

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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In the matter of:

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PUD APPROVAL AND RELATED
MAP AMENDMENTS @ 1000 16th
STREET, N.W.

?

Case No. 98-14C

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

Thursday,
December 17, 1998

The above-entitled matter came on for hearing,
pursuant to notice, at 7:00 p.m.

BEFORE:

JERRILY R. KRESS	Chairperson
ANGEL F. CLARENS	Commissioner
HERBERT M. FRANKLIN	Commissioner
JOHN F. PARSONS	Commissioner

STAFF PRESENT:

SHERI PRUITT-WILLIAMS	Interim Director, Office of Zoning
KENNETH KARKEET	Office of Zoning

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APPEARANCES:

On Behalf of the Applicant, JBG 6006
Limited Partnership:

WHAYNE S. QUIN, ESQ.
ALLISON C. PRINCE, ESQ.
of: Wilkes, Artis, Hedrick & Lane, Chartered
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P-R-O-C-E-E-D-I-N-G-S

(7:04 p.m.)

CHAIRPERSON KRESS: Good evening, ladies and gentlemen.

I am Jerrily Kress, Chairperson of the Zoning Commission for the District of Columbia. Joining me this evening are Commissioners Franklin, Parsons, and Clarens. I declare this hearing open.

The case that is the subject of this hearing is Case Number 98-14C, a request for approval of a planned unit development and related map amendment from SP-2 to C-4 for a portion of the subject property by the JBG Limited Partnership. The property involved is situated in Square 184, occupies Lots 59 and 842, and is located at 1000 16th Street, N.W.

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

The proposed PUD involves the renovation and expansion of the existing Solar Building, which includes an addition of three stories and a new below-grade, two-level parking garage for approximately 95 vehicles.

The expanded building would contain a gross

1 floor area of approximately 205,132 square feet, including
2 approximately 10,000 square feet of retail space. The
3 existing adjacent six-story office building to the north on
4 16th Street would be replaced with the expanded floor area of
5 the Solar Building and would provide the point of access to
6 the new parking garage.

7 The applicant is seeking the rezoning of the
8 SP-2 zoned portion of the property to C-4. With this, this
9 site would be redeveloped under the PUD guidelines for the C-4
10 zone district.

11 Notice of today's hearing was published in the
12 D.C. Register on November 6, 1998. This hearing will be
13 conducted in accordance with the provisions of 11 DCMR 3022.

14 The order of procedure will be as follows.
15 First, preliminary matters; second, the applicant's case;
16 third, the report of the Office of Planning; fourth, the
17 reports of other agencies; fifth, the report of the Advisory
18 Neighborhood Commission 2B; sixth, persons and parties in
19 support; and, seventh, persons and parties in opposition.

20 The following time limits will be imposed for
21 all oral presentations. The applicant is allocated 60
22 minutes; other parties, should we determine there are other
23 parties, are allowed 15 minutes for their presentation;
24 organizations are allowed five minutes; and individuals three
25 minutes. The Commission will adhere to this schedule as
26 strictly as possible.

1 Those presenting testimony should be brief and
2 non-repetitive. If you have a prepared statement, you should
3 give copies to staff and orally summarize the highlights only.
4 Please provide copies of your statement before summarizing.

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

10 The decision of the Commission in this case
11 must be based exclusively on the record. To avoid any
12 appearance to the contrary, the Commission requests that
13 parties, counsel, and witnesses not engage the members of the
14 Commission in conversation during any recess or at the
15 conclusion of the hearing session. While the intended
16 conversation may be entirely unrelated to the case that is
17 before the Commission, other persons may not recognize that
18 the discussion is not about the case.

19 The staff will be available to discuss
20 procedural questions.

21 All individuals who wish to testify, please
22 rise to take the oath.

23 (Whereupon, an oath was administered to those
24 persons wishing to testify.)

25 Thank you.

26 With that, I would like to begin with

1 preliminary matters.

2 Ms. Pruitt-Williams?

3 MS. PRUITT-WILLIAMS: Madam Chair, staff has
4 two preliminary matters. First, for the record, we'd like to
5 note that we have received an affidavit of posting and an
6 affidavit of maintenance of posting.

7 The second preliminary matter deals with
8 notice. As you indicated, this was published in the November
9 6th D.C. Register. However, they were not mailed out due to
10 financial constraints of the Office of Documents. So the
11 Commission would need to waive the 40-day notice requirement,
12 but we are still in compliance with the 30-day notice
13 requirement of the charter.

14 CHAIRPERSON KRESS: I guess I was caught off
15 guard. I didn't realize that. What's your pleasure,
16 colleagues? We have made the 30-day requirement; we have not
17 made our own 40-day. Are we prepared to --

18 MS. PRUITT-WILLIAMS: And that was due to the
19 Office of Documents not having sufficient funds to mail out
20 the D.C. Register.

21 CHAIRPERSON KRESS: Do we have a consensus to
22 proceed?

23 COMMISSIONER CLARENS: I think so, yes.

24 CHAIRPERSON KRESS: All right. We have a
25 consensus. We will waive our requirements and proceed. Thank
26 you.

1 MS. PRUITT-WILLIAMS: That concludes staff's
2 preliminary issues.

3 CHAIRPERSON KRESS: All right. With that, the
4 next preliminary matter is the identification of parties other
5 than the Advisory Neighborhood Commission, which is
6 automatically a party, I only have one party request. Is that
7 correct? Oh, two. Excuse me.

8 Let me begin with Carol Mitten. And I would
9 like to ask my colleagues, since that was in our package and
10 we have reviewed it, what is your pleasure on her being
11 considered a party for this case?

12 COMMISSIONER CLARENS: I have no objection.
13 The Presidential Building lies within 100 feet of the property
14 site, and it's a -- there's a number of apartments, and I
15 think that they should have party status.

16 COMMISSIONER PARSONS: I would agree.

17 CHAIRPERSON KRESS: Okay. All right.

18 Carol Mitten will be admitted and given party
19 status.

20 The second one, quite frankly, I haven't
21 reviewed. It is -- has everyone been able to read this?

22 COMMISSIONER PARSONS: Well, this -- Mr. Simon
23 Osnos is a tenant in the building, apparently.

24 MR. OSNOS: No. I'm here to represent --

25 MS. PRUITT-WILLIAMS: Excuse me, sir. Can you
26 speak from the mike?

1 CHAIRPERSON KRESS: Yes. No one can be
2 recognized unless you speak from the mike and identify
3 yourself. Thank you.

4 MR. OSNOS: Yes. I am Simon Osnos. I'm here
5 in a representative capacity for Press Express, Incorporated,
6 which is a tenant in the building.

7 CHAIRPERSON KRESS: All right. You should be
8 close enough.

9 (Laughter.)

10 What is your reason for wanting to be a party?
11 This is a very brief statement and doesn't deal with all of
12 the issues. Is it just to gain information? Do you need to
13 have --

14 MR. OSNOS: Just for informational purposes, to
15 preserve any appellate rights that we might have to be allowed
16 to cross examine witnesses, if we should want to do so. But
17 as my letter makes clear, we don't take any position at this
18 time on the application.

19 CHAIRPERSON KRESS: Okay. Colleagues, what is
20 your sense?

21 COMMISSIONER CLARENS: I don't know what to
22 say. I don't know. I feel uncomfortable with it. I don't
23 see -- you are not a property owner. You are affected, but
24 you would be affected as a tenant of the landlord. You don't
25 have any interest in any property.

26 You have an interest on the property in

1 question, but that is an issue of contractual relationship
2 that can be remedied if anything goes wrong somewhere else.
3 But it's not a zoning issue, and I don't see why it would
4 affect you. I don't know. But obviously, that's what I would
5 like to share with my fellow Commissioners.

6 COMMISSIONER PARSONS: I agree with you. As a
7 tenant, as a lessee, there is no property interest here.

8 COMMISSIONER FRANKLIN: Well, there's a
9 leasehold interest.

10 COMMISSIONER PARSONS: It's a leasehold
11 interest that expires in 2002. But I don't think we've ever
12 entertained a tenant relationship as a party, that I can
13 remember. It has always been a landowner adjacent to, or, you
14 know, within a couple hundred feet.

15 MR. QUIN: Madam Chairperson?

16 CHAIRPERSON KRESS: Yes.

17 MR. QUIN: For the record, my name is Whyne
18 Quin, representing the applicant. We have no objection to
19 this status as a party, simply because there's a request and
20 we don't see any reason to create a situation where there
21 could be a problem.

22 He does have a property interest in terms of a
23 terminable leasehold interest. And rather than debate that
24 issue, we have no objection.

25 CHAIRPERSON KRESS: Thank you.

26 COMMISSIONER PARSONS: Well, I do.

1 CHAIRPERSON KRESS: Okay.

2 COMMISSIONER PARSONS: I think it's a precedent
3 that I'm not sure we should entertain. Certainly, we will be
4 glad to hear his testimony and how he might be affected after
5 he hears the rest of the proceedings. But I think this strays
6 into a new area we have never been into before. I mean, I'm
7 sure there are other tenants in the building that may be
8 affected, but I don't agree.

9 CHAIRPERSON KRESS: All right.

10 COMMISSIONER FRANKLIN: Well, in the absence of
11 objection from the applicant, I don't see the point in our not
12 granting party status. It might become an issue later on, so
13 -- but, of course, I don't have the same experience on this
14 Commission as Mr. Parsons.

15 COMMISSIONER PARSONS: No. That's not the
16 reason.

17 (Laughter.)

18 COMMISSIONER CLARENS: You don't see any
19 problem as a precedent-setting issue that then, you know --

20 COMMISSIONER FRANKLIN: Well, if there were --
21 I don't know, this mike is not working I guess. If we were
22 dealing with, you know, a resident of a condominium I might
23 have a problem. You expect a condominium board to, you know,
24 represent them. But, you know, in a case of this sort with a
25 commercial tenant, it's not quite the same. But I will defer
26 to whatever the Chair rules.

1 CHAIRPERSON KRESS: Well, I seem to hear two
2 Commissioners feeling that the tenant in this case, Press
3 Express, it is perhaps not appropriate to include them as a
4 party, and Commissioner Franklin is saying perhaps it is. I
5 will rule with the two who feel that as a tenant this is
6 perhaps not the right precedent we want to set, and so I will
7 rule that Press Express, Inc., represented by Simon Osnos, is
8 not declared a party for purposes of this hearing.

9 With that, we will move on to the applicant's
10 case. And since Mr. Quin is already in place, I'd ask you to
11 begin.

12 MR. QUIN: Thank you very much. First, let me
13 ask about the mike system. This is on now.

14 Good evening. My name is Whayne Quin with
15 Allison Prince of the law firm of Wilkes, Artis, Hedrick &
16 Lane. We represent the applicant in this PUD application.

17 I think this application presents to the
18 Commission an exciting and a very real opportunity to
19 revitalize two office use sites in the District of Columbia,
20 in the heart of the central employment area, in the middle of
21 the K Street corridor, where it intersects with 16th Street,
22 which is, of course, a very special street in the District of
23 Columbia, an historic street leading down towards Lafayette
24 Square and the White House.

25 You all know the intersection. There is no
26 need to describe it in great detail. It's right across from

1 the Capitol Hilton, across 16th Street to the west. It's
2 right across K Street from the World Center Building to the
3 south and diagonally across from the Sheraton Carlton.

4 The interesting thing that we -- one of the
5 interesting things about this case is that this is probably
6 the widest intersection in the entire District of Columbia,
7 except for where avenues cross streets. K Street is 147 feet
8 in width, and 16th Street is 160 feet in width. It's a highly
9 important, very visible site, and we believe it cries out for
10 a quality building, which we will show you tonight.

11 The character of the uses in the area has long
12 primarily been non-residential and office. You know the K
13 Street corridor going from Washington Circle all the way to
14 Mount Vernon Square is basically all office. In fact,
15 frequently it's called the K Street line of boxes; the "K
16 Street boxes" frequently it's called.

17 16th Street, which you may not actually know
18 the percentages in terms of use, 90 percent of the usage from
19 Lafayette Square to Scott Circle is non-residential,
20 commercial, or hotel. There are only two residential
21 properties in that entire strip from Lafayette Square, H
22 Street, up to Scott Circle.

23 The subject 20,000 square foot site is
24 comprised of two office buildings. The larger one, which was
25 identified in the opening statement -- it's called the Solar
26 Building -- was approved by the BZA in 1955 and was

1 subsequently constructed. This was when there was a
2 residential strip along 16th Street. Later that was replaced
3 by an SP strip, and the building immediately to the north,
4 1010 16th Street, which is also included in the site, was
5 approved for office use in 1963.

6 So the project, then, is an office-to-office
7 use, and there has been some confusion in the community about
8 that. Here we have no conversion, absolutely no conversion of
9 space from residential or hotel to commercial usage. It is
10 all right now commercial office usage.

11 In fact, it's on the same -- essentially the
12 same footprint. The Solar Building footprint is identical to
13 what will be in the application as proposed, and the 1010 16th
14 Street is slightly larger but essentially the same. And in
15 this case, we are seeking a relatively modest increase in
16 total square footage, 50,000 square feet is the total amount
17 that's being sought, and about the same amount of retail
18 space. There is no significant increase in retail space
19 requested.

20 In fact, this corner lot is relatively small
21 for corner lots along K Street, as you all probably can take
22 notice of and know. On the other hand, the project has very
23 significant improvements, enhancements, and benefits, and I'd
24 like to just very briefly go through that in the opening
25 statement and then we'll move on quickly with our witnesses.

26 First, and foremost perhaps, we have a dramatic

1 improvement in design with the exterior change on the Solar
2 Building and the replacement of 1010 16th Street. The K
3 Street box we think will be ended on this site, and we will be
4 improving it with a modern, attractive, and friendly design,
5 with carefully modulated setbacks from 16th Street. And it's
6 really much better, as you'll see from the testimony, than a
7 matter of right building or what exists today. And we will
8 ask you to look at that carefully.

9 There is also -- and this is very important --
10 a favorable relationship to the 16th Street special street.
11 And one of the things that you'll see tonight, which I was
12 very impressed with -- not necessarily you all, but I hope you
13 will be -- is an animated walking tour coming down -- by
14 computerized walking tour coming down 16th Street and going
15 towards Farragut Square.

16 The second benefit is the replacement of a
17 functionally obsolescent building; in fact, two buildings.
18 The buildings will be with -- the new building will be state
19 of the art. It will be competitive, and it will be -- it will
20 raise the standards for design in this area of the city, which
21 I think needs it.

22 It also solves an extremely difficult and
23 irregularly shaped zoning boundary line. We have here, as you
24 can look at -- and Tab B has a plat in it that's very
25 illustrative of the problem.

26 This site is split-zoned not only east to west

1 but north to south. So you have a very difficult site for
2 development, yet it is all being used for office purposes.

3 Thirdly, this application provides on-site
4 parking beyond that which would be legally required. Only 21
5 spaces would be required. We provide parking on the basis
6 especially with managed care, managed parking and care for the
7 parking, of 77 spaces minimum, and that can go up to
8 significantly more than that, which would be the requirement
9 for an entirely new building. So you have today no parking on
10 site, and this will be on-site parking.

11 Fourth, regarding the limited amount of retail
12 space, if you look in Tab J, we've set forth signage
13 restrictions. Now you will see as part of the discussion
14 tonight the frontage on 16th Street, and you probably know
15 that just from having visited the site and looking around
16 there. Our restrictions are much more restraining and
17 constraining than the sign regulations are generally.

18 Fifth, there will be a financial commitment to
19 facilitate affordable housing. And in discussions with the
20 Marshall Heights Community Development Organization, the
21 applicant has agreed to increase that contribution, actually
22 that ability, that commitment to allow the facilities to
23 proceed with affordable housing, has agreed to increase that
24 to \$100,000.

25 Sixth, there will be a contribution to Ross
26 Elementary School, which is a school in ANC-2B. And here

1 again, the applicant has agreed to increase that contribution
2 to \$100,000. And I think you should have an updated letter in
3 the file from the principal.

4 Seventh and eighth, we have a Local Business
5 Opportunities Commission agreement and a First Source
6 employment agreement, both of which we submitted with our
7 prehearing statement at Tab I.

8 Ninth and tenth, these are other benefits.
9 There is extensive landscaping, not only on 16th Street but on
10 K Street, far above what would be required in terms of a
11 normal office building. And that is in excess of \$90,000.

12 And, finally, the increase in taxes ought to be
13 evident. But in terms of real estate taxes alone, we're
14 talking about an annual increase of \$450,000.

15 All of this, we believe, not only meets the
16 standards of the PUD regulations but solidly furthers and
17 complies with the provisions of the comprehensive plan. This
18 is a project that will be built, subject, of course, to your
19 approval. And you can be assured of that because of the
20 applicant. The applicant, the JBG Companies, has a reputation
21 for delivering and for knowing what it's doing and for
22 actually getting things done in this city.

23 We believe this case is essentially a design
24 case, and we believe it for at least two very small reasons or
25 very simple reasons. One is that the SP zone, as through your
26 recent legislation, permits office use the same nature as the

1 C-4 zone in essence. So it's not a use situation.

2 Parking -- we don't believe that parking could
3 be a basis for a problem with this Board because it provides
4 parking on site, which you do not have today.

5 So ultimately, we think it's a design issue --
6 how the massing is, whether the setbacks are appropriate,
7 whether it's superior in terms of architecture.

8 We are very pleased with the support of the
9 Office of Planning. We have worked with the Office of
10 Planning for a number of months now. The Department of Public
11 Works has submitted a favorable report, and you should also
12 have a favorable report from the Department of Housing and
13 Community Development, which probably was filed in the last
14 couple of days, in their economic development capacity.

15 We are also very pleased with the support from
16 property owners in the area. The property owners include the
17 building immediately to the north of this site on 16th Street,
18 the World Center Building, the Kaempfer Company that owns the
19 Investment Building, the Smith Companies who own several
20 buildings in this area, the Capitol Hilton, the Sheraton
21 Carlton, Floyd Davis Company, and also there is a letter from
22 1522 K Street owners.

23 So the owners are in support of this and
24 believe that it's important.

25 At this point, unless there are questions of
26 me, I would like to proceed with our witnesses.

1 CHAIRPERSON KRESS: Please proceed. We'll hold
2 our questions until they are complete.

3 COMMISSIONER FRANKLIN: Before you do, Mr.
4 Quin, I have a preliminary observation to make for the record,
5 which my colleagues are aware of. And that is that the
6 architectural firm, RTKL, is a consultant to the architects
7 for the Capitol on some major projects. So the firm is very
8 well-known to me, although I do not know Mr. Henderer
9 personally.

10 But I just want to disclose that for the
11 record. I believe I could be as objective and critical of
12 this design as I am on the ones they present to us at the
13 office.

14 (Laughter.)

15 MR. QUIN: I don't know whether to say thank
16 you or not.

17 (Laughter.)

18 CHAIRPERSON KRESS: Thank you, Commissioner.

19 MR. QUIN: Mr. Jacobs will be our first
20 witness, and he will have his -- divide his testimony into two
21 parts; first, an introduction, which will be very brief, and
22 then he will come back later as our last witness to sum up
23 some of the points in terms of the development of the site.

24 MR. JACOBS: Thank you. Madam Chair, I will
25 try and respect your sanction about repetitive. But following
26 Whayne Quin, it's hard not to be repetitive in saying anything

1 at all following my name.

2 I'm Benjamin Jacobs. I may not be well-known
3 to some of you, nor my company, the JBG Companies; however,
4 our roots are deep and broad in developing in the Washington,
5 D.C. market. We have been developing for over 35 years. Our
6 projects, which bear some relevance to the Solar Building
7 project, include the Four Seasons, the Washington Building,
8 2000 L Street, the Southeast Federal Center, and, currently,
9 the Washington Convention Center.

10 I mention these from among many because each
11 represents a project that had complex regulatory, community,
12 and other issues that were all resolved, we believe,
13 favorably. And as Whayne was kind enough to point out, we
14 have consistently delivered on our representations and our
15 promises with respect to development.

16 We have been working on the 16th and K Street
17 site for over two years. We identified it as an extraordinary
18 opportunity, a rather tired pair of buildings at an
19 extraordinary site in downtown Washington in the heart of the
20 central business district, and one which we felt with
21 sensitive development and collaboration with the community as
22 well as the Office of Planning -- and that collaboration began
23 even before we acquired the site -- we could develop a
24 property which would be in every respect the finest building
25 in the District of Columbia, at the finest site in the
26 District, at the cutting edge of technology, and one which we

1 think will revitalize and stimulate growth in the area.

2 We also thought it important to develop a
3 building which would be attractive to the highest quality of
4 tenants and meet their needs, both with respect to parking,
5 technology, quality of architecture, and quality of systems.
6 And so we understood that it was a challenge.

7 It is a disappointment to us that we haven't
8 been 100 percent successful to date in gaining support from
9 every quadrant of the community, but we think that the project
10 does stand in terms of its own merit. And while Whayne has
11 pointed out, I would like to reserve a little time at the end
12 of the presentation for further testimony with respect to
13 community benefit.

14 At this point, unless there are questions, I
15 will cease.

16 CHAIRPERSON KRESS: Thank you.

17 MR. QUIN: We will call, then, our next
18 witness, Rod Henderer of RTKL, who will give our architectural
19 presentation. I'd like to make certain that Mr. Henderer is
20 accepted as an expert in the field of architecture.

21 CHAIRPERSON KRESS: I am sure my colleagues --
22 yes.

23 MR. QUIN: I really should have Mr. Jacobs
24 qualified as an expert in building and development as well.

25 CHAIRPERSON KRESS: I would agree to that as
26 well.

1 MR. QUIN: Thank you.

2 MR. HENDERER: I'm Rod Henderer. I am the Vice
3 President of the RTKL. I have over 20 years' experience as
4 being an architect. Twelve of those are, in fact, working in
5 the city of Washington.

6 I'd like to note just one other minor sideline,
7 that I acted as a design consultant to the NCPC for the
8 Monumental Core plan intermittently over a three-year period.
9 And I note that because that experience imbued me with the
10 respect for the Washington streets and their traditions.

11 Now, what I need to do is I need to get up and
12 move around. So do I use this mike?

13 CHAIRPERSON KRESS: Yes.

14 MR. HENDERER: Okay. Let's see if I can use
15 the mike and hold this.

16 The first thing I'd like to do is point out in
17 the model and orient you in the model. The model has 16th
18 Street running transversely across the room. You'll notice
19 Lafayette Square at the southern end, and reaching up but not
20 including Scott Circle.

21 16th Street runs in this direction. The
22 property we're talking about is the Solar Building here at the
23 intersection of 16th and K Street right here. And as Wayne
24 mentioned, these are among Washington's widest streets.

25 K Street, 147 feet wide, is lined with
26 buildings, many of which are 130 feet tall. 16th Street,

1 running from the District line down to Lafayette Square, has
2 its own distinct identity in Washington. It reflects the
3 diversity of use, texture, and scale that is unique to
4 Washington. It has a friendly pedestrian character.

5 We have spent approximately six months working
6 on this design in a very intensive fashion, and I do have to
7 note that this design was initiated by my recently-deceased
8 partner, Deluct & Bochiard.

9 Now, let me talk about the Solar Building. As
10 you can see in this photograph, this is the Solar Building in
11 its current state. This next photograph -- if I turn the
12 easel -- represents a view of both 16th Street and K Street.
13 The building is 40 years old. By any definition, it's
14 obsolete. In our minds, it is a symbol of decay. It has
15 never celebrated the prominence of this corner.

16 Like many K Street office buildings, it's a
17 rather ordinary post-war glass and concrete box, utilitarian,
18 and relatively undistinguished in character. Functionally,
19 the buildings need to be entirely replaced. The building has
20 no parking currently. The building has currently no loading
21 at all.

22 Now, on my left here is the rendering of the
23 proposed design for the Solar Building. The intention of the
24 basic overview is the building will be entirely gutted down to
25 its structural frame. The adjacent property to the north,
26 which you can see here and -- excuse me -- see here will also

1 be taken down.

2 Three floors will be added to the top of the
3 existing Solar Building. The development has currently
4 150,000 square feet, and in round numbers we will be adding
5 approximately 50,000 more square feet, totalling -- and I know
6 this doesn't add up -- but 205,000 square feet.

7 With the addition, this building, by Washington
8 standards, is still a medium-sized office building. The
9 current basement in the Solar Building will be converted into
10 parking. Along 16th Street, a 20-foot wide SP-2 zone will be
11 maintained from K Street until the end of the new property.
12 And with that zone, a 90-foot height is permitted.

13 The building will rise to 130 feet, as you can
14 see right here, as permitted in the C-4 zone, adjacent to K
15 Street.

16 Now, in deference to the scale, the detail, and
17 the texture of 16th Street, we are proposing the following
18 design. First off, you will notice at the top of the seventh
19 floor we have placed a projecting cornice line. This cornice
20 line, in fact, picks up many of the cornice lines in a similar
21 position that line 16th Street. And you can begin to see them
22 in the model here, along the National Geographic Building,
23 and, unfortunately -- but I have buried in the photographs --
24 one of -- the most magnificent cornice line is on the Carlton
25 Hotel.

26 In addition, we have broken the scale of the

1 building down, and let me show you how we've done that. First
2 off, on the corner of 16th and K Street, the glass has been
3 deeply recessed. The recesses, in fact, are deeper than you
4 find in many typical Washington office buildings.

5 Secondly, we have introduced a series of
6 punched windows in a stone facade, picking up the cadence and
7 fenestration patterns that you typically find in buildings on
8 16th Street. And then, lastly, we have a projecting bay
9 directly above the entrance to the office building that, in
10 fact, marks the entrance of the office building.

11 Those projecting bays are, again, a common
12 feature that is found up and down 16th Street. I think you
13 can see some of them in the model.

14 On K Street, the 16th Street elevation wraps 40
15 feet around the corner of the building, giving that 16th
16 Street greater depth than the 20-foot SP zone. We're doing
17 that to emphasize, in fact, the 16th Street elevation.

18 The C-4 zone begins -- is proposed to begin 20
19 feet from this corner, or approximately on that line. The C-4
20 zone, again, permits the 130-foot height. Forty feet from the
21 corner of the building the building rises to 116 feet right at
22 that corner, and then ultimately rises to the 130 feet that
23 you can see by this parapet line right here that also comes
24 out at that point.

25 Now, what we've done to create a fairly smooth
26 transition in the building is introduced a curved element, and

1 that curve, again, is introduced to transition the height from
2 the 90 feet to the 130 feet.

3 Again, there is another setback that occurs at
4 the 11th floor, stepping from the 10th to the 11th floor,
5 going up to the 130 feet.

6 One last point that I'd like to make on this
7 rendering right now is that there is also a setback at the
8 10th floor on K Street with a K Street elevation set back at
9 the 11th floor.

10 Now, the best way for me to explain this a
11 little better is to show a roof plan that has been coded by
12 shades. This is a penthouse roof plan. The darkest gray area
13 represents the area that is 90 feet, adjacent to 16th Street.
14 This area right here, this line, represents the 130-foot high
15 part of the building. That dimension is 40 feet, set back 40
16 feet from the 16th Street elevation.

17 The generally recognized planning standard is a
18 one-to-one ratio for setbacks. In other words, one foot high
19 for one foot setback.

20 In addition, what we have is this curved
21 element. This curved element varies in setback along the
22 facade. The average setback is 29 feet for a 26-foot height
23 element in elevation. And then, also right up here there is a
24 small minor roof that occurs for the floor of the ninth floor.

25 Now, one of the -- as I mentioned, we
26 introduced the curve to create a smooth transition from the 90

1 feet to the 130 feet. But we've also done it for reasons of
2 functionality and efficiency in the building itself.

3 This is the 11th floor plan of the building.
4 These are the existing core of the building, the existing
5 elevators in the building. Notice the narrow dimension from
6 this exterior wall to the back of the curve. This is the 40-
7 foot setback on the 11th floor.

8 It obviously isn't the most efficient, nor most
9 functional arrangement for an office building. But it's
10 acceptable in our minds for one floor, perhaps only one floor.

11 If I show you now the 9th floor plan and the
12 10th floor plan, you can notice here that the increase in
13 dimension from the elevator core to the exterior wall is
14 certainly much more efficient, certainly much more functional.

15 Now, one of the questions that everybody has
16 had is, what does this building look like if the curve weren't
17 here? Again, this curve that you see in elevation. Well, to
18 try and do an apples to apples comparison, we've done an
19 overlay drawing of that elevation, that rendering that you see
20 here, and done it in a very simple way -- again, the 16th
21 Street elevation, the 130-foot tall building back in the C-4
22 zone, and the curve of the building that makes that
23 transition.

24 Now look what happens when you take that curve
25 off. It's a very, I think, shocking transition.

26 Next, this drawing here is to help explain the

1 drawing that's coming up because it sometimes is confusing.
2 This is line of sight, what you can see from what point on the
3 street. Everything east of this blue line is where you can
4 see the 130-foot high building above the 90-foot building.
5 Everything east of this orange line is where you can see the
6 curve at its closest point to the 16th Street elevation.

7 And now, what does that look like in plan?
8 This is a computer model drawing. Everything in white that
9 you see right here is, in fact, where you can see the 130-foot
10 high building. Everything in yellow is the additional area
11 that you can see the curve. And notice really how small that
12 is. It's southbound on 16th Street in the driver's lane.
13 It's a small triangular area at the corner of 16th and K, and
14 another small triangle area down here.

15 Now, I would like to show a video. And the
16 video has been done because we've been deeply concerned about
17 how this building fits into the character of 16th Street.

18 Go ahead, Jay. I want to show that, please.

19 This is a video, an animated video that starts
20 at Scott Circle, that you can see here, and goes down to the
21 White House, or goes down to Lafayette Square. We're starting
22 as a helicopter coming down, and ultimately we will be walking
23 quickly down 16th Street southbound. Again, Scott Circle,
24 we're now coming up to M Street. You'll notice the National
25 Geographic Building.

26 And you'll notice that, in fact, you really

1 don't see the Solar Building until you're starting to get
2 pretty close to L Street. Here you see the Presidential
3 Building here, the condominium building, and now here is the
4 Solar Building on 16th and K. Focusing on the Solar Building,
5 notice the projecting bay, notice the strong cornice line,
6 also notice the articulated corner.

7 Walking, again, southbound on 16th Street,
8 looking back at the Solar Building. Now, crossing over the
9 street, and we're going to walk back up or jog back up to the
10 Solar Building. Again, notice the strong 90-foot roof line
11 along 16th Street.

12 Now, what we're going to do is we're going to
13 turn back almost in front of the Presidential apartment
14 building. Again, we're actually in front of it. Look at the
15 White House. Look how well, I think, the Solar Building fits
16 in with the character of 16th Street.

17 One thing that I'd like to point out -- that
18 the edge of the building along K Street, and the edge of the
19 building on 16 Street, has not changed in the new design. And
20 you can see this by looking at the current landscape plan of
21 the current building.

22 Now, that leads me into talking briefly about
23 the landscaping. We are planning extensive landscaping for
24 the Solar Building. The goal is to create a pleasant contrast
25 of textures, colors, shapes, voids, and solids.

26 Included in the improvements on 16th Street

1 will be a long panel that's shown in this light green color, a
2 hedge row that defines that lawn panel, magnolia flowering
3 trees in that lawn panel, a natural walking path -- the
4 natural walking path leading from K Street, the intersection
5 of K and 16th north to the entrance that will be paved in
6 granite.

7 And then we will also be placing in here three
8 English oak trees six inches in caliber, and you can see what
9 the existing trees are like in this elevation.

10 Precast paved rows will line the sidewalk.
11 They will have granite bands in them, both on 16th Street and
12 K Street. Evergreens will act as a visual separation between
13 the garage entrance that's located here where the property is
14 north. And, lastly, on 16th Street the entrance will be
15 marked with a landscape feature.

16 The existing trees on 16th Street, which --
17 excuse me -- K Street which are very mature will be saved.
18 And, additionally, we are working with an arborist to ensure
19 that the existing plants north of the building will also
20 survive.

21 We think that this landscape plan will
22 dramatically enhance the aesthetic quality at the ground plane
23 at the corner of 16th and K Street.

24 Last, I think the vibrancy of 16th Street and K
25 will be enhanced by retail uses on the ground floor. These
26 retail uses are really seen as being high quality in nature,

1 replacing the airline ticket offices and the Optimus office
2 that currently is there.

3 The special nature of 16th Street will be
4 maintained with signage restrictions. Those signage
5 restrictions are under Tab J.

6 And, in conclusion, we believe upon completion
7 of the Solar Building this prominent corner will realize its
8 full architectural potential. As Whayne said, it will set a
9 new standard for downtown Washington. It will enhance a very
10 important commercial sector. And I think it's kind of fair to
11 look at these two renderings and see the Solar Building on the
12 right, as we call it the So-Larr (phonetic) Building on the
13 left.

14 MR. QUIN: Thank you.

15 We will move to our next witness, Madam
16 Chairperson, Mr. Slade, traffic consultant.

17 MR. SLADE: Good evening. My name is Louis J.
18 Slade. I'm a professional engineer registered in the District
19 of Columbia, and I reside at 3500 Quesada Street, N.W., in
20 Washington, D.C.

21 MR. QUIN: Madam Chairperson, may I submit Mr.
22 Slade as an expert in traffic?

23 CHAIRPERSON KRESS: I think he's been
24 recognized quite a few times before. Yes.

25 MR. SLADE: Thank you, Madam Chair.

26 MR. QUIN: I should say transportation.

1 MR. SLADE: My direction -- my firm provided
2 traffic engineering and parking consulting and transportation
3 engineering to the applicant's team. The scope of our work
4 included an analysis of the traffic impacts of the project and
5 consultation on the parking requirements, the location of the
6 driveway, and the design of the offstreet loading facility.
7 We addressed pedestrian safety and Metro bus stop operations
8 in our evaluation of the project.

9 Just a few more points on this site. 16th
10 Street is six lanes wide, with curb parking, metered curb
11 parking on either side. K Street, which is also an arterial
12 street, has four through lanes on the main portion of the
13 roadway, and then there is a service drive on both the north
14 and south sides of K Street, separated by a median, and that
15 service drive is one way on each side and it has one moving
16 traffic lane and one parking lane.

17 The median which separates the through lanes on
18 K Street from the service drive on the north side along the
19 frontage of the building is continuous. There is no break in
20 it. Some of those blocks have breaks in that median, but this
21 particular block between 16th and 17th, there is no break.
22 And the importance of that will be emphasized in a moment.

23 The alley which serves this square has two mid-
24 block access points, one on K Street accessible only from that
25 service drive, and one on 17th Street, a block away from this
26 site. Those two access points lead into an alley which serves

1 the entire square, and every building on this square uses that
2 alley in one way or another.

3 The standard width of a two-way alley is 20
4 feet, but the segments that allow you to enter this alley from
5 K and from 17th are only 15-feet wide. They've never been
6 widened because the buildings are old and there has not been
7 an opportunity to widen them. So we have substandard access
8 into this alley.

9 The alley, nonetheless, is very busy, and
10 because all of the buildings use it -- there is coffee shop
11 access back in the alley, which pedestrians use, and then
12 there's a PEPCO building that's on L Street, and they have
13 vans coming in and out of this alley all the time. So there's
14 a lot of activity in the alley.

15 The Solar Building site itself has excellent
16 public transportation service access. It's less than 500 feet
17 away from the Farragut North Metro rail station on the corner
18 of Connecticut and K. And then there is Metro bus service
19 both on 16th Street and on K Street.

20 On the 16th Street frontage of the site, there
21 are currently two metered parking spaces at the north end of
22 that 16th Street frontage, and then a break for the existing
23 building entrance of about 50 feet, and then a bus stop. And
24 that bus stop can accommodate two buses.

25 There are two bus routes using that bus stop.
26 During peak hours, those buses come every -- each of the

1 routes has eight-minute headways, and they're offset by four
2 minutes. So in a perfect cadence, they would be every four
3 minutes. But, of course, from time to time there are slow
4 buses and fast buses.

5 We observed buses at that bus stop during
6 several different times, and most of the time -- we think over
7 90 percent of the time -- there was never more than -- there
8 was only one bus there. Sometimes there was two buses. We
9 never observed three buses.

10 We did traffic counts and analysis of the
11 intersections of 16th Street with L and 16th Street with K.
12 During the morning peak periods, the level of service is very
13 good and traffic is working very well. During the evening
14 peak hour, the intersection operations are typical of
15 downtown. There is congestion, and some motorists may have to
16 wait through two cycles of the signal to get through.

17 The redevelopment of the Solar Building and the
18 adjacent building to the north will permit the development of
19 parking, and there will be at least 42 self-park spaces. And
20 it's the intention of the developer to manage these spaces
21 with attendants or valets, to provide a capacity of at least
22 76 stacked parking spaces.

23 The driveway will be located along the north
24 edge of the 16th Street frontage and will require the removal
25 of one for sure -- and maybe two -- metered parking spaces.
26 The remainder of the frontage on 16th will be as it currently

1 is with an entrance area with no curb parking at all, and then
2 the bus stop will be unchanged.

3 And as has been mentioned, we will now have an
4 offstreet truck loading facility accessible through the alley.
5 And this will reduce the need for trucks to use the alley just
6 in general or the street frontage on 16th or K Streets.

7 The proposed location of the driveway is
8 something that has been discussed at some length, and we came
9 to the determination that this is the best and only
10 alternative for the driveway location. We looked at locating
11 the driveway along the K Street frontage, and that's, frankly,
12 impossible; or in the alley, and that is also impossible. And
13 Public Works has indicated to us that 16th Street frontage is
14 the only place that they would accept for the driveway.

15 There are several technical reasons why this is
16 the case. The driveway on K Street or via the alley would be
17 difficult to access because of the one-way frontage road with
18 no break in it. As I mentioned, the accesses are only 15-feet
19 wide, which are unsafe and very tight for a two-way operation.
20 There is a lot of activity in this alley with PEPCO trucks,
21 pedestrians, and so forth.

22 And one of the concerns about the location of
23 the driveway where we're proposing it was crossing -- the
24 pedestrian flow on the sidewalk. But to cross K Street would
25 involve crossing three times as much pedestrian traffic as
26 there is on 16th Street. So it would be less safe at that

1 location.

2 The community has raised this concern, and we
3 have been focusing on this to address it, and I just want to
4 make a couple more points about the driveway. It is
5 pedestrian safety and potential interference with the buses
6 that have been the concern. And this question has come up on
7 other cases, and so we've done some research into this.

8 And, first of all, there is no standard which
9 dictates when the pedestrian and vehicular flows reach a level
10 that a driveway should not be permitted. There simply is not
11 a standard in municipal engineering. And, obviously, in the
12 city of Washington, every other city in the U.S., there is
13 hundreds of driveways and situations like this.

14 As far as we can tell, driveways crossing
15 sidewalks do not create a pedestrian safety hazard. We do not
16 have a record of problems at driveways crossing sidewalks in
17 Washington. I took the driveway in my building at 1140
18 Connecticut as a comparable, or to see what the comparison
19 would be with this particular driveway.

20 This 16th Street location has about 275
21 pedestrians per hour on a count we did on a typically busy
22 evening. We have about 475 at our driveway at
23 1140 Connecticut. This driveway could generate as much as 110
24 vehicles per hour, if the full capacity of the garage is
25 developed, whereas our driveway generates about 210 vehicles
26 per hour.

1 Connecticut Avenue has 39,000 vehicles per day.
2 16th Street has 33,000 vehicles per day. So in every measure
3 our location is much higher. In the 20 years I've been in the
4 building, there have been no incidents, to my knowledge, of
5 pedestrian accidents, pedestrian hazards. There are no undue
6 delays to pedestrians or to vehicles going in and out of the
7 driveway, and there's no problems caused by our driveway
8 interfering with traffic flows on Connecticut Avenue.

9 Now, the increase in the size of the building
10 -- of the Solar Building as a result of this redevelopment
11 will generate an increase in traffic generated by this
12 particular site. But it will only be about 30 vehicles during
13 the morning and evening peak hours each. This is an average
14 of only one vehicle every two minutes, and that additional
15 traffic on the network will have no significant impact on any
16 of the intersections.

17 In fact, we think the provision of the parking
18 at the building will enable people to come here directly and
19 go to parking rather than circulate in the neighborhood to
20 find a parking garage that has space -- employees and
21 visitors. And the provision of the loading dock will keep
22 trucks from having to stop at the curb to run in with
23 deliveries, and so forth. And that will certainly mitigate
24 this minor impact that the increase in the capacity of the
25 building will have.

26 Finally, as I noted when I made the comparison

1 with this driveway and the driveway at 1140 Connecticut that I
2 am very familiar with, we don't see any problems at our
3 driveway, and we don't see any problems that would be
4 occurring at this driveway.

5 So, in conclusion, based on these traffic
6 studies, I have determined that the expansion of the Solar
7 Building will have an insignificant impact on traffic
8 conditions. The driveway itself will operate safely. It will
9 not impede vehicle or pedestrian traffic flow.

10 The addition of parking will improve the
11 parking situation in the neighborhood, and it will reduce
12 traffic recirculation of people looking for parking. The
13 loading dock will provide space for trucks that now have to
14 park in the alley or on the street, and the driveway won't
15 interfere with Metro bus operations because the size of the
16 Metro bus stop is going to be unaffected.

17 Thank you.

18 MR. QUIN: Our next witness, Madam Chairperson,
19 members of the Commission, is Mr. Steven Sher, urban planner.
20 Mr. Sher has been accepted as an expert in urban planning for
21 the District of Columbia before, and we would so submit him
22 now.

23 CHAIRPERSON KRESS: And he will be today.

24 MR. QUIN: Thank you.

25 MR. SHER: Good evening, Madam Chair, members
26 of the Commission. For the record, my name is Steven E. Sher,

1 the Director of Zoning Services with the law firm of Wilkes,
2 Artis, Hedrick & Lane. Staff is passing to you an outline of
3 the testimony and points that I would like the Commission to
4 recognize in this hearing.

5 As is usually the case, I am not going to go
6 through that in any great detail line by line, but I'd like to
7 highlight what I believe are the most important points for the
8 Commission.

9 I think you've heard that the size of this site
10 is about 20,000 square feet. The two existing buildings
11 contain approximately 150,000 square feet. The building, as
12 proposed, will contain about 200,000 square feet, a net
13 increase of about 50,000 square feet.

14 You've heard that this is the intersection of
15 two of the widest orthogonal grid streets in the city -- K
16 Street, 147 feet wide; 16th Street, 160 feet wide.

17 I'd like to focus, as Mr. Quin did in his
18 opening statement, on the character of the general area. And
19 I've looked at the character of the general area -- I'm on
20 page 3 of the outline right now -- in three different ways.
21 First, I looked at the subject square and all of the
22 surrounding and confronting squares, the nine squares that
23 make up that area. And that's the area that's shown in the
24 dashed line under Tab A. And you can see on page 3 the
25 tabulation of exactly what is in that area.

26 This begins to sound a little bit like The 12

1 Days of Christmas -- 54 office buildings, five parking lots,
2 four small retail buildings, three hotels, two private clubs,
3 etcetera.

4 CHAIRPERSON KRESS: Appropriate for the season.

5 MR. SHER: Yes. Second, I looked at 16th
6 Street, the corridor running from Lafayette Square to Scott
7 Circle, and that the excerpt from the Sanborne Atlas, which is
8 under my Tab B. And again, without belaboring the point, 20
9 office buildings, five hotels, two apartment buildings, two
10 churches, one private club, one embassy, one art gallery and
11 school.

12 More than 90 percent of that linear frontage is
13 non-residential use, 56 percent of it is office, 26 percent of
14 it is hotel.

15 The third way to look at this, as befitting
16 this location at the intersection of 16th and K Streets, is to
17 look at K Street. And what I did to take a sort of more or
18 less comparable strip to the length of the strip between
19 Lafayette Square and Scott Circle, I looked at K Street
20 between 13th and 19th Streets, which is three blocks in either
21 direction. And there it's a much shorter list -- 37 office
22 buildings, four small retail buildings, and two hotels.

23 On pages 4, 5, and 6, I talk about the existing
24 SP and C-4 zonings on the proposal, and I don't think I need
25 to go into that a whole lot more.

26 On pages 6 and 7, I have looked at the

1 description of the proposed PUD and the requirements set forth
2 in Chapter 24, and those are all dealt with in the outline.

3 I'd like to spend a little bit of time talking
4 about consistency with the comprehensive plan, focusing first
5 on the land use element and the generalized land use map,
6 which is shown under Tab F. And you can see that the site is
7 designated as high density commercial.

8 It is within the boundaries of the central
9 employment area. The plan describes the CEA as the business
10 and retail heart of the District and metropolitan area, and
11 office use in terms of square footage is the largest
12 commercial use in the CEA.

13 The land use element also includes the site in
14 the lower 16th Street special treatment area. And on page 10,
15 under number 3 in the middle of the page, I've quoted the
16 existing provisions of the plan as they relate to that special
17 treatment area.

18 And I'd like to just recite them -- protect and
19 enhance the special character of this approach to the White
20 House and Lafayette Park, develop urban design and
21 architectural features criteria that enhance the area,
22 encourage uses that are appropriate to maintain the appearance
23 and character of this area, retain existing hotel uses.

24 I'd next like to focus your attention on the
25 urban design element, and that's on page 11 of the outline
26 under capital letter H. And I have just, again, cited the

1 basic pieces of the urban design element that I believe are
2 applicable to this particular PUD -- maintain and enhance the
3 horizontal character of buildings within the District, and
4 retain and enforce the Act of 1910 as the guiding design
5 principle for protecting the skyline.

6 The Act of 1910 relates the height of buildings
7 to the width of streets. These are two of the widest north-
8 south/east-west streets in the District of Columbia.

9 Retain the current maximum limits in accordance
10 with the Act of 1910 -- we're obviously not doing anything
11 there. Designing residential commercial and other buildings
12 to complement and enhance the physical character of the
13 District. You heard Mr. Henderer's testimony about his design
14 theory and how this building has been designed in order to
15 complement and blend with its surroundings. And I won't just
16 sort of read the rest of them. They're all there.

17 I'd like you next to look at the historic
18 preservation element, which is set forth on pages 12 and 13 of
19 the outline. And there are a lot of different things that
20 apply here, given that both 16th and K Streets have been
21 designated as special streets.

22 And you can read all of those. I don't have to
23 read them for you. Just a couple of them that I'd like to
24 highlight. Special streets and places should be enhanced in a
25 manner that promotes their roles as major features.
26 Exceptional width and openness of the street space along

1 special streets should be retained.

2 Ground floor uses in buildings, attractive
3 entrances, and outdoor activities that would enliven the
4 street scene should be encouraged. Architecturally prominent
5 buildings should be located in special streets and places to
6 accentuate vistas, and so forth.

7 One of the elements of both the comprehensive
8 plan and Chapter 24 that is applicable to this PUD -- and it
9 may be the first one that this Commission has seen this
10 provision was put in the zoning regulations -- is the housing
11 linkage requirement. I have addressed that requirement on
12 page 14 -- pages 14 and 15 of the outline.

13 In the 1994 comprehensive plan amendment, the
14 Council enacted a provision which required itself when it was
15 closing streets or alleys, or this Commission when it was
16 granting what the Council called "zoning density increases,"
17 to require applicants who were getting additional office space
18 to address affordable housing in the District.

19 That requirement was applicable to -- and I've
20 quoted it under item number C -- the increase in gross floor
21 area devoted to office space over and above the amount of
22 office space permitted as a matter of right under the zoning
23 included as part of the PUD.

24 That housing can be by new construction or
25 rehabilitation or by financial contribution. The amount of
26 housing required is tied to the increase in gross square

1 footage. It's one-fourth if you put it onsite, one-third if
2 you put it in the same ANC or a housing opportunity area, or
3 one-half if you put it anywhere else.

4 In this case, the applicant has elected the
5 construction option in conjunction with the Marshall Heights
6 community development organization. And under capital letter
7 H at the bottom of 14 and the top of page 15, I've gone
8 through the computation. The matter of right office density
9 is 172,000. The proposed PUD is 185,000. The increase is
10 13,000.

11 One-half of that is 6,544, and the applicant's
12 venture with Marshall Heights, which will result in a \$100,000
13 partnership between the applicant and Marshall Heights, will
14 yield approximately 7,500 square feet of new single-family
15 dwellings. That is consistent with the requirements of both
16 the comprehensive plan and Chapter 24.

17 With respect to compatibility with the area,
18 the use is consistent with the overwhelmingly office
19 commercial character of the immediate vicinity, including the
20 16th Street frontage. This has been an office building for 40
21 years. It's going to remain an office building.

22 The ground floor retail ticket offices and an
23 optician that currently exist on the site -- and you can see
24 some of that in the photograph that's on the easel now --
25 becomes retail. The height is 20 to 40 feet higher than the
26 matter of right for part of the site.

1 But as Mr. Henderer concluded, it emphasizes
2 the strong cornice line, steps up to that maximum height of
3 130 feet, as you go back from the 16th Street frontage, and
4 it's consistent with the vast majority of other buildings in
5 the area.

6 The FAR is approximately one-third higher than
7 the existing condition. But in my opinion, the building is
8 not appreciably bulkier than, nor out of character with, the
9 area. The building, as I said before, is consistent with the
10 Act of 1910, relating the height of buildings to the width of
11 streets.

12 It is, therefore, my conclusion that the
13 project is not inconsistent with the comprehensive plan, that
14 the project is within the applicable height and bulk standards
15 of the zoning regulations, that the project is compatible with
16 the existing and expected character of the area, that the
17 increased height will not be obtrusive, nor will it cause a
18 significant adverse effect on any nearby properties, that the
19 project is a continuation of an appropriate use at an
20 appropriate location in the heart of the central employment
21 area, within immediate proximity to mass transit, both Metro
22 rail and Metro bus; and it is, therefore, my opinion that the
23 application should be approved.

24 Thank you.

25 CHAIRPERSON KRESS: Thank you.

26 MR. QUIN: Madam Chairperson, members of the

1 Commission, we are bringing back Mr. Ben Jacobs for some
2 concluding remarks and his testimony.

3 CHAIRPERSON KRESS: Thanks.

4 MR. JACOBS: Thank you. Much has been said,
5 and I think most of the points have been raised. I would like
6 to take just a moment of my time and ask Mr. Henderer to point
7 to the materials that we have brought with us, so you have a
8 complete sense of what the building will be because I think
9 that that was not a point raised in his presentation.

10 Go ahead.

11 MR. HENDERER: Oh, I'm sorry. I thought you
12 were -- I was going to point for you.

13 MR. JACOBS: No. You can --

14 MR. HENDERER: Okay. The 16th Street elevation
15 that you can see back here will be covered with limestone or a
16 stone-like material, representing the sample you see here.
17 Basically, the glass for the building will be a clear glass, a
18 low E glass that has a slight green tint to it.

19 You can see the stone paver that we're
20 suggesting to be used, the precast paver at the bottom of the
21 board for the sidewalks along 16th Street and K Street, and
22 then there are some nettle wall elements that are included in
23 the facade on K Street and a little bit on 16th Street.

24 MR. JACOBS: The important point that I think I
25 would reiterate is this project for JBG represents a vision
26 and a commitment to the renovation and revitalization of

1 downtown. We think it's important that parking be included in
2 buildings, that it relieve the neighborhood of the impact of
3 buildings that do not have parking.

4 We think technology is an important element.
5 We are introducing what we have come to call "smart buildings"
6 with significant technological systems built within the core
7 of the building or the renovation of the building. And we
8 believe that we have respected, from the inception of our
9 development process, the special character of 16th Street, the
10 setbacks, the materials, the rhythm that we've created along
11 16th Street, together with creating an extraordinary office
12 building which we think will be a signature project at a
13 signature intersection.

14 MR. QUIN: Madam Chairperson, that concludes
15 our direct presentation. I would like to file in the record
16 all of the exhibits that we have used tonight to make certain
17 that the record is complete. Some of those are in addition to
18 the ones we originally filed because, as we have been meeting
19 with the neighbors and others, we have some responsive, as you
20 have seen, drawings, as well as the color photographs of the
21 material.

22 We are also submitting a copy of the video, and
23 we have given copies of these plans to interested parties and
24 persons.

25 And with that, we would certainly like to make
26 available all of our witnesses for questioning and would like

1 to reserve a few minutes after rebuttal for a closing
2 statement.

3 CHAIRPERSON KRESS: Thank you. And I
4 appreciate your making your presentation in under an hour.

5 With that, I will open it to questions from my
6 fellow Commissioners. Who would like to begin?

7 COMMISSIONER CLARENS: I only have two
8 questions. The first one is from Mr. Slade. And I know you
9 spoke at great length, but I'm troubled by the entrance to the
10 parking. And you might want to -- and that is perhaps one of
11 the major issues that I find with this project. I don't know
12 that 16th Street, which is a special street, is well-served by
13 the entrance to the parking from that street.

14 And I was particularly troubled by your
15 statement that DPW won't allow you to put an entrance anywhere
16 else except on 16th Street. I believe you said that. I am
17 troubled by that. I don't know exactly why that is. And I
18 can see the reasons why you would have to enter it from the
19 service road, but that's the case in quite a number of
20 buildings along K Street that are entered from the service
21 road.

22 And so that's -- so I don't know. I don't know
23 if you can say anything else than you've already said, but I
24 just wanted to share with you my major concern with the
25 entrance on 16th Street. And anything that we can do to
26 perhaps deal with this issue of DPW --

1 MR. SLADE: Let me make a couple of comments
2 that might augment what I said before, Mr. Clarens. And if
3 there is any questions about what I said before, I'll be glad
4 to try to clarify them.

5 First of all, one of the other members of the
6 team may be able to help me here. But we looked at the number
7 of curb cuts for driveways along 16th Street in the section
8 from Thomas Circle down to Lafayette Square, and there are
9 quite a few. I don't have the number in front of me. There
10 are a total of 18 curb cuts. They tend to be for circular --
11 some are circular driveways. So they're in pairs of nine.

12 The most active one is probably the one
13 directly across the street at the Hilton Hotel. We did a
14 traffic count just for a matter of comparison, and there were
15 55 vehicles entering and 55 vehicles leaving that particular
16 driveway during a peak hour.

17 I can imagine that it can be significantly
18 higher if there was a major event going on there, because
19 taxis can load and unload in 15 seconds. So you could have
20 substantially more.

21 I think DPW's position on this relates to a
22 number of matters. The frontage roads along K Street are very
23 congested almost always with vehicular traffic. And this
24 particular section, this particular block of K Street has an
25 unusually large number of pedestrians moving east and west
26 along it, and an unusually high number of vendors. And I

1 think to introduce a driveway in this section of K Street
2 would simply not work.

3 You only need to walk back in the alley to see
4 why putting a driveway back there is really ill advised. It's
5 already a very, very active alley, and there is a lot of
6 pedestrian traffic in the alley. And as I said, the entrances
7 to the alley are inadequate.

8 They are 15 feet wide. Two vehicles can barely
9 pass each other, and they are protuberances from the
10 buildings. There is fire standpipes and drainpipes from the
11 buildings that stick out into this 15-foot area, so it's
12 extremely tight.

13 We really think we have the best location for
14 this driveway, and we -- certainly from a functional
15 standpoint, from just simply moving vehicles across that
16 sidewalk and the amount of pedestrian traffic on the sidewalk,
17 this is -- will not create an adverse condition at all. It
18 will be very much like any other driveway in the city and
19 certainly better than, I would think, a large number of
20 driveways in the city from the standpoint of the volume of
21 traffic, both pedestrian and vehicular.

22 So I think it will work fine. I understand
23 there is an issue about precedence. But as I said, there are
24 already 16 curb cuts crossing sidewalks on 16th Street -- 18
25 curb cuts.

26 COMMISSIONER CLARENS: But their nature is

1 quite different. Their nature is mostly one of turnaround
2 driveways to serve entrances to buildings.

3 MR. SLADE: And many of them have light
4 traffic, but many of them have very heavy traffic. I went to
5 a wedding the other week at the University Club, and that was
6 generating an enormous amount of vehicle traffic with valet
7 parking.

8 COMMISSIONER CLARENS: The second question I
9 have has to do with Mr. Henderer. And the first question
10 relates to the parking and if there's anything within the
11 building that prevents you from -- besides what Mr. Slade has
12 just testified to -- anything within the building that
13 prevents an entrance being placed on K Street -- out of the
14 interior of the building and the interior of the parking.

15 I looked briefly at the parking plans that were
16 provided, and it didn't seem to be. But I don't -- I'm not
17 familiar with the building sufficiently to know.

18 MR. HENDERER: Currently, parking is planned
19 for the lower level, the lowest level of the Solar Building.
20 The basement is currently two levels tall. There is actually
21 a tenant in the level immediately below grade. That tenant
22 right now I don't believe is planning to move out.

23 The parking ramp and the only way to get to
24 that parking ramp is down under the 1010 16th Street, under
25 the existing -- what we call the "Taca Building," located
26 really right here. And this is really being used as the ramp.

1 It, in fact, really is the only way physically to get down
2 into the garage.

3 COMMISSIONER CLARENS: You tell me that you're
4 going to strip this building down to the structure, to the
5 bare structure, and you're going to maintain a tenant in the
6 basement?

7 MR. JACOBS: Mr. Clarens, the answer is yes, we
8 have inherited a lease for that particular space which
9 contemplated the renovation of the building, and that is an
10 independent operation which can be serviced independently.
11 And so we have determined that that, in fact, can be done.

12 The other issue with respect to parking access
13 in other parts -- from other parts of the building is the
14 width of the columns in order to provide two-way ramping going
15 up and down, and that would not be feasible coming from K
16 Street.

17 COMMISSIONER CLARENS: Because the columns are
18 too narrow?

19 MR. JACOBS: Because you --

20 COMMISSIONER CLARENS: Even though you have two
21 parking spaces between columns, but beyond that I see a
22 building -- the adjacent building, the -- what is the name of
23 the building? The Tayco (phonetic)?

24 MR. JACOBS: Taca. Taca Airlines.

25 COMMISSIONER CLARENS: Oh, Taca Airlines. Oh,
26 now I get it.

1 Okay. It goes -- it's actually wider.

2 MR. JACOBS: Correct.

3 COMMISSIONER CLARENS: By maybe four feet or
4 so.

5 MR. JACOBS: That's correct.

6 COMMISSIONER CLARENS: Okay. Okay. Well,
7 that's a problem.

8 The second issue that I want to raise with Mr.
9 Henderer also is that -- well, first of all, let me tell you
10 that I like very much the top of the building. It is very
11 handsome. I think that -- I don't know about those fine
12 columns on the top, but I -- they will probably be good.

13 And the scale, I think, is very nicely done.
14 But typically buildings along 16th Street, at least among the
15 nicer buildings, and at least part of what you are doing is
16 developing a three-partite scheme that has a base, a middle,
17 and then a top. But it's well-developed, etcetera, etcetera.
18 We don't have any skyscrapers in Washington, so you are doing
19 something similar to that.

20 But the bottom of the building is
21 underdeveloped, underdesigned, in my humble opinion. It seems
22 to me that the building just comes down and that there is not
23 the level of care and attention to detail and articulation
24 that you have developed and express in your presentation and
25 in your drawings, and attention to the top of the building
26 that -- or to the bottom of the building, to the base of the

1 building, that you have applied to the top of the building.

2 And yet it is at the base of the building that
3 the majority of people are going to be experiencing the
4 building. And yet when you say it, I can see the quality of
5 the materials that you are proposing, etcetera, etcetera. And
6 you -- I guess I have noticed in the drawings somewhere, but
7 I'm not sure -- I don't believe you mentioned, maybe you did
8 and I missed it -- that you are planning also to put some
9 bursolets along the southern face of the building. Is there
10 some indication that there are some projections? Yes? I see
11 --

12 MR. HENDERER: Okay.

13 COMMISSIONER CLARENS: So you might want to
14 address the issue of the base of the building. And is there
15 anything else that can be done to improve its sense of arrival
16 at the floor and give it a little bit of a different rhythm
17 that the rest of the building has? You've done some things
18 with the projection to the outside. But the base system, sort
19 of competing and -- I don't know. That's where I'm at.

20 MR. HENDERER: Okay. Well, thank you for
21 complimenting everything above the bottom floor. At the
22 bottom floor, we have quite a bit of experience in designing
23 retail, and we --

24 COMMISSIONER CLARENS: The base, not the bottom
25 floor.

26 MR. HENDERER: Yeah, the base of the building.

1 One of the things that I'd like to point out is that we've
2 learned lots of lessons about designing buildings. We are
3 designing a building that is a transitional building from the
4 20th century to the 21st century.

5 But more importantly is really recognizing that
6 atmosphere is created, particularly at the base of the
7 buildings, particularly at the street level of the buildings
8 where people walk along by what's behind the glass. And it's
9 our experience that we need to celebrate, in fact, those
10 tenants that exist -- will exist behind there.

11 And when I say "tenants," I mean we're thinking
12 of things like white tablecloth restaurants. In fact, the
13 atmosphere that exudes out onto the street by that kind of
14 tenant. And, therefore, we have attempted to really celebrate
15 those tenants.

16 We are also just beginning essentially a
17 schematic design. I think from my understanding of how the
18 process goes that this design, as we see it today, it goes a
19 lot further beyond what you typically -- what is typically
20 done for submission to the Commission here. This is the
21 beginning of the design.

22 COMMISSIONER CLARENS: Well, I don't know.
23 I've been in the Commission only six months, so I don't know
24 what the Commission sees or doesn't see. But the Commission
25 has the authority, and, in fact, it has definitely very clear
26 authority to look at the design.

1 And in our meeting I delivered last Monday we
2 talked that, in a sense, we are acting -- especially in the
3 way that your counsel presented this case, he is saying
4 basically that it actually was an issue of design and an issue
5 of architecture. And so we are acting, in a sense, in one of
6 those wonderful situations where I sit on a panel similar to
7 the fine arts, and which I don't sit.

8 So we are looking at the design of the
9 building, and we will be approving the design of the building.
10 And whether it's schematic or not, I need to have a better
11 sense of what's happening on the ground level and the design
12 level because I think it is critical to both what you are
13 proposing and the relief that you are seeking from us, and our
14 approval, and the way that this building is going to sit on
15 that very, very important corner, with which I agree.

16 MR. QUIN: Mr. Clarens, one of the things that
17 we could do, and do it rather quickly, is to give you more
18 detail and options perhaps at the base and submit that very
19 quickly. Obviously, we didn't -- we were a little bit
20 restrained in what we presented now because -- in terms of the
21 character because 16th Street has certain quality constraint
22 as you go down it. It's not something that's jumbled. It's
23 somewhat formal as you go up and come down to the park.

24 But we would be delighted to submit -- I'm
25 suggesting to Mr. Henderer that there are several options that
26 he could come back with in a very short period of time. It is

1 the 17th of December, and we could, I believe -- and hopefully
2 submit something within a few days, certainly within 10 days,
3 maybe one week.

4 COMMISSIONER CLARENS: That's okay.

5 MR. QUIN: Within one week.

6 COMMISSIONER CLARENS: Thank you, Madam
7 Chairperson. I don't have any questions at this point.

8 CHAIRPERSON KRESS: Commissioner Parsons?

9 COMMISSIONER PARSONS: Thank you. I want to
10 share your concerns, Mr. Clarens, about the portal to the
11 parking garage as a precedent on the street. And I don't know
12 how to resolve that, but it's very disturbing to me.

13 So you're in a box with the Department of
14 Public Works saying you can't come off of K Street, is that
15 it? And people like me saying you can't come off the other
16 street. So I don't know where we're going to go with that,
17 but maybe we've already beat that to death.

18 I'm very concerned about the intrusion of the
19 bulk of C-4 onto 16th Street. That is, K Street is pushing
20 too hard for me onto 16th Street, in that sketch particularly.
21 And whether you want to make a signature statement on this
22 corner -- and everybody has pointed out this is the widest
23 intersection in the city -- I don't buy it.

24 And 40 feet is not enough for me, and I just
25 wonder if Mr. Henderer could respond. I assume it has more to
26 do with economics than it does with architecture. But I'm

1 trying to push it back to at least 60 feet or maybe 80.

2 I do concur with Mr. Clarens that the curves at
3 the top of the building are handsome. But it just seems way
4 out of balance. It's like a lot of historic preservation
5 projects in the city that we call "facademies," where we've
6 taken a structure, we knock everything but 15 feet off the
7 front of it, and then we say we've done an historic
8 preservation trick. This feels like that. That is, it's as
9 though we have pasted the facade of what we think should be on
10 16th Street onto a much bulkier building.

11 And I don't think we have enough depth for the
12 height of that building to get the feeling that we're dealing
13 with two pieces of architecture here, or two -- yeah, two
14 pieces of architecture. But they are different in design.
15 And the one on 16th Street just doesn't have the sense of
16 being that -- a building. It is too shallow. It looks like
17 -- that we've done just that. That we've preserved the 90
18 feet, and then we've brought the bulk of K Street forward.

19 So that has been my concern since the first
20 time I saw this project when we set it down for hearing. And
21 I don't know how I expect you to respond, but I don't like it.
22 So I'll just let you know that, then. And that's not really a
23 question, unless you want to try to answer it, as to why you
24 can or cannot do that, or try to persuade me that this is a
25 proper solution.

26 MR. QUIN: I think, Mr. Henderer, maybe you

1 could deal with the matter of right drawing and the 45-foot
2 depth which is -- you could go straight up at 45, and compare
3 that to what you've done by stepping back.

4 MR. HENDERER: The matter of right zoning will
5 allow us to build up to 45 feet in front of the 16th Street
6 elevation. The other issue that we're dealing with --

7 COMMISSIONER PARSONS: You went too fast for
8 me. What will it do?

9 MR. QUIN: Mr. Parsons, if you look at the --
10 under Tab B, if you have the booklet in front of you, that
11 shows --

12 COMMISSIONER PARSONS: I do.

13 MR. QUIN: -- the existing split zoning. So a
14 C-4 building can go up to 130 feet on that line 45 feet back
15 from 16th Street for the depth of 75 feet. That's for the --

16 COMMISSIONER PARSONS: With a depth of 75 feet
17 from where?

18 MR. QUIN: From K. And it's 45 feet from 16th
19 Street as a matter of right.

20 COMMISSIONER PARSONS: So --

21 MR. QUIN: I'm just --

22 COMMISSIONER PARSONS: -- that's your
23 preference?

24 MR. QUIN: No, that is not the preference. All
25 I'm saying is that --

26 COMMISSIONER PARSONS: So you want to step back

1 40 feet instead of the 45, is that right?

2 MR. QUIN: I'm not the architect. But with the
3 discussion of the setbacks and what that does as far as -- and
4 Mr. Henderer should address the --

5 COMMISSIONER PARSONS: And see, that's better,
6 I think, than what you've presented. Your 20 feet -- your
7 curve comes out 20 feet from the front facade of 16th Street,
8 as I read the drawings, right, at 130 feet? And what you've
9 told me is you can go back 45 feet and do this as a matter of
10 right, the full length of the building.

11 MR. QUIN: And build it straight up to 130.

12 COMMISSIONER PARSONS: Right. And all we've
13 got for -- do you see how the curve comes back? It's 20 feet
14 deep. Or am I misreading something here?

15 MR. HENDERER: Let me try and clarify this for
16 the second. The 130-foot portion of the building is 40 feet
17 off the 16th Street elevation -- 40 feet at the corner, 40
18 feet straight back, a continuous parallel line. That's a 40-
19 foot setback setting from 90 feet to 130 feet. It's a
20 consistent parallel line to 16th Street. Continuous -- there
21 is a 40-foot element right here.

22 COMMISSIONER PARSONS: Okay.

23 MR. HENDERER: The curve varies in dimension,
24 from the closest point being 20 feet to the furthest point
25 being 35 feet.

26 MR. QUIN: But of that, 116 feet.

1 MR. HENDERER: Elevation 116. It's 26 feet
2 above the ninth floor. This element --

3 COMMISSIONER PARSONS: 116.

4 MR. HENDERER: -- it's at elevation 116.

5 The transition from the 16th Street to the C-4,
6 again, is the 40 feet as shown on the drawing. It transitions
7 from 90 feet to 130 feet, or a 40-foot transition in vertical
8 height. It happens to be that line falls on the existing
9 column line in the building. So for structural reasons, we
10 chose to carry that line up at that point -- 40 feet off the
11 16th Street elevation.

12 COMMISSIONER PARSONS: Thank you.

13 I'm done. Thank you.

14 COMMISSIONER FRANKLIN: I have just a couple of
15 questions.

16 Frankly, I thought the computerized
17 presentation demonstrated to my satisfaction that this
18 treatment is far preferable to anything that would have been
19 done as a matter of right. I think it's open and shut, in my
20 mind, and I think it's very brilliantly done in the top.

21 I'm still a little puzzled by the -- somebody
22 called them "flying columns." I would call it an open
23 framework. What is the design objective of this open
24 framework at the top of the building, particularly when viewed
25 from the 16th Street side? Doesn't that simply, in effect,
26 call the viewer's attention to how high it is at that point?

1 What is being -- what is the statement from a designer
2 standpoint here?

3 MR. HENDERER: Are you talking about this
4 element or this element?

5 COMMISSIONER FRANKLIN: Well, both. Both. But
6 let's start with the 16th Street element.

7 MR. HENDERER: Okay. The answers to both
8 questions are really the same. We find most buildings in
9 Washington to be fairly utilitarian, very boxlike, lacking
10 detail, lacking interest.

11 The majority of buildings -- and you can see
12 them in Washington -- have mechanical penthouses. And those
13 mechanical penthouses, from at least my perspective, are
14 usually afterthoughts. They're there. They're permitted by
15 zoning. There are restrictions to their placement. And they
16 are also very visible in the city.

17 In our mind -- and the answer is really the
18 same for both elements -- it's the transition from building to
19 sky, and it really makes that transition much more interesting
20 than looking at a simple box element at the top of the
21 building.

22 COMMISSIONER FRANKLIN: Okay. Why is the
23 projection over the entrance of the building canted, as I read
24 it? Why is that done at an angle? It seems to me, if I read
25 it correctly, it is canted. What is the design objective of
26 treating it that way?

1 MR. HENDERER: Well, first off, let me point
2 out the dimensions. The dimension on the north side of the
3 bay projects out four feet on the very northern corner of it.
4 On the southern corner, it projects out two feet. In part, it
5 is really to serve the views down 16th Street to Lafayette
6 Square.

7 COMMISSIONER FRANKLIN: So it's for the tenants
8 inside.

9 MR. HENDERER: Well, it's both for the tenants
10 inside, but also is a traditional means of modulating a facade
11 to break up the scale of the facade.

12 COMMISSIONER FRANKLIN: Well, I grant you that,
13 but, I don't know, it seems a little awkward to me, instead of
14 having it just simply four feet on either end. But, okay.

15 I'm a little bit confused by the photograph on
16 your drawing A-14, the color photograph. Where you have the
17 recessed window treatments at the corner -- right -- and then
18 there is a -- and that treatment has a sort of white
19 appearance, and then the coloration changes for a vertical
20 section there before the K Street facade begins.

21 What are we seeing at that point? Is that just
22 a result of --

23 MR. HENDERER: This right here?

24 COMMISSIONER FRANKLIN: No. Just to the right
25 of what you're talking about, that whole tier of windows.

26 MR. HENDERER: Right here.

1 COMMISSIONER FRANKLIN: Yeah. It's in a
2 different color. Is that because there's a different material
3 in there?

4 MR. HENDERER: The intention -- and you can see
5 it in this rendering here -- is that this is basically a stone
6 material from here down to the end of the property. In order
7 to create a sense of depth in the 16th Street elevation, we
8 are trying to turn the materials around the corner in a
9 relatively symmetrical fashion and pick up, in fact, that
10 stone material that occurs once you get past the deeply
11 recessed corner window.

12 COMMISSIONER FRANKLIN: So the recessed windows
13 are a different material from the --

14 MR. HENDERER: Yes.

15 COMMISSIONER FRANKLIN: -- the windows on both
16 the 16th Street side and that one tier on K Street.

17 MR. HENDERER: Yes. This is really kind of
18 emphasizing the corner. Again, the glass is deeply recessed.
19 And to give further emphasis to that corner, in fact, what we
20 are using is a metal for the framework right here. This is
21 stone, this is stone, and this is also stone.

22 CHAIRPERSON KRESS: I'm still confused.

23 COMMISSIONER FRANKLIN: I'm confused by the
24 difference in color. Is it a different color stone?

25 MR. HENDERER: No. That and that stone right
26 there are the same.

1 COMMISSIONER FRANKLIN: That I --

2 MR. HENDERER: Okay. This is metal right here.

3 COMMISSIONER FRANKLIN: Oh, that's a metal --

4 MR. HENDERER: Yes.

5 COMMISSIONER FRANKLIN: And is that the metal

6 that we saw on the --

7 MR. HENDERER: This is a sample of that metal,

8 right.

9 MS. PRUITT-WILLIAMS: Mr. Henderer, for

10 clarification, the metal goes up to the thin part and curves,

11 becomes part of that projecting curve, is that correct?

12 MR. HENDERER: Yeah. Part of the reason the

13 metal is being used in the building is because we are adding

14 three stories to an existing structure, and we need to find

15 ways to create -- to minimize the deadload on the structure.

16 Metal versus stone is really a much lighter material.

17 And we don't want to just simply put metal on

18 the top, but make the building feel as if it's integrated

19 together.

20 COMMISSIONER FRANKLIN: Now, I also would read

21 a projection on K Street, is that correct, the building does

22 project out?

23 MR. HENDERER: That is correct. The building

24 does project out three feet.

25 COMMISSIONER FRANKLIN: Three feet beginning at

26 what level?

1 MR. HENDERER: It begins at the third floor
2 slab.

3 COMMISSIONER FRANKLIN: I see. And that
4 projection ranges with the furthest projection of another
5 structure along K Street? Or will that be something that sort
6 of stands out along K Street?

7 MR. HENDERER: Yeah. The Investment Building
8 on K Street projects that far as well. But on the same block,
9 between 16th and 17th -- on K Street between 15th and 16th
10 Streets.

11 COMMISSIONER FRANKLIN: Yeah, I understand. I
12 know where the Investment Building is. But I'm asking is
13 there another building that projects in a similar fashion
14 between 16th and 17th, or is this building going to be
15 projecting more than its neighbors?

16 MR. HENDERER: Not to my -- well, not to my
17 knowledge that on that block there is another building that
18 projects that much.

19 COMMISSIONER FRANKLIN: There is not.

20 MR. HENDERER: Not to my knowledge.

21 CHAIRPERSON KRESS: The model shows something I
22 think there. Perhaps we could get it a little closer.

23 I was just viewing and making note that it
24 appears that there is a similar dimension on the corners, and
25 that the Commonwealth Building is back further. But the newer
26 building, which I've forgotten what this is called --

1 MR. HENDERER: Well, let me respond. This
2 model has seen a lot of use. It's gone to lots of meetings.
3 It has traveled around a lot. It has accidentally been
4 dropped several times. Buildings have gone off and --

5 CHAIRPERSON KRESS: Don't trust it.

6 MR. HENDERER: Yeah, don't trust the model
7 completely.

8 COMMISSIONER FRANKLIN: Well, then, I guess we
9 ought not look at it.

10 (Laughter.)

11 COMMISSIONER CLARENS: While we're here, the
12 facade along 16th Street is all stone?

13 MR. HENDERER: It's --

14 COMMISSIONER CLARENS: Stone and glass?

15 MR. HENDERER: The majority of the facade is
16 stone.

17 COMMISSIONER CLARENS: Well, when you say "the
18 majority," what is not stone?

19 CHAIRPERSON KRESS: That's a good question
20 while we have the model up here.

21 MR. HENDERER: Okay. It's stone from this bay
22 to basically the adjacent property to the north.

23 COMMISSIONER CLARENS: So it's stone in what --
24 in the model appears to be, and on --

25 CHAIRPERSON KRESS: Point it out to us in the
26 model. I think that will help.

1 COMMISSIONER CLARENS: -- blank area.

2 CHAIRPERSON KRESS: You have to see it, too.

3 MR. HENDERER: Oh, okay. That's stone.

4 Everything in gray right here is stone, with the exception of
5 where the windows are. Everything on the K Street in gray is
6 also stone, again, except for where the windows are. The rest
7 is metal and glass.

8 COMMISSIONER CLARENS: We've got problems right
9 here. The base needs to be resolved. That's an inappropriate
10 -- you have a heavy material sitting on light. I understand
11 your rationale for bringing the metal from on top, because of
12 the likeness of the metal and on the curved wall -- very
13 elegant, etcetera, etcetera.

14 But the base has to be substantially -- you'd
15 better not set these blocks of limestone on legs of -- spindly
16 little legs of metal.

17 MR. HENDERER: I think we made a commitment to
18 come back in a week to 10 days and address that.

19 COMMISSIONER CLARENS: Okay.

20 MR. HENDERER: Sorry. One week.

21 COMMISSIONER FRANKLIN: I guess I started
22 something here.

23 Let me just comment about the base problem, and
24 that is that -- and I agree with Mr. Clarens' observation. I
25 think the base needs to have a more -- maybe the word
26 "elegant" treatment is appropriate. But at the same time,

1 16th Street is not a commercial street in the sense that a lot
2 of the other streets downtown like K Street are.

3 And, therefore, I agree. I think there was
4 some implication that you did not want, you know, lavish, you
5 know, sort of fancy materials on it that you see sometimes
6 when they redo commercial frontages along Connecticut or L, or
7 what have you, to sort of shout a little bit about the
8 building. I think that there ought to be restraint, and I'm
9 sure you appreciate that. But at the same time, I think
10 probably it needs a little bit more distinctive treatment.

11 I'm a little bit confused. Maybe this should
12 be addressed to Mr. Jacobs. On the floor plans -- drawings A-
13 3 and A-5 -- there is something listed as an optional rental
14 area. What are we seeing when we see this optional rental
15 area? Are those -- they're parking spaces or --

16 MR. JACOBS: The parking -- I'm sorry. The
17 creation of the parking in the two lower levels may come in
18 stages because of the existing tenancy that was referred to
19 before. The existing tenant is on the first lower level. The
20 second lowest level is available as we speak, which is one of
21 the reasons accessing the garage and the distance we have to
22 traverse vertically requires that space that's created by the
23 top of the building and the width.

24 What we plan to do in order to gain the full
25 car count that Mr. Slade was referring to, so that we not only
26 create parking equal to that which would be required for the

1 additional 50,000 feet, but it is our goal to create parking,
2 and we believe we can create parking. We are confident we can
3 create parking which would be fully required for a building of
4 the 200,000-foot full size.

5 In order to do that with only the first lowest
6 level, we are required to use this 10 spaces in the rear of
7 the building for parking and additional parking there with
8 managed parking. At a point in the future, when we are able
9 to create or utilize the second or first level of basement for
10 parking, we can then abandon that because it is separate and
11 apart and accessed only from the alley, which is a further --
12 creates further congestion in the alley, and wanting to
13 reserve the right to utilize that for retail space were we to
14 abandon it for parking, because by then our parking count will
15 be well over 100 based on the addition of the first level of
16 basement.

17 COMMISSIONER FRANKLIN: Okay. Thank you. I
18 want to say that I am not troubled by the driveway or the
19 portal for the garage on 16th Street. I don't think that that
20 curb cut or that driveway produces any more adverse effect
21 than, you know, a turnaround for an apartment house or any of
22 the other uses that -- I mean, 16th Street is a street of some
23 elegance.

24 And you're going to have turnarounds and other
25 curb cuts to service those properties. And I agree with Mr.
26 Slade. I don't think that that creates any adverse impact.

1 Let me now launch into a very politically
2 incorrect observation here, and that's -- Mr. Sher has heard
3 me before, and that's the housing linkage business. And I
4 understand that you have to comply with this provision, but
5 the nexus between this particular development and the housing
6 -- the very beneficial housing that is proposed in this
7 development escapes me. And it's simply because of the
8 provisions of the comp plan.

9 But it seems to me that when we are looking at
10 amenities growing out of a PUD, we really ought to be looking
11 primarily at those that are onsite and which accrue to the
12 city by virtue of the nature of this development rather than
13 -- I mean, I'm curious as to how the beneficiary of this
14 housing subsidy was selected amongst all of the potential
15 claimants on this benefit. How do you go about deciding that
16 it should be Marshall Heights and not somebody else?

17 MR. JACOBS: I can partially answer your
18 question, Mr. Franklin. We were not able to find a housing
19 opportunity in the immediate area, for reason of the fact that
20 there is very limited housing in the immediate area. We were
21 looking for a project where we could have immediate impact and
22 see results from the contribution we made.

23 And it really was through that process that the
24 Marshall Heights project arose, and it arose in an area which
25 is geographically distant, but nevertheless one we felt would
26 serve the community, the broader community, very well. In

1 fact, after we reviewed it and understood their needs, we
2 agreed to increase the contribution because we thought it
3 would serve better the end goal of the housing linkage which
4 is to assert -- to be certain that housing could be created.

5 So that may not be the fullest answer, but
6 there are not readily available vehicles into which you can
7 assure the success of the housing linkage. So our "catch
8 basin," if you will, went further afield.

9 COMMISSIONER FRANKLIN: I appreciate that
10 answer.

11 Mr. Quin?

12 MR. QUIN: I think, as a practitioner, attorney
13 giving advice relating to PUDs, I open the PUD regulations and
14 see the provisions there. And the client says, look, we know
15 we want to build something that's meaningful for the city, and
16 we understand that as part of this process, just like it is in
17 Arlington or in Prince Georges County, or Montgomery County,
18 when you come in for a PUD and there are certain areas of
19 flexibility, you offer something as -- I've outlined 10
20 points.

21 One of those points was housing, and we hear
22 housing so frequently that when that regulation was put in --
23 and Mr. Parsons I know participated in that particular -- and
24 I think Ms. Kress did also; I'm not sure, but I think so --
25 that particular provision that added the linkage into the PUD
26 regulations pursuant to the comprehensive plan.

1 So the bottom line is that is one of the
2 mechanisms that we seek to utilize for compliance with the PUD
3 regulations.

4 COMMISSIONER FRANKLIN: I am not critical of
5 the applicants at all for doing this. But I think that this
6 particular approach to housing problems is going to -- if it
7 -- let me say I think it's going to subvert the desire to have
8 housing downtown because it -- and this is a distraction from
9 this, but I just want you to know where I'm coming from on
10 this offsite housing business.

11 MR. QUIN: Before you make a judgment on that,
12 I would hope you would listen to Mr. Lloyd Smith, who will be
13 here in a little bit, as to the --

14 COMMISSIONER FRANKLIN: I am happy to -- I am
15 all for non-profit housing. You know, I was the only one on
16 this Commission that voted for subsidized housing a few months
17 ago. So I -- and my background is all for, you know,
18 affordable housing. But I do think that we really are
19 stretching things when we take downtown office density
20 increases and use them as -- and make them --

21 MR. QUIN: It has a long history, I would say,
22 going back to the Akridge case at 1215 I Street when that was
23 the first linkage case which provided housing in different
24 areas -- Adams Morgan and other areas.

25 COMMISSIONER FRANKLIN: It's an effort to throw
26 onto the private sector an obligation that ought to really be

1 a public sector obligation. I've said enough on that subject.

2 I will be very interested, however, to see
3 whether this housing will actually develop when we hear from
4 the housing sponsor.

5 I have no further questions.

6 CHAIRPERSON KRESS: Thank you.

7 With that, I'd like to move to the ANC-2B,
8 Meredith DeHart? Am I not correct? I was going to ask the
9 ANC and Carol Mitten if either one of them would like to cross
10 examine the applicant.

11 MS. MITTEN: I would, Madam Chair.

12 CHAIRPERSON KRESS: Please come forward and --
13 probably using that mike and pulling the podium up might be
14 the most helpful. You have to turn it on. I guess it's not
15 on.

16 MS. MITTEN: I'm Carol Mitten, and I have a few
17 questions in no particular order.

18 My home address is 1026 16th Street, N.W.,
19 Apartment 701, at the Presidential --

20 CHAIRPERSON KRESS: And you're representing the
21 --

22 MS. MITTEN: And I'm representing the
23 Presidential Apartments.

24 CHAIRPERSON KRESS: Thank you.

25 MS. MITTEN: One of the things that has been
26 mentioned in this discussion about parking is the fact that

1 when the variance was granted for the Solar Building to be
2 constructed originally it was conditioned on a covenant that
3 tied parking for the Solar Building to a parking garage on L
4 Street. And I was wondering if you could speak to that and
5 why that hasn't been mentioned thus far.

6 MR. QUIN: Madam Chairperson, I think that goes
7 to a question of law, which I would like to answer if that's
8 permissible.

9 CHAIRPERSON KRESS: Yes.

10 MR. QUIN: The basic approval in 1955 did not
11 have a specific requirement for any spaces as -- but you can
12 read in the order -- and I think that's a matter of record now
13 -- has a provision for a preference to this order. We have
14 searched the records and we have not been able to find any
15 covenant, either in the records of the District of Columbia or
16 on the land records.

17 But it all becomes moot because by virtue of
18 the provision -- and we can submit copies of the BZA orders if
19 you would like -- once you provide parking in a number that
20 satisfies the parking requirements for the building onsite,
21 the rest of it is totally moot. So that there is no
22 requirement for any covenant.

23 MS. MITTEN: I take your point, and I looked
24 myself to see if there was a covenant that had been reported
25 which was required by the variance, and I couldn't find one
26 either. I think as the Zoning Commission considers this --

1 CHAIRPERSON KRESS: I was just going to say
2 you're testifying instead of --

3 MS. MITTEN: Oh, I'm sorry. Okay. Sorry.

4 CHAIRPERSON KRESS: You will have your chance
5 to testify later.

6 MS. MITTEN: Okay.

7 CHAIRPERSON KRESS: Right now you're just
8 asking questions.

9 MS. MITTEN: I apologize. I apologize.

10 For the traffic consultant -- there is a
11 service road along K Street, and I was wondering if you could
12 explain, you know, why -- what is the purpose of service
13 roads?

14 MR. SLADE: The service road has several
15 functions. It is separated from the main through lanes of K
16 Street, so that those through lanes are not interfered with by
17 traffic turning in and out of the alley, traffic pulling in
18 and out of parking spaces, traffic stopping to drop off
19 passengers or pick up passengers. So it's to handle the land
20 service function of a street that vehicles are letting
21 pedestrians on and off or turning in and out of, independent
22 of the through capacity of K Street.

23 MS. MITTEN: Why is it considered inappropriate
24 that that service lane should be used as the access point to a
25 parking garage for this building?

26 MR. SLADE: I think if the city were redoing K

1 Street, they wouldn't build the service roads because they
2 become extremely congested. And the driveway would often be
3 inaccessible, either to get to it or to get out of it because
4 of the congestion in the service road.

5 MS. MITTEN: Okay. Fine.

6 Mr. Jacobs, you said that to construct a
7 parking garage entrance from K Street would not be feasible.
8 Does that mean that it's physically impossible or that it's
9 just not financially preferable?

10 MR. JACOBS: I think that, answering your
11 question in reverse, anything, I suppose, is physically
12 possible. We are trying to be sensitive in the renovation of
13 this building to the existing tenancy, as well as to the
14 existing structural integrity of the Solar Building.

15 And our conclusion with our structural engineer
16 and our architects was that the greater width that was
17 available by virtue of access through what is now the Taca
18 Building, and the demolition and then excavation adjacent to
19 the existing Solar Building, given the distance -- the lateral
20 distance that would have to be covered in order to get down to
21 the second lower basement was only practical from the 16th
22 Street Taca Building location.

23 MS. MITTEN: Do you have a sense of what the
24 cost differential would be if you tried to do an entrance from
25 K Street?

26 MR. JACOBS: No.

1 MS. MITTEN: This is for anybody who can answer
2 it. Are you planning to have entrances to the retail space
3 from 16th Street?

4 MR. JACOBS: Yes. But as you will see, the
5 entrances to retail on 16th Street are restricted to two. So
6 there could only be two entrances plus the entrance to the --
7 the main entrance to the building, which we have preserved on
8 16th Street.

9 MS. MITTEN: This question is for the
10 architect. In the animation that you showed us, as we're sort
11 of in the position of someone walking down 16th Street, how
12 tall is that person?

13 MR. HENDERER: Just normal eye level, five
14 feet, six inches.

15 MS. MITTEN: That's the eye level of the --

16 MR. HENDERER: That's normal, standard, five
17 foot, six inches. Yes.

18 MS. MITTEN: All right.

19 MR. HENDERER: The height of the eye.

20 MS. MITTEN: I'm sorry?

21 MR. HENDERER: That's the height of the eye of
22 the average person.

23 MS. MITTEN: All right. In the traffic study
24 that was submitted -- and I'm not a student of these sorts of
25 things. But there were some things that I didn't understand
26 the entries for, and I was wondering if Mr. Slade could

1 explain it.

2 On page 8, in table number 2, in terms of trip
3 generation for the proposed development, there were zero trips
4 included for the retail. Can you explain that?

5 MR. SLADE: Yes. We stated this in the text.
6 We assumed that the retail would -- during peak hours, would
7 not be a destination retail, that people would drive here to
8 visit the retail, but rather it would be people who were
9 already in the neighborhood, either living in the neighborhood
10 or working in the neighborhood.

11 MS. MITTEN: And then, in the more detailed
12 analysis that's included at the back -- it looks like computer
13 printouts -- there are entries for pedestrians, which is
14 listed as zero in every case, and there are entries for bus
15 stops, which is zero in every case. And I was wondering if
16 you could address that.

17 MR. SLADE: I don't think I can address it
18 tonight, but I can submit an answer for the record on that.

19 MS. MITTEN: Okay. Do you work in the suburbs
20 as well as in the District of Columbia?

21 MR. SLADE: Yes.

22 MS. MITTEN: In suburban locations when there
23 is a traffic impact, a negative traffic impact, how do they
24 handle that from the perspective of a developer? What do they
25 ask or require of developers that create some kind of negative
26 traffic impact?

1 MR. SLADE: Well, there's not a single answer.
2 It varies from location to location. I guess the two extremes
3 are that, for example, in the area near the White Flint
4 shopping center, where we're currently working on Rockville
5 Pike --

6 MS. MITTEN: Yes.

7 MR. SLADE: -- the developer has asked to make
8 a contribution that is related to his development. So he has
9 no specific requirement. He simply makes a cash contribution.
10 In other locations that aren't core commercial districts, as
11 White Flint is, if you're further out, for example, in a
12 residential area, then specific improvements to roadways may
13 be required.

14 MS. MITTEN: So to the extent that there is
15 some kind of negative impact, there is some offset of it in
16 some form or another?

17 MR. SLADE: Yes.

18 MS. MITTEN: And this is for Mr. Sher. When
19 you were reading through your report, and you were speaking of
20 the historic preservation element, which is on pages 12 and
21 13, and you were enumerating various things, the last point
22 didn't quite come out, which is number 11, on page 13.

23 And I'll just read it. "The general height
24 roof lines and massing of buildings should serve as a unified
25 background for the public space in these special streets and
26 places." And I was wondering if you could explain further how

1 this proposal meets that particular requirement relative to
2 16th Street as a special treatment area.

3 MR. SHER: Mr. Henderer I think has explained
4 -- and I think clarified -- the nature of what the heights and
5 setbacks and massing of this particular -- and roof lines of
6 this particular building. It goes up 90 feet. It goes back
7 -- and somewhere between 35 and 20 feet, at an average of 29
8 feet, with the curve. It goes up another 16 feet at that
9 point, goes back to the 40-foot setback, and then it goes up
10 to the maximum height of 130 feet.

11 I think he did a better job of explaining why
12 that is an appropriate design for this building and why that
13 provides an appropriate treatment for the 16th Street
14 streetscape than I could expand upon. And I think his
15 animation showed what the visual impact of that is and how
16 that serves as the background for the view from 16th Street.

17 MS. MITTEN: So in your opinion, this
18 particular requirement related to historic preservation is met
19 by this design?

20 MR. SHER: Yes.

21 MS. MITTEN: I was wondering, Mr. Henderer, if
22 you could show me on A-12, just so I'm clear about where the
23 lines are, the 20-foot SP line as it's proposed to be, and the
24 45-foot SP line as it is at its shallowest point relative to
25 16th Street, and then I believe it's 100 feet or something
26 like that at its deepest point on the site as it is relative

1 to 16th Street. I was wondering if you could point each of
2 those out to me on drawing A-12.

3 MR. HENDERER: The proposed SP zone will be 20
4 feet. Do you want to look at this plan? Is this what you
5 want to look --

6 MS. MITTEN: Yes, along K, so I can see how it
7 relates here.

8 MR. HENDERER: Okay. The proposed SP line is
9 20 feet, which is right here.

10 The next question?

11 MS. MITTEN: This here is the existing SP line
12 at its narrowest point, which I believe is 45 feet relative to
13 16th.

14 MR. HENDERER: Okay. The 45 foot would be at
15 this line right here.

16 MS. MITTEN: And then at the deepest point,
17 which I believe is 106.5 feet, approximately, at the deepest
18 point as the site is now zoned relative to 16th Street.

19 MR. QUIN: Madam Chairperson, that plat is
20 confusing to look at in elevations. If you look at Tab B, you
21 can see the second --

22 CHAIRPERSON KRESS: That is exactly where I am,
23 and Tab B shows SP-2 on K Street as 45 feet, not 20 feet.

24 MR. QUIN: Right. The proposal is 20 feet.

25 CHAIRPERSON KRESS: Right. I thought her
26 question was --

1 MR. QUIN: Okay.

2 CHAIRPERSON KRESS: -- the 45 foot, unless I'm
3 misunderstanding. I thought she was asking: what is it
4 currently zoned versus what are you doing?

5 MS. MITTEN: Actually, it was a series of
6 questions, each of those questions that you just mentioned. I
7 asked him to show me the 20-foot depth relative to 16th
8 Street, which is proposed, and then the existing 45-foot
9 depth. And then at its deepest point -- I know it's not on K
10 Street -- but how far would that impact the building?

11 COMMISSIONER CLARENS: It is 106 feet, so it's
12 twice that width and a little bit more.

13 MR. HENDERER: Show the back end of the
14 building. Yes, I should point out that's 75 feet back off of
15 K Street.

16 MS. MITTEN: I have no other questions. Thank
17 you.

18 CHAIRPERSON KRESS: Thank you.

19 Did anyone from the ANC want to cross examine?
20 Who is representing ANC-2B tonight? Thank you.

21 With that, I will now move to the Office of
22 Planning.

23 MR. BASTIDA: Good evening, Madam Chairperson,
24 members of the Commission. For the record, my name is Alberto
25 Bastida with the D.C. Office of Planning.

26 The Office of Planning filed its report late

1 and submitted a waiver, and at this point I would like to ask
2 that the Commission members -- the waiver to introduce our
3 report into the record.

4 CHAIRPERSON KRESS: Colleagues? Yes, we will
5 allow you to introduce it.

6 MR. BASTIDA: Thank you, Madam Chairperson.

7 The Office of Planning's report basically
8 describes the applicant's proposal, the site and area
9 description, existing zoning and proposed map amendment,
10 planning and policy, and then it goes to discuss the planning
11 and policy issues, which is the consistency with the
12 comprehensive plan, the design and architecture, and that is
13 the changes to the build design.

14 And those changes to the building design that
15 are described are based on the setdown design, that the Office
16 of Planning worked with the applicant several weeks to achieve
17 what is in front of you. Then, it's the housing, the public
18 benefits, and projected amenities, and agency referrals and
19 comments.

20 Basically, all of this has been elaborated by
21 the applicant's presentation. And because of time, I will not
22 elaborate on them. I would be glad to do so if you so desire.
23 But based on that analysis, the Office of Planning basically
24 recommends approval of this application.

25 The Office of Planning has also received two
26 responses from two District agencies. One is the Department

1 of Housing and Community Development, and that has been in
2 front of you, and basically the director emphatically
3 recommends approval of this application.

4 Also, a very brief report from the Department
5 of Public Works, in which basically they said that they have
6 preliminarily looked at the application, and they believe that
7 the amount of traffic generation will have limited impact on
8 the capacity and level of services of the existing
9 intersection in the area.

10 In addition, the DPW Traffic Operations and
11 Safety Division has found there will be little or no impact on
12 traffic operations resulting from the proposed curb cut on
13 16th Street.

14 That concludes my presentation, and I will try
15 to answer any questions you might have. Thank you.

16 CHAIRPERSON KRESS: Thank you.

17 Any questions? Commissioner Parsons?

18 COMMISSIONER PARSONS: Mr. Bastida, there is no
19 map attached to your report. But do you have the applicant's
20 booklet?

21 MR. BASTIDA: I don't have it in front of me,
22 but I can get it.

23 COMMISSIONER PARSONS: I wanted to refer to the
24 map that, as a matter of fact, Mr. Franklin is now handing to
25 you. And it's behind Tab B, and it shows a zoning map for the
26 area.

1 MR. BASTIDA: That is correct, Commissioner
2 Parsons.

3 COMMISSIONER PARSONS: I'm trying to figure out
4 in your research if you've discovered why this anomaly exists
5 in C-4 as it penetrates eastward onto 16th Street. You see
6 the rest of the SP line along 16th Street seems to be
7 generally set back at least 75 feet.

8 MR. BASTIDA: That is correct.

9 COMMISSIONER PARSONS: Is there some reason
10 here on both sides of the street, neither building of which is
11 taking advantage of C-4 height -- that is, the existing
12 buildings, this one proposes to -- I find it very strange. Do
13 you have any idea why that is?

14 MR. BASTIDA: We did some research on this 10
15 or 12 years ago. And if you look at the -- both the east and
16 the west side of the SP, it jogs in and out all throughout the
17 area, and certain areas there are more indentations and other
18 areas there's less. It's because it was following -- the SP
19 in 1958 was following existing buildings and uses on the area.

20 COMMISSIONER PARSONS: But that's not true
21 here.

22 MR. BASTIDA: What do you mean that is not
23 true?

24 COMMISSIONER PARSONS: Neither of these
25 buildings on either side of this street are C-4 in height or
26 bulk or --

1 MR. BASTIDA: I'm sorry. I thought that you
2 said why it jogs up and -- back and forth. The SP was
3 shallower and deeper in certain areas.

4 COMMISSIONER PARSONS: Right here.

5 MR. BASTIDA: And I was --

6 COMMISSIONER PARSONS: No. Right here is what
7 I'm talking about. I don't see any jogging going on on the
8 rest of the street, not to this degree. And the same thing
9 across the street. Look at that. Come down to the middle of
10 the street.

11 MR. BASTIDA: If you see to the south it does,
12 in fact, have the same depth and -- I mean, shallowness all
13 the way down to half or a third of the block to the south.

14 COMMISSIONER PARSONS: Yes. But the building
15 there is SP as well.

16 MR. BASTIDA: But I thought that you were
17 asking me why the line of the SP was established as such.

18 COMMISSIONER PARSONS: Yes.

19 MR. BASTIDA: And what I am answering is that
20 at the time that the SP line was established, follow existing
21 lot lines, and the uses of the buildings in those -- within
22 those lots.

23 COMMISSIONER PARSONS: So do you mean those
24 buildings were torn down subsequently --

25 MR. BASTIDA: It seems that way.

26 COMMISSIONER PARSONS: -- and replaced with SP

1 uses in a C-4 zone?

2 MR. BASTIDA: It appears that way.

3 COMMISSIONER PARSONS: It doesn't make much
4 sense, does it? Not to me. Maybe it does to you. But I
5 don't understand that.

6 MR. BASTIDA: Well, I would have to go back and
7 track the history of every building at the time that it was
8 build and what economic incentives were on, and the cost of
9 land in the area, and why they didn't take advantage of some
10 relief on the zoning regulations.

11 But remember, the PUD regulations were not
12 established until, what, the '70s, I believe. I would have to
13 remember my -- refresh my memory on that. But that -- and I
14 think that the majority of the buildings that are built on
15 that area precedes the 1970s, or were built prior to the
16 1970s.

17 COMMISSIONER PARSONS: Would you say the one
18 across the street, across 16th Street to the east was a
19 drafting error?

20 MR. BASTIDA: I didn't say that.

21 COMMISSIONER PARSONS: No. I'm asking you a
22 new question.

23 MR. BASTIDA: Oh, okay.

24 COMMISSIONER PARSONS: Does it reach out into
25 the middle of the street?

26 MR. BASTIDA: From our research at the time,

1 that is what was established, and we didn't believe that there
2 was a drafting error because we looked into that. And I am
3 talking from memory that goes way back.

4 But I think that I recollect that, in fact,
5 that question was posed and the answer was that it doesn't
6 appear that way.

7 COMMISSIONER PARSONS: Thank you.

8 CHAIRPERSON KRESS: Any other questions for
9 Office of Planning? Commissioner Clarens, do you have any?

10 COMMISSIONER CLARENS: No.

11 CHAIRPERSON KRESS: All right. Thank you.

12 MR. BASTIDA: Thank you, Madam Chairperson.

13 CHAIRPERSON KRESS: I would like to ask for
14 cross examination. Again, would the representative of the ANC
15 like to cross examine Office of Planning? I probably should
16 have started with the applicant. Would the applicant like to
17 cross examine Office of Planning?

18 MR. QUIN: No questions.

19 CHAIRPERSON KRESS: How about Ms. Mitten, would
20 she like to cross examine the Office of Planning?

21 MS. MITTEN: Yes, I would. Thank you.

22 Just to follow up on Mr. Parsons' -- one of Mr.
23 Parsons' last questions, have you ever looked at the based map
24 that existed around the time that the zoning was established
25 for this area?

26 MR. BASTIDA: I was told it was so long ago

1 that I cannot tell you yes or nay.

2 MS. MITTEN: Could I show him a copy of a 1948
3 based map, so that he could address Mr. Parsons' question?

4 CHAIRPERSON KRESS: No, that's testifying. I
5 think you'll have to do that --

6 MS. MITTEN: All right.

7 CHAIRPERSON KRESS: -- when your time comes.

8 MS. MITTEN: All right. There was a report
9 that the Office of Planning made to the Zoning Commission in
10 April of 1997 related to SP zoning downtown. Are you familiar
11 with that report?

12 MR. BASTIDA: Somewhat.

13 MS. MITTEN: Are you familiar with the proposed
14 amendment to the comprehensive plan that was included in that
15 that related specifically to the lower 16th Street area and
16 including the subject property?

17 MR. BASTIDA: Yes.

18 MR. QUIN: Madam Chairperson, may I -- I would
19 like to raise an objection, but not a strong objection,
20 because we deal with what we have in existence legislatively.
21 Frankly, since I believe that it doesn't make any difference,
22 it's up to the chair as the discretion. But I just wanted to
23 register that particular point.

24 We have a comprehensive plan that's in
25 existence. Any amendments that may be circulating -- no one
26 knows whether they will ever see the light of day because of

1 the process, which I'm sure Mr. Parsons is quite aware of and
2 others, as to going through the Control Board environmental
3 assessment, Congress, NCPC, all of those items. So we don't
4 know where they're going. But I said it's a soft objection
5 because I believe that there is full compliance anyway.

6 CHAIRPERSON KRESS: All right. Thank you.

7 Colleagues, how do you feel about this line of
8 questioning?

9 COMMISSIONER PARSONS: The question goes to a
10 study that the Office of Planning did?

11 MS. MITTEN: Yes.

12 MR. BASTIDA: If I may clarify, it is a
13 recommendation that the Office of Planning did. There was not
14 a study for that. There was a general --

15 COMMISSIONER PARSONS: Was it in the context of
16 the SP zoning that we've been working on or something in the
17 comprehensive plan? I don't --

18 MR. BASTIDA: It was in the context of the
19 comprehensive plan.

20 COMMISSIONER PARSONS: And who had requested
21 that?

22 MR. BASTIDA: I cannot answer that question,
23 but I would be glad to put it in the record.

24 COMMISSIONER PARSONS: Was it a city
25 initiative, a response to the City Council, or the Mayor's
26 initiative?

1 MR. BASTIDA: Again, I'm not quite sure. So I
2 would have to research it and get back to you on that. And I
3 would be glad to put it in the record.

4 CHAIRPERSON KRESS: All right.

5 COMMISSIONER PARSONS: That seems like it's
6 speculative. I don't think we ought to --

7 CHAIRPERSON KRESS: I don't think we should be
8 pursuing this line of questioning. Again, I think --

9 MR. BASTIDA: You can present it in your
10 testimony.

11 CHAIRPERSON KRESS: You can present it, again,
12 in your testimony.

13 MS. MITTEN: I understand. Thank you.

14 CHAIRPERSON KRESS: All right. We have
15 basically, to the best of my knowledge, received all of the
16 referral reports. Is there anyone here who wishes to testify
17 from Public Works on emergency medical police, DCHCD? All
18 right.

19 With that, then, we'll move to the ANC-2B and
20 their presentation -- not presentation, their testimony.
21 Excuse me.

22 MS. DeHART: My name is Meredith --

23 MS. PRUITT-WILLIAMS: Do you have any testimony
24 to pass out?

25 MS. DeHART: No, I don't.

26 MS. PRUITT-WILLIAMS: Okay. No problem.

1 MS. DeHART: My name is Meredith DeHart. I am
2 the ANC Commissioner for ANC-2B-05, which includes the Solar
3 Building, and I am here representing the ANC.

4 Our position has been previously submitted in a
5 letter to the Zoning Commission, so I won't go through that,
6 nor will I try to represent myself as having specific
7 credentials in the area, since we have a room full of people
8 here.

9 I am giving voice more to the specific concerns
10 of the ANC. We are very troubled by the virtual elimination
11 of the SP zone in the lower 16th area, or what will be if this
12 PUD is approved.

13 It currently is 45 feet deep at this Solar
14 Building location, the narrowest point in that area from 16th
15 Street north to Scott Circle, and the proposal now is to make
16 it only 20 feet deep, which is, you know, about -- well, it's
17 less than four times as tall as I am, which is, you know, not
18 a terribly deep area there. And in other parts along 16th
19 Street, it's more like 83 feet to more than 100 feet deep.

20 We are also very concerned about the creation
21 of a parking garage for the first time in that lower 16th
22 Street area and surrendering public space having the
23 automobile traffic crossing the sidewalk there. I believe
24 that in the past such garage entrances have been denied, but I
25 can't give specific definition to that statement.

26 We are especially concerned also about

1 establishing precedent in the lower 16th Street area and in
2 other SP zones of the city. As testified earlier, some of the
3 immediate neighbors who might benefit from this change in the
4 SP zone are endorsing this project, and three of the neighbors
5 who are endorsing it, apparently, are the World Center
6 Building, the Hilton Hotel, and the Sheraton Carlton, which
7 occupy the other three corners of the center section.

8 Beyond that, I think there's no reason to
9 reiterate what we have already stated in our letter from the
10 ANC. But I think these are important parts to consider in
11 terms of our city as a whole and what it's going to look like
12 a decade, two decades down the road.

13 Thank you.

14 CHAIRPERSON KRESS: Thank you. Just a second
15 in case we have questions.

16 Any questions for Ms. DeHart?

17 COMMISSIONER CLARENS: No questions.

18 CHAIRPERSON KRESS: Does the applicant have any
19 questions of Ms. DeHart?

20 MR. QUIN: No questions.

21 CHAIRPERSON KRESS: Ms. Mitten, do you have any
22 questions of Ms. DeHart?

23 MS. MITTEN: No, ma'am.

24 CHAIRPERSON KRESS: All right. Thank you.
25 Appreciate your testifying.

26 With that, we move to the persons and parties

1 in support, and then persons and parties in opposition. So
2 are there persons and parties in support? Are we going by the
3 list?

4 Again, we set out a schedule. Parties, 15
5 minutes; organizations, five minutes; and, individuals, three.
6 With that, we'll start off with the proponents. Are there any
7 other proponents who wish to testify?

8 MR. SMITH: Good evening, Madam Chairperson.
9 My name is Lloyd D. Smith. I am President Emeritus of the
10 Marshall Heights community development organization, having
11 retired September 30th of this year, after 18 years of service
12 to Marshall Heights.

13 I am here today to support this application and
14 the Marshall Heights role in this because we think that this
15 is a worthwhile and substantial development. And as the
16 applicant described, one of the major project amenities for
17 the proposed planned unit development and rezoning application
18 is an agreement to work with us and the Marshall Heights group
19 to facilitate the construction of five single-family houses
20 that are part of our Banneker Ridge project in Ward 7. And
21 this is on Minnesota Avenue and Ridge Road, S.E.

22 We are extremely excited about the opportunity
23 to work with JBG, an extremely well-established developer in
24 the Washington real estate community, through a contract
25 construction agreement, which we will have, Marshall Heights
26 will have with them, involving a \$100,000 commitment. And

1 they will help ensure that these homes are built and sold
2 within an affordable pricing structure.

3 When projects such as Banneker Ridge face
4 unanticipated development costs, such as this project, we are
5 usually unable to pass along -- never able to pass along these
6 costs to the future homeowners and maintain the sales price at
7 the affordable level.

8 For that reason, the opportunity for a contract
9 arrangement with the applicant is extremely helpful to a
10 project such as this. We commend the applicant's interest in
11 working with us, and our organization over the past 18 years
12 has a demonstrated track record, not only in Washington, known
13 outside of Washington, in providing affordable housing and
14 other amenities and services, and goods and services, and
15 development to the citizens of Ward 7, which Marshall Heights
16 covers, which we believe was helpful in persuading the
17 applicant to decide to work with us.

18 The proposed project presents a win-win
19 situation for the city. An aging building will be upgraded
20 into a Class A building with appropriate setbacks to respect
21 the character of 16th Street. The Marshall Heights community
22 development organization and its neighbors will receive an
23 important and significant benefit as a result of this project.

24 I would like to point out that our organization
25 borrowed all of the funds to build the housing that we have
26 built since 1986. And we sell the houses to homeowners in the

1 area and outside of the area. Also, that as a matter of
2 record, the C of O is tied to completion of the housing units.
3 As you recall, when the linkage regulations were put into
4 effect in the late '70s or early -- well, and the 1980s, this
5 was tied to that provision.

6 If a developer selects or cannot find -- and I
7 understand that they have tried to find some closer units. If
8 they cannot find that, they have to tie it to some units that
9 are going to be completed in the foreseeable future. Without
10 that, they cannot receive their C of O, and that's as simple
11 as that.

12 So we have this project. Marshall Heights owns
13 the land. They have the financing. They are going to build
14 about 24 houses there. This is part of that project. They
15 have run into some other problems. The organization, since
16 1986, has not made a profit on any housing. In fact, Marshall
17 Heights has spent money of its own to subsidize the housing
18 that it does. So this is a really supported effort.

19 And by the way, over the years Marshall Heights
20 has not received -- very seldom has ever received any linkage
21 funds.

22 CHAIRPERSON KRESS: Thank you.

23 MR. SMITH: And I would be happy to answer any
24 questions you or Mr. Clarens would have, and Mr. Parsons,
25 about

26 COMMISSIONER PARSONS: Thank you.

1 MR. SMITH: How are you doing, Mr. Parsons?
2 About the arrangement. Ms. Pruitt, how are you? Mr. Kress,
3 Mr. Franklin -- Ms. Kress.
4 CHAIRPERSON KRESS: Mr. Kress. Thanks a lot.
5 (Laughter.)
6 MR. SMITH: Ms. Kress and Mr. Franklin.
7 CHAIRPERSON KRESS: Good to see you again.
8 MR. SMITH: Thank you.
9 CHAIRPERSON KRESS: Questions, colleagues?
10 Commissioner Parsons?
11 COMMISSIONER PARSONS: Mr. Sher reported, maybe
12 before you arrived, that they were contributing \$100,000.
13 MR. SMITH: Yes.
14 COMMISSIONER PARSONS: He also reported that
15 this would yield about 7,500 square feet of housing space.
16 MR. SMITH: Yes.
17 COMMISSIONER PARSONS: Or five units.
18 MR. SMITH: Five detached homes.
19 COMMISSIONER PARSONS: So you are able to -- or
20 the organization is able to build a unit of housing, single-
21 family detached for \$20,000?
22 MR. SMITH: No.
23 COMMISSIONER PARSONS: So how is it that a
24 \$100,000 contribution will result in five units?
25 MR. SMITH: Because it contributes to -- it's
26 \$20,000 per unit to each unit. We supply the rest through

1 financing.

2 COMMISSIONER PARSONS: So if they were to give
3 you \$100,000, forgetting your contribution, how many units of
4 housing would we really get here?

5 MR. SMITH: You're going to get five.

6 COMMISSIONER PARSONS: If you didn't have any
7 money.

8 MR. SMITH: If I didn't have any money?

9 COMMISSIONER PARSONS: Yes. How many real
10 units --

11 MR. SMITH: Real units?

12 COMMISSIONER PARSONS: -- does this result in?
13 Because they are obligated to 7,500 square feet, as I
14 understand it.

15 MR. SMITH: Right.

16 COMMISSIONER PARSONS: So --

17 MR. SMITH: Not 75 -- well, it's 7,500 square
18 feet.

19 COMMISSIONER PARSONS: Yes.

20 MR. SMITH: That's --

21 COMMISSIONER PARSONS: So I'm trying to figure
22 out why you're --

23 MR. SMITH: Well, 7,500 would be about, you
24 know, depending on the size of it. These are detached homes.

25 COMMISSIONER PARSONS: Okay. About five units.
26 So what would it cost --

1 MR. SMITH: Probably less.

2 COMMISSIONER PARSONS: What would it cost you

3 to build five units without any -- just --

4 MR. SMITH: Do you mean each unit?

5 COMMISSIONER PARSONS: Total cost.

6 MR. SMITH: How much for each unit?

7 COMMISSIONER PARSONS: Per unit, yes.

8 MR. SMITH: These units are going to cost in

9 the range of \$130-, \$140,000 each.

10 COMMISSIONER PARSONS: Well, that's the retail

11 value. But I'm --

12 MR. SMITH: Pardon me?

13 COMMISSIONER PARSONS: That's the retail value,

14 the sales price.

15 MR. SMITH: Yeah.

16 COMMISSIONER PARSONS: What do you think it

17 would cost to construct them, to get them ready for market if

18 you will?

19 MR. SMITH: About 90 percent of that.

20 COMMISSIONER PARSONS: Okay. So --

21 MR. SMITH: About 90 to 95 percent. We operate

22 on a very thin margin.

23 COMMISSIONER PARSONS: Right. So this

24 contribution of \$100,000 is really getting us one unit of

25 housing, isn't it?

26 MR. SMITH: No, because you're contributing --

1 our ratio that we have worked out with them is this
2 contributes to us being able to provide these houses within
3 the price range. So we are -- this is helping us to write
4 down the cost of these houses. These are not buying, you
5 know, the units. They are writing down -- helping us write
6 down the cost of the housing. And so we are attributing these
7 to the five units.

8 And I'm not there working every day, Mr.
9 Parsons, so I'm not running the numbers anymore. So I'm just
10 --

11 COMMISSIONER PARSONS: Well, I guess I need to
12 ask Mr. Bastida, because I can't remember the regulations.
13 And I --

14 MR. SMITH: Okay. Well, as I understand it,
15 there is the 50 percent of the increase, which would be about
16 13,000 square feet. And then that would be 7,500 square feet.

17 COMMISSIONER PARSONS: Yes.

18 MR. SMITH: That's my understanding.

19 COMMISSIONER PARSONS: Why shouldn't we be
20 asking them to pay for 7,500 square feet total value instead
21 of -- I mean, that to me -- from what you've described, that
22 would be five units of housing. That's \$500,000 that you
23 should be getting, not \$100,000.

24 MR. SMITH: Well, we're just going by what the
25 Commission set up.

26 COMMISSIONER PARSONS: So it's our mistake, not

1 yours.

2 MR. SMITH: I'm not saying you made a mistake.
3 I'm saying that --

4 COMMISSIONER PARSONS: No, I am.

5 MR. SMITH: Well, you know, I don't know. I
6 mean, I'm saying that this does contribute to the
7 implementation, support, write down, so that we can build
8 affordable houses.

9 Let me give you an example. We did 12 -- a few
10 years ago we did 12 piggyback units across from the Deanwood
11 Metro Station. And we had held the property for about nine
12 years -- the land -- and the property, in order for us to keep
13 the units below \$100,000 each -- they were around \$94- or \$99-
14 , we ended up having to go to a foundation to get \$140,000 in
15 subsidy just to do that project, notwithstanding the fact that
16 the city made us put in a Grade A alley, reinforced rebar
17 concrete, for the entire block, to serve the entire block.

18 You know, we're doing this without city
19 subsidies. And so when the organization gets an opportunity,
20 it's really a boom --

21 COMMISSIONER PARSONS: Sure.

22 MR. SMITH: -- a Godsend to the organization to
23 be able to try to -- in the 12 years that we've been doing
24 housing, we have never made a profit. We have actually
25 sometimes broken even or sometimes lost money trying to make
26 these units affordable for low/moderate income people. And

1 that's who we sell to.

2 COMMISSIONER PARSONS: Okay. Thank you.

3 CHAIRPERSON KRESS: Anything further?

4 COMMISSIONER PARSONS: That's all I have.

5 CHAIRPERSON KRESS: Mr. Clarens?

6 COMMISSIONER CLARENS: Well, I think that we
7 need to clarify this issue a little bit further. I think we
8 just left it hanging there.

9 COMMISSIONER PARSONS: Well, only because Mr.
10 Bastida has left for the night, I guess. I was going to ask
11 at the end of the night that we have a clarification of this,
12 but --

13 CHAIRPERSON KRESS: We're going to be leaving
14 the record open for other information. I've already got a
15 list of four things, so I will just add that onto it.

16 COMMISSIONER CLARENS: Let me ask a few
17 questions just to see if we can clarify it a little bit more
18 now, and then we can leave it open.

19 You're building a -- you're presently
20 contemplating building a project of 24 units?

21 MR. SMITH: 24 detached houses.

22 COMMISSIONER CLARENS: Detached houses.

23 MR. SMITH: Not presently contemplating. We
24 are.

25 COMMISSIONER CLARENS: Under construction.

26 MR. SMITH: Not under construction. We are in

1 the process. We have arranged our financing, are finalizing
2 that. We own the land, and it will go in the next few months.

3 COMMISSIONER CLARENS: And where you
4 interpreted the way the applicant is satisfying its housing
5 requirement or -- and contributing to the amenity package of
6 the PUD, is that by making -- by giving this \$100,000, this is
7 seed money that can then be leveraged to produce five units?

8 MR. SMITH: Uh-huh.

9 COMMISSIONER CLARENS: That's basically what
10 you --

11 MR. SMITH: Yeah. That's the way we've worked
12 that.

13 COMMISSIONER CLARENS: And that those five
14 units -- total floor area of those units would be in the
15 neighborhood of what?

16 MR. SMITH: About 75 -- a little over 75.

17 COMMISSIONER CLARENS: These are about 2,500
18 square feet?

19 MR. SMITH: A little over 7,500.

20 COMMISSIONER CLARENS: 15 -- do my math. So
21 that's 1,500 square feet --

22 MR. SMITH: A little over 7,500 square feet.

23 CHAIRPERSON KRESS: Total.

24 MR. SMITH: Total.

25 COMMISSIONER CLARENS: I see.

26 MR. SMITH: And that's, as I understand it,

1 satisfying --

2 COMMISSIONER CLARENS: And that's the
3 interpretation, and that's --

4 MR. SMITH: That is the satisfying -- as I
5 understand it, the interpretation of the linkage requirements.

6 COMMISSIONER CLARENS: Okay. And the \$7,500
7 comes from 50 percent of 13,000, which is what? What is the
8 13,000?

9 MR. SMITH: The increased commercial density,
10 as I understand it.

11 COMMISSIONER CLARENS: The increased commercial
12 --

13 MR. SMITH: Density.

14 COMMISSIONER CLARENS: -- density.

15 MR. SMITH: Uh-huh.

16 COMMISSIONER CLARENS: Okay. That's a question
17 not for you. That's a question for the applicant.

18 MR. SMITH: Well, yeah. Well --

19 COMMISSIONER CLARENS: I'll come back to the
20 applicant after --

21 MR. SMITH: Well, let me give you another
22 example of how you use linkage. Mr. Parsons will probably
23 remember this.

24 Do you know where the Franklin School is?

25 COMMISSIONER CLARENS: Yes.

26 MR. SMITH: Franklin School was a linkage

1 project, the exterior renovation of Franklin School.

2 Do you remember, Mr. Parsons?

3 COMMISSIONER PARSONS: Uh-huh.

4 MR. SMITH: And that was tied to 1300 K Street
5 Building. The entire Franklin School exterior was renovated
6 at no cost to the District of Columbia through a Zoning
7 Commission action, which I set on, that renovated the entire
8 school.

9 COMMISSIONER CLARENS: Sure.

10 MR. SMITH: Exterior. And there was some
11 leftover linkage that wasn't used for that purpose.

12 COMMISSIONER CLARENS: Okay. Thank you, Madam
13 Chair.

14 Thank you, Mr. Smith.

15 MR. SMITH: Thank you.

16 CHAIRPERSON KRESS: Do you have any questions,
17 Commissioner Franklin?

18 COMMISSIONER FRANKLIN: I gather from what Mr.
19 Smith is telling us that the contribution of the applicant is
20 sort of like putting you over the top in terms of getting five
21 units that you wouldn't otherwise get.

22 MR. SMITH: Exactly. Exactly.

23 COMMISSIONER FRANKLIN: Now, how about the
24 other 19 units, where do they stand?

25 MR. SMITH: We have the financing basically in
26 place now. We have -- we own the land and -- that is,

1 Marshall Heights owns the land. And as I understand it, the
2 financing commitments are underway now. And so that should be
3 done in the next few weeks.

4 COMMISSIONER FRANKLIN: And you don't need any
5 assistance to get those to market?

6 MR. SMITH: Well, this will just about do it.
7 We ran into some soil debris problems, Mr. Franklin, where we
8 had to remove a lot of concrete and other objects left in the
9 soil to make it feasible to develop -- to build. And it was
10 an unanticipated cost, and this really helps us to mitigate
11 those costs.

12 If it wasn't for this, we would probably have
13 to find ways to go look for some grants somewhere to do this.
14 And this is as a result of demolition of about eight apartment
15 buildings on this site that the completion of the removal of
16 the debris, the concrete, and other debris there was not done
17 properly or not done.

18 And we are stuck with the cost, and we are
19 committed to building these houses there as a redevelopment of
20 this whole area, because it is across the street from the
21 Greenway Development, which we are doing a HUD tax credit
22 renovation of \$18 million of low/moderate income rental units.
23 And so this is the second component to that, which is
24 complementary.

25 COMMISSIONER FRANKLIN: I just need a little
26 clarification. The site conditions that you ran into, are

1 those site conditions affecting all 24 units, or just the
2 units that are the subject of the assistance you're getting
3 from the applicant?

4 MR. SMITH: Yeah. They are affecting the site,
5 the general site, yes.

6 COMMISSIONER FRANKLIN: The general site.

7 MR. SMITH: Yeah, the general site.

8 COMMISSIONER FRANKLIN: So --

9 MR. SMITH: It's hard to pinpoint where the
10 majority of it is.

11 COMMISSIONER FRANKLIN: Okay. But the general
12 site.

13 MR. SMITH: Yeah.

14 COMMISSIONER FRANKLIN: Then, five units will
15 be able to be developed with this assistance.

16 MR. SMITH: Yes.

17 COMMISSIONER FRANKLIN: And you're saying the
18 other 19 don't need any assistance. They're going to go
19 forward as well?

20 MR. SMITH: We hope to go forward. We still
21 probably -- and I'm not quite sure, but we still may need \$40-
22 , \$50,000. But we will find ways to make that up.

23 The project will proceed regardless. But these
24 units probably would not proceed at this time without this
25 assistance.

26 COMMISSIONER FRANKLIN: But you're still

1 seeking \$40- to \$50K more?

2 MR. SMITH: Well, we may be. I'm not quite
3 sure of the numbers. We have --

4 COMMISSIONER FRANKLIN: Are we to understand
5 that a C of O on this project wouldn't be granted until these
6 five units are developed?

7 MR. SMITH: Yes.

8 COMMISSIONER FRANKLIN: But if these five units
9 proceed and the other 19 don't go forward, what will be the
10 impact on the marketing of these five?

11 MR. SMITH: Well, actually, we're going to sell
12 -- we are going to sell units.

13 COMMISSIONER FRANKLIN: I understand.

14 MR. SMITH: And some of the units -- we will
15 eventually build all of these units. But some will be sold --
16 built and sold before others. They will -- not all 19 will be
17 built at the same time.

18 COMMISSIONER FRANKLIN: So in your view, these
19 are the first to go forward?

20 MR. SMITH: As I understand it, yes, we will --
21 these will be the first to go forward.

22 COMMISSIONER FRANKLIN: And those will go to
23 market before you build the others?

24 MR. SMITH: Exactly.

25 COMMISSIONER FRANKLIN: And you don't think
26 that the marketing of these will be in any way deterred or

1 inhibited or chilled by the absence of the others?

2 MR. SMITH: No. Because we are doing another
3 project, joint venture with Manna, which is a non-profit
4 developer, which you are most familiar with.

5 COMMISSIONER FRANKLIN: By the way, Mr. Smith,
6 are you non-profit as well?

7 MR. SMITH: We are a non-profit.

8 COMMISSIONER FRANKLIN: So the fact that you
9 haven't earned a profit is consistent with your purpose.

10 MR. SMITH: Well, yeah. Yeah. You know, but
11 that's easy to say. It is very difficult to do housing in the
12 District of Columbia, low/moderate income housing. I don't
13 think people understand that. And a lot of CECs and CEOs and
14 housing providers are sort of like downplayed. It is very
15 difficult to do.

16 We run into the same kind of roadblocks and
17 everything that everybody else runs into. We don't get any
18 breaks or anything else. So it is very difficult.

19 So we intend that this project will move
20 forward. We have spent money, and we have raised money from
21 other sources to do our housing, and, as I said, in the 12
22 years we have been doing housing. But our purpose is it's
23 okay. We're not worried about that. But we don't want to --
24 we can't go in the hole on every project. We --

25 COMMISSIONER FRANKLIN: I understand. Who is
26 going to actually develop these houses? The five that we're

1 talking about.

2 MR. SMITH: We have a joint venture with a
3 developer who will be a fee developer for us, and we will do
4 -- we do supervision on our own projects. We do construction
5 management.

6 COMMISSIONER FRANKLIN: So the role of JBG in
7 this is, as it were, is just as sort of a grantor.

8 MR. SMITH: Exactly. They're a grantor.
9 They --

10 COMMISSIONER FRANKLIN: And after they --

11 MR. SMITH: They have --

12 COMMISSIONER FRANKLIN: -- grant the money to
13 you --

14 MR. SMITH: Yes.

15 COMMISSIONER FRANKLIN: -- after you get the
16 money from them, do they have any continuing role in this?

17 MR. SMITH: No, they have no role. They have
18 no responsibility. We are responsible for delivering the
19 product.

20 COMMISSIONER FRANKLIN: I have no further
21 questions.

22 CHAIRPERSON KRESS: All right. Thank you.
23 Any more questions? Any questions from the
24 applicant?

25 MR. QUIN: No questions.

26 COMMISSIONER CLARENS: Madam Chairperson, and I

1 don't know how the Commission has acted before, but would it
2 be appropriate to get into the record a small package that
3 indicates what is, in fact, the product that we are getting as
4 part of this -- you know, this compound from you, so we can
5 get a set of plans and site plans, and that --

6 MR. SMITH: We can supply that.

7 COMMISSIONER CLARENS: -- that shows what the
8 housing is an where it's located, etcetera, etcetera.

9 MR. SMITH: Sure.

10 CHAIRPERSON KRESS: I didn't get to ask -- did
11 Ms. DeHart or Ms. Mitten care to cross examine Mr. Smith?

12 COMMISSIONER FRANKLIN: I just have one further
13 question, Mr. Sure.

14 MR. SMITH: Sure.

15 COMMISSIONER FRANKLIN: Sorry.

16 MR. SMITH: That's okay.

17 COMMISSIONER FRANKLIN: Is there no program
18 within the District government that can provide this kind of
19 assistance to you?

20 MR. SMITH: Infrequently. The Department of
21 Housing and Community Development provides administrative
22 funds to housing groups, some housing groups, and some
23 community development corporations like ourselves. So
24 basically the subsidy of being able to even start doing this
25 is in the form of administrative grants.

26 COMMISSIONER FRANKLIN: Startup --

1 MR. SMITH: Yes.

2 COMMISSIONER FRANKLIN: Right.

3 MR. SMITH: The houses -- we have produced over
4 a hundred single-family houses. We are doing -- we will end
5 up with about 400 apartment units and other units that we have
6 done has been basically with the administrative cost. We
7 borrow the money at prime, prime plus from banks. We have
8 lines of credit with at least two to three banks in financial
9 institutions.

10 And so we buy the land or we buy units,
11 renovate them, or we build new houses. It is all financed,
12 and we sell the units, pay the bank back, and it's all done.

13 Now, at the end of that scenario, there is a
14 developer's incentive fee that is sometimes available from the
15 Housing Department; sometimes it's not, depending on the
16 amount of money that they have available. When there is some
17 money available, when a unit is sold and the owner has gone to
18 closing -- and we can document that -- we can apply for a
19 developer's incentive fee of \$7,500.

20 Usually, over the years, we have already piled
21 most of that back into the house to make it affordable for the
22 tenants. So usually we end up maybe being able to net a few
23 hundred dollars, which really doesn't take care of a lot of
24 our overhead and other costs.

25 COMMISSIONER FRANKLIN: And the purchaser, once
26 they purchase a home from you, they are able to resell and --

1 MR. SMITH: After five years, because about 95,
2 96, 98 percent of the houses that we sell are to HPAP buyers,
3 Housing Purchase Assistance Program buyers. So they have a
4 five-year restriction on their ability to resell.

5 COMMISSIONER FRANKLIN: All right.

6 MR. SMITH: Now, we have sold a handful of
7 houses to people who did not need that assistance.

8 COMMISSIONER FRANKLIN: But after the five
9 years, then, they can --

10 MR. SMITH: After the five years and other
11 restrictions have passed, they could --

12 COMMISSIONER FRANKLIN: Sell it like anybody
13 else.

14 MR. SMITH: -- they could do that, yes.

15 COMMISSIONER FRANKLIN: Thank you.

16 MR. SMITH: Yes.

17 CHAIRPERSON KRESS: Any further questions?
18 Thank you. Good to see you again.

19 MR. SMITH: Thank you.

20 CHAIRPERSON KRESS: Is there anyone else who
21 would like to testify as a proponent? All right. If not,
22 we're going to persons and parties in opposition. And we'll
23 start with Ms. Mitten.

24 We have allocated 15 minutes for parties. Is
25 that going to be enough for you?

26 MS. MITTEN: We are going to be as diligent as

1 possible to meet that. Maybe if we all move up here together
2 now it would --

3 CHAIRPERSON KRESS: See, they can add on to it
4 by testifying as individuals.

5 MS. MITTEN: Or experts?

6 COMMISSIONER CLARENS: She has an expert
7 witness. That's part of her 15 minutes at this point.

8 CHAIRPERSON KRESS: She's got three experts.

9 COMMISSIONER CLARENS: That's right. That's
10 one of her --

11 CHAIRPERSON KRESS: Well, let's see how well we
12 do. I want to be fair and make sure that you -- we're able to
13 hear your case.

14 MS. MITTEN: All right. I think if you're just
15 a little lenient on the 15, we're really trying to be
16 conservative with the time.

17 CHAIRPERSON KRESS: Okay. Good. You might
18 have your experts go ahead and sit at the table with you and
19 identify themselves.

20 MS. MITTEN: I would request permission to
21 change the order of the witnesses from what is listed.

22 CHAIRPERSON KRESS: Certainly.

23 MS. MITTEN: I'll speak first, and then Desmond
24 Foynes, followed by George Oberlander, and then Dr. Carter.

25 We're ready now.

26 CHAIRPERSON KRESS: I'm impressed. You've done

1 your homework.

2 MS. MITTEN: Madam Chair and members of the
3 Zoning Commission, as you know, my name is Carol Mitten. And
4 on behalf of the Presidential Owners, Incorporated, let me
5 express our appreciation for the consideration that you will
6 give to our views on the application that is before you.

7 The Presidential is a 42-unit apartment
8 building located 93 feet north of the site that is the subject
9 of this application. The building was constructed in 1927 and
10 became a cooperative in 1959. One of our owners has resided
11 in the building since the conversion, and some of the
12 residents have lived in the building for more than 20 years.
13 Several of the residents are in attendance this evening.

14 Each of us has individual reasons for opposing
15 this application, including issues related to building,
16 height, the location of the parking garage, access, retail
17 uses along 16th Street, and the additional traffic that the
18 project will generate, and so on.

19 The common thread, however, is that we want to
20 preserve the historic character of lower 16th Street that is
21 reflected in the vista between the White House and Scott
22 Circle.

23 As you can see on the board at your left and as
24 Steve Sher mentioned, the mix of uses along lower 16th Street
25 is diverse and includes as represented by the various callers
26 there, for example: diplomatic use, which is in blue; hotels,

1 in orange; residential uses in yellow; churches, in purple;
2 and so on.

3 The architecture is diverse as well, as the
4 photographs along the side illustrate. No building taller
5 than 90 feet intrudes upon this vista within 100 feet of 16th
6 Street. And no parking garage entrances mix cars and
7 pedestrians on the ten-foot-wide sidewalks of lower 16th
8 Street.

9 Lower 16th Street has more green space than
10 most streets in the central employment area that do not front
11 on parks. Almost without exception, those residents of the
12 Presidential who are not retired routinely walk to work. We
13 are intimately familiar with the extraordinary character of
14 lower 16th Street because the comparison with other downtown
15 streets is stark.

16 It is not by chance that lower 16th Street has
17 this special character. It has been planned that way always
18 from the L'Enfant plan to the comprehensive plan to the
19 generalized land use map to the zoning ordinance, lower 16th
20 Street was meant to be preserved this way.

21 The applicant seeks to alter the significant
22 attributes that define lower 16th Street, which had been
23 protected by the existing zoning designations for 40 years.
24 We ask the Zoning Commission as stewards of the L'Enfant plan
25 and the comprehensive plan to deny this rezoning and PUD
26 application.

1 During the next few minutes, we will present
2 testimony from George Oberlander, who will address the
3 specific elements of the comprehensive plan that this
4 application violates.

5 Dr. Carter will address the effects of
6 additional traffic on an already over-saturated intersection
7 as well as the effect of locating the parking garage entrance
8 in its proposed position.

9 Desmond Foynes will contrast the private
10 benefit that will be gained if this application is granted
11 with the public benefits being offered.

12 Please be mindful of several important points
13 as you listen to the testimony that we offer. Rezoning is
14 appropriate when there is an inconsistency between the zoning
15 designation and the planning documents.

16 Where if there had been an inconsistency
17 between the comprehensive plan and the generalized land use
18 map along lower 16th Street, that inconsistency was recognized
19 by the Office of Planning in an April 1997 memorandum to this
20 body. And I'd like to just read a bit out of that.

21 This is out of the rationale for a proposed
22 amendment to the comprehensive plan to strengthen the
23 protection of this area of 16th Street. This is a quote from
24 the memorandum from the Office of Planning to the Zoning
25 Commission, "High-density commercial zoning that would allow
26 matter-of-right development with potentially out-of-scale or

1 inappropriately designed buildings would not do justice to the
2 existing and future character of 16th Street as a very special
3 and symbolic street. The District has ample areas and parcels
4 of vacant and under-utilized land in the central employment
5 area that are zoned for high-density office development where
6 public policy encourages such development." That's the end of
7 the quote.

8 Comprehensive plan amendments and map
9 amendments that were proposed by the Office of Planning at
10 that time were adopted in recent weeks by the actions of the
11 City Council. And we understand there are further approvals
12 that are required before those become legally binding. But,
13 for your information, they have been approved by the City
14 Council.

15 We believe there is no longer any consistency
16 between the existing zoning of the applicant's property and
17 any municipal planning documents. The fundamental basis for
18 rezoning does not exist.

19 The focus of this application is misplaced.
20 The argument as to why greater building height should be
21 permitted through the rezoning is based on the site's K Street
22 orientation.

23 The comprehensive plan clearly places the
24 emphasis on 16th Street. The applicant is seeking to create a
25 new environment at 16th and K Streets while all the planning
26 documents seek to preserve the existing environment.

1 If the Zoning Commission permits the special
2 treatment area of lower 16th Street to be recognized merely
3 with a 20-foot veneer of SP zoning, other property owners
4 along 16th Street will seek the same kind of rezoning.

5 Then, as taller buildings encroach on the vista
6 between the White House and Scott Circle and green space is
7 replaced by parking garage entrances and sidewalks to retail
8 storefronts and apartment buildings and hotels give way to
9 office buildings, lower 16th Street will cease to be a special
10 street. And I'd like to just add a few words related to some
11 of the questions that I posed earlier.

12 Regarding the zoning variance that was granted
13 for the Solar Building to initially be constructed and the
14 covenant that was required to be recorded that evidently was
15 not recorded, we think it's relevant that given that this is
16 not a by-right development but that there is consideration
17 being asked for by the Zoning Commission that you consider the
18 fact that the organize development of the Solar Building
19 required parking in the garage on L Street.

20 So when you determine whether there is some
21 duress that necessitates garage access from 16th Street,
22 please remember that that was part of the original agreement
23 about the development of the Solar Building.

24 I'd also like to emphasize the fact that the
25 purpose of the K Street service road is to handle the kind of
26 congestion that will be created by entrance to a parking

1 garage.

2 It's not inappropriate that that should happen
3 and that I would ask the Commission to further examine the
4 financial feasibility of constructing an entrance from K
5 Street. While it might not be preferable, it may actually be
6 possible and in consideration of the public benefit may be in
7 the best interest of at least the citizens.

8 And then in consideration of the question that
9 Mr. Parsons asked regarding how the SP zoning line happened to
10 be in that place, if you'll look at the testimony that I
11 passed out, at Tab 3, there is a 1948 base plat included there
12 for Square 184, where the property that this application
13 concerned is located. And you can see from that plat that the
14 zoning line as it exists followed existing lot lines that
15 existed in 1948 and I guess obviously existed when the zoning
16 lines were drawn.

17 I think that's important because the line
18 that's proposed to be drawn now is an arbitrary line. The
19 zoning ordinance clearly states that zoning lines seek to
20 follow lot lines and that split zoning lots is not desirable.

21 This application would actually split Zone Lot
22 59, which is currently contained in only one zone. I think
23 that's relevant as well. And, in consideration of the
24 additional submissions that are going to be made relative to
25 the design of the building and so forth, we would request that
26 there be a second hearing of this case.

1 And now I'd like to introduce Desmond Foynes,
2 who is an expert in the evaluation of real property.

3 MR. FOYNES: Good evening. May I use the
4 podium?

5 CHAIRPERSON KRESS: Sure.

6 COMMISSIONER PARSONS: If I could interrupt?
7 Did you plan to have these witnesses qualified as experts
8 before this?

9 MS. MITTEN: Yes. I would like to do that. I
10 guess I don't know what the procedure for that is.

11 CHAIRPERSON KRESS: Request each one and say
12 what their expertise is. And if we need them for their
13 credentials, we need to know something about their
14 credentials. Obviously we know Mr. Oberlander.

15 COMMISSIONER PARSONS: Both Mr. Carter, I
16 believe, and Mr. Oberlander have both been certified in the
17 past. I don't recall Mr. Foynes, though.

18 CHAIRPERSON KRESS: So, with that, then, we
19 will just mark sure that they are certified and then just ask
20 to hear a little bit about Mr. Foynes.

21 MS. MITTEN: Shall I do that, I request that of
22 you, I request that you accept Mr. Foynes as an expert in
23 evaluation of real property?

24 CHAIRPERSON KRESS: Can we hear just a few
25 credentials?

26 MR. FOYNES: Absolutely. I guess the first

1 thing to do is this is my submission. It does not represent
2 the entirety of my testimony. If you turn to the second page,
3 there are -- I'm sorry. This is the second one.

4 Tab 8 of my submission has a succinct statement
5 of qualifications.

6 CHAIRPERSON KRESS: Oh, terrific.

7 MR. FOYNES: That includes education, includes
8 professional experience and professional diverse, I believe
9 diverse, professional experience. I might add, Madam --

10 CHAIRPERSON KRESS: Tab 8.

11 MR. FOYNES: I might add, Madam Chair, that in
12 199 and 1995, like yourself, I had a Merrill appointment. I
13 served on the Board of Real Property Assessment and Appeals.

14 In that role, I routinely heard the assessment
15 appeal of property owners in the District of Columbia. I
16 served on a three-person panel. Our panel routinely, although
17 not exclusively, routinely addressed the tax appeals and
18 evaluation issues of commercial property owners in the city.

19 COMMISSIONER PARSONS: Sounds good to me.

20 CHAIRPERSON KRESS: Sounds good to me, too.

21 MS. MITTEN: Thank you.

22 CHAIRPERSON KRESS: All of your witnesses are
23 declared as expert witnesses.

24 MS. MITTEN: Thank you, Madam Chair.

25 MR. FOYNES: What I'd like to do is direct your
26 attention to the second page of my submission. That's table

1 of contents. It includes my testimony; a factual summary,
2 which is two pages; illustrative materials; a two-page piece
3 on procedural issues; a statement on parking and traffic
4 issues; recent correspondence to Jill Dennis of the Office of
5 Planning; some press clips; and, as I mentioned, my
6 qualifications.

7 I will not in my oral testimony this evening
8 address each of these eight points. I'm going to change the
9 order. I'm going to address -- first I'm going to refer you
10 to Tab 3, then Tab 2. And if I still have time, I'll actually
11 go to my testimony.

12 I am available at your request to discuss Items
13 4 through 7.

14 CHAIRPERSON KRESS: All right.

15 MR. FOYNES: So, with that by way of
16 introduction, I'd ask you to turn to Tab 3. In my submission,
17 that's a zoning map. The subject property is indicated on the
18 zoning map. And also highlighted are the depths of the SP
19 zone along 16th Street.

20 Those depths range from 106 feet at M Street to
21 137 feet at Eye. At the Solar Building, the existing depth is
22 45 feet. That's the entirety of my statement directed to the
23 zoning map.

24 If you turn to the next page and you orient it
25 in a fashion like this, there's a base atlas map. And that
26 illustrates in red the Solar Building, in yellow the

1 Presidential Apartments, and in blue a parking garage that was
2 coveted in 1955 by the Board of Zoning, by the BZA. Again,
3 this is just to orient you to what I think are relevant
4 properties in this proceeding.

5 If you turn the next page, there's a very bold,
6 not quite day-glow colors, but the top illustration is the
7 existing boundaries, zoning boundaries, of the site. And
8 there's a summation to the right, that is. The total site
9 contains approximately 20,000 square feet. Sixty percent of
10 the existing site is SP. Forty percent is C-4.

11 The bottom half of that illustration is the
12 proposed configuration of the zoning boundaries for this site.
13 The SP will be reduced from 60 percent of total land area to
14 15 percent of total land area. That's the entirety of my
15 statement for Tab 3.

16 Now I'll direct you, please, to Tab 2. This is
17 a factual summation of this case. Along the left-hand column,
18 you see numbers. I'm going to orient you to the numbers.

19 For example, Fields 1 and 2 reaffirm some
20 facts. The address of the property is, in fact, 16th Street.
21 Field 2 addresses the respective frontages on public streets.
22 The predominant frontage of the property is 16th Street.

23 Field 3 restates the illustration that you saw
24 a few moments ago about the composition of the site, the
25 20,000 square feet between the two zoning categories.

26 Field 4 summarizes the allocation of commercial

1 and residential density between the SP zone and the by-right
2 density of C-4 and also just to the right of that what is
3 allowed in SP and C-4 under PUD provisions.

4 If I may interject to this point, are all
5 commissioners comfortable with my presentation and the
6 organization of facts?

7 (No response.)

8 MR. FOYNES: Fields 5 and 5A summarize the
9 by-right density or densities that would be available to this
10 site if the site were vacant. The by-right density if vacant
11 and as zoned would be 123,000 square feet. Going over two
12 columns, the by-right density if the site were rezoned would
13 be 180,000 square feet.

14 Now, if you turn the page to Field 6, Field 6
15 is a summary of existing and proposed densities. The existing
16 density of the Solar Building is 158,000 square feet. The
17 proposed density is 200,000 square feet. The difference
18 between those two numbers is 42,588 square feet.

19 In my opinion, that is the fundamental fact in
20 this hearing. The applicant is applying for the right to add
21 42,000 square feet to the site. The vehicle to get that
22 density is to redraw the zoning lines in a manner that was
23 illustrated a few moments ago.

24 Field 7 is simply an illustration, and the
25 emphasis is that it is an illustration, of the private
26 benefits associated with this request. And that private

1 benefit is broken down to an increment to land value and an
2 increment to total project value. And the range is
3 deliberately why for land value, for instance, period. The
4 low number is a reasonable and conservative number. The high
5 number is a plausible number that is sustained by market
6 activity.

7 Field 8 is an elaboration of the public
8 benefits that have been offered in various iterations of the
9 proposal. The bottom portion, dated October of 1998, does not
10 include the amendments that were made this evening by Mr.
11 Jacobs. That's the extent of my testimony on Tab 2.

12 Then I will go very briefly to my actual
13 testimony, which I will not read to you. And what I'll direct
14 your attention to is that these remarks are broken down into:
15 public impact, public benefits, and private benefits.

16 The public impact is a -- and I'm on Page 1.
17 The public impacts include a conversion of green space, a
18 common amenity to the neighborhood, to the city, and to all
19 visitors to the federal city, a conversion of green space to
20 an access ramp that benefits a single property.

21 Item 2 in public impact, pedestrians on
22 sidewalks will mingle with cars in and out of the ramp.
23 Operations of Metro bus are right outside the front door. The
24 existing street is over-saturated by the text that was
25 attached to the applicant's package.

26 And there's another three or four items there

1 for your consideration. The public benefits, as represented
2 by the applicant, include: exceptional design, approximately
3 6,400 square feet of affordable housing, contributions to a
4 local school for library resources, a first source agreement,
5 and additional employment sales and real estate taxes.

6 The public benefits I've already enumerated.
7 And, in conclusion, I think it's worthwhile for the Commission
8 to have an equal or a thorough representation of public
9 impact, public benefit, on one hand, and private benefit, on
10 the other.

11 And that concludes my testimony.

12 CHAIRPERSON KRESS: All right. Thank you.

13 Obviously there's a lot of information here.
14 We've already done over 15 minutes. But I think I will look
15 at it as treating each one of you as individuals and give you
16 more time.

17 I think that you've done a lot of work, and I
18 think that we need to have a chance to hear it all. And so we
19 do want to hear from your other two witnesses.

20 MS. MITTEN: I appreciate that, and I thought
21 we were more disciplined than we are, clearly.

22 Now we'd like to hear from George Oberlander,
23 please.

24 CHAIRPERSON KRESS: Thank you. We'll wait to
25 ask questions until after we have heard from everyone.

26 MR. OBERLANDER: Good evening, Madam Chair and

1 members of the Commission. My name is George Oberlander. I
2 am an urban planner. And I have attended and testified before
3 the Zoning Commission numerous years in my capacity mainly as
4 between the Zoning Commission and the Planning Commission for
5 about 31 years. I retired, as most of you know, two years
6 ago. And I have come out of the woodwork on this particular
7 issue because it is a very special street that is being
8 effected by the proposal and even though the architecture that
9 has been suggested and the developer, JGB, are very prominent
10 and very good developers. But this building is suggested in
11 the wrong place, and it should be elsewhere.

12 My testimony will deal with why the PUD should
13 be rejected and if you look -- have you got copies of my
14 statement?

15 CHAIRPERSON KRESS: Yes, we do.

16 MR. OBERLANDER: On Page 1 in bullet form,
17 there's a summarization of the reasons. Moving the SP
18 boundary closer to 16th Street is really very inappropriate
19 and would circumvent the intent and purpose of the zoning
20 district along 16th Street.

21 Authorizing a 130-foot building, even though
22 it's set back at the 90-foot and at the 116-foot levels
23 fronting on 16th Street closer than the currently permitted,
24 violates various public policies contained in the
25 comprehensive plan for the national capital, both the District
26 elements and the federal elements and the special treatment

1 area provided for 16th Street, which is in the District
2 elements of the comprehensive plan.

3 The appearance of 16th Street is historically
4 and nationally significant. And it is an integral component
5 of the L'Enfant and McMillan plans.

6 Sixteenth Street has the special quality of
7 unique view of the approach and the front of the White House.
8 The lower height of the buildings along 16th Street
9 establishes this view shed. And that is really my main
10 concern of maintaining the view shed as it has been structured
11 under the SP zoning that has been in place since 1958.

12 The proposed height and mass of the PUD would
13 have an adverse impact on the Sheraton Carlton Hotel, a
14 national register landmark. Even though the Sheraton is
15 supporting this application, they don't really realize the
16 impact that this building will have not only in shadow effects
17 across the street but in terms of the character of the
18 intersection.

19 The applicant has design options with the
20 current zoning boundaries in place to redevelop the assembled
21 site more in keeping with the existing character of 16th
22 Street; however, at a lower density.

23 The zoning case that you considered very
24 recently, 97-7, the SP text and map amendment case, this
25 Commission recently reaffirmed maintaining the SP character
26 for lower 16th Street. And approving this PUD would be

1 contrary to your order of just last month, November 9th, 1998.
2 The existing building height, mass, and setbacks of this
3 intersection should not be altered.

4 Now, the testimony goes in more specifically
5 about narrowing the SP zone and the special street
6 designations. I don't want to prolong this. There are
7 specific provisions in the comprehensive plan. And these two
8 documents make up the comprehensive plan: the federal
9 elements as adopted by the National Capital Planning
10 Commission; and the District elements prepared by the mayor,
11 approved by the council, reviewed by NCPC, and not rejected by
12 the Congress.

13 These two documents represent about eight or
14 ten pounds of policies, of which maybe a half a pound deals
15 with 16th Street. And I hate to say that I had a part in
16 adding to the weight of this document.

17 I'm certain you're aware that both 16th Street
18 and K Street are special streets designated in this document.
19 Section 806.1 of the D.C. elements of the special streets and
20 places map and Page 299 of the federal elements clearly
21 indicates that.

22 I've already indicated that these are all
23 special streets of the original L'Enfant plan. And especially
24 16th Street from Florida Avenue south to Lafayette Park is the
25 historic direct visual and physical approach to the White
26 House.

1 Therefore, there are at least five policies for
2 the treatment of special streets and special places in
3 Lafayette Square, which is a special place, which apply to
4 this subject property and its redevelopment. And I cite
5 those, Section 807.1 of the D.C. elements.

6 And I'm very disappointed that the OP report
7 was so very limited on the various policies that it cited.
8 The OP report dealt mainly with the land use map, which is
9 true.

10 The land use map today shows high-density
11 commercial development. It's already been alluded to that the
12 Council of the District of Columbia only last Tuesday adopted
13 an amendment to that plan to reduce that high density to
14 medium to high density and a cross-hatching of that red along
15 the lower 16th Street.

16 As Mr. Quin will jump up and say, yes, but it
17 hasn't been enacted yet and it may never be enacted. It
18 probably will be enacted in my opinion, and the Zoning
19 Commission should be made aware of actions that the land use
20 policy-making body has already undertaken.

21 The applicant concedes this policy by stating
22 on Page 3 of the application "This corner marks the
23 intersection of two highly visible and character-defining
24 features of the city." And precisely for this reason, it is
25 inappropriate to reduce the depth of the SP-2 designation and
26 allow a taller building, up to 130 feet, closer to the

1 intersection.

2 The architects have done an excellent job of
3 trying to set back the upper parts of the building. But in my
4 opinion, if you stand on Lafayette Park and look northward on
5 16th Street, you will see the 116-foot height projecting out
6 into the view shed, where there is no such building mass
7 today. And that is the objection that I have certainly to
8 allowing such a design at that location.

9 Section 807.3 of the plan says that the
10 existing street space and the buildings fronting on special
11 streets and places should be maintained, protected, and
12 enhanced.

13 Any repair, maintenance, improvement as is
14 being proposed or new buildings, as this is, should respect
15 the historic elements. The architects have tried to, but they
16 are not in my opinion successful enough. They have to enhance
17 the aesthetic quality and promote the amenity of this space,
18 which this design, unfortunately, doesn't do yet.

19 There are historic landmarks, issues that need
20 to be addressed, not necessarily by this Commission. There
21 are other buildings in the four corners of this site that are
22 possibly eligible for listing in the national register.

23 Ben Forgy wrote an article a few months back
24 about identifying a number of buildings on K Street and on
25 16th Street which have not any historic designation yet. But
26 in that connection, I just was made aware this afternoon that

1 the Department of Consumer and Regulatory Affairs has given
2 the D.C. Preservation League a grant of \$18,000 to do a study
3 of the historic sites from Lafayette Park up to Massachusetts
4 Avenue to determine whether there are additional buildings
5 that should be listed in the national register for historic
6 places.

7 And again Mr. Quin will quickly jump up to this
8 hasn't been enacted yet, but there is consideration for
9 designating the entire lower part of 16th Street as a historic
10 district.

11 With respect to the height and design of 16th
12 Street, I think the most important aspect is to point out in
13 Section 807.17 of the plan that deals with the height of
14 buildings along special streets. And I quote, "The general
15 height roof lines and massing of buildings should serve as a
16 unified background for the public space in these special
17 streets and places." In my opinion, the design does not
18 create a unified background for the special street.

19 The proposal, as designed, if approved, would:
20 unbalance the appearance of the massing of the buildings on
21 16th Street intersection, create new precedent for other
22 property owners to raise the height of their buildings along
23 16th Street, and become an even more visual intrusion roof
24 line as seen from Lafayette Square, another historic landmark,
25 or from the east side of the White House grounds.

26 The architectural design, as I indicated

1 earlier, is quite attractive. An OP report indicates
2 sensitivity to 16th Street, but the upper portions -- and I
3 reiterate again -- above the 90-foot setback of only 20 feet
4 needs to be set back a greater distance before it rises to 130
5 feet. In order to be more in balance with the east side of
6 the street, the applicant proposes a 116 and a 103-foot height
7 at the average 27-foot setback line and 130 feet at the
8 40-foot setback line.

9 By contrast, if you look at one of the other
10 buildings along this drawing, within the SP-2 zone, you have
11 85-foot to 130-foot away from 16th Street. And there are no
12 buildings taller than 90 feet.

13 If you look at the applicant's perspective,
14 A-14, and the context elevation drawing, A-2, as well as
15 Drawing S-2, existing conditions elevation, it is very evident
16 that the setbacks for the Hilton are deeper at the first roof
17 line than the proposed PUD across the street. And I call your
18 attention to this diagram, A-14, which is very evident.

19 And also, looking at the video that is very
20 well-presented and impressive to use before the Zoning
21 Commission, at the end of the video, as the camera turned
22 northward, you could see how much that building juts out into
23 the view shed of 16th Street. And that is the problem with
24 this proposal.

25 Let's address quickly federal interests. As
26 you have noted from some of my testimony, there are various

1 federal interests involved in this proposal. And the file
2 record does not show a report from NCPC.

3 It has been the practice of the Zoning
4 Commission during the time I had the distinction of being the
5 principal liaison between the two bodies that a contested case
6 would be referred to NCPC prior to the public hearing.

7 This pre-hearing referral is made at the time
8 in order to obtain NCPC's report and provide the parties at
9 the hearing this evening the opportunity to cross-examine that
10 report. I know this well since I was cross-examined in
11 numerous cases over the years.

12 Only rulemaking cases had been referred to NCPC
13 after the public hearing and prior to taking final action on
14 your proposed rulemaking. Therefore, procedurally I believe
15 this case would need to be continued until the report in
16 question can be examined.

17 The purpose of the SP zoning, I think you know
18 it well. I don't need to take the time to -- I was quickly --

19 CHAIRPERSON KRESS: And we are well over a half
20 an hour now.

21 MR. OBERLANDER: Right. Page 4 of my statement
22 deals with the comprehensive plan amendments pending before
23 the Council. I will only point out only that the OP report
24 makes no reference to this Council land use intent to protect
25 16th Street. And that in my opinion is an inadequacy of the
26 report.

1 You already heard about the OP's report of
2 April 4th, 1997 dealing with the SP zoning. In that report,
3 they were very strong in protecting 16th Street. And, in
4 fact, the sections of the plan that were pointed out by the
5 applicant have not really been met in this case.

6 Section 1120.2 says, "Protect and enhance the
7 special character of this approach to the White House and
8 Lafayette Park." 1120.2(b) says, "Develop urban design and
9 architectural features criteria that enhance the area." This
10 has never been done, to my knowledge. And you can continue
11 reading on your own.

12 The OP final report, in my opinion, is quite
13 inadequate, primarily because there is a requirement in
14 Section 500.6 of the zoning regulations which requires a,
15 quote, "impact assessment report" from the Office of Planning
16 which I do not find in the Office of Planning's report.

17 Page 2 of the OP final report states that the
18 SP-2 district is a high-density zone. This is incorrect. The
19 SP zone is a medium to high-density zone, as described in
20 Section 500.4 of the zoning regulations.

21 Well, in quick summary, the application in its
22 present form should be denied. Granting the PUD would create
23 precedent for other property owners to request the same
24 treatment. Reducing the SP-2 zone to 20 feet is really not
25 acceptable.

26 The PUD is contrary to the policy of the

1 comprehensive plan for the national capital. The OP report is
2 not adequate with regard to comprehensive plan consistency.

3 The applicant states that the Solar Building
4 never fulfilled its architectural potential to celebrate the
5 permanence of this intersection. Well, this opportunity can
6 be achieved with a less massive and lower structure fronting
7 16th Street.

8 The Office of Planning should be instructed to
9 work with the applicant further to achieve an acceptable
10 solution. And the Council's pending comprehensive plan
11 amendment has already been mentioned.

12 It is, therefore, suggested that the SP-2
13 boundaries remain in their present location and that the
14 design of the PUD be revised to create a no taller than
15 90-foot structure within the current SP-2 zoning with a
16 130-foot structure on the remaining portion of this site,
17 which is currently zoned C-4. Such a design could establish a
18 less massive structure at this important intersection and
19 maintain the special character of lower 16th Street.

20 I'd be most happy to answer any questions you
21 might have of me.

22 CHAIRPERSON KRESS: All right. We'd like to
23 hear the full testimony. Would you mind?

24 MS. MITTEN: Sure. Dr. Carter?

25 DR. CARTER: My name is Everett Carter. And
26 I'm a professor emeritus at the University of Maryland. And I

1 will try to make this very brief, three or four minutes if
2 possible.

3 When you get my report, the Page 2 is a
4 summary. Page 1 was somehow the cover. I'm not sure how that
5 happened. And what I'd like to point out is the traffic
6 impact analysis that was provided by the applicant as
7 inadequate for several reasons.

8 Number one, the capacity, intersection capacity
9 analysis, ignores bus stops and pedestrians. According to
10 WMATA, 16th Street southbound, the bus stop at K has 28 buses
11 stopping in the AMP. That's about one every 2 minutes and
12 somewhere between 200 and 350 pedestrians per hour crossing
13 the street.

14 They considered only two intersections. Yet,
15 it admitted that one intersection away was operating a level
16 of service F and also admitted that field operations would
17 indicate that 16th and K is operating very sluggishly and is
18 really over-saturated, showing over-saturated conditions.

19 The two service roads on K Street do not
20 operate as regular lanes because of the parking and unparking
21 and the alleys that are served by the service road. You can't
22 count that in the capacity analysis the same as you would a
23 regular lane.

24 The bus stop that I mentioned before on 16th
25 Street southbound basically takes away the right line about 50
26 percent of the time. So you can't count that as a three-lane

1 approach. It's only really a two and a half-lane approach.
2 And also 15-minute parking on northbound 16th approach at K
3 Street reduces the capacity of the northbound 16th Street.

4 Finally, the vicinity development. There are
5 two large developments which are large general office
6 buildings in the planning stages. And by right they can
7 develop to very high densities, as you will see in Table 2,
8 which I leave for you to take a look at. But you'll notice
9 that the development there, there are several hundred
10 vehicles. There are trips that are going to be generated by
11 those two office buildings. And they're summarized in Table
12 2.

13 Trip generation was significantly
14 underestimated for the site trips. And I used the ITE trip
15 generation manual, sixth edition -- and the equations are
16 shown in my text on Page 4 -- and ended up with about three
17 times as many trips as Mr. Slade got for the PMP and almost
18 double what he got for the AMP. And I used the equations that
19 were suggested.

20 On the parking demand -- and truck loading is
21 simply a description on parking. I saw no evidence that there
22 was a parking supply study done. No survey was indicated of
23 the workers existing in the existing building. Where do they
24 park? And what is the actual parking demand?

25 And also the same thing for the loading area.
26 It just proposes providing an undersized loading area without

1 anything more than just saying, "Here it is." And so it
2 really was not an analysis per se.

3 And, finally, the garage location with the
4 access on 16th Street has already been discussed. I'll just
5 point out I have serious reservations about this. And if you
6 could get access from K Street, from the service road, the
7 service road is already congested.

8 So you're not to interfere with other traffic
9 as much and probably not with pedestrians either because
10 you're not out in the main lanes but you're going to be in the
11 service road. And the sidewalk you would cross. And that's
12 not much different. You would be crossing it at a slower
13 speed. The turning right from a slow speed is less apt to
14 have a pedestrian injury. You might have conflicts but not as
15 apt to have injuries to pedestrians.

16 And, finally, I would just summarize by saying
17 that I believe this application should be denied on the basis
18 of traffic because it did not show the real traffic impact.

19 I'd be happy to answer questions.

20 CHAIRPERSON KRESS: Okay. Before we start
21 asking questions, how many other people are here to testify in
22 opposition this evening?

23 (Whereupon, there was a show of hands.)

24 CHAIRPERSON KRESS: Do I just see two hands?
25 Are there four?

26 COMMISSIONER FRANKLIN: Four.

1 CHAIRPERSON KRESS: Okay. I'm trying to see if
2 we can finish. What is your pleasure? Do you want to try to
3 finish? Well, we'll see how the questions go. We'll start
4 ourselves first.

5 Questions, colleagues, for Ms. Mitten's team?

6 COMMISSIONER FRANKLIN: Yes. I have a couple
7 of questions for Mr. Oberlander. I guess I didn't see the
8 same video that you saw. Is it possible to run that video
9 again? Because I'd like you to show me. Is it possible to
10 stop it at any given point?

11 I'd like to have it run again and then have you
12 say "Stop" at the point where you say there's a problem with
13 the view shed I guess toward the White House or both
14 directions.

15 MR. OBERLANDER: Both directions, but the video
16 shows it from this house.

17 COMMISSIONER FRANKLIN: Well, I thought it went
18 both directions. We're going now in a southerly direction?

19 MR. OBERLANDER: Right. See, this piece --

20 COMMISSIONER FRANKLIN: And you tell it to
21 stop. Is that what you're --

22 MR. OBERLANDER: You can't see it at this point
23 anymore.

24 COMMISSIONER FRANKLIN: Well, then let's back
25 up. Back up a bit? Okay. Now tell George --

26 MR. OBERLANDER: The view is really from the

1 south, not from the north.

2 COMMISSIONER FRANKLIN: Okay.

3 MR. OBERLANDER: Okay. Well, then let's go all
4 the way back and then --

5 COMMISSIONER FRANKLIN: No, no. Let's
6 continue. All right. Okay.

7 MR. OBERLANDER: Because this is in the same
8 plain as the existing buildings.

9 COMMISSIONER FRANKLIN: So this is not
10 something that you're objecting to?

11 MR. OBERLANDER: No. But it is this piece
12 here. The upper part that is visible from a much greater time
13 -- now stop it here. Stop. Right.

14 COMMISSIONER FRANKLIN: Okay. Okay.

15 MR. OBERLANDER: This is where it really sticks
16 out at that intersection.

17 COMMISSIONER FRANKLIN: What sticks out?

18 MR. OBERLANDER: The building.

19 COMMISSIONER FRANKLIN: This?

20 MR. OBERLANDER: Yes. The upper part. This is
21 the --

22 COMMISSIONER FRANKLIN: The upper part or the
23 part that's --

24 MR. OBERLANDER: The upper -- this is 90 feet.
25 It's this piece that sticks out.

26 COMMISSIONER FRANKLIN: It sticks out?

1 MR. OBERLANDER: Right, and imbalances with the
2 other side. There's nothing of that nature on the other side,
3 on the Hilton Hotel, because that part is set back much
4 further.

5 COMMISSIONER FRANKLIN: And what --

6 MR. OBERLANDER: All I'm saying is this piece
7 needs to be set back another 20 or 30 feet.

8 COMMISSIONER FRANKLIN: And what would you say
9 about the relationship to the building just across the street,
10 across K Street?

11 MR. OBERLANDER: To this?

12 COMMISSIONER FRANKLIN: Yes.

13 MR. OBERLANDER: This is lower, this is the
14 only 89 or 90 feet.

15 COMMISSIONER FRANKLIN: But what does it look
16 like from this perspective?

17 MR. OBERLANDER: Again, you can see the
18 building over the top of this building.

19 COMMISSIONER FRANKLIN: That's true.

20 MR. OBERLANDER: And that's what you can't see
21 now. There is nothing. You see sky now.

22 COMMISSIONER FRANKLIN: Okay.

23 MR. OBERLANDER: And as you come further down,
24 I mean, it just gets -- the mass of the building narrows the
25 openness of the view.

26 COMMISSIONER FRANKLIN: Keep going. Keep

1 going.

2 MR. OBERLANDER: If I may point out A-14, the
3 Hilton is set back. This is what is jutting out from this
4 view.

5 COMMISSIONER FRANKLIN: You mentioned about the
6 shadowing of the Carlton Hotel. Do you have a study to
7 indicate to us what those shadows are? And are you willing to
8 submit something for the record that would show that shadowing
9 condition?

10 MR. OBERLANDER: I'd be glad to. Yes, sir.

11 COMMISSIONER FRANKLIN: Okay. I think we
12 should get that.

13 And, Mr. Oberlander, what do you think is the
14 guidance that we get from something that is medium to high
15 density as a description of an area, as compared to high
16 density?

17 MR. OBERLANDER: Mainly the reduction in
18 density, the reduction in high-level class.

19 COMMISSIONER FRANKLIN: At what point? What
20 area does the phrase "medium to high density" apply to?

21 MR. OBERLANDER: Medium to high in zoning terms
22 is a --

23 COMMISSIONER FRANKLIN: In comprehensive plan
24 terms.

25 MR. OBERLANDER: Well, that is the problem
26 between the land use designations in the comprehensive plan.

1 And zoning shall not be inconsistent with that. And that is a
2 function of the Zoning Commission to translate.

3 COMMISSIONER FRANKLIN: When you say it's a
4 problem, it's a problem of interpretation?

5 MR. OBERLANDER: That's right.

6 COMMISSIONER FRANKLIN: Okay. That's what I
7 thought.

8 Now I have a couple of questions for Dr.
9 Carter. There have been a number of references to the parking
10 garage and the interference with pedestrian traffic.

11 What is your opinion as to the number of
12 in-and-out trips generated by a parking garage, as is being
13 proposed, compared to what might be called the in-and-out
14 trips that result from the Carlton Hotel, the Hilton Hotel,
15 and the University Club?

16 DR. CARTER: I haven't really studied any of
17 those, to be honest with you, but --

18 COMMISSIONER FRANKLIN: Well, do you have an
19 opinion as to how likely it is that the Carlton Hotel, the
20 Hilton Hotel, and the University Club are generating
21 in-and-out traffic crossing the pedestrian sidewalk at a
22 frequency that is less, equal to, or greater than that likely
23 to be experienced by a commercial office building parking
24 garage?

25 DR. CARTER: In the morning, it would be
26 greater for a parking garage. In the p.m., I suspect that

1 trips in and out of the hotel might be a little bit later but
2 still in the fringe of the peak hour. They could be about
3 equal or even higher than the parking garage.

4 COMMISSIONER FRANKLIN: All right.

5 DR. CARTER: But in the morning, it would be
6 lower.

7 COMMISSIONER FRANKLIN: In the morning, when
8 you say "the morning," do you mean just the a.m. hours?

9 DR. CARTER: The morning, the morning.

10 COMMISSIONER FRANKLIN: Yes. The a.m. rush
11 basically?

12 DR. CARTER: A.m. That's right.

13 COMMISSIONER FRANKLIN: Right.

14 DR. CARTER: It would tend to --

15 COMMISSIONER FRANKLIN: And post-a.m. rush,
16 what is your opinion as to the likely comparative in-and-out
17 traffic for the parking garage compared to the hotels and the
18 University Club?

19 DR. CARTER: Well, you'd have mostly out in the
20 evening from the parking garage.

21 COMMISSIONER FRANKLIN: I understand that, but
22 during the day --

23 DR. CARTER: Pardon me?

24 COMMISSIONER FRANKLIN: During the day, what
25 would be the to and froing?

26 DR. CARTER: Oh, you have a lot more in the

1 middle part of the day, from 10:00 to 4:00.

2 COMMISSIONER FRANKLIN: From the hotels and the
3 University Club?

4 DR. CARTER: You'd have more from the hotel.

5 COMMISSIONER FRANKLIN: All right. Okay. That
6 strikes me as the likely intuition.

7 Do you have any opinion as to whether there are
8 more pedestrians that use K Street or 16th Street during the
9 course of Monday through Friday?

10 DR. CARTER: I would guess in the peak hour
11 that they would be somewhere close to equal, but during the
12 middle of the day, I think they'd be greater on K Street.

13 COMMISSIONER FRANKLIN: Yes.

14 DR. CARTER: I mean, that's a --

15 COMMISSIONER FRANKLIN: That would be my
16 assumption as well.

17 Now, Mr. Oberlander, with respect to all of the
18 language about the special character of 16th Street and the
19 protections, which I think everyone up here agrees with -- I
20 mean, sometimes things are at a sufficiently high level of
21 abstraction that you can't disagree.

22 Other than what you have described in terms of
23 this height and setback issue, is there anything else about
24 this proposal that you think violates these canons that apply
25 to lower 16th Street?

26 MR. OBERLANDER: The principal violation is a

1 130-foot building fronting onto 16th Street. Granted it is
2 set back at the upper levels, but, in effect, the building is
3 still, the actual height of the building is still, 130 feet.
4 And that is very, very contrary to the special treatment of
5 16th Street for historic, many historic, periods.

6 COMMISSIONER FRANKLIN: So, for planning
7 purposes, that's the gravamen of your concern?

8 MR. OBERLANDER: That's correct.

9 COMMISSIONER FRANKLIN: And some of these other
10 issues that have been expressed you are not adding your voice
11 to necessarily, but you are focusing on that in particular?

12 MR. OBERLANDER: Well, that's the principal
13 violation of the plan and the intent of the zoning
14 regulations. And the zoning, you know, is supposed to be in
15 conformance with the plan.

16 This is one of the few cities in the United
17 States that has that stipulation in the Home Rule Act of 1974.
18 And so that is a very important aspect. So that if this were
19 allowed to happen, other applicants would be wanting to do the
20 same thing. And you would completely deteriorate the lower
21 part of 16th Street.

22 COMMISSIONER FRANKLIN: Well, not while I'm on
23 the Commission, I hope.

24 MR. OBERLANDER: Well, I appreciate that.

25 COMMISSIONER FRANKLIN: Now, am I correct,
26 then, in inferring from what you haven't said that your

1 objections, really, are focused on the view north but not the
2 view south toward the White House?

3 MR. OBERLANDER: The view south you cannot see
4 the upper parts until you get closer to the building, but from
5 the south, you can see the upper parts of the building at a
6 greater distance. Yes.

7 COMMISSIONER FRANKLIN: Would the normal person
8 driving and walking become aware of that problem going a
9 southerly direction?

10 MR. OBERLANDER: Well, I would expect so, yes,
11 if they look. It depends on where they look. The driving,
12 you're not supposed to be looking at the tops of buildings.

13 COMMISSIONER FRANKLIN: Well, I'm thinking
14 particularly -- well, you know, 16th Street is an
15 extraordinary street because you have a downgrade from
16 Meridian Hill Park --

17 MR. OBERLANDER: That's right.

18 COMMISSIONER FRANKLIN: -- toward the White
19 House. Do you have an opinion as to whether this height would
20 intrude on that view shed from that perspective?

21 MR. OBERLANDER: Yes, it does. I didn't
22 mention the last page of my statement has a photograph in it
23 from the comprehensive plan, the federal elements, which shows
24 the view not as far up as Florida Avenue but a little closer.
25 And I tried to put an arrow on that where the proposed
26 building would appear. And it from a higher elevation would

1 certainly be visible.

2 COMMISSIONER FRANKLIN: Well, from sort of the
3 helicopter view.

4 MR. OBERLANDER: Well, from Florida Avenue,
5 which is the Bluffs and the higher elevation, although I
6 haven't made a study of that. But I suspect that you can see
7 it, as you can see other architectural embellishments that
8 have been allowed as towers, unoccupied towers, in various new
9 buildings in the city. And they have really changed the
10 appearance of the skyline, in my opinion.

11 COMMISSIONER FRANKLIN: But, of course, from
12 that perspective, one is not aware of a uniform cornice line
13 as such?

14 MR. OBERLANDER: Not that directly, yes.

15 COMMISSIONER FRANKLIN: Yes.

16 MR. OBERLANDER: That's correct.

17 COMMISSIONER FRANKLIN: Okay. I have no -- oh,
18 we've lost our Chair here.

19 COMMISSIONER PARSONS: Mr. Oberlander, I think
20 we ought to clarify something you said for the record. The
21 implication was that this Commission used to request a report
22 from the Planning Commission on a routine basis. And my
23 experience is not that. I recall your participation in maybe
24 one case a year here testifying on behalf of the Planning
25 Commission, maybe two.

26 The implication was that it was a report that

1 came over here on every PUD from the Planning Commission. I
2 think the Planning Commission, as I recall, determined where
3 there was going to be a federal interest of great concern and
4 where there wasn't. Wasn't it more selective than that?

5 MR. OBERLANDER: Well, if you recall, when
6 Walter Lewis was on this Commission, there was a meeting
7 between the members of the Zoning Commission and the Planning
8 Commission to discuss just the modus operandi on these.

9 And the conclusion on that, if you'll recall,
10 was that in contested cases, -- and it was never written down,
11 unfortunately -- the Planning Commission would be asked to
12 make its report so that at the hearing, whatever parties are
13 involved can cross-examine that report. In practice, that
14 occurred at sometimes, didn't occur at other times.

15 COMMISSIONER PARSONS: Right.

16 MR. OBERLANDER: But the primary -- when I
17 talked to Sheri Pruitt a few weeks ago about why this hadn't
18 been reported or referred to the Planning Commission, she says
19 it's her understanding -- and that was not Madeliene
20 Robinson's understanding with my understanding, but it's
21 Sheri's understanding that only after the Zoning Commission
22 actually proposes an order does it go to the Planning
23 Commission.

24 At that point, if the Planning Commission
25 really has any serious concerns about it, it's too late to
26 really --

1 COMMISSIONER PARSONS: I agree. I completely
2 agree. But I was trying to point out that your testimony kind
3 of implied that a report came down here on every PUD from the
4 Planning Commission to be cross-examined at a hearing, and it
5 wasn't the case.

6 MR. OBERLANDER: I may have overstated that. I
7 apologize. But the intent was that where there were federal
8 interests in a contested case, that Madeliene Robinson would
9 refer to the Planning Commission or I would urge her to refer
10 to the Planning Commission in order to -- and I'm no longer
11 there. And the person who is handling zoning matters has got
12 other things to do.

13 COMMISSIONER PARSONS: You're putting me on a
14 guilt trip because I ought to be doing it. And I think I may
15 have erred in this case because we did that together.

16 Mr. Carter, what are your feelings -- maybe
17 it's here and I missed it. What are your feelings about a
18 garage entrance on the service road on K Street from a traffic
19 standpoint?

20 DR. CARTER: From a traffic standpoint, it
21 means that getting into the garage and out of the garage is
22 going to take a little longer, but you have much less
23 conflicts because you have right turns only, right turns in
24 and right turns out. So you'd have less interference with
25 pedestrians to do that.

26 COMMISSIONER PARSONS: So do you feel this

1 project could move forward, in your judgment, with an entrance
2 off of K Street or the service road?

3 DR. CARTER: From the parking garage
4 standpoint, I think that would be a whole lot better, yes.

5 COMMISSIONER PARSONS: Thank you. That's all I
6 have.

7 COMMISSIONER CLARENS: I have two hopefully
8 short questions. One has to do with the parking issue related
9 to the original 1955 variance that Mr. Foynes testified to or
10 at least included in his testimony.

11 And it has to do with the impression I got from
12 the applicant's presentation is that the building presently
13 has no parking except for minimally along the alley but has no
14 parking provisions within the building and does not require
15 any parking by zoning. If they were to -- and maybe I'm not
16 understanding exactly what the parking situation is and maybe
17 you might want to clarify that issue a little bit.

18 My understanding is that the Solar Building
19 required a zoning variance in 1955, that as part of that 1955
20 zoning variance, a link was made to a building on L Street
21 that was to provide parking for the Solar Building but that
22 that never happened. Is that correct?

23 MR. FOYNES: I believe you had several
24 questions.

25 COMMISSIONER CLARENS: Yes.

26 MR. FOYNES: I'll try to respond to them all.

1 With regard to Mr. Quin's statement, I believe
2 his statement was one of nuance. And I believe his statement
3 was what the current requirements are for the renovation of an
4 existing 158,000 square foot building. But, again, if that's
5 incorrect, if that's my incorrect understanding of Mr. Quin's
6 statement, Mr. Quin will clarify that, I'm sure.

7 With regard to the 1955 variance in the order,
8 the order said that the applicant of the time had to provide
9 parking on L Street. The order said it was inappropriate to
10 put a garage at the intersection of 16th and K.

11 The Commission specified the number of parking
12 spaces. It specified that they wanted to look and review the
13 drawings. And then the Commission or the BZA specified that
14 they wanted a document recorded in the land records.

15 Those are the facts. And the order is attached
16 to my submission for your own review and --

17 COMMISSIONER CLARENS: Well, my question to you
18 is: As far as you know, is there -- and you're representing a
19 building which is within 100 feet. Is there a parking garage
20 on L Street?

21 And I am a little bit familiar with the area.
22 I don't recall that maybe I don't know the area that well. Is
23 there presently a parking garage on L Street?

24 MR. FOYNES: Yes, there is. I'm going to
25 suggest a six-foot wide alley separates that garage from our
26 property. Until a few years ago, that garage was put up for

1 sale. And our co-owners' association considered evaluating it
2 and purchasing it.

3 I believe, but I'm not certain, but I believe
4 that as recently as a few years ago, the ownership of that
5 garage and the Solar Building was linked or forms of ownership
6 were linked. But I encourage you to seek clarification of
7 that.

8 COMMISSIONER CLARENS: But, as far as you know,
9 there's no covenant that links the two? There's nothing on
10 the record, the land record, that makes that garage to serve
11 as sort of as intended by the BZA?

12 MR. FOYNES: We are not specialists in title
13 research. We do go down to the Recorder of Deeds as if
14 there's such a thing as general experts. As general real
15 estate professionals, we do go down and look at title. We did
16 not see any covenant, but, again, we're not experts in title
17 searches.

18 COMMISSIONER CLARENS: Okay. The other
19 question has to do with -- it's very short, and it's to Dr.
20 Carter. It has to do with: Would it be possible to make a
21 left turn going north on 16th Street onto the garage if the
22 garage was on, the entrance to the garage was on, 16th Street?

23 DR. CARTER: Unless there's some legal action
24 to prevent it, yes.

25 COMMISSIONER CLARENS: In other words, the
26 traffic laws in the District of Columbia would permit a left

1 turn in the middle of the block onto the entrance to the
2 garage?

3 DR. CARTER: Yes.

4 COMMISSIONER CLARENS: As far as you know?

5 DR. CARTER: Yes. I drew a sketch to show you
6 what would happen if you're interested.

7 COMMISSIONER CLARENS: Sure. Well, we'd need
8 to keep that, but --

9 DR. CARTER: Of course.

10 MR. OBERLANDER: Could I add to that?
11 Definitely you can make a U-turn on 16th Street or you can
12 make a left turn if you get away from the intersection about a
13 certain distance. I don't know what that distance is, but you
14 can make a U-turn and left turn as you progress northward on
15 16th Street.

16 COMMISSIONER CLARENS: And in your drawing, you
17 also indicate that you can egress the parking and go across
18 16th Street going north?

19 MR. OBERLANDER: Going north, right.

20 DR. CARTER: Which is one of the problems with
21 the -- it's not just pedestrians, but it's also holding up
22 southbound traffic and the northbound traffic merging.

23 COMMISSIONER CLARENS: Very good. I think
24 we're done.

25 DR. CARTER: In this intersection, there's no
26 left turn. We recognize the difficulty.

1 COMMISSIONER CLARENS: Very good. That's fine.
2 You might want to show this to the applicant and then give it
3 to Mr. Clarke.

4 CHAIRPERSON KRESS: It has been suggested that
5 we ask you, Mr. Quin, how much time you think you're going to
6 be needing in cross-examination.

7 MR. QUIN: Two to three minutes. To make it
8 shorter, I'm going to try to handle it by rebuttal. It's much
9 faster. But I would like the opportunity to ask you
10 questions.

11 CHAIRPERSON KRESS: How much time will rebuttal
12 be? I'm trying to figure out whether to stop and carry this
13 here or --

14 MR. QUIN: Maximum ten minutes.

15 CHAIRPERSON KRESS: We have got two
16 organizations. We've got one organization, I know, the
17 Committee of 100, which I believe is 5 minutes. I'd have to
18 check. And then maybe the others are three.

19 Well, I don't know. Let's give it a try.
20 Let's see. I mean, I think everybody would hate to come back
21 for another --

22 COMMISSIONER PARSONS: What do you mean "give
23 it a try"? When are we going to stop? I am going at 11:30.
24 I've got to get up at 6:00 o'clock in the morning.

25 CHAIRPERSON KRESS: Okay.

26 COMMISSIONER PARSONS: I wanted to leave an

1 hour ago, but --

2 CHAIRPERSON KRESS: All right.

3 COMMISSIONER PARSONS: I mean, we're here.

4 We're in the quarter of 12:00, 12:00 o'clock; right? I mean,
5 agreed? That's what you're going to do? I'll just read the
6 record. That's all.

7 CHAIRPERSON KRESS: Okay. I think I'd like to
8 try to get it done, rather than carrying it over. I will go
9 along with whatever the rest of you --

10 COMMISSIONER FRANKLIN: It takes more time to
11 come down here than it would be to spend it here.

12 COMMISSIONER CLARENS: Let's try to go ahead.

13 CHAIRPERSON KRESS: And the record will be left
14 open. And so things that we're not able to cover, I'll leave
15 a general record open for other things that people maybe --
16 for more rebuttal or whatever.

17 MR. QUIN: My questions really go to
18 clarification questions, as opposed to in-depth, because I
19 need to know the answer.

20 First, Mr. Foynes, there was some discussion
21 that you had about the difference between green space area in
22 what is proposed and what exists. Did you run a calculation
23 as to the differences in green area and what exists now with
24 the paved area in front of the entrance versus the paved area
25 in the future?

26 MR. FOYNES: I did no measurements of current

1 green space or proposed. What I observed is that current
2 green space in front of Taca Building will be dedicated to
3 garage access. And I'll note that in terms of the applicant's
4 presentations, the treatment of what is now green space is
5 inconsistent on different exhibits.

6 MR. QUIN: So I assume the answer is no?

7 MR. FOYNES: I answered no. I did no
8 calculations.

9 MR. QUIN: Okay. Thank you. Second question:
10 You had a chart in your testimony under Tab 2, the second
11 page, which has an asterisk. And I wanted to ask you a
12 question. When you have the asterisk that says, "Does not
13 include construction costs to achieve this enhancement," what
14 would that not include, what types of costs?

15 MR. FOYNES: That would not include
16 construction costs. That would not include costs of money.
17 It would not include leasing commissions. It would not
18 include time. Time is a cost.

19 MR. QUIN: So hard costs and soft costs are not
20 included in that calculation?

21 MR. FOYNES: Absolutely.

22 MR. QUIN: Does the Presidential have any
23 parking now?

24 MR. FOYNES: No, sir.

25 MR. QUIN: And for Dr. Carter, on 16th Street,
26 between L and K, is there not a double yellow line in the

1 center of the street?

2 DR. CARTER: I don't remember. I think there
3 probably is. Well, I know there is on the northbound part of
4 16th and K. There's a yellow island, small island, painted.

5 MR. QUIN: Through the center of 16th Street,
6 is there not a double yellow line?

7 DR. CARTER: This is the center of 16th Street.
8 It's just south of K. North of K I'm trying to recollect.

9 MR. QUIN: You don't know?

10 DR. CARTER: I can't remember. I believe there
11 is a yellow line.

12 MR. QUIN: If there were one there, wouldn't
13 that prevent a left-hand turn out under law, by law?

14 DR. CARTER: Not for property access, no.

15 MR. QUIN: No?

16 DR. CARTER: No.

17 MR. QUIN: Okay. And what if the owner
18 stipulated that he would put a sign up, "No left-hand turn"?

19 DR. CARTER: Where are you going to put it, I
20 mean, so that the driver would see it?

21 MR. QUIN: There are a number of ways we could
22 put it. But, at any rate --

23 DR. CARTER: The owner is not allowed to put a
24 sign up. That's only allowed by the city.

25 MR. QUIN: Even inside the garage on the way
26 out?

1 DR. CARTER: I don't think people would pay
2 much attention to it.

3 MR. QUIN: Oh, okay. Mr. Oberlander, only one
4 question for you. As I understood your testimony earlier,
5 your reference to the matter of rights, you were talking about
6 that you had no objection if the building were built as a
7 matter of right on the SP line on K Street?

8 MR. OBERLANDER: That's right.

9 MR. QUIN: So 45 feet to here, you would have
10 no problem if the building went straight up, 45 feet back, as
11 opposed to 40 feet back?

12 (No response.)

13 MR. QUIN: No other questions.

14 MR. OBERLANDER: If I might amplify that a bit?

15 DR. CARTER: Use the mike.

16 MR. OBERLANDER: In my opinion, the damage was
17 done in 1958, when the boundaries were gerrymandered. They
18 shouldn't be just 45 feet from 16th Street. They should be 70
19 or 100 feet.

20 But since they are there at 45 feet and they've
21 been in existence since 1958, you know, you have to accept the
22 facts of life. And a building at that location at 130 feet,
23 it's going to be visible but not as visible as the one that's
24 proposed.

25 CHAIRPERSON KRESS: Any cross from Mr. Hart?

26 COMMISSIONER PARSONS: I wanted to follow up

1 Mr. Oberlander because I think the way you left it, Mr.
2 Oberlander, is implying that you don't have any problem with
3 that from an urban design standpoint.

4 MR. OBERLANDER: Well, the --

5 COMMISSIONER PARSONS: Let's look at it from an
6 urban design standpoint. Going back 45 and up to 130 isn't
7 something you agree with.

8 MR. OBERLANDER: The preference would be it
9 would be back further, but the zoning permits it.

10 COMMISSIONER PARSONS: I understand that. But
11 the way Mr. Quin asked the question, "So, Mr. Oberlander, you
12 wouldn't have a problem with that?" And the answer was no.

13 MR. OBERLANDER: Because the zoning allows it.

14 COMMISSIONER PARSONS: That's not the question
15 I'm asking you, then. I'm asking you from an urban design
16 standpoint. Forget it. I mean, if the architect and the
17 developer come in here and said, "Look, I think this will
18 intrude on Lafayette Park," I'm going to move back. I want a
19 little more over here, but I'm going to move back here from an
20 urban design standpoint. He doesn't have to use that line
21 because somebody messed up in 1955, does he?

22 MR. OBERLANDER: I quite agree it would be much
23 preferable to have him a greater distance than 45 feet back
24 from 16th Street.

25 COMMISSIONER PARSONS: Because you said earlier
26 60 to 80; right?

1 MR. OBERLANDER: Well, which is in keeping with
2 the rest of the SP zoning northward and southward along 16th
3 Street.

4 COMMISSIONER PARSONS: Thank you.

5 CHAIRPERSON KRESS: Any other questions?

6 (No response.)

7 CHAIRPERSON KRESS: Does Ms. Mitten have any
8 cross-ex?

9 MS. MITTEN: No, I don't.

10 CHAIRPERSON KRESS: Okay. Thank you.

11 Thank you all. Appreciate your testimony. And
12 we'll move to Simon Osnos. Is he still here? Is he one of
13 the people who wishes to testify? Okay. If not, I'll move on
14 to Jim Nathanson for the Committee of 100.

15 MR. NATHANSON: Thank you, Madam Chair.

16 Even at this hour, it's a pleasure to be before
17 you, and I am here tonight. I am Jim Nathanson, and I am here
18 representing the Committee of 100 in the federal city. I am a
19 trustee of that organization.

20 I will try not to read most of my prepared
21 testimony. Mr. Oberlander's testimony speaks to much of what
22 I would have said much more professionally and in-depth in
23 substance than I do.

24 Let me just sort of pick some things from it
25 and make some comments. I guess this comment and this way
26 represents my political hat as well as my Committee of 100 hat

1 when I say the proposal before you represents the worst in
2 planning and spot ad hoc zoning practices that too often rear
3 their ugly heads in the District of Columbia.

4 It represents practices that require constant
5 vigilance by those interested in the valid planning and
6 aesthetic values that enhance living and working in the
7 District of Columbia.

8 One look at the streetscape on lower 16th
9 Street from Lafayette Park to Scott Circle must lead one to
10 wonder why such a proposal has ever even come this far.

11 And, by the way, I'm five-foot-three, below the
12 average. And I walked the street on Friday. And what's up on
13 top of that building and what is going to happen is very
14 visible to me, certainly on the east side of 16th Street from
15 up by the University Club all the way down and in different
16 places not quite as wide, even on the west side of 16th
17 Street. And, again, I'm five-foot-three. I'm below the
18 average. So anybody that's taller is going to be even much
19 more offended by this project.

20 The highest building there is approximately 80
21 feet. And the uniformity creates a positive visual impact.
22 The ten-foot-wide sidewalks and the 40-foot setbacks create an
23 unusual, graceful, unique openness that frames Lafayette
24 Square and the White House, a view that is a national
25 treasure. We're not just talking about D.C. That view, that
26 streetscape, is a national treasure and in no way should be

1 messed with at this time.

2 And in response to the weakness, if you will,
3 of Mr. Oberlander's response to Mr. Parsons' question that the
4 zoning that's currently in place that allows possibly that
5 45-foot setback and that 130-foot height I would argue is
6 inconsistent with the comprehensive plan and is zoning that
7 should not be followed.

8 The comprehensive plan should dominate. And I
9 don't think there's any vagueness about the differential in
10 the zoning and the special treatment specifications and what
11 goes with it, which I won't bother to read, that are in the
12 comprehensive plan. There's an inconsistency there, and the
13 zoning is wrong.

14 Other recent improvements on lower 16th Street
15 buildings have respected the existing streetscape. The
16 Chemical Building has been redone. The National Education
17 Association building is redone.

18 And I noticed the day I went down, last Friday,
19 what the Marriott people had done with the old NRA Building
20 right at Scott Circle, which has a side on 16th Street, they
21 have done a fantastic job with that building. And they didn't
22 come in asking for the world, if you will, in order to put the
23 money in that they've put into that building.

24 Current policy and law dictate that you must
25 deny this application. And I reference the comprehensive plan
26 and what the Council just voted. It is true, as Mr.

1 Oberlander stated and others, the current comprehensive plan
2 amendments are not law in the strict sense of the term. But
3 they indicate the policy directives, if you will, that most of
4 this city wants to go in, and particularly as it applies to
5 this area, because there was a map amendment.

6 And I won't read the amendment itself, but the
7 committee report on that amendment states the purpose to be to
8 conform with existing scale end uses and to protect the
9 special character of this part of 16th Street, and you will
10 find that in the committee report dated December 1, '98 on
11 Bill 1299 on Page 17. Section 1120 designates lower 16th
12 Street as a special treatment area.

13 I'm not going to read the rest of my statement.
14 I'll read the last paragraph. This proposal offends both good
15 planning and common sense. Allowing this PUD to go forward
16 would allow the beginning of the destruction of the current
17 wonderful vista in the lower 16th Street streetscape.

18 The Committee of 100 in the federal city
19 strongly urges that you reject the requested PUD and
20 associated map amendments. And I will comment verbally for
21 the record that the trustees met on December 10th and voted
22 unanimously to express opposition to the application.

23 Let me just make some comments. I made some
24 notes about some of the discussion that has taken place. Mr.
25 Quin talked about how this is in the middle of K Street. It's
26 also in the middle of the 16th Street special treatment area.

1 In fact, I wasn't aware before I came that there was even to
2 be an alteration of the K Street streetscape by this building
3 and its extension out over the sidewalk.

4 Comment was made that it's 90 percent
5 nonresidential. Okay. Let's not destroy the ten percent that
6 is residential. There's a policy in this city to encourage
7 downtown housing. Mr. Franklin referenced that.

8 If something like this goes forward and acts as
9 the trigger for other requests, then, of course, the adjacent
10 commercial owners encourage this application because, in spite
11 of Mr. Franklin's comment, he will be faced with the
12 possibilities that others will come in for similar changes to
13 their buildings. And once you allow one, it is very difficult
14 to develop rationale that truly supports not allowing the rest
15 of them.

16 And the other thing that will happen is when
17 this occurs and even what you're being asked to occur, that's
18 going to put pressures on the remaining residential
19 properties, probably will diminish their values. And I'm not
20 an expert on that. And the pressures will be there for that
21 to disappear.

22 The on-site parking issue. Frankly, it might
23 be better if there really were no parking at this site. We
24 encourage people to use the Metro and so forth. Parking in
25 that entrance is going to be a real dog in spite of what all
26 of the experts are saying.

1 And there is a real difference between the
2 entry and exiting of parking into a garage and the entry and
3 exiting of cars from circular driveways. When you enter a
4 circular driveway, well, that would be the same as crossing
5 any sidewalk.

6 But when you exit from a circular driveway, you
7 have a broad view of what's about to happen. You can see if
8 there are any disabled kids walking toward you and you stop
9 and you respect that. And you have a broad view approach as
10 you approach the sidewalk.

11 When you come out of a parking garage, you come
12 through the door. And you're at the sidewalk. And after you,
13 we play games. It's like crossing streets with traffic and
14 worrying about people making right turns.

15 You go in front of a garage exit. You stop.
16 If you're an intelligent pedestrian, you stop. You look. You
17 make sure you have eye contact with the person coming out.
18 The entry onto the sidewalk is abrupt.

19 And I would point out to you, as I haven't
20 heard pointed out, that there apparently is a school on the
21 corner of 16th and L Streets, which is a school for our
22 youngsters who aren't as healthy physically or whatever as
23 other youngsters. It's an art school. It's --

24 COMMISSIONER CLARENS: School for Arts and
25 Learning.

26 MR. NATHANSON: -- School for Arts and

1 Learning.

2 COMMISSIONER CLARENS: It is for children that
3 have learning disabilities, but they're not physically
4 disabled.

5 MR. NATHANSON: Okay. I noticed the school the
6 other day. In fact, I wasn't aware it was there until I
7 walked there on Friday. But there are school kids in that
8 area, and that definitely represents an intrusion into their
9 safety. There's a potential problem there.

10 In terms of the streetscape, the proponents
11 talked about the pedestrian-friendly 16th Street. Well, one
12 of the reasons it's so blasted friendly to pedestrians is that
13 there isn't anything of this kind on the street. That's the
14 whole point of it being pedestrian-friendly. And to allow
15 this to happen is a real intrusion, a real first experience.

16 CHAIRPERSON KRESS: We're well over the five
17 minutes. It's more like eight, almost ten.

18 MR. NATHANSON: Okay. And so, therefore, I
19 told you I'm a short guy. And I see it. Okay. I'll stop
20 there. Thank you.

21 CHAIRPERSON KRESS: Thank you.

22 Questions for Mr. Nathanson? Does the
23 applicant have any questions? Does either Ms. Mitten or Mr.
24 Hart have any questions for Mr. Nathanson?

25 (No response.)

26 CHAIRPERSON KRESS: All right. Thank you.

1 Who else?

2 COMMISSIONER CLARENS: Thank you, Mr.

3 Nathanson.

4 CHAIRPERSON KRESS: Thank you for coming and
5 spending all evening with us.

6 Who else wishes to testify in opposition? Is
7 anybody else still here that wishes to testify?

8 (No response.)

9 COMMISSIONER CLARENS: No. Concluding remarks.

10 CHAIRPERSON KRESS: Rebuttal and --

11 MR. QUIN: There will be three parts of our
12 rebuttal. Just to make sure that we answer very completely
13 the business about the previous order, I'd like to pass in
14 copies of the order.

15 And if you'd turn just briefly to Page -- it's
16 the third page of the order. Condition B says that apparently
17 the parking garage and the Solar Building at that time were in
18 the same ownership. And it said that the parking garage would
19 be enlarged -- it doesn't say how much but to accommodate
20 approximately 100 cars and shall be submitted to the Board
21 approval. We couldn't find Board approval for it either.

22 The appellant shall give preference for storage
23 of automobiles in said garage and shall provide a covenant
24 running with the land reciting such preference and that such
25 use of a garage shall endure so long as -- and then it goes on
26 to say, "as used for such purpose or until such use is

1 declared no longer needed or required by the zoning
2 regulations."

3 And all we've said is that we couldn't find the
4 covenant. We looked in the land records. We looked at the
5 Zoning Office. We looked at BZA. We could not ever find a
6 covenant Mr. Jacobs bought without any basis for it, you know,
7 nothing in the record on this property that would be a burden.

8 So now that we would comply with the required
9 parking, -- and Mr. Sher is going to give you a table to show
10 you how we comply -- then the whole thing is moot anyway.

11 COMMISSIONER CLARENS: The existing building,
12 this is the order that authorized the existing building?

13 MR. QUIN: Yes.

14 COMMISSIONER CLARENS: So, in fact, when he
15 bought, he bought with this order authorizing the building
16 that Mr. Jacobs bought. Is that correct?

17 MR. QUIN: Yes.

18 COMMISSIONER CLARENS: This is the order?

19 MR. QUIN: This is an order, right.

20 COMMISSIONER CLARENS: So this is the order
21 that then links the parking. And what you're saying is that
22 you then investigated and could not find any covenant --

23 MR. QUIN: Right. And so --

24 COMMISSIONER CLARENS: -- recorded?

25 MR. QUIN: Recorded or anyplace. We couldn't
26 find it recorded or unrecorded.

1 COMMISSIONER CLARENS: So the only thing, then,
2 that links is this order from the BZA, --

3 MR. QUIN: Is that order.

4 COMMISSIONER CLARENS: -- which authorized the
5 original building to begin with?

6 MR. QUIN: It authorized it with a preference
7 but no number of parking spaces. It doesn't have anything to
8 do with -- there's nothing in there that says X number of
9 parking spaces would be provided. It says a preference. And
10 I don't know, frankly, what the preference meant.

11 But my only point is that's all sort of moot
12 now because in our proposal, we actually will provide the
13 required parking under zoning. And, therefore, even if there
14 had been a covenant, it would be extinguished because there's
15 no --

16 COMMISSIONER CLARENS: Eventually you will, but
17 at the beginning you won't. Could you clarify that for me?
18 Because there are two stages to the parking. There's the
19 lower basement, which it is --

20 MR. QUIN: Oh, no. We would --

21 COMMISSIONER CLARENS: -- our understanding
22 will be done at the outset. And then there is the first level
23 of parking, which might happen or will happen as the lease
24 that is presently held by the person who is occupying that
25 basement ceases to require that space.

26 MR. QUIN: I understand your question. The

1 answer is that, with the addition that we propose, the legal
2 requirement would be 21 spaces. And Mr. Sher will give this
3 to you. I can't do it.

4 COMMISSIONER CLARENS: Yes. And that's for the
5 additional space.

6 MR. QUIN: But that's --

7 COMMISSIONER CLARENS: That's not for the
8 entire building.

9 MR. QUIN: The total number of spaces that
10 would be required under the zoning regulations for the
11 building that we propose. What we are providing, we have said
12 we would treat it as though it were a new building and would
13 provide the number of parking spaces that would meet whatever
14 the new requirement is, which we would start with 77 spaces.

15 Mr. Sher, I can't testify. So I don't want to
16 get too far afield. But he will present this to you.

17 COMMISSIONER CLARENS: Okay.

18 MR. QUIN: So that's all I wanted to cover.
19 And then the other two witnesses will be very brief. Mr.
20 Slade will cover about three points. And then Mr. Sher would
21 cover three points: one, the parking, which we just talked
22 about; the comp plan very briefly; and the housing, which was
23 a question that you had: What are the effects, and why are we
24 doing this? And I'm going to try to keep them all within
25 seven minutes.

26 Mr. Slade, could you proceed quickly?

1 MR. SLADE: Very quickly, I want to focus first
2 on the difference between the circular drives. And there's a
3 proliferation of them on 16th Street and the regular driveway.

4 Traffic is traffic. So, first of all, we're
5 just talking about volumes of vehicles crossing volumes of
6 pedestrians, regardless of the type of drive. It doesn't
7 really make that much difference. But there are some subtle
8 differences.

9 A lot of the circular drives are angled so as
10 the vehicles are coming out, they don't necessarily have a
11 90-degree angle, as this driveway will. You can see
12 pedestrians in both ways quite easily with a 90-degree angle,
13 but with an oblique angle, of course, you have a little bit of
14 difficulty in seeing things.

15 This driveway has in a way infinite capacity.
16 You can always pull in and go down into the garage; whereas, a
17 circular driveway will fill up with traffic. And that tends
18 to frustrate the taxicabs who are trying to get into the
19 Hilton, for example.

20 So I think there are differences. Whether one
21 is safer than any other, I can't really testify as an expert.
22 But I think this should be a moot point.

23 We have hundreds of driveways in this city
24 crossing sidewalks in every case. This is not a safety issue
25 in the District of Columbia, nor is it in any other city that
26 I'm aware of. There is nothing in the literature that

1 indicates that driveways crossing sidewalks are a safety
2 issue.

3 When I compare this driveway and the volumes of
4 pedestrians and traffic to the driveway that I'm very familiar
5 with, -- and you can think of hundreds like it that have more
6 traffic and more pedestrians -- I am not aware of this being a
7 problem-causing situation.

8 But when we look at K Street, K Street does not
9 carry, in spite of your personal observations and judgment,
10 equal amounts of traffic with 16th. We counted the traffic on
11 K Street versus 16th Street. During peak hour, 16th Street
12 carried 275 pedestrians. K Street carried over 800, 3 times
13 more, 3 times as much, 3 times greater.

14 Just on some of the points that Dr. Carter
15 made, in simple terms, without getting into the analytic
16 points that he was making, we looked at the differential of
17 square footage and how much traffic that differential would
18 increase that this building proposal will generate.

19 It's about 50,000 square feet in round numbers.
20 That will house about 150 employees. In this part of town, 50
21 percent of them come by transit and 50 percent come by
22 automobile. Of the 50 percent that come by automobile, 75
23 people come about one and a half per car. So that's about 50
24 cars.

25 And with those 50 cars arriving in the morning,
26 about 30 of them will arrive during the single peak hour and

1 the remainder will arrive before and after the single peak
2 hour.

3 That's the practical approach we took to
4 traffic generation and compared it with the technical approach
5 that Dr. Carter made. Dr. Carter made an error, but I'm not
6 going to take the time to go into it.

7 MR. QUIN: Left-hand turn.

8 MR. SLADE: Left-hand turn. Last time I
9 looked, the D.C. ordinance motor vehicle code says you can't
10 cross the double yellow line. It's the uniform motor vehicle
11 code for the United States. That law is ignored in the
12 District of Columbia. I mean, it is not enforced by the
13 police and, of course, ignored by all of us drivers.

14 We assumed our motorists would be able to make
15 left turns in and out of this driveway. It's perfectly
16 located in the middle of the block with no interference from
17 any other driveways on either side of the street. This is a
18 good, safe location for a driveway.

19 The community is concerned about left turns in
20 and out of the driveway. Our client is willing to restrict
21 them by informing his tenants and putting up a sign. There's
22 nothing more that can be done.

23 And I think that's it.

24 MR. QUIN: Okay. Mr. Sher, please.

25 COMMISSIONER FRANKLIN: It is true, is it not,
26 that you can make left turns out of the other driveways?

1 MR. SLADE: Yes.

2 MR. QUIN: Mr. Sher, how long are you going to
3 be?

4 MR. SHER: I think I have about maybe two
5 minutes, but --

6 CHAIRPERSON KRESS: Talk fast.

7 MR. SHER: -- I talk fast. So that's okay. We
8 did the computation on parking which Mr. Quin is handing to
9 you based on the performance under the zoning regulations.

10 The total parking required for the building as
11 a whole is 76 spaces. That's based on the one for 1,800,
12 above 2,000, less than 25 percent reduction for Metro.

13 The parking required for the addition only is
14 21 spaces, same computation. We are able to get 42 spaces
15 accessible without stacking and managed and everything else.
16 However, we are able to get 77 spaces in the building through
17 managed parking and accommodate what would, in effect, be all
18 the number of spaces required for the whole building at the
19 outset.

20 When you get to the ultimate level, as you were
21 asking for before, you can get even more spaces. You can get
22 95 legal accessible spaces. And that could conceivably be as
23 many as 160 with a managed parking scheme.

24 The second point I'd like to make goes to the
25 comprehensive plan. Obviously Mr. Oberlander and I have a
26 different view of whether we are consistent with the

1 comprehensive plan or not.

2 Much has been made of the proposed amendment to
3 the generalized land use map, which would change the
4 classification of the frontage to mixed-use high-density
5 residential, medium high-density, commercial.

6 What I have just handed to you is the excerpt
7 from the Office of Planning's reports that were submitted to
8 the Council in January of 1997. I don't think anybody else
9 has given this to you yet. It contains the rationale for
10 Office of Planning for the proposed amendment.

11 I would refer you to the very bottom of the
12 page marked 1,166, the final paragraph, about the second half
13 of that paragraph. And if you indulge me, I'll read it real
14 quick.

15 If a higher-density office building is
16 proposed, the desired process would be a planned unit
17 development so that the specific scale and design of the
18 building can be evaluated in the public process.

19 The proposed land use designation is not
20 intended to imply that 16th Street is a historic district that
21 should be substantially preserved as is. Some gradual
22 redevelopment will occur, but it should be carefully designed
23 and subject to public review given all the cited-above
24 factors.

25 Here we are. Last point. And I don't know how
26 much you really want me to talk about the housing linkage

1 thing. This is the first, as I mention in my testimony, the
2 first PUD to come before the Commission under your rules in
3 Chapter 24, Section 2404, adopted pursuant to the 1994 comp
4 plan amendments.

5 Mr. Smith testified as to how that works from
6 his end. We are as an applicant, JBG as the applicant
7 developer/owner, tied to Marshall Heights or whoever by the
8 umbilical cord of a certificate of occupancy. We don't get
9 ours until he gets his.

10 So it's more than just giving money. It's more
11 than just saying, "Here. We're free of any obligation here."
12 We will have to be sure that that housing gets built. And it
13 has to get built and occupied before we build and occupy.

14 The regulations which this Commission put in
15 place were a result of what the Council did, basically a call
16 to compromise forged by Chairman Clarke when he was the
17 chairman of the Council.

18 This is not really the downtown development
19 district compromise. This is something that grew out of the
20 Council's consideration of alley closings and also was
21 extended by the Council to those situations where the Zoning
22 Commission granted or the plan called a zoning density
23 increase. And if you read the definitions in the plan, that
24 really means PUDs where you give extra office space over and
25 above the matter of right.

26 And I know Mr. Parsons was very unhappy about

1 this when we went through that process with the Zoning
2 Commission because the Council in the plan was very clear that
3 the housing linkage payment was based on the increment over
4 the matter-of-right density allowed by the zoning district
5 that you requested.

6 He didn't want that. He said, "That isn't what
7 we should do." And he got mad at me, and he got mad at Chip
8 Glasgow when we were sitting here talking about it. And we
9 showed the language. And he ultimately had to concede we were
10 right. He wasn't happy about it. He's still not happy about
11 it. Sorry, John, but that's the way he was.

12 That's what the language in the plan says.
13 That's what the Commission did with these regulations. You
14 can read them. I didn't cite them verbatim, but they're in
15 Chapter 2,404, Section 2,404. And it provides the formula,
16 and it says what an applicant must do.

17 COMMISSIONER CLARENS: That is where the 13,000
18 comes from?

19 MR. SHER: That is where the 13,000 comes from.
20 And that number is computed in my outline, which I gave you
21 before.

22 COMMISSIONER CLARENS: Yes.

23 MR. SHER: And it can be satisfied either
24 one-half, one-third, or one-quarter depending on where you put
25 the housing.

26 The last point I want to make about that is the

1 Council has had more experience with this than the Zoning
2 Commission has. But clearly what this is about as far as the
3 \$100,000 that the applicant provides, it's gap money. It's
4 over-the-top money. It's money that makes a project happen,
5 maybe either happen at all or happen now that wouldn't happen
6 at all or happen now if it wasn't there.

7 So the regulations provide, among other things,
8 that the applicant may -- I'm looking at 2404.6(b), "The
9 applicant may construct or rehabilitate their housing or may
10 secure the housing production by other business arrangements,
11 including, but not limited to, joint venture partnership or
12 contract construction." That is what the regulations
13 contemplate, and it is what will happen in conjunction with
14 Marshall Heights and Mr. Smith.

15 COMMISSIONER FRANKLIN: Have you presented a
16 structure for that arrangement?

17 MR. SHER: That is ongoing in discussions
18 between Marshall Heights and the applicant.

19 COMMISSIONER FRANKLIN: So I didn't have that
20 2404 in front of me. It's quite specific as you read it. I
21 was wondering what that relationship might -- the form it
22 might take so that what you're --

23 MR. QUIN: It is elections. It is options.

24 COMMISSIONER FRANKLIN: Yes, is options, but
25 one of the options is not simply to make a grant.

26 MR. QUIN: Right, exactly.

1 MR. SHER: I just want to say there is another
2 whole option that an applicant has, which is when you get to
3 the other paragraph, to make a contribution to the housing
4 trust fund and be done with it. That's another option. I'll
5 call it the construction option versus the contribution
6 option.

7 COMMISSIONER FRANKLIN: Then you are going to
8 present additional matters for the record that will explain
9 what this structure will be. Is that what you're saying?

10 MR. SHER: I know we had offered to provide the
11 details of what Mr. Smith was going to do. I assume we can
12 provide -- I'm looking at Mr. Jacobs. We can provide what we
13 have to?

14 MR. JACOBS: Sure. Of course.

15 MR. SHER: Yes.

16 COMMISSIONER FRANKLIN: Okay.

17 MR. SHER: That's him, not me.

18 COMMISSIONER FRANKLIN: Clarify this. And,
19 again, I don't have the regulations in front of me. Suppose
20 Marshall Heights needed only 2,000 bucks to make these units
21 feasible. And 2,000 times 5 is 10,000 bucks. So are you
22 saying that 5 units of 7,500 square feet is being made
23 possible by a grant of 10,000? Is that something that --

24 MR. SHER: In theory, that would be the case.

25 COMMISSIONER FRANKLIN: -- you think could
26 comply with -- in other words, but for causation is

1 sufficient?

2 MR. QUIN: Yes. Theoretically, if the gap were
3 smaller, you wouldn't have to provide to get more units. So,
4 I mean --

5 COMMISSIONER FRANKLIN: It's simply the
6 circumstances of the case that determine what the grant amount
7 will be?

8 COMMISSIONER CLARENS: It's a percent of the
9 increase. That was just the square footage.

10 COMMISSIONER FRANKLIN: No. The square
11 footage.

12 MR. QUIN: Right.

13 COMMISSIONER FRANKLIN: But if they can get the
14 square footage by, as I say, \$2,000 a unit, then that's all
15 you need to --

16 MR. QUIN: Yes. That sounds right, but --

17 MR. SHER: That's not what's happening.

18 MR. QUIN: -- that's not what's happening. In
19 the marketplace --

20 COMMISSIONER FRANKLIN: Well, I understand
21 that.

22 MR. QUIN: -- ever since the first linkage, it
23 was usually \$10,000 per unit that provided that gap. That was
24 the very first one that started back in the early '80s. And
25 that's been followed. In this case it turns out to be twice
26 that amount.

1 COMMISSIONER FRANKLIN: It's as though you're
2 providing the equity for the nonprofit, which doesn't itself
3 have the equity to make the difference in the --

4 MR. QUIN: Right. You can --

5 COMMISSIONER FRANKLIN: The debt that they can
6 get --

7 MR. SHER: It's either equity or it's gap
8 financing or it's however you look at it. Whether they use
9 the money at the bottom or the top, it still enables the
10 construction of the housing that's required to meet these
11 regulations. And that's the way the Commission has structured
12 it, at least at --

13 COMMISSIONER FRANKLIN: But it's not, as I
14 understand it, being injected in a form that makes this
15 housing affordable necessarily. It makes it possible to
16 construct it.

17 MR. QUIN: No. But the affordable is governed
18 by --

19 COMMISSIONER FRANKLIN: Right.

20 MR. QUIN: -- the project itself. In other
21 words, Marshall Heights has a project that is affordable
22 housing. We couldn't come into you --

23 COMMISSIONER FRANKLIN: In terms of its design
24 and location. Yes. Okay.

25 MR. QUIN: Because we couldn't come into you
26 with another project that was not an affordable housing and

1 say we were going to do that. That wouldn't satisfy the
2 regulations.

3 MR. SHER: If this was some other housing
4 project that were luxury housing for some reason and we were
5 giving \$20,000 to somebody to do that --

6 COMMISSIONER FRANKLIN: No, no. Thank you.

7 MR. SHER: That's all.

8 MR. QUIN: That concludes our rebuttal
9 testimony. I'd like to just close by saying what I said at
10 the beginning. If you believe -- and I think you have to make
11 that judgment -- that the design is something that protects
12 16th Street and is appropriate for this corner, then we will
13 be submitting additional responses to your question on the
14 base, Mr. Clarens, and some of the other questions that have
15 been asked about materials. And we'll get that to you.

16 And also the top part, there were some
17 questions about the buttresses, probably not the right word.
18 And the architect is probably ready to hit me in the back, but
19 -- the flying buttresses, but we know what you're talking
20 about.

21 I think that's what the question is. Obviously
22 it's right for economic development. We have a statement on
23 that. It's right to do something better than what we've got
24 there today.

25 It's a question of balance. And we believe
26 that we meet those requirements, both under the regulations

1 and the comp plan. And we hope that in our alternatives, we
2 will answer your other questions of the design.

3 And, with that, I would waive any further
4 closing statement and submit any additional thoughts in
5 writing.

6 CHAIRPERSON KRESS: That is what I was going to
7 ask you to do. I'm going to be reading the closing statement
8 here in just a moment. But basically because I feel like I've
9 cut some people short here in trying to finish this up, I want
10 to leave the record open for any information that anyone wants
11 to add, not just to specific things.

12 On my list, I have Mr. Oberlander and the
13 shadow, relating to the shadows on the Carlton Hotel. I have
14 further details of the building base that you spoke about.

15 The zero for pedestrians and bus stops
16 clarification, I don't know if I've got that in your -- that
17 was a question that was asked that was not answered. That can
18 be answered in writing. I mean, I think that -- you know what
19 it is now? Okay.

20 I think we've got the history on the SP and the
21 comp plan answered and the plans for the housing and how the
22 organization is going to work. Did I pick up most of the
23 things?

24 And then, like I say, or anything else you
25 heard us -- I personally have one more, which is since I
26 couldn't trust the model, I don't know whether this building

1 does project more than all of the other buildings along that
2 block. I would like to know that answer.

3 It doesn't visually look like it does on the
4 model, but I was told to be careful and not necessarily trust
5 the model.

6 COMMISSIONER FRANKLIN: On K Street?

7 CHAIRPERSON KRESS: On K Street.

8 MR. QUIN: We will supply that answer for you.

9 CHAIRPERSON KRESS: Okay. If you can't think
10 of anything else, I'll close the hearing.

11 COMMISSIONER CLARENS: There is a question from
12 when we parted.

13 CHAIRPERSON KRESS: You have a question?
14 Please come to the mike.

15 MS. MITTEN: Are you going to call a second
16 hearing after all of this additional material is submitted?

17 CHAIRPERSON KRESS: No. Unless we see
18 something absolutely incredible, typically this will be the
19 close. This will close the hearing. And your additional
20 information that you submit will complete the record in our
21 case.

22 We have on occasions opened the case up to get
23 more information where we thought that we didn't have complete
24 enough information once all the submittals were in.

25 You've got to get to the mike. I'm sorry.
26 You're not coming through. It won't be on the record.

1 MS. MITTEN: These are technical things that
2 I'm sure everyone else knows.

3 How long do we have to respond now?

4 CHAIRPERSON KRESS: I am going to be reading
5 that right now. Basically I'm asking for --

6 COMMISSIONER CLARENS: Before you proceed with
7 that, Madam Chair, are you sure? I don't want to question
8 your judgment, but are you sure you want to leave the record
9 open for any information? I think that you want -- I'm not
10 sure.

11 I think that we've had a whole hearing. You
12 know, it's midnight. And anybody who has had interest in the
13 case has already come here and testified. We haven't cut
14 anybody out.

15 CHAIRPERSON KRESS: There were people who
16 wished to testify who didn't I think because of the late hour,
17 and I wanted to allow them to be able to submit their
18 testimony in writing. And perhaps I had tentatively and I
19 will make it stronger because this is -- right now I'm going
20 to be closing it and asking for the information by December
21 23rd.

22 That might be too difficult for Ms. Mitten. Is
23 that going to be too difficult for you?

24 MR. QUIN: No. That's fine.

25 CHAIRPERSON KRESS: How about to Ms. Mitten?

26 MS. MITTEN: I think we can accommodate that.

1 CHAIRPERSON KRESS: Okay. We'll close now.
2 Thank you for your testimony and assistance in this hearing.
3 And I'm losing my voice, too.

4 The record in this case will now be closed
5 except for information that has been requested by the
6 Commission. Any information or reports requested by the
7 Commission should be filed during the period ending on
8 December 23rd in Suite 210 of 441 Fourth Street, Northwest.

9 Any party to the case may file a written
10 response to any information or report filed after the close of
11 the hearing. Such responses should be filed no later than 7
12 days after December 23rd, which is December 30th.

13 Parties in this case are invited to submit
14 proposed findings of fact and conclusions of law. Any party
15 who submits a proposed finding and conclusion should do so by
16 January 4th.

17 Parties are reminded that their findings of
18 fact should not include findings stating how witnesses
19 testified. The findings should be those findings the party
20 believes the Commission should make based upon the testimony
21 and other evidence in the record. Citations to exhibits and
22 the transcript are appropriate and encouraged.

23 To assist parties in the preparation of these
24 findings of fact and conclusions of law, a copy of the hearing
25 transcript will be available for review in the Office of
26 Zoning in about two weeks.

1 After the record is closed, the Commission will
2 make a decision on this case at one of its regular monthly
3 meetings. These meetings are generally held at 1:30 p.m. on
4 the second Monday of each month and are open to the public.
5 Any person who is interested in following this case further
6 may contact the staff to determine whether this case is on the
7 agenda of a particular meeting.

8 You should also be aware that if the Commission
9 proposes to approve the application, the proposed decision
10 must be referred to the National Capital Planning Commission
11 for federal impact review. The Zoning Commission will take
12 final action at a public meeting following receipt of the NCPC
13 comments, after which a written order will be published.

14 I declare this hearing closed. Thank you.

15 (Whereupon, the foregoing matter was concluded
16 at 11:59 p.m.)

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