

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:

Urban Development Group Case No. 99-2M/87-193
to Modify PUD at
1000 K Street, N.W.

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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Urban Development Group to Modify
PUD at 1000 K Street, N.W.

Applicant's Case

NORMAN M. GLASGOW, JR., ESQUIRE 42
Wilkes, Artis, Hedrick & Lane, Chartered
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006-2897
(202) 457-7800

Robert Curtis 47
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Opponents

JOHN J. BRENNAN, III, ESQUIRE
Jackson & Campbell
1120 Twentieth Street, N.W.
Washington, D.C. 20036-3437
(202) 457-1600

Russel MacBeth 131
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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.

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1 Register on April 23, 1999 and in the Washington
2 Times on April 21st, 1999.

3 This hearing will be conducted in
4 accordance with the provisions of 11 DCMR 3022.
5 This evening, the order of procedure will be as
6 follows: first, preliminary matters; second, the
7 applicant's case; third, the Office of Planning
8 report; fourth, report of other agencies; fifth, the
9 report of the Advisory Neighborhood Commission 2F;
10 then, sixth, parties and persons in support; and,
11 seventh, parties and persons in opposition.

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

14 MS. PRUITT-WILLIAMS: I'm sorry. What
15 are these?

16 CHAIRPERSON KRESS: Preliminary matters.

17 MS. PRUITT-WILLIAMS: Madam Chair, staff
18 has a couple -- we have, I guess, to waive the
19 record for the reports from the Department of
20 Housing and Community Development and from the Fire,
21 EMS. We just received them today.

22 CHAIRPERSON KRESS: The Fire?

23 MS. PRUITT-WILLIAMS: Yes. The Fire
24 chief and Emergency Medical Services.

25 CHAIRPERSON KRESS: Any objection? All
26 right. We will waive our rules to receive those

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1 reports.

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

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

8 MS. PRUITT-WILLIAMS: Correct. It's our
9 understanding that this is not clear. Mr. Brennan,
10 would you please come forward? It wasn't clear from
11 your letter.

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

16 CHAIRPERSON KRESS: Why don't
17 you sit down.

18 MR. BRENNAN: May I sit?

19 CHAIRPERSON KRESS: Yes.

20 MR. BRENNAN: And we've been retained to
21 represent the hotel and restaurant employees at
22 Union Local No. 25, which opposes the request for
23 modification. The Union did make a timely response
24 to the -- to the notice of hearing and submitted
25 various documents. We were retained just a matter
26 of days ago, and I understand that the Union did
send in a letter advising that we would be

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1 representing them and that they had -- they had on
2 their own requested party status.

3 CHAIRPERSON KRESS: We have no letter
4 that requests party status, only requests that they
5 test -- that they be allowed to testify. Oh, I'm
6 sorry.

7 SPEAKER: There's the letter right
8 there.

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

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

15 MR. BRENNAN: Yeah. I would suggest
16 that is simply do to the lack of the legal
17 sophistication on the writer. Our intent was to
18 come in and oppose this as a party and seek the
19 right to cross-examine the various witnesses, and
20 also to make, with the Chair's permission if it's
21 appropriate, as a preliminary matter, certain
22 motions with respect to this procedure.

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

26 MR. GLASGOW: Yes, I would, Madam Chair.

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1 The mikes are not working?

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

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

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

12 CHAIRPERSON KRESS: Yes.

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

18 Next, in further review of the letter
19 the Union states in its last paragraph it reserves a
20 right to be heard, and that was a point you had made
21 earlier; and the opportunity to oppose the
22 modification of the June 3rd, 1999 hearing, of
23 course, they can appear as a person in opposition to
24 this.

25 Then the Union goes on and states their
26 two real areas of opposition to the application.

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1 First, concerns about maintaining the integrity of
2 the PUD process described as an objection to the
3 case proceeding as a modification rather than a new
4 application.

5 Secondly, the proposed modification of
6 the off-site housing amenity with regard to these
7 two issues, the Union is a tenant of the seventh
8 floor of the office building at 1000 K Street --
9 1003 K Street and is the owner of a surface parking
10 lot on the north side of the 900 block of K Street,
11 N.W.

12 The Union has failed to state in any
13 fashion, as required pursuant to Sections
14 3022.3(f)(1), (3) and (4) how this application in
15 any way affects the Union as an office tenant or
16 owner of a surface parking lot by virtue of
17 modification from office use to hotel use at the
18 1000 K Street site.

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

25 "Persons wishing to contest zoning
26 determinations must demonstrate some greater -- some

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1 damage greater than that suffered by the general
2 public to satisfy the person aggrieved requirement."
3 The two bases of opposition stated by the Union fail
4 to meet the requirement.

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

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

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

23 SPEAKER: A hotel for an office
24 building?

25 MR. GLASGOW: Yeah. We substituted a
26 hotel for an office building in this case. In the

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1 other case we just added a hotel and it was
2 determined -- there was an issue as to that, it was
3 raised before the Commission, and the Commission
4 dealt with that matter.

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

15 In discussing the Committee's request --
16 and that's at pages 19 and 20 of that transcript, or
17 20 and 21. In discussing the Committee's request,
18 the Chair of the Commission stated:

19 "What we are looking for was the manner
20 in which the Committee of 100 as distinct from any
21 other member of the public or organization that has
22 some concerns, vis-a-vis zoning and planning and so
23 on, how would you weigh that and what particular
24 interest would you have in this over and above that
25 which might be expressed by other responsible
26 citizens or other well known or well respected

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1 professional groups. Giving your explanation, I
2 fail to see it."

3 The Commission went on to deny that
4 request for party status. Furthermore, as the
5 Commission will recall in its set-down for this
6 hearing, the issue of process as to whether this
7 application, this case that we're hearing tonight,
8 was appropriately a modification.

9 That question came up, was discussed by
10 the Commission, and the Commission -- or whether it
11 should be considered a new application was
12 thoroughly discussed. Office of Planning responded
13 to that question. The question was asked by the
14 Chair, other Commission members talked about it, and
15 it was determined that a modification was
16 appropriate.

17 Part of that discussion concerned the
18 risk to an applicant with an approved office planned
19 unit developing and starting new from square one.
20 You may have a situation where we don't come back
21 and say that there -- there is no hotel in that --
22 in that situation. We can't put ourselves at risk.

23 The Commission considered that the
24 notice and filing requirements are the same, whether
25 the case is tried as a modification or a new
26 application. There's no prejudice to the general

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1 public. Our notice requirements, the opportunity to
2 come in are exactly the same, whether it's a --
3 whether it's a modification or not.

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

10 And the applicant has assembled a number
11 of precedents on the process issue, showing that it
12 is well within the types of modification previously
13 approved by the Commission, like the Grammercy Hotel
14 case and others. Significantly, with respect to
15 this request, there is no specific interest raised
16 by the Union that uniquely affects the Union and its
17 office tenants.

18 Secondly, the -- that -- so that covers
19 that one issue. Secondly, the Union states with
20 respect to the housing issue, "We at Local 25 find
21 that this change, that is, from affordable housing
22 to market rate units and a reduction in the number
23 of units inconsistent with our commitment to
24 affordable housing downtown, not only for our
25 members but also for all the working people of the
26 District of Columbia."

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1 This is clearly not a specific interest
2 that is raised but is on its face a statement of
3 general interest and a position argued in general
4 terms. The Union's statement that the proposal is
5 inconsistent with a commitment to affordable housing
6 for its members does not in any way address
7 3022.3(f)(1), which requires a person seeking party
8 status to identify the property a person owns,
9 occupies or has an interest in which will be
10 affected by action upon the application; or
11 subsection (3), the environmental, economic or
12 social impacts upon the person and the person's
13 property which are likely to occur if the action
14 requested of the Commission is approved.

15 There is no connection or nexus between
16 the Union's stated claim and the occupancy by the
17 Union of the seventh floor of an office building at
18 1003 K Street or its ownership of the surface
19 parking lot. The Union's statement in this regard
20 does not allege any specific or adverse impact which
21 would occur as a result of the modification of the
22 PUD as is required under case law and the rules of
23 the Commission in order to be accorded party status.

24 There is no allegation that are bulk,
25 height, traffic, any of those issues affect this --
26 their property. For the foregoing reasons, the

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1 applicants respectfully requests the letter dated
2 May 14th be denied insofar as it is treated as a
3 request for party status and that the Union proceed
4 as a person in opposition.

5 Thank you, Madam Chairman.

6 CHAIRPERSON KRESS: Thank you.

7 MR. BRENNAN: With your permission?

8 CHAIRPERSON KRESS: Yes.

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

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

23 He takes the idea of showing that you're
24 substantially affected, which we are because we'd
25 have a property right there, and then says, well,
26 first you have to demonstrate that you've got issues

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1 that tie into that. I don't think that's the case.

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

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

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

24 With respect to the modification, I
25 think that that's going to have to await our
26 presentation of evidence. If -- if the Chair would

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

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

8 CHAIRPERSON KRESS: All right.

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

11 CHAIRPERSON KRESS: Yes. Go ahead.

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

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

26 So counsel is saying read those out of

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1 the regulations; if we're nearby and we ask to be a
2 party, then we're a party, whatever it is that we
3 allege.

4 MR. BRENNAN: I'm actually not
5 suggesting that because, if you notice, it asks for
6 the -- to say how you're affected, the person is
7 affected if you're a nearby property owner. And
8 we're here to explain how we are affected.

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

19 COMMISSIONER CLARENS: What's the
20 location of the parking lot?

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

23 COMMISSIONER CLARENS: Diagonal to the
24 site?

25 MR. BRENNAN: Yes, sir.

26 COMMISSIONER CLARENS: It's close enough

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1 for me.

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

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

10 COMMISSIONER FRANKLIN: Mr. Brennan, is
11 it your position that anyone within 200 feet of a
12 property is, by virtue of that, a party if they want
13 to be?

14 MR. BRENNAN: If they express an
15 interest, I think they -- they can be.

16 COMMISSIONER FRANKLIN: Any interest at
17 all?

18 MR. BRENNAN: Yes. And even, for
19 example, they might express an interest in support,
20 they might express an interest --

21 COMMISSIONER FRANKLIN: I understand.
22 But --

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

24 COMMISSIONER FRANKLIN: I understand.
25 Generalized interest?

26 MR. BRENNAN: But, no. I don't -- see,

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1 I view it as two different pieces. First, if you
2 have a property nearby I think you overcome the
3 Court of Appeals' instructions that you can't just
4 be asking to be a party to provide the Commission
5 with insight into what the general public might feel
6 about certain issues.

7 But I don't think the reverse, which is
8 Mr. Glasgow's argument, is true, that if -- that if
9 -- as a person entitled to be a party because you're
10 property is right there, you also tend to express
11 interest that might be those held by the general
12 public. That puts a particular burden on you to
13 then somehow qualify again as a party.

14 COMMISSIONER FRANKLIN: So are you
15 opposed to any development on this site?

16 MR. BRENNAN: No. No, sir.

17 COMMISSIONER FRANKLIN: You're opposed
18 to just this proposed development?

19 MR. BRENNAN: In the way it has
20 happened, yes, sir.

21 COMMISSIONER FRANKLIN: And how is your
22 property affected adversely by this proposed
23 development?

24 MR. BRENNAN: Until we -- until we --
25 well, first of all, if we are correct in the legal
26 position, Mr. Glasgow and I have an argument of

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1 that, obviously, then our property will be burdened
2 by a significantly greater density, height and bulk
3 than should be permitted if this
4 -- if this petition were to proceed, as we believe
5 it should, which is this way.

6 We believe this should be a new PUD. I
7 know that -- I know that this is an argument, and I
8 was not aware that Mr. Glasgow and the Commission
9 had already considered this. I think if it had been
10 considered, I did not know it was considered at a
11 public hearing that was noticed to potential
12 parties.

13 Our view is that this properly should in
14 fact be a hotel at some point in time. But the way
15 it should be done is that the Commission should look
16 at the existing law, by which we believe it's bound,
17 and take those regulations which the Commission
18 worked very hard in '95 to put out, and say, okay,
19 this is really the way you have to go.

20 You can't -- you can't morph this --
21 this undying petition that's been sort of awakening
22 every couple of years to be extended. You -- you
23 can't take that and kind of --

24 COMMISSIONER CLARENS: Excuse me for
25 interrupting. The question was -- that's what
26 you're proposing and that might be fine. But we're

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1 still at the party issue. So how -- how does -- how
2 do you get specifically aggrieved by --

3 MR. BRENNAN: Our property --

4 COMMISSIONER CLARENS: -- by a decision
5 this Commission might render?

6 MR. BRENNAN: If you permit a property
7 with significantly higher density, much higher FAR
8 and height and bulk to go in, then there are
9 limitations placed, aesthetic, development, location
10 limitations, placed on the value --

11 SPEAKER: ---- .

12 MR. BRENNAN: The height is not changed,
13 as I understand it.

14 COMMISSIONER CLARENS: The height has
15 not changed?

16 MR. BRENNAN: 130 and 130.

17 COMMISSIONER FRANKLIN: How does it
18 burden your site?

19 MR. BRENNAN: I believe that the
20 development potential of our site is lessened if
21 this becomes a greater site, more magnificent and
22 more dense site or heavier site.

23 COMMISSIONER FRANKLIN: And why?

24 MR. BRENNAN: For the same -- for the
25 same reasons that an architect will say if I can
26 have -- if I can have this site and greater

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1 prominence than surrounding buildings, I can create
2 a focal point, I can create a more attractive
3 marketing position for my property, I can create a
4 signature in the neighborhood that otherwise would
5 not exist.

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

11 MR. BRENNAN: I wanted to turn the
12 arguments upside down.

13 COMMISSIONER FRANKLIN: Well --

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

16 COMMISSIONER FRANKLIN: It's
17 entertaining, but I don't know how --

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

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

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

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

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

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

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

25 MR. BRENNAN: I don't believe I've said
26 anything that would lead you to support that I'm

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1 making that argument. The jobs that are created by
2 any hotel and a hotel that is built in compliance
3 with the existing PUD regulations are of significant
4 interest to us.

5 COMMISSIONER FRANKLIN: I have no
6 further questions.

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

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

16 COMMISSIONER PARSONS: Madam Chairman,
17 we're beginning to argue the case here. No case has
18 been made by the Union pursuant to our regulations
19 as to why they are aggrieved any more than -- in my
20 opinion, aggrieved any more than any other adjacent
21 property owners.

22 So I would move that we deny the request
23 that has been made verbally tonight for party
24 status.

25 CHAIRPERSON KRESS: All right.

26 COMMISSIONER FRANKLIN: I second that.

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1 CHAIRPERSON KRESS: All right. Any
2 further discussion? Commissioner Hood, did you want
3 to say anything?

4 COMMISSIONER HOOD: Well, it's already
5 been moved and seconded, so I'll just join in the
6 voting. I really think that when I -- let me just
7 comment on 3022.3(f), number 1, where it says the
8 property a person owns, occupies and has an
9 interest. And I do think that they have
10 interest and I think they should be afforded the
11 opportunity to be able to cross-examine. And I
12 think that's where we're -- if we don't give them
13 party status -- first of all, they're definitely
14 affected, if I'm reading the regulations correctly,
15 which I'm sure -- I believe I am.

16 They definitely have interest and
17 they're definitely affected, so I will be voting
18 against that motion.

19 CHAIRPERSON KRESS: All right.
20 Commissioner Clarens?

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

26 But I'm reading the regulations right

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1 here in front of me and just as Mr. Hood said, the
2 key is item 3022.3(f)(3), where there has to be a
3 showing of environmental, economic and social impact
4 on the person and the person's property which are
5 likely to occur if an action requested of the
6 Commission is approved.

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

12 Nevertheless, it seems to me that if you
13 are a neighbor across the street that owns a piece
14 of property, and a project of certain magnitude,
15 such as this, is going to be built across or
16 diagonal to you, that I find it difficult to
17 understand how you can claim that you are not
18 affected differently than the general public would.

19 And Mr. Franklin has made the comment
20 that then everybody, all the neighbors around the
21 property would then claim party status, and maybe so
22 they should. I don't know. And so I'm bringing it
23 to the Commission as a -- as something that I don't
24 quite understand.

25 But I clearly see that here is a
26 property, this is diagonal to it in the downtown

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1 area, and -- and you're modifying significantly.
2 You're changing the FAR, you're changing the use of
3 this building from the previous PUD, and those are
4 significant changes.

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

8 COMMISSIONER PARSONS: Generally, party
9 status is granted to an abutting owner, a --
10 adjacent residential property or another property of
11 lower density that's going to be completely screened
12 and shaded as a result of this structure, some
13 direct impact; not -- not something that's occurring
14 diagonally across a major set of streets in this
15 city. It's just not the same at all.
16 A shared alley, that kind of -- of high impact as
17 opposed to theoretical values of property.

18 COMMISSIONER FRANKLIN: The -- the
19 argument here is -- first of all, I interpret the
20 regulations to say the proximity is a necessary but
21 not always a sufficient basis for party status.

22 And the regulations say that you have to
23 within 14 days prior to the proceeding set forth
24 specifically how your property is going to be
25 adversely affected, or your person adversely
26 affected in a way that is different from the public

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1 at large.

2 And the arguments that are raised by the
3 Union are really arguments that are public policy
4 arguments, not that this is the affect it's going to
5 have on our property. And that -- that's what
6 concerns me because then everyone who has a public
7 policy issue that they want to take before us can
8 become a party.

9 COMMISSIONER CLARENS: No. And own
10 property which is immediately adjacent.

11 COMMISSIONER FRANKLIN: Okay. But --

12 COMMISSIONER CLARENS: It is a
13 combination.

14 COMMISSIONER FRANKLIN: But whose
15 property is not specifically adversely affected,
16 even theoretically, then I've got a problem with it.
17 But, you know, reasonable minds --

18 COMMISSIONER CLARENS: Okay. Well, I
19 think that ---- . Your call.

20 CHAIRPERSON KRESS: What is your
21 pleasure, should we vote?

22 MS. PRUITT-WILLIAMS: There's a motion
23 on the floor.

24 CHAIRPERSON KRESS: I know there's a
25 motion on the floor. I was -- was -- are we
26 finishing discussing the information?

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1 COMMISSIONER HOOD: I'm finished
2 discussing it.

3 CHAIRPERSON KRESS: Okay. All those in
4 favor of denying party status to the Hotel and
5 Restaurant Employees Local 25 signify by saying
6 "aye."

7 (Vote taken)

8 CHAIRPERSON KRESS: Opposed?

9 COMMISSIONER HOOD: Opposed.

10 COMMISSIONER CLARENS: Abstain.

11 MS. PRUITT-WILLIAMS: Staff would record
12 the vote as 4 to 1.

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

15 MS. PRUITT-WILLIAMS: I'm sorry, I
16 didn't hear you.

17 COMMISSIONER CLARENS: I abstain.

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

21 CHAIRPERSON KRESS: All right, thank
22 you.

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

25 CHAIRPERSON KRESS: Yes. So far -- we
26 got off on the party status. Let me finish quickly

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

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

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

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

23 The decision of the Commission in this
24 case must be based exclusively on the record. To
25 avoid any appearance to the contrary, the Commission
26 requests that parties, counsel and witnesses not

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1 engage members of the Commission in conversation
2 during any recess or at the conclusion of the
3 hearing session.

4 While the intended conversation may not
5 be entirely unrelated to the case before the
6 Commission, other persons may not recognize that the
7 discussion is not about the case. The staff will be
8 available to discuss procedural questions.

9 All individuals who wish to testify
10 please rise to take the oath.

11 (Whereupon, the witnesses were sworn.)

12 CHAIRPERSON KRESS: Let's continue with
13 preliminary matters before us. We have the letter
14 from the Shared Ministry of the Mount Vernon Place
15 United Methodist and the Chinese Community Church.

16 REVEREND TANG: I am Reverend Tang. May
17 I just read the statement?

18 CHAIRPERSON KRESS: No. This is not a
19 time of testifying. This is --

20 REVEREND TANG: I mean the statement
21 that you have in front of you.

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

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

26 REVEREND TANG: Okay. I am William C.

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1 Tang. I'm pastor of the Chinese Community Church
2 and also representing the Mount Vernon Place United
3 Methodist Church. It has just come to our attention
4 that the building project has been proposed for the
5 1000 block of K Street, N.W. and that that proposal
6 represented a departure from previously approved
7 plans.

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

16 And so we respectfully ask that the
17 hearing scheduled for this evening be postponed
18 until the church can be provided with appropriate
19 information regarding this project. Thank you.

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

23 MR. GLASGOW: They -- they were not --
24 they're not a property owner within a 200 foot
25 radius.

26 COMMISSIONER CLARENS: So they were

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1 notified by the other --

2 MR. GLASGOW: By the --

3 COMMISSIONER CLARENS: -- Commission
4 advertisement and --

5 (Simultaneous comments)

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

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

11 MR. GLASGOW: That's correct.

12 REVEREND TANG: And our church has owned
13 the property for the last hundred years.

14 SPEAKER: What did he say?

15 MR. GLASGOW: The lots on the corner,
16 Commissioner, are within --

17 REVEREND TANG: We have owned the
18 property for the last hundred years.

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

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

24 SPEAKER: You have to speak louder.

25 MR. GLASGOW: The two lots located at
26 the northeast corner are within the 200 foot radius,

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1 they were noticed. Property owned by the church is
2 to the east of that line.

3 MR. BASTIDA: Is that part of the
4 record?

5 MR. GLASGOW: It is now. We are submit

6 -- CHAIRPERSON KRESS: They were submitting
7 it this evening. Mr. Glasgow, would you point out
8 the church, the church on -- for Mr. --

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

11 CHAIRPERSON KRESS: What square?

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

15 MR. BRENNAN: Madam Chair, if I may,
16 just to assist the Reverend, one of the Union
17 employees who is here walked and measured with a
18 measuring stick the distance, and the church is
19 within that. I don't know -- I don't see the
20 exhibit that Mr. Glasgow has handed, but it was
21 measured.

22 (Pause)

23 CHAIRPERSON KRESS: Mr. Glasgow, do you
24 have anyone from your office that can assist in
25 helping with this discrepancy? Ms. McCarthy, do you
26 -- you're not on the record yet, right. Why don't

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1 you -- I'm sorry. Show us -- point it out and then
2 sit down. I'm sorry.

3 REVEREND TANG: We'd just like to know
4 exactly where our property is on this map. This is
5 the site right here and our church is right here in
6 this corner, this pie shape between Massachusetts
7 and K Street.

8 COMMISSIONER CLARENS: Is the entire
9 block owned by the church?

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

13 CHAIRPERSON KRESS: Is it outside the
14 circle drawn on that?

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

20 This goes from like four lanes to two
21 lanes. So the distance is very, very -- not the
22 same at all with the other ones.

23 MR. GLASGOW: Madam Chair, we have an
24 affidavit that's been submitted as a sworn -- a
25 sworn affidavit by a person in our office who has
26 been doing this -- he is not here this evening, who

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1 has been doing our notices and doing property owner
2 lists for this firm for what, about 15 years? Ten
3 or 15 years experience in the law firm.

4 Most of the property owner lists that
5 are done and the 200 foot radius is done by this
6 person. He is very familiar with this process and
7 has submitted an affidavit stating the 200 foot
8 perimeter.

9 COMMISSIONER FRANKLIN: Mr. Glasgow, is
10 it your view that the 200 feet is measured from the,
11 let's say, the center of the property outward or is
12 it 200 feet from the perimeter?

13 MR. GLASGOW: Two hundred feet from the
14 perimeter, sir.

15 COMMISSIONER FRANKLIN: And the map that
16 you are presenting shows a -- a circle that's
17 underdrawn. Is that --

18 MR. GLASGOW: It's sort of oblong
19 because of the shape of the lot.

20 COMMISSIONER FRANKLIN: Oh, it's oblong?

21 MR. GLASGOW: Yes, sir.

22 COMMISSIONER FRANKLIN: Oh, I see.
23 Okay.

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

26 COMMISSIONER FRANKLIN: Are you

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1 representing to the Commission that that is a
2 depiction of the boundaries 200 feet from the
3 perimeter of the property?

4 MR. GLASGOW: That is our understanding
5 of those boundaries.

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

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

21 And so we noticed everybody 200 feet
22 from the periphery. This is basically showing just
23 a very short distance from the center, if I can
24 understand this oval correctly.

25 MR. GLASGOW: That's incorrect.

26 MR. BRENNAN: May I also suggest with

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1 due respect that Mr. Glasgow's firm is well known
2 and very respected. But, in effect, he's offering
3 testimony of someone who is not here. Mr. Moses
4 from the Hotel Union actually took one of those
5 sticks and measured it out and the church was
6 within, I believe, 197 feet, the edge of the
7 property and didn't receive notice.

8 And this is a crucial factual question.
9 Three feet does make a witness here. We've got a
10 live witness versus a potential affidavit.

11 COMMISSIONER CLARENS: Reverend Tang, do
12 you know what is the number -- what is the lot
13 number of your property?

14 REVEREND TANG: I'm sorry, I'm not able
15 to tell you that.

16 COMMISSIONER CLARENS: But is in Square
17 371?

18 REVEREND TANG: Right. It's "H"
19 represented on the line there.

20 COMMISSIONER CLARENS: Well, you see, I
21 think that what is in front of us might not be the
22 person who prepared this. But what is in front of
23 us is this document that has been submitted into the
24 record and which seems to me to represent rather
25 accurately a 200 foot area surrounding the property
26 and developed as -- developed following appropriate

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1 procedures as a 200 foot distance which follows and
2 turns around the edge or the perimeter of the
3 property, and that seems to me that it is fairly
4 well done.

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

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

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

16 REVEREND TANG: Beginning at "G."

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

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

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

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

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

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

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

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

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

13 MR. BRENNAN: Is the staff referring to
14 the "G" part of 811?

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

17 MR. BRENNAN: From the exhibit that Mr.
18 Glasgow offered?

19 MS. PRUITT-WILLIAMS: The "G" part?
20 Correct, yes. We took this base map, cop -- this is
21 a copy of our
22 -- of a base map. And we measured -- we're in Lot
23 71, correct?

24 COMMISSIONER CLARENS: From the
25 northeast corner.

26 MS. PRUITT-WILLIAMS: We measured from

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1 this corner diagonally out to here, and found that
2 it was more than 200 feet. It didn't even get
3 touched. We moved it in sort of a radial fashion to
4 be sure.

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

11 And if the applicant feels secure,
12 because they're the ones who will face the appeal if
13 it is -- if it is with -- inside the 200 feet. So
14 it's my tendency to say to go with the affidavit
15 that has been submitted and to proceed with the
16 hearing this evening.

17 What is -- what is your pleasure?

18 COMMISSIONER FRANKLIN: Concur.

19 COMMISSIONER CLARENS: Concur.

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

23 CHAIRPERSON KRESS: All right. We will
24 be going forward.

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

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1 CHAIRPERSON KRESS: We've already
2 decided.

3 MR. BRENNAN: Thank you.

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

7 MR. GLASGOW: Thank you, Madam Chair. I
8 wanted to introduce briefly the development team,
9 proceed with a very brief opening statement, get the
10 testimony of the witnesses because I know that we
11 are now at 8:20.

12 CHAIRPERSON KRESS: And I believe you
13 wanted to declare some expert witnesses as well.
14 Let --

15 MR. GLASGOW: Yes, I do.

16 CHAIRPERSON KRESS: -- us know when you
17 get there.

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

22 The hearing on behalf of the Urban
23 Development Group, the applicant in this project who
24 has settled on the property with FDIC, that occurred
25 in March, are Bob Curtis; Robert Burns, who will be
26 giving the principal testimony; Mr. Ron Walton; and

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1 Mr. Jim Farr in the audience.

2 Mark Boekenheide and Peter Sererude are
3 here from the architectural firm of Brennan, Beer,
4 Gorman & Monk Architects. He will be submitted as
5 an expert architectural witness, Mr. Boekenheide.
6 Marty Wells, a transportation consultant; Steven
7 Fuller, an economic consultant; Steven Sher, a land
8 planner. The latter three have been accepted as
9 experts previously by this Commission.

10 CHAIRPERSON KRESS: Yes. And will be
11 again.

12 MR. GLASGOW: If you want to, we can
13 qualify Mr. Boekenheide at this time or during his
14 testimony.

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

20 He is thusly declared an expert in
21 architecture.

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

25 As the Commission is very well aware at
26 this point in time, the site is presently vacant.

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1 It has been used as a surface parking lot for many
2 years. We are -- presently have approved a 9.3 FAR
3 130 foot high office building that was first
4 approved in the late 1980s.

5 The applicant, prior to closing on the
6 property with FDIC in March of this year, undertook
7 an analysis of whether or not the hotel use would be
8 feasible for the site if approved by the Commission.
9 This ultimately led to the filing of the
10 modification application that you have with you this
11 evening.

12 This was done also after meeting and
13 discussing this issue with the Office of Planning.
14 But even prior to undertaking that effort there were
15 numerous and extensive meetings in the community
16 with Advisory Neighborhood Commission 2-F, the Logan
17 Circle Community Association and the Blagdon Alley
18 Association, all of which support the application.

19 There were approximately six public
20 neighborhood meetings concerning this project. In
21 addition, we understand that the ward council member
22 supports the application, and at no time during the
23 course of those meetings was any opposition raised
24 to the concept of modifying the planned unit
25 development or the reconfiguration of the off-site
26 housing amenity.

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1 In addition, as was stated by the Office
2 of Planning at the set-down meeting, the position
3 could be taken that due to the amendment of the
4 comprehensive plan to the high density/commercial
5 only classification that there need not be any
6 housing amenity provided in conjunction with this
7 project.

8 As the Commission may recall, the
9 previous land use designation for the site was high
10 density commercial and high density residential, and
11 that's what led to the prior housing amenity being
12 offered in the PUD.

13 In proceeding with this application, we
14 agree with the position of the Office of Planning
15 that the most important amenity to the city with
16 respect to this PUD is that it would permit a 10-1/2
17 FAR, 130-foot hotel to be constructed on this site
18 instead of the 9.3, 130-foot height office building,
19 in very close proximity to the new convention
20 center.

21 In addition, the applicant is
22 nonetheless prepared and has agreed with the
23 community to provide an off-site housing amenity of
24 25 market rate units at the premises 1223 to 1229
25 Twelfth Street, N.W.

26 And testimony will be offered as to the

1 deterioration of those properties over the last ten
2 years prior to the applicant's ownership which
3 significantly increased the cost of providing the
4 housing amenity, including one of the structures
5 burning down. So a new apartment building would
6 have to be constructed on that part of the site.

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

14 If there are no preliminary questions, I
15 would like to proceed with the testimony of the
16 witnesses.

17 CHAIRPERSON KRESS: Please.

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

22 MR. CURTIS: Good evening, Madam Chair
23 and members of the Commission. My name is Robert J.
24 Curtis, for the record. I'm one of the managing
25 members of Urban Development Group, LLC. And along
26 with my partners, Ron Walton and Jim Farr, we're the

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1 developers of 1000 K Street and the applicant now
2 under consideration.

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

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

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

23 I'm pleased to say the project was
24 completed on schedule. The Arts Club has continued
25 to receive all of their monthly income, and we put
26 the fund to good use for conserving President

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1 Monroe's home. The Federal Triangle reservation or
2 park in front of the project was improved with funds
3 from our PUD and the facade of President James
4 Monroe's home was restore.

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

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

20 Also in 1988, one of our development
21 competitors, a gentleman named Michael Haddid,
22 applied for and received permission to build 1001
23 New York Avenue as a planned unit development. The
24 approval granted in 1988, as you've heard, was for a
25 130-foot tall office project and related off-site
26 housing commitments, including the renovation and

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1 construction of new housing units on 1229 Twelfth
2 Street in what is now ANC 2-F neighborhood.

3 This half-acre site shown on the diagram
4 and the associated housing on the site of the
5 property is what we're here to discuss with you this
6 evening. For this parcel of land between New York
7 Avenue and K Streets, the entire world has changed
8 since 1988.

9 The proposed office project as set forth
10 by Haddid was never started and the bankrupt venture
11 died. Unfortunately, the local bank that loan the
12 money for the land also has gone bankrupt, National
13 Bank of Washington. NBW went out of business in
14 1991, and the assets were purchased by Riggs Bank
15 and the liabilities, including this site, were
16 transferred to the FDIC.

17 The FDIC, through receivership resulting
18 in NBW's failure, has owned or controlled the
19 property until March 2nd of this year. As a result
20 of these calamities, there have been exactly zero
21 housing units constructed on the proposed housing
22 site on Twelfth Street.

23 The primary development site and 12th
24 and -- excuse me, at 10th and K and New York Avenue
25 has remained a vacant, half-acre lot used for
26 surface parking for the past 11 years. The

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1 neighborhood on Twelfth Street that expected to have
2 new housing has received nothing but a continued
3 vacant lot and a boarded-up building.

4 It's an eyesore and a detriment to the
5 neighborhood. One of the buildings scheduled for
6 renovation has since burned down. The District,
7 that expected a new office building and all of the
8 economic benefits that are derived from the
9 construction and employment of the tenants of the
10 proposed building, has received nothing.

11 The real estate taxes on the property
12 have dropped steadily since 1990, due to decline of
13 property value, and none of the promised
14 improvements were ever constructed. Tonight the
15 saga continues.

16 Exactly 12 weeks ago, Urban Development
17 Group purchased the property and we are now seeking
18 an amendment to the PUD that would allow us to
19 change the use from office to hotel and to proceed
20 immediately with a new housing project on Twelfth
21 Street.

22 In the past two years, as many of you
23 know, the office market has been returning to D.C.,
24 and the office project previously approved, now in
25 place at 1000 K Street still remains a viable and
26 desirable alternative for this site. However, other

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1 changes have been made.

2 This past summer, with the coming of the
3 new D.C. Convention Center only one-and-a-half
4 blocks from our site, and the relative lack of hotel
5 rooms ready to receive the millions of expected
6 visitors, we believe that now is the time to build a
7 new hotel on the property instead of an office
8 building.

9 Since 1989, exactly zero new hotel rooms
10 have been constructed in downtown D.C. from new
11 ground-up hotel projects. Several renovations and
12 conversions have been completed in recent months and
13 have added only a few hundred rooms to the 24,000
14 room inventory of existing hotels.

15 Our company, Urban Development Group,
16 now has under construction one of the first, ground-
17 up, new hotels to be built in downtown D.C. in the
18 past ten years. On 14th Street near Franklin Square
19 we are constructing a new 300-room Holden Hotel on a
20 15,000 square foot site.

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

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

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

16 Underground parking will be provided for
17 165 cars, plus some capacity for additional cars if
18 the garage is operated on a valet system. The
19 ground floor uses will include the lobby, lounge,
20 loading docks, parking garage access, and most
21 likely a restaurant or cafe, depending on the
22 franchise that's finally selected.

23 This aerial shows the site and
24 surrounding area, and the through the marvels of
25 modern computer technology, we can construct the
26 building in less than two seconds, thus saving

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1 millions in construction loan interests. We only
2 wish it were that easy.

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

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

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

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

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1 application.

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

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

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

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1 The Lindys have developed over 1000
2 units in D.C. and over 60 units in this
3 neighborhood, including several projects within one
4 block. These are examples of units in the area.
5 They have an unmatched reputation for quality and
6 competence. We are delighted that we can facilitate
7 the construction of 25 new homes for people who are
8 ready and able to invest in their home and move back
9 to downtown D.C.

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

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

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

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1 Our housing commitment is contingent
2 only on the PUD approval and the swift issuance of
3 D.C. for the building permits of the housing. It is
4 not contingent on our ability of finance or
5 construct our hotel. Notwithstanding what happens
6 to our hotel project, the neighborhood will finally
7 receive housing it was promised long, long ago.

8 As of this date, the final franchise or
9 flag of the hotel has not been selected. All of the
10 franchise groups require an approved planned use
11 resolution, a final entitlement to the project prior
12 to granting a final franchise license.

13 Due to the constantly changing
14 competitive environment, the timing is critical with
15 regard to the franchise selection. The non-
16 refundable franchise fees of up to \$230,000 are also
17 something we keep our eye on until we are fully
18 approved by the Zoning Commission.

19 The interior details, the room layout
20 and the final details of ground floor uses will be
21 determined by the franchisee in part. For example,
22 certain groups will require a full-time restaurant,
23 more generous meeting room areas and a large kitchen
24 capable of banquet needs and room service
25 requirements of a full-service hotel.

26 Our most recent plans incorporate

1 approximately 11,500 feet of meeting room area and a
2 revised lobby level plan. Discussions over the past
3 six weeks with potential franchisees have directed
4 us to slightly revise our plans while remaining
5 faithful to the application plans and building
6 elevations.

7 The revisions are slight and primarily
8 the reconfiguration of the elevator floors, the
9 meeting rooms, and the below grade revisions that
10 allow for greater flexibility for a wide variety of
11 guest requirements.

12 It's our goal to have the franchise
13 selected as soon as the zoning has been finalized,
14 to immediately proceed with the financing of the
15 project if we're successful. We believe this hotel
16 could be started within the next eight to 12 months.
17 It should be open prior to the completion of the
18 Convention Center, not after it.

19 We believe we created a design that
20 offers a timeless classic elegance regardless of the
21 franchise, and a functional layout that will help
22 satisfy the real need for added hotel rooms only
23 one-and-a-half blocks from what will become the
24 largest single generator of room demand in this
25 region.

26 Six hundred and fifty million dollars

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1 that was raised to construct the new Convention
2 Center, along with the rising demand for downtown
3 hotel rooms have created a momentary opportunity
4 that when coupled with a modest land price, at least
5 compared to the historically high downtown land
6 values, have given rise to this project.

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

10 Unless there are any immediate
11 questions, I'd like to introduce our project
12 architect for the project, March Boekenheide. Mark
13 is a partner and a director of Brennan, Gorman, MonK
14 Architects and Interiors who created this vision for
15 our new hotel.

16 Our company has worked with BBG for over
17 20 years and we're exceptionally excited about the
18 new design they've achieved for us on this site.
19 We've also got a handout to give to you immediately
20 following my speech here, showing you some of the
21 copies of these slides for your consideration.

22 Thank you for your time and the
23 opportunity to present our visions this year. And
24 as it's dark outside, we'd like to close this
25 thought with an evening rendering of our proposed
26 hotel. And it's a little bit bright in this room to

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1 see this, but allow Mark Boekenheide to complete the
2 design presentation. Mark?

3 MR. BOEKENHEIDE: Good evening, Madam
4 Chairperson and members of the Commission. For the
5 record, my name is Mark Boekenheide. I'm the
6 managing partner of the Washington, D.C. office of
7 Brennan, Beer, Gorman, Monk Architects and
8 Interiors. I have 75 people who work in my office
9 here. We have a New York office of 110 people.

10 We are one of the top five ranked firms
11 in hotel design in the United States. It's
12 something we love to do. It's a passion for us and
13 we're very exacted about this project. We've
14 actually been quite involved in a lot of hotel work
15 here in Washington. Up to now we've been involved
16 in about 20 different hotel projects, new builds,
17 renovations and alterations.

18 I'm pleased to be here this evening to
19 present this project and review with you the major
20 components of the design. I would like to note as I
21 go through the floor plans, I will be pointing out
22 the minor interior reconfigurations that were
23 referenced by Mr. Curtis.

24 It should be noted that the exterior
25 envelope has not been modified by our interior
26 reconfigurations. The exterior design has stayed

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1 the same as previously submitted.

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

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

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

23 And this dedication decreases the
24 overall lot occupancy to 81 percent from what was
25 previously approved under the previous PUD. The
26 building entrance is centered on the 10th Street

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1 facade with the normal -- with a large canopy
2 structure. And, Bob, if you could put that
3 rendering up?

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

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

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

25 In addition to the public spaces are
26 associated office and back-of-house areas and

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1 parking access off of the alley to the lower level
2 parking levels, and two dedicated service bays.

3 The economic viability of any hotel
4 design rests with an efficient planning of the guest
5 room floors. In reality, this site actually lays
6 out better as a hotel building than an office
7 building. And as you see, we've created a very
8 efficient, straightforward floor plan.

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

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

23 The first basement level contains 8,500
24 square feet of meeting space and associated back-of-
25 house spaces, including employee areas, storage
26 areas and public toilets. The three levels of

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1 parking each -- well, total up to 165 cars.

2 The ramp, as I mentioned before, is
3 located along the alley side, accessing these.
4 Public circulation is given to these levels through
5 a dedicated shuttle elevator from the ground floor.

6 When we started the project's design on
7 the outside we were presented with several
8 challenges for the exterior. As I've said, it's a
9 long narrow site and it doesn't have a lot of strong
10 adjacent context. But as a starting point, we felt
11 that the quality of the design and the material
12 should approach that of some of the commercial
13 development to the west, such as 1200 K Street, and
14 I believe that's 1201 New York Avenue.

15 Both of these buildings as well as some
16 of the older properties to the north utilize brick,
17 pre-cast concrete and limestone as their primary
18 materials. Our desire was to create a
19 straightforward design solution for this building,
20 with traditional materials and one that would be
21 timeless.

22 We felt it was also very important to
23 create an identity to this building as well as a
24 distinctive nighttime presence. The long
25 rectangular bulk of the building --

26 CHAIRPERSON KRESS: By the way, let me

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1 interrupt. For those of you who are still in your
2 courts, it is very warm. Please do feel free to
3 remove your jackets. Excuse me, please. Continue.

4 MR. BOEKENHEIDE: The long rectangular
5 facade that fronts 10th Street presented probably
6 the biggest challenge, and it has been mitigated by
7 the introduction of two major elements. The middle
8 portion of the building, we've introduced a curved
9 facade which allows us to visually break the facade
10 into three distinct pieces: two flat, plainer
11 facades separated by a curved facade in the middle.

12 The curved facade in the middle
13 obviously denotes the entrance and gives a focal
14 point for the arrival of the hotel. The second was
15 the introduction of several vertical articulations
16 of pre-cast and concrete that allow us to again help
17 mitigate the length of the building by introducing
18 vertical elements.

19 These vertical elements culminate in
20 several lanterns at the top of the building which
21 are set to be the identifying landmark of the hotel.
22 The rest of the facade has simple brick facade
23 detailing, including punched windows and pre-cast
24 cornices and sills typical of residential building
25 typology.

26 The materials, I'd like to show very

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1 quickly, are the reddish brown brick, pre-cast
2 concrete that is a cream color --

3 CHAIRPERSON KRESS: Could you bring them
4 a little closer?

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

9 CHAIRPERSON KRESS: No, you can go
10 ahead. Take them. Thank you.

11 COMMISSIONER CLARENS: And the material
12 on the -- on your --

13 MR. BOEKENHEIDE: It's envisioned to be
14 metal, a metal -- part of the metal pre-cast system,
15 decorative metal panels.

16 COMMISSIONER CLARENS: The same color as
17 the pewter color?Ye

18 MR. BOEKENHEIDE: Yes. The rest of the
19 facade I should talk about is the base, which is a
20 pre-case, two-story base with decorative awnings and
21 flag poles and a well detailed canopy which will
22 complete the guest arrival experience.

23 I think it's important to note that this
24 building really has no back side to it. It is a
25 very visible building from the west. Although we do
26 not have a slide of it, what has been submitted is

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1 elevations that are substantially similar to the
2 articulation shown on the front side, albeit we have
3 not created the curved facade in the center, leaving
4 that as the recognition of the entrance, the
5 element. But it's -- it's simpler, but it's
6 compatible articulation as the front.

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

14 We'd like to do something to give the
15 building some nightttime presence as well, not neon
16 beacons but we would -- we are proposing that at the
17 culmination of the vertical articulations we have
18 some lanterns that help identify the property in the
19 evening.

20 I'd like to go back. I mentioned the
21 couple of changes on the interior. As I said, it's
22 minor reconfiguration of the elevator core that has
23 given us a little more efficiency and flexibility on
24 the interior spaces. But I would like to reiterate
25 just a couple things over the original scheme that
26 was submitted.

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1 The room count has remained the same at
2 472 keys. The building elevations have remained the
3 same. The FAR has remained the same. The height
4 has remained the same, the parking has remained the
5 same. The materials and the exterior building have
6 remained the same.

7 And the site plan and the building
8 footprint have remained the same. The changes that
9 we have illustrated in the package submitted tonight
10 are confined to interior reconfiguration of
11 functional spaces.

12 In closing, I'd like to just say that
13 successful hotel designs are ones that create a
14 lasting impression of the guests, compelling them to
15 become frequent visitors. That is our goal in hotel
16 design. If
17 -- and it goes beyond just design. It goes to
18 service and price and other issues.

19 But the ones that we control are design
20 issues. And that impression begins with the initial
21 view that you have as you arrive at the hotel, not
22 just to the front door but as you come down the
23 streets, the boulevards to this property.

24 That's why we've tried to create a
25 distinctive top to the building a distinctive facade
26 articulation that gives some sense of specialness to

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1 this building, not only as you arrive under the
2 canopy and go through the door but from the initial
3 view that you have of the building.

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

11 We're very proud to be associated with
12 this development team and this project, and I thank
13 you for your time.

14 CHAIRPERSON KRESS: Thank you.

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

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

22 I was retained by UDG to conduct a
23 traffic impact study at the 1000 K Street project,
24 which I did. that is documented in a report dated
25 February 18. As you know, the site is well served
26 by a connective network of arterial and collective

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1 streets. The Metro Center Metro station is within
2 easy walking distance, just 1200 feet to the
3 southwest of the site.

4 Vehicular access is provided by New York
5 Avenue on the south, K Street on the north, 10th
6 Street on the east. The widened alley, the 20-foot
7 alley that's been described to you earlier, that's
8 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
11 from -- southbound from K Street to New York Avenue.
12 All parking access is provided at this location off
13 of the alley where both right turns in, left turns
14 in, left turns out and right turns out would be
15 permitted.

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

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

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1 door, discharge passengers and luggage.

2 The driver or a valet would then leave
3 the lay-by lane, travel southbound on K -- on 10th
4 Street, turn right onto New York Avenue and turn
5 right at the alley, then turn right into the parking
6 garage. New York Avenue is being widened by some
7 nine-and-a-half feet to facilitate that right turn
8 movement.

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

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

24 In terms of the parking programs, some
25 146 spaces are required under the zoning ordinance
26 for the HR C-3-C zone, 118 spaces are required for

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1 the guest rooms, 28 spaces are provided -- are
2 required for the function rooms. In fact, 165
3 spaces will be provided. That's 19 more than the
4 minimum code requirement. That's about 13 percent
5 more.

6 In terms of loading, there are two
7 loading berths and one service delivery space.
8 There is a 30-foot berth provided at this location
9 and a 55-foot berth provided at this location.
10 These are the loading docks. The Code requirement
11 is in fact for two 30-foot berths, one 55-foot berth
12 and one service delivery space.

13 The second 30-foot berth is called for
14 by the function rooms which exceed 10,000 square
15 feet. Below 10,000 square feet you might know that
16 no loading -- no 30-foot berth is required for the
17 meeting rooms. Between 10 and 50,000 square feet,
18 one berth would be required.

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

23 We also looked at off-site traffic
24 impacts. We looked at eight intersections. We
25 looked at the intersections of 9th, 10th and 11th
26 Streets where they intersect K and New York Avenue.

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1 We also looked at both ends of the alleys.

2 We measured existing morning and
3 afternoon peak hour traffic volumes. We took into
4 account the new Convention Center, which isn't built
5 yet but hopefully will be built and open soon,
6 background traffic growth and of course the traffic
7 that will be generated by the project.

8 Our findings in a nutshell is that the
9 existing streets are heavily used, but they do
10 adequately accommodate existing traffic. The new
11 Convention Center will be the most significant
12 change in traffic in the area in the future.

13 According to the environmental impact
14 statement prepared for that project, the new
15 Convention Center would generate just under 2000
16 peak hour trips about twice a month. The existing
17 street system can accommodate that traffic with one
18 exception, and that's at 9th Street and New York
19 Avenue during the p.m. peak hour which would operate
20 near capacity.

21 The proposed hotel would be a modest
22 trip generator. It would add about 150 to 170 new
23 peak hour trips to the street network.

24 To put that number in perspective, the
25 approved hotel would generate about -- excuse me --
26 the approved office building, which is approved on

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1 this site, would generate about 200 trips.

2 The additional trips generated by the
3 hotel will not affect the background traffic
4 volumes. The project will generate only 23 trips
5 through the key intersection of 9th and New York
6 Avenue.

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

11 While we do not have a staff report from
12 the Department of Public Works, our team has been in
13 contact with representatives of the DPW. It's our
14 understanding there are no significant -- while they
15 have reviewed our reports, we understand there are
16 no significant issues with DPW.

17 And that concludes my prepared remarks.

18 CHAIRPERSON KRESS: Thank you. Please
19 continue.

20 MR. GLASGOW: I'd like to call the next
21 witness: Mr. Steven Fuller. Mr. Fuller, would you
22 please identify yourself for the record and proceed
23 with your testimony?

24 DR. FULLER: Good evening. My name is
25 Steve Fuller. It's beginning to be a regular
26 Thursday event. I was asked by UDG to calculate the

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1 economic and social impacts of the proposed hotel on
2 the District of Columbia. You have a copy of my
3 full report. I will only provide a brief summary.

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

16 Following construction, during the
17 operating stage, -- it's an annual benefit --
18 assuming a 71 percent occupancy rate, the operations
19 of the hotel, the operations of the parking
20 facility, restaurant, and guest spending will
21 generate \$13.9 million a year to the benefit of the
22 District economy.

23 With the re-spending of that spending,
24 the total would increase to 18.7 billion -- or
25 million dollars. Billion is a big number, but 18.7
26 million. This would support 402 jobs in the

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1 District. Most of these are on-site. Eighty
2 percent of them are hotel jobs. And the payroll
3 associated with the total job growth is estimated at
4 7.6 million.

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

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

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

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

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

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1 with the District of Columbia's investment in the
2 Convention Center.

3 Thank you.

4 CHAIRPERSON KRESS: Thank you.

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

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

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

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

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

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

25 You know where the site is and what it
26 looks like and the surrounding area and so forth and

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1 so on. And all of that is described in the outline.
2 What is, of course, the most critical component of
3 the surrounding area, a block and a half from the
4 corner of this site, is the new Convention Center, a
5 2.1 million square foot building, 725,000 square
6 feet of exhibit space, 210,000 square feet of
7 meeting space, including a 60,000 square foot
8 ballroom. That's what drives what is going on in
9 this particular project.

10 We have described the existing zoning in
11 the vicinity. And I think what is most important in
12 understanding the character of that zoning is that
13 all of the surrounding districts permit a maximum
14 height of 130 feet because of the Act of 1910 and
15 the width of the streets. The densities are all on
16 the fairly high range, but the height is all up
17 there at the maximum allowed within the District of
18 Columbia.

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

23 You have also heard about what the PUD
24 modification is that's before you, but let me just
25 summarize that in my own terms. What is proposed
26 now is a hotel of approximately 472 rooms with about

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1 11,500 square feet of function rooms, as compared to
2 what was previously approved of an office building
3 with retail added below grade.

4 This has a height of 130 feet. The
5 office building had a height of 130 feet. The
6 proposed hotel has an FAR, or floor area ratio, of
7 10.5. The office building had an FAR of 9.3. This
8 project now has 165 parking spaces. The office
9 building was required to have a minimum of 163.

10 The off-site housing amenity, as you
11 have heard some discussion already, we will have 25
12 market rate units at 1223 and 1229 12th Street. In
13 the original PUD, it was 44 low and moderate-income
14 housing units at that site and 16 additional low and
15 moderate-income housing units in ANC 2C, which was
16 the applicable ANC at the time, and within one-half
17 mile of the site.

18 So what this modification does, it
19 changes an office and retail building to a hotel,
20 leaves the height at 130 feet, increases the density
21 on the site by about 30,000 square feet, and changes
22 the nature of the housing amenity so that you have,
23 instead of 60 low and moderate-income units, 25
24 market rate units.

25 We have gone through in our report and
26 identified all of the relevant factors and

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1 requirements of the zoning district that are
2 applicable to this site. I would want to just focus
3 on -- I think you heard a little bit about all three
4 of these areas: on the three aspects of the
5 regulations where we are going away from the normal
6 standards. The first one of those, of course, is
7 the FAR. We're at 10.5.

8 The second one you heard referenced by
9 Mr. Boekenheide to the setback on the West side of
10 the property to increase the width of the alley,
11 that, in effect, becomes a side yard on that side of
12 the building.

13 Now, in this zone district, we are not
14 required to have a side yard, but if you do have a
15 side yard, there is a certain minimum width
16 required. We do not meet that minimum width at the
17 two ends to the building closest to K Street on the
18 north and New York Avenue on the south. If we had
19 to meet that side yard requirement, we would lose a
20 significant amount of program space.

21 Now, again, we could build right to the
22 alley so that there isn't really a question of wide
23 and narrow here. It's just a question of the
24 technicality because we have provided that
25 additional setback to widen the alley from the
26 existing width to 20 feet.

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

13 This Commission has the authority to
14 approve whatever level of parking and loading it
15 finds to be appropriate for this site under the PUD
16 regulations.

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

22 The particular question of amenities as
23 to what does this project offer the city, I think it
24 was Mr. Curtis who stated it. The major amenity
25 offered here is the use itself. This is a hotel in
26 a place where the city wants hotels.

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

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

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

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

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

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

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

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

26 So if there was a rationale for saying a

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1 housing amenity was offered in connection with an
2 increase in office space 10 years ago, 11 years ago,
3 I don't believe that that rationale exists any
4 longer.

5 On Pages 16 through 22 of the report, I
6 have laid out in detail the legal framework of the
7 comprehensive plan and done an analysis of the
8 elements of the plan as they relate to this project.

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

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

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1 at supporting hotel development in a location like
2 this.

3 Let me just cite a couple of specific
4 sections out of the plan: 904.2(a), "Encourage and
5 give priority to clustering of new hotels and
6 Convention Center-related uses around the new
7 Convention Center"; 928.2(g), "Focus hotel
8 construction on vacant or nearly vacant land
9 immediately adjacent to the new Convention Center";
10 1365.3, "Accommodate appropriate Convention Center
11 development, especially along Massachusetts and New
12 York Avenue"; 1331.85, "Encourage the development of
13 new hotels at appropriate locations near the
14 proposed new Convention Center north of Mount Vernon
15 Square."

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

21 As I said before, the height is the same
22 as allowed on all development sites in the immediate
23 vicinity. The proposed FAR is higher than a matter
24 of right and higher than the previously approved
25 PUD, but the building has a lower lot occupancy than
26 what is allowed. We're at about 82 percent, and 100

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1 percent is allowed. And, as Mr. Boekenheide
2 described it, the building is not appreciably
3 bulkier than nor out of character with what is
4 allowed in the area.

5 A lot of what is there is clearly not
6 built to what the zoning permits. It is a lot of
7 low-rise buildings, a lot of parking lots, a lot of
8 undeveloped sites, but the planning policies for
9 that area all speak to high-rise, high-density
10 development.

11 It is, therefore, my conclusion that the
12 proposed modification to provide a hotel is directly
13 responsive to the District's major economic
14 development initiative, the \$650 million for the new
15 Convention Center.

16 The change in use of the PUD site, the
17 change in the comprehensive plan designation, the
18 changes in the neighborhood conditions on 12th
19 Street, and the absence of a requirement for
20 affordable housing all lead me to the conclusion
21 that the off-site housing proposed should and must
22 be market rate housing.

23 I believe that the proposed modification
24 is not inconsistent with the comprehensive plan.
25 It's consistent with and meets the standards and
26 objectives of the PUD process. It's compatible with

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1 the planned character of the area and should be
2 approved.

3 Thank you very much.

4 CHAIRPERSON KRESS: Thank you.

5 MR. GLASGOW: That concludes the
6 applicant's presentation, and I think we finished in
7 55 minutes.

8 CHAIRPERSON KRESS: I read the clock the
9 same way. Thank you. Thank you.

10 With that, I would like to open it to
11 questions. Colleagues? Commissioner Franklin?

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

18 CHAIRPERSON KRESS: None of the mikes
19 work. You have to talk loud.

20 COMMISSIONER FRANKLIN: In the
21 three-plus years I've been on the Commission, I have
22 heard a lot of testimony from people asking for
23 extensions of PUDs on the grounds they can't, for
24 one reason or another, develop under the approvals
25 previously given. And it's a pleasure to hear from
26 somebody who has actually built under approved PUDs.

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1 So it actually can happen.

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

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

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

13 COMMISSIONER FRANKLIN: I was giving you
14 the benefit of a doubt.

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

21 The concern that we have I think
22 obviously -- we have signage located on the canopy,
23 which is wonderful once you're on 10th Street.
24 However, we also know that at some point the
25 adjacent lot to the east will be developed with
26 potentially quite a large building.

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

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

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

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

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

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

24 MR. CURTIS: Relatively speaking, yes.

25 COMMISSIONER FRANKLIN: From the
26 rendering, they really don't come across, to me at

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1 least, as what I think you were intending.

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

7 COMMISSIONER FRANKLIN: I see. Okay.

8 MR. CURTIS: I have been through this
9 process a number of times.

10 COMMISSIONER FRANKLIN: Okay.

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

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

22 COMMISSIONER FRANKLIN: The Commission
23 is not taken with garish either.

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

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1 MR. CURTIS: I'll answer that. In
2 Lafayette Center in the courtyard, we developed
3 interior space. And we used the honey locust as our
4 ornamental shade tree. They have a very small, fine
5 leaf. They can be put into a small root ball with a
6 surface-mounted grade that's flush with the surface,
7 a fairly small trunk.

8 They live about 15-18 years, give a
9 beautiful canopy, nice shade, and are lit
10 beautifully from below compared to the large leaf
11 street trees, which will still be part of the
12 streetscape here. So they will be in addition to
13 the standard streetscape, not in lieu of.

14 COMMISSIONER FRANKLIN: And they will be
15 lit?

16 MR. CURTIS: They will be lit.

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

21 MR. CURTIS: Yes. It will be hard
22 scape. I think there will probably be some benches,
23 the normal decorative lanterns, street lights, and
24 the street scape that follows New York Avenue.

25 I think there are some new streetscape
26 standards possibly being proposed for the downtown

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1 streetscape area. If those were to be approved, we
2 would probably incorporate those into our design if
3 they're done in time for us to meet the formative
4 requirements.

5 COMMISSIONER FRANKLIN: Would you say
6 this property falls between the Ritz-Carlton and
7 Holiday Inn essentially in --

8 MR. CURTIS: In terms of style and
9 quality of the hotel?

10 COMMISSIONER FRANKLIN: Yes.

11 MR. CURTIS: Much higher than the
12 Holiday Inns and --

13 COMMISSIONER FRANKLIN: Well, I said
14 somewhere between.

15 MR. CURTIS: And somewhat less than the
16 Ritz-Carlton, yes. This could be a three and a
17 half, four-star standard hotel. You could put a
18 Hilton, a Sheraton, a Ramada, a Renaissance, a
19 Radisson, those type of hotels of the flags we're
20 speaking to.

21 COMMISSIONER FRANKLIN: What kind of
22 financing? Give me some sense of how quickly you
23 think if this were approved that this could be
24 financed?

25 MR. CURTIS: Having just finished the
26 financing of the Hilton Garden Inn in 1998, when we

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1 purchased it in March, we obtained financing in four
2 months, permits. Notwithstanding all of the
3 arguments about DCRA, we got a permit in 5 months
4 for a 14-story high-rise. It was wonderful. And we
5 started construction five months after purchase.

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

10 We still believe we're viable for
11 financing here. We spent a lot of money to get to
12 this point and are moving with pace. Our biggest
13 enemy is time. At some point the carry, the
14 interest, the delays that go along with a quick land
15 purchase in the millions of dollar start to prohibit
16 the use.

17 The office market starts to overcome as
18 it rises. And the land value now over delay and
19 delay and delay becomes too expensive to build a
20 hotel. And you go back to the old use of office.

21 I think I said in my testimony we have a
22 momentary opportunity. And I wasn't being
23 aggressive in that. It really is that moment in
24 time when we can go capture the market and build a
25 hotel.

26 COMMISSIONER FRANKLIN: Mr. Glasgow,

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1 maybe one of your witnesses could address what in
2 their opinion would be the likely impact of the
3 development of this hotel on the property owned by
4 the labor union? Mr. Fuller? One of the Steves?

5 MR. GLASGOW: Right, or probably both of
6 them for two different aspects. I was thinking
7 economic and land planning.

8 COMMISSIONER FRANKLIN: Right, right.

9 MR. GLASGOW: So we have two.

10 DR. FULLER: Steve Fuller.

11 Let me address the economic question.
12 My sense is that land values in this area would be
13 substantially raised as new development is brought
14 on line. The Convention Center clearly will have
15 some impact on that, already has had some impact.
16 And the actualization of or realization of those
17 potential benefits by private investors will make
18 other properties more valuable.

19 There is clearly support for additional
20 hotel use in this area beyond this one. And with
21 the proposals to redevelop the old Convention Center
22 and with what is already happening there, the whole
23 area is going to become much more viable.

24 The downtown BID estimates that all
25 development sites will be fully developed downtown
26 within five years within the traditional boundaries.

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1 And so that, again, as land, as downtown pushes
2 towards Mount Vernon Square should make the vacant
3 properties east of this site and north of it more
4 viable and for residential development as well along
5 Massachusetts Avenue.

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

7 COMMISSIONER FRANKLIN: Do you want to
8 add anything, Mr. Sher?

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

17 It's zoned to permit high-rise
18 development. I doubt that given the core that you'd
19 have to put in in order to put an elevator and go up
20 to a 130-foot-high building, that you would have a
21 whole lot of efficiency in trying to build a
22 building on a floor plate of only 4,000 square feet.

23 The building on our site is diagonally
24 across the intersection. K Street is 146 feet wide.
25 Tenth Street is 85 feet wide. I haven't done the
26 math in my head to figure out the hypotenuse of the

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1 triangle.

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

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

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

20 I don't see this site having any
21 particular kind of impact on what could occur there,
22 positive or negative.

23 COMMISSIONER FRANKLIN: Dr. Fuller
24 believes that there might be positive impact because
25 of land values, but I just call that to your
26 attention.

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

4 COMMISSIONER FRANKLIN: I have no
5 further questions.

6 CHAIRPERSON KRESS: Thank you.
7 Colleagues?

8 COMMISSIONER HOOD: Madam Chair?

9 CHAIRPERSON KRESS: Commissioner Hood?

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

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

16 MR. GLASGOW: That has occurred.

17 COMMISSIONER HOOD: It has?

18 MR. GLASGOW: That occurred in March.

19 COMMISSIONER HOOD: March 5th? Okay.

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

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1 if it's approved?

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

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

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

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

20 COMMISSIONER HOOD: So roughly about how
21 many parking spaces would be designated to employees
22 out of that 165?

23 MR. CURTIS: I would probably guess you
24 will see about 15 or 20 spaces for the senior
25 management; the bell management; plus reservations
26 groups; sales people, who are often in and out of

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1 the hotel; as well as probably senior engineering
2 staff, who often have errands during the day and
3 need vehicles.

4 If it's a management decision, it
5 depends on who manages the hotel, but some employee
6 parking will be provided for certain levels.

7 COMMISSIONER HOOD: One other concern
8 that I have: the housing component on 1223 to 1229
9 12th Street.

10 MR. CURTIS: Yes.

11 COMMISSIONER HOOD: I think I heard in
12 your testimony you say that: If the PUD is
13 approved, we will not have to wait until the
14 construction of the hotel. The housing component
15 will go forward.

16 MR. CURTIS: Yes. That part is really a
17 differentiator between ourselves and the former PUD
18 applicant. Part of it is market rate housing. Part
19 of it is renovations of old, historic structures are
20 very expensive.

21 Unfortunately, one of the buildings here
22 is burned since the former applicant applied. And
23 the number of units is no longer what would be
24 called existing nonconforming. They're no longer
25 existing. We couldn't meet the parking requirements
26 for new construction for a 44-unit building there.

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1 We have gone in and looked at the
2 design, hired a great architect, worked with a
3 wonderful builder, and said: If you guys can do the
4 following and the neighborhood likes it -- and they
5 do -- and you can have a Victorian facade and a
6 wonderful plan and duplex units where the stairs are
7 interior and avoid the expenses of elevators and
8 still meet the handicapped requirements for a
9 certain percentage of units, they have come up with
10 what we think is an ingenious solution to allow them
11 to do duplex apartments at the same density.

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

18 Under the previous PUD, it was a much
19 higher number of units, smaller size. Under this
20 application, it's the same square footage but
21 configured at duplex units for sale in larger sizes.
22 These are often large one-bedroom/two-bedroom duplex
23 units.

24 So the answer is yes, they're going to
25 finance this and go build. They've built units in
26 that neighborhood. In fact, we don't have just

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1 schematic plans and elevations. They're pretty far
2 along with working drawings.

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

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

14 We're supporting it. We're paying the
15 pre-development expenses. And when we get the final
16 approval on this, they're ready to go build. And if
17 we can't get the hotel financed, that's kind of our
18 problem. It's not going to impact the neighborhood,
19 the ANC, or the housing.

20 COMMISSIONER HOOD: Thank you. No
21 further questions.

22 CHAIRPERSON KRESS: Thank you.

23 Commissioner Parsons or Clarens, do you
24 have any questions?

25 COMMISSIONER CLARENS: Not many. Just
26 very briefly, on the issue of the housing, the plans

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1 that you have submitted, at least in this package,
2 are not as well-developed as you claim they are.

3 MR. CURTIS: No.

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

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

14 MR. CURTIS: In the housing building?

15 COMMISSIONER CLARENS: In the housing
16 building.

17 MR. CURTIS: No. That's right. There's
18 no elevator. You have a many-step walkup to the
19 existing historic entrance. And from that side,
20 they can come in, enter an access corridor to then
21 feed up through common stairs and through duplex
22 units. So you walk down for --

23 COMMISSIONER CLARENS: And doesn't it
24 have feasibility to have to enter to --

25 MR. CURTIS: No. They have access
26 through another side access with elevators toward

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1 grade changes --

2 COMMISSIONER CLARENS: In the back?

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

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

8 COMMISSIONER CLARENS: Can those units
9 be identified in plans somehow, in the plans that
10 you submit?

11 MR. CURTIS: Yes. I believe, actually,
12 Art Lindy is here tonight with a little more
13 developed set of plans that I believe you are
14 getting ready to make application for.

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

17 COMMISSIONER CLARENS: Do you want to
18 identify yourself?

19 MR. LINDY: My name is Art Lindy. I'm
20 with the Lindy Development Companies. Our office is
21 at 4450 MacArthur Boulevard, Washington, D.C.
22 20007.

23 In regards to accessible units, the five
24 units on the ground floor are all accessible through
25 a ramp or a lift in the back. I have a more
26 complete set of plans here I can show you if you'd

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1 like to see how we're going to access it.

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

5 MR. LINDY: Sure.

6 COMMISSIONER CLARENS: I don't have any
7 other questions.

8 CHAIRPERSON KRESS: Thank you.

9 Commissioner Parsons?

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

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

16 MR. GLASGOW: Yes, sir.

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

23 What we tend to highlight in this city
24 is the public buildings. The White House, Mount
25 Vernon Square are the major buildings on this
26 avenue. And once we begin to intrude on that in

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1 private buildings, I get very concerned.

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

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

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

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

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1 I really believe church steeples in
2 public buildings are the only buildings that should
3 be given the kind of recognition that you are
4 seeking.

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

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

18 The other point I would like to make is
19 what we are asking for is not something that has
20 been asked for and has been built the first time in
21 Washington. There are buildings that have
22 precedent. There are buildings that have been built
23 that have similar types of lighting.

24 We're not looking to create a beacon.
25 We're not looking for this to overwhelm the
26 neighborhood. We are looking to give the building a

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1 slight distinctive recognition at nighttime. We
2 have no intention of floodlighting the building and
3 making it this overwhelming presence at nighttime.

4 COMMISSIONER PARSONS: No. I can see
5 that from the rendering. I'm simply worried about
6 the beacons on the roof or the lanterns, as you call
7 them.

8 MR. CURTIS: I guess in my comment from
9 that, previous buildings we have done have had
10 decorative light fixtures. Even the Hilton has an
11 18-foot-tall stainless steel decoresque fixture at
12 the top of the building. It's in a C-4 district,
13 mid block. That will give it a little bit of
14 nighttime presence and some up lights in the
15 facades, obviously heavily lighted over the entrance
16 canopy.

17 These were done in lieu of light
18 fixtures. Light fixtures in the Herald Square
19 building that our partner Ron Walton developed are
20 some, what, 16 feet tall and 4 feet in diameter --
21 twenty -- and 130 feet in the air. They have become
22 a very diminutive thing at that distance and that
23 scale, but they are light fixtures.

24 This we just took a standard curtain
25 wall system, frosted the glass, and said, "Leave the
26 light on night and let it be a soft glow. It's not

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1 really intended to be a beacon. I understand your
2 concern on how do you regulate wattage. What's the
3 definition of it? My soft glow is your" --

4 COMMISSIONER PARSONS: It's not clear
5 glass.

6 MR. BOEKENHEIDE: I think we would be
7 willing to let you regulate that if we're allowed to
8 do this, I mean, I think if there was a way to
9 develop some standard. I do think the design that
10 we have created -- and this is typical of -- you
11 know, Mr. Curtis has mentioned two or three projects
12 that we have designed for his firm and for Mr.
13 Walton.

14 And a unique component of a lot of the
15 buildings we design are a lighting element as part
16 of the building design so that when the city is
17 dark, it's not dark. I mean, there are some
18 elements that create some sparkle and excitement to
19 the city.

20 And, instead of us accepting no
21 lanterns, I would rather have you involved, then, in
22 determining what is an acceptable glow, what is an
23 acceptable light bubble.

24 I think it is an integral part of the
25 building design.

26 COMMISSIONER CLARENS: The point Mr.

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1 Parsons is making is perhaps a little bit more
2 conceptual than an issue of wattage. I think it has
3 to do with an issue of Washington, D.C. and its
4 very, very special character and the fact that it is
5 the seat of a federal government and it is not New
6 York City and it doesn't have all of these
7 skyscrapers each competing for their own place in
8 the city scape.

9 And these lanterns, which I like very
10 much, I'm troubled by this argument that, even
11 though they could very well be very handsome, they
12 might be inappropriate to a place like D.C. because
13 of its nature.

14 I'm sure you have given some thought to
15 that. This is not a city of powerful companies and
16 great egos, like New York might be. The egos are
17 somewhere else than in the private sector and
18 definitely not in the hotel. They might be
19 somewhere else.

20 MR. BOEKENHEIDE: The cities you talk
21 about, how are those egos recognized? It's not just
22 with lights at the top of the buildings. It's
23 signage at the top of the buildings, lit signage.
24 Think about most of the big cities that you go to.
25 It's Nations Bank, and it's all the big corporations
26 up there.

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1 That's not what we're asking for. We're
2 not asking for rooftop signage. We're not asking
3 for rooftop logos lit up. We're looking at an
4 integral part of the building design that will have
5 a glow to it.

6 We're not spotlighting the top of the
7 building. We're not overwhelming this facade with
8 light. We're working to create some element of
9 lighting that gives a little bit of light to the
10 building after dark.

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

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

23 I think maybe the suggestion would be
24 let us put it in, come out and take a look at it,
25 and if you don't like it, tell us to shut it off.
26 I'd almost rather give it a try than to try to

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

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

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

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

17 MR. CURTIS: Frosted.

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

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

21 MR. CURTIS: We are not looking for a
22 beacon. We're looking for a glow.

23 COMMISSIONER FRANKLIN: Let me say this:
24 I think in the area of the Convention Center, I
25 don't have a serious concern with that kind of glow
26 in that part of town because that is a signal of a

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1 certain kind of activity that differentiates it from
2 other parts of the city, but from my part, I think
3 we can craft some language that can provide some
4 comfort on this.

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

10 MR. CURTIS: Five.

11 COMMISSIONER PARSONS: Five? Five
12 towers in this building? I will not vote and I hope
13 this Commission will not to encourage illuminated
14 towers on buildings in this city.

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

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

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1 CHAIRPERSON KRESS: Do you have any
2 other comments?

3 COMMISSIONER PARSONS: No. I'm done.
4 Thanks.

5 CHAIRPERSON KRESS: I wanted to make
6 sure you had a chance.

7 I wanted to ask the architect: When was
8 this building originally designed?

9 MR. BOEKENHEIDE: Originally designed?

10 CHAIRPERSON KRESS: You had the exterior
11 hadn't changed. When was the --

12 MR. BOEKENHEIDE: Well, the submission
13 that was put forth two months ago.

14 MR. CURTIS: April 6th I think was the
15 submitted package.

16 MR. BOEKENHEIDE: Yes. The changes that
17 I was referring to were internal changes in the
18 building from that submission two months ago.
19 Essentially what you were seeing was some internal
20 floor plans that were different. My point was that
21 nothing on the exterior of the building has changed
22 from what was submitted two months ago.

23 CHAIRPERSON KRESS: I just wanted to get
24 that --

25 MR. BOEKENHEIDE: I'm sorry. I wasn't
26 clear on that.

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1 CHAIRPERSON KRESS: Any other questions?

2 COMMISSIONER FRANKLIN: One brief one,
3 Madam Chair. In the nighttime rendering, there is a
4 high point here on the top floor of the side
5 elevation. What is that supposed to tell us up
6 there?

7 MR. CURTIS: I think it's supposed to
8 just indicate a little leftover glow from the
9 lantern on the western side of the building. It may
10 not be an accurate rendition because there's a
11 lantern on that side as well if you look at the
12 elevations that were submitted.

13 COMMISSIONER FRANKLIN: Maybe your
14 renderer --

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

16 COMMISSIONER FRANKLIN: -- didn't quite
17 get it?

18 MR. CURTIS: Yes.

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

21 MR. BOEKENHEIDE: If you look at the
22 daytime rendering, you will see that there is no way
23 there can be a light shining right there. The
24 daytime rendering illustrates that there is no
25 lantern on this base. So the nighttime rendering is
26 inaccurate.

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1 MR. BASTIDA: Madam Chairperson?

2 CHAIRPERSON KRESS: Yes?

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

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

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

10 MR. BASTIDA: Yes, right.

11 MR. CURTIS: -- and room rates in D.C.,
12 rooms fluctuate over a year of occupancies. What is
13 often referred to in the industry as the average
14 daily rate, which is the seasonal adjusted average
15 over the entire year of occupancy, this hotel is
16 projected to open at around 135 to 150 dollars per
17 night for the average daily rate. That would be a
18 little bit less than what the market in its
19 competitive set would be at the moment.

20 For example, I think the Hyatt is
21 somewhere around \$158 for 1997 for their average
22 daily rate. Our Hilton is projected at around \$135
23 for the average daily rate. And that will be an
24 average over obviously many seasons.

25 MR. BASTIDA: You consider in your
26 testimony that this is a three and a half-star

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1 hotel.

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

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

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

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

17 The room quality we think will be equal
18 or better than most others. We have put insulated
19 glass, new air conditioning systems. The codes have
20 changed significantly in the past 12 years. Anybody
21 building a brand new hotel today in terms of the
22 room quality will be building a better room than the
23 one built 15 years ago simply because of the code
24 requirements.

25 So mostly you're talking about the level
26 of amenities and the level of finish in the public

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1 spaces. So this I think would be comparable in
2 terms of finishes to the J. W. Marriott downtown.
3 Most of you are familiar with that.

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

11 MR. BASTIDA: Thank you. Thank you,
12 Madam Chairperson.

13 CHAIRPERSON KRESS: Sure. Thank you.

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

16 (No response.)

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

20 MS. KRAMER: Yes.

21 CHAIRPERSON KRESS: Do you want to do
22 cross-examination?

23 MS. KRAMER: No.

24 CHAIRPERSON KRESS: Thank you.

25 Before we move on, the court reporter
26 has asked that we take a short break. So we'll take

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1 a five-minute break before we move on to the Office
2 of Planning's report.

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

6 CHAIRPERSON KRESS: Call the meeting
7 back to order. Next on the agenda is --

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

11 CHAIRPERSON KRESS: An epiphany?

12 MR. GLASGOW: -- we wanted to have Mr.
13 Boekenheide address very quickly.

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

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

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

26 COMMISSIONER PARSONS: Am I to

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1 understand that you would retain the four towers on
2 the four corners?

3 MR. BOEKENHEIDE: Yes.

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

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

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

15 MR. BOEKENHEIDE: We are prepared to do
16 that.

17 COMMISSIONER PARSONS: Fine. That is
18 very helpful because I really like the project.

19 CHAIRPERSON KRESS: Thank you.

20 MR. BOEKENHEIDE: Thank you.

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

25 The Office of Planning submitted its
26 report on May 22nd and went through the application

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1 background, the summary of recommendations,
2 applicant's proposal, existing zoning, HR incentive
3 district, site location, planning and zoning issues,
4 consistency with the comprehensive plan, consistency
5 with the evaluation standard of Section 2403,
6 neighborhood impact, zoning and related matters, and
7 the amenities and benefits proffered by the
8 applicant that were six pages of our report.

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

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

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1 downtown.

2 Given the long unfilled life of this
3 PUD, the Office of Planning is encouraged that the
4 proposal modification will finally lead to actual
5 development of the site as well as provide a use
6 that OP considers compatible with the proposed D.C.
7 Convention Center.

8 It believes that the Office of Planning
9 report is rather extensive but, actually, has a
10 hole. There is not an urban design chapter to that.
11 The Office of Planning has worked in several
12 projects and believe that the two proposed vertical
13 signs are inappropriate for the city, for the
14 location, and for the quality of the hotel.
15 Accordingly, we will recommend strongly that they
16 will be deleted from the project.

17 Recently with the BZA and Mr. Clarens,
18 we did a study of certain signage because of the
19 signage proposal on 13th Street. And, even though
20 the vertical signage that the applicant has stated
21 has been in the city, those are old signs and were
22 signs that were not an aesthetic review for it.
23 Accordingly, the Office of Planning has felt very
24 strongly and in a negative fashion about this type
25 of signage.

26 In addition, the landscaping we believe,

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1 the Office of Planning believes, is lacking. I
2 think that with very small amounts of landscaping
3 and costs, that hard scape can be softened
4 tremendously.

5 One great example is the George Hotel
6 that with almost no space and very little planting,
7 they have created a tremendous environment, which
8 even that has created an outdoor seating area for
9 Bistro Bis that has become one of the finest
10 restaurants in the city, even though the George
11 Hotel doesn't have the location that you have
12 because it's on E Street just west of North Capitol
13 Street.

14 And also we would like to make sure that
15 the applicant provides for the record the type of
16 light fixtures that are going to be installed, what
17 exactly they look like, because I think that that
18 will go a long way to provide relief to everybody
19 who votes either in favor or against that those
20 light fixtures should be provided.

21 That concludes my presentation.
22 Basically, the Office of Planning is very favorable
23 toward the approval of this application with those
24 minor changes.

25 Thank you. That concludes my
26 presentation, and I will try to answer any questions

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1 you might have. Thank you.

2 CHAIRPERSON KRESS: Thank you.

3 Questions for Office of Planning?

4 COMMISSIONER PARSONS: I wanted to ask
5 Mr. Bastida about the landscaping. Do you mean a
6 series of planter boxes along the facades in the
7 notched areas along the street? I don't mean to
8 design it here tonight, but do you mean landscaping
9 up against the building to soften it?

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

16 It is through the entire country. It
17 goes to that emphasis on landscaping that it is
18 really doing it in pots. And there is all kind of
19 design in pots and sizes that will take from trees
20 to small bushes.

21 COMMISSIONER PARSONS: I concur.

22 COMMISSIONER FRANKLIN: I must say I
23 concur, too. And I guess I didn't follow up my
24 question on the subject with my opinion. But I
25 think that for not a lot of money, some softening of
26 the landscaping can be an interesting subtle signal

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1 about the classiness of the hotel.

2 The upper-tier hotels typically I think
3 have a softening effect on the bare sidewalks in
4 front of the buildings.

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

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

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

16 CHAIRPERSON KRESS: Thank you.

17 Any other questions of Office of
18 Planning?

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

23 CHAIRPERSON KRESS: Thank you.

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

26 MR. GLASGOW: No.

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

3 And you took care of the other agency
4 reports?

5 MR. BASTIDA: That's right, Madam
6 Chairperson.

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

10 MS. KRAMER: Thank you.

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

15 I am currently Chair of the ANC's
16 Community Development Committee. And I was Chair of
17 the ANC during the time when the PUD modification at
18 1000 K Street was initially considered.

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

22 CHAIRPERSON KRESS: Thank you.

23 MS. KRAMER: ANC 2F is on record as
24 having voted unanimously at its February 3rd, 1999
25 meeting in support of this PUD modification. We
26 particularly welcome development of the property as

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1 a hotel, rather than an office building, as
2 originally proposed, as this will provide more jobs
3 to D.C. residents and generate pedestrian activity
4 in the area in the evenings.

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

12 The discussions regarding the PUD at
13 1000 K Street were held in conjunction with our
14 consideration of the existing PUD at 901 New York
15 Avenue. The two PUDs offer different housing
16 amenities.

17 The ANC viewed the redevelopment of the
18 housing site on 12th Street, Northwest in the
19 context of other developments, including affordable
20 housing already provided by the other PUD, and
21 concluded that the provision on this site of market
22 rate housing consisting of units large enough for
23 families would provide a better mix of housing with
24 the existing affordable housing on 12th Street.

25 The proposed 25 market rate units at
26 1223 and 1229 12th Street are across the street from

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1 King Towers, a subsidized rental apartment building
2 of 128 units housing an ethnically diverse array of
3 families.

4 And a few yards away are 2 publicly
5 owned apartment buildings: Horizon House,
6 consisting of 105 units, and Claridge Towers,
7 consisting of 343 units. Both of these buildings
8 house elderly and disabled tenants.

9 These three buildings make up almost 600
10 units of affordable housing within the immediate
11 area of the PUD. At the corner of 12th and M
12 Streets, Northwest is a low-rent apartment building
13 housing predominantly recent immigrants.

14 I'm bringing this to your attention to
15 give you a sense of the broad diversity which exists
16 in our neighborhood, particularly in the immediate
17 vicinity of the proposed housing amenity.

18 The 901 New York Avenue PUD has provided
19 the ANC 2F area with affordable housing at 919 L
20 Street, Northwest as well as rehabilitation of 33
21 affordable housing units under the Homestead
22 Program. The ANC views this mix of housing types,
23 affordable and market rate, as preferable to all
24 affordable or all market rate.

25 As I mentioned, this is a very diverse
26 ANC. And by providing market rate housing in the

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1 1200 block of 12th Street, which has long suffered
2 from the blight, as has been described previously by
3 the applicant, the PUD modification at 1000 K Street
4 promises to improve the quality of life for all the
5 residents in our area.

6 In summary, the ANC has supported both
7 hotel and office use of the 1000 K Street site, but
8 we prefer the hotel use. We hope that you won't
9 force the developer into office use by denying the
10 requested modification. We believe that the hotel
11 use will provide more positive investment multiplier
12 effects as well as housing on a back-lighted site.

13 So I stated in our letter to the
14 Commission of February 15th, 1999 we respectfully
15 request your approval of this modification
16 application.

17 Thank you. And I will be glad to answer
18 any questions you may have.

19 CHAIRPERSON KRESS: Thank you.

20 Questions?

21 (No response.)

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

24 MR. GLASGOW: No cross.

25 CHAIRPERSON KRESS: Thank you very much
26 for coming and testifying this evening.

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1 MS. KRAMER: Thank you.

2 CHAIRPERSON KRESS: With that, we will
3 move to persons in support. Are there any persons
4 in support to testify now? Please come forward and
5 identify yourself for the record.

6 MS. MARTENS: Good evening.

7 CHAIRPERSON KRESS: Good evening.

8 MS. MARTENS: My name is Deborah
9 Martens. I reside at 1521 12th Street, Northwest.
10 I am here tonight representing the Logan Circle
11 Community Association.

12 We are a nonprofit neighborhood
13 organization that was established in 1972 to promote
14 civic and social interests of the residents of the
15 District of Columbia and especially those within our
16 boundaries.

17 I have been a member of the association
18 for 16 years. I have been the president since July
19 1998. I was involved in discussions with the
20 applicant regarding the PUD modification for 1000 K
21 Street, Northwest.

22 The PUD modification in general and the
23 housing amenity specifically were discussed in
24 detail by our board of advisers. The discussion was
25 complete and detailed. There was no opposition
26 voiced.

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1 Much like the ANC, we considered the
2 housing amenity for 1000 K Street in tandem with the
3 housing amenity provided by the PUD at 901 New York
4 Avenue.

5 We believe that a mixture of housing
6 types, both affordable as provided by the 901 New
7 York Avenue PUD, and market rate, as proposed
8 tonight, is desirable for our neighborhood. We need
9 a balance, and we need a combination of folks.

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

18 Further, the proposal is very close to
19 becoming reality. The developer with whom the
20 applicant is working is well-known in our
21 neighborhood and is admired for the quality of his
22 residential projects.

23 We are confident that with the Zoning
24 Commission approval of this modification, a
25 trash-filled lot and derelict building will soon be
26 replaced by 25 additional housing units in our

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1 neighborhood.

2 Thank you.

3 CHAIRPERSON KRESS: Thank you. Just a
4 second. We might want to ask you a question. Any
5 questions?

6 (No response.)

7 CHAIRPERSON KRESS: Any
8 cross-examination?

9 (No response.)

10 CHAIRPERSON KRESS: Thank you for coming
11 to testify this evening.

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

14 MR. MacBETH: Yes.

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

17 (No response.)

18 CHAIRPERSON KRESS: All right. And
19 you're testifying as an individual --

20 MR. MacBETH: Yes.

21 CHAIRPERSON KRESS: -- or an
22 organization?

23 MR. MacBETH: An individual.

24 CHAIRPERSON KRESS: Okay.

25 MR. MacBETH: My name is Russell
26 MacBeth, and I live at 1215 12th Street. I have

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

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

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

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

25 So I think putting in market rate is not
26 going to tip the balance or destroy the mix of the

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1 neighborhood. And I must say that those of us who
2 live here are happy with the mix.

3 CHAIRPERSON KRESS: Thank you.

4 Any questions?

5 (No response.)

6 CHAIRPERSON KRESS: Any

7 cross-examination?

8 (No response.)

9 CHAIRPERSON KRESS: All right. Thank
10 you.

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

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

18 CHAIRPERSON KRESS: Oh, all right.

19 MR. BOARDMAN: I will take my three
20 minutes. My name is John Boardman. I am Executive
21 Secretary/Treasurer of Local 25 Hotel and Restaurant
22 Employees.

23 CHAIRPERSON KRESS: You do get five
24 minutes because you are representing the
25 organization.

26 MR. BOARDMAN: Thank you. We represent

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1 about 8,000 members and their families in the hotel
2 and restaurant industry, primarily in the
3 Washington, D.C. hotel industry. In fact, we
4 represent 90 members who live in ANC 2F. I might
5 add for the record that none of them knew about
6 these discussions.

7 I wanted to start out tonight by saying
8 some different things, but I changed my mind and I
9 wanted to thank the Commission for bringing all of
10 the high-priced talent to bear on the problem of
11 what the impact might be on my property that I have
12 fiduciary responsibility for at 10th and K.

13 Frankly, I would have rather had an
14 opportunity as a party to interview those same
15 people to find out exactly what that meant for me.
16 And I share your concern about lighting, but I also
17 might share a concern about some other features of
18 that project, too. But I can't cross-examine
19 because I am not a party.

20 We approached this process --

21 CHAIRPERSON KRESS: Tell us what your
22 concerns are that --

23 MR. BOARDMAN: Well, we have one concern
24 here tonight. And I think our concern was further
25 exemplified by what happened at the beginning of
26 this process. And that is that we have a vested

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1 interest in a number of different things here, not
2 only the fact that we are owners and occupiers of
3 property within the 200-foot range. We are also
4 part and parcel of what this city is and, indeed,
5 the industry you are ruling on tonight.

6 We have other interests that go way
7 beyond just what happens on our little piece of
8 property. And, yet, you denied me. You denied the
9 members that owned that property the right to
10 exercise within the process the ability to determine
11 anything.

12 We started here tonight not opposed to
13 development but from a much more positive
14 standpoint, and that is to preserve process. Zoning
15 is a significant factor in the formula that creates
16 the social fabric that is woven in this city. And
17 if you are going to exclude institutions that
18 represent significant populations or, at the very
19 least, own property next to major pieces of
20 development. And I would submit to you there is no
21 process.

22 And we did not come here tonight to rail
23 against development. What we came here is with a
24 hope that the Commission would support the integrity
25 of the statutes and process you yourselves and your
26 predecessors have established.

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1 That is my message tonight. Fairness is
2 established through process. Process involves
3 participation, not exclusion. And you have decided
4 to exclude the representation of my members'
5 interests out of hand, but I believe you have also
6 excluded their financial interests completely
7 unfairly. And for that, I hope we will have some
8 reconciliation of the difference of opinion
9 somewhere.

10 (Applause.)

11 CHAIRPERSON KRESS: Just a second. Are
12 there any questions, colleagues?

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

16 MR. BOARDMAN: That's correct.

17 COMMISSIONER HOOD: I'm a little
18 disturbed about your comment about them not knowing.
19 I guess they do attend their ANC meetings
20 periodically. Are you aware of that?

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

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

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

11 MR. BOARDMAN: Yes, sir.

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

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

22 MR. BOARDMAN: Well, I expect after the
23 examination of the outcome of this to that process,
24 we probably will, but I would also submit to you --
25 and I appreciate your comments directed at me, but I
26 would also submit to you that this, too, is a

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1 process which organizations like mine and owners of
2 property like Local 25 should be permitted to be
3 active parties in.

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

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

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

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

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

20 CHAIRPERSON KRESS: Thank you.
21 Any other questions, commissioners?

22 COMMISSIONER FRANKLIN: Yes, I have one.

23 CHAIRPERSON KRESS: Yes, Commissioner
24 Franklin?

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

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1 MR. BOARDMAN: John Boardman.

2 COMMISSIONER FRANKLIN: I'm sorry, Mr.
3 Boardman.

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

7 MR. BOARDMAN: I am chief executive
8 officer of the local union. I operate --

9 COMMISSIONER FRANKLIN: Are you
10 representing a vote of the governing body of the
11 local on this matter?

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

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

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

25 The matters before you today were, in
26 fact, voted on by the executive board of that local

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1 union. We will ratify the recommendations of that
2 executive board in July 21st at our general
3 membership meeting.

4 Everything we do internally is done on a
5 basis of democratic action with formal votes and
6 reported back to a membership that pays my salary.

7 COMMISSIONER FRANKLIN: Thank you very
8 much.

9 CHAIRPERSON KRESS: Thank you.

10 Any other questions?

11 COMMISSIONER PARSONS: I wondered what
12 the position was. What was voted upon?

13 MR. BOARDMAN: The executive board
14 authorized the pursuit of the local's interest in
15 protecting the property and the members' interests
16 as we perceive them as a local union.

17 COMMISSIONER PARSONS: So you have
18 nothing to share with us about your views on the
19 project?

20 MR. BOARDMAN: What you are asking me to
21 do is now grace you with something that you wouldn't
22 let me do earlier tonight. And I think what my
23 answer to that is, with all due respect, you
24 accorded me no respect earlier. And in according --

25 COMMISSIONER PARSONS: So that means you
26 are going to waive your opportunity to testify for

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1 the next hour or so and tell us what --

2 MR. BOARDMAN: No.

3 COMMISSIONER PARSONS: -- you have
4 concerns about.

5 MR. BOARDMAN: I am furious and
6 suggesting that we will pursue some other way to
7 preserve this process. I don't think answering a
8 few questions replaces the ability to be a party
9 participant in a process.

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

15 That's our process. It has nothing to
16 do with being a party. We give you a full
17 opportunity. The only thing you have missed is the
18 opportunity to ask questions of the applicant.

19 MR. BOARDMAN: And we think that is a
20 significant component.

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

26 And if that is what you are doing, I

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1 really urge you to share with us your views here
2 tonight or representatives of your organization if
3 you are not willing to do it.

4 MR. BOARDMAN: I would submit to you
5 that, if I may, we have a number of witnesses here
6 tonight that may be more appropriate in shedding
7 some light on the sum and substance of our
8 objections.

9 COMMISSIONER PARSONS: Oh, good.

10 MR. BOARDMAN: And it would probably be
11 more appropriate if I relinquish my time at this
12 point to those witnesses. I very much appreciate
13 the opportunity to speak before the Commission.

14 CHAIRPERSON KRESS: Thank you.

15 Who would like to -- oh, I'm sorry. Did
16 you want to? Who would like to testify next? Is
17 there an order? I have a list here, a witness list,
18 that has: Henry Moses; John Boardman, who did
19 testify. I'm not sure. Next you have -- I think
20 you have the same list because you sent it to me.
21 So do you want me to follow this list or what is
22 your preference?

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

25 CHAIRPERSON KRESS: All right. And
26 please feel free to have a couple of you -- I assume

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1 you are going to be testifying on behalf of the
2 Committee of 100?

3 MS. McCARTHY: Yes, as well.

4 CHAIRPERSON KRESS: For time frame
5 because the organization gets longer, I just wanted
6 to --

7 MS. McCARTHY: Correct. And, actually,
8 I have conceded time by Terry Lynch.

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

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

14 REV. HAGLER: Sure.

15 CHAIRPERSON KRESS: Okay. Go ahead and
16 identify yourself.

17 REV. HAGLER: I am Rev. Raylan Scott
18 Hagler. I am Director of the Community Leadership
19 Council, which is a group of clergy, community
20 activists, average working folk, residents of the
21 city who are very concerned about the responsible
22 downtown development.

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

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1 I'm also Pastor of Plymouth
2 Congregational United Church of Christ, a
3 congregation that was established in this city in
4 1881, a congregation that was originally established
5 at 17th and P and were moved out because of
6 development issues in the city to our present
7 location. So we're concerned. We have a long
8 history here.

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

19 When people stand up and talk about that
20 mixed "Well, affordable housing was appropriate in
21 the '80s but is not appropriate now," when is the
22 average working people not appropriate to occupy the
23 city in which they work, in which they have
24 historically lived?

25 That is what we're saying. We're saying
26 right now that average working people are out of

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1 vogue. Average working people don't have a place in
2 Washington, D.C. That is what is being felt all
3 over the city at this time. And clearly this
4 project and the way it's been scaled back really
5 contributes to that perception more than anything
6 else.

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

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

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1 though by measurement they're within the boundary.
2 That is ridiculous.

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

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

14 That's where we are. Thank you.

15 CHAIRPERSON KRESS: Thank you.

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

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

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1 the flaw with the ANC.

2 I mean, clearly, yes, it is meant as
3 local-level engagement and local-level
4 decision-making. But the reality is that masses of
5 people by the very structure of it, the very nature
6 by which it operates get left out of the process.

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

9 CHAIRPERSON KRESS: Okay. Any others?

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

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

18 COMMISSIONER HOOD: Let me finish,
19 Reverend.

20 If you have a group of people that take
21 the ANCs and I think commissioners who volunteer and
22 are elected in this city and they spend their time
23 volunteering, not paid, listen to groups of people
24 when they come in with legitimate concerns. And I'm
25 not saying that that does not happen, but in a lot
26 of cases, it doesn't happen.

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

4 COMMISSIONER HOOD: No.

5 REV. HAGLER: -- I'm not elected either.
6 I'm elected by my congregation. And I have a
7 responsibility when something comes up in my
8 congregation to do the type of outreach that engages
9 people in the processes that we can move forward.
10 Very often that does not take place, and you know
11 that very well. And that is a reality that takes
12 place.

13 And clearly also when you come into
14 areas that are changing, they really tend to be a
15 chasm between those who are well-heeled and those
16 who are average working folks and those who are
17 poor.

18 COMMISSIONER HOOD: One other question:
19 Where is your church located?

20 REV. HAGLER: My church is located at
21 North Capitol and Riggs Road.

22 COMMISSIONER HOOD: Plymouth?

23 REV. HAGLER: Yes, sir.

24 CHAIRPERSON KRESS: Thank you. Any
25 other questions?

26 (No response.)

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1 CHAIRPERSON KRESS: Cross-examination?

2 MR. GLASGOW: None.

3 CHAIRPERSON KRESS: Thank you for
4 testifying.

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

9 MS. MCCARTHY: Right, but I am actually
10 testifying for Mr. Boardman. I was his expert
11 witness.

12 CHAIRPERSON KRESS: Well, you could say
13 what you want to say. I mean, as long as you are
14 representing the Committee of 100 in the downtown
15 congregation, that is ten minutes. So what you say
16 is --

17 MS. MCCARTHY: I am just a little
18 confused because Mr. Parsons had offered Mr.
19 Boardman an hour to explain his position, and Mr.
20 Boardman said I was the person who had come here to
21 explain their position and that was the basis on
22 which I was testifying.

23 COMMISSIONER PARSONS: I certainly
24 didn't mean to offer you an hour.

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

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

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

7 Good evening, Madam Chair and members of
8 the Zoning Commission. For the record, my name is
9 Ellen McCarthy. I am a professional planner with a
10 Master's degree in city planning from Harvard
11 University and over 25 years of experience in
12 planning. I am currently Vice Chairperson of the
13 Committee of 100 on the Federal City and Co-chair of
14 its Planning and Zoning Subcommittee.

15 The Board of Trustees of the Committee
16 of 100 voted at its May 13th, 1999 meeting to adopt
17 a resolution opposing the modification of the
18 project before you this evening.

19 Tonight I would like to review with you
20 why this request for planned unit development
21 modification, sometimes identified by the applicant
22 as second-stage processing of a previous first-stage
23 application, should be summarily denied. And I
24 would have argued this as a preliminary matter when
25 we asked for party status because it really should
26 have been a preliminary matter, but I'm going to

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1 have to deal with it now in my substantive
2 testimony.

3 I will be brief because the flaws in the
4 proposed modification are so clear that a lengthy
5 discussion of planning considerations and weaknesses
6 in the application as a whole would be
7 inappropriate.

8 But there are many reasons to reject
9 this application. The major one is this application
10 is not a PUD modification. The zoning regulations,
11 unfortunately, do not contain a definition of a PUD
12 modification. However, as you know, when a term is
13 not specifically defined in the regulations, the
14 Webster's dictionary definition governs.

15 Modification according to Webster's is
16 "the act of modifying or state of being modified,
17 specifically limitation or qualification or a
18 partial alteration." And modifying, in turn, is
19 defined as "to reduce an extent or degree, to
20 moderate, to change somewhat the form or qualities
21 of as to modify the terms of a contract."

22 It is quite clear the proposal before
23 you today is not a partial alteration, nor is it in
24 any way a reduction in extent or degree or a
25 limitation. As you can see from the table that we
26 prepared, the only characteristic which remains the

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1 same from the initial project is the height.

2 Every other characteristic is different:
3 the use; the gross floor area; the density, the
4 permitted PUD density; the design; the parking; the
5 underlying zoning; the lot occupancy; the amenities.
6 The height is the same. The ownership is different.
7 That's it. How can you possibly consider that a
8 modification of a previously approved PUD,
9 particularly under your requirements?

10 As such, this is a gross distortion of
11 the regulations to bring this here in this fashion.
12 In fact, I mean, it's really a joke. It's an insult
13 to the Zoning Commission. Only the most cynical of
14 zoning practitioners would dream of being able to
15 get away with this.

16 Clearly the applicant is attempting to
17 subvert the changes which have been adopted by this
18 Commission both in the underlying zoning on the site
19 and the regulations governing the PUD process,
20 particularly in terms of maximum density and in the
21 provision of amenities. As such, the Commission
22 should simply deny this request for a modification
23 and require the applicant to return with a new
24 application which addresses the applicable
25 regulations.

26 When Mr. Sher was talking today, I was

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1 thinking of that song I can't remember all the words
2 of, but it's "There's a change in weather and a
3 change in something else, and there has been a
4 change in me." Mr. Sher said at Page 22, "There's a
5 change in use. There's a change in the
6 comprehensive plan. There's been a change in
7 neighborhood conditions on 12th Street."

8 In fact, Mr. Sher wants you to embrace a
9 whole slew of changes. The only change that he
10 doesn't or that the applicant doesn't want to
11 embrace is the fact that in the ten years in the
12 five times that this plan has been extended, the
13 underlying zoning was changed. There is no HR
14 overlay anymore.

15 There is the downtown development
16 district. And if this PUD were to expire and this
17 applicant would have to come back to you with a new
18 PUD application, which is what we feel is the
19 appropriate way to proceed, there would be a
20 requirement of 3.5 FAR of housing units on this
21 site.

22 Now, once upon a time, the requirement
23 of housing units on site and the possibility of
24 doing a combined lot was considered far-fetched and
25 impossible, but I believe you heard from Mr. Patton
26 tonight. I have been serving on the group that he

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1 referenced in his submission as a joint committee
2 with the developers and the housing activists to
3 being to look for common group.

4 And there are two things that we have
5 agreed upon that are quite relevant to your
6 consideration tonight. One of them is that for a
7 land price of \$26 per FAR foot, which is the
8 purchase price from FDIC of this property, housing
9 is a viable option into downtown.

10 The second thing that we have agreed on,
11 the developers and the housing activists, -- and
12 Lord knows in the past, we didn't agree on very many
13 things -- is that there are projects, such as one
14 being proposed by Sandy Wilkes in Chinatown, which
15 are asking for contributions of housing in combined
16 lots.

17 And we have indicated our willingness on
18 projects south of Massachusetts Avenue to provide
19 support before the Zoning Commission, perhaps some
20 flexibility in how the housing priority areas are
21 structured as long as we keep south of Mass. south
22 of Mass. and north of Mass. north of Mass.

23 At any rate, also, at McPherson Square
24 the United Mine Workers Building is proceeding ahead
25 with housing. So there are now opportunities to
26 combine lots and to send housing which never existed

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1 before. In other words, it would be realistic to
2 develop this project as a matter of right and still
3 be able to achieve a hotel on this site if we
4 considered that to be a worthwhile use.

5 So there is no justification for
6 proceeding ahead with this as a PUD modification, as
7 opposed to requiring a new application. And you
8 have got to recognize that the choice that you make
9 in these proceedings will set a most dangerous
10 precedent.

11 As you know well, there are numerous
12 projects out there, what Mr. Franklin called
13 lingering PUDs at the hearing where you agreed to
14 extend this PUD for the fifth time.

15 If you permit this applicant to come
16 back to you with a totally new PUD wolf in
17 modification sheep's clothing, how can you reject
18 any of the remaining projects which are likely to
19 come back to you, no matter what form they take?

20 This was an office building. It has
21 become a hotel. Who knows what all the rest of
22 those office buildings that haven't had a market
23 that haven't been able to find financing that
24 haven't been able to go forward will come back to
25 you as?

26 But the point is: As the Zoning

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1 Commission, you made two decisions since this PUD
2 was enacted. You decided in 1991 to adopt the
3 downtown development district regulations.

4 You decided in 1996 to adopt new PUD
5 regulations, which would have permitted a C(3)(c)
6 site, such as this one, to have a maximum on-site
7 density of 8.0, maximum. In fact, if this project
8 were proceeding as a matter-of-right project on the
9 existing zoning when it began, it could have gone to
10 8.5 FAR as a matter of right denser than it could as
11 a PUD now under the guidelines that you adopted in
12 1996.

13 The dangerous precedent, however, goes
14 far beyond the currently approved PUDs. Approving
15 this application says to all land speculators that
16 obtaining a PUD for their property will make them
17 immune from subsequent rezoning because, indeed,
18 that is what the applicant is arguing for tonight.

19 The zoning rules have changed. And the
20 applicant doesn't like the changes. So it's asking
21 you to suspend reality and pretend with them that
22 there still is an HR overlay, that the downtown
23 development district doesn't exist and hasn't
24 imposed a housing requirement on this site, that
25 PUDs have no maximum density requirements, and that
26 office buildings are really hotels.

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1 If the zoning regulations intended sites
2 or projects to be permanently exempt from all
3 subsequent changes in text or maps, it would not
4 have created the entire doctrine of nonconformity.

5 The underlying concept of nonconformity
6 in the zoning regulations is that when the
7 regulations change, they have an immediate effect.
8 They go ahead and they apply to every property, no
9 matter when that property was created, no matter
10 what the rules were at the time, and that while
11 you're not permitted to unconstitutionally take that
12 property by saying to that person, "You've got to
13 close down this use now because it's now a
14 nonconforming use," the zoning regulations have a
15 clear presumption that within the realm of not
16 unconstitutionally taking sites which have uses or
17 structures which do not conform to the current
18 zoning are to wither away in the words of a famous
19 piece of case law that governs nonconformity.

20 In other words, your regulations say
21 they aren't permitted to enlarge or extend any uses
22 or structures. They can't change to another use
23 unless it's at least equal to or more conforming
24 than the existing units. All of these things are
25 designed so that the new regulations that you put
26 into place will gradually be adhered to as it

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1 becomes less and less feasible for that use to be
2 continued.

3 Chapter 20 of the zoning regulations,
4 which governs nonconformity, specifically provides
5 that while property owners should not be deprived of
6 a lawful use, which they are actively currently
7 pursuing on their site, if they cease to use the
8 property in that way for three years, they abandon
9 any right to that use.

10 If a nonconforming structure is
11 substantially damaged, it can't be reconstructed.
12 No structures or properties are immune from the
13 zoning laws. That's why the regulations provide
14 that if a PUD is terminated, it reverts back to the
15 matter-of-right zoning that wasn't on the site.

16 So while it's true that the specific
17 language of the regulation provides, as I'm sure Mr.
18 Glasgow will remind you, that it reverts to the
19 original zoning, the original zoning is now gone.

20 There is no HR overlay anymore. So we
21 could not revert back to that original zoning. It
22 would revert to the zoning which currently applies
23 to the site, which is, as the applicant states,
24 DDC(3)(c).

25 CHAIRPERSON KRESS: Okay. Your time has
26 run out. Can you wrap this up and hopefully be able

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1 to give us a copy of your testimony?

2 MS. McCARTHY: Well, unfortunately it's
3 not written in a format that's easy to just give it
4 to you, but --

5 CHAIRPERSON KRESS: But here is what we
6 will do, I will leave the record open because I
7 think it is very important we have your full
8 testimony.

9 MS. McCARTHY: Okay. I can wrap it up,
10 and I can send you a more fully written version.

11 CHAIRPERSON KRESS: Thank you.

12 MS. McCARTHY: The notice is flawed on
13 this project not only in the ways that you have
14 heard already of having left out some important
15 properties, but the density which you advertise for
16 this project, 10.5, exceeds that which is permitted
17 under your current laws.

18 You should decide to exercise Section
19 2410.2 to require conformance with the new PUD
20 guidelines because you know you have that option.
21 And 2410.2 says, "A planned unit development that
22 has already received preliminary approval or for
23 which an application was filed before the effective
24 date of this chapter may continue to be processed to
25 completion in accordance with the regulations in
26 effect at the time of filing or may be processed in

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1 accordance with the revised chapter at the option of
2 the applicant with the approval of the Zoning
3 Commission."

4 So I know Mr. Glasgow will argue that he
5 has been grandfathered in, but you have the right to
6 determine whether the density which you considered
7 -- and, remember, back in 1996, when you looked at
8 C(3)(c), the original PUD guidelines would have
9 limited that to only a maximum of 7.0. But you
10 recognized that since those were largely on the
11 fringe of downtown, you would increase the maximum
12 density guidelines as they existed in the zoning
13 regulations to eight.

14 You specifically considered what was an
15 appropriate density for C(3)(c). And you said
16 maximum density for PUDs under C(3)(c) ought to be
17 8, not 10.5, which is what the applicant has in
18 front of you.

19 Also, this project does not meet the
20 requirements of 24.8.8 or 24.8.3, which says
21 specifically that a second-stage PUD has to be
22 consistent with all of the requirements of the
23 first-stage PUD.

24 The Zoning Commission shall review the
25 application. If the Commission determines that the
26 application complies with all of the requirements of

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1 the first-stage approval. It shall schedule a
2 public hearing on the second stage.

3 It is the intention of the Commission
4 that any second-stage application that is
5 substantially in accordance with the elements,
6 guidelines, and conditions of the first-stage
7 approval shall be granted a hearing. Look at my
8 chart and tell me this is substantially in
9 accordance with the elements, guidelines, and
10 conditions of the so-called first-stage PUD that was
11 approved.

12 In terms of amenities, you have not
13 heard word one about why a hotel cannot be developed
14 on this site as a matter of right. Did you hear a
15 reason why without the additional 1.2 FAR that is
16 being requested in this application, this project
17 would not be able to proceed? I didn't.

18 And they admitted that they purchased
19 this property at an extremely favorable price, but
20 the applicant has the burden of proof to make this
21 case to you. And they have not.

22 Did you hear any justification for doing
23 this as a modification and not as a completely new
24 PUD? I didn't. And I didn't find it in their
25 application either. They haven't even made a prima
26 facie case.

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1 Steve says that the major amenity of
2 this project is that you're getting a hotel. Guess
3 what? You're getting 17 hotels. There are 17
4 hotels that are either just opened, in the planning
5 process, or in process before you already, 17
6 hotels.

7 And some of them, like the project right
8 across 9th Street from the new Convention Center
9 site, like the project at the Marriott Renaissance
10 that's filling of the last hole in Tech World and
11 others --

12 CHAIRPERSON KRESS: You're over, way,
13 way over.

14 MS. MCCARTHY: Right. Those are, in
15 fact, immediately adjacent to the Convention Center.
16 So you don't need a PUD in order to get this major
17 amenity that Mr. Sher is talking about, the hotel.

18 The last major point that I wanted to
19 make was about this comprehensive plan Amendments
20 Act of 1998 that they have been waving in front of
21 you and saying, "Well, although they're not
22 consistent with the comp plan as it stands now
23 because the comp plan now says that there's a mixed
24 use requirement on this site," they will be
25 consistent when you get around to enacting a
26 consistency, the only consistency project to take

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1 off the residential requirement on this site.

2 Those were comprehensive plan amendments
3 that were inserted at the 11th hour to the council
4 after all of the public hearings that have been
5 made, after the recommendations had been made by the
6 Office of Planning.

7 There was, as you probably saw in the
8 process, I'd say, a small-scale scandal about those
9 changes in land use that sneaked in, eliminating
10 housing requirements for the most part to get hotels
11 built around the Convention Center.

12 And we have what we consider to be a
13 commitment from the mayor that when the new planning
14 director comes, before he goes forward with the
15 changes in the way of zoning consistency to you,
16 that he will have the planning director reexamine
17 those comp plan amendments and, if necessary, submit
18 proposed new changes to the council which the
19 council in a deal with the mayor before he was
20 elected said they would be willing to entertain.

21 CHAIRPERSON KRESS: I would just point
22 out your testimony was over 15 minutes. And that is
23 also what we give parties. And so you basically
24 have had the equivalent of a party testimony.

25 MS. McCARTHY: Thank you very much.

26 CHAIRPERSON KRESS: With that, I would

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1 like to ask for questions.

2 COMMISSIONER HOOD: Madam Chair, I just
3 had a question for Ms. McCarthy. If this project
4 came as a new PUD, everything that we see here with
5 the modification as a new PUD, would the Committee
6 of 100 have any opposition -- I guess you're
7 testifying on behalf of the committee.

8 MS. MCCARTHY: Yes.

9 COMMISSIONER HOOD: Would they have any
10 opposition of the PUD?

11 MS. MCCARTHY: If this came before you
12 as a new PUD satisfying the 3.5 FAR housing
13 requirement on the site, which, incidentally, is 90
14 units, if it came to you as a matter of right, there
15 would be 90 units in this picture, not 25, not even
16 60, but more than you would get in the amenities
17 package now, if they came and they were satisfying
18 the matter of right requirements.

19 And, you know, matter of right, they
20 could go up to 10 or 10.5 on this site. So there
21 would be no need for a PUD, but should they choose
22 to do it as a PUD, we would be here testifying in
23 support of this project, I suspect, depending on
24 whether the issue of just how many hotel rooms do we
25 need in this city.

26 We would certainly hope the city at some

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1 point would do an economic study and provide some
2 guidance to you because you're going to be just
3 overwhelmed, near as I can tell, with requests for
4 PUD modifications and with new applications for
5 zoning changes to increase the number of hotels
6 around the Convention Center.

7 COMMISSIONER HOOD: Since the record is
8 going to be kept open, could you submit your
9 testimony in writing, please?

10 MS. MCCARTHY: Thank you.

11 COMMISSIONER HOOD: Thank you.

12 CHAIRPERSON KRESS: Any other questions?

13 (No response.)

14 CHAIRPERSON KRESS: Cross-examination?

15 MR. GLASGOW: We will save it all for
16 rebuttal.

17 CHAIRPERSON KRESS: All right. May I
18 ask: How many people are left to testify? We had
19 tentatively wanted to break at 11:00. But if we are
20 almost done, we might go on. So how many other
21 people? Obviously you're sitting there. So you're
22 one. How many other people wish to testify? That's
23 it? Oh. Well, then let's go ahead. We can
24 probably wrap it up this evening.

25 Please introduce yourself.

26 MS. SOLOMON: Thank you. Good evening,

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1 Madam Chair and members of the Commission. My name
2 is Beth Solomon. I reside at 440 M Street,
3 Northwest.

4 I think that Ellen McCarthy has really
5 gone over the details of the zoning regulations and
6 problems with this application better than I could
7 ever do, but I would like to give you a little bit
8 of perspective from the community, at least the way
9 I see it.

10 I live in ANC 2C, although I used to
11 live in ANC 2F and I was a commissioner in ANC 2F
12 from 1994 to 1996. I am here this evening I think
13 sort of from the same perspective sort of in a way
14 that you're here.

15 I'm a volunteer. And I am here because
16 I think there has to be a balance between private
17 interests and public interests. And I am afraid
18 that this application really tramples on the public
19 interest and it is way out of balance. And that is
20 the basis.

21 From the community's perspective, we
22 agree that this sets a terrible precedent. You
23 know, our community has been held hostage for so
24 many years, not just by this PUD but by many others,
25 whose purpose was to encourage development in
26 certain areas and certain kind of development, but,

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1 in fact, what it has done is stopped a lot of
2 development because, as in this PUD, it is held
3 hostage, it is extended for years and years and
4 years. And the development doesn't happen.

5 What you would do by approving this is
6 just to encourage that and to say to everybody:
7 This is the way to go. You can get around zoning
8 requirements, and you can get more and more
9 relaxation of the law by tieing up this process,
10 tieing up this land, locking in blight and these
11 other problems that the laws are supposed to
12 address.

13 I would also like to talk about the
14 housing amenity, which is of great concern to me.
15 When this was proposed, it was 60 units of housing.
16 It is now down to 25. The current zoning, as Ellen
17 testified, would be 90 units. Clearly the public
18 benefit here is going downhill fast.

19 Also, it is a clear benefit to the
20 developer to develop 25 units, rather than 60 or 90.
21 It is more profitable and, again, a public interest
22 in terms of sort of broader interests.

23 Who can live in this community? I think
24 it is suffering. These units, as it was described
25 in the testimony, have very little accessibility in
26 terms of economics and in terms of the actual

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1 physical accessibility, which has to do with the
2 makeup of our neighborhoods.

3 I would argue that the way the
4 neighborhood is growing, despite some of the other
5 testimony, what we need is more attention to that
6 balance of affordable and market rates because
7 clearly the pressure is for market rate housing.
8 And I think you need to consider that very
9 carefully.

10 I would say I don't have anything
11 against building a hotel there or a development in
12 general there. That's not my issue, but there are
13 real problems.

14 This looks like corporate welfare for
15 certain special interests and a relaxation of the
16 law for a very specific development, whose public
17 benefit I would say is minimal.

18 These types of PUDs are holding us
19 hostage and have been for a long time. I believe
20 the applicant is asking you for favoritism towards
21 their single project.

22 And, lastly, I think the public interest
23 is being abused here. And, on those grounds, I
24 would ask the Commission to deny the application.

25 CHAIRPERSON KRESS: Thank you.

26 Questions, colleagues?

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1 (No response.)

2 CHAIRPERSON KRESS: Any
3 cross-examination?

4 MR. GLASGOW: No cross.

5 CHAIRPERSON KRESS: Thank you very much.

6 MS. SOLOMON: Thank you.

7 CHAIRPERSON KRESS: I really appreciate
8 your testifying this evening.

9 MS. SOLOMON: Thanks.

10 CHAIRPERSON KRESS: With that, we would
11 ask for applicant's closing remarks and rebuttal.

12 MR. GLASGOW: We will try to be very
13 brief. I guess, in part, what we can do is we can
14 submit rebuttal for the record if you would like
15 that.

16 CHAIRPERSON KRESS: We are going to be
17 leaving the record open. And I think that would be
18 appropriate to help keep things this evening a
19 little tighter, would be to respond in writing.

20 MR. GLASGOW: We will put our rebuttal
21 in. We will submit the rebuttal for the record.
22 And we would like to have the opportunity to submit
23 closing argument for the record.

24 CHAIRPERSON KRESS: Oh, sure. You can
25 do it now if you want to. Is that all right with
26 you all?

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1 MR. GLASGOW: Well, it's at the option
2 of the Commission. We will do it either way. I
3 mean, I am prepared to submit the orders into the
4 record that show plainly how the Commission over fa
5 period and recently within '98 and '99 has approved
6 as modifications several applications similar to
7 ours.

8 We can address the housing linkage
9 issue. We can address a number of the issues that
10 have been raised. We can do it now or we can do it
11 for the record. We'll do it either way.

12 CHAIRPERSON KRESS: The only thing I
13 would ask -- I mean, is that all right with you or
14 would you rather hear it? I would only ask if we do
15 go this direction, that the Hotel and Restaurant
16 Employees Local 25 be copied with the information
17 and also be allowed to make any comments on it.

18 MR. GLASGOW: They're not parties, Madam
19 Chair.

20 CHAIRPERSON KRESS: No, they're not
21 parties. I'm asking as a favor. And I'm asking my
22 colleagues, actually.

23 MR. GLASGOW: Okay.

24 CHAIRPERSON KRESS: I wasn't asking you.
25 I was asking my colleagues that if we did do this
26 shortened version, that they have an opportunity to

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1 have that rebuttal because they won't hear it here
2 this evening.

3 COMMISSIONER HOOD: Right. I think
4 that's only fair, Madam Chair.

5 MR. GLASGOW: Then I guess from that
6 standpoint, we would rather close out that part of
7 the hearing tonight because we see that that would
8 put us at a disadvantage.

9 There are a coupler of things that we
10 can certainly submit that they can either comment on
11 or not. If you look at your rules, they don't have
12 surrebuttal to our rebuttal.

13 CHAIRPERSON KRESS: Oh, I wasn't saying
14 they could rebut. I was saying that you would give
15 them your rebuttal arguments.

16 COMMISSIONER FRANKLIN: Of course, they
17 will get those with the transcript and the record.
18 The record is available to anyone, is it not?

19 MR. GLASGOW: Yes, it is.

20 COMMISSIONER FRANKLIN: I know it's
21 getting to the point where we may lose our reporter,
22 and I don't want to -- he has always given us good
23 service. I don't want to oppress him. We heard a
24 little bit about the modification issue. Are you
25 going to just repeat what you've told us or is there
26 something new that you would like to say?

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1 MR. GLASGOW: I think with respect to
2 the modification issue, what I was going to do was
3 submit for the record some of the zoning commission
4 orders and have one brief discussion referencing
5 Paragraph Number 3 of Zoning Commission Order Number
6 855, where Corporation Counsel addressed that issue,
7 and then state it in contrast to the definition that
8 was used in saying that there are no standards for a
9 modification.

10 The Zoning Commission in that case found
11 and said that "The Zoning Commission determined that
12 the zoning regulations have criteria for determining
13 whether an application is appropriate as a
14 modification, that the process follows the notice
15 given with these applications with proffer, and that
16 the proceeding with the proposed modification
17 application as advertised would not cause any
18 prejudice." That's what was found in the East Bank
19 Lighting case, where we had a 30,000 square feet of
20 land area and added a hotel.

21 We also had the Grammaracy Inn case, --
22 and I will submit copies of these for the record --
23 where the original project was for, I believe it
24 was, an apartment building and an office building
25 and it was modified to California University was one
26 applicant and a hotel. And those were on separate

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1 lots, two buildings on separate lots, rather than
2 one building on the lot, just different uses. That
3 was approved in December 14, 1998.

4 The 2200 M Street was approved in --

5 COMMISSIONER CLARENS: Madam Chair, if I
6 could just interrupt for a moment? Could you give
7 me an example of something that you would not regard
8 as a modification?

9 MR. GLASGOW: For a PUD?

10 COMMISSIONER CLARENS: Yes.

11 MR. GLASGOW: I think part of the issue
12 that the Commission would be having to deal with
13 there is whether or not -- for instance, a PUD can
14 cross a street. And if you were modifying a PUD
15 crossing street, that may be an issue because if you
16 look in your regulations, you can have PUDs on both
17 sides of a street. I'm trying to think if there are
18 any other examples that I can think of offhand.

19 I was thinking about a series of
20 different things I wanted to address quickly here
21 with the condition on rebuttal.

22 COMMISSIONER CLARENS: Well, Madam
23 Chairperson, I think we'll be better served if you
24 would alter your rebuttal in writing as to the
25 issues raised by the opposition.

26 MR. GLASGOW: We can do that.

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1 COMMISSIONER CLARENS: I would suggest
2 that you do it in writing, and I also would suggest
3 that this will then become part of the record and
4 that we should not confuse the issues.

5 We already ruled on the issue of party
6 status by Local 25, and I don't think that we need
7 to revisit that issue, in spite of the fact that I
8 did not vote for that motion. But I think that we
9 should not go there.

10 It becomes part of the record. They can
11 read it, and we will not get any further information
12 from them anyway.

13 CHAIRPERSON KRESS: No.

14 COMMISSIONER CLARENS: So there's
15 nothing to be served by that.

16 MR. GLASGOW: The one issue that I was
17 thinking about, Commissioner Clarens, is with
18 respect to modification, in effect, the Commission
19 has already ruled that this is appropriate to
20 proceed forward with a hearing for modification.

21 COMMISSIONER CLARENS: We did not have a
22 discussion on this issue as it has been raised. We
23 had a discussion, but we did --

24 MR. GLASGOW: Right. It was a set-down.
25 It was a --

26 COMMISSIONER CLARENS: I just said that.

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1 I know. That's right. But now we've heard other
2 things. Okay? It seems to me we should hear
3 something from you.

4 MR. GLASGOW: All right. We will be
5 addressing that. Obviously we will also address the
6 comprehensive plan land use map amendment which has
7 occurred and also in conjunction with the
8 modification address the issue that if we would be
9 sent back to square one at this point in time, it is
10 highly unlikely that we would come forward with a
11 hotel. We would proceed with the office PUD that we
12 have.

13 So those are considerations that the
14 Commission has to take into consideration when
15 telling an applicant who has an office planned unit
16 development because I am working on another one. In
17 fact, we mentioned one the other week that the
18 Commission indicated they were very interested to
19 hear about, the modification or potential
20 modification of a planned unit development to change
21 an office PUD at 13th and L to a residential
22 project, which we recently have taken to the ANC
23 because a "No" answer on this modification is a "No"
24 answer on that, too.

25 And that has serious ramifications to
26 applicants who are looking at trying to restructure

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1 the planned unit developments that the Commission is
2 saying: Get these projects moving.

3 And then if they can't be done as
4 modifications, that is a serious impediment to
5 applicants proceeding forward on those, particularly
6 when they have come to a hearing and finished a
7 hearing, as we have tonight. And then we are
8 re-raising the modification issue at the tail end.
9 That's very disconcerting from our standpoint.

10 I mean, I understand if the Commission
11 desires, obviously we will address the issue. But
12 it has a lot of ramifications, particularly in the
13 context of the cases that I just said, where there
14 was at 1666 Rhode Island Avenue decided in December
15 of '98 with an apartment building and an office
16 building changed to University of California usage
17 and a -- what was it, hotel? -- a hotel. And that
18 was okay as a modification and this is not.

19 CHAIRPERSON KRESS: Well, if you can
20 just address that? And I think having it in writing
21 would be helpful.

22 COMMISSIONER FRANKLIN: Well, let me
23 suggest this, Mr. Glasgow: A common law, as it
24 were, is currently being developed by the Commission
25 on this issue. And it would be helpful to me at
26 least to have you look at what you think we have in

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1 these individual cases been doing that creates
2 basically the law of what a modification is.

3 MR. GLASGOW: Yes, sir. That's what I
4 was looking at. I was going to be building on a
5 series of precedents and saying: These precedents
6 are established, not appealed cases. They're final
7 orders.

8 If those are accepted modifications and
9 they are and there is a series of them, -- we have
10 about four of them -- then this is an accepted
11 modification.

12 COMMISSIONER FRANKLIN: But in so doing,
13 it would be helpful to have some guidance as to when
14 you fall off the edge of the cliff. What would
15 constitute something that is not a modification?
16 What are the principles that would govern that?

17 CHAIRPERSON KRESS: That would be a
18 question that we are asking. I am going to ask you
19 for about four or five things at the end of this
20 hearing. One of them, that is a question that we
21 are asking you to think about and respond to.

22 MR. GLASGOW: All right.

23 COMMISSIONER HOOD: Madam Chair, if I
24 could just add?

25 MS. MCCARTHY: Does that include cases
26 where the underlying zoning changed?

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1 CHAIRPERSON KRESS: You're not in order,
2 but hopefully --

3 COMMISSIONER HOOD: Madam Chair, I'm
4 just a little unclear on something. Maybe my
5 colleagues can help me. Did we decide on a
6 modification at a set-down hearing?

7 CHAIRPERSON KRESS: Yes, we did. And we
8 discussed it, too. I brought up the question. I
9 remember very distinctly the discussion. We need to
10 go back and revisit that --

11 COMMISSIONER HOOD: Right, revisit that.

12 CHAIRPERSON KRESS: -- and remember and
13 read our record and remember what we spoke of.

14 MR. GLASGOW: Also, we had a report from
15 Richard Harps that addressed the issue of the --
16 I'll find it here. I just had it. Mr. Harps wrote
17 a report talking about the differential in the
18 valuation of properties and FARs between the time
19 that this PUD was originally approved and what the
20 basis would have been for an FAR value that would
21 have supported the amount of affordable housing at
22 that point in time and the differential between
23 converting that to a hotel FAR at this point in
24 time, which obviously is significantly less. So
25 there is significantly less that comes out of the
26 PUD process.

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1 CHAIRPERSON KRESS: So you are going to
2 be able to submit that to us either today or with a
3 rebuttal?

4 MR. GLASGOW: We will submit that in one
5 package, but also Mr. Fuller has addressed the
6 issue, too. That responds to the issue about: What
7 are the economics with respect to doing a hotel?
8 And we will submit that they are significantly less
9 attractive than they are for doing an office
10 building.

11 CHAIRPERSON KRESS: Anything else? The
12 thing I have also, in addition to what you have been
13 talking about, is Commissioner Clarens asked that
14 the reduced-size updated plans be submitted --

15 MR. GLASGOW: Right.

16 CHAIRPERSON KRESS: -- on the housing.
17 There has also been a request for you to take
18 another look at the landscaping and submit something
19 on that; also, for the record, to submit I say both
20 exterior light fixtures and the interior light
21 fixtures that might compose the lanterns should the
22 lanterns be approved.

23 MR. GLASGOW: Lantern?

24 CHAIRPERSON KRESS: I said lanterns.
25 You made a proffer.

26 MR. GLASGOW: Right.

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1 COMMISSIONER CLARENS: You might arrive
2 at that as an alternative to the Commission to make
3 that decision.

4 COMMISSIONER FRANKLIN: As I said, the
5 Commission may or may not go with the proffer.

6 MR. GLASGOW: Yes, sir.

7 CHAIRPERSON KRESS: Okay?

8 MR. GLASGOW: All right.

9 CHAIRPERSON KRESS: And that was
10 everything on my list other than the things you have
11 just spoken to. Did anyone else have anything?

12 COMMISSIONER CLARENS: Yes. I have
13 actually a question and perhaps a need for
14 clarification. In the rear elevation of the
15 building, there is an indication in the penthouse,
16 at the top of the penthouse, for a band of something
17 that is not identified that looks like metal siding
18 to me but might not be. This is on the rear
19 elevation of the -- I want to know what that is.

20 MR. CURTIS: That is a sloped roof
21 section to meet the one-to-one setback from the
22 edge. In the interior section, the ribbed area
23 shown on the penthouse is an area where the roof
24 slopes at a 45-degree angle to meet the one-to-one
25 setback requirements for the setback in the C shape
26 of the plan. So it will still allow the penthouse

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1 to have access from that area.

2 COMMISSIONER CLARENS: Metal roof?

3 MR. CURTIS: Yes, just a metal roof
4 painted to match the exterior, same color.

5 COMMISSIONER CLARENS: The same pewter?

6 MR. CURTIS: Yes. Well, no. This will
7 probably be in the pre-cast limestone color range.
8 The penthouse is in that color also, the neutral
9 beige.

10 COMMISSIONER CLARENS: Well, can you
11 give some thought to that? I don't like that. I
12 think a roof is a roof. If it is a wall, it is a
13 wall. But a wall should not be a roof, and a roof
14 should not be a wall. You need to make a
15 distinction between the two.

16 It looks to me like it is some sort of a
17 metal standing thing, roofing of some sort. Is that
18 what it is supposed to be?

19 MR. CURTIS: Yes. It is a sloped
20 section where the --

21 COMMISSIONER CLARENS: Yes, but it
22 doesn't happen in the front of the building. It
23 happens in the rear of the building.

24 MR. CURTIS: No, only on the rear
25 because it is where the elevators are located.

26 COMMISSIONER CLARENS: Yes. Well, maybe

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1 you need to give some thought to that and come up
2 with something in your final as part of the
3 agreement. I wanted also to elaborate a little bit
4 more on the landscape plan and ask you to think
5 thoroughly about how we can increase the landscape,
6 including what are restrictions, if any, on K Street
7 to adding more landscaping than the eight trees that
8 you have shown, whether there could be a planter or
9 there could be some greenery around the building and
10 along K Street.

11 I don't know what the regulations along
12 K Street are. And there are limitations to what you
13 can do, but I would like to see, rather than -- also
14 reconcile the planting and elevations to planting in
15 the plan. They're not reconciled.

16 The elevations show a number of trees of
17 different types in different locations. And it
18 seems to me that is not the same that are shown on
19 the plan that is shown on A1-06.

20 So those were my comments.

21 CHAIRPERSON KRESS: Thank you.

22 Is that all right, --

23 MR. GLASGOW: Yes.

24 CHAIRPERSON KRESS: -- that you bring
25 all of that information or submit all of that
26 information? Okay.

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1 With that, ladies and gentlemen, thank
2 you for your testimony and assistance in this
3 hearing. The record in this case will now be closed
4 except for information specifically requested by the
5 Commission. And I think we have gone over that both
6 for both the applicant and other individuals that we
7 have asked information.

8 Any special information of reports
9 specifically requested by the Commission should be
10 filed during the period ending on June 17th, 1999 in
11 Suite 210 of 441 Fourth Street, Northwest.

12 Any party to the case may file a written
13 response to any information or report filed after
14 the close of the hearing. Such responses should be
15 filed no later than seven days after June 17th,
16 which is June 24th.

17 Parties in this case are invited to
18 submit proposed findings of fact and conclusions of
19 law. Any party who submits proposed findings and
20 conclusions should do so by June 24th, 1999.

21 Parties are reminded that their findings
22 of fact should not include findings stating how
23 witnesses testified. The findings should be those
24 findings the party believes the Commission should
25 make based upon the testimony and other evidence in
26 the record.

1 Citation to exhibits and the transcript
2 are appropriate and encouraged. To assist parties
3 in the preparation of these findings of fact and
4 conclusions of law, a copy of the hearing transcript
5 will be available for review in the Office of Zoning
6 in about two weeks. Copies of the transcript may
7 also be purchased from the recording firm. When the
8 transcript is received, the Office of Zoning will
9 contact the parties.

10 After the record is closed, the
11 Commission will make a decision of this case at one
12 of its regular monthly meetings. These meetings are
13 generally held at 1:30 p.m. on the second Monday of
14 each month and are open to the public.

15 Any person who is interested in
16 following this case further may contact the staff to
17 determine whether this case is on the agenda of a
18 particular meeting.

19 You should also be aware that if the
20 Commission proposes to approve the application, the
21 proposed decision must be referred to the National
22 Capital Planning Commission for federal impact
23 review. The Zoning Commission will take final
24 action at a public meeting following receipt of NCPC
25 comments, after which a written order will be
26 published. I declare this hearing closed. Thank

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1 you all.

2 (Whereupon, the foregoing matter was
3 concluded at 11:27 p.m.)

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