

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

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IN THE MATTER OF: :
   
:
   
WATERFRONT 375 M STREET, LLC : Case No.
   
AND 425 M STREET, LLC : 02-38I
   
:
   
-----:

Thursday,
   
May 10, 2018

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

The Public Hearing of Case No. 02-38I by the District of Columbia Zoning Commission convened at 6:00 p.m. in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- MICHAEL G. TURNBULL, FAIA,
- Commissioner (AOC)
- PETER G. MAY, Commissioner (NPS)
- PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

MATT JESICK  
JOEL LAWSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

AARON ZIMMERMAN

The transcript constitutes the minutes from the Public Hearing held on May 10, 2018.

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

(6:34 p.m.)

CHAIRMAN HOOD: Okay, we're ready to get started.

Good evening, ladies and gentlemen. This is a continuation of a public hearing of the Zoning Commission for the District of Columbia, Zoning Commission Case Number 02-38I.

My name is Anthony Hood. We are located at Jerrily R. Kress Memorial Hearing Room. Joining me are Vice Chair Miller, Commissioner May, Commissioner Shapiro, and Commissioner Turnbull, and Vice Chair Miller.

We are also joined by the Office of Zoning Staff Ms. Sharon Schellin and also Planning Staff, soon to be joined by Mr. Lawson and Mr. Jesick; the District Department of Transportation, Mr. Zimmerman. We are also joined by the Office of Zoning Staff Ms. Sharon Schellin and also Office of Attorney General, Ms. Lovick.

Again, I'm going to ask that the record in this case, the opening statement, concur with the previous first part. I'm not going to read through all of this. Everything still applies but I will read some of the important points.

All persons wishing to testify before the Commission at this evening's hearing asked to register at the witness kiosk to my left and fill out two witness cards. These cards are located to my left on the table near the

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1 door. Upon coming forward to speak to the Commission, please  
2 give both cards to the reporter sitting to my right before  
3 taking a seat at the table.

4           The order of the service -- I mean, the order of  
5 the -- I must think I'm in church. But, anyway, the order  
6 of the hearing is we will start with persons in support,  
7 organizations -- did we do organizations already? --  
8 organizations and persons in support, organizations and  
9 persons in opposition, and we also hear from the party in  
10 opposition, rebuttal, and then we have closing by the  
11 applicant, in that order.

12           The decision of the Commission in this case must  
13 be based exclusively on the public record. The staff will  
14 be available throughout the hearing to discuss procedural  
15 questions.

16           Please turn off all electronic devices at this  
17 time so as not to disrupt these proceedings.

18           Again, I want to incorporate most of the opening  
19 statement from our first session of this hearing into this  
20 session as well.

21           Will all individuals -- and even if you took it  
22 the last time, if you could take it again today --  
23 individuals wishing to testify, please rise to take the oath.

24           Ms. Schellin, would you please administer the  
25 oath?

1 MS. SCHELLIN: Yes, please raise your right hand.  
2 (Witnesses sworn.)

3 CHAIRMAN HOOD: Okay, at this time the Commission  
4 will consider any preliminary matters.

5 Does the staff have any preliminary matters?

6 MS. SCHELLIN: None at this time.

7 CHAIRMAN HOOD: Okay, so we will call our first --  
8 is this our only person that we have in support? Stephen  
9 Hudson.

10 And I'm going to ask anyone else who is here who  
11 would like to testify as an organization or person in support  
12 if you would come forward at this time.

13 Okay. Okay, anyone else in support? All right,  
14 so we will let Mr. Hudson get settled. You can introduce  
15 yourself and you may begin.

16 Turn your mike on.

17 MR. HUDSON: I see. Hello. So, my name is  
18 Stephen Hudson. I'm a resident of Southwest D.C.

19 First of all, I would like to make a conciliatory  
20 tone, not only because it doesn't look like I'm a very  
21 popular person today but because, regardless of the outcome  
22 here, everyone sitting here is my neighbor. What I like  
23 about Southwest D.C. is that people are incredibly friendly  
24 and welcoming. And that's actually one of the reasons why  
25 I'm testifying today.

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1 I think high density basically -- or highering the  
2 density of the residential zoning here -- or rather, excuse  
3 me, changing it to residential zoning basically accomplishes  
4 two things.

5 I see firstly it's going to offer more retail  
6 amenities in our neighborhood. And, secondly, it's going to  
7 allow more people to live in the neighborhood. Six hundred  
8 more units, that is a lot and I understand sort of the  
9 trepidation there. That's also 600 units worth of people who  
10 I don't have to compete with for paying rent. And so I think  
11 that that's very important.

12 I find that to be a progressive perspective,  
13 actually, because there are a number of left-leaning  
14 economists, such as Paul Krugman and former Obama  
15 administration official Jason Furman that recognize the  
16 restrictive zoning laws that are driving a lot of people out  
17 of our northeastern cities.

18 I think that there are plenty of good reasons to  
19 be opposed to a building project, particularly if it pushes  
20 existing residents out or it has negative effect on the  
21 architectural character. In this case, since basically we  
22 are talking about mostly vacant lots, I think that neither  
23 of those two are applicable here.

24 And, lastly, I think it has a positive  
25 environmental effect, simply because you are building high

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1 density residential areas, which have numerous environmental  
2 advantages over single-family houses. And it's also in a  
3 transit-accessible zone. So I think that if we want to do  
4 things such as meet our Paris climate goals, then I think  
5 that this sort of zoning changes are necessary.

6           Once again, I certainly respect the opinions of  
7 my fellow Southwesterners and I yield the rest of my time.

8           CHAIRMAN HOOD: Thank you very much. Next?

9           MS. KRAMER: Good evening, Commissioners. I'm  
10 Frederica Kramer. I'm vice chair of the Near  
11 Southeast/Southwest Community Benefits Coordinating Council,  
12 or sometimes known as CBCC, which helps obtain community  
13 benefits in the context of redevelopment for the communities  
14 represented by ANC 6D.

15           CBCC has already submitted a letter of support for  
16 the community center promised as part of the modification to  
17 the first-stage PUD for 375 and 425 M Street that you're  
18 currently considering. We're very grateful for this vital  
19 addition and hope to participate directly as it reaches its  
20 full realization.

21           CBCC is also the only local organization whose  
22 explicit mission is to maintain social diversity and quality  
23 of life as our neighborhood redevelops. My comments tonight  
24 are addressed to aspects of the PUD that could serve that  
25 mission. They support and I hope amplify what ANC

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1 Commissioner Litsky testified to at the April 15th hearing.

2           As CBCC has written and testified to in many  
3 different venues, we are troubled that locally-owned  
4 community-serving retail has remained relatively elusive as  
5 4th Street is redeveloped. Thus, it's not fulfilling the  
6 prescriptions in the Southwest Area Plan that it should be  
7 a true community center.

8           We were grateful to have met with Forest City  
9 nearly two years ago to talk about neighborhood-serving  
10 retail that hoped would be part of the build-out of Eliot on  
11 4th Street. We specifically suggested replacement of our  
12 local bank, which, if it offered all services except for safe  
13 deposit boxes, would satisfy resident's need for a bank  
14 within walking distance but could also be provided in a  
15 smaller space with simpler construction requirements and,  
16 hence, less burden to a developer.

17           Other examples we suggested for smaller spaces --  
18 that is, under 1,200 square feet -- were a hair salon, pet  
19 store, bakery, coffee shop, all of which have become only  
20 more needed as our population, both pet and human, increases  
21 and we remain without a casual space to meet and eat that  
22 local residents, especially those that work at home, as they  
23 will, many of the residents in the buildings contemplated  
24 look for.

25           Other ideas that have been raised included a small

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1 post office. The current Half Street facility is going to  
2 be lost in the not too distant future. A stationery store,  
3 cards, flowers, et cetera, shoemaker, all of which we mostly  
4 travel to Capitol Hill or Virginia for.

5 We also talked about rent levels that would be  
6 sustainable by small business that would serve all residents  
7 of Southwest, and, in the process, support our mission for  
8 preserving the social diversity that our community holds  
9 dear. Some spaces at The Yards apparently had rented at  
10 below \$40 a square foot when we originally talked.

11 We noted also that commercial condominiums have  
12 been used in other places to stabilize rents over time.  
13 Considering the original cost of the properties and the  
14 revenue stream promised from the now-planned residential use,  
15 we would hope that some accommodations to serve locally-owned  
16 and desperately needed businesses could be made.

17 For similar reasons, we always hope developers  
18 push the limits of housing affordability beyond the minimum  
19 required by law. As density increases, the actual number of  
20 low and moderate income and many middle income households  
21 will become increasingly a smaller portion of the whole,  
22 straining the reality that Southwest's iconic social  
23 diversity will have survived redevelopment.

24 On a last note, on the community center,  
25 Commissioner Litsky spoke of the community's desire that the

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1 space be provided free to the community and that management  
2 be under the aegis of the community, not the landlord.

3           It's been mentioned that the space be insured  
4 through the life of the project. Funding for local  
5 organizations is always a struggle. Many of those likely  
6 users will have no spare cash beyond what they must put into  
7 staff and programming. The need for a common space will  
8 become more critical as the population doubles in the  
9 redevelopment of Southwest.

10           Increased density uses up open space and other  
11 public facilities on which the community relies, including  
12 our beautiful new library, won't support all the needs of the  
13 massive growth in our population. So we wholly endorse  
14 ensuring the long-term sustainability of the center for the  
15 community's use.

16           Commissioner Litsky properly testified that all  
17 benefits to the community need to be specified in writing and  
18 prior to approval of the PUD modifications. We agree and we  
19 thank you for your careful consideration of their merits.

20           Thanks very much.

21           CHAIRMAN HOOD: Okay, we want to thank you both.  
22 Let's see if we have any questions or comments up here.  
23 Anybody?

24           Okay, Ms. Shiker, do you have any cross?

25           MS. SHIKER: I do not.

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1 CHAIRMAN HOOD: Does the ANC have any questions  
2 or cross? And Waterfront Tower Condominium, do you have any  
3 questions or cross?

4 MS. GOODING: No.

5 CHAIRMAN HOOD: Okay, thank you both very much.  
6 We appreciate it.

7 Okay, so let's go through the Waterfront Tower  
8 party in opposition.

9 I didn't pronounce your name because I didn't want  
10 to mess it up. So I'm going to let you do it. I probably  
11 could get it. Let me see. Bouganim?

12 MS. BOUGANIM: Bouganim.

13 CHAIRMAN HOOD: Bouganim.

14 MS. BOUGANIM: Thank you.

15 CHAIRMAN HOOD: Okay, I was in the ballpark.

16 MS. BOUGANIM: Close enough. Thank you. You  
17 ready?

18 CHAIRMAN HOOD: If you all are ready, yes, we're  
19 ready.

20 MS. BOUGANIM: Okay. Thank you for granting  
21 Waterfront Tower, a party in opposition status in case 02-  
22 38I. I'm Hara Ann Bouganim, vice president of Waterfront  
23 Tower Condominium Board, introducing our presentation.

24 Our foundation, the foundation of our building,  
25 is 57 and a half feet from the northeast corner of 375 M,

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1 across a private street. Over the last seven months, we have  
2 been focusing on our concerns and all the DOC exhibits,  
3 reporting constantly to our Board and monthly to residents.  
4 Waterfront Tower President Leigha Gooding, about six weeks  
5 ago, assumed the lead in our effort. She will present the  
6 Board's concerns and summarize a draft MOA, of which you have  
7 a full copy. We hope this will clearly address our concerns.

8           We support our Southeast neighbors in their fights  
9 for a transportation study before PUD approval and for  
10 continued outdoor public space.

11           We thank DDOT, DC Office of Planning, ANC 6D and  
12 Gorove/Slade for informational meetings with us; DCOZ, for  
13 continuous assistance throughout the process; and our Board  
14 and residents for feedback, many of whom are here tonight.

15           We sincerely thank Forest City for four meetings,  
16 listening, and making changes to meet many of our concerns.

17           Dan Marriott is the expert consultant we have  
18 hired to assist us. You have his resume, which is Exhibit  
19 14-C, and his PowerPoint visuals, Exhibit 84. He will give  
20 his relevant qualifications himself and he will expand on our  
21 original concerns around traffic congestion, safety,  
22 security, and inclusion of Waterfront Tower in the dynamic  
23 town center plan.

24           As two of the four I.M. Pei Towers in Southwest,  
25 which were called, originally, Town Center East, we have been

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1 awarded status on the National Historic Register and as a  
2 D.C. historic landmark.

3 Dan Marriott will present the key issues and  
4 problems remaining. He will introduce our condo president,  
5 Leah Gooding, and guide our cross-examination.

6 Dr. Marriott.

7 CHAIRMAN HOOD: Let's stop the clock. Before you  
8 go further, let's deal with the expert status. Did we  
9 already decide that?

10 MS. BOUGANIM: No.

11 CHAIRMAN HOOD: Okay, and you are proffering him  
12 as an expert in transportation, correct?

13 MS. BOUGANIM: In a number of topics, not just  
14 transportation.

15 CHAIRMAN HOOD: Let me go up to his resume again.

16 MS. BOUGANIM: Yes, it's pretty extensive.

17 MS. SCHELLIN: What was the exhibit number again?

18 CHAIRMAN HOOD: 14-C, I believe.

19 MS. BOUGANIM: Yes, 14-C.

20 COMMISSIONER MAY: Mr. Chairman, so reviewing this  
21 resume again, there is a lot of good qualifications in there  
22 but the question is what is he being proffered for? Because  
23 some of it might be relevant, what is in the resume, and what  
24 is not.

25 So I think I kind of need to know is he being

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1 proffered as an expert in planning. Is he being proffered  
2 as an expert in landscape architecture?

3 I mean that's my quandary, Mr. Chairman.

4 CHAIRMAN HOOD: Okay. I would agree but I'm  
5 having slight technical difficulty. Okay, so you guys'  
6 computers are messing mine up, obviously. Okay, we can't  
7 open.

8 Does anybody have a hard copy?

9 MS. GOODING: Should I respond to the question?

10 CHAIRMAN HOOD: No we would -- actually, I would  
11 like to see it. I can go down to Commissioner May's. Did  
12 you get yours open? You got yours open, okay. Let's see.

13 MS. BOUGANIM: He was going to give that  
14 information as part of his presentation. It's in there on  
15 about page 4.

16 CHAIRMAN HOOD: Give us a moment, please.

17 So you are proffering as an expert in  
18 transportation, architecture, and what else?

19 MS. BOUGANIM: Landscaping.

20 MS. GOODING: Planning and landscaping -- planning  
21 and landscape architecture.

22 CHAIRMAN HOOD: So planning, landscape  
23 architecture, and transportation.

24 MS. GOODING: Yes, primarily the first two, the  
25 planning and the landscape architecture.

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1 CHAIRMAN HOOD: So you want planning and landscape  
2 architecture. So those are the two we'll look at.

3 MS. BOUGANIM: He's also an expert on the  
4 historical status of our building.

5 CHAIRMAN HOOD: His expertise is growing every  
6 time I ask a question. I'm just trying to figure out -- so  
7 when I'm looking at his resume, I want to see what is in  
8 there concrete. And we can do a voir dire process. We can  
9 do some questioning but I just want to know what do you want  
10 --

11 Let's try this again. What would you all like to  
12 proffer him as an expert in? Just name them for me.

13 MR. MARRIOTT: Would it be helpful if I explained?

14 CHAIRMAN HOOD: No, I'm going to get that first --  
15 or if you want to tell us, well you all tell us what do you  
16 all proffer him as an expert in?

17 MS. GOODING: I will answer. We are proffering  
18 him as an expert in planning, urban planning; landscape  
19 architecture; and historic preservation.

20 VICE CHAIR MILLER: I'm quite comfortable with all  
21 three of those.

22 CHAIRMAN HOOD: Okay. Any objections to those  
23 three?

24 VICE CHAIR MILLER: No.

25 CHAIRMAN HOOD: Okay, so we're going to do

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1 planning, landscape architecture, and historic preservation.

2 Any objections anyone?

3 VICE CHAIR MILLER: No.

4 CHAIRMAN HOOD: Okay, so we will give him expert  
5 status in those three.

6 Okay, so you all can restart the clock and you all  
7 can continue.

8 Hold on a second.

9 Did the applicant have a response to what we just  
10 did? Okay.

11 MS. SHIKER: Good evening. Christy Shiker  
12 representing the Applicant.

13 Those three areas we do not have any objection to.  
14 We would have objected to architecture or transportation  
15 planning but we're fine with the three he did. Thank you.

16 CHAIRMAN HOOD: Okay, thank you.

17 All right. So you all may begin. And Ms.  
18 Schellin, if you could, start the clock again.

19 You may begin.

20 MR. MARRIOTT: Chairman and members of the  
21 Commission, I appreciate this opportunity to represent the  
22 thoughts and concerns from Waterfront Tower regarding the  
23 proposed development here in Southwest.

24 The Waterfront Tower a design Zion-Pei building  
25 constructed in 1960-61, I.M. Pei is the architect. Landscape

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1 architect were Zion and Breen, noted most for Paley Park in  
2 New York City.

3           This is listed in the National Register of  
4 Historic Places and is a D.C. historic landmark.

5           Since we've had the discussion about my  
6 qualifications, briefly, I have a B.S. and a Ph.D. in  
7 landscape architecture and I have a master's in city and  
8 regional planning, which did focus on transportation policy.

9           I'm a licensed landscape architect in the State  
10 of Maryland. I've been an expert witness for zoning hearings  
11 in Maryland and Connecticut. I'm a visiting professor of  
12 landscape architecture currently at the Pennsylvania State  
13 University, where I am teaching a design studio in community  
14 design, urban planning, and urban renewal.

15           What I'd like to discuss with the time that I have  
16 is the loading dock, civic space in the private alley, and  
17 special relationships with regard to this project.

18           You can see here one, the loading dock, which you  
19 heard about, loading dock, special relationships, and  
20 building massing.

21           Loading dock first. As we heard before and last  
22 week, this is a congested area at this site right here, where  
23 the alleyway makes a turn right by Waterfront Tower. There  
24 has been a lot of discussion about this. This is largely  
25 driven by construction traffic right now and that's causing

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1 the current problems with the neighborhood. But as you can  
2 see from these two images, this is an issue that has to deal  
3 a lot with regular deliveries, access, moving, ingress and  
4 egress into this site. And you can see with these two  
5 images, none of the images in this -- none of the vehicles  
6 in these images represent construction traffic. You see a  
7 moving van and lots of delivery vans packed very tightly.

8           There has been discussion about this will be  
9 signed and regulated. We all know living in D.C. people  
10 don't pay that much attention to signs where you shouldn't  
11 park, shouldn't double park, shouldn't unload. It happens  
12 all the time. So, I do want to put for the record that this  
13 is a real problem. It's a real issue. And no amount of  
14 signage is going to solve this problem, unless there is 24-  
15 hour vigilance on a site like this.

16           As we've said, this is a choke point. You can see  
17 basic turning movements for vehicles, such as the trash truck  
18 here.

19           We did have a very productive relationship and  
20 conversation with Forest City regarding the relocation of the  
21 loading dock, which was originally at the northeast corner  
22 of the building. As you can see, now it has been lowered.  
23 The lower end will be in the interior of the building, which  
24 is much better for the residents of Waterfront Tower. So we  
25 won't have to look at the loading facilities. And it removes

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1 the loading dock entrance slightly south from the corner,  
2 which is the main choke point.

3           There is a detail of the redesigned loading area  
4 for the building.

5           So our understanding now is the loading dock will  
6 be relocated to the interior of 375 M Street and the entrance  
7 will shift south toward M Street and be across from the 301  
8 building facade.

9           So in terms of the loading dock, just to confirm  
10 this, Waterfront Tower requests that this change be formally  
11 approved. The follow-up of 375 M first-floor facade details  
12 so at the northwest corner, there where I have my arrow right  
13 here, be an aesthetic treatment, since there are no windows  
14 there, either through landscape architecture or architectural  
15 design of the building that will provide a pleasant view from  
16 the public terrace between Waterfront Tower and 301 M.

17           Confirmation of the exact location of the loading  
18 dock to be formalized as well, where we are told this is  
19 going to be. In confirmation, though, the drop-off area that  
20 is under construction right now between Waterfront Tower and  
21 301 M will not service any type of turning movement for the  
22 loading dock area.

23           We also want to ensure that the loading dock will  
24 be the northern most point of service, delivery, and trash  
25 access along the private alley.

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1           In addition, clarification of the number of new  
2 vehicles 375 M will provide and add into the private alley,  
3 statement of safe accommodation for emergency vehicles and  
4 confirmation of the existing width of the private alley will  
5 not be reduced.

6           In terms of civic space in the private alley, I  
7 want to first, just in terms of some of the earlier comments  
8 this evening with the proponent to this project, I think I  
9 can speak for Waterfront Tower safely, the idea of density  
10 is good. We recognize that. The idea of diversity is good  
11 as well. The idea of diverse retail is good.

12           What I would like to talk about in this section  
13 is the location of the buildings in the larger plan for these  
14 goals for this area we see as negative impacts to Waterfront  
15 Tower.

16           You can see the existing Metro Plaza. And there  
17 you see Waterfront Tower in the brackets in the back.

18           Waterfront Tower and its sister buildings are  
19 important Pei buildings, in terms of landmark architecture  
20 in the district and are an important part of the  
21 organizational structure of this area of the city.

22           The Southwest Neighborhood Plan from July of 2105  
23 was very specific in terms of goals for this neighborhood.  
24 They describe it as a Modernist Gem. Southwest will provide  
25 the preservation of its unique architectural legacy, of the

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1 green oasis. Southwest will thrive as a green oasis in the  
2 city, with lush tree, canopy, and vegetation landscaped  
3 building edges. In the thriving town center, Southwest will  
4 enjoy an active street atmosphere and a high quality public  
5 realm.

6           When we look at 375 M, we see these issues, lush  
7 landscaped building edges, public realm, good public access  
8 and facilities, very strongly on three sides of M Street, the  
9 Metro Plaza and the alley along Safeway.

10           Our concern is the side alley that faces  
11 Waterfront Tower, where there has been much less attention  
12 to design details and some of these goals for the Southwest  
13 waterfront in terms of pedestrian access, lush green canopy,  
14 attractive building edges.

15           So first, promoting the legacy of the  
16 architectural gem of this area, as you can see it was the  
17 early plan for Southwest. And you can see here the four Pei  
18 buildings in the original plan. You can see the asterisk on  
19 Waterfront Tower in this image.

20           You can also see Waterfront Tower over the upper  
21 bracket up there in the corner, in terms of the large  
22 location and an example of Pei's work here in Southwest. And  
23 you can see the visual relationships between the four  
24 buildings when you look like this.

25           As I mentioned earlier, it is a National Register

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1 listed building and it's also a designated D.C. historic  
2 landmark.

3           Many of you may be familiar with the book  
4 Washington's Best Addresses. It is a large black book that  
5 talks about the history of apartment house building in  
6 Washington, D.C. and specifically references Pei work --  
7 Pei's work here in Southwest, where it notes a grouping of  
8 four high-rise apartment houses designed by I.M. Pei. The  
9 most striking aspect of Pei's buildings is the emphasis on  
10 glass, which gives them a beautiful skin. These buildings,  
11 these sculpture elements of design in Southwest are gradually  
12 being lost, as new development crowds in around them.

13           The green oasis aspect, again, Southwest will  
14 provide lush tree canopy and vegetation landscape building  
15 edges.

16           This is a recent development along 4th Street and  
17 you can see -- I don't believe that this kind of narrow strip  
18 is necessarily reflective of a larger idea of pedestrian lush  
19 landscaping and green edges. It's a very narrow planting  
20 strip.

21           You can see here, and these are important numbers,  
22 if you look at these buildings right now, you can see on the  
23 left side you have a six-foot sidewalk and, on the right, you  
24 see a three-foot sidewalk and a three-foot planting strip.

25           You will notice in this next slide I have flipped

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1 this slide just to show the same relationship that 375 M will  
2 have to the alley.

3           So as of now, we have a four-foot, six-inch  
4 sidewalk to three-foot one in this image and a proposed two-  
5 foot planting strip. The planting strip you see in this  
6 image is actually three feet. So this will basically be very  
7 similar -- the planting strip along the side of 375 M would  
8 be less than what you see in this image here and I show this  
9 as a comparison.

10           Again, too, this architectural illustration, which  
11 shows the proposed planting strip, also shows it at a very  
12 favorable angle, whereas I would argue the image on the left  
13 is more typically what you'll see when you are heading back  
14 to Waterfront Tower. Architecture very up close to the edge  
15 of the alley, a narrow sidewalk, and a narrow planting strip.

16           If you look at this image here taken from  
17 Waterfront Tower, you can see that 301 M has a roughly 15-  
18 foot setback from the edge of the curb of the alley, which  
19 gives a little bit of breathing room to the space.

20           The new building 375 M, you see about a six-foot  
21 plus or minus space there, which will include the sidewalk  
22 and the planting strip, and then you can see the white lines  
23 here, giving a rough idea of the low level story at this end  
24 of the building.

25           One of the things that we would like to request

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1 is that the building be set back to provide a balance so that  
2 it equal the setback for 301 M. As we read streets and  
3 infrastructure in the city, we typically expect architectural  
4 to be balanced on both sides, with an equal setback from the  
5 sidewalk. We see that along M Street all throughout the  
6 city.

7           Having one building on one side of the alley set  
8 back generously, the other building right up against the  
9 alley with a narrow planting strip and a narrow walk is going  
10 to make this really appear as an alleyway, a secondary  
11 entrance, a back door. I don't believe it really lives up  
12 to the values and goals of the neighborhood plan.

13           We have heard that this is to direct people to the  
14 Safeway using 4th Street, rather than going up the alley but  
15 we all know how people move through public space and they're  
16 going to take the path of least resistance. This is the path  
17 of least resistance and people will be using this way to go  
18 back.

19           I believe for Waterfront Tower, this is the entry  
20 to their building. This is the approach to a landmark-  
21 designated I.M. Pei building as well. And having it at the  
22 end of an alley, I believe, does disservice to the legacy of  
23 Southwest, in terms of its architectural design and physical  
24 organization. And also, there is a disservice to the  
25 residents by providing a kind of secondary access point back

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1 into these buildings, when we know people will be going this  
2 way to the Safeway. This will be a convenient way for people  
3 to get to the Metro as well.

4           Again, this comes back to the idea of trying to  
5 have all four sides of 375 M reflect the goals of the  
6 neighborhood plan with lush landscaped edges, commodious  
7 pedestrian spaces, good access, good visibility, a good sense  
8 of a neighborhood feel. As of now, as I have said, I believe  
9 this really seems like a secondary entrance. It seems like  
10 the backside and service area, when it's actually the  
11 approach to Waterfront Tower. It is also the approach to the  
12 Leo. And it is a significant approach to Safeway and the  
13 shops that are growing and developing along Southwest.

14           And I would argue that some of the earlier  
15 comments for shops, coffee house, bank, all that, they all  
16 benefit from a complete four-side approach to this building  
17 in terms of its relationship to Southwest and the  
18 neighborhood plan.

19           So based on that, Waterfront Tower is requesting:

20           A plus or minus 15-foot setback to equal the  
21 setback of 301 M so 375 M and 301 M will be equally set back  
22 on both sides of the alley, will treat the alley more as a  
23 private lane that will provide an opportunity for planting  
24 street trees and things like that, which will give it a nice  
25 attractive secondary street status rather than, as you can

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1 see on the image, a very tight relationship up against the  
2 edge of the alley.

3           And it will provide an appropriate balance between  
4 301 M and 375 M. So you drive along the M Street and you  
5 look up this lane. You actually get a proper view of the Pei  
6 building. You will get a sense of this being good public  
7 access and part of a larger plan for the Southwest Waterfront  
8 Redevelopment.

9           Provide equal attention to the east facade of 375  
10 M as the other three facade sides, which have been very  
11 generously dealt with at this point, in terms of public  
12 space, planting design, entries.

13           Again, this goes back to the goal of landscape  
14 building edges in the high-quality public realm, have a  
15 streetscape view as an amenity for a thriving town center and  
16 not viewed as a narrow secondary service alley in this part  
17 of the central area of this area.

18           And lastly, clarification on the plus or minus 45  
19 setback of the tower from the east facade of the alley side  
20 of 375 M. Plus or minus always makes me nervous as a  
21 designer and I want to be sure that is exactly what it will  
22 be when all is said and done.

23           Thirdly, and lastly, the issue of spatial  
24 relationships. Again, we know from the history of the  
25 Southwest Waterfront Development Plan, broad cooperation

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1 among landscape architects, architects, and planners so there  
2 will be a variety of architectural styles, massing, building  
3 heights, and open spaces throughout. As Southwest becomes  
4 increasingly dense, we are losing some of these historic  
5 qualities. Again, not that density isn't bad, not that my  
6 clients expect this to remain a vacant lot, but that the idea  
7 of the massing and setbacks we enforce the larger goals for  
8 this District and not treat this as a back alley.

9 I want to share with you current shadow studies.  
10 And I present this section with the idea of larger awareness  
11 of building massing for your consideration, not necessarily  
12 specific requests or recommendation on my part.

13 Here you can see the existing condition right now  
14 with the new 301 M Street. These are shot at 3:00 p.m. on  
15 the 21st of December, of course the shortest day of the year  
16 with the highest shadows. That seems the most objective way  
17 to look at this. So you see the existing condition as it is  
18 right now with the new building, 301 M, and prior to the  
19 construction of 375 M.

20 Here you can see 375 M and the impact it will have  
21 on December 21st at 3:00 p.m. on Waterfront Tower. With the  
22 proposal to set the building back, which you can see right  
23 here, you can see it has a marginal impact on shadows on the  
24 building. Nevertheless, it does have an impact.

25 I raised this, this is a view from one of the

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1 apartments on the fourth floor. This building has  
2 historically been bathed in sunlight and this is going to be  
3 a major impact on the residents of this building.

4 We looked at a variety of shadow studies and I am  
5 happy to provide larger ones but I don't want to take the  
6 Commission's time with the great detail on this.

7 Looking at reducing the height of the building two  
8 to three stories, see what happened. And the other thing  
9 that we looked at was the idea of removing the one wing of  
10 the tower. So, as you can see here, the existing design of  
11 the building left intact, with removing the one wing right  
12 here.

13 You can see what this does is this almost  
14 completely maintains the sunlight on December 21st go into  
15 Waterfront Tower. You lose a little bit on the side of the  
16 building over here but it is essentially the same.

17 Now I will share this with you here. Here, you  
18 can see on the left shadows on Waterfront Tower December 21st  
19 at 3:00 p.m., with the one wing of the building removed. And  
20 you can see the existing conditions right now. So  
21 essentially, no change in shadows on the building.

22 I present this simply as an information idea in  
23 terms of study that I believe massing is important.  
24 Waterfront Tower had little opportunity comment on massing  
25 earlier on. These decisions were made before they had an

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1 opportunity to participate in this process. And they are,  
2 as you can see, are most directly impacted by shadow and lack  
3 of light as things continue on.

4           So, in terms of this request: That we consider  
5 massing alternatives for 375 M. I'm not going to pretend to  
6 be an architect but I do know through shadow studies there  
7 is different ways to mass building and improve. And I would  
8 argue the building height is less an issue than the building  
9 massing structure right now.

10           That the Commission consider the impact of  
11 sunlight and the loss of sunlight on Waterfront Tower. And  
12 this also helps to preserve the use of the historic I.M. Pei  
13 building with the change in massing as well.

14           I will close with this so we can stay on time.  
15 The community can play a critical role in shaping just how  
16 development occurs and what amenities it can bring to balance  
17 growth and livability. I believe Waterfront Tower buys into  
18 this strongly. They are not against new development but they  
19 would like to have their voices heard in terms of some final  
20 changes and modifications. And I believe they strongly  
21 support the areas we heard earlier about, vibrant retail,  
22 diversity, and a higher dense town center.

23           By thinking holistically about the neighborhood  
24 through the planning process, which we are doing tonight,  
25 there is an opportunity to preserve essential aspects of

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1 neighborhood character, historic preservation being one of  
2 those, and identifying needed improvements, which is what I  
3 am seeking your input on this evening based on these  
4 comments.

5 I will thank you with that. Again, modernist gem,  
6 green oasis, thriving town center. And I will ask Leigha to  
7 follow-up with her comments, as the head of the Board.

8 MS. GOODING: Thanks, Dan.

9 As the president of historic Waterfront Tower, a  
10 resident of D.C., Southwest D.C. for over 12 years, and a  
11 proud homeowner of eight years, I appreciate the opportunity  
12 to present our concerns before the D.C. Zoning Commission.

13 I want to thank the Commission for recognizing the  
14 unique impacts on the Waterfront Tower, as we are less than  
15 30 feet from Forest City's property. We are the only  
16 association of condominium owners not separated from this  
17 project by a public street and we are the only building  
18 landlocked with our only vehicular ingress and egress being  
19 the private driveway where this project will add significant  
20 traffic congestion.

21 In part, Forest City is here today to modify an  
22 over ten-year-old PUD in responses to changes in the economy,  
23 local market, and the Southwest community. Today, I am  
24 asking the Zoning Commission to recognize the formation of  
25 the uniquely impact to Waterfront Tower Condominium

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1 Association as an equally important change to consider when  
2 modifying the original PUD and approving the Stage 2 PUD.

3           When Forest City started community engagement for  
4 375 M, Waterfront Tower Community Condominium Association did  
5 not exist. Our building was owned by Bresler and Reiner as  
6 an apartment building until late in 2008, when it was  
7 purchased by the Bernstein Companies for renovation. It was  
8 not until after 2010 when Waterfront Tower Condominium  
9 Association came to be the owners of the building.

10           As part of the community engagement process, I  
11 wish Forest City made proactive effort to discuss their  
12 project with us and to learn about our concerns before  
13 seeking modifications to their PUD. Instead, they urge you  
14 to deny our request for this party status.

15           I am eternally grateful to the ANC for bringing  
16 the status of this project to our urgent attention and  
17 further guidance and to Hara Bouganim for her diligence and  
18 tireless efforts to pursue party status, and to the  
19 commission for your insight to grant our party status because  
20 it was not until then that Forest City made any effort to  
21 directly engage with us in a meaningful way.

22           Since then, I do thank Forest City for meeting  
23 with Hara to provide information about their project on  
24 November 8th, 2018 -- I'm sorry -- 2017. That's an error.  
25 It was November 8, 2017. And then meeting with the

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1 Waterfront Tower Board of Directors once in February to share  
2 their current plans and to learn about our concerns, then  
3 once in March to propose initial solutions to address some  
4 of our concerns.

5           These efforts resulted in the reconfiguration of  
6 the loading dock, as Dan has shown you, and to limited  
7 concessions towards treating the east elevation of 375 M as  
8 part of a vibrant town center, rather than as a back  
9 alleyway.

10           After Forest City's testimony last month, we  
11 documented and sent them a list of concerns about ambiguities  
12 and inaccuracies in the PUD. In April, Forest City then met  
13 with the Board of Directors for a third time to show us  
14 updated PUD drawings. We clarified some of our remaining  
15 concerns and they agreed to make additional changes but we  
16 have yet to receive these corrected and updated PUD drawings  
17 and I did not see them in the case record today.

18           So I want to ensure that the Commission and  
19 Waterfront Tower receive these updated drawings and that the  
20 Commission considers these drawings in their final decision.

21           As well, to solidify existing agreements and  
22 ensure progress on additional agreements towards a mutually  
23 beneficial treatment of the private drive for all neighbors,  
24 we drafted a Memorandum of Agreement, which I will summarize  
25 as a conclusion of my testimony.

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1 Forest City has verbally or in drawings agreed to  
2 the first three items. I will only summarize the details we  
3 feel need clarification or further documentation. Then, I  
4 will cover four additional items we are asking Forest City  
5 to agree to, which have been discussed with no clear  
6 agreement to date.

7 So the first one relates to the loading dock. The  
8 modifications that they made, the reconfiguration, supports  
9 moving all loading and delivery activities, as well as the  
10 space necessary for vehicle maneuvers to accommodate these  
11 activities, indoors and to make them not visible from the  
12 private drive.

13 This also resulted in a single access point to  
14 this indoor area and we want to make sure that it meets the  
15 following conditions.

16 First, that it is located south of the motor court  
17 between WFC and 301 M, to exclude the motor court from  
18 delivery vehicle maneuvers and to minimize impact to  
19 congestion at the existing choke point.

20 The door will only open to allow entry and exit  
21 of vehicles and will not remain open during deliveries or in-  
22 between deliveries because this is a massive part of the wall  
23 that we're looking at from Waterfront Tower.

24 Deliveries will be conducted during hours selected  
25 in consultation with WFT to minimize impacts on residents and

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1 vehicles or walking along the private drive during peak  
2 commuting hours.

3           Next relates to the design that meets the design  
4 along the private drive on the east elevation at 375 M. We  
5 want to make sure that it is a design that meets or exceeds,  
6 hopefully exceeds but at least beats, based on our previous  
7 discussions, the following elements.

8           First, four-foot six-inch sidewalk, no smaller  
9 than that absolutely.

10           Green space no smaller than two-feet wide. I  
11 still don't believe that that is sufficient green space but  
12 that is the only amount of green space that they have agreed  
13 to at this point and, more importantly, is that this  
14 separates the sidewalk from the east-facing facade of 375 M.  
15 It accommodates a continuous line of bushes or trees along  
16 the east facade of 375 M, except for the parking lot ramp and  
17 the loading access point and accommodates plant materials  
18 that are selected in consultation with WTF.

19           And most importantly, it results in a private  
20 street width from curb to curb that is no more narrow than  
21 it is today. And based on measurements today, it does look  
22 like that it is 22 feet wide today. And we hope that they  
23 would consider actually making it wider because of all the  
24 issues that you saw in the pictures to this day. I just saw  
25 another fire truck the other day drive over the corner

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1 sidewalk when there were no other vehicles parked in the  
2 area. There was nothing to force him to go over that  
3 sidewalk but just the need to maneuver that curve and the  
4 width of the street forced that truck to go over the  
5 sidewalk. I saw a FedEx truck do it again today.

6 And if this is a sidewalk where pedestrians are  
7 supposed to be walking, it should be a sidewalk that doesn't  
8 have to be driven over in order to gain security -- to gain  
9 an emergency access.

10 The third one that they have already agreed to is  
11 to resurface the private drive along the east elevation to  
12 match the current treatment on the private drive along the  
13 north elevation of 375 M. And we appreciate just having this  
14 same type of treatment. We feel like it is a much better  
15 looking street up there and we do appreciate that.

16 The next four items that have not been agreed to  
17 in detail and that we're looking for Forest City to meet  
18 agreements with us on.

19 First, that Forest City agrees to pursue  
20 alternative parking solutions to accommodate Waterfront Tower  
21 moving vans, deliveries, contractors, and visitors instead  
22 of threatening to tow our vehicles that have no other  
23 reasonable parking alternative as a direct result of this PUD  
24 and the PUD approved for 301 M.

25 Options will be chosen in consultation with WFT.

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1 Preferred options will include temporary parking permits to  
2 accommodate moving vans along the private drive without  
3 blocking the motor court from the pickup and drop-off  
4 activities that need to occur on a daily basis and parking  
5 spots in the 375 M's garage allocated to WFT to eliminate  
6 deliveries and building contractors from having to park along  
7 the private drive.

8           These accommodations will minimize the impact of  
9 the existing choke points on deliveries, emergency access,  
10 resident vehicular access, pedestrian, metro access, pickups  
11 and drop-offs for 375 M, 301 M, Waterfront Tower, as well as  
12 the Leo and pedestrians from Waterfront Tower -- at  
13 Waterfront at 1001.

14           Next, we ask that Forest City agree to apply an  
15 artistic treatment chosen in consultation with WFT to the  
16 proposed 18-foot high brick wall opposite of Waterfront  
17 Tower. This is the only facade of 375 M that treats the  
18 welcoming character of a vibrant town center for a treatment  
19 akin to a back alleyway. And it is the surface we will see  
20 every day as we enter and exit our home.

21           Waterfront sees this effort to beautify our new  
22 local environment as an opportunity collaborate with our  
23 neighbors and potentially evolve our community through the  
24 D.C. Creates Public Art Program for a mosaic-like treatment  
25 like those in other areas around Southwest and in the

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1 Waterfront Tower lobby. The developer worked with that  
2 program to create a really beautiful mural inside. It  
3 reminds us of the murals that are in some of the tunnels  
4 around Southwest. And it would just be one extra place where  
5 you can go to see those interesting murals. We think that  
6 would be really a nice thing to look at every day.

7           Next, that Forest City agree to include Waterfront  
8 Tower representatives in conversations that lead to decisions  
9 about the following topics as they relate to the private  
10 drive along the east and north elevations of 375 M. These  
11 conversations are to take place in regularly planned meeting  
12 when Waterfront Tower concerns and input can be considered  
13 during the decision process, not after the decisions have  
14 already been made. And these items are lighting,  
15 landscaping, signage, security, the traffic management plan,  
16 and construction plans, specifically related to activities  
17 that are going to be permitted on the private drive that  
18 could block vehicular access to Waterfront Tower from both  
19 4th Street Southwest and M Street Southwest.

20           Lastly, that Forest City agrees to select plant  
21 materials in consultation with WFT to preserve the sightline  
22 between Waterfront Tower, the I.M. Pei original town center  
23 East Building, and the View, the original town center West  
24 Building and respect these buildings as historic pillars of  
25 the original Southwest town center.

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1 All four sides of 375 M face existing vibrant  
2 components of the Southwest community and all four sides of  
3 375 M should respect their neighbors equally by agreeing to  
4 meet or hopefully to exceed the requests I just listed. We  
5 believe Forest City would be respecting the face of our home  
6 and honoring Waterfront Tower as an historic pillar of the  
7 vibrant town center, instead of backing us into a corner.

8 We are asking the Commission to help us solidify  
9 these agreements by not only considering the concerns just  
10 presented by Dan Marriott but also by encouraging Forest City  
11 to give us the same opportunity as other older communities  
12 had, by continuing to work with Waterfront Tower on  
13 addressing our remaining concerns, formalizing their  
14 commitment to our requests and verbal agreements in a binding  
15 way and considering their new neighbor, not only economic  
16 challenges, and the modifications that they request to their  
17 original PUD.

18 And that's the end of my testimony. Thank you.

19 CHAIRMAN HOOD: Complete?

20 MS. GOODING: I guess we yield it.

21 Dan, do you have anything else to add in  
22 summation in the last two minutes?

23 Okay, we yield our time. Thank you.

24 CHAIRMAN HOOD: Okay, thank you.

25 Let me first start off by saying, Ms. Gooding, and

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1 Mr. Marriott, and Ms. Bouganim -- I'm going to get there --  
2 I would say that I really appreciate the work that you all  
3 put into your testimony.

4 Ms. Gooding I think that this paper that you have  
5 is a very good discussion point, from my standpoint, and I'm  
6 going to ask the Applicant to do exactly what actually hadn't  
7 happened, is to have that discussion, as you have asked. And  
8 I think this paper here is a discussion point, Ms. Shiker.  
9 So I hope you all would -- I am going to see what others have  
10 to say but for me, we need to -- you might not be able to get  
11 everything or address everything but I think this is a good  
12 collaboration tool to work with. And I think Mr. Marriott's  
13 -- and some of the things that had been worked out that were  
14 agreed to, we need to see it memorialized or put in place  
15 because the loading dock issue that Mr. Marriott mentioned,  
16 for me, was very persuasive.

17 So those are my opening statements. I will yield  
18 to my colleagues. Any other questions or comments from  
19 anyone up here?

20 Commissioner Shapiro.

21 COMMISSIONER SHAPIRO: Mr. Chairman, I would just  
22 join with your comments. And there is already clearly some  
23 progress made and some points that have been agreed on. And  
24 I'm curious to hear from the Applicant on these other points  
25 as well.

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1           CHAIRMAN HOOD: All right. And where I am, I  
2 don't necessarily would like to see you rush through this  
3 tonight. I think some of this takes some thought, and some  
4 time, and some collaboration. So from my standpoint, I would  
5 like -- you can come up and address some things but to  
6 address this scenario I think will be kind of putting the  
7 cart before the horse. It needs to have some thought to it.

8           I'm just saying things and you all will have time  
9 to respond when you come up.

10           Okay, Vice Chair Miller.

11           VICE CHAIR MILLER: Thank you, Mr. Chairman.  
12 Thank you for your thoughtful presentation. And I would  
13 concur with the chairman and Commissioner Shapiro.

14           And just on first flush, they seem like reasonable  
15 requests but we will hear from -- I do want the Applicant to  
16 address them and memorialize the ones that had been agreed  
17 to.

18           But I was just confused a little bit. Mr.  
19 Marriott, you had in your presentation a request for a 15-  
20 foot setback on the private alley. Is that incorporated in  
21 your testimony somewhere or is that an additional request?

22           MS. GOODING: In my testimony --

23           VICE CHAIR MILLER: Isn't that the 22-foot curb  
24 to curb?

25           MS. GOODING: Well, the 22-foot is the street.

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1 I had mentioned what they have agreed to already, which is  
2 just the two feet plus the 4.6 feet. And we want to make  
3 sure, of course, that that doesn't get taken away but we are  
4 really hoping that there will be more.

5 As Dan had mentioned, we think that 15 feet would  
6 be a very fair, and a very nice thing, and a great goal to  
7 start the conversation about whatever would be reasonable.

8 VICE CHAIR MILLER: So the four points that you  
9 requested doesn't include the 15-foot setback that Mr.  
10 Marriott presented as a request of the Waterfront Tower as  
11 well?

12 MS. GOODING: That is correct. Those four points  
13 they have already agreed to. I only kept that to the facts  
14 of what they agreed to. I didn't actually put in there or  
15 I didn't duplicate what Mr. Marriott was saying about the --

16 VICE CHAIR MILLER: That's fine.

17 MS. GOODING: I'm sorry.

18 VICE CHAIR MILLER: I'm just trying to understand  
19 the number of requests that are outside. So there are at  
20 least five now in my mind and maybe there are more.

21 MR. MARRIOTT: If I might just add to that. So  
22 we had a conversation about I think the Board wanted to, as  
23 Leigha mentioned, be very clear about some things that are  
24 on the table right now, so nothing gets reduced, or taken  
25 away, or shifted. The fact that they agreed initially to

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1 provide a sidewalk on the side of the building was a first  
2 step forward for Waterfront Tower.

3           The idea of setting it back we are raising. The  
4 initial feedback I had from Forest City was that that was not  
5 a possibility when we went to raise that for the Zoning  
6 Commission for consideration. And so Leigha's point is to  
7 kind of make sure nothing goes away but we would like to  
8 offer up the equal balance on both sides of the lane as a  
9 consideration for the setback.

10           VICE CHAIR MILLER: I look forward to hearing the  
11 Applicant's response because I think those were -- that was  
12 a useful point about the balancing and the four sides of the  
13 building all being presented to the entire community in an  
14 aesthetically pleasing way.

15           Thank you.

16           MS. GOODING: Thanks.

17           CHAIRMAN HOOD: Okay, any other comments?

18           Mr. Turnbull.

19           COMMISSIONER TURNBULL: Yes, thank you, Mr. Chair.

20           I guess I want to say it was a very good  
21 presentation. We often have a lot of parties in opposition  
22 where it is not quite so logically presented in such a  
23 concise way. We get some very heated discussions with people  
24 but you were very, very calm, refined, and you went through  
25 it very methodically and I appreciated that and I think your

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1 reference to the Southwest Neighborhood Plan and going  
2 through the comments about the original design impacts that  
3 were presented that come from that.

4           And I think, as the chair had said, these are  
5 going to be great. These are excellent talking points for  
6 you and the Applicant to talk about further and to go into  
7 this. And I think there are some very good points here that  
8 need to be addressed. And I think you made your case on a  
9 lot of them.

10           So but I think, as the chair said, I think it's  
11 a place for the Applicant to now go back and -- they may have  
12 some comments tonight but I think it's really a starting  
13 point for them to go back and take another look at this.

14           So thank you, again, for a very well done  
15 presentation.

16           CHAIRMAN HOOD: Vice Chair, do you have another  
17 follow-up?

18           VICE CHAIR MILLER: Yes, thank you, Mr. Chair.  
19 With all that having been said, which I agree with, it has  
20 hedged through my mind and I'm trying to go back to the first  
21 hearing, recollection of the first hearing, this -- I don't  
22 know how much of the massing is before us today or how much  
23 leeway we have to deal with that. We're changing the use.  
24 And this is the second-stage today. So I think we need to  
25 consult with our counsel.

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1           But I would encourage the Applicant to make as  
2 many of these kinds of changes or in the direction of these  
3 kinds of changes that they can make.

4           But I just don't know how, Mr. Chairman, how much  
5 of the original massing -- this is a modification and it's  
6 a use that's mostly being modified that we already -- I  
7 wasn't here -- you were here -- that was approved in the  
8 first-stage many years ago.

9           MS. GOODING: May I?

10          VICE CHAIR MILLER: And I realize, I appreciate  
11 the point that you all didn't even exist then.

12          MS. GOODING: Yes, I also wanted to add, I might  
13 not have been very clear, that we understand that this is  
14 both a Stage 2 PUD approval, as well as a modification to the  
15 original.

16          And so we felt the fact that they were coming back  
17 to modify the original but only considering the economic  
18 changes that impact their profitability and not the other  
19 changes in the community, such as us coming around.

20          It would have been nice -- they could have  
21 considered changes to their massing, had they considered us  
22 as one of the neighborhood changes in addition to the other  
23 changes. So I think they had the opportunity and that is why  
24 we are presenting that to you tonight.

25          CHAIRMAN HOOD: Okay, any other questions or

1 comments?

2 Ms. Bouganim, did I pronounce your name correctly?

3 Okay, I want to thank my colleague, Commissioner Shapiro  
4 helping me with that.

5 Okay, let's see if there's any cross-examination.

6 Ms. Shiker, do you have any cross?

7 MS. SHIKER: Thank you. Good evening. And we  
8 have been pleased to have a good working relationship, thus  
9 far, and we did get this document this afternoon. So we  
10 would like to give some of the items that are new to us some  
11 thought and respond to those.

12 I just have a couple of very quick questions. Can  
13 you tell me, Ms. Gooding, when the condo came into formation?

14 MS. GOODING: It was 2010 when it started being  
15 sold to people and then at 75 percent occupancy was actually  
16 handed over from the developer. And I'm sorry I don't have  
17 the exact date of that.

18 MS. SHIKER: That approximate is fine. I'm just  
19 trying to get a little bit of a time line.

20 MS. GOODING: I would say approximately -- I want  
21 to say approximately '11.

22 MS. SHIKER: Okay, that's great. Thank you.

23 And when did the access, this little access for  
24 the condo building come from the private driveway that is on  
25 the Waterfront Station property?

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1 MS. GOODING: Yes, that was as a result of the 301  
2 M PUD. The agreement -- before our building was even given  
3 to us, the agreement in place, including an easement with the  
4 current owners of the private alley was that our parking lot  
5 would go away and would become 301 M and that the private  
6 alley that is owned by Forest City would become our only  
7 access point. And that was all part of the 301 M PUD.

8 MS. SHIKER: And are you aware that Waterfront  
9 Towers participated as a party in that PUD?

10 MS. GOODING: I was there.

11 MS. SHIKER: Okay. And they participated in a  
12 party in support of that PUD, according to --

13 MS. GOODING: Since we were involved from a much  
14 earlier stage, we actually had a lot more opportunity to work  
15 with the ANC and meet with them, with the ANC, for months  
16 upon months and work through our concerns prior to getting  
17 to this point. So it was a very different -- it was a very  
18 different process and a very different experience.

19 As well at that point, putting our ingress and  
20 egress onto that private alley, you can tell by looking at  
21 the pictures and how it was before -- how it is now before  
22 people start building there, that it's a lot more reasonable  
23 than the way it's going to be after you build there.

24 So being on that private alley, that movement of  
25 the 301 M PUD I'm not going to deny is also part of the

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1 problem and that Forest City was involved in agreeing to take  
2 us onto the private lane but it is being exasperated  
3 drastically by the plans that are being put into place now.

4 MS. SHIKER: And did Forest City provide  
5 documentation to you confirming that the width of the private  
6 drive would not be changing in the proposed condition,  
7 compared to the existing condition, the 22 feet?

8 MS. GOODING: Right now there is an image in --  
9 they updated some images to put 22 feet on there but we  
10 haven't see those and I don't believe the Commission has seen  
11 them unless they came --

12 MS. SHIKER: We'll show them tonight.

13 MS. GOODING: Okay, yes.

14 MS. SHIKER: And we do have those.

15 MS. GOODING: Yes.

16 MS. SHIKER: I thought they had been provided to  
17 you at the last meeting that we had.

18 MS. GOODING: We didn't receive them. We were  
19 only allowed to look at them on a projection.

20 MS. SHIKER: All right. Thank you.

21 MS. GOODING: We don't have them.

22 MS. SHIKER: We'll make sure that you have them --

23 MS. GOODING: Thank you.

24 MS. SHIKER: -- because we do go out there with  
25 a professional surveyor and confirm the width and are making

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1 sure that that meets it so that we can stand up to that  
2 commitment for you.

3 MS. GOODING: I appreciate it.

4 MS. SHIKER: Just one last question. You  
5 mentioned the access easement documents that were put into  
6 place before the 2010-2-11 transitions to the condos. Are  
7 you aware of the light and air easements that are also in  
8 that document?

9 MS. GOODING: It's not my area of expertise. No,  
10 I'm not aware of those.

11 MS. SHIKER: Okay.

12 MS. GOODING: What does that mean?

13 MS. SHIKER: So the documents, which are recorded  
14 documents and we can provide them for the record, provide  
15 very specific light and air easements to make sure that the  
16 condo building was protected. In our rebuttal, we will go  
17 through and show where those are and show that we are  
18 exceeding all of those and above the second level, we are  
19 exceeding them by more than 45 feet. So I think that will  
20 start to give everybody an idea of the condo building that  
21 was there, the light and air easements that were agreed to,  
22 and how we are meeting and exceeding those.

23 MS. GOODING: Could we understand who agreed to  
24 these easements? I just -- I'm not --

25 MS. SHIKER: They are in the same documents as the

1 access easement. So, I can give you a copy of it.

2 MS. GOODING: Okay, yes.

3 MS. SHIKER: And that's the end of my questions.

4 Thank you.

5 CHAIRMAN HOOD: All right, thank you. And I  
6 allowed that because that was an explanation and may clear  
7 up some of the things and help us all better understand  
8 what's going on.

9 So, let me see does the ANC have any cross, Mr.  
10 Litsky?

11 MR. LITSKY: To Dr. Marriott, we're dealing with  
12 two buildings here, not just one. And I know that much of  
13 the discussion had been about the east building. But when  
14 we're taking a look at the entire project, not only 375 but  
15 425 as well, do you believe that the goal of the Southwest  
16 Small Area Plan has been incorporated into the development  
17 that speaks to landscaping -- I'm sorry -- landscape building  
18 areas surrounding the buildings?

19 In your expert testimony, would you suggest that  
20 the Applicant has met the criteria that has been written  
21 about in the Southwest Small Area Plan now incorporated into  
22 the Comp Plan that speaks to landscaping surrounding the  
23 buildings that are to be built in Southwest?

24 MR. MARRIOTT: I would not. I would say that they  
25 have done a nice job on the north side, the west side, and

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1 the south side of the building but the east side is very much  
2 lacking and it's being treated as a service area.

3 MR. LITSKY: Great, thanks.

4 And to Ms. Gooding, you're working on an MOA and  
5 I'm glad you are. How would you feel that your condominium  
6 and your residents would be best protected once you have  
7 those conditions written up and memorialized? Would you  
8 think that you would be better protected to have those  
9 conditions clearly elucidated in the final zoning order?

10 MS. GOODING: Yes, in a way that is binding and  
11 that sounds like the final zoning order would be good. But  
12 in addition to that I would say through regular meetings with  
13 us because I know not every single decision, every single  
14 detail is decided already. So if we were to be guaranteed,  
15 for example, maybe monthly at least an opportunity to  
16 establish that there is nothing new to talk about.

17 So through a combination of regular meetings and  
18 documentation in the final order that you had mentioned, I  
19 think that would best protect our community.

20 MR. LITSKY: Okay but when you have the Applicant  
21 sign off on those things that you have stated to make sure  
22 that it's not lost in translation and that it is not lost and  
23 if they could have documents that's elsewhere, do you feel  
24 that this would better be formally stated in a final zoning  
25 order, rather than just placed elsewhere?

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1 MS. GOODING: Absolutely, that was my intent. So  
2 if I wasn't clear, absolutely, yes.

3 MR. LITSKY: That's all I wanted to ask.

4 MS. GOODING: Thank you.

5 CHAIRMAN HOOD: Okay, thank you. Anything else  
6 up here?

7 All right, I want to thank the party. We greatly  
8 appreciate it. Thank you very much for your testimony and  
9 your presentation. Thank you.

10 MS. GOODING: Thanks.

11 CHAIRMAN HOOD: Okay, we have a list of opponents.  
12 Okay, I'm going to call the first eight. Coy McKinney,  
13 Pamela Daley, Kahaari Kenyatta -- and if I messed that up,  
14 please correct me -- Joel Rudney -- Rudy -- Rudney -- if I  
15 mess it up, forgive me, Maia Sciupac. I'm not planning on  
16 the screen because the screen keeps blinking and doing some  
17 other things up here. Roger Hickey -- oh, so you already  
18 have -- okay, so where am I at? Everybody just came up.

19 Oh, so you're mixing me up.

20 All right, Coy McKinney is here. Pamela Daley.  
21 Okay. Kahaari -- I'm going to call the names over again  
22 because I mispronounced them so bad. Kahaari Kenyatta, Joel  
23 Rudney. Okay, Maia's here. Roger Hickey -- okay, you're  
24 here. Okay, Chris Otten. Linda -- I'm sorry. Oh, I thought  
25 you were going to say I mispronounced. Linda Brown.

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1           Is this all we have, Ms. Schellin? That's all we  
2 have right here. Okay, Linda Brown.

3           Is there anyone else here who would like to  
4 testify in opposition who is present?

5           Okay, so why don't we do this? Why don't we  
6 start with Mr. Hickey?

7           Did everybody fill out two witness cards? Okay.

8           Okay, Mr. Hickey, you can start us off.

9           MR. HICKEY: Thank you, Mr. Chairman and the  
10 Board. I am here as a resident of the Southwest community,  
11 a homeowner and part of a community called Harbor Square.

12           I regularly use the space that we're talking about  
13 recreationally and as part of our community. That's the way  
14 I think of that space. And only today -- only today did I  
15 realize by reading in an article in the Southwestern that  
16 there are greatly advanced plans that you have approved you  
17 know early stages of to build two gigantic buildings in what  
18 we consider our public park, our community space, our central  
19 area where the community comes together.

20           I like the density of the neighborhood. I like  
21 the neighborhood in general and it's one of the reasons why  
22 lots of people enjoy living there. But there has got to be  
23 a center for a community to express itself and enjoy itself.  
24 You can't just build building, after building, after  
25 building. And the reason -- I'm a pretty resourceful guy.

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1 I do politics and other things. So I read the article and  
2 then quickly figured out that this meeting was happening.  
3 I'm not with any organization.

4 And I'm here to tell you that you may think you've  
5 gone through a process. You may think you know -- and it's  
6 clear to me that people bought this land thinking that they  
7 are going to be approved by bodies like yours.

8 But I'm just here to tell you that a large number  
9 of the residents of this community are going to be as  
10 surprised as I have been in the last 24 hours to discover  
11 that their community is going to be ripped apart by these new  
12 buildings.

13 We have experienced the building and lived with  
14 the building of the Wharf for the last several years. And  
15 you can argue whether it's been an improvement or not but it  
16 certainly is not for average people. It is for rich people.  
17 It's a nice place to come and spend a part of a weekend but  
18 we live here. And we're looking to make sure that -- I'm not  
19 speaking for anyone but myself but I am calling to the fact  
20 that there is a lot of people like me who don't know that you  
21 have these plans in motion -- don't know at all. And a whole  
22 lot of the thousands and thousands of people who think of  
23 this as their community are going to be very, very surprised  
24 and pretty upset when they realize what the plans have been  
25 set afoot.

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1           So I just want to urge you to think there is going  
2 to be a wave of indignation and maybe political action, once  
3 people realize what's been planned for them.

4           Thank you for your attention. I hope you will  
5 take my warning to heart. I'm certainly going to educate  
6 myself very quickly.

7           Thank you.

8           CHAIRMAN HOOD: Okay, thank you. Next?

9           MS. SCIUPAC: Hello. My name is Maia and I moved  
10 to Southwest waterfront area in January 2015 from California  
11 and I became a condo owner with my husband at Waterfront  
12 Towers.

13           There was something uniquely special about the  
14 Southwest community and when we were looking to move to other  
15 neighborhoods, this was again when the Wharf was raised and  
16 they were building it so you couldn't see what it is today  
17 but we knew there was something special here.

18           And what was really special to us was the  
19 diversity and inclusion of the community and the open spaces.  
20 It didn't feel like any other part of the quadrants in D.C.  
21 and that's what drew us to where we were. And the longer we  
22 stayed in the Southwest waterfront and we saw these open  
23 spaces being utilized for art events, music events, Farmers  
24 Markets, and even just walking around in the community and  
25 saying hi to your neighbors and it felt special, that's what

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1 made me fall in love with Southwest even more.

2           So for me, I want to sort of second some of what's  
3 already been discussed and sort of make also additional  
4 requests.

5           So I routinely walk from Metro to my home at the  
6 Waterfront Towers and several times have I almost been run  
7 over by cars -- just the other day. And they just zoom the  
8 alleyway. And I'm still looking out but this is morning,  
9 noon, night, all hours.

10           I also want to address the green space and  
11 community space. I acknowledge and I really I do agree that  
12 development will always happen. That's not the problem but  
13 the community has changed. And what we're asking for, just  
14 to echo the gentleman next to me, is green space where we can  
15 play and live that is free to use.

16           Because the Wharf is nice. I like walking along  
17 the water but I can't afford going there. Like I'm a young  
18 Millennial. I'm trying to make it here in D.C. and I want  
19 to live in D.C. in this particular Southwest community.

20           So in addition to the open green space, I would  
21 like to request for affordable local businesses to move in.  
22 It's one thing to have another CAVA. I don't want another  
23 CAVA in my community but I definitely want something  
24 affordable. I want a place where I'm supporting local  
25 businesses.

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1           And I think I heard last time that they might have  
2 these popup art places in the local business spaces before  
3 they get them filled. But you know maybe we can have an art  
4 walk that they commit to that we can use their spaces for.  
5 But someplace where we can hear music, see music, have  
6 farmers markets that are not just down the alleyways and  
7 streets, and where we can feel like we are part of this  
8 awesome community.

9           And I just really want to say I love Southwest.  
10 I want to stay here and I want to take advantage of the  
11 community, the amazing, diverse, inclusive community that  
12 we're in.

13           So thank you for listening and I really appreciate  
14 your consideration.

15           CHAIRMAN HOOD: Okay, thank you. Next.

16           MR. MCKINNEY: So my name is Coy McKinney. I've  
17 been a Southwest resident at Tiber Island since 2010. And  
18 I remember of a growing group of residents concerned about  
19 development in Southwest and we were able to gather around  
20 300 signatures in opposition to this proposal.

21           So first I would like to thank the ANC  
22 commissioners in Forest City for allowing the space in  
23 question to be used for social gathering for the past several  
24 years. It is these activities and how they have brought the  
25 Southwest community together that form the basis of our

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1 opposition to this project.

2           Much of the discussion, so far, has been about the  
3 past and the future. While valuable and insightful, it has  
4 glossed over the present. Over the last couple years, the  
5 lots at 4th and M have become more like the town center the  
6 Southwest Neighborhood Plan first set out to establish.  
7 There have been Friday night markets, Saturday Farmers  
8 Markets, a food truck festival, the D.C. State fair, it  
9 served as a site for the 202 Creates exhibit, and have become  
10 a causal place for residents to hang out and socialize, even  
11 when nothing is planned.

12           These events have been well attended and are  
13 greatly appreciated by a significant number of members of the  
14 neighborhood. If development is to happen in this space, our  
15 position is that it should incorporate current uses into the  
16 design.

17           I am tired of developers who do not live in the  
18 neighborhood determining its future without consideration  
19 from its residents and do not have to live with the  
20 consequences of their actions.

21           Based on past experiences, the ANC has raised  
22 concerns about the Applicant's ability to deliver on their  
23 promises for retail and management. Rather than potentially  
24 getting fooled again, why not keep a good thing going and  
25 develop an outdoor space that could host the type of

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1 activities that currently add vitality and vibrancy to  
2 Southwest community life?

3           There are and will be spaces in Southwest for  
4 ground floor retail to go in along 4th Street, the Elliott,  
5 the building in the northeast parcel, the new buildings along  
6 M Street at 6th and 3rd. Neither ground floor retail or  
7 community center will replicate the dynamic aspect of current  
8 usage.

9           There are already two other community centers in  
10 the neighborhood and a third on the way in yet another luxury  
11 condo church building. What makes this new community center  
12 different from the other two just a few blocks away? Is it  
13 the fact that it's not near public housing?

14           Additionally, looking into the future, what  
15 community group would be able to afford to pay the proposed  
16 rent for the space once the free lease is up? Again, rather  
17 than struggle through these hypotheticals, why not listen to  
18 the community and keep a good thing going?

19           The beauty of current use is that it is flexible  
20 in the type of events that can be held there and is not  
21 economically restrictive, meaning no one has to purchase a  
22 \$12 cocktail just to enjoy being outdoors with others. This  
23 is perfectly in line with not only the D.C. comprehensive  
24 plan but also the Southwest neighborhood plan. This is why  
25 it is no shock to see neighbors regularly enjoying the space,

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1 even when nothing is going on, or the significant amount of  
2 comment in opposition to this project that has been submitted  
3 to the record.

4 Southwest prides itself on inclusivity and  
5 diversity but continuing the trend of luxury condos with no  
6 real family units is just more of the same as what we've seen  
7 in other parts of D.C.

8 Due to time constraints, I will hope you will  
9 refer to some other exhibits on the record. Exhibit 85C and  
10 the comments submitted by Southwest residents; Exhibit 85B  
11 with specific reference to the Southwest Neighborhood Plan  
12 and D.C. Comprehensive Plan; Exhibit 86 in reference to the  
13 lack of impact assessments, nonexistent affordable housing,  
14 or housing for families; and Exhibit 93 by Pamela Daley, and  
15 Exhibit 115 by Adam Cooper.

16 CHAIRMAN HOOD: Thank you. Next.

17 MS. DALEY: Thank you for the opportunity to speak  
18 before you tonight. My name is Pamela Daley and I am a  
19 resident of Tiber Island in Southwest.

20 As we all know, Southwest has experienced rapid  
21 development since its initial PUD was approved. I,  
22 personally, know this as I look out my window and see three  
23 cranes within my immediate vicinity, three cranes building  
24 luxury apartments on privately owned property.

25 This land that the applicant was awarded in 2008

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1 is formerly public land. As formerly public land, does it  
2 not need to serve the public good? This planned development,  
3 even with the revisions, does not serve a public good. This  
4 project does not protect what Southwest holds dear to its  
5 identity, as defined in the 2015 Southwest Neighborhood Plan.

6 The Plan's first vision is that Southwest will  
7 remain an exemplary model of equity and inclusion, a  
8 welcoming and engaged community that celebrates and retains  
9 a mix of races, ages, and income levels, and enhances well-  
10 being for all and mixed neighborhood growth and change.

11 This proposal does not make Southwest and  
12 exemplary model of equity and inclusion. It does not stand  
13 out from other high-rise luxury buildings that are going up  
14 all around our city and our neighborhood. It does not make  
15 people take notice that something is different in Southwest  
16 and that that difference is that Southwest still has people  
17 of color, seniors, and people of all incomes.

18 I came to know more about Southwest not just  
19 because I live there but because I spent a lot of time  
20 volunteering in Southwest Garden, the only public access  
21 garden in Southwest. We work with a lot of kids who live in  
22 Greenleaf public housing and we know each other by name.

23 I see how the high-rise developments coming up in  
24 Southwest have already affected them and see that their homes  
25 stand decrepit and disregarded by the city. How do I tell

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1 these young black children that D.C. cares about its poor  
2 residents of color and for them to believe me?

3           The use of the lot at 4th and M Streets is where  
4 Southwest comes alive. Since our small balconies, if we have  
5 them, can only hold so many, this is one of the few spots  
6 where we, as a community, can be outside together without  
7 having to buy something. The Farmers Market is our only  
8 access to fresh food, besides Safeway, which if you read  
9 Nextdoor post, you'd know many are less than thrilled with  
10 their offerings.

11           Southwest is a place I've come to love and I want  
12 all people to be able to enjoy it, not just those singles or  
13 couples without children who can afford outrageous market  
14 rate apartments in the interim. We shouldn't have to beg for  
15 a space outside to meet in our neighborhood or even  
16 affordable housing. But alas, we do have to do this.

17           I applaud the Applicant for working with our ANCs  
18 to address some of these issues we have raised, however, the  
19 final product does not meet the vision of the Southwest  
20 Neighborhood Plan or our citywide Comprehensive Plan. For  
21 these and additional issues raised in Exhibits 74, 85B, 86,  
22 89, and 93, I am opposed to this development.

23           Thank you.

24           CHAIRMAN HOOD: Thank you.

25           Next.

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1 MS. BROWN: Good evening. This case represents  
2 the status quo in recent development schemes for Ward 6 in  
3 Southwest, my longtime home. I adopt all the issues those  
4 in opposition have raised and more.

5 I am a native Washingtonian. I've lived in  
6 Greenleaf Senior for more than a decade. I call Ward 5 my  
7 home.

8 I read how more and more the same types of luxury  
9 projects as they before now will ultimately affect my life,  
10 the life of my daughter, who has disabilities, and the lives  
11 of my friends, and family, and neighbors living and working  
12 Ward 6, also my neighbors.

13 This is a case of major modification and major  
14 elimination of important open public sites and amenities.  
15 This is an Applicant asking to build 600 new housing units  
16 for only five families. The project is a hardship on  
17 residents like me and the surrounding the committee,  
18 especially since I am on a fixed income, and most especially  
19 since affordability is currently based on the metric that  
20 goes up every year, the AMI. This is unjust.

21 Here again, the affordable numbers and levels are  
22 such that it barely meets the minimum and will be mostly  
23 studio and one bedrooms. That means that the so-called  
24 affordable units will only be affordable to single  
25 professionals making about \$55,000 a year.

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1           From what I can tell, there are no demographic  
2 analysis and no local-level surveys or reports or records  
3 showing who in the neighborhood may be vulnerable to more  
4 housing cost burdens. This is luxury over development will  
5 only heighten.

6           This Commission must realize this type of project  
7 exacerbates the existing affordable housing crisis for  
8 families in Ward 6. It also continues to put gentrification  
9 pressure on existing affordable housing in surrounding areas,  
10 including public housing.

11           Further, without developers being asked to set up  
12 to contribute to utilities upgrades to support their  
13 projects, among many projects in the area, the  
14 overdevelopment will inevitably increase utility bills for  
15 those on fixed incomes, our already housing cost burdens,  
16 increase in utility bills or increased displacement  
17 pressures. Developer contributes to upgrade utilities, water  
18 pipes, and utility needs as a condition of approval and this  
19 may substantially and pass rates on to people like me.

20           So in conclusion, I will say this. My daughter  
21 is disabled and so we live in a community where it's  
22 important that she be able to have the support of the  
23 community. So I'd like to say that I am opposed to the  
24 developers because she needs the support.

25           CHAIRMAN HOOD: Thank you.



1 Next.

2 MR. OTTEN: Sorry. I was trying to do this.  
3 Okay, hold on. Let me just --

4 So I'm representing D.C. for Reasonable  
5 Development. My name is Chris Otten. And let me just resume  
6 this because we are going to do a civics lesson tonight.

7 Okay, Facebook Live. We are here at the Zoning  
8 Commission. My name is Chris Otten with D.C. for Reasonable  
9 Development, the Ward 6 Southwest Study Group, members who  
10 live and work nearby this project site.

11 Let's just look at this project real quick. I  
12 mean it's at the crest of the neighborhood of 4th and M  
13 Street, Southwest. It's like a beach that our members enjoy  
14 right now. They use it like a beach. There's a Farmers  
15 Market there that are members enjoy right now. These are  
16 current amenities that are going to be taken away by this  
17 project.

18 Commissioners, first I want to thank you for  
19 trying to broker the waterfront with the Waterfront Tower and  
20 the applicant on the architectural aspects of this project.  
21 Yet again, since setdown, OP, the Office of Planning, has  
22 failed us at this job. It shouldn't be up to you guys to  
23 discuss tonight what should have been discussed over the last  
24 six months to assess the impacts comprehensively and figure  
25 out ways to mitigate the impacts on the surrounding community

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1 or eliminate these impacts. So here we go, ad hockery  
2 happening the night of the hearing.

3 There are pedestrian safety issues. There is the  
4 issues around the environment impacts, gentrification. I'm  
5 sorry, 60 percent AMI studios are not affordable. They  
6 exacerbate the family affordability crisis.

7 And I'm going to call out Sheryl Court, David  
8 Whitehead, and David Alpert. Why are you not down here at  
9 the Zoning hearing demanding a much more inclusive project  
10 that is asking for significant zoning relief -- significant  
11 zoning relief?

12 The air rights and the value of such demands that  
13 the benefits for the public are much greater. Six hundred  
14 luxury units and we have five family-sized units in this  
15 building -- are you kidding me? I'm sorry, the Ward 6  
16 Southwest Benefits Coordinating Council and the gatekeeping  
17 they have done are not setting benefits for our public  
18 interest and in our community's interest. And I'm sorry I  
19 have to call that out. It's ridiculous.

20 We are in a family affordability crisis. We have  
21 been in that crisis for more than 12 years, since the 2006  
22 Comprehensive Plan was set into law. It's throughout the  
23 Comprehensive Plan.

24 Further, there is no compensation for the  
25 construction impacts that are going to hit the surrounding

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1 neighborhood significantly -- dust, noise for years. So  
2 where is the compensation that we can build in as a condition  
3 into the order? And this is something that the Office of  
4 Planning consistently ignores and could be discussing with  
5 the community to determine what could be a good condition for  
6 the Zoning Commission to include in the final order.

7           How about public services studies? Six hundred  
8 new units, this is going to be about a thousand people. What  
9 about our libraries? Do we have enough room in our  
10 libraries? Do we have enough room in our schools? Do we  
11 have enough parks in the area? Do we have enough rec  
12 centers? Do we have enough clinics? Do we have enough  
13 senior services? Is any of this ever going to get analyzed  
14 by the Office of Planning ever?

15           And it's amazing. So this initial PUD was passed,  
16 what I think it's 2002, 16 years ago and the activists and  
17 the advocates are being blamed for stalling projects.  
18 Really?

19           There are solutions here. The Comprehensive Plan  
20 guides us on that front.

21           To the issue of the first floor, which is the face  
22 of the community and the businesses, yes, indeed, 10 to 20  
23 percent of that first floor should be permanently affordable  
24 retail space for local budding entrepreneurs and businesses  
25 that could be done as much as there is a percentage of

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1 housing that is dedicated to affordability.

2           We have issues around pedestrian safety. I mean  
3 this area is being blown up. Go down to the Wharf on the  
4 weekend and tell me that's a safe place to be. You cannot --  
5 the ambulances can't even get off Main Avenue. So there is  
6 no sense of emergency response time impacts by this.

7           It fails through and through. And I just wonder  
8 how many times do I have to come down here representing many  
9 people that themselves, representing themselves as well, to  
10 bring these basic fundamental planning one-on-one issues up.  
11 I mean I look this way. I mean it is the Office of  
12 Planning's fundamental duty to conduct a comprehensive review  
13 and assessment. They're not doing it. It needs to be sent  
14 back to OP and to the parties who are concerned.

15           Thank you.

16           CHAIRMAN HOOD: Thank you.

17           Let me find out a little more. Let's do a little  
18 discovery on the Ward 6. You going to keep Live on us? I  
19 like to go on Live, too. I think this, as I say, is very  
20 important.

21           Mr. McKinney, the Ward 6 Study Group, I believe,  
22 that I just heard about a couple weeks ago, who was the  
23 author? Who was the originator of starting that group, you?

24           MR. MCKINNEY: Well, it's been a group effort.  
25 So there was Empower D.C. does regular workshops. And they

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1 invite people from all across D.C. to come there. They  
2 divide the group, they divide the attendees into ward groups.  
3 So based on which ward you live in, you meet other neighbors  
4 from there.

5 So I took the initiative to do some of the  
6 recruiting of people who were interested in this project, who  
7 had thoughts about the Farmers Market.

8 CHAIRMAN HOOD: Yes, okay. As I told you, it's  
9 always good to see activists, whether you agree with a board  
10 or a commission, or a civic group or not. And I commend you  
11 as being a young person. You're younger than I am.

12 But one of the things I'm concerned is about one  
13 of the submissions. You're familiar with fonts? Okay.  
14 Fonts are characters and serifs of a character.

15 I looked at the petition. Did different people  
16 sign the petition or did one person right the same names in?

17 MR. McKINNEY: Which petition are you talking  
18 about in particular?

19 CHAIRMAN HOOD: Exhibit 85A.

20 MR. McKINNEY: Okay, so you're talking about is  
21 that the --

22 CHAIRMAN HOOD: Explain to me how that was done,  
23 especially page 2, because it looks like the whole Brown  
24 family writes exactly the same.

25 MR. McKINNEY: So what I did is at the actual

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1 Farmers Market, I would set up shop once the Farmers Market  
2 started, and I'd have a little sign asking people what they  
3 thought about the Farmers Market and if they knew what was  
4 planned for the space.

5           So people would come over. They would talk about  
6 -- you know we'd talk about the plans, their ideas, and their  
7 thoughts. And that was just a manual way of capturing  
8 signatures. So that person --

9           CHAIRMAN HOOD: So those are not signatures.  
10 Somebody wrote those -- you wrote those in for them.

11           MR. McKINNEY: No, no, no. No, I didn't write  
12 those names in. So those are actual people signing that.  
13 None of that is my handwriting.

14           CHAIRMAN HOOD: Okay. Well, okay. I'm just  
15 curious because when I looked at this --

16           MR. McKINNEY: Yes, sir.

17           CHAIRMAN HOOD: -- I see all the characters and  
18 the serifs look exactly the same. And typically --

19           MR. McKINNEY: Oh, oh, oh.

20           CHAIRMAN HOOD: -- we don't usually write the  
21 same.

22           MR. McKINNEY: Okay.

23           CHAIRMAN HOOD: We don't usually -- nobody -- see  
24 my handwriting, people told me I was going to be a doctor.  
25 Doctors don't usually -- hopefully, there's no doctors in

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1 here. They don't usually write in cursive writing that well.  
2 And I don't.

3 And I'm looking at this. A lot of this emulates  
4 the exact same.

5 MR. McKINNEY: Okay.

6 CHAIRMAN HOOD: So I'm having some issues with  
7 this because -- now you're under oath and you told me how  
8 this was done.

9 MR. McKINNEY: Yes. So, okay. Now, because  
10 there's two signatures. So I gathered signatures in two  
11 different ways. So one way I gathered it was online. So  
12 maybe you're referring to that document where it's all --

13 CHAIRMAN HOOD: No, not the type. Not the type.  
14 I'm talking about the written, what's written.

15 MR. McKINNEY: Okay. Yes, well --

16 CHAIRMAN HOOD: All right fine.

17 MR. McKINNEY: That's other people's signatures.

18 CHAIRMAN HOOD: Okay, that's your testimony.

19 Okay, great. Thank you.

20 Any other questions or comments up here? No,  
21 okay.

22 Does the Applicant have any cross?

23 MS. SHIKER: No.

24 CHAIRMAN HOOD: Does the ANC have any cross?

25 MR. LITSKY: No, sir.

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1 CHAIRMAN HOOD: Okay, thank you.

2 MS. SCHELLIN: Waterfront.

3 CHAIRMAN HOOD: I'm sorry? Oh, I'm sorry,  
4 Waterfront. Ms. Bouganim. I can pronounce it now.

5 Ms. Bouganim, if you have any cross, you can come  
6 forward.

7 MS. BOUGANIM: No, we said in our introduction --

8 CHAIRMAN HOOD: Okay, Ms. Bouganim, again, if you  
9 -- what I'm asking for is cross-examination of this panel.

10 MS. BOUGANIM: No.

11 CHAIRMAN HOOD: Okay, thank you very much. Thank  
12 you all.

13 Okay, let's go to Paul Ray -- Rau -- Rau. I'm  
14 sorry.

15 I'm ready when you are.

16 MR. RAU: Thank you. First time doing one of  
17 these.

18 I'm not necessarily against or for the project at  
19 this point but I do have some questions. I'm an owner. I  
20 live across the street at the Carrollsburg Condominiums. I'm  
21 a parent, have two young kids. We've been in the  
22 neighborhood for I think over five years now.

23 As development has increased in our neighborhood,  
24 parking has become a significant issue. Now if we have  
25 somebody come visit our neighborhood, they just assume they

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1 have no chance of finding parking.

2           As we see more buildings come and more people  
3 come, obviously, the intention is not to have everybody have  
4 cars but, unfortunately, people have cars. And these  
5 buildings currently charge residents \$100 or \$150 a month  
6 just to park their cars at their facility, which, in turn,  
7 means these people park on the street, along with the people  
8 who go to the Wharf, along with the people who go to the ball  
9 games and everything else in our neighborhood.

10           I would like to see something happen to either  
11 they give free parking to their residents to pull their cars  
12 off the streets or we find a way to mitigate this issue  
13 because right now, if my grandmother comes and visits me  
14 after church, she's not going to be able to park in the  
15 neighborhood. And that, to me, is a practical issue. It's  
16 something we see every day. And you know I just had my two-  
17 year-old daughter's birthday weekend and nobody could find  
18 parking in our neighborhood. That's my first point.

19           Second point, I understand the developer's desire  
20 to maximize square footage. I am somewhat loosely in the  
21 development business. I get that. But at some point, the  
22 massing needs to come down in our neighborhood. They are  
23 building as close to the curbs as possible. There is just  
24 not enough space. There is not enough sidewalk space. I  
25 would like to see them consider that. We saw some

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1 interesting designs from the folks presenting earlier.  
2 Obviously, I don't know how that works in this phase of  
3 planning but that's something that I think is frustrating for  
4 all of us in the neighborhood who have been there for a  
5 while, some of who have young kids, some of us who just like  
6 to actually have sightlines somewhere in our neighborhood.

7 I heard they are considering less one percent  
8 family-sized units. There are several young families in our  
9 neighborhood. A consideration as our families are growing  
10 is whether we can even stay in our neighborhood, let alone  
11 D.C. in general. I would like to see more increased three-  
12 bedrooms in our city.

13 That is a consideration for myself. We own a two-  
14 bedroom condo. We have two kids. We are looking to try to  
15 figure out what we're going to do next. And there are  
16 several families I know of in our neighborhood who are in a  
17 similar situation and none of the buildings that are going  
18 up are offering three bedroom units, which leaves families  
19 no place to go and they end up going to Virginia or somewhere  
20 else in the suburbs.

21 And I would love to see the traffic and parking  
22 studies. I'm sure these guys did. I just couldn't find them  
23 online anywhere. And there has to be something to reflect  
24 the planning that went in and the considerations. And I'm  
25 just curious where I could actually locate those.

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1 And that's all I have.

2 CHAIRMAN HOOD: Okay. Let's see if we have any  
3 questions or comments for Mr. Ray, right, is it? Rau. Rau,  
4 I'm sorry, Mr. Rau.

5 No questions or comments.

6 Does the Applicant have any cross?

7 MS. SHIKER: We do not.

8 CHAIRMAN HOOD: Okay. Does the ANC have any  
9 cross?

10 MR. LITSKY: No, sir.

11 CHAIRMAN HOOD: Okay, Mr. Rau. So noted. And I  
12 think if you need some assistance in finding it, Ms. Schellin  
13 will be able to help you. Or, if you go to the Office of  
14 Planning, it should be on the Office of Planning's website  
15 for this case. If not, somebody in the Office of Planning  
16 or DDOT should be able to help you.

17 Oh, I'm sorry, does the Waterfront Tower have  
18 cross?

19 MS. GOODING: We do not.

20 CHAIRMAN HOOD: Okay, thank you very much.

21 Okay, Ms. Shiker, you want to come and do rebuttal  
22 and closing?

23 Was there anyone else who wanted to testify in  
24 opposition who are present? Okay.

25 MS. SHIKER: Good evening. Thank you. Christy

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1 Shiker representing the Applicant.

2           We have a brief rebuttal, just to provide a little  
3 bit more information on some of the issues. I would like to  
4 start with what I alluded to in my cross-examination. Can  
5 you please pull up that one slide? I'm sorry, it's going to  
6 take a second.

7           So prior to the development of the Waterfront  
8 Tower and the 301 M Street, Waterfront Tower, obviously, was  
9 existing. And with the development of 301 M, there were  
10 different agreements that were made between the Waterfront  
11 Station and the owners of that property. One of those was  
12 that if the building was developed closer to M Street and the  
13 access was lost for Waterfront Tower, that there would be  
14 shared access and easements to allow access on the private  
15 driveway. And those agreements specifically as approved in  
16 the first-stage PUD. This agreement is from February of 2008  
17 and we can submit to the record. It's a recorded document  
18 in the land records.

19           It also wanted to protect the views from  
20 Waterfront Tower Condominium building. And so therefore, you  
21 can see in red what was called the light and air easement.  
22 And I'm sorry, it doesn't seem to be showing up as well on  
23 your screens as it is on ours. But it is a 30-foot one-inch  
24 easement that extends from the ground up to make sure that  
25 there was sufficient distance from those buildings.

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1 I will note that we are outside of that air and  
2 light easement. For the first two floors, we are slightly  
3 outside of it. Above that, we are more than 45 feet setback  
4 from that.

5 So I point that out because we talked to the  
6 Zoning Commission a lot about light and air, not having  
7 rights across people's properties without an express  
8 easement. In this case, we have an express easement and  
9 we're fully compliant with it in that way.

10 I'd like to move to Brett just to talk about a  
11 little bit about some of the design changes that we've made  
12 that we're committing to for Waterfront Towers in respect to  
13 our discussions with them. And I certainly heard they want  
14 to see that in writing and we are happy to put that in  
15 writing. I understand conditions in an order make people  
16 more comfortable than just representations in testimony. So  
17 that would certainly be something that we submit as part of  
18 our post-hearing submission. So that can go into the BAFO  
19 process.

20 I would also -- so I would like Mr. Swiatocha go  
21 through that.

22 I will also let the Commission know that we are  
23 presenting a little bit of rebuttal in response to something  
24 that was asked of us by the Commission and the Office of  
25 Planning. We've had an opportunity to meet with the

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1 Department of Energy and Environment on potential solar  
2 panels being part of the screen walls. And so we have a  
3 couple of images to show to get a little bit of feedback to  
4 see if that is something the Commission would like.

5 So I'll go with Mr. Swiatocha and then we have  
6 just a couple of comments after that.

7 MR. SWIATOCHA: Good evening, Commissioners. My  
8 name is Brett Swiatocha. I am an architect with Perkins  
9 Eastman in D.C. and we are the architects on this project for  
10 Forest City.

11 I'd like to start with the height massing and  
12 setbacks of the building, which the proposed design is fully  
13 consistent with the approved first-stage PUD on all of those  
14 points.

15 The design and development team of Waterfront  
16 Tower has met with the members of Waterfront Tower community  
17 multiple times to discuss their concerns about the proposed  
18 building at 375 M Street, Southwest. Many of those concerns  
19 we have heard again tonight.

20 We've heard their concerns about congestion along  
21 the entry, the north/south private drive, the design of the  
22 building fronting onto the north/south private drive, and the  
23 design of the drive itself.

24 The design team, along with the developer, has  
25 taken significant steps over the past few months to address

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1 the concerns of Waterfront Tower. To address concerns about  
2 a perceived congestion and a choke point at the north end of  
3 the private drive where it intersects with the East Plaza,  
4 we have increased the size of the interior loading dock by  
5 nearly 3,000 square feet to allow SU-30 trucks to make all  
6 turning maneuvers internal to the building and limit truck  
7 traffic on the private drive north of our loading entrance,  
8 as requested by Waterfront Tower.

9           That loading configuration was documented in the  
10 supplemental prehearing submission.

11           To accommodate the revised loading dock, the  
12 garage ramp and drive aisles had to be completely  
13 reconfigured within the building. Egress stairs through the  
14 full height of the building had to be relocated, along with  
15 reconfiguration of all the residential units on the floors  
16 above.

17           And ground floor residential and retails spaces  
18 had to shrink, with a net loss of approximately 1,700 square  
19 feet of ground floor residential spaces and a net loss of  
20 about 2,000 square feet of retail space.

21           To address Waterfront Tower's concerns about the  
22 design of 375 M as it fronts onto the private drive and  
23 visibility of our loading dock doors and the interior of the  
24 loading dock when the doors are open, the overall design of  
25 the portion of the building closest to Waterfront Tower has

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1 been revised.

2           We reduced the total number overhead coiling doors  
3 accessing the loading facilities from two down to one to  
4 limit the total percentage of the facade that is occupied by  
5 those loading doors.

6           The single remaining overhead coiling door that  
7 accesses the loading bay and the garage entry door were  
8 shifted south by approximately 50 feet from the northeast  
9 corner of the building to shift it south of the motor court,  
10 as requested by Waterfront Towers and as we heard again  
11 earlier this evening.

12           In addition, the loading dock and garage entry  
13 doors are set back from the face of the building on all sides  
14 above and to the north and south to limit visibility of those  
15 doors from Waterfront Tower at grade and from the units above  
16 -- the condo units above.

17           The architectural expression of this portion of  
18 the building was also reduced in height by approximately  
19 eight feet, as you can see below with the initial filing and  
20 then above with the revised proposal.

21           To address Waterfront Tower's concerns about the  
22 character of the north/south private drive, the edge of the  
23 building was moved west by approximately one-foot six to  
24 provide enough space between the building and the drive for  
25 two feet of planting space and a four-foot six sidewalk. The

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1 existing asphalt paving on the private drive will also be  
2 replaced with striated colored concrete to match the paving  
3 and character of the East and West Plazas, as seen in these  
4 artist renderings.

5           We would also like to confirm that the 22-foot  
6 width of the north/south private drive that is being proposed  
7 matches the width of the north/south private drive as it  
8 currently exists, as also requested by Waterfront Tower.  
9 This 22-foot width exceeds DDOT standards for two-way traffic  
10 on a residential street and DDOT does not have any objection  
11 to the proposed operational way out of the drive.

12           The Commission requested further details on our  
13 proposed plan to include solar panels in the mechanical  
14 screen walls of both buildings. So we have a couple images  
15 to provide some more direction on that.

16           We identified the south-facing walls of the  
17 mechanical enclosures as an opportunity to efficiently and  
18 effectively integrate PV panels into the project. Installing  
19 the panels sloped at 20 percent off vertical, the panels can  
20 serve dual purpose of on-site energy generation and  
21 mechanical screening, reducing material use on both  
22 buildings.

23           And you can see we are identifying those locations  
24 on both buildings and a closer image of how we're proposing  
25 to install those panels on the south-facing screen walls, as

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1 the south-facing screen walls of both buildings.

2           The next few images highlight the limited  
3 architectural impact of installing those mechanical -- those  
4 PV panels as mechanical screen walls. You can see that due  
5 to the setback of those south-facing screen walls off of M  
6 Street, due to the courtyard setback, as well as the required  
7 one-to-one setback, there is very limited visibility of these  
8 elements.

9           Additionally, we heard concerns at the first round  
10 of the hearing, I believe from Commissioner May about GFRC  
11 panels and concerns about premature weathering and staining  
12 of those panels over time. And as a result, we have gone  
13 back and we have been exploring alternative materials to the  
14 GFRC and the material that is kind of leading right now is  
15 a porcelain tile ring screen. The porcelain tile has the  
16 benefit of being a nonporous material. So it will limit the  
17 absorption of atmospheric pollution, pollutants, and limit  
18 the buildup of dirt on the building over time.

19           Additionally, the texture available in those  
20 porcelain tile panels will add a rich character to the  
21 building and also help conceal the inevitable buildup of some  
22 dirt on the building over time.

23           MS. SHIKER: All right, I would ask Trini  
24 Rodriguez to briefly talk about the open space. We've heard  
25 a lot from the testimony today of the concerns of the loss

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1 of the existing pad sites that were waiting for development.

2 I'll have Ms. Rodriguez talk briefly about our  
3 landscape design and then Mr. Smith talk about how the  
4 programming can be incorporated into the town center as  
5 proposed.

6 MS. RODRIGUEZ: Good evening. Trini Rodriguez,  
7 Parker Rodriguez, for the record.

8 So the proposal with this project, as you can see,  
9 is the creation or the establishment of that Central Plaza.  
10 As you can see Central Plaza was built as part of the  
11 installation of the first building for the entire PUD. This  
12 was approved as part of the overall plan and it was created  
13 to be the focal point of the community.

14 As you have heard tonight, there has been a lot  
15 of talk about the temporary uses that have been put in the  
16 vacant pieces of land. And I will let the developer sort of  
17 elaborate a little bit more about the plans that have been  
18 implemented over the years to activate those spaces as  
19 interim.

20 But as part of the overall plan, this was the  
21 framework that was approved and the central space was that  
22 Metro Plaza, which was partially -- so partially built. What  
23 this plan does is enlarges the plaza to the east, as you can  
24 see in the diagram, and it actually engages both the East and  
25 the West Plaza that were part of an overall framework of

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1 public space.

2           As you can see here, the location of this space,  
3 which is the one in orange, which is the Metro Plaza, in blue  
4 you have both the East and the West Plaza, are part of the  
5 approved framework. And as you can see there, it is also  
6 part of a larger system of open space. In this diagram you  
7 can see that in the neighborhood there are other greens that  
8 are located within an eighth of a mile and a quarter mile of  
9 this center of the development.

10           MS. SHIKER: Thank you.

11           MR. SMITH: The Waterfront Station owners commit  
12 to continue, as it has done over the past several years, to  
13 working with the ANC and Southwest BID and the future  
14 proposed community center operator, and other community  
15 groups to host activities that engage the community within  
16 the Waterfront Station boundaries and to work in concern with  
17 the various community groups to foster activities among the  
18 numerous public spaces within the network of open public  
19 spaces, both green and hardscape.

20           Previously, we have had a great deal of activities  
21 on the site. During the interim of the site, as we've worked  
22 with the ANC, while those sites could not be developed, when  
23 we went back for extensions of the first-stage PUD for  
24 inability to get tenants, we agreed to activate those sites.  
25 The Farmers Market was one of the things we brought to the

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1 site. It was over on the Southwest Library site. We worked  
2 with them to come over to the site and just to have other  
3 types of activities.

4           There are opportunities within the Waterfront  
5 Station site on the Plaza Drive. When this was originally  
6 planned, we had originally talked about possibly closing one  
7 of the plazas temporarily for a block party or things of that  
8 nature. We didn't have to do that in this sense, in that  
9 there were these spaces open in the interim. But there are  
10 spaces within the property. There are spaces within a  
11 quarter mile, and eighth of a mile of the community that are  
12 existing open spaces that can also be used.

13           And so I think together popup retail, public art  
14 displays, as was asked for previously, communal neighborhood  
15 dinners have happened in the neighborhood, the Farmers Market  
16 can remain -- can remain on the property. We can try to work  
17 with them or in the very near proximate area of the site in  
18 one of the public open spaces.

19           MS. SHIKER: Thank you.

20           And I've asked Shane Dettman just to finalize our  
21 rebuttal with some statements on standards of review in the  
22 Comp Plan.

23           MR. DETTMAN: Good evening, Commissioners. I  
24 think you're well aware of kind of where the Comprehensive  
25 Plan fits into the PUD process. As you know, the Commission

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1 makes its determination on whether or not a project is not  
2 inconsistence with the Comprehensive Plan as part of the  
3 first-stage review of a PUD.

4           The regulations go on to describe a second-stage  
5 PUD as involving a detailed site plan review to determine  
6 transportation mitigation, final materials, and compliance  
7 with the intent of the first-stage PUD.

8           Now if the Commission finds that an application  
9 is in accordance with the intent and purpose of the  
10 regulations, the PUD process, and the first-stage PUD, it  
11 shall grant the second-stage PUD.

12           The Commission has already determined that the  
13 overall PUD is not inconsistent with the Comprehensive Plan.  
14 First, in 2002, when the governing document at that time was  
15 the 1998 Comp Plan and, again, in 2007, when the governing  
16 document was the current 2006 Comprehensive Plan.

17           And so whether or not the Commission needs to  
18 revisit its prior Comprehensive Plan determination in light  
19 of the requested modification to the first-stage PUD, the  
20 regulations do address that sort of situation. And it says  
21 that the scope of a hearing at a modification of significance  
22 is limited to the impact of the modification on the original  
23 application.

24           And so to the extent that the Commission is  
25 compelled to readdress the Comprehensive Plan as part of this

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1 proceeding, such evaluation should be limited to the impact  
2 of converting -- just the change of use, the converting of  
3 the east and west buildings from office to residential on the  
4 intent and purpose of the first-stage PUD.

5           In my opinion, based upon the goal of the first-  
6 stage PUD to create a vibrant town center environment with  
7 an active mix of uses, improved accessibility and active  
8 urban spaces, and the supplemental guidance provided by the  
9 Southwest Small Area Plan that recommends flexibility to  
10 provide residential use in the east and west buildings, I  
11 think the first-stage PUD modification is not inconsistent  
12 with the Comprehensive Plan.

13           And with that modification, the second-stage PUD  
14 is consistent with the purpose and intent of the first-stage  
15 PUD, the PUD process, as well as the Zoning Regulations.

16           Quickly, on the topic of open space, to my  
17 knowledge, there is nothing in the Comp Plan or the Small  
18 Area Plan that would suggest that the near Southwest area is  
19 lacking in available open space. Actually, the Comp Plan  
20 notes that almost 30 percent of the planning area consists  
21 of parks and open space but that many of the parks and open  
22 spaces are hard to find, underutilized, and neglected.

23           The Small Area Plan defines -- says that a  
24 defining feature of the Southwest neighborhood is its  
25 multitude of strategically-located green spaces and makes

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1 similar recommendations to preserve and enhance existing  
2 green spaces and improve connections.

3           The overall PUD does exactly what is called for  
4 in the Comp Plan and the Small Area Plan by adding variety  
5 to the planning area's existing parks and open spaces, and  
6 by creating a network of urban open spaces within the town  
7 center that are programmed and provide better connectivity.

8           At the same time, east and west buildings being  
9 converted to residential also draw upon and address other  
10 recommendations within the Small Area Plan that talk about  
11 the continuing demand for affordable housing and market rate  
12 housing in this area.

13           The east and west buildings have never been  
14 recommended in the Comprehensive Plan or the Small Area Plan  
15 to be maintained as a public or private open space. And they  
16 have always been intended to be developed as part of the PUD.

17           Consistent with the Comprehensive Plan at the  
18 time, the initial first-stage PUD approved these sites for  
19 office use. Since then, the Comprehensive Plan has been  
20 amended multiple times. We now have a Small Area Plan that  
21 provides neighborhood-specific guidance and still there is  
22 nothing in these governing documents that suggest the  
23 planning area is lacking in available open space or  
24 recommends that the east and west building sites be  
25 maintained as open space.

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1           When you look at it, actually, the overall PUD has  
2 actually evolved along with the Comprehensive Plan. In  
3 response to the 2006 future land use map change on this site  
4 to mixed use high-density residential and commercial, the  
5 land use -- and to land use and housing policies regarding  
6 the growing need for more market rate and affordable housing,  
7 the PUD was modified in 2007 to allow greater height and to  
8 convert previously approved office buildings to residential  
9 buildings.

10           The current first-stage PUD modification will  
11 allow the PUD to continue to evolve with the Comprehensive  
12 Plan in a way that is consistent with the supplemental  
13 guidance provided in the Small Area Plan by allowing the east  
14 and west buildings to be devoted to residential with  
15 neighborhood-serving retail, and appropriate amount of  
16 neighborhood-oriented office space, and a new community  
17 center, while also completing the network of urban open  
18 spaces that will connect to the larger surrounding network  
19 of parks and open spaces within the planning area.

20           The final topic is -- I'll make a few comments  
21 about D.C. for Reasonable Development's comments related to  
22 project impacts. I'll touch upon these briefly but I think  
23 our intent is to fully address those comments in the record  
24 as part of our post-hearing submission.

25           D.C. for Reasonable Development claims a lack of

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1 thorough study of the potential impacts to a host of areas,  
2 including transportation and parking, infrastructure, the  
3 environment, local public facilities, and gentrification  
4 impacts on surrounding affordable housing.

5           As part of its review in 2003 and in 2077, the  
6 Commission did evaluate the impacts of the project,  
7 specifically finding in case 02-38A that the project has been  
8 evaluated by the relevant District agencies, including being  
9 supported by both OP and DDOT, and, based on those reports,  
10 there will be no adverse impacts that cannot be mitigated by  
11 the conditions proposed herein.

12           Other than the change in the use from office to  
13 residential, for which the transportation impacts have been  
14 thoroughly analyzed, the current proposal is fully consistent  
15 with the approved first-stage PUD. In addition, the current  
16 proposal continues to have the support of OP and DDOT.

17           Finally, D.C. for Reasonable Development claims  
18 gentrification impacts and harm to existing affordability.  
19 To suggest that this PUD exacerbates the issues of affordable  
20 housing only shows a lack of knowledge of where this project  
21 initially started, when it was approved for seven commercial  
22 buildings and only one residential building.

23           Based on this application and what we know about  
24 the future building on the northeast parcel, which I think  
25 has been submitted to you, the final project will provide

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1 significantly more affordable housing than originally  
2 proposed, which will contain a range of unit types at a wide  
3 range of income levels. It can be said that as demand for  
4 affordable housing in the District has continued, this PUD,  
5 over time, has continued to evolve in a manner that helps  
6 address this issue.

7           The Commission has heard many times, I'm sure,  
8 that it is well-established that construction of new housing  
9 in all price ranges is one of the best ways to mitigate  
10 increasing prices in rents, as it helps address the imbalance  
11 between housing demand and housing supply. And so in that  
12 regard, the proposal before you makes perfect sense, as it  
13 will add to the District's housing supply without displacing  
14 any existing housing in a location that is accessible to  
15 transit and neighborhood-serving amenities.

16           Thank you, Commission.

17           MS. SHIKER: And with that, we are done with our  
18 rebuttal. And when the Commission is ready, we can move to  
19 our closing.

20           CHAIRMAN HOOD: Commissioners, any questions, some  
21 follow-up questions or comments?

22           Vice Chair Miller.

23           VICE CHAIR MILLER: Thank you, Mr. Chairman and  
24 thank you for that information in your rebuttal. So I think  
25 what I'm going to be looking for in a post-hearing

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1 submission, among other things, is an MOA maybe with the  
2 Waterfront Tower that addresses the concerns that they  
3 testified to this evening, the three that they said had been  
4 addressed by you, the applicant, by Forest City. And then  
5 the outstanding issues, there were four in the testimony, and  
6 then I think there was at least one in the architect's  
7 presentation on the setback.

8 I think we need a response, a formal response in  
9 the post-hearing submission to all that. And it will be  
10 helpful to have the MOA so that we can refer to the MOA in  
11 any final zoning order, if we get to that point, because  
12 there was discussion of that, that they would want to see  
13 those conditions memorialized. And you said that you were  
14 willing to do that.

15 So that's one area, the MOA between yourselves and  
16 Waterfront Tower. I think they submitted a draft MOA, but  
17 we don't have anything from the applicant.

18 Then there are the ANC conditions. It was a  
19 conditional approval, and there were a number of outstanding  
20 conditions that their resolution included, including, as I  
21 recall it, the community center space being really free, not  
22 just free except for utilities or whatever, totally free.  
23 And I think you had proffered it for 30 years, and I think  
24 there were some dialogue from at least one of my colleagues  
25 about it that it should be in perpetuity.

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1           But they also had the condition on that public  
2 plaza space that everybody is concentrating on, and the ANC  
3 and I do appreciate that you all are allowing that temporary  
4 library trailer for the Southwest Library when that's, when  
5 that building is being reconstructed. But I think one of  
6 their conditions was a public space, a public plaza plan.

7           It showed maybe some of the landscaping, I'm not  
8 sure, that we had that in the record. That was one of the  
9 ANC's conditions. There also was the RPP restrictions which  
10 one of the witnesses tonight talked about the parking issues,  
11 preventing the residents of the building, not that we know  
12 if that's working, Mr. Chairman, but that is something that  
13 you proffered and that may help mitigating against residents  
14 parking in the neighborhood. There were other conditions  
15 there in their testimony.

16           So that's the second thing I personally would be  
17 looking for. And I'll see what else my colleagues would be  
18 looking for.

19           And the third thing was, and this came up at the  
20 hearing, the original hearing, was the affordable housing,  
21 which Mr. Dettman testified to tonight.

22           So, the Office of Planning, in their March 26th  
23 pre-hearing report to us, recommended or encouraged the  
24 applicant to examine increasing the number of inclusionary  
25 zoning units, recognizing that you did increase by one the

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1 number of three-bedroom units between the time of setdown and  
2 the time of our last hearing. But they still were asking for  
3 the applicant to examine increasing the number of affordable  
4 housing for families beyond the five that you now have, five  
5 three-bedrooms, which is among the 48, approximately  
6 estimated 48 units which would be affordable at the 60  
7 percent and my level. They suggested increasing the total  
8 amount of affordable housing and providing some housing at  
9 the 50 percent MFI level.

10 So there were three affordable housing  
11 encouragements in the Office of Planning, which I think most  
12 of us up here on the dais at that hearing supported that  
13 encouragement and agreed with that encouragement. So that's  
14 what I would be looking for in a post-hearing submission.  
15 Thank you.

16 CHAIRMAN HOOD: Okay. Thank you. Mr. Turnbull.

17 COMMISSIONER TURNBULL: Yes. Thank you, Mr.  
18 Chair. I would echo Commissioner Miller's, the Vice Chair,  
19 comments. I think they basically reflect mine also and some  
20 of the things that I would like to see. I do appreciate the  
21 use of 375 as a temporary location for the Southwest Library  
22 which could take two years to build, so I don't know how that  
23 affects your schedule or what.

24 So the only other thing that I would like to see  
25 is we hear a lot of time about neighborhood retail and your

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1 objectives to try to get neighborhood-serving retail and  
2 local businesses involved on the site and the concern about  
3 it's going to be too overpriced for a lot of local businesses  
4 to come there. So I don't know if you could address that or  
5 talk about that or what kind of outreach you've done to try  
6 to bring in businesses like that. But it would be good to  
7 hear something on that. Thank you.

8 CHAIRMAN HOOD: Any other comments or questions  
9 up here? Mr. Shapiro.

10 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I'd  
11 just join with the comments of my colleagues, and the only  
12 other things that I would add, just a comment on that  
13 neighborhood sort of retail and the affordability of it. I'm  
14 really taken a bit by that discussion. We talk a lot about  
15 affordable housing, and there is something to think about in  
16 terms of what affordable retail brings to a neighborhood.  
17 So I'd be curious to hear your thoughts on that, and I  
18 imagine you could see that more affordable neighborhoods  
19 serving retail might make sense in this development, but, of  
20 course, there's an economic impact. But setting that aside,  
21 from our perspective, I would see that as something that  
22 would be very productive.

23 The other thing is I appreciated your approach  
24 around the solar panels, and that seems like a workable  
25 solution to me. That gets you to the one percent?

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1 MR. SWIATOCHA: Current estimates are getting us  
2 approximately one percent. It will depend on final selection  
3 of panels and technology at the time.

4 COMMISSIONER SHAPIRO: Thank you. And the last  
5 thing is this discussion from WFT about the, I guess in their  
6 words, the art wall opposite of their entrance, and I would  
7 like to hear from you what kind of creative solution you  
8 could come up with that could address some of their concerns  
9 about prettying up their front door. I think you've made  
10 tremendous progress in all sorts of ways, and that feels like  
11 the last bit of it that could really be the icing on the cake  
12 for the attractiveness. Thank you, Mr. Chair.

13 CHAIRMAN HOOD: Any other comments up here?  
14 Commissioner May.

15 COMMISSIONER MAY: Yes, just one. We received a  
16 whole lot of additional testimony since the last hearing on  
17 the issue of safety and the safety study that's being done,  
18 and I know that was discussed in the hearing. But I think  
19 that there's more to be said on this topic in terms of the  
20 timing of things because it's, you know, I do think it is an  
21 important issue that needs to be addressed sooner rather than  
22 later and is not directly tied to what is, you know, your  
23 time line for the development of these buildings. I mean,  
24 it's something that should be undertaken as quickly as  
25 possible. And I understand that there's a commitment to do

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1 it. It's really just about the timing, right? So do you  
2 want to answer me right now --

3 MS. SHIKER: I can respond just quickly on that.  
4 We have committed to fund that safety study, as DDOT  
5 testified. It is not mitigation for our project, but it is  
6 a benefit because our project is not exacerbating that  
7 situation. We have committed to DDOT that, as soon as the  
8 PUD is approved, we will do the funding prior to getting a  
9 building permit, prior to constructing our project. We are  
10 happy to work on that timing, you know, following approval  
11 of the PUD and moving forward with that.

12 COMMISSIONER MAY: I think understanding this in  
13 the context of your plan for moving forward with the project  
14 is helpful, so, I mean, how long will the study take? How  
15 long might it take to implement improvements if that's, you  
16 know, I mean, I understand that you won't necessarily be  
17 implementing the improvements, but, you know, just seeing the  
18 entire picture of that and seeing how that ties into your  
19 development schedule overall.

20 MS. SHIKER: We would be happy to submit that as  
21 part of our post-hearing submission and then allow DDOT to  
22 be able to respond, as DDOT is the one committed to doing any  
23 of the improvements that come out of the safety study.

24 COMMISSIONER MAY: Well, right. And I would like  
25 you to talk to DDOT and put that information into your

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1 submission, as well, just so, you know, this is what DDOT has  
2 -- and I understand it's not going to be a commitment. I  
3 know this is always, you know, how DDOT spends their money  
4 is like any other government agency, it's going to be subject  
5 to the whims of when they get money and what they get money  
6 to do and so on. But just sort of to see that idealized so  
7 we can give some people some comfort about when those changes  
8 will be made.

9 MS. SHIKER: We can submit that, yes, and work  
10 with DDOT.

11 COMMISSIONER MAY: You know, acknowledge that I  
12 think that the whole traffic situation on 4th Street there  
13 is a bit chaotic. I mean, I think it's, frankly, in many  
14 ways, a testament to the success of the development in the  
15 first place and, to some extent, the poor parking of the  
16 government employees who work in the building there. But  
17 we're not going to necessarily fix that right away either.

18 Anyway, I would appreciate something more on that.  
19 Thank you.

20 CHAIRMAN HOOD: Okay. I'm going to stick with my  
21 comments earlier. Other than, I'm going to come from a  
22 different angle. I would like to see you all continue to  
23 talk with the community, Waterfront Towers. I'm going to  
24 include Mr. McKinney. He comes from a different area, but  
25 he encompasses the neighborhood, so I would like for you all

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1 to encompass him. The ANC, as well.

2 I think with you all sitting down, you can come  
3 closer together than where you are because I think that all  
4 people have brought up some great points. Mr. McKinney is  
5 a younger gentleman in the area, and we don't get a lot of  
6 that, so I want to encourage him to continue. I just want  
7 to make sure that when we continue with stuff that we  
8 continue correctly. That's where I am, so take that for what  
9 it's worth. So I would like to see that happen like that and  
10 you all come back and give you some time and some well  
11 thought-out concerns that were raised.

12 I can tell you some of the concerns that I've had,  
13 not just with this case, I hear all this about affordable  
14 housing, and we talk about it all the time. And I'm going  
15 to start really getting on this because, from my standpoint  
16 and I've said this previously, affordable housing, it seems  
17 like the more housing we get the more the price goes up. I  
18 hear the argument, Mr. Dettman, that if you increase the  
19 supply -- let me make sure I got my economics right -- if you  
20 increase the supply the cost comes down. We increase the  
21 supply, and it goes up. And that's Anthony Hood's opinion.  
22 I'm a realist. I'm going by what I see, not what I hear.  
23 Because if I go by what I hear, yes, everything is  
24 affordable. I only know of maybe one or two real good  
25 affordable projects that I've dealt with in the city.

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1 I understand it's more than just zoning. We're  
2 not going to be able to fix it here. The elephant isn't  
3 coming to play. So that's a whole 'nother argument at a  
4 whole 'nother time, but I think this is going to be a  
5 discussion that I'm going to be having for the remainder of  
6 my time here about this whole affordable housing issue  
7 because it seems like the more we get the higher the price  
8 goes. I haven't seen it fall down, but, anyway, that's a  
9 whole other issue.

10 But I think, for me, it's about you all working,  
11 again, more with the community. Is everybody going to get  
12 what they want? No. Let's try to make sure that we all can  
13 coexist and we will deal with what you come back with. And  
14 I don't want you to hasten it and run and try and get it  
15 done. I want you all to take your time, and I want you all  
16 to come back with something a little more closer together  
17 with some of the issues. Some of the issues, as you  
18 mentioned, have already been dealt with, but, you know, we  
19 can always revisit it because the courts have told me that  
20 everything is within my jurisdiction, and that's how I'm  
21 going to start carrying it, okay? All right?

22 All right. Anything else up here? Okay. We'll  
23 take your closing. Oh, okay, cross. I'm jumping too fast.  
24 Is there any cross on rebuttal from the ANC?

25 MR. LITSKY: No, sir.

1 CHAIRMAN HOOD: Is there any cross on rebuttal  
2 from Waterfront Towers?

3 MS. GOODING: Yes.

4 CHAIRMAN HOOD: Come forward.

5 MS. GOODING: Can I ask a procedural question  
6 first?

7 CHAIRMAN HOOD: Sure.

8 MS. GOODING: My question is that our expert has  
9 some questions that I can intelligently explain, but I also  
10 have some questions from my local perspective.

11 CHAIRMAN HOOD: Is it on rebuttal?

12 MS. GOODING: Yes.

13 CHAIRMAN HOOD: On what you just heard?

14 MS. GOODING: The rebuttal and the summary,  
15 everything that you just all talked about. So we can both --

16 CHAIRMAN HOOD: Right, right.

17 MS. GOODING: Thank you very much.

18 CHAIRMAN HOOD: Yes, we'll do that. Ms. Shiker,  
19 do you object? Okay. No objection so --

20 MS. SHIKER: Happy to have them ask the questions.

21 MR. MARRIOTT: I just have one question.  
22 Basically, if you can differentiate the difference between  
23 a light and air easement and a transportation easement?  
24 Because this seems to be essentially just a transportation  
25 access easement. Along with the easement, who agreed to

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1 this? Because I don't think Waterfront Tower was in place  
2 yet and when the easement was proposed and agreed to so they  
3 don't have any kind of impact visually in terms of what's  
4 going to happen because most people don't understand  
5 easements, air, lights, and things like that. So I find  
6 oftentimes these things move forward and communities don't  
7 understand what's happened until later on.

8 MS. SHIKER: So as a procedural matter, I don't  
9 think that, I'm not a witness so I can't be cross examined,  
10 but I'm happy to answer the question in the interest of full  
11 disclosure. And what we'll do is we'll record this document.  
12 This is a document that runs with the land, and Section 10  
13 of the document provides specifically for a light and air  
14 easement and there is a drawing that's attached. It's  
15 completely separate than the access easement, which is in a  
16 separate paragraph.

17 So I'm happy to provide that. And it was entered  
18 into in 2008. It is recorded against your property and runs  
19 with the land, so it binds any future owner. So when the  
20 condo board came into effect in 2010 - 2011, it is something  
21 that is binding upon the condo, as well.

22 VICE CHAIR MILLER: So maybe that can also be  
23 submitted for the record, if it hasn't already. Not right  
24 now but as part of the post-hearing submission.

25 MS. GOODING: Okay. I'm trying to pull some

1 questions based off the rebuttal that you guys were talking  
2 about. First, the comments that felt like you were blaming  
3 us for change in the amount of retail, I have some questions  
4 about that comment. Can you tell me again what the number  
5 of, you had mentioned two numbers and I wasn't fast enough  
6 in writing, the amount of retail before and after our  
7 discussions and the amount that's in our building versus the  
8 effect in the other building? Can we have those numbers  
9 again?

10 MS. SHIKER: Brett, do you want to pull up the  
11 slide? To clarify your question, you're asking how much  
12 retail space was lost as part of the redesign for putting all  
13 the loading and truck maneuvering in the building?

14 MS. GOODING: Yes, I didn't write the numbers down  
15 fast enough. I heard numbers real fast, and I didn't get  
16 them or understand them.

17 MR. SWIATOCHA: So as a result of increasing the  
18 size of the loading dock to accommodate the internal loading  
19 maneuvers, there was a decrease in retail size by  
20 approximately 2,000 square feet and a decrease in ground  
21 floor residential space by approximately 1700 square feet.

22 MS. GOODING: Ground floor residential?

23 MR. SWIATOCHA: That includes residential amenity  
24 spaces, service spaces.

25 MS. GOODING: Oh, okay, okay, I see what you're

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1 saying. Okay. And my questions --

2 VICE CHAIR MILLER: So what is the total square  
3 footage now of retail in the proposal?

4 MR. SWIATOCHA: I can pull that up.

5 VICE CHAIR MILLER: It's whatever it was minus  
6 2,000.

7 MS. GOODING: Well, it's what's in the  
8 supplemental pre-hearing submission.

9 VICE CHAIR MILLER: Okay, thank you. I wanted to  
10 make sure we had it.

11 MS. GOODING: And those, so those numbers, the  
12 2,000 square feet of retail change and the 1700 in apartment  
13 amenity, is that the exact number for both buildings or is  
14 that both of them together or is that -- I'm trying to figure  
15 out, because you took our solution and applied it in the  
16 other place, which I'm sure they appreciate but it wasn't our  
17 request.

18 MR. SWIATOCHA: That loss is just for the 375.

19 MS. GOODING: Just for 375. Thank you for  
20 clarifying that. Okay. And so when I heard what you were  
21 saying when you were talking about the loss, it's a negative.  
22 Did that loss actually impact the number of unique retail  
23 spaces that can be offered? Because it looks like there's  
24 still just as much storefront, it's just some of them don't  
25 have as big of storage rooms in the back.

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1           So I guess I'm asking that change, does it  
2 actually mean that there are less retail options able to be  
3 given to the community? I'm not being clear. If you could  
4 put five stores in there before, can you still put five  
5 stores in there, just smaller stores?

6           MR. SWIATOCHA: The change in the depth of the  
7 retail space would limit the flexibility of the types of  
8 retail spaces that could go in there.

9           MS. GOODING: My question was you can still, if  
10 you could have five before, there could still be five now?  
11 That's my question. I'm sorry if I wasn't clear.

12          MR. SWIATOCHA: It would have to be five smaller  
13 spaces.

14          MS. GOODING: Okay. Thank you. And is it true  
15 that smaller spaces are actually more affordable for local  
16 businesses? That's some of the, I was trying to get from  
17 everything I was hearing that these smaller spaces are more  
18 applicable to local businesses.

19          MS. SHIKER: I don't think that we testified to  
20 that in rebuttal. I think that the Commission has asked us  
21 to look at that issue, but it's not anything that we had  
22 witnesses testifying on.

23          MS. GOODING: Okay. That's fine. So I guess my  
24 point is clear there. Let me see my other questions about  
25 the retail, just trying to understand this. Could you take

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1 your loading underground and then have all that additional  
2 retail if you're concerned about having more retail?

3 MR. SMITH: No. Part of the problem with that is  
4 just the access down and accessing trucks down into the lower  
5 level and digging deeper over the Metro, within the Metro --  
6 what is it called? Zone of influence. And it just gets more  
7 expensive and just to do that is incredibly more expensive  
8 than problematic, and then you decimate the amount of parking  
9 that you're already providing. And so we're providing  
10 parking for residents for 30,000 square feet of office,  
11 20,000 square feet of retail. By taking the parking down,  
12 I mean the loading down, you're taking a lot of that away.

13 MS. GOODING: Okay. In theory, could you, it  
14 sounds like you could go deeper down, it's just more  
15 expensive.

16 MR. SMITH: Very much so.

17 MS. GOODING: So some of, there could be --

18 MS. SHIKER: And I'm just going to just object  
19 because we haven't provided evidence of that. We would need  
20 to look at that, and we could provide a response, but we  
21 don't have our structural engineers here to talk about where  
22 the WMATA zone of influence is. I don't think that we're --

23 MS. GOODING: I was only responding to his  
24 comment.

25 MS. SHIKER: Yes, but that's why I brought it up.

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1 MS. GOODING: Okay. Could you take some of your  
2 apartment amenities, as I believe you called them, from the  
3 first floor and put them up on a second floor so that you  
4 could increase the amount of retail again?

5 MR. SMITH: On the second floor is the 30,000,  
6 approximately 30,000 or 32,000, I'm not sure exactly what the  
7 number is, of community-serving office, and so that would  
8 start taking away that commitment that we already agreed to.

9 MS. GOODING: Okay. And is there any, like,  
10 priority that you guys have over serving office or serving  
11 retail, ground floor retail for local businesses for the  
12 community? Is there, I guess I'm trying to understand what's  
13 more important because you were willing to, which I greatly  
14 appreciate, reconfigure the loading dock and chip away at  
15 some of that retail space. Would you be willing to chip away  
16 at some of that office space in order to make even more  
17 retail space?

18 MR. SMITH: In talking with the Office of Planning  
19 and talking with the ANC, those were both things that were  
20 necessary for this project to be considered, and so that is  
21 simply not possible.

22 MS. GOODING: Okay. So office space was not,  
23 office space cannot change but the retail space could change,  
24 and that's what I was trying to understand. Okay, got it.

25 COMMISSIONER TURNBULL: I wonder if I could just

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1 interrupt here for a minute. What's deceiving about the plan  
2 that you see is not the only retail on the ground floor.  
3 There's still the retail at the western end, which isn't  
4 shown. This only shows the revised, what they had to do to  
5 put the loading dock internal. There's still, all this stuff  
6 that's on the western end is still there. Aren't I correct?

7 MS. SHIKER: That is correct. And we still are  
8 far exceeding our retail commitments for the overall PUD,  
9 even with the reduction that we're doing for the loading.

10 MS. GOODING: And that's why you were able to  
11 reduce it. Okay. I understand. All right. And you already  
12 told me -- did you have the total number of retail on the 475  
13 building? It's the exact same thing as the 375 building; is  
14 that correct? They're both the exact same floor level  
15 layouts?

16 MR. SWIATOCHA: They're not the exact layouts.

17 MS. GOODING: Okay. Is there more retail over  
18 there?

19 MR. SWIATOCHA: There is retail on 425, yes.

20 MS. GOODING: Okay. And is it all of the, so the  
21 ground floor over there is shared between retail and  
22 apartment amenities. How much office space is in that  
23 building?

24 MS. SHIKER: I think we're starting to diverge out  
25 kind of where we were in talking about the loading

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1 facilities, which is what we testified about.

2 MS. GOODING: I'm responding to what I heard  
3 tonight. That's all. You want to --

4 CHAIRMAN HOOD: Did you respond to that? Did you  
5 say something about that in rebuttal? Okay, all right.

6 MS. SHIKER: We did not.

7 CHAIRMAN HOOD: So these questions are --

8 MS. GOODING: These questions are coming because  
9 they said what we asked for, it sounded like they were  
10 implying that it was a bad thing for the community that they  
11 gave us something and took away retail, but I'm thinking that  
12 they could probably find other ways to get that retail back  
13 in there if they made some effort at that. And that's the  
14 reasoning of my questions, trying to find where those places  
15 are.

16 CHAIRMAN HOOD: Okay. I do remember that in  
17 rebuttal, so I think that question is appropriate. I'm going  
18 to allow the question. Do you have an answer?

19 MS. SHIKER: Well, the question is about 425 M  
20 Street on the other side of 4th Street. There is --

21 CHAIRMAN HOOD: Restate the question.

22 MS. GOODING: Yes, the question was the amount of  
23 office space that's in 425. Is that in 425, 475? The other  
24 side.

25 MS. SHIKER: There is no office in that building.

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1 MS. GOODING: There's no office.

2 CHAIRMAN HOOD: Okay, thank you.

3 MS. GOODING: Okay. Because I was looking to see  
4 -- am I allowed to ask why? Why is there no office in that  
5 building? Because you're telling me that you can't make less  
6 office in 375 because you're at that minimal already or  
7 you're at the max already. Why don't you put some over  
8 there?

9 CHAIRMAN HOOD: Can you all explain to her why?  
10 And here's the thing. Some of that kind of question is what  
11 you all are going to have when you all meet because this is  
12 cross on rebuttal. Because you might get a better answer if  
13 they have time, instead of off the cuff.

14 MS. GOODING: Okay. Then I'll leave it at that.  
15 I'd like to learn more when we do meet.

16 CHAIRMAN HOOD: Yes, it will be educational.

17 MS. GOODING: Thank you. Yes, that will be very  
18 helpful to me. One of my questions, I saw that you applied  
19 the change on our side for the loading dock. You did apply  
20 it on the other side, like I mentioned, and I'm sure they  
21 appreciate it. But they aren't landlocked, so I was kind of  
22 wondering why you applied the change over there if they  
23 didn't ask for it, they didn't have the landlock situation.  
24 I'm not saying it's not a good idea. I am just trying to  
25 understand why you would offer to do it over there because

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1 it was such a burden to do it for us, but you just did it for  
2 them for nothing. I'm just curious.

3 MS. SHIKER: When the ANC saw the proposed  
4 solution on the east side, they liked it and supported it and  
5 asked if we could consider doing it on the west side.

6 MS. GOODING: Okay, okay. Thank you. That was  
7 really interesting to see you guys present tonight about the,  
8 like, solar panel stuff. We were just talking to solar panel  
9 people the other day. Sorry. I know that's not a question.  
10 The shadow studies that you gave us are actually impacting  
11 the amount of our roof space that we can use for solar panels  
12 ourselves. I know it sounds like -- I know. We'll talk  
13 about whether massing is impacted or whatever later. But  
14 would you be interested or willing to sell us some of that  
15 solar power in one of those community agreements or anything?  
16 Could you help us with the solar panel --

17 MS. SHIKER: I don't think that we have an answer  
18 to that question at this point. We've worked with DOE to see  
19 how we can do it on our building. We haven't gotten that  
20 deep --

21 CHAIRMAN HOOD: And that kind of discussion, we  
22 can put that in the parking lot for today and you all can  
23 have that when you have that discussion. Those are good  
24 points, but, you know, you want to cross just on the  
25 rebuttal. Those are the kind of things you want to bring up

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1 then.

2 MS. GOODING: Okay. Sorry. I was trying to get  
3 these thoughts on the record, but I understand, I understand.  
4 There will be more productive conversations later.

5 Okay. So when you decided that you wanted to  
6 change the original PUD, why didn't you use that as an  
7 opportunity to consider the other changes in the  
8 neighborhood, such as Waterfront Tower existing now when it  
9 didn't exist before? I'd like to hear why.

10 MS. SHIKER: When you process a second-stage PUD,  
11 you are supposed to be --

12 MS. GOODING: I'm sorry. I was talking about the  
13 first one. The first PUD that got the modifications, not the  
14 second stage. I was talking about the modifications --

15 MS. SHIKER: Can you repeat your question, please?

16 MS. GOODING: Yes, absolutely. When you made the  
17 decision to make modifications to the first-stage PUD, why  
18 didn't you consider other changes in the neighborhood such  
19 as Waterfront Tower condominium now existing when it didn't  
20 exist before? I know you considered economic changes and if  
21 people want more, if there's a better market for retail  
22 versus apartments.

23 MS. SHIKER: Okay, thank you. I understand your  
24 question now. The form of these two buildings was highly  
25 debated and discussed. Back in 2007, we actually had

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1 multiple hearings about it. We worked very closely with the  
2 community, and I will point out that your building did exist  
3 at that time, it just was not a condo. The building is --

4 MS. GOODING: It was an apartment building --

5 MS. SHIKER: It was an apartment building, and  
6 there was active involvement from property owners and  
7 multiple parties and the original building was 114 feet in  
8 height and went all the way to that 30-foot line away from  
9 the building and there was quite a bit of discussion and  
10 decisions made by the Zoning Commission in order to pull that  
11 45 feet back to make sure that there were better view  
12 quarters and that the building fit in within the overall  
13 context. When we came in with the change of use, we wanted  
14 to respect that form of building, given how highly debated  
15 and sculpted it was at the time.

16 MS. GOODING: Okay. A question. Is there a  
17 difference in the needs and the requirements and impacts to  
18 an apartment manager developer versus a condo association?

19 MS. SHIKER: I do not know the answer to that  
20 question.

21 MS. GOODING: I think you do. Okay. You have one  
22 of the drawings. Can you go back to the drawings where it  
23 was towards the end, it was the last one you had during your  
24 rebuttal on the screen? Could you go back to that, please?  
25 It showed like the green space and the radius. That one

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1 right there.

2 I see those blue areas that are labeled as plazas,  
3 but those are roads that people, that cars are driving on.  
4 They're not civic spaces. And I know it sounds like you want  
5 to change them and turn them into different types of spaces,  
6 but they're not plazas, they're actually roads that our fire  
7 truck comes down on everyday. And so --

8 MR. SMITH: Those are plazas, as they were  
9 designed in the original PUD in 2007. And it was  
10 contemplated at that time that there would be opportunities  
11 to close those down and activate them for a Saturday  
12 afternoon or a Sunday afternoon party or whatnot, something  
13 in that nature. And so there still would be access to the  
14 buildings during the two, three, four hours that they would  
15 be, you know, in use. But we've contemplated, that was  
16 contemplated back in 2007 when that was done and approved.

17 MS. SHIKER: They were always intended as shared  
18 spaces.

19 MS. GOODING: And was it contemplated the impact  
20 on how fast an ambulance or a fire truck can get to us since  
21 they can no longer access us that way? They can't make a  
22 left turn on M, and, if they did, they would cause more  
23 danger because it's a dangerous left turn. They'd have to  
24 go all the way around -- I'm wondering the access for the  
25 emergency services, was that considered when you decided that

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1 that road was going to be shut down for other activities?

2 MS. SHIKER: We can go back and look at the  
3 original PUD, but yes. Emergency access was envisioned for  
4 this entire PUD. I would also assume that when access was  
5 taken away from your site that was also evaluated as part of  
6 the PUD in Zoning Commission Order 12-14 because that's when  
7 it removed the access to your property.

8 CHAIRMAN HOOD: So in 2007, if you want to, and  
9 I hate to put the onus on you, but if you want to go back and  
10 look at that hearing, this office was well up to speed. Some  
11 of us may look a little different. But you can go back and  
12 see that whole hearing on 2007 and, at that time, my name was  
13 Carol Mitten. She was the chair at that time, I was the vice  
14 chair. So I think I'm right.

15 MS. GOODING: Okay. So there might be some  
16 information in there that would help answer some of these  
17 questions or something? Okay. That sounds great. Let me  
18 just go through my fast scribbles, making sure I don't forget  
19 anything. Okay. Do we know who signed this? Was it  
20 Bernstein or was it Riner and whatever the name is? Did you  
21 find that? And I can look at that another time.

22 Oh, you mentioned the width of the road at 22  
23 feet, that it exceeds the width requirement for DDOT for a  
24 road with two-way traffic, but are there other requirements  
25 from DDOT for roads with two-way traffic and stopped traffic,

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1 places where vehicles are going to have to exist and stop in  
2 order to accommodate activities that are going on?

3 MS. SHIKER: First, I think he testified that it  
4 exceeded DDOT standard for alleys, not for streets. Twenty  
5 feet for streets --

6 MS. GOODING: Two-way traffic was --

7 MS. SHIKER: Two-way traffic for alleys? For  
8 residential streets? Okay. He said that. And I would also  
9 defer to DDOT's analysis that the roadway system does work.  
10 They have looked at the traffic analysis, and I think that's  
11 well documented in the file.

12 MS. GOODING: Okay. We can't find the signature  
13 on these documents, so we'll look more into that. Will you  
14 fix the broken lamp post that's been there for over two  
15 months? Thank you. There's those types of things that make  
16 us wonder if you leave a broken lamp post there for two  
17 months, this is why we're so concerned with making sure that  
18 we're going to have a secured seat at the table. And that,  
19 I think I've covered everything.

20 CHAIRMAN HOOD: While that question wasn't really  
21 cross-examination, but I think that question was important  
22 because that shows what kind of neighbor you are or kind of  
23 maybe want to be and also you have to seize the moment. So  
24 I allowed that question. Sometime you do have the seize the  
25 moment. I do it quite a bit --

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1 MS. GOODING: I appreciate that.

2 CHAIRMAN HOOD: -- so trust me. Okay. Anything  
3 else?

4 MS. GOODING: Do you have anything else? Did I  
5 miss your questions? No, I got them? Okay. That's all for  
6 my rebuttal, and I look forward to more productive  
7 conversations, so thank you.

8 CHAIRMAN HOOD: Thank you. And also, I'm going  
9 to mess his name up, the parking, where his grandmother can't  
10 find a parking space, I want to add that to the equation of  
11 what we're talking about because, like I've been saying for  
12 years, everybody doesn't ride a bicycle, so we need to make  
13 some accommodations. So please look into that, as well. And  
14 I'm going to ask other applicants who develop down there to  
15 do the same.

16 All right. Anything else? All right. Thank you  
17 all very much. We appreciate it. Let's get some closing.

18 MS. SHIKER: Thank you. I'll be brief in my  
19 closing. This second-stage PUD application has been pending  
20 for a while. We started with our notice of intent back in  
21 October of 2016. We have had many hurdles. We have been  
22 working what we feel like productively with a lot of  
23 different groups, with the Office of Planning, with DDOT,  
24 with the ANC.

25 We continue to work with the ANC. We haven't

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1 finished that work. We met with them once between the last  
2 hearing and this hearing, and we are hoping to make more  
3 progress on the electricity usage, the construction  
4 management plan that's very important, the process and time  
5 frame for the sensible rival public space element that we've  
6 talked about. We are scheduling another meeting right now.  
7 We emailed back earlier today trying to get another meeting  
8 on the calendar, so that we can work through these different  
9 commitments, making sure that we're addressing those  
10 concerns, and then putting them in writing through the BAFO  
11 process to make sure that they are concrete and that the ANC  
12 has had an opportunity to review and comment on those.

13           We also feel that we've been working very closely  
14 with Waterfront Tower. Since the last hearing, we have had  
15 two meetings and a phone discussion, a lengthy phone  
16 discussion, trying to work through these issues. We're happy  
17 to continue that. We will look at the MOA that they sent to  
18 us, and we will respond and assist on those items that we  
19 can.

20           At the original hearing, Waterfront Towers had  
21 some concerns about depictions in the plans. Our design team  
22 sat down and worked with them to make sure that we understand  
23 where their concerns are and we have committed to submitting  
24 a new set of plans with all of the clarifications that we  
25 went through. So that fully-compiled set will be submitted

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1 as part of our post-hearing submission.

2           We understand that there are differing views in  
3 the community and that temporary uses become well loved. We  
4 are hopeful that with the urban town center that is created  
5 that we will achieve all of those goals of the town center.  
6 We can also continue with the programming of those items that  
7 people did come to like during this time period. And  
8 although we understand that originally there are differing  
9 opinions about the residential and office, we feel that we've  
10 made great progress in understanding that the residential  
11 use, that modification that we're making is appropriate.

12           Based on the evidence in the record and what we  
13 will have coming as part of our post-hearing submission, we  
14 believe that the application does satisfy the standards for  
15 the modification to the first-stage PUD and for the  
16 requirements for a second-stage PUD. And we look forward to  
17 the Zoning Commission's consideration following those post-  
18 hearing submissions.

19           CHAIRMAN HOOD: Okay. Thank you very much, Ms.  
20 Shiker. Is there any further questions or comments up here?  
21 Okay. Not seeing any. Ms. Schellin, can we work with some  
22 dates?

23           MS. SCHELLIN: Yes.

24           CHAIRMAN HOOD: And not our normal dates. I think  
25 we might need a little more time.

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1 MS. SCHELLIN: Right. Because they need to meet.

2 CHAIRMAN HOOD: Right.

3 MS. SCHELLIN: So if we could have the  
4 supplemental documents that were asked for and, you know, so  
5 it gives an opportunity for you guys to meet. Those  
6 submissions would be due by 3 p.m. June 11th, so it gives you  
7 a little over a month to do that, everyone make themselves  
8 available.

9 And then any responses from the parties, so any  
10 submissions that were asked for, other than that nothing else  
11 would be submitted.

12 So any results from the meeting, the parties would be able  
13 to make a submission and then all parties will be able to  
14 respond to each other's submissions by 3 p.m. on the 18th of  
15 June.

16 And then we could have draft findings of facts and  
17 conclusions of law say by the 25th of June, and then we can  
18 put this on for the first meeting in July, which would be the  
19 9th of July.

20 MS. SHIKER: May I ask a question? Under the  
21 zoning regulations, the BAFO process for a PUD without a  
22 zoning map amendment is required seven days after the close  
23 of the hearing. Given the extension of these dates and our  
24 work with the ANC and Waterfront Towers to make sure that  
25 we're finalizing these conditions, we'd ask if we could push

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1 that BAFO process out at least a few weeks to give us time  
2 to, because the BAFO process, we have to identify our  
3 specific conditions and if we haven't finished working they  
4 might not be complete.

5 CHAIRMAN HOOD: Okay. Any objections to that  
6 request? I certainly don't have any, we don't have any  
7 objections.

8 MS. SCHELLIN: Okay. So what we need to do,  
9 because that needs to be finished, if you could start that  
10 process, let's see, in order to keep that date, I think you  
11 would have to make your first submission, I think you could  
12 make your first submission I believe on the 11th. Let me  
13 make sure. The 4th of June and work it from there.

14 MS. SHIKER: Absolutely, we can do that. And that  
15 will give us plenty of time because there will be comments  
16 during the four weeks following the start of the BAFO  
17 process, so in case there's anything that changes that can  
18 take place. Thank you very much.

19 MS. SCHELLIN: Okay. Other than that, the record  
20 is closed. Everything is due by 3:00 p.m. --

21 CHAIRMAN HOOD: Let's see what the Vice Chairman,  
22 that's unusual when you say Vice Chairman, let's see what the  
23 Vice Chairman has to say.

24 MR. LITSKY: We switch off. I just wanted to  
25 request that, instead of the 9th, perhaps you have it on the

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1 12th of July because the 9th is our ANC meeting and I know  
2 that half of the ANC commissioners are involved in this  
3 process, so if that's at all possible.

4 CHAIRMAN HOOD: The 12th? What's the 12th?

5 MS. SCHELLIN: We don't have anything that evening  
6 scheduled.

7 CHAIRMAN HOOD: But what's the next meeting since  
8 we don't have anything --

9 MS. SCHELLIN: The 30th.

10 CHAIRMAN HOOD: Oh, do we think that it's enough  
11 for us to come down here on the 12th?

12 MS. SCHELLIN: I'll be out of town. Yes, we're  
13 not scheduling --

14 CHAIRMAN HOOD: Okay. So when is our next  
15 meeting?

16 MS. SCHELLIN: Do you not have a meeting in June?

17 CHAIRMAN HOOD: Okay. Well, let's do this, let's  
18 do this. We have another meeting in July, our last meeting  
19 in July. What is that?

20 MS. SCHELLIN: The 30th.

21 CHAIRMAN HOOD: So let's put it to the 30th. Is  
22 everybody here up here? Okay. That's easy.

23 MS. GOODING: Can I ask a question about the  
24 dates, as well?

25 CHAIRMAN HOOD: The 30th?

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1 MS. GOODING: I'm looking at all the dates. I'm  
2 trying to figure them out. If the meeting itself is moved  
3 to the 30th, could the other dates fall in line to allow  
4 enough time for actual change to be discussed and built into  
5 the system or built into their PUD, rather than just agreeing  
6 to what's here?

7 CHAIRMAN HOOD: Let's do this, Ms. Schellin.  
8 Let's see if we can adjust the dates to accommodate our 30th  
9 meeting, whatever dates to work our way back, and that means  
10 that they are showing me that everyone come here with  
11 everything closer than what it is now. So we're going to be  
12 holding hands after the --

13 MS. GOODING: I hope so. And can I ask you for  
14 one clarification and a comment?

15 CHAIRMAN HOOD: Yes.

16 MS. GOODING: You had suggested that Forest City  
17 continue to meet with both the Waterfront Tower association  
18 and the neighborhood and look for ways that we can come  
19 together more, so to find more compromise. It felt like the  
20 interpretation that I briefly heard was that the next 30 days  
21 they're just going to sign my MOA, but I think maybe what you  
22 are asking is for us to consider more improvements on impact  
23 to the community and our building, not just to sign this  
24 document, correct?

25 CHAIRMAN HOOD: Again, Ms. Gooding, I think your

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1 question is well advised to ask that, but I think Ms. Shiker  
2 knows exactly what I'm asking for. I'm asking exactly what  
3 you're, I'm asking for further discovery, further work  
4 together with the community, and this has been done before.  
5 So I think she knows exactly what I'm asking for. It's not  
6 just going to be they're going to work on their conditions  
7 and hand it back to us, no. They're going to be having  
8 conversations. You all are going to be trying to see how you  
9 can mitigate some of the issues, not that you're going to get  
10 everything or not that anybody is going to get everything.  
11 But we're going to see how we can bring things closer  
12 together for the community because when they're gone you all  
13 will still be there.

14 MS. GOODING: Yes, okay. Thank you for clarifying  
15 that.

16 CHAIRMAN HOOD: All right.

17 MS. SHIKER: Okay. So working back then from  
18 changing those dates, submissions that were asked for would  
19 be due by 3:00 p.m. July 2nd, responses from the parties  
20 would be due by July 9th, findings of facts and conclusions  
21 of law would be due by 3 p.m. July 16th. We'll put it on for  
22 July 30th. The proffers and conditions process would start  
23 on, let's change that to June 18th. And other than that, the  
24 record is closed.

25 CHAIRMAN HOOD: Are we all on the same page?

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1 MS. GOODING: Where can I learn about these dates  
2 and the expectation? I guess I could take that answer  
3 offline.

4 CHAIRMAN HOOD: Okay. Ms. Schellin will be able  
5 to assist you.

6 MS. SCHELLIN: This hearing will be online  
7 tomorrow.

8 MS. GOODING: Oh, no, I just need to learn what  
9 submissions I'm making. I just need to talk to somebody to  
10 learn a little bit about the next steps. That's all.

11 MS. SCHELLIN: Okay.

12 CHAIRMAN HOOD: Okay. So you can probably call  
13 Monday and somebody will be able to answer that.

14 MS. SCHELLIN: I'll talk to her at the end of the  
15 hearing.

16 CHAIRMAN HOOD: Okay. End of the hearing. Okay,  
17 great. Anything else?

18 All right. I want to thank everyone for their  
19 participation tonight, and this hearing is adjourned. Thank  
20 you.

21 (Whereupon, the above-entitled matter went off the  
22 record at 9:23 p.m.)

23

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Waterfront 375 M St, LLC

Before: DCZC

Date: 05-10-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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