

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1 what they do.

2 So without that, I had a few
3 questions. I think since we're probably going
4 to have to have another hearing, I'm going to
5 try to go as far into this hearing as
6 possible. So what I would do now is go to
7 cross-examination.

8 Commissioners, any other
9 questions?

10 COMMISSIONER TURNBULL: Yes, just
11 one follow up, following up on -- I think
12 Commissioner May and myself both had a
13 question on that 24th Street, with the low-
14 rise buildings. And we saw the one view from
15 24th Street which shows the edge, and then we
16 saw the other perspective which looks back and
17 shows that screen that you talked about. And
18 I think that that's a very -- that
19 representation that is -- I think we need
20 something a little bit better, because it's
21 very nebulous. That's also where the garage
22 doors are, so it's kind of a busy spot.

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1 I know what you're saying, you're
2 trying to make it blend in, but I think we
3 need a better representation of what that
4 actually looks like, because it's a very fuzzy
5 kind of a connection. I think we really need
6 to know exactly what's going on there.

7 Because the rendering that shows
8 24th Street view -- well, they're calling it
9 option B, what I'm looking at, that one
10 rendering. When you look at it, it's very
11 deceptive. I think I understand what you're
12 trying to do, but I think we need a better
13 explanation.

14 MR. NORTEN: Okay.

15 COMMISSIONER TURNBULL: And I
16 think I would agree also with Commissioner
17 May's comments about -- and especially on 23rd
18 Street, the setbacks. Twenty-fourth Street I
19 think you're okay at setbacks. It's 23rd
20 where you're starting to get down to like 10
21 feet, so that gets to be a very big massive
22 penthouse along there. That's it,

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1 Commissioner May.

2 CHAIRPERSON HOOD: Thank you,
3 Commissioner Turnbull.

4 I am prepared to go tonight to
5 11:30. I hope everyone agrees that we can try
6 to push this as much as possible and get
7 through as much of the community as possible.
8 So what I would do is direct exam. And I do
9 have some questions. I do have some questions
10 for the traffic consultant. I want to see how
11 all that's going to work. I have some
12 questions about the Office of Planning. I
13 want to see if the Applicant is in agree-ance
14 with what 2A has. So some of this may prevail
15 itself as we move along, so I will withhold
16 mine until the second hearing. We're going to
17 try to get as far as possible with the
18 community tonight.

19 Do we have any cross-examination
20 of ANC 2A, Chairperson Coder?

21 (No audible response.)

22 CHAIRPERSON HOOD: Okay. Cross-

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1 examination of D.C. Library Renaissance
2 Project/West End Library Advisory Group?

3 MS. DIENER: We wonder if it's
4 possible to also retain the right to do cross-
5 examination later?

6 CHAIRPERSON HOOD: No, you can do
7 it now. I'm doing that so the community can
8 go.

9 MS. DIENER: Well, that's what I
10 -- well --

11 CHAIRPERSON HOOD: No, no. I --

12 MS. DIENER: -- because we could
13 come back to a continuation as well.

14 CHAIRPERSON HOOD: No, no. Right
15 now we're going to follow the process.

16 MS. DIENER: Okay.

17 CHAIRPERSON HOOD: You want to do
18 cross-examination?

19 MS. DIENER: We do want to do a
20 brief cross-examination.

21 CHAIRPERSON HOOD: Okay.

22 MS. DIENER: Thank you.

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1 CHAIRPERSON HOOD: Go right ahead.

2 MS. DIENER: Let me ask my
3 colleague.

4 MR. OTTEN: Okay. In fairness of
5 expediency, I'll try to push this along a
6 little quicker than the last go, learning as
7 I go along here.

8 I just want to talk about or ask,
9 I heard in your testimony, Mr. Lanier, that
10 you want to -- you're trying to maximize the
11 potential revenue on Square 37, correct?

12 MR. LANIER: Maybe, yes.

13 MR. OTTEN: And that's seconded --
14 that emotion is seconded by Mr. Hoskins'
15 letter about this project. That's Exhibit C
16 of your application, is that correct?

17 MR. LANIER: That may be. I don't
18 have the application in front of me, so I'll
19 take your word for it.

20 MR. OTTEN: Well to that end, what
21 is the potential revenue that you're
22 attempting to maximize?

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1 MR. LANIER: We're trying --

2 MS. BATTIES: I'm going to object
3 to that question. I don't understand how
4 that's relevant to the PUD application.

5 MR. OTTEN: Can I respond?

6 CHAIRPERSON HOOD: What is the
7 relevance?

8 MR. OTTEN: It's being proffered
9 by the Deputy Mayor for Planning and Economic
10 Development that because the costs of the
11 public benefits are so extraordinary in this
12 case for this PUD that they have to do
13 everything possible to maximize the amount of
14 potential revenue on Square 37. And that's
15 why there's no IZ and all of the other
16 associated things with -- this PUD is
17 requesting of the Commission.

18 CHAIRPERSON HOOD: And your
19 question was?

20 MR. OTTEN: I'm trying to get a
21 sense from the Applicant what is the potential
22 revenue that they're trying to maximize.

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1 MS. BATTIES: Mr. Lanier did not
2 make any representation as to the revenues
3 that would be generated beyond --

4 MR. OTTEN: That's not true. He
5 did mention he wants to maximize the potential
6 revenue.

7 MS. BATTIES: He did not give a
8 specific --

9 CHAIRPERSON HOOD: Mr. Lanier, can
10 you answer that question?

11 MR. LANIER: My comment simply
12 went to the fact that we're trying to achieve
13 a sensible high-end density project in order
14 to multiply FAR square feet, more FAR square
15 feet by \$91 than the previous zoning allowed.
16 So to the extent that we have, so to speak, a
17 300,000-square-foot project and it's 300,000
18 square feet times 90, it's \$27 million. If
19 it's 200,000 square feet, it's 200,000 times
20 90, it's \$18 million.

21 And to that extent we're trying to
22 accommodate the cost and cover the cost as we

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1 have budgeted and see it for the library.
2 However, if we were to achieve a higher
3 density and then, notwithstanding our
4 budgetary formulas, there is excess capital
5 available and that capital would be applied to
6 affordable housing.

7 CHAIRPERSON HOOD: Okay.

8 MS. BATTIES: And I just want to
9 clarify.

10 MR. LANIER: On Square 50.

11 MS. BATTIES: It's to cover the
12 cost of the construction of the library and
13 the fire station.

14 CHAIRPERSON HOOD: Okay. Next
15 question?

16 MR. OTTEN: What is the projected
17 cost of the library, of the new library that's
18 being proposed?

19 MR. LANIER: Approximately \$10
20 million.

21 MR. OTTEN: And how was this
22 construction budget arrived to?

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1 CHAIRPERSON HOOD: If you don't
2 know the answer, or you don't have
3 information, just say no and we'll go to the
4 next question.

5 MR. LANIER: Scientifically.

6 CHAIRPERSON HOOD: Okay. That's
7 the answer. Next question.

8 MR. OTTEN: Did you work with D.C.
9 Public Library to determine that amount?

10 MR. LANIER: Yes.

11 MR. OTTEN: Okay. Do you believe
12 that you can construct this library at a lower
13 cost than currently projected? And if not,
14 why not?

15 MR. LANIER: We have a scope of
16 work. We've priced the scope of work and that
17 is the price. If the scope of work were to
18 change, it's conceivable.

19 MR. OTTEN: The scope of work
20 includes a budget for finishes, skin and
21 landscaping costs, library skin and --

22 MR. LANIER: We have so many

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1 scopes there, I can't now tell you exactly
2 what the scope of work for the library is
3 without having an exhibit that outlines it.

4 MR. OTTEN: In Exhibit E I believe
5 it does outline that, but these sort of -- do
6 you believe that the finishes, skin and
7 landscaping costs for the library seem
8 inflated? Can you comment on this?

9 MR. LANIER: I have no opinion on
10 the skin and the cost to the library.

11 MR. OTTEN: Are you aware of how
12 the projected cost for the library compares
13 with recently-built stand-alone libraries, you
14 know, that include a roof, HVAC, landscaping,
15 parking in the city?

16 MR. LANIER: We're favorably --
17 you know, approximately 20 percent less, more
18 than 20 percent less.

19 MR. OTTEN: Are you aware of the
20 -- let's see. Let me go to the next question.
21 This library will be built as part of the
22 overall construction of the building in

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1 question tonight, this bigger building, right?

2 MR. LANIER: Yes.

3 MR. OTTEN: And how much square
4 footage is the library of the overall --
5 what's the overall square footage of the
6 building you want to build on Square 37?

7 MR. STERNLIEB: Mr. Chairman, I'm
8 Joe Sternlieb. I work for him at Eastbanc.
9 I'm one of the people who's working on the
10 project. I can probably answer some of the
11 technical questions if you'd like me to.

12 CHAIRPERSON HOOD: So you work for
13 him, but he can't -- but you're going to
14 answer?

15 MR. STERNLIEB: Well --

16 CHAIRPERSON HOOD: That was a
17 joke.

18 MR. LANIER: He works with me.
19 Nobody works for me.

20 CHAIRPERSON HOOD: That was a
21 joke. I don't want to get you fired. I'm
22 just messing with you. I'm really just having

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1 some fun.

2 MR. STERNLIEB: You can. The
3 severance would probably be better than the
4 hourly.

5 CHAIRPERSON HOOD: All right.
6 Yes, that's fine.

7 MR. STERNLIEB: Twenty-thousand
8 one-hundred and sixty-four square feet.
9 However, we did not calculate in that number
10 all of the back of the house that would
11 normally be calculated in a stand-alone
12 library. So we didn't attribute any of the
13 loading docks or service quarters or any of
14 that to the library so that the -- we have a
15 -- because it's built on one floor it's a
16 higher efficiency rate. I believe that the
17 average DCPL new library is about 17,300
18 square feet efficient space, and we're coming
19 in at around 17,700 square feet efficient
20 space.

21 MR. OTTEN: And this library will
22 be on one floor?

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1 MR. STERNLIEB: All of the public
2 space will be on one floor.

3 MR. OTTEN: And as you said just
4 now, they're sharing loading, facilities,
5 streetscape. What else?

6 MR. STERNLIEB: The service
7 quarters, trash rooms, things of that nature.

8 MR. OTTEN: Do you find it
9 interesting that the cost of this one-story
10 20,000-square-foot library sharing key
11 facility space with the rest of the building
12 is close to the same amount of money that the
13 land is being valued at or being sold for to
14 you? It's kind of a wash, right? I guess I'm
15 getting to the aspect that --

16 MR. STERNLIEB: It's not a wash.
17 If the Zoning Commission were to decide
18 tonight to cut the building back by 50,000
19 square feet, we'd be \$4.9 million short and we
20 wouldn't have enough money. What we've done
21 is we've designed and priced a building. Our
22 hope and intention is to build affordable

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1 housing as well.

2 The deal that we've struck with
3 the city -- or, I'm sorry, the agreement that
4 we struck with the city was to -- and the RFP
5 requested a new library, a new fire station
6 and a affordable housing. The fact is they
7 put it out to bid to the entire community. It
8 was well advertised. A lot of people came to
9 the pre-bid conference and nobody could figure
10 out how to do all three, and most people
11 decided not to bid. We did decide to bid.
12 What we found is that we could do two of the
13 three, but not all three. So that if we were
14 to do the affordable housing, we wouldn't be
15 able to do the fire station. So, I'm
16 saying --

17 MR. OTTEN: Okay. I appreciate
18 that.

19 MR. STERNLIEB: -- it's not a
20 coincidence. Just the numbers worked. Well,
21 it is only a coincidence the numbers worked
22 out that way. It's not a conspiracy. That's

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1 what I mean to say.

2 MR. OTTEN: And to you, the
3 finishes, skin and landscaping costs, they
4 seem inflated. Do you want to comment on
5 that?

6 MR. STERNLIEB: They're not
7 inflated. They're bid.

8 MR. OTTEN: Okay.

9 MR. STERNLIEB: They're designed
10 and then bid.

11 MR. OTTEN: Comparing it to the --

12 MR. STERNLIEB: And I'll also say
13 that the average costs of the library, just to
14 be relevant to your question, new libraries in
15 the city are running between \$14 million and
16 \$18 million, and we're bringing this one in at
17 the same size under 10. So I think if
18 anything we're not inflating anything, but
19 really trying to deliver a very high value at
20 a lower cost than what others have been able
21 to do.

22 MR. OTTEN: We have documentation

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1 that shows otherwise in terms of what you're
2 quoting for --

3 COMMISSIONER MAY: You can testify
4 to that --

5 MR. OTTEN: Okay.

6 COMMISSIONER MAY: -- when the
7 time comes.

8 MR. OTTEN: Have you been in the
9 current West End Library right now, like you
10 know, that's the --

11 MR. STERNLIEB: I'm the one who's
12 done the 64 community meetings, so I've been
13 there a lot of times.

14 MR. OTTEN: Okay. And have you
15 noticed any overwhelming problems with that's
16 preventing service right now?

17 MR. STERNLIEB: Yes, over the
18 years I have. Yes.

19 MR. OTTEN: Is there a leaky roof
20 or anything like that?

21 MS. BATTIES: I would object. I
22 don't understand how this line of questioning

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1 is related to the PUD application.

2 MR. STERNLIEB: I'll say that the
3 elected officials of the city and the Chief
4 Librarian of the City decided to put an RFP to
5 build a new library because they found this
6 one to be lacking.

7 MR. OTTEN: Yes.

8 MR. STERNLIEB: That was a
9 political decision from the elected officials
10 of the city; not ours.

11 MR. OTTEN: Okay. But it goes to
12 the amenities. You're saying that the
13 library, new library is an amenity. And I
14 guess I was just trying to get at your sense
15 of the current space versus what's being
16 proposed.

17 COMMISSIONER MAY: You know, his
18 opinion of the government's decision to enter
19 into this deal isn't really relevant for our
20 decision making, so maybe you want to just ask
21 a different question.

22 MR. OTTEN: Okay. Was there

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1 meaningful discussion at these community
2 meetings about the loss of the friend's space
3 currently right now that's in place as part of
4 the redevelopment, the size of the friend's
5 space that does book sales and things?

6 MS. BATTIES: No, I'm going to
7 object. There was no testimony with regard to
8 the loss of friends space in the library, in
9 the West End library.

10 MR. OTTEN: Well, okay. So let me
11 ask this: With the community meetings are
12 there any minutes or notes associated with the
13 discussion around a friends space?

14 MR. STERNLIEB: If your question
15 is if Ms. Diener asked questions about this
16 issue, the answer is I'm sure she did and I'm
17 sure they were addressed, but I don't have any
18 minutes specifically about that specific
19 issue.

20 MR. OTTEN: Okay. Are you aware
21 that the current library -- well, let me ask
22 you this: The proposed library that's part of

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1 this PUD, is it able to be expanded in the
2 future beyond the one story, beyond the space
3 that you're allocating?

4 MR. LANIER: Do you want an honest
5 answer or do you want me to be flippant about
6 that?

7 MR. STERNLIEB: Physically? Are
8 you asking is there physical space? Sure, the
9 library could be expanded into the retail
10 space if they wanted to buy more space or rent
11 more space. Or the mezzanine or the
12 courtyard, yes. The answer is yes.

13 MR. LANIER: Or a condominium.

14 MR. OTTEN: Okay.

15 MR. STERNLIEB: Or down into the
16 garage, right. I mean, anything's physically
17 possible. There's a lot of space that's not
18 library space.

19 MR. OTTEN: Okay. The parking
20 that you spoke about earlier, the six spaces
21 for the library, the impression was that you
22 were giving these to the library. But isn't

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1 it the case that the library --

2 MS. BATTIES: I'm going to object
3 to that statement.

4 CHAIRPERSON HOOD: No impression.
5 Could you ask a question? And any personals
6 issues or what you feel like -- just ask the
7 question.

8 MR. OTTEN: Okay. The library
9 parking spaces that are being allotted in the
10 PUD, the six spaces, are those costing the
11 library money?

12 MR. STERNLIEB: Yes, they're part
13 of the library budget.

14 MR. OTTEN: How long do you intend
15 the construction to last?

16 MR. STERNLIEB: Approximately 27
17 months from the time we begin demolition.

18 MR. OTTEN: And are you helping
19 the library with any funding around interim
20 library services during the construction?

21 MR. STERNLIEB: That's not part of
22 the LDDA. The LDDA calls for the District of

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1 Columbia to temporarily relocate the building.
2 And we will build out the new building and
3 they'll move back in. The District has the
4 right to ask us to do that if they have been
5 unable to do it and we're ready to proceed so
6 that it doesn't hold up the project. So if in
7 the event that the District does not do that,
8 we will step in and do it and it'll be billed
9 back to the project.

10 MR. OTTEN: Quick question about
11 payment for the land. Is it your
12 understanding that to purchase the land from
13 the city that the monies will go into the --
14 according to D.C. Code 39-112, the Library
15 Development Trust Fund?

16 MS. BATTIES: I'm going to object
17 to that question. It's not on the table for
18 the PUD application.

19 MR. OTTEN: Where the monies go in
20 terms of --

21 COMMISSIONER MAY: It's not really
22 relevant to the zoning decision that we're

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1 making.

2 MR. OTTEN: Oh, okay.

3 CHAIRPERSON HOOD: You want to ask
4 questions that are going to help us to make
5 our informed decision.

6 MR. OTTEN: Yes, I guess I'm just
7 worried that if it --

8 CHAIRPERSON HOOD: No, no, no, no.
9 Don't testify. Okay. Let me ask you: How
10 many more questions do you have?

11 MR. OTTEN: I think I have two
12 more.

13 CHAIRPERSON HOOD: Okay.

14 MR. OTTEN: Okay? To the
15 gentleman representing the developer from
16 Holland & Knight. I'm sorry, I didn't catch
17 your name.

18 MR. SHER: Sher, S-H-E-R.

19 MR. OTTEN: Mr. Sher. Thank you.
20 You mentioned that based on the Comp Plan and
21 the surrounding properties that this is
22 appropriately -- should be appropriately zoned

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1 right now even PUD, CR PUD, correct?

2 MR. SHER: What I said was the
3 designation on the Land Use Map, which is
4 mixed-use, high-density residential and
5 medium-density commercial -- when you look at
6 the area that is designated that way in this
7 vicinity and then you compare that to the
8 Zoning Map, all of those properties are zoned
9 either CR or C-2-C. Some of them PUDs, some
10 of them just zoned that way.

11 MR. OTTEN: And so in the
12 appraisal of the land value are you surprised
13 that they didn't analyze the land for CR PUD?

14 MS. BATTIES: I'm going to object
15 to that question. That was not within Mr.
16 Sher's testimony.

17 MR. OTTEN: It's going right to
18 what he's saying that --

19 CHAIRPERSON HOOD: Okay. Well,
20 ask the question right to what he testified
21 to.

22 MR. OTTEN: Okay. So to what you

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1 testified that it's appropriate and should be,
2 are you -- to balance -- for this Commission
3 to balance the amenities and to determine the
4 value, are you surprised that this was not
5 evaluated -- appraised at CR?

6 MR. SHER: No.

7 MR. OTTEN: Okay. And just one
8 more question. Actually that's it. Thank
9 you, Commissioners.

10 CHAIRPERSON HOOD: Okay. Thank
11 you. Let's go to -- is the Gibson Condominium
12 Association, Incorporated -- are they present?

13 (No audible response.)

14 CHAIRPERSON HOOD: Okay. Let's go
15 to the Residents of Ritz-Carlton.

16 (No audible response.)

17 CHAIRPERSON HOOD: No? Any cross?

18 (No audible response.)

19 CHAIRPERSON HOOD: Okay. Mr.
20 Horvitz, any cross?

21 MS. HORVITZ: Good evening again.

22 This is Laurie Horvitz on behalf of Mr. Wnuck.

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1 I'd like to start with some questions about
2 garage access and use of the alleys, so
3 perhaps directed at the traffic analyst.

4 Will the project increase current
5 vehicular usage of the two alleys, both the
6 east-west and the north-south alleys?

7 MS. WHITE: Yes.

8 MS. HORVITZ: By how much?

9 CHAIRPERSON HOOD: I hope y'all
10 don't object to that question, because that
11 was one of mine. Thank you, Mr. Horvitz.

12 MS. WHITE: Eighteen A.M. and 21
13 P.M.

14 MS. HORVITZ: Your answer is just
15 limited to peak vehicular time?

16 MS. WHITE: Yes.

17 MS. HORVITZ: Okay. How many
18 vehicles will drive through the alley during
19 an average week day based on this development
20 project?

21 MS. WHITE: While we did not
22 project daily traffic, there is a rule of

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1 thumb typically that 10 times your peak. So
2 I would -- if you use that rule of thumb, say
3 180 total, 180 or so total.

4 MS. HORVITZ: A hundred and eighty
5 is just the traffic attributable to this
6 proposed project, correct?

7 MS. WHITE: That is correct. And
8 this is the rule of thumb, and I'd be happy to
9 provide an actual answer as follow up.

10 CHAIRPERSON HOOD: Let me just
11 ask: Is this in the manual, so to speak, or
12 is this just something that --

13 MS. WHITE: The rule of thumb?

14 CHAIRPERSON HOOD: Yes. Is it in
15 the manual, Kelvin, or is it just -- no, it's
16 a --

17 MR. ROBINSON: (Off microphone.)

18 MS. WHITE: Yes.

19 CHAIRPERSON HOOD: Okay. So it's
20 a -- okay.

21 MR. ROBINSON: (Off microphone.)

22 CHAIRPERSON HOOD: I really don't

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1 -- he's going to have to give you the answer
2 or he's going to have to come to the table.

3 MS. WHITE: Okay.

4 CHAIRPERSON HOOD: While I would
5 like to know the answer, but I can't get it
6 from back there.

7 MS. WHITE: Okay.

8 CHAIRPERSON HOOD: Excuse me, Ms.
9 Horvitz, for interrupting.

10 MS. WHITE: Kelvin, you're welcome
11 to join me at the table if you'd like.

12 CHAIRPERSON HOOD: Just identify
13 yourself.

14 MR. ROBINSON: My name is Kelvin
15 Robinson. I'm a senior transportation
16 engineer with Symmetra Design.

17 CHAIRPERSON HOOD: You were
18 answering a question.

19 MR. ROBINSON: Oh. Basically
20 there's a rule of thumb, but calculations have
21 shown it that it's pretty much what it is.
22 When you have peak hour volumes if you

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1 multiply it by 10, you will get the daily
2 output.

3 MS. HORVITZ: Thank you. Now does
4 that reflect also the delivery and trash
5 activity, or are you talking about vehicles
6 that are parking in the garage?

7 MS. WHITE: Well, that would be
8 vehicles parking in the garage. We are
9 projecting two to three delivery vehicles per
10 day as well, so 182.

11 MS. HORVITZ: And I saw that
12 prediction in the earlier filings. That
13 prediction on the trucks was associated with
14 the commercial uses of the building, correct?

15 MS. WHITE: I think it was for the
16 entire building.

17 MS. HORVITZ: So that estimate
18 included any delivery trucks and vehicles
19 servicing the residential areas as well?

20 MS. WHITE: I'm not sure.

21 MS. HORVITZ: That's fine. There
22 are existing problems, are there not, with the

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1 east-west alley?

2 MS. WHITE: Can you be just a
3 little more specific?

4 MS. HORVITZ: Certainly. I mean
5 there were photographs even in the
6 transportation analysis of double-parked cars
7 and trucks in part attributable to the hotel
8 that double parks and unloads in that alley?

9 MS. WHITE: I think this is
10 typical for an alley.

11 MS. HORVITZ: It is in fact an
12 alley not a street, correct?

13 MS. WHITE: Absolutely.

14 MS. HORVITZ: And it's an alley
15 that has a chronic and ongoing problem with
16 delivery trucks stopping, parking and
17 unloading in the middle of the alley, correct?

18 MS. WHITE: I wouldn't classify it
19 as a chronic ongoing problem.

20 MS. HORVITZ: Okay. Well how
21 often does it happen?

22 MS. WHITE: A few times a day from

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1 what we've seen, our observations. I can
2 admit that I didn't observe for 24 hours a day
3 though.

4 MS. HORVITZ: Do you know what the
5 loading capability is? Is it the Westin Hotel
6 that is across the alley?

7 MS. WHITE: Yes, there's a Westin
8 Hotel across the alley.

9 MS. HORVITZ: Okay. Is that the
10 primary offender here in terms of using the
11 alley for loading and unloading?

12 MS. WHITE: It's not the only -- I
13 wouldn't call it an offender, but it's not the
14 only user of the alley.

15 MS. HORVITZ: Okay. But I saw
16 some reference in the transportation analysis
17 to the fact that there is some shortcoming
18 associated with the loading facilities of the
19 Westin Hotel that creates a problem and
20 invites the usage of the alley for loading and
21 unloading. Is that correct?

22 MS. WHITE: I think what I'm

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1 saying is that trucks find it difficult to
2 maneuver into the loading dock and so they --
3 it's more convenient for them to park directly
4 outside and use that for loading and
5 unloading, that's correct.

6 MS. HORVITZ: Okay. Do you know
7 what the loading dock capability is of the
8 Westin Hotel?

9 MS. WHITE: In terms of how many
10 loading berths it provides?

11 MS. HORVITZ: And the size.

12 MS. WHITE: Not exactly off the
13 top of my head, no.

14 MS. HORVITZ: And I understand
15 that there's a request associated with this
16 application for flexibility with respect to
17 the 55-foot loading requirement.

18 MS. WHITE: That is correct.

19 MS. HORVITZ: Would a 55-foot
20 truck be able to drive into the alley and turn
21 into the north-south alley?

22 MS. WHITE: Okay. So we found

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1 issues with it maneuvering out.

2 MS. HORVITZ: Maneuvering out?

3 MS. WHITE: Yes.

4 MS. HORVITZ: So what are those
5 issues?

6 MS. WHITE: The issues would be it
7 would not be able to in and -- get out of the
8 alley.

9 MS. HORVITZ: Okay. And is that
10 -- so presumably that's a limitation that
11 governs all the other uses, shared used of the
12 alley. The other -- the Westin and the like
13 would also have the same limitations to your
14 knowledge?

15 MS. WHITE: No, not necessarily.

16 MS. HORVITZ: Okay. So what if
17 anything is this project doing to prevent the
18 current usage of the east-west alley for
19 loading and unloading by users?

20 MS. WHITE: I don't know that it's
21 in our authority to prevent the Westin from
22 using the alley for loading. What we have

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1 done is provided enhancements for all alley
2 users though.

3 MS. HORVITZ: But nothing in this
4 proposal is likely to remedy that problem,
5 which is that people are using that east-west
6 alley for loading and unloading, correct?

7 MS. WHITE: Yes. Yes, we're
8 widening it to the east.

9 MS. HORVITZ: Okay. So it will
10 now be -- it's two ways, right? Correct?

11 MS. WHITE: Yes, that's correct.

12 MS. HORVITZ: Okay. And it will
13 continue to be two ways?

14 MS. WHITE: Yes.

15 MS. HORVITZ: And at the side
16 that's closet to 23rd Street it's going to be
17 closer to 20 feet than 15 feet, correct?

18 MS. WHITE: Yes, it'll be closer
19 to 20 feet on both sides when we're finished.

20 MS. HORVITZ: But nonetheless the
21 same vehicles are going to come up and they're
22 going to stop in the middle of the alley and

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1 they're going to unload, correct?

2 MS. WHITE: They're not going to
3 stop in the middle. They would stop adjacent
4 to that building.

5 MS. HORVITZ: And then people
6 would need to pass into the oncoming traffic
7 lane to get around that stopped vehicle?

8 MS. WHITE: That is correct,
9 however, I will note that by the fact that
10 we've widened our side of the alley, it does
11 provide residents with the option of going to
12 the east to access 23rd Street, which is
13 actually closer than going back.

14 MS. HORVITZ: Now, are you aware
15 and did you take into account the fact that
16 there are two town houses and the West End
17 Flats that currently use the east-west alley
18 and then the north-south alley to access
19 parking for their own facilities?

20 MS. WHITE: We did counts of the
21 alley. And so whichever users used it, they
22 would have been included in our counts.

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1 MS. HORVITZ: And how will they be
2 impacted, those vehicles by your proposal?

3 MS. WHITE: They will be impacted
4 in that there will be an additional 18 A.M.
5 and 21 P.M. peak hour trips, plus an
6 additional two to three daily delivery
7 vehicles.

8 MS. HORVITZ: Or 180 a day?

9 MS. WHITE: Yes, according to our
10 rule of thumb, but not quite confirmed.

11 MS. HORVITZ: Will the trucks that
12 are loading and unloading for your project,
13 the proposed project, use a rear in
14 maneuvering in the north-south alley to get
15 into their loading docks?

16 MS. WHITE: They will back into
17 the loading dock, yes. They will pull into
18 the north-south alley and then back into the
19 loading dock.

20 MS. HORVITZ: And so they're going
21 to be backing into the loading dock while the
22 cars are coming out of the garage?

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1 MS. WHITE: No, the cars would
2 stop while the truck is backing into the
3 loading dock.

4 MS. HORVITZ: But it's the same
5 space, the same roadway, correct?

6 MS. WHITE: Absolutely.

7 MS. HORVITZ: And from a safety
8 perspective is that ideal to have trucks
9 backing up into a loading dock while other
10 cars are trying to drive by?

11 MS. WHITE: I think it works for
12 an alley, and this is the way alleys work in
13 the city.

14 MS. HORVITZ: Can somebody tell me
15 where the dumpsters and trash will be for this
16 site?

17 MS. WHITE: In the loading dock.

18 MS. HORVITZ: And is the loading
19 dock closed off, or I mean is it open air?

20 MS. WHITE: No, I don't believe
21 so.

22 CHAIRPERSON HOOD: Can we do this?

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1 Can we put that slide back up and somebody can
2 point and kind of show us? We're killing two
3 birds with one stone, because this will help
4 some of my questions, if you don't mind. Then
5 we won't have to go back.

6 MS. WHITE: So there is a door.

7 MS. HORVITZ: Okay. So there's a
8 door to the loading area that will close at
9 some point in the evening?

10 MS. WHITE: Yes.

11 MS. HORVITZ: Okay.

12 CHAIRPERSON HOOD: I don't want to
13 interrupt you, Ms. Horvitz, if you --

14 MS. HORVITZ: No, feel free.

15 CHAIRPERSON HOOD: No, I don't
16 want to interrupt. Are you finished, or you
17 have additional questions?

18 MS. HORVITZ: I have a few. Yes,
19 I do have.

20 CHAIRPERSON HOOD: Would that help
21 you to see? I mean, I'm just asking.

22 MS. HORVITZ: I'm fine. I mean,

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1 I've studied it.

2 CHAIRPERSON HOOD: Okay. You're
3 fine? Okay.

4 MS. HORVITZ: But I appreciate
5 that.

6 CHAIRPERSON HOOD: You can just
7 leave it up for me.

8 MS. HORVITZ: Now can somebody
9 tell me -- and this is probably no longer the
10 traffic analyst, but can somebody tell me how
11 many of the units will be three-bedroom?

12 MR. LANG: Thirty-one.

13 MS. HORVITZ: And how many will be
14 two-bedroom?

15 MR. LANG: Ninety-seven.

16 MS. HORVITZ: I heard testimony
17 that there is going to be some effort to
18 encourage owner-occupied dwelling units, so
19 what I would like to know is it planned or
20 represented to the Commission that there will
21 actually be condo documents that limit the
22 number of rentals in this building?

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1 MS. BATTIES: That's not being
2 proffered as part of this application.

3 MS. HORVITZ: And so it's just
4 kind of aspirational, but not something you're
5 going to limit your own owners prohibit
6 rentals after a certain percentage already
7 rent, correct?

8 MS. BATTIES: That's not proffered
9 as part of this application.

10 MS. HORVITZ: Okay. I have not
11 seen some of the things you brought to the
12 Commission today, so I have a few questions
13 about whether your proposals are still as I
14 saw them in the earlier versions. Is the
15 Applicant still asking for flexibility to
16 build up to 189 units?

17 MS. BATTIES: We are requesting
18 flexibility to have a range of units. I will
19 confirm that range.

20 MS. HORVITZ: Do you mind if --
21 I'll ask a few other questions while you're
22 looking for that. The question -- I have a

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1 follow-up question on that point, which is to
2 the extent that there's flexibility above say
3 180 or so --

4 MS. BATTIES: One-hundred and
5 fifty-three to one-hundred and eighty-nine
6 units.

7 MS. HORVITZ: Okay. So you're
8 asking this Commission to approve up to 189
9 units?

10 MS. BATTIES: Correct.

11 MS. HORVITZ: Okay. And when the
12 Applicant went to the District of Columbia;
13 and we've heard a lot about that, and asked
14 for approval for the disposition of the land,
15 what was the number of housing units that were
16 contemplated at that time for Square 37?

17 MS. BATTIES: Joe, do you want to
18 answer that question, please?

19 MR. STERNLIEB: As I recall, it
20 was 154, but it was also an approximate number
21 at the time as I recall.

22 MS. HORVITZ: So as originally

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1 proposed to the District of Columbia and the
2 Council the proposal was 153 housing units, or
3 154?

4 MR. STERNLIEB: I'm sorry, could
5 you repeat the question, please?

6 MS. HORVITZ: Sure. And I'm
7 assuming this the 2010 time frame, correct?

8 MR. STERNLIEB: Is Matt still
9 here? It was 2009 I think was the RFP that we
10 responded to and we were selected in late '09.
11 Is that correct?

12 PARTICIPANT: Yes.

13 MR. STERNLIEB: Yes.

14 MS. HORVITZ: So in or about late
15 '09 and then the --

16 MR. STERNLIEB: It was just before
17 your client purchased the town house. I
18 believe that's right.

19 MS. HORVITZ: Or just after --

20 MR. STERNLIEB: Yes.

21 MS. HORVITZ: -- but we can talk
22 about that. In or about October of 2009 the

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1 concept was that you would build about 153 or
2 154 housing units on this site?

3 MR. STERNLIEB: That's correct.

4 MS. HORVITZ: Okay.

5 MR. STERNLIEB: But I believe that
6 the square footage might have been a little
7 smaller at the time also.

8 MS. HORVITZ: Correct. Correct.
9 So the concept was smaller square footage and
10 a smaller number of units in late 2009. And
11 then continuing into 2010 that was still what
12 was reflected in the Council's resolution,
13 correct?

14 MR. STERNLIEB: I believe that is
15 correct.

16 MS. HORVITZ: All right. So
17 what --

18 MR. STERNLIEB: But I believe what
19 we said was that there was a range both on
20 unit size at the time and also flexibility on
21 square footage the time.

22 MS. HORVITZ: So --

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1 MR. STERNLIEB: And I think that
2 we were pretty clear in all the community
3 meetings that we attended as well on that
4 issue.

5 MS. HORVITZ: So I guess my
6 question is what happened? How did you end up
7 with going from a concept of 153 and smaller
8 square footage to now asking this Commission
9 for leave to build up to 189 units?

10 MR. STERNLIEB: The building
11 wasn't designed at the time. What we were
12 doing was -- I think that the Commission --
13 this is not foreign territory to them. When
14 you come in for preliminary selection, you do
15 a very rough sketch. You make some
16 preliminary assumptions about what you're
17 going to be building. And then once you're
18 selected, you get into the finer details of
19 design.

20 And I don't think we make any
21 apology for the fact that we were trying, as
22 Mr. Lanier said, to create greater value for

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1 the city and for ourselves. You know, we're
2 not in business not to do that.

3 So, you know, I think we were
4 pretty clear with the community about what we
5 were attempting to do at the time of our
6 selection as well. And as we, you know,
7 refined the design of the project, we did
8 create some -- you know, some more -- we found
9 more square footage that we felt was
10 appropriate to mass on the site.

11 MS. HORVITZ: And did you find
12 that square footage by going taller?

13 MR. STERNLIEB: No, the building
14 is the same height as what we -- when we
15 presented to the community. It's 110 square
16 -- 110 feet to the roof line, which is the
17 same as when we were selected by the city.

18 MS. HORVITZ: Could you fit 153
19 units in a nine-story building?

20 MR. STERNLIEB: You could fit them
21 in a two-story building if you made them small
22 enough, sure, but that's not going to produce

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1 either a library or a fire station, and
2 certainly all affordable housing.

3 MS. HORVITZ: Now there's been
4 some testimony about the rooftop facilities.
5 As I understand it; and it was greatly
6 clarified during some of the questioning by
7 the Commissioners, but you are in fact
8 contemplating, are you not, a considerable
9 amount of interior space above the 110-foot
10 height, correct?

11 MR. STERNLIEB: I think Mr. Sher
12 wants to --

13 MS. BATTIES: Steve, you should
14 answer that.

15 MR. STERNLIEB: -- can handle that
16 one.

17 MR. SHER: Yes, there is space
18 above the 110-foot height devoted to a variety
19 of different uses and purposes within the
20 building.

21 MS. HORVITZ: And is that space
22 air-conditioned and heated?

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1 MR. SHER: Some of it is. I don't
2 know that all of it is.

3 MS. HORVITZ: What is the total
4 square footage of interior space being
5 proposed above 110 feet in the building?

6 MR. SHER: The penthouse is 13,998
7 square feet for all uses. No, 13,900. That's
8 the number we've got on our book right here.
9 That's mechanical, elevator, stair, everything
10 that's up on the roof.

11 MS. HORVITZ: That's contained?
12 That's enclosed?

13 MR. SHER: Yes, everything that's
14 on the roof that's under a roof.

15 MS. HORVITZ: Very good. Is about
16 13,000 square feet?

17 MR. SHER: A shade under 14, but
18 yes.

19 MS. HORVITZ: Okay. Very good.
20 Thank you.

21 Switching gears, can somebody tell
22 me what types of retail are contemplated for

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1 the site?

2 MR. LANIER: Community-based
3 retail.

4 MS. HORVITZ: All right. Is that
5 a convenience store, restaurants, shops? I
6 mean, can you narrow it down at all?

7 MR. LANIER: No.

8 MS. HORVITZ: Was the traffic
9 analysis based on any particular type of
10 retail assumptions?

11 MS. WHITE: I believe the category
12 in the Institute of Transportation Engineers
13 is specialty retail, which includes a range of
14 retail establishments, community-based.

15 MS. HORVITZ: But when you did the
16 traffic analysis you did not know the
17 particular types of retail and it could vary
18 quite a bit, could it not, what the traffic
19 impacts would be depending on the actual
20 retail selected?

21 MS. WHITE: Not for the size of
22 this retail.

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1 MS. HORVITZ: Well, are we talking
2 about say bars? Is that a possibility to have
3 late night hours?

4 MR. LANIER: We're trying to
5 produce a high-class building. I doubt that
6 we are going to be focusing on bars.

7 MS. HORVITZ: But there's no
8 representations to the Commission other than
9 that it's going to be what, neighborhood-
10 oriented, is that right?

11 MR. LANIER: Neighborhood-
12 oriented, small retail. You know, the design
13 is for retail units and there's no other
14 representation made.

15 MS. HORVITZ: Okay.

16 MR. STERNLIEB: Yes, we have
17 represented the fact that we'll have a café or
18 bakery attached in about 2,000 feet attached
19 to the library so that there's 5,000 remaining
20 and three spaces. These are small. They're
21 not destination retail. People won't drive
22 just to make a trip to one of these retailers.

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1 MS. HORVITZ: Well, I guess the
2 point is I'm trying to understand the impact;
3 and maybe you can help me, for the town houses
4 and the West End Flats of retail that is going
5 to be essentially backing into their
6 properties. So what are the hours?

7 MR. LANIER: I don't see it how it
8 backs into the retail as the West End Flats
9 and the two town houses as screened by the
10 library.

11 MS. HORVITZ: Well, certainly
12 their loading facility backs into the alley
13 which they abut, correct?

14 MR. LANIER: Arguably they could
15 go to the loading facility.

16 MS. HORVITZ: Okay. Now, there
17 was testimony I think by Mr. Norten about how
18 the building design and configuration was
19 carefully intended to consider the impact on
20 the neighborhood and minimize adverse impact.
21 So my question is how does the building
22 configuration minimize the adverse impact to

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1 the town houses on 24th Street?

2 MS. BATTIES: Enrique?

3 MR. NORTEN: The strategy that we
4 have selected has been to open up and give
5 those houses much more space, much more
6 presence, much more identity, make them much
7 more unique, much more special, much more
8 desirable. And I think that would be
9 accomplished. You know, it's not a
10 quantitative thing. Architecture is not a
11 quantitative thing. It's as qualitative
12 thing. And my experience and my knowledge
13 makes me believe that's true.

14 MS. HORVITZ: So from your
15 judgment or your subjective assessment it is
16 an improvement to have a 10-story building
17 that goes up to 126 feet with penthouses right
18 next to a two-story town house?

19 MR. NORTEN: I never said that.
20 What I'm saying is that I think according to
21 the conditions of the city what we are doing
22 is trying to maximize the opportunities that

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1 those two town houses have.

2 MR. STERNLIEB: I do want to
3 address one thing, that there was
4 consideration for the town houses. We've
5 received emails and -- or copies of emails, I
6 should say. The tenants of the town houses
7 have been for the last many years victimized
8 by a problem of an occupation of the homeless
9 at the library and have made numerous
10 complaints. And it was one of the things that
11 was brought to our attention. We were trying
12 to figure out where to site the front door of
13 the library and also how to manage the space
14 around the building.

15 So I will say that we actually did
16 take into account the nature of the quality of
17 the life for the people living in the town
18 houses and made a decision to move the
19 entrance to the library far from them, all the
20 way down L Street, and also to manage the
21 sidewalks around the building with the porters
22 and the concierges of the building from the

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1 lobby. So that I think that it would be hard
2 to argue that the quality of life for the
3 folks living in those two town houses won't go
4 up, you know, appreciably after the building's
5 completed.

6 MS. HORVITZ: Well, where is the
7 entrance to the garage relative to the town
8 houses?

9 MR. STERNLIEB: It's directly next
10 to it.

11 MS. HORVITZ: Immediately next to
12 it?

13 MR. STERNLIEB: It is. Not to
14 your clients, but to the one next door.

15 MS. HORVITZ: So 15 feet from my
16 client's property?

17 MR. STERNLIEB: That's correct.

18 MS. HORVITZ: Okay.

19 MR. STERNLIEB: I'm sorry, I'm
20 being -- there's actually a greater
21 separation. There's a bike room and a fire
22 control room that separates.

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1 And how wide is that?

2 MR. LANG: It would be
3 approximately 30 feet from your client.

4 MR. STERNLIEB: Right.

5 MS. HORVITZ: I think it would be
6 -- you've already been asked for some
7 additional information on that connection. It
8 would be helpful to see that.

9 In the prehearing statement I saw
10 that you stated that the penthouses would not
11 be visible from the public realm. Will the
12 penthouse structures be visible from say the
13 West End Flats units?

14 MR. NORTEN: Is that a question to
15 me?

16 MS. BATTIES: For Erik or Enrique.

17 MR. NORTEN: We don't know. I
18 don't know.

19 MS. HORVITZ: I mean, has anybody
20 analyzed who will actually see these
21 penthouses? I mean, the only representation
22 in the prehearing statement was from the

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1 public realm. Is that from the street on the
2 23rd and 24th and L and M?

3 MR. NORTEN: Yes.

4 MS. HORVITZ: Okay. So has there
5 been any evaluation of who will see these
6 penthouse structures?

7 MS. BATTIES: No.

8 MR. NORTEN: Anybody on the public
9 realm would not see it. Anybody in a
10 helicopter would see that.

11 MS. HORVITZ: But somebody in a
12 building maybe on the fourth floor would also
13 see it, correct?

14 MR. NORTEN: Of course.

15 MS. HORVITZ: Okay. I'm almost
16 done. Has the Applicant done anything to
17 consider the impact, the noise impacts on the
18 immediate neighbors, the town house owners and
19 the others?

20 MR. NORTEN: What kind of noise?

21 MS. HORVITZ: Delivery trucks,
22 vehicular, windows open. Has there been any

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1 analysis of that?

2 MR. STERNLIEB: In an earlier
3 version that we presented at one of the
4 community meetings we had terraces, and there
5 was some objection from the community about
6 the notion of people having open terraces
7 overlooking their residential units. And we
8 decided to pull that back and eliminated those
9 and replaced them with the green terraces that
10 no longer have people on them. So that was
11 one of the efforts that we made to reduce
12 noise.

13 We do have a noise consultant, an
14 acoustical consultant; excuse me, who is not
15 here this evening, but if you have a specific
16 question about a specific impact, we'd be
17 happy to put it before them.

18 MS. HORVITZ: All the windows
19 though will open in the building, correct?

20 MR. NORTEN: Erik, how may
21 buildings -- how many windows open? How many
22 don't open?

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1 MR. LANG: Not all the windows,
2 but each room will have an operable window.

3 MS. HORVITZ: And has the
4 Applicant done anything to evaluate the effect
5 on light for the town houses based on the
6 construction of the building?

7 MR. NORTEN: Yes, we have several
8 shadow studies.

9 MS. HORVITZ: Okay. And what is
10 the -- you didn't address that in your
11 testimony. What's your conclusion?

12 MR. NORTEN: We can provide you
13 with that. I don't know.

14 MS. HORVITZ: I didn't see that.
15 Have those been submitted?

16 CHAIRPERSON HOOD: I don't think.

17 MS. HORVITZ: Okay. I would
18 appreciate it if at least I could see them.

19 CHAIRPERSON HOOD: I guess she's
20 asking you have they been submitted, Ms.
21 Batties, to the record?

22 MS. BATTIES: We have not

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1 submitted the shadow study.

2 CHAIRPERSON HOOD: Okay. So we
3 need to get that. Okay.

4 MS. HORVITZ: Thank you.

5 CHAIRPERSON HOOD: And provide the
6 parties with it also. Okay?

7 MS. BATTIES: And it's my
8 understanding that they have been presented
9 though to the ANC.

10 MR. LANIER: I will say that we
11 have in all our meetings provided shadow
12 studies for anybody who attended the meetings
13 and asked us for them.

14 CHAIRPERSON HOOD: Okay. Let me
15 just say this, since that's a segue: I see
16 Ms. Coder who's been waiting very patiently
17 back there.

18 Commissioner Coder, we're not
19 going to get to the report of the ANC tonight.

20 I do plan on going to Office of
21 Planning and District Department of
22 Transportation and cross-examination. So I'd

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1 like to at least get to that point.

2 I'm sorry, Ms. Horvitz, you may
3 continue.

4 MS. HORVITZ: No, actually I'm --

5 CHAIRPERSON HOOD: You're done?

6 MS. HORVITZ: I'm finished.

7 CHAIRPERSON HOOD: Okay.

8 MS. SCHELLIN: Thank you very
9 much.

10 CHAIRPERSON HOOD: Thank you very
11 much.

12 Let's go with West End Flats
13 Condominium Association. Any cross-
14 examination?

15 (No audible response.)

16 CHAIRPERSON HOOD: Okay. Let's go
17 to the Office of Planning's report and let's
18 do the District Department of Transportation.
19 And we're going to try to finish that and
20 cross tonight.

21 MS. BROWN-ROBERTS: Good evening,
22 Mr. Chairman and members of the Commission.

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1 I'm Maxine Brown-Roberts representing the
2 Office of Planning.

3 The Office of Planning is very
4 supportive of the redevelopment of the site
5 with residential, retail and a new West End
6 Library, along with the commitment for a new
7 fire station in Square 50. The proposed PUD
8 was reviewed in the context of the
9 Comprehensive Plan, the Zoning Regulations,
10 neighborhood context and transit-oriented
11 development policies. Subsequent to the
12 setdown of the application, the Applicant has
13 worked with the Office of Planning to address
14 many issues that were highlighted.

15 However, OP is not supportive of
16 the parking ratio that has increased to 1.5 in
17 an area that is served by three Metro stations
18 and several Metro and Circulator bus lines.
19 This parking ratio is in conflict with the
20 property's proximity to Metrorail, Circulator
21 and bus lines that are highlighted as
22 transportation features of the PUD that

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1 mitigate traffic impacts and provide
2 environmental benefits.

3 Regarding the design of the
4 building, OP is excited about the modern
5 vernacular of the design that his
6 complementary to buildings of similar scale in
7 the neighborhood, however, OP believes that
8 the one isolated projection that impacts a
9 unit on the adjacent building could be
10 addressed by pulling back the projection to
11 the property line.

12 The Applicant has submitted a list
13 of proffered public benefits with the major
14 one being the new library and fire station.
15 Along with other benefits, OP concludes that
16 they are commiserate with the flexibility to
17 height, density and other areas.

18 The Office of Planning is very
19 excited about this residential project that,
20 along with the new library and fire station,
21 will benefit the residents of the area and the
22 District as a whole, and we recommend approval

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1 of the application with the conditions
2 outlined. Thank you, Mr. Chairman.

3 CHAIRPERSON HOOD: Thank you.
4 Excellent. Thank you, Ms. Brown-Roberts.
5 Mr. Jennings?

6 MR. JENNINGS: Good evening,
7 Chairman Hood and fellow members of the
8 Commission. For the record my name is Jeff
9 Jennings. I work for the District Department
10 of Transportation. I will do my best also to
11 be brief in similar fashion to my colleagues
12 at the Office of Planning.

13 We are very excited to see this
14 project move along and we recommend approval
15 of the Applicant's request for a consolidated
16 PUD.

17 Also, in similar fashion to what
18 OP has stated, we are a little surprised by
19 the high number of parking spaces being set
20 forth by the Applicant. We do feel that the
21 250-plus parking spaces could potentially be
22 scaled back. There is a wealth of options

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1 down in this particular area of the city for
2 mass transit.

3 Also, we have been participating
4 in conversations with the Applicant on some of
5 the uses of curbside space along 23rd Street.
6 I think the Applicant has stated a position of
7 continuing to have those conversations and we
8 believe that some of the options still need to
9 be discussed at greater length.

10 In summary; I don't want to
11 necessarily take too much more time, so I'm
12 more than happy to take questions. Thank you.

13 CHAIRPERSON HOOD: Okay. Great.
14 Thank you. Let me thank you both, Office of
15 Planning and DDoT.

16 We will open it up with any -- any
17 questions from us, Commissioners?
18 Commissioner May? I'm sorry, let me go with
19 Commissioner Cohen.

20 COMMISSIONER COHEN: No, no, no.

21 COMMISSIONER MAY: That's fine.

22 CHAIRPERSON HOOD: Commissioner

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1 Cohen?

2 COMMISSIONER COHEN: (Off
3 microphone.)

4 CHAIRPERSON HOOD: Commissioner
5 Cohen?

6 COMMISSIONER COHEN: (Off
7 microphone.)

8 CHAIRPERSON HOOD: Okay.
9 Commissioner May?

10 COMMISSIONER MAY: Okay. I have
11 one question for the Office of Planning. This
12 is an unusual parking situation given the size
13 of the units and proximity to Metro. I mean,
14 there are all these different sort of
15 complications in this. So I'm curious. For
16 a project like this, under the new proposed
17 Zoning Regulations, would there actually be a
18 maximum on this?

19 MS. STEINGASSER: There would not.

20 COMMISSIONER MAY: There would
21 not?

22 MS. STEINGASSER: We're not

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1 proposing maximums, no.

2 COMMISSIONER MAY: Right. Okay.
3 That's right. At one point that was in the
4 conversation, but it wasn't? It's not
5 anymore?

6 MS. STEINGASSER: I don't believe
7 so, but we can double-check on that.

8 COMMISSIONER MAY: Yes. Okay. So
9 is this an area where there would be no
10 requirement?

11 MS. STEINGASSER: There would be
12 no requirement.

13 COMMISSIONER MAY: Okay.

14 MS. STEINGASSER: That is correct.

15 COMMISSIONER MAY: So as I recall
16 in the discussions of parking in the Zoning
17 Regulations rewrite the discussion was about
18 how the market would dictate the need for the
19 parking. I mean, clearly the market is
20 dictating the need for the parking here
21 because the required minimum was less than 100
22 or something like that, right, or a lot

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1 smaller than what they're proposing?

2 MS. STEINGASSER: We're not
3 willing to concede that the market is
4 dictating 1.5 spaces per --

5 COMMISSIONER MAY: Well, but I
6 mean, I thought that's what -- I mean, how
7 else would we know? If the developer walks in
8 the door and says this is what they need to
9 make the project successful, is that not the
10 market speaking?

11 MS. STEINGASSER: I don't know.
12 We've not been convinced that the parking
13 ratio proposed, which was proposed just about
14 three weeks ago --

15 COMMISSIONER MAY: Yes.

16 MS. STEINGASSER: -- you know,
17 into the two-year design of the project,
18 actually is anywhere near anything that the
19 Zoning Commission has approved. The examples
20 provided, most of them are not PUDs. The PUDs
21 that are provided are not necessarily
22 representative of the orders themselves, which

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1 limit them to a much more restrictive than
2 that figure.

3 COMMISSIONER MAY: Yes.

4 MS. STEINGASSER: So from what the
5 market may dictate when it's a matter-of-right
6 project, that's one thing. But when they're
7 coming and they're asking for OP's support in
8 terms of transit-oriented development,
9 rationale for more density because of the
10 proximity and the mitigations of all the
11 Metro, it's difficult for us to say, well,
12 they should get more parking because they're
13 more affluent. So it's a different --

14 COMMISSIONER MAY: Yes.

15 MS. STEINGASSER: It's difficult
16 for us when it becomes a discretionary
17 question.

18 COMMISSIONER MAY: Right. So I
19 mean, for similar projects of this -- I don't
20 know, this level, if you will --

21 MS. STEINGASSER: Yes.

22 COMMISSIONER MAY: -- of, if you

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1 want to call it luxury, whatever, is it
2 atypical to have the 1.5 ratio, do you think?
3 I mean, it seems to me that it's not outside
4 the range. I mean, we see a lot of town house
5 developments where, you know, the developer
6 feels they have to have two parking spaces per
7 house.

8 MS. STEINGASSER: And those are
9 typically not this close to Metro.

10 COMMISSIONER MAY: Right.

11 MS. STEINGASSER: I mean, we're
12 talking about three Metro stations, the
13 Circulator line, the Metro bus lines. We've
14 not done an study based on the price and
15 affluency of a project, whether it's a luxury
16 or not a luxury.

17 COMMISSIONER MAY: Yes.

18 MS. STEINGASSER: And like I said,
19 we look more at what -- when somebody to the
20 city and asks for discretionary approval, is
21 it consistent with our policies of what the
22 cities wants to be supporting and encouraging.

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1 What the matter-of-right scenarios are are
2 clearly market.

3 COMMISSIONER MAY: Yes, okay.
4 Okay. So I have a couple questions for DDoT.
5 One is the project proposes inbound access to
6 the garage off the street and then outbound
7 through the alley. And just to confirm,
8 you're okay with that situation. Would you
9 prefer to have it all in and out through the
10 alley, or do you recognize the complications
11 of this particular alley? What's the --

12 MR. JENNINGS: This particular
13 alley, it hosts a significant amount of
14 activity, as has been discussed a little bit
15 earlier in testimony tonight. We're happy to
16 see -- you've seen the plans, existing curb
17 cuts equal a total of five. They're narrowing
18 it down to one 12-foot-wide curb cut. That
19 for us is more than fine.

20 We initially engaged in
21 conversation with the Applicant about a two-
22 way entrance, and I think that was also

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1 alluded to earlier tonight. We feel that the
2 one-way 12-foot-wide curb cut into the parking
3 garage and then egress out through the alley
4 -- again for the amount of activity that's
5 happening in this alley with the adjacent
6 neighbors, we feel that that does suffice.

7 COMMISSIONER MAY: Okay. And then
8 also, I mean, you made some reference in your
9 testimony to the lay-by situation, and I'd
10 like to understand that a little bit more.
11 Can you elaborate and -- I mean, is it correct
12 that you're advocating the recessed parking
13 scheme here, or that you're okay with it?
14 What's the deal?

15 MR. JENNINGS: We are not
16 necessarily completely okay with any of the
17 options just yet. We've tasked the Applicant
18 to look at a number of different options. You
19 know, having been here just last month and
20 discussed at length the 2201 and the street
21 property and the lay-by associated with that
22 particular property we felt that it would be

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1 best to have the Applicant come back to us and
2 make sure that we're exhausting everything
3 that's out there, whether it be recessed
4 parking, a lay-by, no lay-by.

5 With respect to clarity on each of
6 these options the recessed parking concept
7 allows DDoT to still maintain some curbside
8 regulations in that sense. A lay-by is much
9 more difficult to enforce. With recessed
10 parking we would be able to continue to have
11 meters. We would still be able to obviously
12 generate some revenue. We could also do a
13 number of different restrictions via sign for
14 a recessed parking concept.

15 When it comes to lay-bys, as we
16 discussed earlier, I think last month for the
17 first R application at 2201, valet -- excuse
18 me, lay-by operations are very difficult to
19 enforce. On the flip side, a recessed parking
20 concept would allow a parking control officer
21 to walk by and easily distinguish which
22 vehicles have been there for some time.

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1 COMMISSIONER MAY: Would the
2 recessed parking spaces actually be very
3 short-term parking, or something? I mean, is
4 that the idea that they would be --

5 MR. JENNINGS: They would allow
6 for flexibility as far as if we were to assign
7 them for the recessed parking, we could
8 certainly kind of figure out what is the most
9 appropriate for short term, long term. Could
10 we do a mix of short-term and long-term
11 parking? I think there are a number of
12 options for the recessed parking.

13 COMMISSIONER MAY: Okay. I find
14 the whole thing very confusing because I'm not
15 sure how it -- I mean, I can understand how it
16 meets the needs of a lay-by, and I can see how
17 it gets you another, what, four hours of
18 parking for two spaces during the course of a
19 day, but I'm not sure that it really helps
20 alleviate some of the problems that occur with
21 lay-bys in which people wind up doing short-
22 term parking in the lay-by.

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1 MR. JENNINGS: From our standpoint
2 it really allows for an easier management than
3 a lay-by. Again, a lay-by is -- from our
4 experience is much more difficult to enforce.

5 COMMISSIONER MAY: Okay. All
6 right. I don't know what to say. Thanks.

7 CHAIRPERSON HOOD: Okay.
8 Commissioner Cohen?

9 COMMISSIONER COHEN: This is a
10 question for DDoT. In your report you talk
11 about wanting the Applicant it revise its
12 streetscape design to adhere more closely to
13 the surrounding community streetscape. Can
14 you elaborate on that, because I didn't think
15 there was a consistent streetscape in that
16 particular neighborhood.

17 MR. JENNINGS: For this particular
18 -- I went we went into greater detail. For
19 this particular area we have the scored
20 concrete and a particular spacing of trees.
21 And when they initially -- what we had in
22 front of us I think may have arrived after we

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1 submitted comments. I'm not completely sure.
2 But when we submitted our comments what we saw
3 in some of the initial documentation that we
4 were looking at at the time didn't adhere to
5 what is in this particular neighborhood.
6 Scored concrete, spacing of trees, things
7 that, you know, stand out to us when we see
8 streetscape in the application, and that
9 certainly stood out for us.

10 COMMISSIONER COHEN: Okay.
11 Because the Westin Hotel is really not
12 consistent with the rest of the neighborhood.
13 If you walk past there, it's just always, you
14 know, torn concrete and it's very hard to
15 navigate.

16 MR. JENNINGS: I understand.

17 COMMISSIONER COHEN: Okay. This
18 is for the Office of Planning. In your
19 discussion of flexibility you talk about, or
20 you do mention that due to the financial
21 situation of the City of Washington, D.C.
22 there is no money for the -- I think it's on

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1 page 8 of your review. There is no money for
2 gap financing. But you do state that "to the
3 District's financial situation the LDA was
4 amended to state that if gap funding is not
5 provided by April 1st, 2012, then the
6 Applicant would provide a residential project
7 that meets the IZ requirement on Square 50."
8 I did not hear that tonight, so is that a
9 misunderstanding on my part, that they did
10 agree?

11 MS. BROWN-ROBERTS: I think that
12 was information that was sent to me in a memo
13 from the Applicant. That was taken directly
14 from there.

15 MS. STEINGASSER: I think the
16 Applicant did confirm that what they're saying
17 is that should the financing not be available
18 they will then build a matter-of-right project
19 on Square 50, meeting the matter-of-right IZ
20 requirements.

21 COMMISSIONER COHEN: Okay. I see.
22

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1 CHAIRPERSON HOOD: Okay. Any
2 other questions?

3 MR. STERNLIEB: Mr. Chairman, are
4 we able to respond, just to clarify the answer
5 to that question?

6 CHAIRPERSON HOOD: We're going to
7 have cross-examination, which you --

8 MR. STERNLIEB: I don't want to
9 cross. I just want to provide an explanation.

10 CHAIRPERSON HOOD: It may be a
11 point at the end where we can do that, but
12 let's try to keep it -- try to keep it in
13 order, believe it or not.

14 Commissioner Turnbull?

15 COMMISSIONER TURNBULL: Thank you,
16 Mr. Chair. I just want to get back to the
17 parking questions.

18 The Applicant made a comment when
19 talking about its 1.5 ratio that if the square
20 footage, the floor area -- if they had gone to
21 housing half the size of what they are that
22 they would be at 1.5. I was wondering what

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1 your take was on that rationale.

2 MS. STEINGASSER: Well, I hate to
3 weigh in on theoreticals.

4 COMMISSIONER TURNBULL: Right.

5 MS. STEINGASSER: I don't think
6 it's a legitimate rationale for the parking
7 standard. It's certainly not a sound argument
8 for why they're doing this. If they wanted to
9 discuss the impacts of having twice as many
10 residents on this site in such a transit-rich
11 neighborhood, we'd be happy to do so.

12 COMMISSIONER TURNBULL: Okay. So
13 that doesn't hold water for you?

14 MS. STEINGASSER: Not in this
15 scenario, no.

16 COMMISSIONER TURNBULL: Okay. One
17 of the issues, looking back on here is that
18 library parking, they're providing six.
19 Eighteen are required.

20 MS. STEINGASSER: Yes.

21 COMMISSIONER TURNBULL: Are you
22 okay with that, or is this because it's

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1 transit-oriented? You figure most --

2 MS. STEINGASSER: It is transit-
3 oriented and this is a neighborhood serving
4 the library and they really will be getting
5 most of their --

6 COMMISSIONER TURNBULL: By Metro?

7 MS. STEINGASSER: By Metro. By
8 foot. But you know, the density in this area
9 is pretty substantial.

10 MS. BROWN-ROBERTS: In addition to
11 that, I got a referral from the library that
12 stated that they don't provide parking for
13 their --

14 COMMISSIONER TURNBULL: Staff?

15 MS. BROWN ROBERTS: -- employees.
16 And so, that was -- you know, the eight is
17 what they think will suffice their needs.

18 COMMISSIONER TURNBULL: Okay. You
19 don't have a lot of comments on the roof
20 setbacks. At least I didn't read a lot of
21 issues that you had with not meeting the one-
22 to-one setback on especially 23rd Street.

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1 MS. BROWN-ROBERTS: I think we did
2 identify them --

3 COMMISSIONER TURNBULL: Did you?

4 MS. BROWN-ROBERTS: -- but I think
5 -- well, I don't think we did an analysis of
6 the views from 23rd Street that it stated.

7 COMMISSIONER TURNBULL: Okay.

8 MS. BROWN-ROBERTS: Yes.

9 COMMISSIONER TURNBULL: You
10 weren't critical in saying that they were
11 going to -- you were going to work with them,
12 have them go back and --

13 MS. BROWN-ROBERTS: No, we didn't.

14 COMMISSIONER TURNBULL: So you
15 think that the relief they're requesting is
16 okay?

17 (No audible response.)

18 COMMISSIONER TURNBULL: Silence
19 gives consent, right?

20 MS. STEINGASSER: Oh, if it were
21 so easy. We felt what was happening on the
22 roof -- I mean, the way we -- with the

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1 exception of the setbacks, it didn't seem to
2 be inconsistent with the Zoning Regulations.
3 The roofs in Washington are some of the most
4 exciting spaces. Because of the Height Act
5 there is -- it's like a whole other view plane
6 up there that -- so, we were kind of excited
7 to see what they were moving forward in terms
8 of that design element.

9 COMMISSIONER TURNBULL: So you're
10 looking to move away from the Height Act? Is
11 that what you're saying? I don't mean to put
12 you on the spot, but I do.

13 MS. STEINGASSER: This isn't --
14 well, it's -- we didn't feel it's in violation
15 of the Height Act. Having -- you know, we
16 didn't do a Height Act determination, as it's
17 not --

18 COMMISSIONER TURNBULL: Well, but
19 I guess -- I mean, I do -- I mean, you heard
20 the questions by Commissioner May.

21 MS. STEINGASSER: Yes.

22 COMMISSIONER TURNBULL: I mean,

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1 it's a very -- and then I think I had
2 mentioned, it's a very massive penthouse.

3 MS. STEINGASSER: It is very --

4 COMMISSIONER TURNBULL: Massive.

5 MS. STEINGASSER: -- massive

6 and --

7 COMMISSIONER TURNBULL: I'll

8 underline that and capitalize it.

9 MS. STEINGASSER: And I think the
10 Applicant has certainly gotten that message.

11 COMMISSIONER TURNBULL: Okay.

12 MS. STEINGASSER: And we'll be

13 happy to work with them to make it more

14 svelte.

15 COMMISSIONER TURNBULL: Thank you.

16 Thank you, Ms. Steingasser.

17 CHAIRPERSON HOOD: Any other

18 questions?

19 (No audible response.)

20 CHAIRPERSON HOOD: Let me just ask

21 the Office of Planning. You had conditional

22 approval -- and you may have asked this. I

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1 may have been -- mind somewhere else looking
2 at something else. But, Ms. Brown-Roberts, in
3 your report on page 1 you said, "OP recommends
4 approval of the PUD with the following
5 conditions:" I know No. 1 has not been
6 satisfied. We're still talking about the
7 reduction in the residential parking ratio now
8 proposed at 1.5 spaces. So that has not been
9 satisfied, correct?

10 MS. BROWN-ROBERTS: Correct.

11 CHAIRPERSON HOOD: Now, what about
12 2 and 3? Due to the developments of what we
13 I think received tonight on the projections
14 and I -- well, some of what we received
15 tonight and also the clarification on the
16 benefits and amenities commitments of the PUD.
17 Is that okay? Has that been resolved?

18 MS. BROWN-ROBERTS: They have
19 submitted a list of benefits and amenities,
20 and I think we are fairly satisfied with that.
21 You know, some of the issues -- some of the
22 things they have identified we may not agree

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1 with, but overall we think that for the
2 flexibility that they are proposing that it
3 meets that requirement.

4 As I said in my testimony that I
5 gave earlier, we still have a problem with the
6 projections because we think it's affecting
7 that neighbor.

8 CHAIRPERSON HOOD: I'm sorry I
9 missed that. So 1 and 2 are still issues for
10 the Office of Planning?

11 MS. BROWN-ROBERTS: Yes.

12 CHAIRPERSON HOOD: Okay. And
13 other than that, 3 is okay. And once those
14 two conditions have been satisfied, then the
15 Office of Planning would not have support with
16 conditions, it would be support?

17 MS. BROWN-ROBERTS: Yes.

18 CHAIRPERSON HOOD: Okay.

19 MS. BROWN-ROBERTS: Yes, if those
20 two issues are --

21 MS. STEINGASSER: And I want to be
22 clear. We support this project. We just

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1 think these -- the introduction of the parking
2 was relatively new and we think that that one
3 issue of the balcony projection -- because it
4 projects into public space. We're not asking
5 that it be brought back any further than --
6 but that's not to be interpreted that we don't
7 support the redevelopment of the site and the
8 provision of a new library and fire station.

9 CHAIRPERSON HOOD: Okay. Well,
10 I'm pretty sure I believe that. I just wanted
11 to find out where we were as far as the
12 conditional approval. I will say that -- and
13 I didn't take that time earlier when we were
14 asking for comments, because I wanted to get
15 to the community. I will say that my design
16 view of the building was the more -- when I
17 first looked at it, I thought it was great.
18 Then the more I looked it, different views
19 that I looked at it -- and I was going to go
20 down those views, but I was trying to curtail
21 my air time so I could hear from the
22 community. But doesn't look like that's going

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1 to happen, so I'm going to do my air time.

2 But I will tell you that some
3 views that I look at it and I -- it just looks
4 funny to me. But and the more I look at it,
5 the more I come back with a different opinion.
6 But be as it may, I think it's -- and I think
7 you mentioned this in your testimony, this is
8 very creative. I'm not sure exactly if we're
9 going to add some places to come in or tighten
10 up the building a little bit, but I think this
11 is very creative, and especially what we're
12 trying to achieve, some of the benefits we're
13 trying to gain here. I though this was very
14 creative. And one of the designs you had up
15 I wanted to talk about was the one with the
16 red lines on it and it kind of showed the
17 curving out. I thought that was very creative
18 and I actually like.

19 So again, sometimes I look at the
20 building -- you don't have to bring it back
21 up. It's getting late. Sometimes I look at
22 the building, I -- when I first looked at it,

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1 I thought it was great. Then I started
2 looking at it from different views and I
3 started having some objections to it. But I
4 think for what we're trying to achieve -- and
5 I've listened to my colleagues who have -- who
6 I always say have been trained in the field
7 and their comments, well, I will concur with
8 some of them. But I just think I'm going back
9 to my first look at this building. I thought
10 it was great.

11 The other thing is I wanted to
12 look at the -- and I know I'm going out of
13 line here, because I need to do cross-
14 examination. I wanted to look right briefly
15 at the way the trucks are going to come into
16 that area and how that whole alley is going to
17 resolve. But you know what, I better not do
18 that because I just thought about cross-
19 examination. I will do that when we do
20 closing remarks, because I can do it at that
21 point in time and just get some further
22 clarification, because I don't know how long

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1 cross is going to be. So I just thought about
2 that.

3 Okay. Let's go to the Applicant.
4 Do you have any cross-examination of Office of
5 Planning or DDoT?

6 MS. BATTIES: We don't, but, Mr.
7 Hood, we just want to remind you that we have
8 representatives from D.C. Public Library and
9 the fire department here this evening. And if
10 it's possible, we'd ask that you let them
11 speak.

12 CHAIRPERSON HOOD: They don't want
13 to come back Thursday night with us?

14 Let me do this: Hold them for a
15 second. Do we have any cross-examination of
16 -- okay. Well, let me come back to that. Do
17 you have any cross of OP or DDoT?

18 MS. BATTIES: No.

19 CHAIRPERSON HOOD: Do we have D.C.
20 Library -- I mean, I'm sorry, ANC 2A, you have
21 any cross?

22 (No audible response.)

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1 CHAIRPERSON HOOD: Okay. D.C.
2 Library Renaissance Project/West End Library,
3 you have any cross?

4 (No audible response.)

5 CHAIRPERSON HOOD: About how much
6 time you think you're going to need?

7 MR. OTTEN: I have six questions.

8 CHAIRPERSON HOOD: Okay. Go
9 right ahead.

10 MR. OTTEN: Thank you. My
11 questions are all for the Office of Planning.
12 Has the Office of Planning seen the latest
13 drawings submitted like today and won't OP
14 have to revisit the latest designs and issue
15 any revisions if there's problems with the
16 latest submissions?

17 MS. BROWN-ROBERTS: We will take a
18 closer look at the design. If there are
19 issues and the Commission asks us to look
20 further into anything, we can do that.

21 MR. OTTEN: Great. Okay. On page
22 3 of the setdown report you say in the

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1 background, section 3, "A total of 52
2 affordable units are promised." And then
3 further down there's a point where it says,
4 "At this time the funding for the affordable
5 units is not settled."

6 Is OP in any way concerned about
7 that aspect of this PUD?

8 MS. STEINGASSER: We're absolutely
9 concerned about waiving IZ. And any developer
10 or attorney who's come in and even floated the
11 idea has taken a verbal beating from us. But
12 in this particular case the other public
13 benefits are very substantial. And even in
14 the transcript from the inclusionary zoning
15 public hearings a public library was cited as
16 one of the types of public benefits that might
17 reach the magnitude of an IZ waiver.

18 MR. OTTEN: But you are under the
19 understanding that we have a current operating
20 library there right now? It's open, the
21 library that's there right now?

22 MS. STEINGASSER: Yes.

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1 MR. OTTEN: Okay. OP, I presume,
2 has saw the RFP for this project and PUD?

3 MS. STEINGASSER: We saw the RFP
4 several years ago.

5 MR. OTTEN: Yes. Is it your
6 understanding the premise of the RFP was to
7 develop this PUD without a city subsidy?

8 MS. STEINGASSER: I really
9 couldn't -- my memory's not that good.

10 MS. BROWN-ROBERTS: No.

11 MS. STEINGASSER: Yes.

12 MR. OTTEN: Does OP feel the city
13 is in any way giving the Applicant a subsidy
14 to develop any and all aspects of the proposed
15 project?

16 MS. STEINGASSER: That's really
17 beyond the scope of the OP report and
18 analysis. That end of the city business is
19 executed through the Deputy Mayor's Office.

20 MR. OTTEN: Yes. Okay. Well, to
21 that end, the Deputy Mayor's Office of
22 Economic Development testified earlier that

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1 they appraised lots A36 and A37 for the
2 potential value around a four or five-foot --
3 four or five-story building. Is OP concerned
4 that the city, the public does not have an
5 appraisal of the potential value of a 10-story
6 building at that location?

7 MS. STEINGASSER: We weren't
8 involved in the appraisal. And just to be
9 clear, I don't think the Deputy Mayor's Office
10 did the appraisal. They hired the appraisal
11 out. But we weren't involved in that
12 appraisal.

13 MR. OTTEN: Did the appraisal have
14 in any way a sense of -- you know, you say the
15 amenities are exorbitant.

16 MS. STEINGASSER: We weren't
17 involved at all in the appraisal.

18 MR. OTTEN: Okay. And one final
19 question. Does OP see any issue with how a
20 final order written by the ZC could be
21 challenged around the D.C. LEAD Act or the
22 library -- some of the coding, D.C. Code

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1 around library statutes?

2 MS. STEINGASSER: Unfortunately,
3 that's beyond our testimony.

4 MR. OTTEN: That's beyond your
5 testimony?

6 MS. STEINGASSER: Yes.

7 MR. OTTEN: Okay. Thank you.

8 CHAIRPERSON HOOD: Thank you.
9 Again, Gibson Condominiums are not present
10 tonight.

11 Residents of Ritz-Carlton, you
12 have any cross-examination?

13 (No audible response.)

14 CHAIRPERSON HOOD: Okay. Ms.
15 Horvitz, any cross-examination?

16 MS. HORVITZ: Thank you. Laurie
17 Horvitz again. Just two questions for the
18 Office of Planning.

19 In your report you identify a
20 number of the Comprehensive Plan policies, and
21 one of them that you identified was the Urban
22 Development Policy for In-Fill Development,

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1 which you quoted on page 13. And it states,
2 "Regardless of neighborhood identity, avoid
3 overpowering contrasts of scale, height and
4 density as in-fill development occurs." And
5 yet you were saying, were you not, that this
6 project is not inconsistent with that policy.
7 Is that your comment?

8 MS. STEINGASSER: Which page is
9 it?

10 MS. HORVITZ: Page 13 of your
11 report. Two point two point seven of the
12 Urban Design Element. You had listed it as --

13 MS. STEINGASSER: Oh, it's in our
14 setdown report.

15 MS. BROWN-ROBERTS: Setdown
16 report, yes.

17 MS. STEINGASSER: Not our final
18 report.

19 MS. HORVITZ: I apologize.

20 MS. BROWN-ROBERTS: Yes.

21 MS. STEINGASSER: Yes, we're
22 saying that the project is not inconsistent,

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1 the double negative.

2 MS. HORVITZ: Okay. And when you
3 were doing your analysis did you consider the
4 earlier request from 2004 for a map amendment
5 for this same square? Did you review the
6 zoning order on that?

7 MS. STEINGASSER: I worked that
8 case. We did not review the order itself, but
9 I am familiar with the case, that the
10 Commission declined to do a matter-of-right
11 map amendment in the broader context looking
12 at it as part of the whole, that it was not
13 inconsistent to keep it in that zone. And I
14 believe at that time it was preferred that a
15 project come forward as a planned unit
16 development.

17 MS. HORVITZ: So you did consider
18 the fact that there had been a request to
19 rezone from an R-5-B to in fact a CR and that
20 that was rejected in 2004?

21 MS. STEINGASSER: That was
22 rejected -- was it CR, or was it an R-5-D with

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1 an R-5-E split?

2 MS. HORVITZ: There were three
3 options proposed, including a CR.

4 MS. STEINGASSER: We were aware of
5 that. We've been aware of that all these
6 years, that the Commission at that time chose
7 to prefer that the project be developed as a
8 planned unit development.

9 MS. HORVITZ: And denied the map
10 amendment at that time?

11 MS. STEINGASSER: As a matter of
12 right, yes.

13 MS. HORVITZ: Okay. Thank you.

14 CHAIRPERSON HOOD: Okay. Thank
15 you. West End Flats?

16 (No audible response.)

17 CHAIRPERSON HOOD: Now, Ms.
18 Batties, we have the fire department here and
19 you said the library? At this point, we will
20 end with them. And again, I want to -- if
21 they can come forward, I want to apologize for
22 keeping the fire department here. Typically

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1 we bring them right up. And come on up. Not
2 to mention the library. I apologize for
3 keeping the libraries here, possibly getting
4 a new library.

5 So anyway, Ms. Batties, however
6 they want to present, they can do that. Just
7 don't tell the chief that we kept you here the
8 whole time. Hopefully he's not watching.

9 If you can identify yourself?

10 MS. COOPER: I'm Ginnie Cooper.
11 I'm the Chief Librarian for the District of
12 Columbia and we're very pleased that this
13 project has been developed. We look forward
14 to being in that new library. We've been very
15 involved in the planning from the very
16 beginning. In fact, our library program, the
17 one that governs what goes into the new
18 buildings, that has been applied to the new
19 buildings that have been built and renovated
20 in the last several years was what was --
21 governed what this library would be as well.
22 We know that the Friends of the West End

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1 Library, the regular real friends, have been
2 very involved as well, and we look forward to
3 seeing this happen.

4 CHAIRPERSON HOOD: Well, thank you
5 very much, Ms. Cooper.

6 Next?

7 MR. FOUST: Good evening.
8 Battalion Chief David Foust, D.C. Fire and
9 EMS. I'll also make it as brief as possible.
10 I was lucky to not attend the 64 meetings. I
11 have been to several though and I will say
12 that our concerns for the fire station itself
13 have been addressed. We've had several
14 meetings that we changed a few things for us
15 in the design to meet our needs, our special
16 needs. So for us in this budgetary restraint
17 times this is a win/win for us. We've had
18 several projects -- as probably you people
19 realize that we've had several projects where
20 our funding has been removed. And this is a
21 great, great opportunity for us to see a new
22 station to that 50-year-old building that's

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1 sitting there right now, and it would serve
2 our needs and the community much better. So
3 thank you for the time.

4 CHAIRPERSON HOOD: Okay. I want
5 to thank you both. Let me see if there's any
6 cross. Commissioners, any questions?

7 COMMISSIONER TURNBULL: I just had
8 one question. Is the fire station going to be
9 on one floor?

10 MR. FOUST: No, it'll be on two
11 floors.

12 COMMISSIONER TURNBULL: Two
13 stories? So you'll still have your pole?

14 MR. FOUST: Oh, yes. Yes.

15 COMMISSIONER TURNBULL: And your
16 drying racks? You have a two-story drying
17 rack?

18 MR. FOUST: More than welcome to
19 stop by and try that.

20 COMMISSIONER TURNBULL: Okay.

21 MR. FOUST: There will be a couple
22 poles there. There will be two poles, yes,

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1 but the drying racks or the hose towers are
2 eliminated.

3 COMMISSIONER TURNBULL: So you
4 have -- okay. Good. Well, Mr. Chair, we
5 have --

6 CHAIRPERSON HOOD: We have an in?

7 COMMISSIONER TURNBULL: We have a
8 chance.

9 CHAIRPERSON HOOD: Stop by now, or
10 do we go later?

11 COMMISSIONER TURNBULL: Later.

12 CHAIRPERSON HOOD: Any other
13 questions?

14 (No audible response.)

15 CHAIRPERSON HOOD: Okay. Do we
16 have any cross-exam from the Applicant?

17 MS. BATTIES: No.

18 CHAIRPERSON HOOD: Okay. Any
19 cross-examination from the D.C. Library
20 Renaissance -- oh, I'm sorry, ANC?

21 (No audible response.)

22 CHAIRPERSON HOOD: D.C.

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1 Renaissance, if you can come forward.

2 Ms. Cooper, can I just ask, is
3 this one of the groups that you do a lot of
4 work with, D.C. Library Renaissance?

5 MS. COOPER: I wouldn't say we
6 work with them. We certainly are in the same
7 meetings often.

8 CHAIRPERSON HOOD: Okay. Thank
9 you.

10 MS. OTTEN: We've tried to work
11 together. That's where most -- obviously the
12 questions will be directed to.

13 CHAIRPERSON HOOD: I had asked Ms.
14 Cooper, because I was just trying -- I'm
15 trying to still understand the connection, but
16 maybe I'll get it at the next meeting. But
17 any way, go ahead.

18 MS. OTTEN: Chief Cooper, thanks
19 for being here tonight. Are you aware of how
20 this project might be contravened or comport
21 with the Library Enhancement and Development
22 Act?

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1 MS. COOPER: No, that legislation
2 was approved six or seven years ago. It has
3 never been implemented. I'm somewhat familiar
4 with it, but I don't think it has applied to
5 this or it's ever been implemented.

6 MS. OTTEN: Has there been any
7 situation where it could be implemented? What
8 I mean by that is has there been any other
9 sale of library --

10 CHAIRPERSON HOOD: She did not
11 testify to that. I was reminded by my
12 colleague, her testimony was very limited.
13 All that other stuff you want to bring up for
14 her testimony is not applicable. So I would
15 ask you to just cross-examine her on her
16 testimony, and her testimony only.

17 MS. OTTEN: Well, her testimony --

18 CHAIRPERSON HOOD: If you don't
19 have any questions for her testimony, you can
20 move to the next person. If not, I will go to
21 the next person. On her testimony.

22 MS. OTTEN: Her testimony is that

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1 they are in favor -- is it true that you
2 testified that you're in favor of the library
3 plan as developed --

4 MS. COOPER: Yes.

5 MS. OTTEN: -- for this project?
6 And did you develop that library plan with the
7 developer?

8 MS. COOPER: As I mentioned, we
9 worked extensively with the developer and the
10 architect on the design, primarily the
11 architect.

12 MS. OTTEN: And how involved was
13 the public in that design process?

14 MS. COOPER: I mentioned that the
15 West End Friends were very involved. And I
16 didn't attend the 64 meetings either, but I
17 know that the design was reviewed at most of
18 those meetings.

19 MS. OTTEN: And during the
20 discussions around the design was there any
21 sense of concern around the friends space
22 being diminished to almost nothing in the new

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1 design?

2 MS. COOPER: I've not heard that.

3 MS. OTTEN: Not heard that? To
4 your knowledge is that the case comparatively
5 now to the new design, what we have now to the
6 new design, the space for the friends?

7 MS. COOPER: You know, I don't
8 think I know exactly how much space there is
9 now for the friends. I'll tell you that our
10 program is pretty consistent. We have 150
11 square feet for the friends to use as they
12 choose, as well as the potential for having
13 ongoing sales within the public part of the
14 library.

15 MS. OTTEN: So whatever the
16 friends space is now it's going to be reduced
17 down to 150 square feet, correct?

18 MS. COOPER: I believe you are
19 correct. As I said, I don't know enough about
20 how specifically much they have, space they
21 have now.

22 MS. OTTEN: This space that they

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1 do have now, do they use it for book sales?

2 MS. COOPER: I don't know.

3 MS. OTTEN: You don't know if the
4 friends --

5 MS. COOPER: I assume so, but I'm
6 sorry --

7 CHAIRPERSON HOOD: Did you testify
8 about book sales?

9 MS. COOPER: I don't think I did.

10 CHAIRPERSON HOOD: Okay. I miss
11 stuff, so I have to ask sometimes. Okay.

12 MS. OTTEN: Well, through the
13 questioning she's testifying, correct?

14 CHAIRPERSON HOOD: Well, no.
15 She's responding to your answers supposedly,
16 but I'm asking you to just tailor your
17 questions to what she testified to, which was
18 not much.

19 MS. OTTEN: Okay. Did you testify
20 to the cost of the library, how much this is
21 going to cost the --

22 MS. COOPER: I don't believe I

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1 did, no.

2 MS. OTTEN: Do you agree with the
3 testimony of the developer that it's going to
4 cost about \$10 million for this library?

5 CHAIRPERSON HOOD: Next question.

6 MS. OTTEN: How is that not
7 relevant?

8 CHAIRPERSON HOOD: Next question.
9 I've ruled. Next question.

10 MS. OTTEN: We're trying to
11 balance amenities here.

12 CHAIRPERSON HOOD: Who are you
13 asking questions to, Ms. Cooper, the deputy
14 chief, or to the Applicant?

15 MS. OTTEN: I'm asking Ms. Cooper
16 if what she --

17 CHAIRPERSON HOOD: But did she
18 testify to that?

19 MS. OTTEN: She heard --

20 CHAIRPERSON HOOD: No, she did
21 not.

22 MS. OTTEN: She heard the

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1 testimony.

2 CHAIRPERSON HOOD: So, next
3 question. We don't go by what other people
4 hear. That's not how cross-examination works.
5 Do you watch Law & Order?

6 MS. OTTEN: No, I don't have TV.

7 CHAIRPERSON HOOD: Okay. Do like
8 I do, watch -- after doing this, I watch some
9 of the repeats, believe me. So go to what she
10 testified to.

11 MS. OTTEN: Okay. I guess, so I
12 understand this, I'm trying to understand that
13 -- the Zoning Commission is to balance the
14 value of the amenities and what we're trying
15 to understand is the value of the library
16 that's being built, right?

17 CHAIRPERSON HOOD: What you can do
18 is -- I think my colleague actually said this
19 a couple times tonight. What you can do is
20 you can -- when you get ready to testify, you
21 can bring all that up at that point in time
22 and then we can cross your questions. So we

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1 can cross-examine you. But for now, all
2 you're doing is asking questions to her
3 testimony.

4 MS. OTTEN: Okay.

5 CHAIRPERSON HOOD: Some of the
6 stuff you're trying to convey to us, you can
7 present that in your presentation.

8 MS. OTTEN: Okay. So to your
9 testimony the library is conveying the land
10 and air rights above for the land, right? I
11 mean, that's -- I just want to get it on
12 record.

13 MR. TROY: If you're going to ask
14 questions about deal structure and things like
15 that, you can just ask me.

16 MS. OTTEN: And how did you work
17 with them on that?

18 COMMISSIONER MAY: Not anymore. I
19 mean, he already testified.

20 COMMISSIONER TURNBULL: So those
21 questions are out of order.

22 COMMISSIONER MAY: You have to

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1 listen to what the person actually says, what
2 Ms. Cooper actually said and ask her questions
3 that relate to what she actually said, not
4 what anybody else said, not what you want --
5 what your agenda is, or your -- your line of
6 questioning has to be focused on what words
7 came out of her mouth.

8 MS. OTTEN: Does that also include
9 what words she wrote in a letter as part of
10 the application?

11 COMMISSIONER MAY: Yes.

12 MS. OTTEN: Okay. So to that end,
13 I saw a letter about the parking. I don't
14 have the letter in front of me right now.
15 It's Exhibit B of the application. Is it the
16 case that you agreed that part of this PUD
17 process the library will be paying for the
18 parking spaces either through lease or
19 purchase?

20 MS. COOPER: It would be helpful
21 for me to have a copy of the letter I wrote
22 some while ago in front of me in order to be

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1 able to accurately answer it as well.

2 MS. OTTEN: Well, it's part of the
3 application, but let me -- I can go get it.

4 Okay. So Exhibit B of the
5 application in your writing says that you have
6 negotiated an arrangement with the developer
7 where DCPL will purchase and own six parking
8 spaces. Can you describe that arrangement as
9 part of the PUD?

10 MS. COOPER: I think what I can
11 tell you is what I've included in the letter,
12 and that is -- so I signed it and I attest to
13 it.

14 MS. OTTEN: So how much does DCPL
15 intend to pay for these parking spaces?

16 MS. COOPER: I don't know. I
17 don't have that information for you now.

18 MS. OTTEN: So would you consider
19 that a subsidy to the project?

20 (No audible response.)

21 MS. OTTEN: She's not going to
22 answer that. I'm getting things thrown at me

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1 here now.

2 PARTICIPANT: (Off microphone.)

3 MS. OTTEN: That's okay.

4 CHAIRPERSON HOOD: That just
5 started? No, I'm just --

6 MS. OTTEN: I'm trying to get to
7 some serious questions here, because -- well,
8 we can get that into that -- in the testimony.

9 You also wrote that you've agreed
10 to a library of approximately 20,000 square
11 feet. How much is the current library square
12 footage?

13 MS. COOPER: I don't know.

14 MS. OTTEN: You don't know?

15 MS. COOPER: I mean, that
16 information is available. I don't have it in
17 my head.

18 MS. OTTEN: Okay. And so it also
19 says "DCPL must sign off on the final interior
20 design and layout for the developer to proceed
21 with development." Has that happened?

22 MS. COOPER: It is in process.

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1 It's not yet happened.

2 MS. OTTEN: And how much
3 discussion with like the public have you had
4 in signing off on these interior designs?

5 MS. COOPER: The developer has
6 managed that process.

7 MS. OTTEN: The developer has
8 managed that? Would you say that it would
9 cost less to design just an interior design as
10 opposed to a stand-alone library from the
11 ground up with its own architect?

12 MS. COOPER: I don't think I
13 testified about that.

14 MS. OTTEN: That's what you wrote.
15 You're writing here about designs and interior
16 design and layout for the developer to
17 proceed.

18 MS. COOPER: Do I mention cost? I
19 don't think that letter does.

20 MS. OTTEN: Well, you're
21 describing how funding -- "The final square
22 footage might be adjusted depending on DCPL's

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1 program and design needs and how funding is
2 allocated to meet these needs." And that's
3 where the funding questions are coming from.
4 I'm trying to understand how this budget was
5 derived.

6 MS. COOPER: I think what I say is
7 what I said.

8 MS. OTTEN: And how much was
9 discussed with the public around the budget
10 and the interior design of this project?

11 CHAIRPERSON HOOD: Do you know,
12 Ms. Cooper?

13
14 MS. COOPER: Pardon me?

15 CHAIRPERSON HOOD: Do you know
16 what he's asking us in your letter? He's
17 expounding on your letter when you talk about
18 what's allocated. Do you know how much
19 funding goes around this subject from what
20 he's --

21 MS. COOPER: Well --

22 CHAIRPERSON HOOD: I guess that's

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1 his question. I don't want to put words in
2 your mouth.

3 MS. OTTEN: Essentially.

4 CHAIRPERSON HOOD: Okay.

5 MS. COOPER: Yes, I'm sorry. Can
6 you ask me -- can you try it one more time?

7 CHAIRPERSON HOOD: Okay. Why
8 don't you repeat your question, because I
9 don't want to mis-characterize any of your
10 comments.

11 MS. OTTEN: In light of your
12 letter describing how funding is allocated to
13 meet the needs, DCPL's program and design
14 needs -- so how did you derive the funding to
15 be allocated to meet those needs?

16 MS. COOPER: It isn't our funding
17 which we've designated and allocated. What I
18 tried to convey in that letter is the fact
19 that we know that this library will be very
20 similar in quality to the other libraries that
21 we have built. That was what the developer
22 had promised and that's what we are getting

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1 and we're signing off on that when we are
2 satisfied that it's occurred, and that's the
3 agreement.

4 MS. OTTEN: And determining the
5 funding which is directly connected to the
6 cost of the land associated with this, right?
7 The funding of the design in your letter --

8 CHAIRPERSON HOOD: Her letter
9 doesn't -- her letter simply says how funding
10 is allocated to meet these needs. It doesn't
11 say that she determined the funding or
12 anything of that nature. So next question.
13 You're trying to take a sentence and put a
14 whole lot in it.

15 MS. OTTEN: Yes. Yes, okay.

16 CHAIRPERSON HOOD: And I have this
17 in front of me.

18 MS. OTTEN: Okay.

19 CHAIRPERSON HOOD: And it doesn't
20 say all that what you're trying to articulate.
21 So go to the next question, please.

22 MS. OTTEN: Okay. What it does

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1 articulate is that the West End -- the new
2 West End library will be located within the
3 new mixed-use building proposed under the PUD.
4 Do you have a sense of if you'll be able to
5 expand very easily into this, you know, mixed-
6 use building given the population trends
7 growing in the city?

8 MS. COOPER: I didn't testify to
9 that, nor did I write about it in the letter.

10 MS. OTTEN: You were writing that
11 your new West End library is located in this
12 new mixed-use facility. How will the library
13 be able to expand into this new mixed-use
14 facility if it needs to grow its services?

15 MS. COOPER: The question of
16 expansion has not been addressed in my
17 testimony, nor in the letter.

18 CHAIRPERSON HOOD: That's her
19 answer.

20 MS. OTTEN: Okay.

21 CHAIRPERSON HOOD: Okay.

22 MS. OTTEN: We have concerns about

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1 that. That's it.

2 CHAIRPERSON HOOD: Tell us when
3 you get ready to testify.

4 MS. OTTEN: Very good. Thank you.

5 CHAIRPERSON HOOD: That's what
6 it's all about. When you get ready -- you
7 could ask questions. Things you disagree
8 with, when you get ready to testify, that'll
9 be the time to present.

10 MS. OTTEN: Cool.

11 CHAIRPERSON HOOD: Okay. Again,
12 Gibson Condominium's not here. Residents of
13 Ritz-Carlton?

14 (No audible response.)

15 CHAIRPERSON HOOD: Okay. Ms.
16 Horvitz?

17 (No audible response.)

18 CHAIRPERSON HOOD: And West End
19 Flats?

20 (No audible response.)

21 CHAIRPERSON HOOD: Okay. Let me
22 thank everyone for coming. Ms. Cooper and

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1 battalion chief, let me thank you both, and
2 also the Deputy Mayor's Office. Let me thank
3 all of y'all for coming down and testify in
4 front of us.

5 Any other follow-up questions?
6 Commissioner Turnbull?

7 COMMISSIONER TURNBULL: I hate to
8 go down that line, but we talked earlier about
9 the library that's going to be for -- in
10 perpetuity that space is library space. Just
11 to follow; dumb question, but why wouldn't the
12 parking spaces be part of the library since
13 you've got the library? And I'm just
14 wondering how does the deed work or the -- I
15 mean, originally there was going to be 18
16 spaces. Now there's only six spaces. Why
17 wouldn't the parking spaces be part of the
18 library? I'm just curious.

19 MR. STERNLIEB: Commissioner
20 Turnbull, the spaces will be part of the
21 library. They'll be owned by the library.

22 COMMISSIONER TURNBULL: Oh, okay.

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1 Because I didn't understand the part about the
2 lease part. They're going to lease six
3 spaces.

4 MR. STERNLIEB: No, I think that
5 was the Renaissance Project who might have
6 brought that up.

7 COMMISSIONER TURNBULL: Oh, okay.

8 MR. STERNLIEB: It wasn't reality.

9 COMMISSIONER TURNBULL: Oh, all
10 right.

11 MR. STERNLIEB: No, the library
12 will own an air rights lot that contains their
13 space and will own the deed on their parking
14 spaces as well.

15 COMMISSIONER TURNBULL: Oh, okay.
16 I mean, I guess that was what was confusing.

17 MR. STERNLIEB: And six is
18 generally I think consistent --

19 COMMISSIONER TURNBULL: Well, I
20 would have thought so, but --

21 MR. STERNLIEB: -- with what the
22 new libraries are providing in the very urban

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1 mixed-used areas. I think they have maybe 12
2 now and they're often not fully utilized.

3 COMMISSIONER TURNBULL: Okay.

4 Thank you.

5 CHAIRPERSON HOOD: I was hoping
6 she wasn't going to hit me with that.

7 Okay. We're going to close off at
8 this point. I think we'll pick back up at ANC
9 2A. Is that where we start, ANC 2A? Will
10 start with ANC 2A and then we'll start the
11 agenda from that point.

12 But let's see when we're going to
13 reconvene. We were trying to look at
14 Thursday, but the problem with Thursday, this
15 coming Thursday, we won't be able to start
16 until about 7:30.

17 MS. SCHELLIN: Correct.

18 MS. BATTIES: What is the date?

19 I'm sorry.

20 CHAIRPERSON HOOD: We were looking
21 at this coming Thursday.

22 MS. SCHELLIN: Twenty-second.

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1 CHAIRPERSON HOOD: Twenty-second.

2 MS. BATTIES: Oh, okay. I just
3 want to check.

4 Enrique, are you going to be --

5 MR. NORTEN: I will be out of the
6 country. I cannot do it. I'm sorry. I have
7 other commitments. I cannot do it.

8 CHAIRPERSON HOOD: Okay.

9 MS. BATTIES: Okay. I raise that
10 just in case you have any more questions that
11 you want to direct specifically to Mr. --

12 CHAIRPERSON HOOD: Okay. What
13 about January the 5th? Because after January
14 we're going into March.

15 MS. SCHELLIN: February.

16 CHAIRPERSON HOOD: We're going
17 into February? Okay. I thought it was March.

18 MS. BATTIES: I mean, Erik Lang is
19 here. He can answer questions that are
20 specific to the project, but I didn't know if
21 the Commission had specific questions for
22 Enrique.

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1 CHAIRPERSON HOOD: Unfortunately,
2 I can't predict that. I never know what's
3 going to come from up here. So, you know, we
4 may have some for the architect, so -- the
5 main architect, as I may call it, but so I'd
6 rather for them to be present.

7 COMMISSIONER MAY: You know, I
8 think if we have issues, there might be things
9 that need to be studied further and that
10 information can be communicated to --

11 CHAIRPERSON HOOD: We have one
12 brief case.

13 COMMISSIONER MAY: -- whoever.

14 CHAIRPERSON HOOD: Let me just
15 tell you what we're going to come into on
16 Thursday, which we would like to get this over
17 with, or get through this, because going into
18 next year we have a lot of stuff on our plate.
19 Commissioner Cohen and I will not be here
20 until 7:30. We're going to be sworn in by the
21 mayor, so if you don't like it, meet us over
22 at the --

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1 MS. SCHELLIN: We could say 7:45
2 for this case.

3 CHAIRPERSON HOOD: 7:45? And my
4 question is will we finish?

5 MS. SCHELLIN: And if we start a
6 little late, we start a little late.

7 CHAIRPERSON HOOD: Will we finish
8 the case that night starting an hour and 15
9 minutes later?

10 MS. SCHELLIN: There were not a
11 lot of people who had signed up at this point.
12 We have the parties in opposition to do their
13 testimony.

14 CHAIRPERSON HOOD: How much time,
15 Ms. Schellin?

16 MS. SCHELLIN: I've figured out
17 the time. Pretty much everything that they
18 asked for, they will get. The D.C. Library
19 Renaissance Project, 15 minutes. Gibson
20 Condo, 10 minutes. The Residences of Ritz-
21 Carlton, 10 minutes. Kenneth Wnuck, 15
22 minutes. And the West End Flats Condos, 10

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1 minutes.

2 CHAIRPERSON HOOD: So that adds up
3 to what about?

4 MS. SCHELLIN: That's 60 minutes.

5 CHAIRPERSON HOOD: Sixty? Oh,
6 that adds up to an hour. Okay. And then
7 cross.

8 MS. HAIGHT: (Off microphone.)

9 CHAIRPERSON HOOD: I'm sorry, can
10 you come forward to the mic?

11 MS. HAIGHT: I'm sorry.

12 CHAIRPERSON HOOD: Can you come
13 forward?

14 MS. HAIGHT: I'm sorry. I know
15 this is out of process, but I'm head of the
16 West End Library Friends, and there's been a
17 lot of discussion about who are, quote, the
18 real friends or not the real friends. And I
19 really would like to get my --

20 CHAIRPERSON HOOD: How much
21 time --

22 MS. HAIGHT: It's about two --

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1 it'll be three minutes and I talk really fast.

2 CHAIRPERSON HOOD: Okay. But then
3 we --

4 MS. HAIGHT: And I just -- I won't
5 be here Thursday and it's important for our
6 friends group that I go on record, please.

7 CHAIRPERSON HOOD: Okay. What
8 about January the 5th? Let's just go to
9 January the 5th. I agree with her. I think
10 it's important. January 5th.

11 Can everybody make it January the
12 5th?

13 MS. SCHELLIN: 6:30 p.m.

14 CHAIRPERSON HOOD: Seems like
15 everybody can make it January 5th. It's a
16 Thursday after the holiday.

17 CHAIRPERSON HOOD: Would you like
18 to just submit your testimony for the record,
19 or would you like to -- would you like to just
20 submit your testimony for the record? And
21 then that way we can read it and that way if
22 you just submit it for the record -- but you

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1 want to talk?

2 MS. HAIGHT: (Off microphone.)

3 MS. SCHELLIN: She needs to be on
4 the mic. She can't talk from back there. The
5 court reporter is not picking anything up from
6 her.

7 MS. HAIGHT: I'm sorry. There's
8 just been a lot of discussion about the West
9 End Library Friends and the people that you
10 made party to this hearing. And I really want
11 to just clarify who the friends are, what we
12 stand for, and it's very different than what
13 you've heard so far. So it's important to me
14 and the group that I represent, all 80 of us,
15 that I speak,

16 CHAIRPERSON HOOD: Okay. With
17 that, because I can't control the cross-
18 examination that you may get, I think the
19 safest bet -- because I go down this road a
20 lot, I think the safest bet is January the
21 5th.

22 MS. HAIGHT: Thank you.

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1 CHAIRPERSON HOOD: And I apologize
2 for any inconvenience to anyone, but you know,
3 I don't want to keep everybody here all night
4 and I'm going to be respectful of your time.
5 And to try to say that we're going to do -- I
6 would try to take it tonight, but I know that
7 a lot of us catch the Metro, including myself.
8 It's rough catching a cab at 1:00, believe me.
9 I've done it.

10 So January the 5th. Ms. Schellin,
11 can you --

12 MS. SCHELLIN: At 6:30 p.m. And
13 the parties understand how much time they
14 have. Ms. Horvitz is nodding. I assume that
15 everybody -- all the other parties -- Mr. Biel
16 and -- Mr. Rightsell, rather. I got you two
17 mixed up. So you guys know how much time you
18 have to present your case, and then we'll go
19 from there.

20 CHAIRPERSON HOOD: I've been asked
21 to make sure that the model comes back. I
22 know that's --

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1 MS. SCHELLIN: No, we don't have
2 space for it.

3 CHAIRPERSON HOOD: At your own
4 risk. I don't know what happens in the room.
5 But anyway, so do we have anything? We're all
6 on the same page?

7 MS. SCHELLIN: Yes.

8 CHAIRPERSON HOOD: I want to thank
9 everyone for their participation tonight. Is
10 there anything else? Am I leaving anything?

11 MS. SCHELLIN: No, sir.

12 CHAIRPERSON HOOD: Okay. For
13 their participation. We'll see everybody
14 January 5th at 6:30.

15 (Whereupon, the meeting was
16 adjourned at 11:31 p.m.)

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