

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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In the application of:

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Urban Development Group

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Case No. 99-2M/87-193

to Modify PUD at

?

1000 K Street, N.W.

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

Thursday,
June 3, 1999

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
- ANTHONY J. HOOD, Commissioner
- JOHN F. PARSONS, Commissioner

STAFF PRESENT:

- SHERI PRUITT-WILLIAMS, Interim Director
Office of Zoning
- STEPHANIE D. BROWN, Office of Zoning
- VINCENT ERONDU, Office of Zoning
- ALBERTO BASTIDA, Office of Planning

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<u>AGENDA ITEM</u>	<u>PAGE</u>
PRELIMINARY MATTERS	4
<u>Urban Development Group to Modify PUD at 1000 K Street, N.W.</u>	

Applicant's Case

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Mark Boekenheide 59
Marty Wells 69
Steven Fuller 74
Steven Sher 76

Office of Planning and Other Agency Reports

Alberto Bastida 119

Report of ANC 2F

Helen Kramer 124

Supporters

Deborah Martens 128

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Russel MacBeth 131
John Boardman 133
Ellen McCarthy 149
Beth Solomon 165

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11
12
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14
15
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P-R-O-C-E-E-D-I-N-G-S

(7:00 p.m.)

CHAIRPERSON KRESS: Good evening, ladies and gentlemen. I'm Jerrily Kress, chairperson of the Zoning Commission for the District of Columbia. Joining me this evening are Commissioners Franklin, Hood, Parsons and Clarens. I declare this public hearing open.

The case that is the subject of this hearing is Case No. 99-2M/87-19C. The applicant, the Urban Development Group, requests the Zoning Commission to modify a previously approved planned unit development for Lots 817, 811, 812, 826, 827 and 828 in Square 343, located at 1000 K Street, N.W.

The applicant seeks to modify the PUD originally approved pursuant to Zoning Commission Order No. 556 and modified and extended pursuant to Zoning Commission Orders No. 556-A through 556-E, to construct a 472-room hotel on the subject site. The underlying zoning is HR/C-3-C and no changes to the zoning are requested.

The property is presently owned by the Federal Deposit Insurance Corporation but is under contract to be purchased by the applicant. Notice of today's public hearing was published in the D.C. Register on April 23, 1999 and in the Washington Times on April 21st, 1999.

This hearing will be conducted in accordance with the provisions of 11 DCMR 3022. This evening, the order of procedure will be as follows: first, preliminary matters;

1 second, the applicant's case; third, the Office of Planning
2 report; fourth, report of other agencies; fifth, the report of
3 the Advisory Neighborhood Commission 2F; then, sixth, parties
4 and persons in support; and, seventh, parties and persons in
5 opposition.

6 With that, let's begin with preliminary
7 matters. Ms. Pruitt-Williams, do --

8 MS. PRUITT-WILLIAMS: I'm sorry. What are
9 these?

10 CHAIRPERSON KRESS: Preliminary matters.

11 MS. PRUITT-WILLIAMS: Madam Chair, staff has a
12 couple -- we have, I guess, to waive the record for the
13 reports from the Department of Housing and Community
14 Development and from the Fire, EMS. We just received them
15 today.

16 CHAIRPERSON KRESS: The Fire?

17 MS. PRUITT-WILLIAMS: Yes. The Fire chief and
18 Emergency Medical Services.

19 CHAIRPERSON KRESS: Any objection? All right.
20 We will waive our rules to receive those reports.

21 MS. PRUITT-WILLIAMS: And we have received the
22 certification of maintenance of posting, and it is in order.

23 CHAIRPERSON KRESS: All right. Thank you. We
24 have had no requests for party status, is that correct?

25 MS. PRUITT-WILLIAMS: Correct. It's our
26 understanding that this is not clear. Mr. Brennan, would you

1 please come forward? It wasn't clear from your letter.

2 MR. BRENNAN: I beg your pardon. It should not
3 have been. With your permission, ma'am, my name is John
4 Brennan with the firm Jackson & Campbell.

5 CHAIRPERSON KRESS: Why don't you sit down.

6 MR. BRENNAN: May I sit?

7 CHAIRPERSON KRESS: Yes.

8 MR. BRENNAN: And we've been retained to
9 represent the hotel and restaurant employees at Union Local
10 No. 25, which opposes the request for modification. The Union
11 did make a timely response to the -- to the notice of hearing
12 and submitted various documents. We were retained just a
13 matter of days ago, and I understand that the Union did send
14 in a letter advising that we would be representing them and
15 that they had -- they had on their own requested party status.

16 CHAIRPERSON KRESS: We have no letter that
17 requests party status, only requests that they test -- that
18 they be allowed to testify. Oh, I'm sorry.

19 SPEAKER: There's the letter right there.

20 CHAIRPERSON KRESS: Oh, okay. Reserves the
21 right to be heard and that they're a neighbor within 200 feet.
22 It does not specifically say requests party status. Am I not
23 correct?

24 MS. PRUITT-WILLIAMS: Correct. That's why we
25 were a little unsure.

26 MR. BRENNAN: Yeah. I would suggest that is

1 simply do to the lack of the legal sophistication on the
2 writer. Our intent was to come in and oppose this as a party
3 and seek the right to cross-examine the various witnesses, and
4 also to make, with the Chair's permission if it's appropriate,
5 as a preliminary matter, certain motions with respect to this
6 procedure.

7 CHAIRPERSON KRESS: All right. Let's begin by
8 addressing the party status. I assume, Mr. Glasgow, you would
9 like to address that issue?

10 MR. GLASGOW: Yes, I would, Madam Chair. The
11 mikes are not working?

12 CHAIRPERSON KRESS: Just talk very loud
13 tonight. Hopefully, we will soon have a new system.

14 MR. GLASGOW: Madam Chair, members of the
15 Commission, for the record, my name is Norman M. Glasgow, Jr.
16 of the law firm of Wilkes, Artis, Hedrick & Lane and I'm here
17 on behalf of the applicant. And we oppose a request for party
18 status in this case by the Union.

19 Do you want me to address the merits of our
20 opposition at this point in time?

21 CHAIRPERSON KRESS: Yes.

22 MR. GLASGOW: In reading the letter, of course,
23 first of all it does not request that status, as the Chair
24 already has pointed out, does not request an appearance to
25 participate as a party as set forth in 3022.3(a) of the rules.

26 Next, in further review of the letter the Union

1 states in its last paragraph it reserves a right to be heard,
2 and that was a point you had made earlier; and the opportunity
3 to oppose the modification of the June 3rd, 1999 hearing, of
4 course, they can appear as a person in opposition to this.

5 Then the Union goes on and states their two
6 real areas of opposition to the application. First, concerns
7 about maintaining the integrity of the PUD process described
8 as an objection to the case proceeding as a modification
9 rather than a new application.

10 Secondly, the proposed modification of the off-
11 site housing amenity with regard to these two issues, the
12 Union is a tenant of the seventh floor of the office building
13 at 1000 K Street -- 1003 K Street and is the owner of a
14 surface parking lot on the north side of the 900 block of K
15 Street, N.W.

16 The Union has failed to state in any fashion,
17 as required pursuant to Sections 3022.3(f)(1), (3) and (4) how
18 this application in any way affects the Union as an office
19 tenant or owner of a surface parking lot by virtue of
20 modification from office use to hotel use at the 1000 K Street
21 site.

22 In this respect, the Hotel Union has failed to
23 meet the persons affected or aggrieved standard set forth in
24 the District of Columbia Court of Appeals opinion of Gotto v.
25 District of Columbia Board of Zoning Adjustment, 423 A2d. 917
26 at page 922, wherein it states:

1 "Persons wishing to contest zoning
2 determinations must demonstrate some greater -- some damage
3 greater than that suffered by the general public to satisfy
4 the person aggrieved requirement." The two bases of
5 opposition stated by the Union fail to meet the requirement.

6 In the process argument raised by the Union,
7 the Commission on several occasions has ruled that in order to
8 be accorded party status an individual or group must do more
9 than express a concern about planned unit development
10 processes, as is in this case, questioning whether a
11 modification was appropriate.

12 The Commission has dealt with this type of
13 issues before. For example, in the East Bank Millennium case
14 at 22nd and M Street, we went through exactly the same issue
15 and the Commission specifically ruled that a modification to
16 add a hotel to that project was appropriate.

17 And in that case we added about a 250,000
18 square foot hotel and 38,000 square feet of ground. Here,
19 we're substituting a hotel for an office building of about the
20 same size as what was dealt with. I'm sorry?

21 SPEAKER: A hotel for an office building?

22 MR. GLASGOW: Yeah. We substituted a hotel for
23 an office building in this case. In the other case we just
24 added a hotel and it was determined -- there was an issue as
25 to that, it was raised before the Commission, and the
26 Commission dealt with that matter.

1 Also, in the Zoning Commission case 92-17
2 involving the rezoning of 1201 K Street, the Commission denied
3 party status to the Committee of 100 when it alleged that
4 there are very important processes of government at issue in
5 this particular zoning request, and we are very concerned
6 about the -- I'm quoting now -- "and we are very concerned
7 about the process of government that it should be run in a
8 reputable manner, and that's why you're here as party status."

9 In discussing the Committee's request -- and
10 that's at pages 19 and 20 of that transcript, or 20 and 21.
11 In discussing the Committee's request, the Chair of the
12 Commission stated:

13 "What we are looking for was the manner in
14 which the Committee of 100 as distinct from any other member
15 of the public or organization that has some concerns, vis-a-
16 vis zoning and planning and so on, how would you weigh that
17 and what particular interest would you have in this over and
18 above that which might be expressed by other responsible
19 citizens or other well known or well respected professional
20 groups. Giving your explanation, I fail to see it."

21 The Commission went on to deny that request for
22 party status. Furthermore, as the Commission will recall in
23 its set-down for this hearing, the issue of process as to
24 whether this application, this case that we're hearing
25 tonight, was appropriately a modification.

26 That question came up, was discussed by the

1 Commission, and the Commission -- or whether it should be
2 considered a new application was thoroughly discussed. Office
3 of Planning responded to that question. The question was
4 asked by the Chair, other Commission members talked about it,
5 and it was determined that a modification was appropriate.

6 Part of that discussion concerned the risk to
7 an applicant with an approved office planned unit developing
8 and starting new from square one. You may have a situation
9 where we don't come back and say that there -- there is no
10 hotel in that -- in that situation. We can't put ourselves at
11 risk.

12 The Commission considered that the notice and
13 filing requirements are the same, whether the case is tried as
14 a modification or a new application. There's no prejudice to
15 the general public. Our notice requirements, the opportunity
16 to come in are exactly the same, whether it's a -- whether
17 it's a modification or not.

18 This process was also confirmed by assistant
19 corporation counsel in the Commission's order in the East Bank
20 Millennium case at 22nd and M Streets. Hence, there would be
21 no prejudice to any members of the public who wish to
22 participate in the proceeding.

23 And the applicant has assembled a number of
24 precedents on the process issue, showing that it is well
25 within the types of modification previously approved by the
26 Commission, like the Grammercy Hotel case and others.

1 Significantly, with respect to this request, there is no
2 specific interest raised by the Union that uniquely affects
3 the Union and its office tenants.

4 Secondly, the -- that -- so that covers that
5 one issue. Secondly, the Union states with respect to the
6 housing issue, "We at Local 25 find that this change, that is,
7 from affordable housing to market rate units and a reduction
8 in the number of units inconsistent with our commitment to
9 affordable housing downtown, not only for our members but also
10 for all the working people of the District of Columbia."

11 This is clearly not a specific interest that is
12 raised but is on its face a statement of general interest and
13 a position argued in general terms. The Union's statement
14 that the proposal is inconsistent with a commitment to
15 affordable housing for its members does not in any way address
16 3022.3(f)(1), which requires a person seeking party status to
17 identify the property a person owns, occupies or has an
18 interest in which will be affected by action upon the
19 application; or subsection (3), the environmental, economic or
20 social impacts upon the person and the person's property which
21 are likely to occur if the action requested of the Commission
22 is approved.

23 There is no connection or nexus between the
24 Union's stated claim and the occupancy by the Union of the
25 seventh floor of an office building at 1003 K Street or its
26 ownership of the surface parking lot. The Union's statement

1 in this regard does not allege any specific or adverse impact
2 which would occur as a result of the modification of the PUD
3 as is required under case law and the rules of the Commission
4 in order to be accorded party status.

5 There is no allegation that are bulk, height,
6 traffic, any of those issues affect this -- their property.
7 For the foregoing reasons, the applicants respectfully
8 requests the letter dated May 14th be denied insofar as it is
9 treated as a request for party status and that the Union
10 proceed as a person in opposition.

11 Thank you, Madam Chairman.

12 CHAIRPERSON KRESS: Thank you.

13 MR. BRENNAN: With your permission?

14 CHAIRPERSON KRESS: Yes.

15 MR. BRENNAN: I think Mr. Glasgow, for whom I
16 have great respect, confuses the issue of how one demonstrates
17 one is a party within what issues one may choose to raise when
18 one appears before the Commission. Mr. Glasgow admits that
19 the Union owns a lot that is right next -- or right across the
20 street from this development.

21 And I don't believe the requirements are that
22 one may say in a letter, oh by the way, when -- I am a party
23 because I have a property that will absolutely be impacted and
24 affected by this because it's right next door. It's a stone's
25 throw away. Therefore, when I become a party, I'm going to
26 raise certain issues.

1 He takes the idea of showing that you're
2 substantially affected, which we are because we'd have a
3 property right there, and then says, well, first you have to
4 demonstrate that you've got issues that tie into that. I
5 don't think that's the case.

6 If the Commission is prepared to say that when
7 someone comes before you who has property right next door to
8 the development that they're not a party, then I -- then I
9 can't argue with that except on appeal. But I would say we
10 know, Mr. Glasgow knows, that we have property that's directly
11 affected.

12 And we're not just a member of the general
13 public in that. We are an immediately adjacent property
14 owner. Now, with respect to whether once you are granted that
15 status you can raise issues that you like that, in fact, may
16 also be issues that someone in the general public would raise,
17 I think that's clear that you can.

18 It's simply a question of whether given our
19 immediate and obvious property interest we're permitted to
20 proceed as a party, with rights of cross-examination. I think
21 it's as simple as that. It's not an issue of taking what we
22 choose to raise and inflating it with what we are, which was -
23 - which is actually someone very special, someone affected by
24 this immediate action.

25 With respect to the modification, I think that
26 that's going to have to await our presentation of evidence.

1 If -- if the Chair would like, I could make some arguments on
2 that at this point. I don't think it's appropriate, but we're
3 right now addressing the status -- the question of our party
4 status.

5 We have a piece of property right there. And
6 it obviously will be affected by the bulk and the density and
7 the use it's going to be put into.

8 CHAIRPERSON KRESS: All right.

9 MR. GLASGOW: May I have rebuttal on that?

10 CHAIRPERSON KRESS: Yes. Go ahead.

11 MR. GLASGOW: Just very briefly, it states in
12 the rules in Section 3022.3(f) and in (1), (3) and (4), it
13 states that the party the person own -- "the property the
14 person owns, occupies or has an interest in which will be
15 affected by the action upon the application; the relationship
16 that the person has to that property."

17 Then goes on in Sections (3) and (4), "the
18 environmental, economic and social impacts upon the person and
19 the person's property which are likely to occur if the action
20 requested of the Commission is approved; any other matters
21 that would demonstrate how the person would be affected or
22 aggrieved by action upon the application."

23 So counsel is saying read those out of the
24 regulations; if we're nearby and we ask to be a party, then
25 we're a party, whatever it is that we allege.

26 MR. BRENNAN: I'm actually not suggesting that

1 because, if you notice, it asks for the -- to say how you're
2 affected, the person is affected if you're a nearby property
3 owner. And we're here to explain how we are affected.

4 So I'm not trying to read those regulations
5 out. Again, it was just a -- I wish counsel -- I had gotten
6 in a little earlier and we could have been plainer on some of
7 these papers that were submitted to the Commission. But we've
8 got, I think, a clear right to be a party unless you're
9 prepared to say that someone who has expressed an interest,
10 brought themselves forward, albeit in layman's terms, should
11 be removed from the proceedings.

12 COMMISSIONER CLARENS: What's the location of
13 the parking lot?

14 MR. BRENNAN: The parking lot is on the
15 northeast corner of 10th and K.

16 COMMISSIONER CLARENS: Diagonal to the site?

17 MR. BRENNAN: Yes, sir.

18 COMMISSIONER CLARENS: It's close enough for
19 me.

20 COMMISSIONER HOOD: Mr. Glasgow, I notice you
21 reference 3022.3(f), number 1. Could you read that?

22 MR. GLASGOW: Yes. "The property the person
23 owns, occupies or has an interest in which would be affected
24 by action upon the application and the relationship the person
25 has to that property." So it's owner, tenant, whatever.

26 COMMISSIONER FRANKLIN: Mr. Brennan, is it your

1 position that anyone within 200 feet of a property is, by
2 virtue of that, a party if they want to be?

3 MR. BRENNAN: If they express an interest, I
4 think they -- they can be.

5 COMMISSIONER FRANKLIN: Any interest at all?

6 MR. BRENNAN: Yes. And even, for example, they
7 might express an interest in support, they might express an
8 interest --

9 COMMISSIONER FRANKLIN: I understand. But --

10 MR. BRENNAN: -- but once they --

11 COMMISSIONER FRANKLIN: I understand.

12 Generalized interest?

13 MR. BRENNAN: But, no. I don't -- see, I view
14 it as two different pieces. First, if you have a property
15 nearby I think you overcome the Court of Appeals' instructions
16 that you can't just be asking to be a party to provide the
17 Commission with insight into what the general public might
18 feel about certain issues.

19 But I don't think the reverse, which is Mr.
20 Glasgow's argument, is true, that if -- that if -- as a person
21 entitled to be a party because your property is right there,
22 you also tend to express interest that might be those held by
23 the general public. That puts a particular burden on you to
24 then somehow qualify again as a party.

25 COMMISSIONER FRANKLIN: So are you opposed to
26 any development on this site?

1 MR. BRENNAN: No. No, sir.

2 COMMISSIONER FRANKLIN: You're opposed to just
3 this proposed development?

4 MR. BRENNAN: In the way it has happened, yes,
5 sir.

6 COMMISSIONER FRANKLIN: And how is your
7 property affected adversely by this proposed development?

8 MR. BRENNAN: Until we -- until we -- well,
9 first of all, if we are correct in the legal position, Mr.
10 Glasgow and I have an argument of that, obviously, then our
11 property will be burdened by a significantly greater density,
12 height and bulk than should be permitted if this
13 -- if this petition were to proceed, as we believe it should,
14 which is this way.

15 We believe this should be a new PUD. I know
16 that -- I know that this is an argument, and I was not aware
17 that Mr. Glasgow and the Commission had already considered
18 this. I think if it had been considered, I did not know it
19 was considered at a public hearing that was noticed to
20 potential parties.

21 Our view is that this properly should in fact
22 be a hotel at some point in time. But the way it should be
23 done is that the Commission should look at the existing law,
24 by which we believe it's bound, and take those regulations
25 which the Commission worked very hard in '95 to put out, and
26 say, okay, this is really the way you have to go.

1 You can't -- you can't morph this -- this
2 undying petition that's been sort of awakening every couple of
3 years to be extended. You -- you can't take that and kind of
4 --

5 COMMISSIONER CLARENS: Excuse me for
6 interrupting. The question was -- that's what you're
7 proposing and that might be fine. But we're still at the
8 party issue. So how -- how does -- how do you get
9 specifically aggrieved by --

10 MR. BRENNAN: Our property --

11 COMMISSIONER CLARENS: -- by a decision this
12 Commission might render?

13 MR. BRENNAN: If you permit a property with
14 significantly higher density, much higher FAR and height and
15 bulk to go in, then there are limitations placed, aesthetic,
16 development, location limitations, placed on the value --

17 SPEAKER: ---- .

18 MR. BRENNAN: The height is not changed, as I
19 understand it.

20 COMMISSIONER CLARENS: The height has not
21 changed?

22 MR. BRENNAN: 130 and 130.

23 COMMISSIONER FRANKLIN: How does it burden your
24 site?

25 MR. BRENNAN: I believe that the development
26 potential of our site is lessened if this becomes a greater

1 site, more magnificent and more dense site or heavier site.

2 COMMISSIONER FRANKLIN: And why?

3 MR. BRENNAN: For the same -- for the same
4 reasons that an architect will say if I can have -- if I can
5 have this site and greater prominence than surrounding
6 buildings, I can create a focal point, I can create a more
7 attractive marketing position for my property, I can create a
8 signature in the neighborhood that otherwise would not exist.

9 COMMISSIONER FRANKLIN: You're turning upside
10 down the argument we normally hear, which is if we grant some
11 kind of benefit across the street then we have to grant it to
12 a property, you know, across the street, your property across
13 the street.

14 MR. BRENNAN: I wanted to turn the arguments
15 upside down.

16 COMMISSIONER FRANKLIN: Well --

17 MR. BRENNAN: But I think it's a fair argument.

18 COMMISSIONER FRANKLIN: It's entertaining, but
19 I don't know how --

20 MR. BRENNAN: I think it's a fair argument.
21 The Commission -- the Commission can look at the regulations,
22 the existing PUD regulations which have restrictions on the
23 FAR that you can permit and a limitation on the FAR increase
24 that you can permit if you see it as our PUD.

25 And you can say that that's -- you don't have
26 to abide by that. Our view is that -- our position as a

1 property owner is significantly improved if they are required
2 to abide by the same things that anyone else in that -- that
3 neighborhood attempting the same thing would be required to
4 abide by.

5 Let's assume that the hotel union says let's
6 build a hotel union -- a union hotel. Now, when we come in,
7 because we don't have this sort of un-dead application, we
8 will be required to apply under existing PUD limitations with
9 the limited FAR and with the Commission's limited ability to
10 expand that FAR.

11 So we'll have a competitive disadvantage to the
12 existing hotel which came in from ten years ago and used an
13 FAR that it could not get on an existing PUD application.

14 COMMISSIONER FRANKLIN: I don't think the
15 Commission has ever, at least on my watch, recognized
16 competition as a basis for party status in a proceeding. And
17 I certainly don't think -- I think it's against public
18 interest for us to recognize competition as a basis for party
19 status.

20 I'm a little bit surprised that the jobs
21 created by this hotel are not really of interest to your
22 client.

23 MR. BRENNAN: I don't believe I've said
24 anything that would lead you to support that I'm making that
25 argument. The jobs that are created by any hotel and a hotel
26 that is built in compliance with the existing PUD regulations

1 are of significant interest to us.

2 COMMISSIONER FRANKLIN: I have no further
3 questions.

4 CHAIRPERSON KRESS: All right, thank you. Any
5 questions? Did you care to rebut anything that was just said?

6 MR. GLASGOW: Just a couple of items very
7 quickly. One is the height that's been discussed, it's the
8 same. Our lot occupancy is lower than it was for the office
9 building because you can have more floors in a hotel in the
10 same height building as you can for an office building.

11 COMMISSIONER PARSONS: Madam Chairman, we're
12 beginning to argue the case here. No case has been made by
13 the Union pursuant to our regulations as to why they are
14 aggrieved any more than -- in my opinion, aggrieved any more
15 than any other adjacent property owners.

16 So I would move that we deny the request that
17 has been made verbally tonight for party status.

18 CHAIRPERSON KRESS: All right.

19 COMMISSIONER FRANKLIN: I second that.

20 CHAIRPERSON KRESS: All right. Any further
21 discussion? Commissioner Hood, did you want to say anything?

22 COMMISSIONER HOOD: Well, it's already been
23 moved and seconded, so I'll just join in the voting. I really
24 think that when I -- let me just comment on 3022.3(f), number
25 1, where it says the property a person owns, occupies and has
26 an interest. And I do think that they have

1 interest and I think they should be afforded the opportunity
2 to be able to cross-examine. And I think that's where we're -
3 - if we don't give them party status -- first of all, they're
4 definitely affected, if I'm reading the regulations correctly,
5 which I'm sure -- I believe I am.

6 They definitely have interest and they're
7 definitely affected, so I will be voting against that motion.

8 CHAIRPERSON KRESS: All right. Commissioner
9 Clarens?

10 COMMISSIONER CLARENS: Well, you know, I'm a
11 little bit troubled because here it is we have two
12 commissioners with much greater experience than I have on the
13 Commission and they feel that the standard has not been met.

14 But I'm reading the regulations right here in
15 front of me and just as Mr. Hood said, the key is item
16 3022.3(f)(3), where there has to be a showing of
17 environmental, economic and social impact on the person and
18 the person's property which are likely to occur if an action
19 requested of the Commission is approved.

20 Now, it seems to me that almost anything that
21 happens -- and, again, I'm at a disadvantage. And I will tell
22 you that I'm coming from a BZA experience where party status
23 is granted under different standards, and I'm aware of that.

24 Nevertheless, it seems to me that if you are a
25 neighbor across the street that owns a piece of property, and
26 a project of certain magnitude, such as this, is going to be

1 built across or diagonal to you, that I find it difficult to
2 understand how you can claim that you are not affected
3 differently than the general public would.

4 And Mr. Franklin has made the comment that then
5 everybody, all the neighbors around the property would then
6 claim party status, and maybe so they should. I don't know.
7 And so I'm bringing it to the Commission as a -- as something
8 that I don't quite understand.

9 But I clearly see that here is a property, this
10 is diagonal to it in the downtown area, and -- and you're
11 modifying significantly. You're changing the FAR, you're
12 changing the use of this building from the previous PUD, and
13 those are significant changes.

14 And I -- I don't quite see it as clearly as Mr.
15 Parsons and Mr. Franklin. So I would ask you to please
16 illustrate to me.

17 COMMISSIONER PARSONS: Generally, party status
18 is granted to an abutting owner, a -- adjacent residential
19 property or another property of lower density that's going to
20 be completely screened and shaded as a result of this
21 structure, some direct impact; not -- not something that's
22 occurring diagonally across a major set of streets in this
23 city. It's just not the same at all. A shared alley,
24 that kind of -- of high impact as opposed to theoretical
25 values of property.

26 COMMISSIONER FRANKLIN: The -- the argument

1 here is -- first of all, I interpret the regulations to say
2 the proximity is a necessary but not always a sufficient basis
3 for party status.

4 And the regulations say that you have to within
5 14 days prior to the proceeding set forth specifically how
6 your property is going to be adversely affected, or your
7 person adversely affected in a way that is different from the
8 public at large.

9 And the arguments that are raised by the Union
10 are really arguments that are public policy arguments, not
11 that this is the affect it's going to have on our property.
12 And that -- that's what concerns me because then everyone who
13 has a public policy issue that they want to take before us can
14 become a party.

15 COMMISSIONER CLARENS: No. And own property
16 which is immediately adjacent.

17 COMMISSIONER FRANKLIN: Okay. But --

18 COMMISSIONER CLARENS: It is a combination.

19 COMMISSIONER FRANKLIN: But whose property is
20 not specifically adversely affected, even theoretically, then
21 I've got a problem with it. But, you know, reasonable minds -
22 -

23 COMMISSIONER CLARENS: Okay. Well, I think
24 that ---- . Your call.

25 CHAIRPERSON KRESS: What is your pleasure,
26 should we vote?

1 MS. PRUITT-WILLIAMS: There's a motion on the
2 floor.

3 CHAIRPERSON KRESS: I know there's a motion on
4 the floor. I was -- was -- are we finishing discussing the
5 information?

6 COMMISSIONER HOOD: I'm finished discussing it.

7 CHAIRPERSON KRESS: Okay. All those in favor
8 of denying party status to the Hotel and Restaurant Employees
9 Local 25 signify by saying "aye."

10 (Vote taken)

11 CHAIRPERSON KRESS: Opposed?

12 COMMISSIONER HOOD: Opposed.

13 COMMISSIONER CLARENS: Abstain.

14 MS. PRUITT-WILLIAMS: Staff would record the
15 vote as 4 to 1.

16 CHAIRPERSON KRESS: No. It -- I'm sorry?

17 MS. PRUITT-WILLIAMS: I'm sorry, I didn't hear
18 you.

19 COMMISSIONER CLARENS: I abstain.

20 MS. PRUITT-WILLIAMS: Okay, 3 to 1 to 1 to deny
21 party status. Motion made by Mr. Parsons, seconded by Mr.
22 Franklin.

23 CHAIRPERSON KRESS: All right, thank you.

24 MS. PRUITT-WILLIAMS: Madam Chair, we still
25 need to swear people in.

26 CHAIRPERSON KRESS: Yes. So far -- we got off

1 on the party status. Let me finish quickly the outline
2 because there also has been a letter just handed to us that
3 Mount Vernon Place United Methodist nor the Chinese Community
4 Church were advised of these plans.

5 And so I think we need to deal with that as a
6 preliminary matter. But in the meantime, let me just quickly
7 go ahead and say we have set time limits for this evening.
8 The application has 60 minutes, other parties have 15,
9 organizations at five, individuals at three.

10 And we ask that those presenting testimony be
11 brief and non-repetitive. And if you have a prepared
12 statement you should give copies to staff and orally summarize
13 the highlights only. Please give us copies of your statement
14 before summarizing.

15 Each individual appearing before the Commission
16 must complete an identification card and submit them to the
17 Reporter at the time you make your statement. If these
18 guidelines are followed, an adequate record can be developed
19 in a reasonable length of time.

20 The decision of the Commission in this case
21 must be based exclusively on the record. To avoid any
22 appearance to the contrary, the Commission requests that
23 parties, counsel and witnesses not engage members of the
24 Commission in conversation during any recess or at the
25 conclusion of the hearing session.

26 While the intended conversation may not be

1 entirely unrelated to the case before the Commission, other
2 persons may not recognize that the discussion is not about the
3 case. The staff will be available to discuss procedural
4 questions.

5 All individuals who wish to testify please rise
6 to take the oath.

7 (Whereupon, the witnesses were sworn.)

8 CHAIRPERSON KRESS: Let's continue with
9 preliminary matters before us. We have the letter from the
10 Shared Ministry of the Mount Vernon Place United Methodist and
11 the Chinese Community Church.

12 REVEREND TANG: I am Reverend Tang. May I just
13 read the statement?

14 CHAIRPERSON KRESS: No. This is not a time of
15 testifying. This is --

16 REVEREND TANG: I mean the statement that you
17 have in front of you.

18 MS. PRUITT-WILLIAMS: He's asking --

19 CHAIRPERSON KRESS: Yes. It's very brief. Go
20 ahead and read it for the record for those people who don't
21 know what you are requesting.

22 REVEREND TANG: Okay. I am William C. Tang.
23 I'm pastor of the Chinese Community Church and also
24 representing the Mount Vernon Place United Methodist Church.
25 It has just come to our attention that the building project
26 has been proposed for the 1000 block of K Street, N.W. and

1 that that proposal represented a departure from previously
2 approved plans.

3 Further, we understand that such a departure
4 would necessitate the notification of owners of adjacent
5 residences and businesses. Neither Mount Vernon Place
6 Methodist Church nor the Chinese Community Church occupying
7 the area bounded by the 900 block of Massachusetts Avenue,
8 N.W. and the 900 block of K Street, N.W. were advised of these
9 plans.

10 And so we respectfully ask that the hearing
11 scheduled for this evening be postponed until the church can
12 be provided with appropriate information regarding this
13 project. Thank you.

14 CHAIRPERSON KRESS: Thank you. With that, I
15 would like to ask Mr. Glasgow if they were notified. Or what
16 was the process of notification?

17 MR. GLASGOW: They -- they were not -- they're
18 not a property owner within a 200 foot radius.

19 COMMISSIONER CLARENS: So they were notified by
20 the other --

21 MR. GLASGOW: By the --

22 COMMISSIONER CLARENS: -- Commission
23 advertisement and --

24 (Simultaneous comments)

25 REVEREND TANG: As far as I understand it, it's
26 definitely was in the 200 feet.

1 COMMISSIONER HOOD: 900 K Street as opposed to
2 1000 K Street? You say they're not within the 200?

3 MR. GLASGOW: That's correct.

4 REVEREND TANG: And our church has owned the
5 property for the last hundred years.

6 SPEAKER: What did he say?

7 MR. GLASGOW: The lots on the corner,
8 Commissioner, are within --

9 REVEREND TANG: We have owned the property for
10 the last hundred years.

11 CHAIRPERSON KRESS: One person speak at a time.
12 Go ahead, Mr. Glasgow. What were you saying?

13 MR. GLASGOW: We have an affidavit as to the
14 posting. Two -- two lots --

15 SPEAKER: You have to speak louder.

16 MR. GLASGOW: The two lots located at the
17 northeast corner are within the 200 foot radius, they were
18 noticed. Property owned by the church is to the east of that
19 line.

20 MR. BASTIDA: Is that part of the record?

21 MR. GLASGOW: It is now. We are submit --

22 CHAIRPERSON KRESS: They were submitting it this
23 evening. Mr. Glasgow, would you point out the church, the
24 church on -- for Mr. --

25 MR. GLASGOW: The church property, as we
26 understand, begins at lot -- I believe it's 811.

1 CHAIRPERSON KRESS: What square?

2 MR. GLASGOW: 371. And that is outside the 200
3 foot radius which includes, as we discussed previously, the
4 parking lot owned by the Union.

5 MR. BRENNAN: Madam Chair, if I may, just to
6 assist the Reverend, one of the Union employees who is here
7 walked and measured with a measuring stick the distance, and
8 the church is within that. I don't know -- I don't see the
9 exhibit that Mr. Glasgow has handed, but it was measured.

10 (Pause)

11 CHAIRPERSON KRESS: Mr. Glasgow, do you have
12 anyone from your office that can assist in helping with this
13 discrepancy? Ms. McCarthy, do you -- you're not on the record
14 yet, right. Why don't you -- I'm sorry. Show us -- point it
15 out and then sit down. I'm sorry.

16 REVEREND TANG: We'd just like to know exactly
17 where our property is on this map. This is the site right
18 here and our church is right here in this corner, this pie
19 shape between Massachusetts and K Street.

20 COMMISSIONER CLARENS: Is the entire block
21 owned by the church?

22 REVEREND TANG: Not the entire block but most
23 of it. It's about probably at least, I would say, three-
24 quarters or four-fifths.

25 CHAIRPERSON KRESS: Is it outside the circle
26 drawn on that?

1 REVEREND TANG: It's touching that, right --
2 right at the edge. And, also, the measurement of the street,
3 too, I understand is slightly irregular because they measure
4 150 feet over here. But, actually, this is much narrower.

5 This goes from like four lanes to two lanes.
6 So the distance is very, very -- not the same at all with the
7 other ones.

8 MR. GLASGOW: Madam Chair, we have an affidavit
9 that's been submitted as a sworn -- a sworn affidavit by a
10 person in our office who has been doing this -- he is not here
11 this evening, who has been doing our notices and doing
12 property owner lists for this firm for what, about 15 years?
13 Ten or 15 years experience in the law firm.

14 Most of the property owner lists that are done
15 and the 200 foot radius is done by this person. He is very
16 familiar with this process and has submitted an affidavit
17 stating the 200 foot perimeter.

18 COMMISSIONER FRANKLIN: Mr. Glasgow, is it your
19 view that the 200 feet is measured from the, let's say, the
20 center of the property outward or is it 200 feet from the
21 perimeter?

22 MR. GLASGOW: Two hundred feet from the
23 perimeter, sir.

24 COMMISSIONER FRANKLIN: And the map that you
25 are presenting shows a -- a circle that's underdrawn. Is that
26 --

1 MR. GLASGOW: It's sort of oblong because of
2 the shape of the lot.

3 COMMISSIONER FRANKLIN: Oh, it's oblong?

4 MR. GLASGOW: Yes, sir.

5 COMMISSIONER FRANKLIN: Oh, I see. Okay.

6 MR. GLASGOW: Because you go 200 feet around
7 the entire perimeter, so --

8 COMMISSIONER FRANKLIN: Are you representing to
9 the Commission that that is a depiction of the boundaries 200
10 feet from the perimeter of the property?

11 MR. GLASGOW: That is our understanding of
12 those boundaries.

13 MS. MCCARTHY: Madam Chair, Mr. Glasgow's firm
14 is equipped with somebody who does these calculations for them
15 and I'm not sure what process he uses. Those of us who do --
16 those of us who are in law firms that don't have our own
17 people in-house that draw this go down to the Department of
18 Finance and Revenue.

19 And the technique they use is to take each
20 corner of the property involved and to do 200 feet from that
21 corner. And I believe when I've spoken to Stephanie before
22 about that on the St. Anselm's case, because it was a very
23 large piece of property, and so the issue was did it have to
24 be 200 feet from the periphery of that property all the way
25 around. The answer was yes.

26 And so we noticed everybody 200 feet from the

1 periphery. This is basically showing just a very short
2 distance from the center, if I can understand this oval
3 correctly.

4 MR. GLASGOW: That's incorrect.

5 MR. BRENNAN: May I also suggest with due
6 respect that Mr. Glasgow's firm is well known and very
7 respected. But, in effect, he's offering testimony of someone
8 who is not here. Mr. Moses from the Hotel Union actually took
9 one of those sticks and measured it out and the church was
10 within, I believe, 197 feet, the edge of the property and
11 didn't receive notice.

12 And this is a crucial factual question. Three
13 feet does make a witness here. We've got a live witness
14 versus a potential affidavit.

15 COMMISSIONER CLARENS: Reverend Tang, do you
16 know what is the number -- what is the lot number of your
17 property?

18 REVEREND TANG: I'm sorry, I'm not able to tell
19 you that.

20 COMMISSIONER CLARENS: But is in Square 371?

21 REVEREND TANG: Right. It's "H" represented on
22 the line there.

23 COMMISSIONER CLARENS: Well, you see, I think
24 that what is in front of us might not be the person who
25 prepared this. But what is in front of us is this document
26 that has been submitted into the record and which seems to me

1 to represent rather accurately a 200 foot area surrounding the
2 property and developed as -- developed following appropriate
3 procedures as a 200 foot distance which follows and turns
4 around the edge or the perimeter of the property, and that
5 seems to me that it is fairly well done.

6 I don't have any problem with this. I accept
7 this and I recommend to the Commission that I accept this as -
8 - as factual. What is not clear is what is the property of
9 the church, at least is not -- is not being put forth. So
10 it's difficult to know whether it is -- whether it is Lot 814
11 or Lot 811 or Lot --

12 REVEREND TANG: I've been advised that actually
13 it's listed as "G" on the map here.

14 CHAIRPERSON KRESS: I'm sorry, I can't hear
15 you.

16 REVEREND TANG: Beginning at "G."

17 COMMISSIONER CLARENS: The beginning of "G" is
18 outside.

19 REVEREND TANG: According to this it's outside,
20 but according to our measurement it's not.

21 MR. GLASGOW: I would only want to say, Madam
22 Chair, that without a survey or a plat, how would one going
23 out to the street just know --

24 COMMISSIONER CLARENS: We're not dealing with
25 that.

26 MR. GLASGOW: -- property line is on a parking

1 lot. They wouldn't know. They'd have to use a plat.

2 MR. BRENNAN: There is a live witness who can
3 explain what he did.

4 CHAIRPERSON KRESS: Our staff would like to
5 make a comment.

6 MS. PRUITT-WILLIAMS: Yes. We took the Xerox
7 that Mr. Glasgow gave us and matched it up with our original
8 base map and then scaled the drawing from there, and it is
9 outside the 200 foot radius from the diagonal point, the most
10 upper point to the diagonal Lot 811.

11 MR. BRENNAN: Is the staff referring to the "G"
12 part of 811?

13 MS. PRUITT-WILLIAMS: I don't have that with me
14 in front of me.

15 MR. BRENNAN: From the exhibit that Mr. Glasgow
16 offered?

17 MS. PRUITT-WILLIAMS: The "G" part? Correct,
18 yes. We took this base map, cop -- this is a copy of our
19 -- of a base map. And we measured -- we're in Lot 71,
20 correct?

21 COMMISSIONER CLARENS: From the northeast
22 corner.

23 MS. PRUITT-WILLIAMS: We measured from this
24 corner diagonally out to here, and found that it was more than
25 200 feet. It didn't even get touched. We moved it in sort of
26 a radial fashion to be sure.

1 CHAIRPERSON KRESS: We have been kind of
2 talking softly, but the discussion that was just occurring to
3 my left is that this is risk of the applicant. To our best
4 knowledge, with the affidavit they have submitted and our own
5 staff, it appears to be outside of the 200 feet.

6 And if the applicant feels secure, because
7 they're the ones who will face the appeal if it is -- if it is
8 with -- inside the 200 feet. So it's my tendency to say to go
9 with the affidavit that has been submitted and to proceed with
10 the hearing this evening.

11 What is -- what is your pleasure?

12 COMMISSIONER FRANKLIN: Concur.

13 COMMISSIONER CLARENS: Concur.

14 COMMISSIONER HOOD: Since staff has scaled it
15 and saw that it's outside the 200 feet, I'm willing to go
16 forward.

17 CHAIRPERSON KRESS: All right. We will be
18 going forward.

19 MR. BRENNAN: Would the Chair accept a proffer
20 of the testimony that we could offer?

21 CHAIRPERSON KRESS: We've already decided.

22 MR. BRENNAN: Thank you.

23 CHAIRPERSON KRESS: Thank you. Are there any
24 other preliminary matters? All right. If not, then we will
25 do the applicant's case.

26 MR. GLASGOW: Thank you, Madam Chair. I wanted

1 to introduce briefly the development team, proceed with a very
2 brief opening statement, get the testimony of the witnesses
3 because I know that we are now at 8:20.

4 CHAIRPERSON KRESS: And I believe you wanted to
5 declare some expert witnesses as well. Let --

6 MR. GLASGOW: Yes, I do.

7 CHAIRPERSON KRESS: -- us know when you get
8 there.

9 MR. GLASGOW: Yes, I did. Here with me this
10 evening are Ms. Sarah Shaw of the law firm of Wilkes, Artis,
11 Hedrick & Lane. I've already identified myself for the
12 record.

13 The hearing on behalf of the Urban Development
14 Group, the applicant in this project who has settled on the
15 property with FDIC, that occurred in March, are Bob Curtis;
16 Robert Burns, who will be giving the principal testimony; Mr.
17 Ron Walton; and Mr. Jim Farr in the audience.

18 Mark Boekenheide and Peter Sererude are here
19 from the architectural firm of Brennan, Beer, Gorman & Monk
20 Architects. He will be submitted as an expert architectural
21 witness, Mr. Boekenheide. Marty Wells, a transportation
22 consultant; Steven Fuller, an economic consultant; Steven
23 Sher, a land planner. The latter three have been accepted as
24 experts previously by this Commission.

25 CHAIRPERSON KRESS: Yes. And will be again.

26 MR. GLASGOW: If you want to, we can qualify

1 Mr. Boekenheide at this time or during his testimony.

2 CHAIRPERSON KRESS: Well, since that's the only
3 person left, why don't we go ahead. I have reviewed the
4 material and I -- I agree that he would be considered an
5 expert in architecture. Is that all right with my fellow
6 colleagues?

7 He is thusly declared an expert in
8 architecture.

9 MR. GLASGOW: All right. Before proceeding
10 with the testimony of witnesses, I would like to give a very
11 brief opening statement.

12 As the Commission is very well aware at this
13 point in time, the site is presently vacant. It has been used
14 as a surface parking lot for many years. We are -- presently
15 have approved a 9.3 FAR 130 foot high office building that was
16 first approved in the late 1980s.

17 The applicant, prior to closing on the property
18 with FDIC in March of this year, undertook an analysis of
19 whether or not the hotel use would be feasible for the site if
20 approved by the Commission. This ultimately led to the filing
21 of the modification application that you have with you this
22 evening.

23 This was done also after meeting and discussing
24 this issue with the Office of Planning. But even prior to
25 undertaking that effort there were numerous and extensive
26 meetings in the community with Advisory Neighborhood

1 Commission 2-F, the Logan Circle Community Association and the
2 Blagdon Alley Association, all of which support the
3 application.

4 There were approximately six public
5 neighborhood meetings concerning this project. In addition,
6 we understand that the ward council member supports the
7 application, and at no time during the course of those
8 meetings was any opposition raised to the concept of modifying
9 the planned unit development or the reconfiguration of the
10 off-site housing amenity.

11 In addition, as was stated by the Office of
12 Planning at the set-down meeting, the position could be taken
13 that due to the amendment of the comprehensive plan to the
14 high density/commercial only classification that there need
15 not be any housing amenity provided in conjunction with this
16 project.

17 As the Commission may recall, the previous land
18 use designation for the site was high density commercial and
19 high density residential, and that's what led to the prior
20 housing amenity being offered in the PUD.

21 In proceeding with this application, we agree
22 with the position of the Office of Planning that the most
23 important amenity to the city with respect to this PUD is that
24 it would permit a 10-1/2 FAR, 130-foot hotel to be constructed
25 on this site instead of the 9.3, 130-foot height office
26 building, in very close proximity to the new convention

1 center.

2 In addition, the applicant is nonetheless
3 prepared and has agreed with the community to provide an off-
4 site housing amenity of 25 market rate units at the premises
5 1223 to 1229 Twelfth Street, N.W.

6 And testimony will be offered as to the
7 deterioration of those properties over the last ten years
8 prior to the applicant's ownership which significantly
9 increased the cost of providing the housing amenity, including
10 one of the structures burning down. So a new apartment
11 building would have to be constructed on that part of the
12 site.

13 And if there are no -- and the other amenities
14 listed in the PUD, such as the contribution of \$25,000 to the
15 Arts Committee, Washington Convention Center, \$25,000 to the
16 U.S. Park Service would remain, as would Minority Business
17 Opportunity Commission memorandum and DOES agreement.

18 If there are no preliminary questions, I would
19 like to proceed with the testimony of the witnesses.

20 CHAIRPERSON KRESS: Please.

21 MR. GLASGOW: Okay. I'd like to call Mr. Bob
22 Curtis. Mr. Curtis, would you please identify yourself for
23 the record and proceed with your testimony?

24 MR. CURTIS: Good evening, Madam Chair and
25 members of the Commission. My name is Robert J. Curtis, for
26 the record. I'm one of the managing members of Urban

1 Development Group, LLC. And along with my partners, Ron
2 Walton and Jim Farr, we're the developers of 1000 K Street and
3 the applicant now under consideration.

4 We are delighted to be here this evening. Our
5 office address is 7401 Wisconsin Avenue, Suite 300, Bethesda,
6 Maryland 20814.

7 For a moment of digression, I last appeared
8 before Commission 11 years ago in 1988. At that time we were
9 requesting approval for a PUD involving 2001 Pennsylvania
10 Avenue, otherwise known as the Arts Club of Washington deal.

11 This was the rendering presented to the Zoning
12 Commission at that time and this is the photograph of the
13 finished building, taken in 1990. Although Mr. Parsons is the
14 only member whom I recognize from that era, many of you may be
15 aware that the creative use of an air rights lease, the Arts
16 Club deal, with our office's development, provided 297 years
17 of financial benefit for the continued preservation of Jeff --
18 President James Monroe's historic home and other conservation
19 amenities that were presented at the start of the project.

20 I'm pleased to say the project was completed on
21 schedule. The Arts Club has continued to receive all of their
22 monthly income, and we put the fund to good use for conserving
23 President Monroe's home. The Federal Triangle reservation or
24 park in front of the project was improved with funds from our
25 PUD and the facade of President James Monroe's home was
26 restore.

1 A new sculpture was commissioned, and the Arts
2 and Public Places Program has been standing proud for the past
3 nine years. It was a great success story. One of our
4 investors stated at our groundbreaking in 1989, "truly was a
5 marriage of mixed motives." Although it was ten years ago,
6 every time I drive by I'm proud of the contributions we've
7 made.

8 Other developments constructed in prior years
9 by our development company has included Lafayette Center, the
10 first one-step PUD, and the Herald Square Building completed
11 in 1992. Overall, in the past 25 years we have constructed,
12 renovated and financed over 2,000,000 square feet of office
13 space in downtown D.C.

14 Also in 1988, one of our development
15 competitors, a gentleman named Michael Haddid, applied for and
16 received permission to build 1001 New York Avenue as a planned
17 unit development. The approval granted in 1988, as you've
18 heard, was for a 130-foot tall office project and related off-
19 site housing commitments, including the renovation and
20 construction of new housing units on 1229 Twelfth Street in
21 what is now ANC 2-F neighborhood.

22 This half-acre site shown on the diagram and
23 the associated housing on the site of the property is what
24 we're here to discuss with you this evening. For this parcel
25 of land between New York Avenue and K Streets, the entire
26 world has changed since 1988.

1 The proposed office project as set forth by
2 Haddid was never started and the bankrupt venture died.
3 Unfortunately, the local bank that loan the money for the land
4 also has gone bankrupt, National Bank of Washington. NBW went
5 out of business in 1991, and the assets were purchased by
6 Riggs Bank and the liabilities, including this site, were
7 transferred to the FDIC.

8 The FDIC, through receivership resulting in
9 NBW's failure, has owned or controlled the property until
10 March 2nd of this year. As a result of these calamities,
11 there have been exactly zero housing units constructed on the
12 proposed housing site on Twelfth Street.

13 The primary development site and 12th and --
14 excuse me, at 10th and K and New York Avenue has remained a
15 vacant, half-acre lot used for surface parking for the past 11
16 years. The neighborhood on Twelfth Street that expected to
17 have new housing has received nothing but a continued vacant
18 lot and a boarded-up building.

19 It's an eyesore and a detriment to the
20 neighborhood. One of the buildings scheduled for renovation
21 has since burned down. The District, that expected a new
22 office building and all of the economic benefits that are
23 derived from the construction and employment of the tenants of
24 the proposed building, has received nothing.

25 The real estate taxes on the property have
26 dropped steadily since 1990, due to decline of property value,

1 and none of the promised improvements were ever constructed.

2 Tonight the saga continues.

3 Exactly 12 weeks ago, Urban Development Group
4 purchased the property and we are now seeking an amendment to
5 the PUD that would allow us to change the use from office to
6 hotel and to proceed immediately with a new housing project on
7 Twelfth Street.

8 In the past two years, as many of you know, the
9 office market has been returning to D.C., and the office
10 project previously approved, now in place at 1000 K Street
11 still remains a viable and desirable alternative for this
12 site. However, other changes have been made.

13 This past summer, with the coming of the new
14 D.C. Convention Center only one-and-a-half blocks from our
15 site, and the relative lack of hotel rooms ready to receive
16 the millions of expected visitors, we believe that now is the
17 time to build a new hotel on the property instead of an office
18 building.

19 Since 1989, exactly zero new hotel rooms have
20 been constructed in downtown D.C. from new ground-up hotel
21 projects. Several renovations and conversions have been
22 completed in recent months and have added only a few hundred
23 rooms to the 24,000 room inventory of existing hotels.

24 Our company, Urban Development Group, now has
25 under construction one of the first, ground-up, new hotels to
26 be built in downtown D.C. in the past ten years. On 14th

1 Street near Franklin Square we are constructing a new 300-room
2 Holden Hotel on a 15,000 square foot site.

3 The site is zoned Z-4, was purchased in March
4 of 1998 by our group, was granted a building permit within
5 only five months, and now only a year after our purchase is up
6 to the ninth floor in concrete. The hotel will open eight
7 months from now in February 2000.

8 Only a few short years ago this site was still
9 occupied by one of D.C.'s notorious 14th Street dance bars.
10 We love progress and we know how to build. Despite the past
11 six years' decline of D.C. Convention Center bookings, D.C.
12 hotel occupancies are up slightly and room rates for certain
13 hotel types are now adequate to support most of the cost of
14 construction in selected areas and for certain classes and
15 styles of hotels.

16 The revised PUD for 1000 K Street is based on
17 the following major components. The FAR is designed to 10-1/2
18 for a 268,800 FAR square feet. The height of the hotel is for
19 130 feet, based on 14 floors. We'll have 200 -- 472 keys,
20 consisting approximately of 454 sleeping rooms and 18 suites.

21 Underground parking will be provided for 165
22 cars, plus some capacity for additional cars if the garage is
23 operated on a valet system. The ground floor uses will
24 include the lobby, lounge, loading docks, parking garage
25 access, and most likely a restaurant or cafe, depending on the
26 franchise that's finally selected.

1 This aerial shows the site and surrounding
2 area, and the through the marvels of modern computer
3 technology, we can construct the building in less than two
4 seconds, thus saving millions in construction loan interests.
5 We only wish it were that easy.

6 As part of the PUD, an off-site and separate
7 housing project will be constructed on the property at 1229
8 Twelfth Street, N.W. in ANC 2-F. The proposal is for the
9 renovation and construction of 25 condominiums. Construction
10 of these units could commence almost immediately. Plans are
11 underway.

12 And this is a photograph taken last week of the
13 vacant building that's standing there with the windows out and
14 the vacant lot with the tree where the other building had
15 burned down.

16 In numerous public meetings over the past year
17 with ANC-2F, along with the Logan Circle Community
18 Association, Blagdon Alley Association, we've held extensive
19 discussions with the appropriate design and type of housing to
20 be constructed on the Twelfth Street design parcel.

21 We've complied with the suggestions and
22 recommendations of that ANC and that has resulted in the plans
23 that we'll be presenting here. The result of all these
24 discussions will memorialize an agreement signed by all three
25 groups and ourselves, outlining our commitment and their
26 support. A copy of this agreement has been submitted along

1 with our application.

2 This decision results in 25 larger units on the
3 Twelfth Street site rather than the original planned 44 units.
4 It should be noted that the square footage of the housing to
5 be renovated or constructed has remained essentially the same
6 under the prior agreement, and ours, that we're showing now at
7 essentially 33,000 square feet.

8 Limited parking in the neighborhood also
9 encourage us to design fewer units of a larger size. As a
10 result of this agreement, we've reached an agreement with one
11 of the District's best housing developers, Art and Barry Lindy
12 of A&B Holdings, to develop the housing units and to begin
13 construction as soon as possible if we're successful in
14 reaching agreement on our PUD.

15 These 25 units have recently been enhanced to
16 be more compatible with the neighborhood's Victorian theme at
17 the suggestion of the ANC. The architect, Eric Colbert, for
18 the housing has been completing a very complicated task of
19 integrating the old with the new and providing the guidance
20 needed to renovate the older buildings, which is now in dire
21 need of renovation following a full decade of neglect. Seven
22 off-street parking place will also be provided as part of this
23 project.

24 The Lindys have developed over 1000 units in
25 D.C. and over 60 units in this neighborhood, including several
26 projects within one block. These are examples of units in the

1 area. They have an unmatched reputation for quality and
2 competence. We are delighted that we can facilitate the
3 construction of 25 new homes for people who are ready and able
4 to invest in their home and move back to downtown D.C.

5 In four separate meetings, November 2nd and
6 November 4th in late 1988, and in early 1999, January 25th and
7 February 3rd with the ANC, we never heard one single word of
8 opposition to our plans other than a desire to have more a
9 Victorian theme to the architecture. We followed the rules.
10 We listened to the ANC.

11 Many things have changed in the past decade.
12 Unfortunately, the cost of hotel construction along with the
13 high cost of capital do not allow us to provide the added 16
14 off-site residential units envisioned in the 1988 office PUD.

15 However, our proposed use for the property at
16 1000 K Street is much more in line with the originally
17 underlying HR zoning that pre-dated the 1988 PUD, and we are
18 ready to move quickly, absolutely immediately with the housing
19 component.

20 Our housing commitment is contingent only on
21 the PUD approval and the swift issuance of D.C. for the
22 building permits of the housing. It is not contingent on our
23 ability of finance or construct our hotel. Notwithstanding
24 what happens to our hotel project, the neighborhood will
25 finally receive housing it was promised long, long ago.

26 As of this date, the final franchise or flag of

1 the hotel has not been selected. All of the franchise groups
2 require an approved planned use resolution, a final
3 entitlement to the project prior to granting a final franchise
4 license.

5 Due to the constantly changing competitive
6 environment, the timing is critical with regard to the
7 franchise selection. The non-refundable franchise fees of up
8 to \$230,000 are also something we keep our eye on until we are
9 fully approved by the Zoning Commission.

10 The interior details, the room layout and the
11 final details of ground floor uses will be determined by the
12 franchisee in part. For example, certain groups will require
13 a full-time restaurant, more generous meeting room areas and a
14 large kitchen capable of banquet needs and room service
15 requirements of a full-service hotel.

16 Our most recent plans incorporate approximately
17 11,500 feet of meeting room area and a revised lobby level
18 plan. Discussions over the past six weeks with potential
19 franchisees have directed us to slightly revise our plans
20 while remaining faithful to the application plans and building
21 elevations.

22 The revisions are slight and primarily the
23 reconfiguration of the elevator floors, the meeting rooms, and
24 the below grade revisions that allow for greater flexibility
25 for a wide variety of guest requirements.

26 It's our goal to have the franchise selected as

1 soon as the zoning has been finalized, to immediately proceed
2 with the financing of the project if we're successful. We
3 believe this hotel could be started within the next eight to
4 12 months. It should be open prior to the completion of the
5 Convention Center, not after it.

6 We believe we created a design that offers a
7 timeless classic elegance regardless of the franchise, and a
8 functional layout that will help satisfy the real need for
9 added hotel rooms only one-and-a-half blocks from what will
10 become the largest single generator of room demand in this
11 region.

12 Six hundred and fifty million dollars that was
13 raised to construct the new Convention Center, along with the
14 rising demand for downtown hotel rooms have created a
15 momentary opportunity that when coupled with a modest land
16 price, at least compared to the historically high downtown
17 land values, have given rise to this project.

18 As we sit here this evening with these plans,
19 all of the planets are in alignment, and this appears to be
20 the correct decision.

21 Unless there are any immediate questions, I'd
22 like to introduce our project architect for the project, March
23 Boekenheide. Mark is a partner and a director of Brennan,
24 Gorman, MonK Architects and Interiors who created this vision
25 for our new hotel.

26 Our company has worked with BBG for over 20

1 years and we're exceptionally excited about the new design
2 they've achieved for us on this site. We've also got a
3 handout to give to you immediately following my speech here,
4 showing you some of the copies of these slides for your
5 consideration.

6 Thank you for your time and the opportunity to
7 present our visions this year. And as it's dark outside, we'd
8 like to close this thought with an evening rendering of our
9 proposed hotel. And it's a little bit bright in this room to
10 see this, but allow Mark Boekenheide to complete the design
11 presentation. Mark?

12 MR. BOEKENHEIDE: Good evening, Madam
13 Chairperson and members of the Commission. For the record, my
14 name is Mark Boekenheide. I'm the managing partner of the
15 Washington, D.C. office of Brennan, Beer, Gorman, Monk
16 Architects and Interiors. I have 75 people who work in my
17 office here. We have a New York office of 110 people.

18 We are one of the top five ranked firms in
19 hotel design in the United States. It's something we love to
20 do. It's a passion for us and we're very exacted about this
21 project. We've actually been quite involved in a lot of hotel
22 work here in Washington. Up to now we've been involved in
23 about 20 different hotel projects, new builds, renovations and
24 alterations.

25 I'm pleased to be here this evening to present
26 this project and review with you the major components of the

1 design. I would like to note as I go through the floor plans,
2 I will be pointing out the minor interior reconfigurations
3 that were referenced by Mr. Curtis.

4 It should be noted that the exterior envelope
5 has not been modified by our interior reconfigurations. The
6 exterior design has stayed the same as previously submitted.

7 First, I'd like to review the neighborhood
8 context. You've seen some slides. The area is predominantly
9 vacant lots directly adjacent to the east and the west, there
10 is the low-rise convention center to the south, and there's a
11 mixture of lots and eight to ten-story buildings to the north,
12 including a block away, 1100 L Street, which is a 130-foot
13 high building.

14 The site is ringed by a permitted use of up to
15 130 feet in height. The building has been oriented towards
16 the future Convention Center, the primary facade of the
17 building entry facing east. The site itself is roughly 260
18 feet by 95 feet. It is non-rectangular due to New York Avenue
19 street frontage.

20 It's a full block between K Street and New York
21 Avenue and fronts on 10th Street. We have, it should be
22 noted, dedicated a ten-foot wide swath on the west side to
23 increase the alley from the existing ten-foot width to 20 foot
24 in width, which we will re-pave as part of the project.

25 And this dedication decreases the overall lot
26 occupancy to 81 percent from what was previously approved

1 under the previous PUD. The building entrance is centered on
2 the 10th Street facade with the normal -- with a large canopy
3 structure. And, Bob, if you could put that rendering up?

4 With a large canopy over the proposed curb cut.
5 The site plan includes new sidewalk paving on all three street
6 frontages and landscaping in excess of that which is required
7 by the D.C. streetscape requirements, including eight
8 ornamental locust trees along K Street.

9 The ground floor, and I will point out as I go
10 through the floor plans, the changes from the previously
11 approved drawings. The ground floor consists of the normal
12 hotel public spaces, an entry lobby area with reception desk,
13 along K Street an area designated for a restaurant or a cafe
14 with an associated kitchen space.

15 Along the rest of the frontage on New York
16 Avenue and 10th Street is the lobby lounge and bar area. The
17 original previously submitted scheme had two elevator banks
18 located in these two locations. We have consolidated them
19 into one, from an efficiency point of view. It has allowed us
20 to do a few things on some other levels that I will -- I will
21 show you.

22 In addition to the public spaces are associated
23 office and back-of-house areas and parking access off of the
24 alley to the lower level parking levels, and two dedicated
25 service bays.

26 The economic viability of any hotel design

1 rests with an efficient planning of the guest room floors. In
2 reality, this site actually lays out better as a hotel
3 building than an office building. And as you see, we've
4 created a very efficient, straightforward floor plan.

5 The typical floors, there's 12 typical floors
6 that have 38 keys per floor. They're in an extremely
7 efficient plan. They're accessed by four passenger elevators
8 and two service elevators on the south side of the project.

9 The second floor consists of five meeting
10 spaces, the hotel's health club, and an additional 19 guest
11 rooms. It should be noted at the second floor that the line
12 of the building goes out to the -- goes out from under the
13 tower, which is located at this point here, which allows us a
14 little additional space in the exercise facility and health
15 club area. It also allows us to create some skylights over
16 the pool.

17 The first basement level contains 8,500 square
18 feet of meeting space and associated back-of-house spaces,
19 including employee areas, storage areas and public toilets.
20 The three levels of parking each -- well, total up to 165
21 cars.

22 The ramp, as I mentioned before, is located
23 along the alley side, accessing these. Public circulation is
24 given to these levels through a dedicated shuttle elevator
25 from the ground floor.

26 When we started the project's design on the

1 outside we were presented with several challenges for the
2 exterior. As I've said, it's a long narrow site and it
3 doesn't have a lot of strong adjacent context. But as a
4 starting point, we felt that the quality of the design and the
5 material should approach that of some of the commercial
6 development to the west, such as 1200 K Street, and I believe
7 taht's 1201 New York Avenue.

8 Both of these buildings as well as some of the
9 older properties to the north utilize brick, pre-cast concrete
10 and limestone as their primary materials. Our desire was to
11 create a straightforward design solution for this building,
12 with traditional materials and one that would be timeless.

13 We felt it was also very important to create an
14 identity to this building as well as a distinctive nighttime
15 presence. The long rectangular bulk of the building --

16 CHAIRPERSON KRESS: By the way, let me
17 interrupt. For those of you who are still in your courts, it
18 is very warm. Please do feel free to remove your jackets.
19 Excuse me, please. Continue.

20 MR. BOEKENHEIDE: The long rectangular facade
21 that fronts 10th Street presented probably the biggest
22 challenge, and it has been mitigated by the introduction of
23 two major elements. The middle portion of the building, we've
24 introduced a curved facade which allows us to visually break
25 the facade into three distinct pieces: two flat, plainer
26 facades separated by a curved facade in the middle.

1 The curved facade in the middle obviously
2 denotes the entrance and gives a focal point for the arrival
3 of the hotel. The second was the introduction of several
4 vertical articulations of pre-cast and concrete that allow us
5 to again help mitigate the length of the building by
6 introducing vertical elements.

7 These vertical elements culminate in several
8 lanterns at the top of the building which are set to be the
9 identifying landmark of the hotel. The rest of the facade has
10 simple brick facade detailing, including punched windows and
11 pre-cast cornices and sills typical of residential building
12 typology.

13 The materials, I'd like to show very quickly,
14 are the reddish brown brick, pre-cast concrete that is a cream
15 color --

16 CHAIRPERSON KRESS: Could you bring them a
17 little closer?

18 MR. BOEKENHEIDE: Sure. A brownish color
19 brick, cream color pre-cast, and window mullions that are
20 envisioned to be sort of a pewter type color. Would you like
21 me to leave this?

22 CHAIRPERSON KRESS: No, you can go ahead. Take
23 them. Thank you.

24 COMMISSIONER CLARENS: And the material on the
25 -- on your --

26 MR. BOEKENHEIDE: It's envisioned to be metal,

1 a metal -- part of the metal pre-cast system, decorative metal
2 panels.

3 COMMISSIONER CLARENS: The same color as the
4 pewter color?Ye

5 MR. BOEKENHEIDE: Yes. The rest of the facade
6 I should talk about is the base, which is a pre-case, two-
7 story base with decorative awnings and flag poles and a well
8 detailed canopy which will complete the guest arrival
9 experience.

10 I think it's important to note that this
11 building really has no back side to it. It is a very visible
12 building from the west. Although we do not have a slide of
13 it, what has been submitted is elevations that are
14 substantially similar to the articulation shown on the front
15 side, albeit we have not created the curved facade in the
16 center, leaving that as the recognition of the entrance, the
17 element. But it's -- it's simpler, but it's compatible
18 articulation as the front.

19 One of the things that we like to do, and we've
20 done it in a lot of our projects, is to recognize that after
21 the sun goes down the building ought to be recognizable and
22 distinctive as well. There was an earlier slide that we had
23 done with Mr. Walton at the Herald Square Building which has
24 decorative lanterns at the tope of the building.

25 We'd like to do something to give the building
26 some nighttime presence as well, not neon beacons but we would

1 -- we are proposing that at the culmination of the vertical
2 articulations we have some lanterns that help identify the
3 property in the evening.

4 I'd like to go back. I mentioned the couple of
5 changes on the interior. As I said, it's minor
6 reconfiguration of the elevator core that has given us a
7 little more efficiency and flexibility on the interior spaces.
8 But I would like to reiterate just a couple things over the
9 original scheme that was submitted.

10 The room count has remained the same at 472
11 keys. The building elevations have remained the same. The
12 FAR has remained the same. The height has remained the same,
13 the parking has remained the same. The materials and the
14 exterior building have remained the same.

15 And the site plan and the building footprint
16 have remained the same. The changes that we have illustrated
17 in the package submitted tonight are confined to interior
18 reconfiguration of functional spaces.

19 In closing, I'd like to just say that
20 successful hotel designs are ones that create a lasting
21 impression of the guests, compelling them to become frequent
22 visitors. That is our goal in hotel design. If
23 -- and it goes beyond just design. It goes to service and
24 price and other issues.

25 But the ones that we control are design issues.
26 And that impression begins with the initial view that you have

1 as you arrive at the hotel, not just to the front door but as
2 you come down the streets, the boulevards to this property.

3 That's why we've tried to create a distinctive
4 top to the building a distinctive facade articulation that
5 gives some sense of specialness to this building, not only as
6 you arrive under the canopy and go through the door but from
7 the initial view that you have of the building.

8 But that impression should continue through the
9 public spaces to the guest rooms. The experience does not
10 lessen as you go into the building. We believe this hotel is
11 going to become one of the major destination hotels in
12 Washington when it's completed in conjunction with the
13 Convention Center.

14 We're very proud to be associated with this
15 development team and this project, and I thank you for your
16 time.

17 CHAIRPERSON KRESS: Thank you.

18 MR. GLASGOW: The next witness I'd like to call
19 is Mr. Marty Wells, the traffic consultant.

20 MR. WELLS: Good evening, Madam Chair, members
21 of the Zoning Commissioner. Firstly, thank you for allowing
22 me to testify in shirt sleeves. My name is Marty Wells. I'm
23 president of Wells & Associates and I'm a traffic engineer.

24 I was retained by UDG to conduct a traffic
25 impact study at the 1000 K Street project, which I did. that
26 is documented in a report dated February 18. As you know, the

1 site is well served by a connective network of arterial and
2 collective streets. The Metro Center Metro station is within
3 easy walking distance, just 1200 feet to the southwest of the
4 site.

5 Vehicular access is provided by New York Avenue
6 on the south, K Street on the north, 10th Street on the east.
7 The widened alley, the 20-foot alley that's been described to
8 you earlier, that's on the western boundary of the site.

9 The front door is on 10th Street. Tenth
10 Street, as you know, operates one-way southbound from --
11 southbound from K Street to New York Avenue. All parking
12 access is provided at this location off of the alley where
13 both right turns in, left turns in, left turns out and right
14 turns out would be permitted.

15 Left turns from New York Avenue or onto New
16 York Avenue would not be permitted at the south end of the
17 alley because there is no median break on New York Avenue, but
18 all turning movements would be permitted from the alleyway
19 onto K Street.

20 In fact, the curb radiuses are being lengthened
21 or more generous radiuses are being provided to facilitate
22 that movement. Let me run through how an automobile would
23 circulate on the site. An automobile driver would come to the
24 lay-by lane, this is a 90-foot lay-by lane at the front door,
25 discharge passengers and luggage.

26 The driver or a valet would then leave the lay-

1 by lane, travel southbound on K -- on 10th Street, turn right
2 onto New York Avenue and turn right at the alley, then turn
3 right into the parking garage. New York Avenue is being
4 widened by some nine-and-a-half feet to facilitate that right
5 turn movement.

6 This is -- practically speaking, this is a
7 dedicated right turn lane to facilitate that movement from the
8 front door into the parking garage. Then the return trip, the
9 driver or valet would leave the garage, use the alleyway, make
10 a right turn onto K Street, right turn onto 10th Street, and
11 find themselves back at the front door.

12 So right hand around the block circulation is
13 provided. That is the predominant automobile movement serving
14 this site. In terms of truck access, there are two loading
15 berths. Trucks would turn right off of New York Avenue,
16 travel northbound to the north on the alleyway, pull up, back
17 into the loading berth, then pull out and turn onto K Street
18 to leave the site.

19 In terms of the parking programs, some 146
20 spaces are required under the zoning ordinance for the HR C-3-
21 C zone, 118 spaces are required for the guest rooms, 28 spaces
22 are provided -- are required for the function rooms. In fact,
23 165 spaces will be provided. That's 19 more than the minimum
24 code requirement. That's about 13 percent more.

25 In terms of loading, there are two loading
26 berths and one service delivery space. There is a 30-foot

1 berth provided at this location and a 55-foot berth provided
2 at this location. These are the loading docks. The Code
3 requirement is in fact for two 30-foot berths, one 55-foot
4 berth and one service delivery space.

5 The second 30-foot berth is called for by the
6 function rooms which exceed 10,000 square feet. Below 10,000
7 square feet you might know that no loading -- no 30-foot berth
8 is required for the meeting rooms. Between 10 and 50,000
9 square feet, one berth would be required.

10 In my judgment, the berths that are being
11 provided here, a single 30-foot bay and a single 55-foot bay
12 along with the service delivery space will be adequate to
13 serve this building.

14 We also looked at off-site traffic impacts. We
15 looked at eight intersections. We looked at the intersections
16 of 9th, 10th and 11th Streets where they intersect K and New
17 York Avenue. We also looked at both ends of the alleys.

18 We measured existing morning and afternoon peak
19 hour traffic volumes. We took into account the new Convention
20 Center, which isn't built yet but hopefully will be built and
21 open soon, background traffic growth and of course the traffic
22 that will be generated by the project.

23 Our findings in a nutshell is that the existing
24 streets are heavily used, but they do adequately accommodate
25 existing traffic. The new Convention Center will be the most
26 significant change in traffic in the area in the future.

1 According to the environmental impact statement
2 prepared for that project, the new Convention Center would
3 generate just under 2000 peak hour trips about twice a month.
4 The existing street system can accommodate that traffic with
5 one exception, and that's at 9th Street and New York Avenue
6 during the p.m. peak hour which would operate near capacity.

7 The proposed hotel would be a modest
8 trip generator. It would add about 150 to 170 new peak hour
9 trips to the street network.

10 To put that number in perspective, the approved
11 hotel would generate about -- excuse me -- the approved office
12 building, which is approved on this site, would generate about
13 200 trips.

14 The additional trips generated by the hotel
15 will not affect the background traffic volumes. The project
16 will generate only 23 trips through the key intersection of
17 9th and New York Avenue.

18 That's about one-half of one percent of all the
19 traffic. It's my opinion, therefore, that the project will
20 have no significant adverse traffic or parking impacts.

21 While we do not have a staff report from the
22 Department of Public Works, our team has been in contact with
23 representatives of the DPW. It's our understanding there are
24 no significant -- while they have reviewed our reports, we
25 understand there are no significant issues with DPW.

26 And that concludes my prepared remarks.

1 CHAIRPERSON KRESS: Thank you. Please
2 continue.

3 MR. GLASGOW: I'd like to call the next
4 witness: Mr. Steven Fuller. Mr. Fuller, would you please
5 identify yourself for the record and proceed with your
6 testimony?

7 DR. FULLER: Good evening. My name is Steve
8 Fuller. It's beginning to be a regular Thursday event. I was
9 asked by UDG to calculate the economic and social impacts of
10 the proposed hotel on the District of Columbia. You have a
11 copy of my full report. I will only provide a brief summary.

12 When we look at the economic benefits, we
13 divide these into two categories: the construction period and
14 the post-construction period. The total value of
15 construction, including soft costs but excluding the land, is
16 just under \$44 million. With the multiplier, construction
17 multiplier, of 1.27 for the District, that equals about 55 and
18 a half, 55.8, billion dollars worth of new income in the
19 District over the construction period. That will support 208
20 jobs over that period. A hundred and forty-two of those will
21 be on-site jobs with a payroll of \$8.2 million.

22 Following construction, during the operating
23 stage, -- it's an annual benefit -- assuming a 71 percent
24 occupancy rate, the operations of the hotel, the operations of
25 the parking facility, restaurant, and guest spending will
26 generate \$13.9 million a year to the benefit of the District

1 economy.

2 With the re-spending of that spending, the
3 total would increase to 18.7 billion -- or million dollars.
4 Billion is a big number, but 18.7 million. This would support
5 402 jobs in the District. Most of these are on-site. Eighty
6 percent of them are hotel jobs. And the payroll associated
7 with the total job growth is estimated at 7.6 million.

8 Typically in the Washington area, the types of
9 jobs that are being created by this facility, including the
10 retail jobs that would be supported by guest spending, are
11 filled typically by about -- or 50 percent of those jobs are
12 filled by District residents. That's about the experience.

13 With the opening of the convention center,
14 occupancy is projected to increase to 76 percent. And, with
15 that, of course, the economic benefits would increase.

16 Now, these economic benefits translate into
17 fiscal benefits. During the construction period, the total
18 fiscal benefits to the District of Columbia are estimated at
19 \$1,650,000.

20 Annually, after completion of the facility and
21 based on its operation at 71 percent occupancy, \$4.1 million
22 in annual tax benefits, half of those come from the room tax.
23 As the occupancy moves up to 76 percent, there would be an
24 additional \$250,000 in tax benefits, so a total of \$4,350,000.

25 Clearly this project supports the D.C. economy
26 in its fiscal base and is fully consistent with the District

1 of Columbia's investment in the Convention Center.

2 Thank you.

3 CHAIRPERSON KRESS: Thank you.

4 MR. GLASGOW: I'd like to call our last
5 witness: Mr. Steven Sher. Good evening, Mr. Sher.

6 MR. SHER: Good evening to you, too.

7 MR. GLASGOW: Could you please identify
8 yourself for the record and proceed with your testimony?

9 MR. SHER: Good evening, Madam Chair and
10 members of the Commission. For the record, my name is Steven
11 E. Sher. I'm the Director of Zoning Services with the law
12 firm of Wilkes, Artis, Hedrick and Lane.

13 Richard Nero, an urban planner with our firm,
14 assisted me in the preparation of the report that you are
15 receiving at the moment and is here with me to help me answer
16 any questions that you may have.

17 As is usually the case when I get up here, you
18 have probably heard about three-quarters of what is in this
19 outline already. So I am going to go through it real quickly.

20 You know where the site is and what it looks
21 like and the surrounding area and so forth and so on. And all
22 of that is described in the outline. What is, of course, the
23 most critical component of the surrounding area, a block and a
24 half from the corner of this site, is the new Convention
25 Center, a 2.1 million square foot building, 725,000 square
26 feet of exhibit space, 210,000 square feet of meeting space,

1 including a 60,000 square foot ballroom. That's what drives
2 what is going on in this particular project.

3 We have described the existing zoning in the
4 vicinity. And I think what is most important in understanding
5 the character of that zoning is that all of the surrounding
6 districts permit a maximum height of 130 feet because of the
7 Act of 1910 and the width of the streets. The densities are
8 all on the fairly high range, but the height is all up there
9 at the maximum allowed within the District of Columbia.

10 We have described the zoning history of both
11 the subject property -- and you have heard some of that
12 already -- and the surrounding area. And I am not going to
13 dwell on that at any further length.

14 You have also heard about what the PUD
15 modification is that's before you, but let me just summarize
16 that in my own terms. What is proposed now is a hotel of
17 approximately 472 rooms with about 11,500 square feet of
18 function rooms, as compared to what was previously approved of
19 an office building with retail added below grade.

20 This has a height of 130 feet. The office
21 building had a height of 130 feet. The proposed hotel has an
22 FAR, or floor area ratio, of 10.5. The office building had an
23 FAR of 9.3. This project now has 165 parking spaces. The
24 office building was required to have a minimum of 163.

25 The off-site housing amenity, as you have heard
26 some discussion already, we will have 25 market rate units at

1 1223 and 1229 12th Street. In the original PUD, it was 44 low
2 and moderate-income housing units at that site and 16
3 additional low and moderate-income housing units in ANC 2C,
4 which was the applicable ANC at the time, and within one-half
5 mile of the site.

6 So what this modification does, it changes an
7 office and retail building to a hotel, leaves the height at
8 130 feet, increases the density on the site by about 30,000
9 square feet, and changes the nature of the housing amenity so
10 that you have, instead of 60 low and moderate-income units, 25
11 market rate units.

12 We have gone through in our report and
13 identified all of the relevant factors and requirements of the
14 zoning district that are applicable to this site. I would
15 want to just focus on -- I think you heard a little bit about
16 all three of these areas: on the three aspects of the
17 regulations where we are going away from the normal standards.
18 The first one of those, of course, is the FAR. We're at 10.5.

19 The second one you heard referenced by Mr.
20 Boekenheide to the setback on the West side of the property to
21 increase the width of the alley, that, in effect, becomes a
22 side yard on that side of the building.

23 Now, in this zone district, we are not required
24 to have a side yard, but if you do have a side yard, there is
25 a certain minimum width required. We do not meet that minimum
26 width at the two ends to the building closest to K Street on

1 the north and New York Avenue on the south. If we had to meet
2 that side yard requirement, we would lose a significant amount
3 of program space.

4 Now, again, we could build right to the alley
5 so that there isn't really a question of wide and narrow here.
6 It's just a question of the technicality because we have
7 provided that additional setback to widen the alley from the
8 existing width to 20 feet.

9 The last issue -- and you heard Mr. Wells
10 address it -- was the number of loading berths. By going from
11 the original program, which had about 8,000 square feet of
12 function room space, to a slight increase in that to about
13 11,500 across that 10,000 square foot line, which says below
14 that, you don't need a loading berth for the function rooms;
15 above that, you do, Mr. Wells' opinion obviously is that we do
16 not generate a need or demand for that extra loading berth,
17 but that would be one thing that we are not providing that the
18 regulations would ordinarily require.

19 This Commission has the authority to approve
20 whatever level of parking and loading it finds to be
21 appropriate for this site under the PUD regulations.

22 On Pages 12 through 15, I have addressed the
23 requirements, the standards, the PUD regulations, Chapter 24.
24 I am not going to go through those line by line. You can read
25 them at your leisure.

26 The particular question of amenities as to what

1 does this project offer the city, I think it was Mr. Curtis
2 who stated it. The major amenity offered here is the use
3 itself. This is a hotel in a place where the city wants
4 hotels.

5 I've been here before talking about housing in
6 a place where the city wants housing. And we'll come to the
7 comprehensive plan in a couple of minutes. This is a place
8 where the city has said: We're investing \$650 million a block
9 and a half away from here as the major economic initiative of
10 this government for the last 20 years and the next 20 years,
11 maybe the next 50 years, maybe the next 100 years. I don't
12 know when we'll spend \$650 million again on an economic
13 development initiative.

14 The whole point of that initiative is to spur
15 the kind of spinoff development that this hotel is emblematic
16 of. So I believe that the major amenity here is the use of
17 the hotel itself.

18 We have heard discussion about the off-site
19 housing amenity, the other things that were specified in the
20 original PUD, which are going to continue to be provided in
21 terms of the contributions to the Arts Committee and the Park
22 Service and minority business and first source employment.

23 So all of those benefits and amenities are
24 balanced against approximately a 30,000 square foot increase
25 in floor space over the original approved PUD, going back to
26 the 1988 office building, or about a 50,000 square foot

1 increase over what the matter of right would be if you just
2 forgot about the PUD and said: Well, how do I compare that to
3 matter of right?

4 But all of that building, 100 percent of it, is
5 hotel use. There's no office building or the only office use
6 in the building is supportive of the hotel, administrative
7 office functions for the hotel.

8 I would like to spend just a minute on the
9 question of housing linkage. Housing linkage is not required
10 for this PUD. We have no office space. And if you read your
11 own regulations, if you read the Comprehensive Plan Act,
12 housing linkage was keyed to an increase in office space over
13 that level of office, which was allowed as a matter of right.

14 We have given up all the office space. So we
15 have no housing linkage requirement here. The original
16 off-site housing amenity was offered as a response to the
17 comprehensive plan generalized land use map designation of
18 mixed use, which was the case in 1988. That included a
19 high-density residential and a high-density commercial
20 component. That designation was changed by the Comprehensive
21 Plan Amendments Act of 1998, and that is no longer applicable
22 to this site.

23 So if there was a rationale for saying a
24 housing amenity was offered in connection with an increase in
25 office space 10 years ago, 11 years ago, I don't believe that
26 that rationale exists any longer.

1 On Pages 16 through 22 of the report, I have
2 laid out in detail the legal framework of the comprehensive
3 plan and done an analysis of the elements of the plan as they
4 relate to this project.

5 There are two basic things that I think are
6 important here. One I just mentioned: the change in the land
7 use map, which I believe was the council's recognition of the
8 fact that, again, we're putting this Convention Center up
9 there, we need to provide locations where appropriate kinds of
10 Convention Center supportive development can occur under the
11 zoning regulations.

12 And so the changes in the land use map that
13 were made in this sector along K Street, between K Street and
14 New York Avenue southwest of the Convention Center, designated
15 a number of sites for high-density commercial use. And I
16 believe that's fully consistent with the remainder of the
17 elements of the plan. And I have, again, set forth in detail
18 an analysis of the land use element, the downtown element, the
19 Ward 2 plan, and the other elements of the plan which are all
20 basically aimed at supporting hotel development in a location
21 like this.

22 Let me just cite a couple of specific sections
23 out of the plan: 904.2(a), "Encourage and give priority to
24 clustering of new hotels and Convention Center-related uses
25 around the new Convention Center"; 928.2(g), "Focus hotel
26 construction on vacant or nearly vacant land immediately

1 adjacent to the new Convention Center"; 1365.3, "Accommodate
2 appropriate Convention Center development, especially along
3 Massachusetts and New York Avenue"; 1331.85, "Encourage the
4 development of new hotels at appropriate locations near the
5 proposed new Convention Center north of Mount Vernon Square."

6 If you would summarize what the comp plan says
7 about this site in four words, it's: Put a hotel there. With
8 respect to compatibility with the area, the use is consistent
9 with commercial and other hotel uses already existing and
10 planned.

11 As I said before, the height is the same as
12 allowed on all development sites in the immediate vicinity.
13 The proposed FAR is higher than a matter of right and higher
14 than the previously approved PUD, but the building has a lower
15 lot occupancy than what is allowed. We're at about 82
16 percent, and 100 percent is allowed. And, as Mr. Boekenheide
17 described it, the building is not appreciably bulkier than nor
18 out of character with what is allowed in the area.

19 A lot of what is there is clearly not built to
20 what the zoning permits. It is a lot of low-rise buildings, a
21 lot of parking lots, a lot of undeveloped sites, but the
22 planning policies for that area all speak to high-rise,
23 high-density development.

24 It is, therefore, my conclusion that the
25 proposed modification to provide a hotel is directly
26 responsive to the District's major economic development

1 initiative, the \$650 million for the new Convention Center.

2 The change in use of the PUD site, the change
3 in the comprehensive plan designation, the changes in the
4 neighborhood conditions on 12th Street, and the absence of a
5 requirement for affordable housing all lead me to the
6 conclusion that the off-site housing proposed should and must
7 be market rate housing.

8 I believe that the proposed modification is not
9 inconsistent with the comprehensive plan. It's consistent
10 with and meets the standards and objectives of the PUD
11 process. It's compatible with the planned character of the
12 area and should be approved.

13 Thank you very much.

14 CHAIRPERSON KRESS: Thank you.

15 MR. GLASGOW: That concludes the applicant's
16 presentation, and I think we finished in 55 minutes.

17 CHAIRPERSON KRESS: I read the clock the same
18 way. Thank you. Thank you.

19 With that, I would like to open it to
20 questions. Colleagues? Commissioner Franklin?

21 COMMISSIONER FRANKLIN: A couple of questions
22 for Mr. -- some observations first. I was delighted to hear
23 from Mr. Curtis. The three years or so I have been on the
24 Commission we have had a lot of PUD extensions by people
25 coming here, telling us why they can't do something.

26 CHAIRPERSON KRESS: None of the mikes work.

1 You have to talk loud.

2 COMMISSIONER FRANKLIN: In the three-plus years
3 I've been on the Commission, I have heard a lot of testimony
4 from people asking for extensions of PUDs on the grounds they
5 can't, for one reason or another, develop under the approvals
6 previously given. And it's a pleasure to hear from somebody
7 who has actually built under approved PUDs. So it actually
8 can happen.

9 A couple of questions. Maybe this is mostly
10 directed to Mr. Boekenheide. Could you tell us a little bit
11 more about the signage you are proposing for this hotel?

12 I in the drawings see a suggestion of signs
13 which, you'll pardon me, I associate with properties of
14 somewhat lesser stature than I think you're proposing to
15 develop here; that is to say, vertical signs at the corner.

16 MR. BOEKENHEIDE: Well, first I would say they
17 are not suggestions of signs.

18 COMMISSIONER FRANKLIN: I was giving you the
19 benefit of a doubt.

20 MR. BOEKENHEIDE: I think the idea is to
21 capture as much recognition of the hotel as possible. These
22 signs are not without precedent. The former Vista Hotel,
23 which I'm not sure what the name is now, has vertical signage.
24 The Crown Plaza on 14th and K has similar signage.

25 The concern that we have I think obviously --
26 we have signage located on the canopy, which is wonderful once

1 you're on 10th Street. However, we also know that at some
2 point the adjacent lot to the east will be developed with
3 potentially quite a large building.

4 With the site lines to the building, therefore,
5 being obstructed in the future, we felt that horizontal
6 signage would give us the most visibility on the corners. And
7 recognition from the Convention Center, which obviously this
8 hotel is geared towards, is an important element.

9 We want to try and make it compatible with the
10 architecture. And by making it vertical within our vertical
11 elements, we felt that was an appropriate location.

12 COMMISSIONER FRANKLIN: You can have vertical
13 signs on the Hilton, on the Hilton property?

14 MR. CURTIS: There is a horizontal building
15 sign, which this would have a similar canopy sign and then the
16 vertical.

17 MR. BOEKENHEIDE: That is also on 14th Street,
18 which is a wider street and it does not have an approach that
19 is quite as oblique as this one is.

20 COMMISSIONER FRANKLIN: The lanterns that you
21 have depicted in the nighttime drawing, is this an accurate
22 depiction of the brightness of these lanterns?

23 MR. CURTIS: Relatively speaking, yes.

24 COMMISSIONER FRANKLIN: From the rendering,
25 they really don't come across, to me at least, as what I think
26 you were intending.

1 MR. CURTIS: They are not meant to be a bright
2 neon glow. They are meant to be a softly lit back-lit piece
3 of a curtain wall system that will emit a warm tone and a
4 color and a lantern. They are not meant to be a beacon.

5 COMMISSIONER FRANKLIN: I see. Okay.

6 MR. CURTIS: I have been through this process a
7 number of times.

8 COMMISSIONER FRANKLIN: Okay.

9 MR. CURTIS: Yes, they will be bright enough to
10 be seen and contrasted against a night urban sky but not to be
11 a discotheque-style bright beacon.

12 MR. BOEKENHEIDE: I think if you look at the
13 context, there's a building on McPherson Square that has green
14 neon strips around it. I mean, this is not envisioned to be
15 something garish like that. It is envisioned to be a
16 decorative element, not an overwhelming element but one that
17 reads as part of the building design.

18 COMMISSIONER FRANKLIN: The Commission is not
19 taken with garish either.

20 Why the choice of -- and this is some trampling
21 on Mr. Parsons' expertise but why locust trees?

22 MR. CURTIS: I'll answer that. In Lafayette
23 Center in the courtyard, we developed interior space. And we
24 used the honey locust as our ornamental shade tree. They have
25 a very small, fine leaf. They can be put into a small root
26 ball with a surface-mounted grade that's flush with the

1 surface, a fairly small trunk.

2 They live about 15-18 years, give a beautiful
3 canopy, nice shade, and are lit beautifully from below
4 compared to the large leaf street trees, which will still be
5 part of the streetscape here. So they will be in addition to
6 the standard streetscape, not in lieu of.

7 COMMISSIONER FRANKLIN: And they will be lit?

8 MR. CURTIS: They will be lit.

9 COMMISSIONER FRANKLIN: You're not intending
10 any other greening-up of that site between the curb and -- I
11 mean, I see the street trees, but is this all hard scape shown
12 on this?

13 MR. CURTIS: Yes. It will be hard scape. I
14 think there will probably be some benches, the normal
15 decorative lanterns, street lights, and the street scape that
16 follows New York Avenue.

17 I think there are some new streetscape
18 standards possibly being proposed for the downtown streetscape
19 area. If those were to be approved, we would probably
20 incorporate those into our design if they're done in time for
21 us to meet the formative requirements.

22 COMMISSIONER FRANKLIN: Would you say this
23 property falls between the Ritz-Carlton and Holiday Inn
24 essentially in --

25 MR. CURTIS: In terms of style and quality of
26 the hotel?

1 COMMISSIONER FRANKLIN: Yes.

2 MR. CURTIS: Much higher than the Holiday Inns
3 and --

4 COMMISSIONER FRANKLIN: Well, I said somewhere
5 between.

6 MR. CURTIS: And somewhat less than the
7 Ritz-Carlton, yes. This could be a three and a half,
8 four-star standard hotel. You could put a Hilton, a Sheraton,
9 a Ramada, a Renaissance, a Radisson, those type of hotels of
10 the flags we're speaking to.

11 COMMISSIONER FRANKLIN: What kind of financing?
12 Give me some sense of how quickly you think if this were
13 approved that this could be financed?

14 MR. CURTIS: Having just finished the financing
15 of the Hilton Garden Inn in 1998, when we purchased it in
16 March, we obtained financing in four months, permits.
17 Notwithstanding all of the arguments about DCRA, we got a
18 permit in 5 months for a 14-story high-rise. It was
19 wonderful. And we started construction five months after
20 purchase.

21 This hotel is more expensive than the Hilton.
22 Interest rates have changed. And ratios of debt and equity
23 have changed in the past year, as you are all aware.

24 We still believe we're viable for financing
25 here. We spent a lot of money to get to this point and are
26 moving with pace. Our biggest enemy is time. At some point

1 the carry, the interest, the delays that go along with a quick
2 land purchase in the millions of dollar start to prohibit the
3 use.

4 The office market starts to overcome as it
5 rises. And the land value now over delay and delay and delay
6 becomes too expensive to build a hotel. And you go back to
7 the old use of office.

8 I think I said in my testimony we have a
9 momentary opportunity. And I wasn't being aggressive in that.
10 It really is that moment in time when we can go capture the
11 market and build a hotel.

12 COMMISSIONER FRANKLIN: Mr. Glasgow, maybe one
13 of your witnesses could address what in their opinion would be
14 the likely impact of the development of this hotel on the
15 property owned by the labor union? Mr. Fuller? One of the
16 Steves?

17 MR. GLASGOW: Right, or probably both of them
18 for two different aspects. I was thinking economic and land
19 planning.

20 COMMISSIONER FRANKLIN: Right, right.

21 MR. GLASGOW: So we have two.

22 DR. FULLER: Steve Fuller.

23 Let me address the economic question. My sense
24 is that land values in this area would be substantially raised
25 as new development is brought on line. The Convention Center
26 clearly will have some impact on that, already has had some

1 impact. And the actualization of or realization of those
2 potential benefits by private investors will make other
3 properties more valuable.

4 There is clearly support for additional hotel
5 use in this area beyond this one. And with the proposals to
6 redevelop the old Convention Center and with what is already
7 happening there, the whole area is going to become much more
8 viable.

9 The downtown BID estimates that all development
10 sites will be fully developed downtown within five years
11 within the traditional boundaries. And so that, again, as
12 land, as downtown pushes towards Mount Vernon Square should
13 make the vacant properties east of this site and north of it
14 more viable and for residential development as well along
15 Massachusetts Avenue.

16 MR. GLASGOW: Steve, do you have --

17 COMMISSIONER FRANKLIN: Do you want to add
18 anything, Mr. Sher?

19 MR. SHER: Yes, I'll give it a shot. The
20 property owned by the union at the corner of the northeast
21 corner of 10th and K Streets is a relatively small site. It's
22 comprised of 2 assessment and taxation lots that in total
23 appear to be from the base that was plat to be less than 4,000
24 square feet. And they only have a width of about -- it's
25 about 50 feet roughly.

26 It's zoned to permit high-rise development. I

1 doubt that given the core that you'd have to put in in order
2 to put an elevator and go up to a 130-foot-high building, that
3 you would have a whole lot of efficiency in trying to build a
4 building on a floor plate of only 4,000 square feet.

5 The building on our site is diagonally across
6 the intersection. K Street is 146 feet wide. Tenth Street is
7 85 feet wide. I haven't done the math in my head to figure
8 out the hypotenuse of the triangle.

9 I can't see that a building on this site would
10 cause any deprivation of light and air or cast a shadow that
11 in some way would go that far diagonally across the
12 intersection to whatever occurs there.

13 It would seem to me that -- and I'm not trying
14 to develop their site for them or whatever but that if
15 development were to occur there, there are a couple of issues
16 that it is in a housing priority area, and I think they're
17 saddled with a housing requirement if they were to build
18 anything on that site.

19 So I don't know whether it's feasible to
20 develop it at all given the size of the site. But if it were
21 to be developed, it probably can't be much more than a two or
22 three-story building because I think the elevator core just
23 eats up too much else.

24 I don't see this site having any particular
25 kind of impact on what could occur there, positive or
26 negative.

1 COMMISSIONER FRANKLIN: Dr. Fuller believes
2 that there might be positive impact because of land values,
3 but I just call that to your attention.

4 MR. SHER: I could argue that the other way,
5 but I won't disagree with my colleague because he has the same
6 first name.

7 COMMISSIONER FRANKLIN: I have no further
8 questions.

9 CHAIRPERSON KRESS: Thank you. Colleagues?

10 COMMISSIONER HOOD: Madam Chair?

11 CHAIRPERSON KRESS: Commissioner Hood?

12 COMMISSIONER HOOD: Mr. Glasgow, I just have a
13 few questions for you. You can direct them to whoever is
14 appropriate to answer.

15 I see here in the OP report that the land has
16 not been acquired from the FDIC or has that already taken
17 place?

18 MR. GLASGOW: That has occurred.

19 COMMISSIONER HOOD: It has?

20 MR. GLASGOW: That occurred in March.

21 COMMISSIONER HOOD: March 5th? Okay. Let me
22 ask you: Echoing the comments of Mr. Franklin, do you see
23 that this facility would be built this time, as opposed to
24 coming back and, say, have a PUD being modified twice and
25 extended six times or do you see this project because of the
26 new Convention Center, which is just, what, two blocks away,

1 going forward and being built, actually done, if it's
2 approved?

3 MR. GLASGOW: My experience with this developer
4 is that they buy it and they build it. That's been their
5 history. They are the new owner of the property.

6 COMMISSIONER HOOD: The 165 parking spaces,
7 would that include employees of the hotel, too?

8 MR. CURTIS: Yes. Many of the parking spaces
9 are tandem spaces, which allow for employees to park in the
10 back and valet people to move in the front. So generally
11 employee parking, although somewhat limited in a hotel, it's
12 always at a precious -- hotel employees are often given
13 parking privileges above certain rank.

14 That's usually determined by the management
15 company as to who gets parking privileges versus regular
16 ridership from Metro or other public access.

17 COMMISSIONER HOOD: So roughly about how many
18 parking spaces would be designated to employees out of that
19 165?

20 MR. CURTIS: I would probably guess you will
21 see about 15 or 20 spaces for the senior management; the bell
22 management; plus reservations groups; sales people, who are
23 often in and out of the hotel; as well as probably senior
24 engineering staff, who often have errands during the day and
25 need vehicles.

26 If it's a management decision, it depends on

1 who manages the hotel, but some employee parking will be
2 provided for certain levels.

3 COMMISSIONER HOOD: One other concern that I
4 have: the housing component on 1223 to 1229 12th Street.

5 MR. CURTIS: Yes.

6 COMMISSIONER HOOD: I think I heard in your
7 testimony you say that: If the PUD is approved, we will not
8 have to wait until the construction of the hotel. The housing
9 component will go forward.

10 MR. CURTIS: Yes. That part is really a
11 differentiator between ourselves and the former PUD applicant.
12 Part of it is market rate housing. Part of it is renovations
13 of old, historic structures are very expensive.

14 Unfortunately, one of the buildings here is
15 burned since the former applicant applied. And the number of
16 units is no longer what would be called existing
17 nonconforming. They're no longer existing. We couldn't meet
18 the parking requirements for new construction for a 44-unit
19 building there.

20 We have gone in and looked at the design, hired
21 a great architect, worked with a wonderful builder, and said:
22 If you guys can do the following and the neighborhood likes it
23 -- and they do -- and you can have a Victorian facade and a
24 wonderful plan and duplex units where the stairs are interior
25 and avoid the expenses of elevators and still meet the
26 handicapped requirements for a certain percentage of units,

1 they have come up with what we think is an ingenious solution
2 to allow them to do duplex apartments at the same density.

3 And that's something you struggle with here
4 when people talk about unit count versus square footage.
5 Every other hearing, it's one or the other. In this case,
6 we're keeping about the same square footage, around 33,000
7 square feet of housing, to be constructed on those 2 parcels.

8 Under the previous PUD, it was a much higher
9 number of units, smaller size. Under this application, it's
10 the same square footage but configured at duplex units for
11 sale in larger sizes. These are often large
12 one-bedroom/two-bedroom duplex units.

13 So the answer is yes, they're going to finance
14 this and go build. They've built units in that neighborhood.
15 In fact, we don't have just schematic plans and elevations.
16 They're pretty far along with working drawings.

17 Our company, the hotel side, has advanced and
18 committed to I think around \$100,000 of a commitment to
19 continue with the housing plan, apply for a building permit I
20 believe within the next week or two. Mr. Lindy is here and
21 could confirm that. They're doing final working drawings.

22 This isn't a rendering and an idea. We've got
23 drawings ready to go and a great architect that has done a lot
24 of work of housing. It's as real as it gets absent major
25 calamities in the financial market, but they have the backing.

26 We're supporting it. We're paying the

1 pre-development expenses. And when we get the final approval
2 on this, they're ready to go build. And if we can't get the
3 hotel financed, that's kind of our problem. It's not going to
4 impact the neighborhood, the ANC, or the housing.

5 COMMISSIONER HOOD: Thank you. No further
6 questions.

7 CHAIRPERSON KRESS: Thank you.

8 Commissioner Parsons or Clarens, do you have
9 any questions?

10 COMMISSIONER CLARENS: Not many. Just very
11 briefly, on the issue of the housing, the plans that you have
12 submitted, at least in this package, are not as well-developed
13 as you claim they are.

14 MR. CURTIS: No.

15 COMMISSIONER CLARENS: Maybe you need to take
16 -- maybe this package needs to be updated. There are bedrooms
17 without windows and things like that. It seems to me if we
18 are going to improve on something, we should have someone who
19 is closer to what you are going to build, not that you
20 couldn't put windows in the bedrooms, but they are not shown.

21 Then I have a question that has to do with the
22 lack of elevators. No elevator in that building?

23 MR. CURTIS: In the housing building?

24 COMMISSIONER CLARENS: In the housing building.

25 MR. CURTIS: No. That's right. There's no
26 elevator. You have a many-step walkup to the existing

1 historic entrance. And from that side, they can come in,
2 enter an access corridor to then feed up through common stairs
3 and through duplex units. So you walk down for --

4 COMMISSIONER CLARENS: And doesn't it have
5 feasibility to have to enter to --

6 MR. CURTIS: No. They have access through
7 another side access with elevators toward grade changes --

8 COMMISSIONER CLARENS: In the back?

9 MR. CURTIS: -- as per D.C. Code. So it's not
10 a common elevator for everybody. I think two or three of the
11 units have accessibility requirements as required under code.

12 MR. LINDY: Mr. Clarens, we have a --

13 COMMISSIONER CLARENS: Can those units be
14 identified in plans somehow, in the plans that you submit?

15 MR. CURTIS: Yes. I believe, actually, Art
16 Lindy is here tonight with a little more developed set of
17 plans that I believe you are getting ready to make application
18 for.

19 MR. LINDY: Yes. We are about a week away from
20 filing for a clearing permit.

21 COMMISSIONER CLARENS: Do you want to identify
22 yourself?

23 MR. LINDY: My name is Art Lindy. I'm with the
24 Lindy Development Companies. Our office is at 4450 MacArthur
25 Boulevard, Washington, D.C. 20007.

26 In regards to accessible units, the five units

1 on the ground floor are all accessible through a ramp or a
2 lift in the back. I have a more complete set of plans here I
3 can show you if you'd like to see how we're going to access
4 it.

5 COMMISSIONER CLARENS: No. I just wanted to
6 know what you were doing about it and to ask you to submit
7 those plans for the record.

8 MR. LINDY: Sure.

9 COMMISSIONER CLARENS: I don't have any other
10 questions.

11 CHAIRPERSON KRESS: Thank you.

12 Commissioner Parsons?

13 MR. GLASGOW: We can submit those for the
14 record at this time if you'd like.

15 COMMISSIONER CLARENS: Well, I think you should
16 submit them in reduced form. We are trying to be more
17 efficient, Mr. Glasgow. I don't think that those plans are
18 going to help our efficiency.

19 MR. GLASGOW: Yes, sir.

20 COMMISSIONER PARSONS: Madam Chair, I would
21 like to follow up on Mr. Franklin's concerns -- I think they
22 were expressed as concerns -- over the sign and the lantern.
23 I am very concerned about them. I think this is a fabulous
24 project. But I am extremely concerned about them.

25 What we tend to highlight in this city is the
26 public buildings. The White House, Mount Vernon Square are

1 the major buildings on this avenue. And once we begin to
2 intrude on that in private buildings, I get very concerned.

3 I think the sign does exactly that. It will be
4 visible from the front door of the White House. And I don't
5 think that is appropriate, nor do I think the lanterns are.

6 I don't think it's worth the risk to try for
7 this Commission or anyone else to control the wattage in the
8 lamps that will be in that building in perpetuity. I think
9 the risk is too high for them to become a nuisance on the
10 landscape by simply changing the wattage.

11 So I would try to persuade my colleagues that
12 the sign be removed and that the lantern not be provided for,
13 at least on New York Avenue. I feel very strongly about it on
14 New York Avenue.

15 I don't know whether you have any alternatives
16 to signage. Maybe down at the street level if they are truly
17 directional signs to assist your customers in finding the
18 hotel, maybe something could be done on a limestone, in a
19 brass, a bronze, or something of that nature, but a vertical
20 sign on this corner I find very troubling as well as the
21 lanterns, as you call them, no trouble with them being not
22 illuminated, although I still have problems with the ones on
23 Franklin Square that glitter in the sunlight.

24 I really believe church steeples in public
25 buildings are the only buildings that should be given the kind
26 of recognition that you are seeking.

1 MR. BOEKENHEIDE: I'd like to address the
2 lighting for a second. I think there is two ways buildings
3 are lit. One is, as you say, the government buildings of
4 prominence that are floodlit so that the entire facade is lit
5 and the entire facade and the entire building mass is
6 recognized.

7 That is very different from what we are
8 proposing to do, which is a decorative accent light, which
9 does not overwhelm the neighborhood. It does not create the
10 entire building being lit up at night and, therefore, does not
11 compete with the government buildings of note that are
12 floodlit and the monuments.

13 The other point I would like to make is what we
14 are asking for is not something that has been asked for and
15 has been built the first time in Washington. There are
16 buildings that have precedent. There are buildings that have
17 been built that have similar types of lighting.

18 We're not looking to create a beacon. We're
19 not looking for this to overwhelm the neighborhood. We are
20 looking to give the building a slight distinctive recognition
21 at nighttime. We have no intention of floodlighting the
22 building and making it this overwhelming presence at
23 nighttime.

24 COMMISSIONER PARSONS: No. I can see that from
25 the rendering. I'm simply worried about the beacons on the
26 roof or the lanterns, as you call them.

1 MR. CURTIS: I guess in my comment from that,
2 previous buildings we have done have had decorative light
3 fixtures. Even the Hilton has an 18-foot-tall stainless steel
4 decoresque fixture at the top of the building. It's in a C-4
5 district, mid block. That will give it a little bit of
6 nighttime presence and some up lights in the facades,
7 obviously heavily lighted over the entrance canopy.

8 These were done in lieu of light fixtures.
9 Light fixtures in the Herald Square building that our partner
10 Ron Walton developed are some, what, 16 feet tall and 4 feet
11 in diameter -- twenty -- and 130 feet in the air. They have
12 become a very diminutive thing at that distance and that
13 scale, but they are light fixtures.

14 This we just took a standard curtain wall
15 system, frosted the glass, and said, "Leave the light on night
16 and let it be a soft glow. It's not really intended to be a
17 beacon. I understand your concern on how do you regulate
18 wattage. What's the definition of it? My soft glow is your"
19 --

20 COMMISSIONER PARSONS: It's not clear glass.

21 MR. BOEKENHEIDE: I think we would be willing
22 to let you regulate that if we're allowed to do this, I mean,
23 I think if there was a way to develop some standard. I do
24 think the design that we have created -- and this is typical
25 of -- you know, Mr. Curtis has mentioned two or three projects
26 that we have designed for his firm and for Mr. Walton.

1 And a unique component of a lot of the
2 buildings we design are a lighting element as part of the
3 building design so that when the city is dark, it's not dark.
4 I mean, there are some elements that create some sparkle and
5 excitement to the city.

6 And, instead of us accepting no lanterns, I
7 would rather have you involved, then, in determining what is
8 an acceptable glow, what is an acceptable light bubble.

9 I think it is an integral part of the building
10 design.

11 COMMISSIONER CLARENS: The point Mr. Parsons is
12 making is perhaps a little bit more conceptual than an issue
13 of wattage. I think it has to do with an issue of Washington,
14 D.C. and its very, very special character and the fact that it
15 is the seat of a federal government and it is not New York
16 City and it doesn't have all of these skyscrapers each
17 competing for their own place in the city scape.

18 And these lanterns, which I like very much, I'm
19 troubled by this argument that, even though they could very
20 well be very handsome, they might be inappropriate to a place
21 like D.C. because of its nature.

22 I'm sure you have given some thought to that.
23 This is not a city of powerful companies and great egos, like
24 New York might be. The egos are somewhere else than in the
25 private sector and definitely not in the hotel. They might be
26 somewhere else.

1 MR. BOEKENHEIDE: The cities you talk about,
2 how are those egos recognized? It's not just with lights at
3 the top of the buildings. It's signage at the top of the
4 buildings, lit signage. Think about most of the big cities
5 that you go to. It's Nations Bank, and it's all the big
6 corporations up there.

7 That's not what we're asking for. We're not
8 asking for rooftop signage. We're not asking for rooftop
9 logos lit up. We're looking at an integral part of the
10 building design that will have a glow to it.

11 We're not spotlighting the top of the building.
12 We're not overwhelming this facade with light. We're working
13 to create some element of lighting that gives a little bit of
14 light to the building after dark.

15 And, as I said, this is not the only building
16 that will be in Washington with this. You know that and I do,
17 that there is precedent. And I'm not sure that what we are
18 doing is so overwhelming that it's going to draw attention
19 away from the specific buildings that we are trying to
20 recognize and protect.

21 MR. CURTIS: I think the overall thought of
22 this is to be a piece of frosted glass similar to a back-lit
23 room where someone left the light on inside. There is someone
24 home. This not really meant to be a beaquesque.

25 I think maybe the suggestion would be let us
26 put it in, come out and take a look at it, and if you don't

1 like it, tell us to shut it off. I'd almost rather give it a
2 try than to try to describe here in this one rendering at this
3 hearing how it could potentially fail. And I'd hate to give
4 up the opportunity to give it a shot and see if it's really an
5 appropriate level of lighting on the objection that it might
6 be too much.

7 We have shown a lot of restraint in our years
8 and careers here. I'd hate to be cancelled out of an
9 opportunity because we might not continue to show it. I'd
10 rather give you the right to throw the switch.

11 COMMISSIONER FRANKLIN: I think we can craft
12 something if there is a final order that will address this
13 suitably.

14 COMMISSIONER CLARENS: Is it etched glass or
15 frosted glass? Probably it won't be clear glass?

16 MR. CURTIS: Frosted.

17 MR. BOEKENHEIDE: No, it's not clear glass.

18 MR. CURTIS: No, it's not clear.

19 MR. CURTIS: We are not looking for a beacon.
20 We're looking for a glow.

21 COMMISSIONER FRANKLIN: Let me say this: I
22 think in the area of the Convention Center, I don't have a
23 serious concern with that kind of glow in that part of town
24 because that is a signal of a certain kind of activity that
25 differentiates it from other parts of the city, but from my
26 part, I think we can craft some language that can provide some

1 comfort on this.

2 COMMISSIONER PARSONS: To let you know how
3 strongly I feel about it, I will vote against this project if
4 those lights are in that tower. There are six towers on this
5 building? The fact that --

6 MR. CURTIS: Five.

7 COMMISSIONER PARSONS: Five? Five towers in
8 this building? I will not vote and I hope this Commission
9 will not to encourage illuminated towers on buildings in this
10 city.

11 I mean, these gentlemen are bringing us a
12 precedent that we had nothing to do with. That is, they are
13 matter-of-right building that were somehow erected. And we're
14 going through our tower period.

15 To leave this city littered with buildings with
16 illuminated towers competing with the Washington Monument -- I
17 don't mean this building; I mean in total, these little jewels
18 around the city -- or the Post Office Tower or the White House
19 is to me inappropriate and should not be done. And I feel
20 that strongly about it.

21 CHAIRPERSON KRESS: Do you have any other
22 comments?

23 COMMISSIONER PARSONS: No. I'm done. Thanks.

24 CHAIRPERSON KRESS: I wanted to make sure you
25 had a chance.

26 I wanted to ask the architect: When was this

1 building originally designed?

2 MR. BOEKENHEIDE: Originally designed?

3 CHAIRPERSON KRESS: You had the exterior hadn't
4 changed. When was the --

5 MR. BOEKENHEIDE: Well, the submission that was
6 put forth two months ago.

7 MR. CURTIS: April 6th I think was the
8 submitted package.

9 MR. BOEKENHEIDE: Yes. The changes that I was
10 referring to were internal changes in the building from that
11 submission two months ago. Essentially what you were seeing
12 was some internal floor plans that were different. My point
13 was that nothing on the exterior of the building has changed
14 from what was submitted two months ago.

15 CHAIRPERSON KRESS: I just wanted to get that
16 --

17 MR. BOEKENHEIDE: I'm sorry. I wasn't clear on
18 that.

19 CHAIRPERSON KRESS: Any other questions?

20 COMMISSIONER FRANKLIN: One brief one, Madam
21 Chair. In the nighttime rendering, there is a high point here
22 on the top floor of the side elevation. What is that supposed
23 to tell us up there?

24 MR. CURTIS: I think it's supposed to just
25 indicate a little leftover glow from the lantern on the
26 western side of the building. It may not be an accurate

1 rendition because there's a lantern on that side as well if
2 you look at the elevations that were submitted.

3 COMMISSIONER FRANKLIN: Maybe your renderer --

4 MR. CURTIS: Didn't quite get it right.

5 COMMISSIONER FRANKLIN: -- didn't quite get it?

6 MR. CURTIS: Yes.

7 COMMISSIONER FRANKLIN: Okay. It looks like
8 somebody left the light on in the top floor.

9 MR. BOEKENHEIDE: If you look at the daytime
10 rendering, you will see that there is no way there can be a
11 light shining right there. The daytime rendering illustrates
12 that there is no lantern on this base. So the nighttime
13 rendering is inaccurate.

14 MR. BASTIDA: Madam Chairperson?

15 CHAIRPERSON KRESS: Yes?

16 MR. BASTIDA: I have a question. The name is
17 Alberto Bastida with the Office of Planning.

18 Can you tell me the going rate at this time in
19 '99 dollars for rooms in this hotel?

20 MR. CURTIS: Yes. We have done some
21 projections. I can give you a range. If you're familiar with
22 hotel occupancies --

23 MR. BASTIDA: Yes, right.

24 MR. CURTIS: -- and room rates in D.C., rooms
25 fluctuate over a year of occupancies. What is often referred
26 to in the industry as the average daily rate, which is the

1 seasonal adjusted average over the entire year of occupancy,
2 this hotel is projected to open at around 135 to 150 dollars
3 per night for the average daily rate. That would be a little
4 bit less than what the market in its competitive set would be
5 at the moment.

6 For example, I think the Hyatt is somewhere
7 around \$158 for 1997 for their average daily rate. Our Hilton
8 is projected at around \$135 for the average daily rate. And
9 that will be an average over obviously many seasons.

10 MR. BASTIDA: You consider in your testimony
11 that this is a three and a half-star hotel.

12 MR. CURTIS: Three and a half to four-star
13 depending on final level, yes.

14 MR. BASTIDA: What is a comparable existing
15 hotel that you qualify in that range?

16 MR. CURTIS: Mark, you maybe are more familiar
17 with that. Hilton Garden Inn I would say would be a
18 three-star in that it's a little more limited service and
19 doesn't have the meeting room space that this one has.

20 The four and five-star hotels usually have
21 fancy restaurants, much larger ballrooms that are maybe up to
22 15 or 20 thousand square feet. This has a very modest. The
23 largest meeting room is 8,500. It's not necessary to build
24 some of those facilities.

25 The room quality we think will be equal or
26 better than most others. We have put insulated glass, new air

1 conditioning systems. The codes have changed significantly in
2 the past 12 years. Anybody building a brand new hotel today
3 in terms of the room quality will be building a better room
4 than the one built 15 years ago simply because of the code
5 requirements.

6 So mostly you're talking about the level of
7 amenities and the level of finish in the public spaces. So
8 this I think would be comparable in terms of finishes to the
9 J. W. Marriott downtown. Most of you are familiar with that.

10 It would be similar in terms of finishes to the
11 Hyatt Hotel near the Convention Center, probably just a little
12 bit slightly lower finishes than the Westin over in -- or the
13 ANA Hotel. It was originally opened as the Westin, which had
14 a lot of limestone everywhere and huge atriums. This is a
15 little more modest in some of its proportions.

16 MR. BASTIDA: Thank you. Thank you, Madam
17 Chairperson.

18 CHAIRPERSON KRESS: Sure. Thank you.

19 I just wanted to make sure. Colleagues, did
20 you have any further questions?

21 (No response.)

22 CHAIRPERSON KRESS: I wanted to make sure the
23 ANC 2F didn't want to be a party and do cross-examination. Is
24 anyone here from the ANC 2F?

25 MS. KRAMER: Yes.

26 CHAIRPERSON KRESS: Do you want to do

1 cross-examination?

2 MS. KRAMER: No.

3 CHAIRPERSON KRESS: Thank you.

4 Before we move on, the court reporter has asked
5 that we take a short break. So we'll take a five-minute break
6 before we move on to the Office of Planning's report.

7 (Whereupon, the foregoing matter went off the
8 record at 9:47 a.m. and went back on the record
9 at 9:58 a.m.)

10 CHAIRPERSON KRESS: Call the meeting back to
11 order. Next on the agenda is --

12 MR. GLASGOW: Madam Chairman, we have one item.
13 We have had an epiphany during the time out --

14 CHAIRPERSON KRESS: An epiphany?

15 MR. GLASGOW: -- we wanted to have Mr.
16 Boekenheide address very quickly.

17 MR. BOEKENHEIDE: In deference to the comments
18 made about the light fixtures and the signage, we would like
19 to propose two modifications for your review and hopefully
20 concurrence.

21 We would like to propose eliminating lighting
22 the four corner lanterns. We would like to retain the
23 opportunity to light the center lantern over the entrance.

24 And we will agree to remove the vertical
25 signage on the New York Avenue facade. And any signage that
26 we have we would put down lower on the pre-cast base.

1 COMMISSIONER PARSONS: Am I to understand that
2 you would retain the four towers on the four corners?

3 MR. BOEKENHEIDE: Yes.

4 COMMISSIONER PARSONS: You simply wouldn't
5 illuminate?

6 MR. BOEKENHEIDE: The four corners would not be
7 lit. We would still like to develop them as glass elements at
8 the top, but they would not be lit. So it would take away the
9 concern that you have about lit towers on the --

10 COMMISSIONER PARSONS: I certainly appreciate
11 that. That comes a long way towards my problem. I don't know
12 that my colleagues even agreed with me, but that's --

13 MR. BOEKENHEIDE: We are prepared to do that.

14 COMMISSIONER PARSONS: Fine. That is very
15 helpful because I really like the project.

16 CHAIRPERSON KRESS: Thank you.

17 MR. BOEKENHEIDE: Thank you.

18 MR. BASTIDA: Good evening, Madam Chairperson
19 and members of the Commission. For the record, my name is
20 Alberto Bastida with the D.C. Office of Planning.

21 The Office of Planning submitted its report on
22 May 22nd and went through the application background, the
23 summary of recommendations, applicant's proposal, existing
24 zoning, HR incentive district, site location, planning and
25 zoning issues, consistency with the comprehensive plan,
26 consistency with the evaluation standard of Section 2403,

1 neighborhood impact, zoning and related matters, and the
2 amenities and benefits proffered by the applicant that were
3 six pages of our report.

4 On Page 7, it has agency referrals. I have
5 submitted for the Commission this evening and the Commission
6 accepted into the record reports from the District of Columbia
7 Department of Housing and Community Development that is very
8 favorable, recommends very favorable towards the PUD; and the
9 Fire Department. It has no objections to the proposed PUD.

10 Community comments will be proffered by the
11 ANC. Their recommendation is that the proposed project
12 appears to be consistent with the comprehensive plan and a
13 generalized land use map for -- the review of the project by
14 the Office of Planning believes or has determined that it
15 shows benefits for the District through the construction of
16 the new 472-room hotel within close proximity to the new
17 Convention Center and could have a positive impact on the
18 important New York Avenue corridor of downtown.

19 Given the long unfilled life of this PUD, the
20 Office of Planning is encouraged that the proposal
21 modification will finally lead to actual development of the
22 site as well as provide a use that OP considers compatible
23 with the proposed D.C. Convention Center.

24 It believes that the Office of Planning report
25 is rather extensive but, actually, has a hole. There is not
26 an urban design chapter to that. The Office of Planning has

1 worked in several projects and believe that the two proposed
2 vertical signs are inappropriate for the city, for the
3 location, and for the quality of the hotel. Accordingly, we
4 will recommend strongly that they will be deleted from the
5 project.

6 Recently with the BZA and Mr. Clarens, we did a
7 study of certain signage because of the signage proposal on
8 13th Street. And, even though the vertical signage that the
9 applicant has stated has been in the city, those are old signs
10 and were signs that were not an aesthetic review for it.
11 Accordingly, the Office of Planning has felt very strongly and
12 in a negative fashion about this type of signage.

13 In addition, the landscaping we believe, the
14 Office of Planning believes, is lacking. I think that with
15 very small amounts of landscaping and costs, that hard scape
16 can be softened tremendously.

17 One great example is the George Hotel that with
18 almost no space and very little planting, they have created a
19 tremendous environment, which even that has created an outdoor
20 seating area for Bistro Bis that has become one of the finest
21 restaurants in the city, even though the George Hotel doesn't
22 have the location that you have because it's on E Street just
23 west of North Capitol Street.

24 And also we would like to make sure that the
25 applicant provides for the record the type of light fixtures
26 that are going to be installed, what exactly they look like,

1 because I think that that will go a long way to provide relief
2 to everybody who votes either in favor or against that those
3 light fixtures should be provided.

4 That concludes my presentation. Basically, the
5 Office of Planning is very favorable toward the approval of
6 this application with those minor changes.

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

9 CHAIRPERSON KRESS: Thank you.

10 Questions for Office of Planning?

11 COMMISSIONER PARSONS: I wanted to ask Mr.
12 Bastida about the landscaping. Do you mean a series of
13 planter boxes along the facades in the notched areas along the
14 street? I don't mean to design it here tonight, but do you
15 mean landscaping up against the building to soften it?

16 MR. BASTIDA: Yes. There are several ways to
17 achieve it from the design point of view. It can be that
18 there might be small areas in which you plant on grade against
19 the building and other ones that you provide potted plants.
20 And so there are so many different ways to do it.

21 It is through the entire country. It goes to
22 that emphasis on landscaping that it is really doing it in
23 pots. And there is all kind of design in pots and sizes that
24 will take from trees to small bushes.

25 COMMISSIONER PARSONS: I concur.

26 COMMISSIONER FRANKLIN: I must say I concur,

1 too. And I guess I didn't follow up my question on the
2 subject with my opinion. But I think that for not a lot of
3 money, some softening of the landscaping can be an interesting
4 subtle signal about the classiness of the hotel.

5 The upper-tier hotels typically I think have a
6 softening effect on the bare sidewalks in front of the
7 buildings.

8 MR. BASTIDA: That has been my experience doing
9 that for that hotel. On the 13th, it's more than for
10 Massachusetts Avenue. That is a much more inexpensive hotel.

11 And that is why I was trying to see the range
12 of prices that this hotel will take and what people would be
13 coming here and usually how those people are attracted to a
14 location. And usually it's not for signage.

15 That was the determination that the Office of
16 Planning came to after that story.

17 CHAIRPERSON KRESS: Thank you.

18 Any other questions of Office of Planning?

19 MR. BASTIDA: I just want to emphasize that the
20 Office of Planning feels very favorable the Board recommends
21 highly the approval of this hotel with those minor
22 modifications.

23 CHAIRPERSON KRESS: Thank you.

24 Any cross-examination of the Office of
25 Planning?

26 MR. GLASGOW: No.

1 CHAIRPERSON KRESS: All right. Thank you very
2 much.

3 And you took care of the other agency reports?

4 MR. BASTIDA: That's right, Madam Chairperson.

5 CHAIRPERSON KRESS: So the next will be the
6 report of ANC 2F. Since you are considered a party, you are
7 allowed up to 15 minutes.

8 MS. KRAMER: Thank you.

9 Good evening. Members of the Commission, my
10 name is Helen Kramer. I live at 1325 13th Street, Northwest
11 and have been a commissioner on ANC 2F since 1996.

12 I am currently Chair of the ANC's Community
13 Development Committee. And I was Chair of the ANC during the
14 time when the PUD modification at 1000 K Street was initially
15 considered.

16 I appreciate your giving me the time, but
17 because it's so late, I'll try to zip through the testimony
18 and just highlight the main points.

19 CHAIRPERSON KRESS: Thank you.

20 MS. KRAMER: ANC 2F is on record as having
21 voted unanimously at its February 3rd, 1999 meeting in support
22 of this PUD modification. We particularly welcome development
23 of the property as a hotel, rather than an office building, as
24 originally proposed, as this will provide more jobs to D.C.
25 residents and generate pedestrian activity in the area in the
26 evenings.

1 This PUD modification was discussed very
2 extensively by the Community Development Committee, the full
3 ANC, with large attendance by members of the community at the
4 meetings. And there was no dissension expressed either by
5 members of the committee, the Commission, or anybody from the
6 community.

7 The discussions regarding the PUD at 1000 K
8 Street were held in conjunction with our consideration of the
9 existing PUD at 901 New York Avenue. The two PUDs offer
10 different housing amenities.

11 The ANC viewed the redevelopment of the housing
12 site on 12th Street, Northwest in the context of other
13 developments, including affordable housing already provided by
14 the other PUD, and concluded that the provision on this site
15 of market rate housing consisting of units large enough for
16 families would provide a better mix of housing with the
17 existing affordable housing on 12th Street.

18 The proposed 25 market rate units at 1223 and
19 1229 12th Street are across the street from King Towers, a
20 subsidized rental apartment building of 128 units housing an
21 ethnically diverse array of families.

22 And a few yards away are 2 publicly owned
23 apartment buildings: Horizon House, consisting of 105 units,
24 and Claridge Towers, consisting of 343 units. Both of these
25 buildings house elderly and disabled tenants.

26 These three buildings make up almost 600 units

1 of affordable housing within the immediate area of the PUD.

2 At the corner of 12th and M Streets, Northwest is a low-rent
3 apartment building housing predominantly recent immigrants.

4 I'm bringing this to your attention to give you
5 a sense of the broad diversity which exists in our
6 neighborhood, particularly in the immediate vicinity of the
7 proposed housing amenity.

8 The 901 New York Avenue PUD has provided the
9 ANC 2F area with affordable housing at 919 L Street, Northwest
10 as well as rehabilitation of 33 affordable housing units under
11 the Homestead Program. The ANC views this mix of housing
12 types, affordable and market rate, as preferable to all
13 affordable or all market rate.

14 As I mentioned, this is a very diverse ANC.
15 And by providing market rate housing in the 1200 block of 12th
16 Street, which has long suffered from the blight, as has been
17 described previously by the applicant, the PUD modification at
18 1000 K Street promises to improve the quality of life for all
19 the residents in our area.

20 In summary, the ANC has supported both hotel
21 and office use of the 1000 K Street site, but we prefer the
22 hotel use. We hope that you won't force the developer into
23 office use by denying the requested modification. We believe
24 that the hotel use will provide more positive investment
25 multiplier effects as well as housing on a back-lighted site.

26 So I stated in our letter to the Commission of

1 February 15th, 1999 we respectfully request your approval of
2 this modification application.

3 Thank you. And I will be glad to answer any
4 questions you may have.

5 CHAIRPERSON KRESS: Thank you.

6 Questions?

7 (No response.)

8 CHAIRPERSON KRESS: We don't have any
9 questions. Any cross-examination?

10 MR. GLASGOW: No cross.

11 CHAIRPERSON KRESS: Thank you very much for
12 coming and testifying this evening.

13 MS. KRAMER: Thank you.

14 CHAIRPERSON KRESS: With that, we will move to
15 persons in support. Are there any persons in support to
16 testify now? Please come forward and identify yourself for
17 the record.

18 MS. MARTENS: Good evening.

19 CHAIRPERSON KRESS: Good evening.

20 MS. MARTENS: My name is Deborah Martens. I
21 reside at 1521 12th Street, Northwest. I am here tonight
22 representing the Logan Circle Community Association.

23 We are a nonprofit neighborhood organization
24 that was established in 1972 to promote civic and social
25 interests of the residents of the District of Columbia and
26 especially those within our boundaries.

1 I have been a member of the association for 16
2 years. I have been the president since July 1998. I was
3 involved in discussions with the applicant regarding the PUD
4 modification for 1000 K Street, Northwest.

5 The PUD modification in general and the housing
6 amenity specifically were discussed in detail by our board of
7 advisers. The discussion was complete and detailed. There
8 was no opposition voiced.

9 Much like the ANC, we considered the housing
10 amenity for 1000 K Street in tandem with the housing amenity
11 provided by the PUD at 901 New York Avenue.

12 We believe that a mixture of housing types,
13 both affordable as provided by the 901 New York Avenue PUD,
14 and market rate, as proposed tonight, is desirable for our
15 neighborhood. We need a balance, and we need a combination of
16 folks.

17 I would also like to emphasize the applicant's
18 obvious commitment to fulfilling this PUD's housing amenity
19 component. The original amenity required 60 units, may have
20 been appropriate for our neighborhood back in 1988 but is no
21 longer. The proposed 25-unit development will complement the
22 row houses to the south and is more compatible with the
23 current dynamics of the neighborhood.

24 Further, the proposal is very close to becoming
25 reality. The developer with whom the applicant is working is
26 well-known in our neighborhood and is admired for the quality

1 of his residential projects.

2 We are confident that with the Zoning
3 Commission approval of this modification, a trash-filled lot
4 and derelict building will soon be replaced by 25 additional
5 housing units in our neighborhood.

6 Thank you.

7 CHAIRPERSON KRESS: Thank you. Just a second.
8 We might want to ask you a question. Any questions?

9 (No response.)

10 CHAIRPERSON KRESS: Any cross-examination?

11 (No response.)

12 CHAIRPERSON KRESS: Thank you for coming to
13 testify this evening.

14 Next we're going to move to -- oh, I'm sorry.
15 Are you also in support?

16 MR. MacBETH: Yes.

17 CHAIRPERSON KRESS: Oh, I'm sorry. Is there
18 anyone else in support testifying tonight?

19 (No response.)

20 CHAIRPERSON KRESS: All right. And you're
21 testifying as an individual --

22 MR. MacBETH: Yes.

23 CHAIRPERSON KRESS: -- or an organization?

24 MR. MacBETH: An individual.

25 CHAIRPERSON KRESS: Okay.

26 MR. MacBETH: My name is Russell MacBeth, and I

1 live at 1215 12th Street. I have lived there it will be 20
2 years in December. So I have seen two decades of history on
3 this block. And I speak I think for all of my neighbors when
4 I say that we are looking forward very much to seeing this
5 derelict property developed.

6 I was there at the time of the conflagration of
7 1223, when we were all evacuated. And the building that it
8 standing there now finally we hope in a few weeks will be
9 underway for development. Up until that time, it stands there
10 as a threat for a similar occurrence of a fire.

11 There have been murders. There have been
12 bodies taken out of that building. The building was securely
13 sealed with cinder block. And just recently, there was an
14 assault on the building, removing the bricks of the fabric of
15 the walls themselves. So that does constitute a danger so
16 long as it is not developed.

17 As far as the market rate housing is concerned,
18 I would say there are only about nine addresses on the entire
19 Square 314 that could be considered medium-income or market
20 rate if they were to be sold. The majority of addresses on
21 Square 314 are either subsidized or low rent.

22 So I think putting in market rate is not going
23 to tip the balance or destroy the mix of the neighborhood.
24 And I must say that those of us who live here are happy with
25 the mix.

26 CHAIRPERSON KRESS: Thank you.

1 Any questions?

2 (No response.)

3 CHAIRPERSON KRESS: Any cross-examination?

4 (No response.)

5 CHAIRPERSON KRESS: All right. Thank you.

6 Next we'll move to organizations and persons in
7 opposition. We'll begin with the Hotel and Restaurant
8 Employees Local 25, who is Mr. Brennan or --

9 MR. BOARDMAN: I relieved my lawyer of his
10 duties because there doesn't seem to be any need for legal
11 talent.

12 CHAIRPERSON KRESS: Oh, all right.

13 MR. BOARDMAN: I will take my three minutes.
14 My name is John Boardman. I am Executive Secretary/Treasurer
15 of Local 25 Hotel and Restaurant Employees.

16 CHAIRPERSON KRESS: You do get five minutes
17 because you are representing the organization.

18 MR. BOARDMAN: Thank you. We represent about
19 8,000 members and their families in the hotel and restaurant
20 industry, primarily in the Washington, D.C. hotel industry.
21 In fact, we represent 90 members who live in ANC 2F. I might
22 add for the record that none of them knew about these
23 discussions.

24 I wanted to start out tonight by saying some
25 different things, but I changed my mind and I wanted to thank
26 the Commission for bringing all of the high-priced talent to

1 bear on the problem of what the impact might be on my property
2 that I have fiduciary responsibility for at 10th and K.

3 Frankly, I would have rather had an opportunity
4 as a party to interview those same people to find out exactly
5 what that meant for me. And I share your concern about
6 lighting, but I also might share a concern about some other
7 features of that project, too. But I can't cross-examine
8 because I am not a party.

9 We approached this process --

10 CHAIRPERSON KRESS: Tell us what your concerns
11 are that --

12 MR. BOARDMAN: Well, we have one concern here
13 tonight. And I think our concern was further exemplified by
14 what happened at the beginning of this process. And that is
15 that we have a vested interest in a number of different things
16 here, not only the fact that we are owners and occupiers of
17 property within the 200-foot range. We are also part and
18 parcel of what this city is and, indeed, the industry you are
19 ruling on tonight.

20 We have other interests that go way beyond just
21 what happens on our little piece of property. And, yet, you
22 denied me. You denied the members that owned that property
23 the right to exercise within the process the ability to
24 determine anything.

25 We started here tonight not opposed to
26 development but from a much more positive standpoint, and that

1 is to preserve process. Zoning is a significant factor in the
2 formula that creates the social fabric that is woven in this
3 city. And if you are going to exclude institutions that
4 represent significant populations or, at the very least, own
5 property next to major pieces of development. And I would
6 submit to you there is no process.

7 And we did not come here tonight to rail
8 against development. What we came here is with a hope that
9 the Commission would support the integrity of the statutes and
10 process you yourselves and your predecessors have established.

11 That is my message tonight. Fairness is
12 established through process. Process involves participation,
13 not exclusion. And you have decided to exclude the
14 representation of my members' interests out of hand, but I
15 believe you have also excluded their financial interests
16 completely unfairly. And for that, I hope we will have some
17 reconciliation of the difference of opinion somewhere.

18 (Applause.)

19 CHAIRPERSON KRESS: Just a second. Are there
20 any questions, colleagues?

21 COMMISSIONER HOOD: Yes, Madam Chair, I have a
22 question. You say you have about 90 members that live in 2F?

23 MR. BOARDMAN: That's correct.

24 COMMISSIONER HOOD: I'm a little disturbed
25 about your comment about them not knowing. I guess they do
26 attend their ANC meetings periodically. Are you aware of

1 that?

2 MR. BOARDMAN: Mr. Commissioner, our members
3 work for a living. Some of them work two jobs. The ability
4 to attend meetings I'm sure is a desire on their part. And to
5 say that they have the opportunity to do that on a regular
6 basis I think I would be remiss.

7 Our members are the backbone of the working
8 population of this city. They don't get parking, as you
9 heard. They take buses. They have families that they have to
10 go to. They have to pick up kids from baby-sitters. They
11 don't have the luxury of the democratic process, which is why
12 we hope to rely on the process that is provided here.

13 COMMISSIONER HOOD: I'm not going to debate it,
14 but that ANC is a process. I'm well-aware of it.

15 MR. BOARDMAN: Yes, sir.

16 COMMISSIONER HOOD: I, too, work. I mean,
17 others, too, work, do work. They also attend their ANC
18 commission meetings. That is the grass roots. And that is
19 where that type of activity really starts.

20 I'm not necessarily saying within the ANC
21 process, that everybody in the ANC is going to agree, but ANCs
22 do have great weight. And I would encourage your 90 members
23 who live in 2F to attend their ANC commission meetings when
24 they can.

25 MR. BOARDMAN: Well, I expect after the
26 examination of the outcome of this to that process, we

1 probably will, but I would also submit to you -- and I
2 appreciate your comments directed at me, but I would also
3 submit to you that this, too, is a process which organizations
4 like mine and owners of property like Local 25 should be
5 permitted to be active parties in.

6 And to say that grass roots ends at 2F when I
7 have demonstrated that 90 people live in 2F and I have in
8 excess of 5,000 members that live in the District of Columbia,
9 to exclude that voice from the process I think is wrong.

10 COMMISSIONER HOOD: I did not say that that is
11 where it begins and ends. And my vote on that issue reflected
12 that.

13 MR. BOARDMAN: I know, and we appreciate that.

14 COMMISSIONER HOOD: But I am just encouraging
15 your group, the 90 members that you have, to attend the ANC
16 commissions. Thank you. No further questions.

17 MR. BOARDMAN: We will take your counsel to
18 heart.

19 CHAIRPERSON KRESS: Thank you.

20 Any other questions, commissioners?

21 COMMISSIONER FRANKLIN: Yes, I have one.

22 CHAIRPERSON KRESS: Yes, Commissioner Franklin?

23 COMMISSIONER FRANKLIN: Is it Mr. Moses? I
24 didn't get your name.

25 MR. BOARDMAN: John Boardman.

26 COMMISSIONER FRANKLIN: I'm sorry, Mr.

1 Boardman.

2 Has the local formally taken a position on this
3 matter through its normal processes? How is the local
4 governed?

5 MR. BOARDMAN: I am chief executive officer of
6 the local union. I operate --

7 COMMISSIONER FRANKLIN: Are you representing a
8 vote of the governing body of the local on this matter?

9 MR. BOARDMAN: Is that a significant component
10 of my ability to be a party here, sir?

11 COMMISSIONER FRANKLIN: No. You are talking
12 about process, and I am kind of interested in the process by
13 which your local --

14 MR. BOARDMAN: Well, if you like, I appreciate
15 the opportunity to provide a little insight in how we operate.
16 I must run for election, as do the fellow officers of the
17 governing body, of which there are 15, including me, every 3
18 years by federal law. Last time I ran, I ran unopposed
19 because people believed that the slate we had is doing a good
20 job.

21 The matters before you today were, in fact,
22 voted on by the executive board of that local union. We will
23 ratify the recommendations of that executive board in July
24 21st at our general membership meeting.

25 Everything we do internally is done on a basis
26 of democratic action with formal votes and reported back to a

1 membership that pays my salary.

2 COMMISSIONER FRANKLIN: Thank you very much.

3 CHAIRPERSON KRESS: Thank you.

4 Any other questions?

5 COMMISSIONER PARSONS: I wondered what the
6 position was. What was voted upon?

7 MR. BOARDMAN: The executive board authorized
8 the pursuit of the local's interest in protecting the property
9 and the members' interests as we perceive them as a local
10 union.

11 COMMISSIONER PARSONS: So you have nothing to
12 share with us about your views on the project?

13 MR. BOARDMAN: What you are asking me to do is
14 now grace you with something that you wouldn't let me do
15 earlier tonight. And I think what my answer to that is, with
16 all due respect, you accorded me no respect earlier. And in
17 according --

18 COMMISSIONER PARSONS: So that means you are
19 going to waive your opportunity to testify for the next hour
20 or so and tell us what --

21 MR. BOARDMAN: No.

22 COMMISSIONER PARSONS: -- you have concerns
23 about.

24 MR. BOARDMAN: I am furious and suggesting that
25 we will pursue some other way to preserve this process. I
26 don't think answering a few questions replaces the ability to

1 be a party participant in a process.

2 COMMISSIONER PARSONS: Well, maybe you
3 misunderstand our process. What we are looking forward to at
4 this point in the processings if it takes us two hours is to
5 hear the concerns of your organization about this project.

6 That's our process. It has nothing to do with
7 being a party. We give you a full opportunity. The only
8 thing you have missed is the opportunity to ask questions of
9 the applicant.

10 MR. BOARDMAN: And we think that is a
11 significant component.

12 COMMISSIONER PARSONS: I understand that. But
13 to waive that and say, "No. You didn't give us party status.
14 We're not going to tell you what we don't like about this
15 project. We're going home" would really be unfortunate.

16 And if that is what you are doing, I really
17 urge you to share with us your views here tonight or
18 representatives of your organization if you are not willing to
19 do it.

20 MR. BOARDMAN: I would submit to you that, if I
21 may, we have a number of witnesses here tonight that may be
22 more appropriate in shedding some light on the sum and
23 substance of our objections.

24 COMMISSIONER PARSONS: Oh, good.

25 MR. BOARDMAN: And it would probably be more
26 appropriate if I relinquish my time at this point to those

1 witnesses. I very much appreciate the opportunity to speak
2 before the Commission.

3 CHAIRPERSON KRESS: Thank you.

4 Who would like to -- oh, I'm sorry. Did you
5 want to? Who would like to testify next? Is there an order?
6 I have a list here, a witness list, that has: Henry Moses;
7 John Boardman, who did testify. I'm not sure. Next you have
8 -- I think you have the same list because you sent it to me.
9 So do you want me to follow this list or what is your
10 preference?

11 MR. BOARDMAN: We're going to cut to the chase.

12 CHAIRPERSON KRESS: All right. And please feel
13 free to have a couple of you -- I assume you are going to be
14 testifying on behalf of the Committee of 100?

15 MS. McCARTHY: Yes, as well.

16 CHAIRPERSON KRESS: For time frame because the
17 organization gets longer, I just wanted to --

18 MS. McCARTHY: Correct. And, actually, I have
19 conceded time by Terry Lynch.

20 CHAIRPERSON KRESS: We normally don't allow
21 ceding, but I will allow you to testify Terry Lynch's
22 testimony. So you're going to begin?

23 MS. McCARTHY: Well, I know you have your time
24 constraints. Do you want to go first?

25 REV. HAGLER: Sure.

26 CHAIRPERSON KRESS: Okay. Go ahead and

1 identify yourself.

2 REV. HAGLER: I am Rev. Raylan Scott Hagler. I
3 am Director of the Community Leadership Council, which is a
4 group of clergy, community activists, average working folk,
5 residents of the city who are very concerned about the
6 responsible downtown development.

7 Clearly, what we see in this issue is some very
8 serious issues, one being the linkage of housing. That is a
9 very glaring one for us because the issue is: What will
10 Washington, D.C. look like?

11 I'm also Pastor of Plymouth Congregational
12 United Church of Christ, a congregation that was established
13 in this city in 1881, a congregation that was originally
14 established at 17th and P and were moved out because of
15 development issues in the city to our present location. So
16 we're concerned. We have a long history here.

17 And when we look at issues, for example, like
18 housing to move to significantly scale back in terms of
19 housing originally 60-some units of affordable units to now,
20 really, 25, I don't choose to call them market rate condos,
21 but to my mind luxury condos, it rings to the mind in the
22 clergy community, particularly the of color clergy community,
23 of the plan that there are populations that are going to be
24 removed from this city. And that is the pattern that we are
25 in.

26 When people stand up and talk about that mixed

1 "Well, affordable housing was appropriate in the '80s but is
2 not appropriate now," when is the average working people not
3 appropriate to occupy the city in which they work, in which
4 they have historically lived?

5 That is what we're saying. We're saying right
6 now that average working people are out of vogue. Average
7 working people don't have a place in Washington, D.C. That is
8 what is being felt all over the city at this time. And
9 clearly this project and the way it's been scaled back really
10 contributes to that perception more than anything else.

11 When we look at this, we talk about a
12 modification. I hear, really, a whole new plan. And in that
13 hearing that whole new plan, it's something that obviously to
14 my mind needs to be resubmitted and reviewed again and to see
15 how it fits in with the city and to make sure that no
16 population of the city is left out of any amenities that come
17 out of such a development project because the reality is is
18 we're moving quickly, quickly to a city of the rich and the
19 well-heeled. And those who have historically lived here, like
20 the members of my church, like the members of other churches,
21 are being left out of the like, out of the formula.

22 Rev. Tang, who was here earlier, again, you
23 know, I'll put it in street language. His church was dissed.
24 His church was dissed because a measurement was taken. His
25 church was within that boundary. His church was dissed. His
26 people were dissed. His people were told they didn't have a

1 voice, didn't have a say in this process, even though by
2 measurement they're within the boundary. That is ridiculous.

3 The process here tonight has been a little bit
4 ridiculous because obviously the developers have been
5 spoon-fed questions, ate up time. And here we are. They can
6 go home because here we are at this point at this late hour
7 offering up our concerns, offering up our issues.

8 There is no dialogue that has taken place here.
9 There is no process. And these developers if they're allowed
10 to so-called modify this project are circumventing any type of
11 process that allows for credible community input.

12 That's where we are. Thank you.

13 CHAIRPERSON KRESS: Thank you.

14 Questions? I'm following on the question that
15 was asked by Commissioner Hood. Your members of the churches,
16 did they participate in their ANCs? They were not aware of
17 this either?

18 REV. HAGLER: Sometimes. Let's be serious
19 because one of the things that happens with the ANCs all
20 across the city, every place where there are clergy that I
21 know, is that you really have to be in on an in crowd to
22 participate in the ANCs. There's a flaw with the ANCs. That
23 has been no secret. There have been articles about that: the
24 flaw with the ANC.

25 I mean, clearly, yes, it is meant as
26 local-level engagement and local-level decision-making. But

1 the reality is that masses of people by the very structure of
2 it, the very nature by which it operates get left out of the
3 process.

4 That's all I want to say. It was not singling
5 out any particular ANC.

6 CHAIRPERSON KRESS: Okay. Any others?

7 COMMISSIONER HOOD: Madam Chair, I would just
8 like to echo and not to dispute his comments, but that is very
9 limited in my opinion. I concur with you, but that is very
10 limited. That is a process. And that process is still
11 workable. I think if you have a group of people to --

12 REV. HAGLER: Right, but let's not forget --

13 COMMISSIONER HOOD: Let me finish, Reverend.

14 If you have a group of people that take the
15 ANCs and I think commissioners who volunteer and are elected
16 in this city and they spend their time volunteering, not paid,
17 listen to groups of people when they come in with legitimate
18 concerns. And I'm not saying that that does not happen, but
19 in a lot of cases, it doesn't happen.

20 REV. HAGLER: But let's also understand if we
21 want to debate this, I could easily debate this because --

22 COMMISSIONER HOOD: No.

23 REV. HAGLER: -- I'm not elected either. I'm
24 elected by my congregation. And I have a responsibility when
25 something comes up in my congregation to do the type of
26 outreach that engages people in the processes that we can move

1 forward. Very often that does not take place, and you know
2 that very well. And that is a reality that takes place.

3 And clearly also when you come into areas that
4 are changing, they really tend to be a chasm between those who
5 are well-heeled and those who are average working folks and
6 those who are poor.

7 COMMISSIONER HOOD: One other question: Where
8 is your church located?

9 REV. HAGLER: My church is located at North
10 Capitol and Riggs Road.

11 COMMISSIONER HOOD: Plymouth?

12 REV. HAGLER: Yes, sir.

13 CHAIRPERSON KRESS: Thank you. Any other
14 questions?

15 (No response.)

16 CHAIRPERSON KRESS: Cross-examination?

17 MR. GLASGOW: None.

18 CHAIRPERSON KRESS: Thank you for testifying.

19 Ellen? I'm sorry. Ms. McCarthy? You're going
20 to represent two organizations, and this one time only we'll
21 allow you to testify for Mr. Lindy. So that gives you ten
22 minutes.

23 MS. MCCARTHY: Right, but I am actually
24 testifying for Mr. Boardman. I was his expert witness.

25 CHAIRPERSON KRESS: Well, you could say what
26 you want to say. I mean, as long as you are representing the

1 Committee of 100 in the downtown congregation, that is ten
2 minutes. So what you say is --

3 MS. MCCARTHY: I am just a little confused
4 because Mr. Parsons had offered Mr. Boardman an hour to
5 explain his position, and Mr. Boardman said I was the person
6 who had come here to explain their position and that was the
7 basis on which I was testifying.

8 COMMISSIONER PARSONS: I certainly didn't mean
9 to offer you an hour.

10 MS. MCCARTHY: Well, now, Mr. Parsons, how come
11 Mr. Boardman gets an hour? Okay.

12 COMMISSIONER PARSONS: Well, Mr. Boardman sent
13 us a list of 20 witnesses. And I presumed that it would take
14 an hour to put on the case.

15 MS. MCCARTHY: And in the interest of time, we
16 have condensed their time to me.

17 Good evening, Madam Chair and members of the
18 Zoning Commission. For the record, my name is Ellen McCarthy.
19 I am a professional planner with a Master's degree in city
20 planning from Harvard University and over 25 years of
21 experience in planning. I am currently Vice Chairperson of
22 the Committee of 100 on the Federal City and Co-chair of its
23 Planning and Zoning Subcommittee.

24 The Board of Trustees of the Committee of 100
25 voted at its May 13th, 1999 meeting to adopt a resolution
26 opposing the modification of the project before you this

1 evening.

2 Tonight I would like to review with you why
3 this request for planned unit development modification,
4 sometimes identified by the applicant as second-stage
5 processing of a previous first-stage application, should be
6 summarily denied. And I would have argued this as a
7 preliminary matter when we asked for party status because it
8 really should have been a preliminary matter, but I'm going to
9 have to deal with it now in my substantive testimony.

10 I will be brief because the flaws in the
11 proposed modification are so clear that a lengthy discussion
12 of planning considerations and weaknesses in the application
13 as a whole would be inappropriate.

14 But there are many reasons to reject this
15 application. The major one is this application is not a PUD
16 modification. The zoning regulations, unfortunately, do not
17 contain a definition of a PUD modification. However, as you
18 know, when a term is not specifically defined in the
19 regulations, the Webster's dictionary definition governs.

20 Modification according to Webster's is "the act
21 of modifying or state of being modified, specifically
22 limitation or qualification or a partial alteration." And
23 modifying, in turn, is defined as "to reduce an extent or
24 degree, to moderate, to change somewhat the form or qualities
25 of as to modify the terms of a contract."

26 It is quite clear the proposal before you today

1 is not a partial alteration, nor is it in any way a reduction
2 in extent or degree or a limitation. As you can see from the
3 table that we prepared, the only characteristic which remains
4 the same from the initial project is the height.

5 Every other characteristic is different: the
6 use; the gross floor area; the density, the permitted PUD
7 density; the design; the parking; the underlying zoning; the
8 lot occupancy; the amenities. The height is the same. The
9 ownership is different. That's it. How can you possibly
10 consider that a modification of a previously approved PUD,
11 particularly under your requirements?

12 As such, this is a gross distortion of the
13 regulations to bring this here in this fashion. In fact, I
14 mean, it's really a joke. It's an insult to the Zoning
15 Commission. Only the most cynical of zoning practitioners
16 would dream of being able to get away with this.

17 Clearly the applicant is attempting to subvert
18 the changes which have been adopted by this Commission both in
19 the underlying zoning on the site and the regulations
20 governing the PUD process, particularly in terms of maximum
21 density and in the provision of amenities. As such, the
22 Commission should simply deny this request for a modification
23 and require the applicant to return with a new application
24 which addresses the applicable regulations.

25 When Mr. Sher was talking today, I was thinking
26 of that song I can't remember all the words of, but it's

1 "There's a change in weather and a change in something else,
2 and there has been a change in me." Mr. Sher said at Page 22,
3 "There's a change in use. There's a change in the
4 comprehensive plan. There's been a change in neighborhood
5 conditions on 12th Street."

6 In fact, Mr. Sher wants you to embrace a whole
7 slew of changes. The only change that he doesn't or that the
8 applicant doesn't want to embrace is the fact that in the ten
9 years in the five times that this plan has been extended, the
10 underlying zoning was changed. There is no HR overlay
11 anymore.

12 There is the downtown development district.
13 And if this PUD were to expire and this applicant would have
14 to come back to you with a new PUD application, which is what
15 we feel is the appropriate way to proceed, there would be a
16 requirement of 3.5 FAR of housing units on this site.

17 Now, once upon a time, the requirement of
18 housing units on site and the possibility of doing a combined
19 lot was considered far-fetched and impossible, but I believe
20 you heard from Mr. Patton tonight. I have been serving on the
21 group that he referenced in his submission as a joint
22 committee with the developers and the housing activists to
23 being to look for common group.

24 And there are two things that we have agreed
25 upon that are quite relevant to your consideration tonight.
26 One of them is that for a land price of \$26 per FAR foot,

1 which is the purchase price from FDIC of this property,
2 housing is a viable option into downtown.

3 The second thing that we have agreed on, the
4 developers and the housing activists, -- and Lord knows in the
5 past, we didn't agree on very many things -- is that there are
6 projects, such as one being proposed by Sandy Wilkes in
7 Chinatown, which are asking for contributions of housing in
8 combined lots.

9 And we have indicated our willingness on
10 projects south of Massachusetts Avenue to provide support
11 before the Zoning Commission, perhaps some flexibility in how
12 the housing priority areas are structured as long as we keep
13 south of Mass. south of Mass. and north of Mass. north of
14 Mass.

15 At any rate, also, at McPherson Square the
16 United Mine Workers Building is proceeding ahead with housing.
17 So there are now opportunities to combine lots and to send
18 housing which never existed before. In other words, it would
19 be realistic to develop this project as a matter of right and
20 still be able to achieve a hotel on this site if we considered
21 that to be a worthwhile use.

22 So there is no justification for proceeding
23 ahead with this as a PUD modification, as opposed to requiring
24 a new application. And you have got to recognize that the
25 choice that you make in these proceedings will set a most
26 dangerous precedent.

1 As you know well, there are numerous projects
2 out there, what Mr. Franklin called lingering PUDs at the
3 hearing where you agreed to extend this PUD for the fifth
4 time.

5 If you permit this applicant to come back to
6 you with a totally new PUD wolf in modification sheep's
7 clothing, how can you reject any of the remaining projects
8 which are likely to come back to you, no matter what form they
9 take?

10 This was an office building. It has become a
11 hotel. Who knows what all the rest of those office buildings
12 that haven't had a market that haven't been able to find
13 financing that haven't been able to go forward will come back
14 to you as?

15 But the point is: As the Zoning Commission,
16 you made two decisions since this PUD was enacted. You
17 decided in 1991 to adopt the downtown development district
18 regulations.

19 You decided in 1996 to adopt new PUD
20 regulations, which would have permitted a C(3)(c) site, such
21 as this one, to have a maximum on-site density of 8.0,
22 maximum. In fact, if this project were proceeding as a
23 matter-of-right project on the existing zoning when it began,
24 it could have gone to 8.5 FAR as a matter of right denser than
25 it could as a PUD now under the guidelines that you adopted in
26 1996.

1 The dangerous precedent, however, goes far
2 beyond the currently approved PUDs. Approving this
3 application says to all land speculators that obtaining a PUD
4 for their property will make them immune from subsequent
5 rezoning because, indeed, that is what the applicant is
6 arguing for tonight.

7 The zoning rules have changed. And the
8 applicant doesn't like the changes. So it's asking you to
9 suspend reality and pretend with them that there still is an
10 HR overlay, that the downtown development district doesn't
11 exist and hasn't imposed a housing requirement on this site,
12 that PUDs have no maximum density requirements, and that
13 office buildings are really hotels.

14 If the zoning regulations intended sites or
15 projects to be permanently exempt from all subsequent changes
16 in text or maps, it would not have created the entire doctrine
17 of nonconformity.

18 The underlying concept of nonconformity in the
19 zoning regulations is that when the regulations change, they
20 have an immediate effect. They go ahead and they apply to
21 every property, no matter when that property was created, no
22 matter what the rules were at the time, and that while you're
23 not permitted to unconstitutionally take that property by
24 saying to that person, "You've got to close down this use now
25 because it's now a nonconforming use," the zoning regulations
26 have a clear presumption that within the realm of not

1 unconstitutionally taking sites which have uses or structures
2 which do not conform to the current zoning are to wither away
3 in the words of a famous piece of case law that governs
4 nonconformity.

5 In other words, your regulations say they
6 aren't permitted to enlarge or extend any uses or structures.
7 They can't change to another use unless it's at least equal to
8 or more conforming than the existing units. All of these
9 things are designed so that the new regulations that you put
10 into place will gradually be adhered to as it becomes less and
11 less feasible for that use to be continued.

12 Chapter 20 of the zoning regulations, which
13 governs nonconformity, specifically provides that while
14 property owners should not be deprived of a lawful use, which
15 they are actively currently pursuing on their site, if they
16 cease to use the property in that way for three years, they
17 abandon any right to that use.

18 If a nonconforming structure is substantially
19 damaged, it can't be reconstructed. No structures or
20 properties are immune from the zoning laws. That's why the
21 regulations provide that if a PUD is terminated, it reverts
22 back to the matter-of-right zoning that wasn't on the site.

23 So while it's true that the specific language
24 of the regulation provides, as I'm sure Mr. Glasgow will
25 remind you, that it reverts to the original zoning, the
26 original zoning is now gone.

1 There is no HR overlay anymore. So we could
2 not revert back to that original zoning. It would revert to
3 the zoning which currently applies to the site, which is, as
4 the applicant states, DDC(3)(c).

5 CHAIRPERSON KRESS: Okay. Your time has run
6 out. Can you wrap this up and hopefully be able to give us a
7 copy of your testimony?

8 MS. McCARTHY: Well, unfortunately it's not
9 written in a format that's easy to just give it to you, but --

10 CHAIRPERSON KRESS: But here is what we will
11 do, I will leave the record open because I think it is very
12 important we have your full testimony.

13 MS. McCARTHY: Okay. I can wrap it up, and I
14 can send you a more fully written version.

15 CHAIRPERSON KRESS: Thank you.

16 MS. McCARTHY: The notice is flawed on this
17 project not only in the ways that you have heard already of
18 having left out some important properties, but the density
19 which you advertise for this project, 10.5, exceeds that which
20 is permitted under your current laws.

21 You should decide to exercise Section 2410.2 to
22 require conformance with the new PUD guidelines because you
23 know you have that option. And 2410.2 says, "A planned unit
24 development that has already received preliminary approval or
25 for which an application was filed before the effective date
26 of this chapter may continue to be processed to completion in

1 accordance with the regulations in effect at the time of
2 filing or may be processed in accordance with the revised
3 chapter at the option of the applicant with the approval of
4 the Zoning Commission."

5 So I know Mr. Glasgow will argue that he has
6 been grandfathered in, but you have the right to determine
7 whether the density which you considered -- and, remember,
8 back in 1996, when you looked at C(3)(c), the original PUD
9 guidelines would have limited that to only a maximum of 7.0.
10 But you recognized that since those were largely on the fringe
11 of downtown, you would increase the maximum density guidelines
12 as they existed in the zoning regulations to eight.

13 You specifically considered what was an
14 appropriate density for C(3)(c). And you said maximum density
15 for PUDs under C(3)(c) ought to be 8, not 10.5, which is what
16 the applicant has in front of you.

17 Also, this project does not meet the
18 requirements of 24.8.8 or 24.8.3, which says specifically that
19 a second-stage PUD has to be consistent with all of the
20 requirements of the first-stage PUD.

21 The Zoning Commission shall review the
22 application. If the Commission determines that the
23 application complies with all of the requirements of the
24 first-stage approval. It shall schedule a public hearing on
25 the second stage.

26 It is the intention of the Commission that any

1 second-stage application that is substantially in accordance
2 with the elements, guidelines, and conditions of the
3 first-stage approval shall be granted a hearing. Look at my
4 chart and tell me this is substantially in accordance with the
5 elements, guidelines, and conditions of the so-called
6 first-stage PUD that was approved.

7 In terms of amenities, you have not heard word
8 one about why a hotel cannot be developed on this site as a
9 matter of right. Did you hear a reason why without the
10 additional 1.2 FAR that is being requested in this
11 application, this project would not be able to proceed? I
12 didn't.

13 And they admitted that they purchased this
14 property at an extremely favorable price, but the applicant
15 has the burden of proof to make this case to you. And they
16 have not.

17 Did you hear any justification for doing this
18 as a modification and not as a completely new PUD? I didn't.
19 And I didn't find it in their application either. They
20 haven't even made a prima facie case.

21 Steve says that the major amenity of this
22 project is that you're getting a hotel. Guess what? You're
23 getting 17 hotels. There are 17 hotels that are either just
24 opened, in the planning process, or in process before you
25 already, 17 hotels.

26 And some of them, like the project right across

1 9th Street from the new Convention Center site, like the
2 project at the Marriott Renaissance that's filling of the last
3 hole in Tech World and others --

4 CHAIRPERSON KRESS: You're over, way, way over.

5 MS. MCCARTHY: Right. Those are, in fact,
6 immediately adjacent to the Convention Center. So you don't
7 need a PUD in order to get this major amenity that Mr. Sher is
8 talking about, the hotel.

9 The last major point that I wanted to make was
10 about this comprehensive plan Amendments Act of 1998 that they
11 have been waving in front of you and saying, "Well, although
12 they're not consistent with the comp plan as it stands now
13 because the comp plan now says that there's a mixed use
14 requirement on this site," they will be consistent when you
15 get around to enacting a consistency, the only consistency
16 project to take off the residential requirement on this site.

17 Those were comprehensive plan amendments that
18 were inserted at the 11th hour to the council after all of the
19 public hearings that have been made, after the recommendations
20 had been made by the Office of Planning.

21 There was, as you probably saw in the process,
22 I'd say, a small-scale scandal about those changes in land use
23 that sneaked in, eliminating housing requirements for the most
24 part to get hotels built around the Convention Center.

25 And we have what we consider to be a commitment
26 from the mayor that when the new planning director comes,

1 before he goes forward with the changes in the way of zoning
2 consistency to you, that he will have the planning director
3 reexamine those comp plan amendments and, if necessary, submit
4 proposed new changes to the council which the council in a
5 deal with the mayor before he was elected said they would be
6 willing to entertain.

7 CHAIRPERSON KRESS: I would just point out your
8 testimony was over 15 minutes. And that is also what we give
9 parties. And so you basically have had the equivalent of a
10 party testimony.

11 MS. MCCARTHY: Thank you very much.

12 CHAIRPERSON KRESS: With that, I would like to
13 ask for questions.

14 COMMISSIONER HOOD: Madam Chair, I just had a
15 question for Ms. McCarthy. If this project came as a new PUD,
16 everything that we see here with the modification as a new
17 PUD, would the Committee of 100 have any oppositional -- I
18 guess you're testifying on behalf of the committee.

19 MS. MCCARTHY: Yes.

20 COMMISSIONER HOOD: Would they have any
21 opposition of the PUD?

22 MS. MCCARTHY: If this came before you as a new
23 PUD satisfying the 3.5 FAR housing requirement on the site,
24 which, incidentally, is 90 units, if it came to you as a
25 matter of right, there would be 90 units in this picture, not
26 25, not even 60, but more than you would get in the amenities

1 package now, if they came and they were satisfying the matter
2 of right requirements.

3 And, you know, matter of right, they could go
4 up to 10 or 10.5 on this site. So there would be no need for
5 a PUD, but should they choose to do it as a PUD, we would be
6 here testifying in support of this project, I suspect,
7 depending on whether the issue of just how many hotel rooms do
8 we need in this city.

9 We would certainly hope the city at some point
10 would do an economic study and provide some guidance to you
11 because you're going to be just overwhelmed, near as I can
12 tell, with requests for PUD modifications and with new
13 applications for zoning changes to increase the number of
14 hotels around the Convention Center.

15 COMMISSIONER HOOD: Since the record is going
16 to be kept open, could you submit your testimony in writing,
17 please?

18 MS. MCCARTHY: Thank you.

19 COMMISSIONER HOOD: Thank you.

20 CHAIRPERSON KRESS: Any other questions?

21 (No response.)

22 CHAIRPERSON KRESS: Cross-examination?

23 MR. GLASGOW: We will save it all for rebuttal.

24 CHAIRPERSON KRESS: All right. May I ask: How
25 many people are left to testify? We had tentatively wanted to
26 break at 11:00. But if we are almost done, we might go on.

1 So how many other people? Obviously you're sitting there. So
2 you're one. How many other people wish to testify? That's
3 it? Oh. Well, then let's go ahead. We can probably wrap it
4 up this evening.

5 Please introduce yourself.

6 MS. SOLOMON: Thank you. Good evening, Madam
7 Chair and members of the Commission. My name is Beth Solomon.
8 I reside at 440 M Street, Northwest.

9 I think that Ellen McCarthy has really gone
10 over the details of the zoning regulations and problems with
11 this application better than I could ever do, but I would like
12 to give you a little bit of perspective from the community, at
13 least the way I see it.

14 I live in ANC 2C, although I used to live in
15 ANC 2F and I was a commissioner in ANC 2F from 1994 to 1996.
16 I am here this evening I think sort of from the same
17 perspective sort of in a way that you're here.

18 I'm a volunteer. And I am here because I think
19 there has to be a balance between private interests and public
20 interests. And I am afraid that this application really
21 tramples on the public interest and it is way out of balance.
22 And that is the basis.

23 From the community's perspective, we agree that
24 this sets a terrible precedent. You know, our community has
25 been held hostage for so many years, not just by this PUD but
26 by many others, whose purpose was to encourage development in

1 certain areas and certain kind of development, but, in fact,
2 what it has done is stopped a lot of development because, as
3 in this PUD, it is held hostage, it is extended for years and
4 years and years. And the development doesn't happen.

5 What you would do by approving this is just to
6 encourage that and to say to everybody: This is the way to
7 go. You can get around zoning requirements, and you can get
8 more and more relaxation of the law by tieing up this process,
9 tieing up this land, locking in blight and these other
10 problems that the laws are supposed to address.

11 I would also like to talk about the housing
12 amenity, which is of great concern to me. When this was
13 proposed, it was 60 units of housing. It is now down to 25.
14 The current zoning, as Ellen testified, would be 90 units.
15 Clearly the public benefit here is going downhill fast.

16 Also, it is a clear benefit to the developer to
17 develop 25 units, rather than 60 or 90. It is more profitable
18 and, again, a public interest in terms of sort of broader
19 interests.

20 Who can live in this community? I think it is
21 suffering. These units, as it was described in the testimony,
22 have very little accessibility in terms of economics and in
23 terms of the actual physical accessibility, which has to do
24 with the makeup of our neighborhoods.

25 I would argue that the way the neighborhood is
26 growing, despite some of the other testimony, what we need is

1 more attention to that balance of affordable and market rates
2 because clearly the pressure is for market rate housing. And
3 I think you need to consider that very carefully.

4 I would say I don't have anything against
5 building a hotel there or a development in general there.
6 That's not my issue, but there are real problems.

7 This looks like corporate welfare for certain
8 special interests and a relaxation of the law for a very
9 specific development, whose public benefit I would say is
10 minimal.

11 These types of PUDs are holding us hostage and
12 have been for a long time. I believe the applicant is asking
13 you for favoritism towards their single project.

14 And, lastly, I think the public interest is
15 being abused here. And, on those grounds, I would ask the
16 Commission to deny the application.

17 CHAIRPERSON KRESS: Thank you.

18 Questions, colleagues?

19 (No response.)

20 CHAIRPERSON KRESS: Any cross-examination?

21 MR. GLASGOW: No cross.

22 CHAIRPERSON KRESS: Thank you very much.

23 MS. SOLOMON: Thank you.

24 CHAIRPERSON KRESS: I really appreciate your
25 testifying this evening.

26 MS. SOLOMON: Thanks.

1 CHAIRPERSON KRESS: With that, we would ask for
2 applicant's closing remarks and rebuttal.

3 MR. GLASGOW: We will try to be very brief. I
4 guess, in part, what we can do is we can submit rebuttal for
5 the record if you would like that.

6 CHAIRPERSON KRESS: We are going to be leaving
7 the record open. And I think that would be appropriate to
8 help keep things this evening a little tighter, would be to
9 respond in writing.

10 MR. GLASGOW: We will put our rebuttal in. We
11 will submit the rebuttal for the record. And we would like to
12 have the opportunity to submit closing argument for the
13 record.

14 CHAIRPERSON KRESS: Oh, sure. You can do it
15 now if you want to. Is that all right with you all?

16 MR. GLASGOW: Well, it's at the option of the
17 Commission. We will do it either way. I mean, I am prepared
18 to submit the orders into the record that show plainly how the
19 Commission over fa period and recently within '98 and '99 has
20 approved as modifications several applications similar to
21 ours.

22 We can address the housing linkage issue. We
23 can address a number of the issues that have been raised. We
24 can do it now or we can do it for the record. We'll do it
25 either way.

26 CHAIRPERSON KRESS: The only thing I would ask

1 -- I mean, is that all right with you or would you rather hear
2 it? I would only ask if we do go this direction, that the
3 Hotel and Restaurant Employees Local 25 be copied with the
4 information and also be allowed to make any comments on it.

5 MR. GLASGOW: They're not parties, Madam Chair.

6 CHAIRPERSON KRESS: No, they're not parties.
7 I'm asking as a favor. And I'm asking my colleagues,
8 actually.

9 MR. GLASGOW: Okay.

10 CHAIRPERSON KRESS: I wasn't asking you. I was
11 asking my colleagues that if we did do this shortened version,
12 that they have an opportunity to have that rebuttal because
13 they won't hear it here this evening.

14 COMMISSIONER HOOD: Right. I think that's only
15 fair, Madam Chair.

16 MR. GLASGOW: Then I guess from that
17 standpoint, we would rather close out that part of the hearing
18 tonight because we see that that would put us at a
19 disadvantage.

20 There are a coupler of things that we can
21 certainly submit that they can either comment on or not. If
22 you look at your rules, they don't have surrebuttal to our
23 rebuttal.

24 CHAIRPERSON KRESS: Oh, I wasn't saying they
25 could rebut. I was saying that you would give them your
26 rebuttal arguments.

1 COMMISSIONER FRANKLIN: Of course, they will
2 get those with the transcript and the record. The record is
3 available to anyone, is it not?

4 MR. GLASGOW: Yes, it is.

5 COMMISSIONER FRANKLIN: I know it's getting to
6 the point where we may lose our reporter, and I don't want to
7 -- he has always given us good service. I don't want to
8 oppress him. We heard a little bit about the modification
9 issue. Are you going to just repeat what you've told us or is
10 there something new that you would like to say?

11 MR. GLASGOW: I think with respect to the
12 modification issue, what I was going to do was submit for the
13 record some of the zoning commission orders and have one brief
14 discussion referencing Paragraph Number 3 of Zoning Commission
15 Order Number 855, where Corporation Counsel addressed that
16 issue, and then state it in contrast to the definition that
17 was used in saying that there are no standards for a
18 modification.

19 The Zoning Commission in that case found and
20 said that "The Zoning Commission determined that the zoning
21 regulations have criteria for determining whether an
22 application is appropriate as a modification, that the process
23 follows the notice given with these applications with proffer,
24 and that the proceeding with the proposed modification
25 application as advertised would not cause any prejudice."
26 That's what was found in the East Bank Lighting case, where we

1 had a 30,000 square feet of land area and added a hotel.

2 We also had the Grammaracy Inn case, -- and I
3 will submit copies of these for the record -- where the
4 original project was for, I believe it was, an apartment
5 building and an office building and it was modified to
6 California University was one applicant and a hotel. And
7 those were on separate lots, two buildings on separate lots,
8 rather than one building on the lot, just different uses.
9 That was approved in December 14, 1998.

10 The 2200 M Street was approved in --

11 COMMISSIONER CLARENS: Madam Chair, if I could
12 just interrupt for a moment? Could you give me an example of
13 something that you would not regard as a modification?

14 MR. GLASGOW: For a PUD?

15 COMMISSIONER CLARENS: Yes.

16 MR. GLASGOW: I think part of the issue that
17 the Commission would be having to deal with there is whether
18 or not -- for instance, a PUD can cross a street. And if you
19 were modifying a PUD crossing street, that may be an issue
20 because if you look in your regulations, you can have PUDs on
21 both sides of a street. I'm trying to think if there are any
22 other examples that I can think of offhand.

23 I was thinking about a series of different
24 things I wanted to address quickly here with the condition on
25 rebuttal.

26 COMMISSIONER CLARENS: Well, Madam Chairperson,

1 I think we'll be better served if you would alter your
2 rebuttal in writing as to the issues raised by the opposition.

3 MR. GLASGOW: We can do that.

4 COMMISSIONER CLARENS: I would suggest that you
5 do it in writing, and I also would suggest that this will then
6 become part of the record and that we should not confuse the
7 issues.

8 We already ruled on the issue of party status
9 by Local 25, and I don't think that we need to revisit that
10 issue, in spite of the fact that I did not vote for that
11 motion. But I think that we should not go there.

12 It becomes part of the record. They can read
13 it, and we will not get any further information from them
14 anyway.

15 CHAIRPERSON KRESS: No.

16 COMMISSIONER CLARENS: So there's nothing to be
17 served by that.

18 MR. GLASGOW: The one issue that I was thinking
19 about, Commissioner Clarens, is with respect to modification,
20 in effect, the Commission has already ruled that this is
21 appropriate to proceed forward with a hearing for
22 modification.

23 COMMISSIONER CLARENS: We did not have a
24 discussion on this issue as it has been raised. We had a
25 discussion, but we did --

26 MR. GLASGOW: Right. It was a set-down. It

1 was a --

2 COMMISSIONER CLARENS: I just said that. I
3 know. That's right. But now we've heard other things. Okay?
4 It seems to me we should hear something from you.

5 MR. GLASGOW: All right. We will be addressing
6 that. Obviously we will also address the comprehensive plan
7 land use map amendment which has occurred and also in
8 conjunction with the modification address the issue that if we
9 would be sent back to square one at this point in time, it is
10 highly unlikely that we would come forward with a hotel. We
11 would proceed with the office PUD that we have.

12 So those are considerations that the Commission
13 has to take into consideration when telling an applicant who
14 has an office planned unit development because I am working on
15 another one. In fact, we mentioned one the other week that
16 the Commission indicated they were very interested to hear
17 about, the modification or potential modification of a planned
18 unit development to change an office PUD at 13th and L to a
19 residential project, which we recently have taken to the ANC
20 because a "No" answer on this modification is a "No" answer on
21 that, too.

22 And that has serious ramifications to
23 applicants who are looking at trying to restructure the
24 planned unit developments that the Commission is saying: Get
25 these projects moving.

26 And then if they can't be done as

1 modifications, that is a serious impediment to applicants
2 proceeding forward on those, particularly when they have come
3 to a hearing and finished a hearing, as we have tonight. And
4 then we are re-raising the modification issue at the tail end.
5 That's very disconcerting from our standpoint.

6 I mean, I understand if the Commission desires,
7 obviously we will address the issue. But it has a lot of
8 ramifications, particularly in the context of the cases that I
9 just said, where there was at 1666 Rhode Island Avenue decided
10 in December of '98 with an apartment building and an office
11 building changed to University of California usage and a --
12 what was it, hotel? -- a hotel. And that was okay as a
13 modification and this is not.

14 CHAIRPERSON KRESS: Well, if you can just
15 address that? And I think having it in writing would be
16 helpful.

17 COMMISSIONER FRANKLIN: Well, let me suggest
18 this, Mr. Glasgow: A common law, as it were, is currently
19 being developed by the Commission on this issue. And it would
20 be helpful to me at least to have you look at what you think
21 we have in these individual cases been doing that creates
22 basically the law of what a modification is.

23 MR. GLASGOW: Yes, sir. That's what I was
24 looking at. I was going to be building on a series of
25 precedents and saying: These precedents are established, not
26 appealed cases. They're final orders.

1 If those are accepted modifications and they
2 are and there is a series of them, -- we have about four of
3 them -- then this is an accepted modification.

4 COMMISSIONER FRANKLIN: But in so doing, it
5 would be helpful to have some guidance as to when you fall off
6 the edge of the cliff. What would constitute something that
7 is not a modification? What are the principles that would
8 govern that?

9 CHAIRPERSON KRESS: That would be a question
10 that we are asking. I am going to ask you for about four or
11 five things at the end of this hearing. One of them, that is
12 a question that we are asking you to think about and respond
13 to.

14 MR. GLASGOW: All right.

15 COMMISSIONER HOOD: Madam Chair, if I could
16 just add?

17 MS. MCCARTHY: Does that include cases where
18 the underlying zoning changed?

19 CHAIRPERSON KRESS: You're not in order, but
20 hopefully --

21 COMMISSIONER HOOD: Madam Chair, I'm just a
22 little unclear on something. Maybe my colleagues can help me.
23 Did we decide on a modification at a set-down hearing?

24 CHAIRPERSON KRESS: Yes, we did. And we
25 discussed it, too. I brought up the question. I remember
26 very distinctly the discussion. We need to go back and

1 revisit that --

2 COMMISSIONER HOOD: Right, revisit that.

3 CHAIRPERSON KRESS: -- and remember and read
4 our record and remember what we spoke of.

5 MR. GLASGOW: Also, we had a report from
6 Richard Harps that addressed the issue of the -- I'll find it
7 here. I just had it. Mr. Harps wrote a report talking about
8 the differential in the valuation of properties and FARs
9 between the time that this PUD was originally approved and
10 what the basis would have been for an FAR value that would
11 have supported the amount of affordable housing at that point
12 in time and the differential between converting that to a
13 hotel FAR at this point in time, which obviously is
14 significantly less. So there is significantly less that comes
15 out of the PUD process.

16 CHAIRPERSON KRESS: So you are going to be able
17 to submit that to us either today or with a rebuttal?

18 MR. GLASGOW: We will submit that in one
19 package, but also Mr. Fuller has addressed the issue, too.
20 That responds to the issue about: What are the economics with
21 respect to doing a hotel? And we will submit that they are
22 significantly less attractive than they are for doing an
23 office building.

24 CHAIRPERSON KRESS: Anything else? The thing I
25 have also, in addition to what you have been talking about, is
26 Commissioner Clarens asked that the reduced-size updated plans

1 be submitted --

2 MR. GLASGOW: Right.

3 CHAIRPERSON KRESS: -- on the housing. There
4 has also been a request for you to take another look at the
5 landscaping and submit something on that; also, for the
6 record, to submit I say both exterior light fixtures and the
7 interior light fixtures that might compose the lanterns should
8 the lanterns be approved.

9 MR. GLASGOW: Lantern?

10 CHAIRPERSON KRESS: I said lanterns. You made
11 a proffer.

12 MR. GLASGOW: Right.

13 COMMISSIONER CLARENS: You might arrive at that
14 as an alternative to the Commission to make that decision.

15 COMMISSIONER FRANKLIN: As I said, the
16 Commission may or may not go with the proffer.

17 MR. GLASGOW: Yes, sir.

18 CHAIRPERSON KRESS: Okay?

19 MR. GLASGOW: All right.

20 CHAIRPERSON KRESS: And that was everything on
21 my list other than the things you have just spoken to. Did
22 anyone else have anything?

23 COMMISSIONER CLARENS: Yes. I have actually a
24 question and perhaps a need for clarification. In the rear
25 elevation of the building, there is an indication in the
26 penthouse, at the top of the penthouse, for a band of

1 something that is not identified that looks like metal siding
2 to me but might not be. This is on the rear elevation of the
3 -- I want to know what that is.

4 MR. CURTIS: That is a sloped roof section to
5 meet the one-to-one setback from the edge. In the interior
6 section, the ribbed area shown on the penthouse is an area
7 where the roof slopes at a 45-degree angle to meet the
8 one-to-one setback requirements for the setback in the C shape
9 of the plan. So it will still allow the penthouse to have
10 access from that area.

11 COMMISSIONER CLARENS: Metal roof?

12 MR. CURTIS: Yes, just a metal roof painted to
13 match the exterior, same color.

14 COMMISSIONER CLARENS: The same pewter?

15 MR. CURTIS: Yes. Well, no. This will
16 probably be in the pre-cast limestone color range. The
17 penthouse is in that color also, the neutral beige.

18 COMMISSIONER CLARENS: Well, can you give some
19 thought to that? I don't like that. I think a roof is a
20 roof. If it is a wall, it is a wall. But a wall should not
21 be a roof, and a roof should not be a wall. You need to make
22 a distinction between the two.

23 It looks to me like it is some sort of a metal
24 standing thing, roofing of some sort. Is that what it is
25 supposed to be?

26 MR. CURTIS: Yes. It is a sloped section where

1 the --

2 COMMISSIONER CLARENS: Yes, but it doesn't
3 happen in the front of the building. It happens in the rear
4 of the building.

5 MR. CURTIS: No, only on the rear because it is
6 where the elevators are located.

7 COMMISSIONER CLARENS: Yes. Well, maybe you
8 need to give some thought to that and come up with something
9 in your final as part of the agreement. I wanted also to
10 elaborate a little bit more on the landscape plan and ask you
11 to think thoroughly about how we can increase the landscape,
12 including what are restrictions, if any, on K Street to adding
13 more landscaping than the eight trees that you have shown,
14 whether there could be a planter or there could be some
15 greenery around the building and along K Street.

16 I don't know what the regulations along K
17 Street are. And there are limitations to what you can do, but
18 I would like to see, rather than -- also reconcile the
19 planting and elevations to planting in the plan. They're not
20 reconciled.

21 The elevations show a number of trees of
22 different types in different locations. And it seems to me
23 that is not the same that are shown on the plan that is shown
24 on A1-06.

25 So those were my comments.

26 CHAIRPERSON KRESS: Thank you.

1 Is that all right, --

2 MR. GLASGOW: Yes.

3 CHAIRPERSON KRESS: -- that you bring all of
4 that information or submit all of that information? Okay.

5 With that, ladies and gentlemen, thank you for
6 your testimony and assistance in this hearing. The record in
7 this case will now be closed except for information
8 specifically requested by the Commission. And I think we have
9 gone over that both for both the applicant and other
10 individuals that we have asked information.

11 Any special information of reports specifically
12 requested by the Commission should be filed during the period
13 ending on June 17th, 1999 in Suite 210 of 441 Fourth Street,
14 Northwest.

15 Any party to the case may file a written
16 response to any information or report filed after the close of
17 the hearing. Such responses should be filed no later than
18 seven days after June 17th, which is June 24th.

19 Parties in this case are invited to submit
20 proposed findings of fact and conclusions of law. Any party
21 who submits proposed findings and conclusions should do so by
22 June 24th, 1999.

23 Parties are reminded that their findings of
24 fact should not include findings stating how witnesses
25 testified. The findings should be those findings the party
26 believes the Commission should make based upon the testimony

1 and other evidence in the record.

2 Citation to exhibits and the transcript are
3 appropriate and encouraged. To assist parties in the
4 preparation of these findings of fact and conclusions of law,
5 a copy of the hearing transcript will be available for review
6 in the Office of Zoning in about two weeks. Copies of the
7 transcript may also be purchased from the recording firm.
8 When the transcript is received, the Office of Zoning will
9 contact the parties.

10 After the record is closed, the Commission will
11 make a decision of this case at one of its regular monthly
12 meetings. These meetings are generally held at 1:30 p.m. on
13 the second Monday of each month and are open to the public.

14 Any person who is interested in following this
15 case further may contact the staff to determine whether this
16 case is on the agenda of a particular meeting.

17 You should also be aware that if the Commission
18 proposes to approve the application, the proposed decision
19 must be referred to the National Capital Planning Commission
20 for federal impact review. The Zoning Commission will take
21 final action at a public meeting following receipt of NCPC
22 comments, after which a written order will be published. I
23 declare this hearing closed. Thank you all.

24 (Whereupon, the foregoing matter was concluded
25 at 11:27 p.m.)

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