

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF:
Square 769, LLC

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Case No. 03-12F/03-13F

Wednesday,
May 28, 2008

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

The Public Hearing of Case No. 03-12F/03-13F by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- GREGORY N. JEFFRIES, Vice Chairman
- CURTIS L. ETHERLY, JR., Commissioner
- MICHAEL G. TURNBULL, FAIA, Commissioner (OAC)
- PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
DONNA HANOUSEK, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
STEVEN COCHRAN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.
JACOB RITTING, ESQ.
MARY NAGELHOUT, ESQ.
LORI MONROE, ESQ.

The transcript constitutes the
minutes from the Public Hearing held on May
28, 2008

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

2 6:38 p.m.

3 CHAIRMAN HOOD: Okay. Let's get
4 started. Good evening, ladies and gentlemen.
5 This is a public hearing of the Zoning
6 Commission of the District of Columbia for
7 Wednesday, Wednesday, May the 28th, 2008.

8 My name is Anthony J. Hood.
9 Joining me this evening are Vice Chairman
10 Jeffries, Commissioner Etherly, Commissioner
11 May and Commissioner Turnbull.

12 We're also joined by the Office of
13 Zoning Staff Ms. Sharon Schellin and Ms. Donna
14 Hanousek and to my right, the Office of
15 Planning Staff Mr. Steve Cochran.

16 This proceeding is being recorded
17 by a court reporter and it is also webcast
18 live. Accordingly, we must ask you to refrain
19 from any disruptive noises or actions in the
20 hearing room.

21 The subject of this evening's
22 hearing is Zoning Commission Case Number 03-

1 12F/03-13F. This is a request by Square 769,
2 LLC for approval of a PUD modification for
3 property located at 250 M Street, S.E.

4 Notice of today's hearing was
5 published in the D.C. Register on March 28,
6 2008 and copies of the announcement are
7 available to my left on the wall near the
8 door.

9 This hearing will be conducted in
10 accordance with the provisions of 11 DCMR 3022
11 as follows: Preliminary matters, applicant's
12 case, report of the Office of Planning, report
13 of other government agencies, report from the
14 ANC, in this case, I believe it's 6D,
15 organizations and persons in support,
16 organizations and persons in opposition,
17 rebuttal and closing by the applicant.

18 The following time constraints
19 will be maintained in this meeting: The
20 applicant 30 minutes, organizations five
21 minutes, individuals three minutes.

22 The Commission intends to adhere

1 to these time limits as strictly as possible.
2 The Commission reserves the right to change
3 the time limits for presentations if
4 necessary.

5 All persons appearing before the
6 Commission are to fill out two witness cards.
7 Upon coming forward to speak to the
8 Commission, please give both cards to the
9 reporter sitting to my right before taking a
10 seat at the table.

11 When presenting information to the
12 Commission, please turn on and speak into the
13 microphone first stating your name and home
14 address. When you are finished speaking,
15 please turn your microphone off so that your
16 microphone is no longer picking up sound or
17 background noise.

18 The decision of the Commission in
19 this case must be based exclusively on the
20 public record. To avoid any appearance to the
21 contrary, the Commission requests that persons
22 present not engage the members of the

1 Commission in conversations during any recess
2 or at any time.

3 The Staff will be available
4 throughout the hearing to discuss procedural
5 questions.

6 Please turn off all beepers and
7 cell phones at this time so not to disrupt
8 these proceedings.

9 Would all individuals wishing to
10 testify please rise to take the oath?

11 Ms. Schellin, would you please
12 administer the oath?

13 MS. SCHELLIN: Please raise your
14 right hand.

15 Do you solemnly or affirm the
16 testimony you'll give in this evening's
17 proceeding will be the truth, the whole truth
18 and nothing but the truth?

19 Thank you.

20 CHAIRPERSON HOOD: Okay. Ms.
21 Schellin, do we have any preliminary matters?

22 MS. SCHELLIN: Just to advise that

1 we did receive the maintenance affidavit and
2 there are some proffered experts.

3 CHAIRMAN HOOD: Okay. Good
4 evening, Mr. Quin.

5 Let's see if we can work through
6 the proffered experts.

7 MR. QUIN: Yes, we offer two
8 tonight. First of all, Mr. Brad Fennell of
9 the William C. Smith Company, an expert in the
10 field of real estate development and Mr. Mike
11 Hickok of Hickok Cole is an expert in the
12 field of architecture. Both have appeared
13 before you.

14 CHAIRMAN HOOD: And I don't see
15 Mr. Sher. So, we're not --

16 MR. QUIN: Mr. Sher is on
17 vacation.

18 CHAIRMAN HOOD: Oh, well --

19 MR. QUIN: So, we're going to
20 really cut this short tonight.

21 CHAIRMAN HOOD: He's not going to
22 call in? He should call in. No, I'm just --

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1 okay.

2 We have the résumés behind -- I
3 think I saw them behind Tab A or B, but
4 anyway, both résumés are there.

5 Any questions or comments?

6 COMMISSIONER MAY: I had a
7 question.

8 CHAIRMAN HOOD: Commissioner May.

9 COMMISSIONER MAY: Mr. -- you say
10 both have appeared before, but have both been
11 admitted as experts?

12 MR. QUIN: Mr. Hickok -- Mike
13 Hickok has been admitted as a witness. I'm
14 not sure whether Mr. Fennell has, but I know
15 you appeared as a witness before.

16 MR. FENNELL: I've appeared as a
17 witness several times on behalf of
18 developments that we've brought before this
19 Commission.

20 COMMISSIONER MAY: Okay. All
21 right. The only comment I have is that I'm --
22 Mr. Hickok's résumé is probably self-

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1 explanatory and quite complete.

2 Mr. Fennell's résumé is a little
3 light on words. It looks like there's some
4 really important nuggets in there. I mean
5 there are some very good and important things
6 in there that I think are relevant, but it's
7 not sort of a standard that we would normally
8 expect in terms of --

9 MR. QUIN: Would you like me to
10 ask a few questions?

11 COMMISSIONER MAY: Hum?

12 MR. QUIN: Could you like me to
13 ask him a few questions or --

14 COMMISSIONER MAY: Sure.

15 MR. QUIN: Mr. Fennell, how long
16 have been in the real estate development
17 field?

18 MR. FENNELL: Twenty-two years.

19 MR. QUIN: And in the process of
20 those years, what type of development have you
21 been involved in?

22 MR. FENNELL: I've been involved

1 in residential rental as well as for sale.
2 I've done a historic restoration. We've done
3 hotel work, banquet work and we've done
4 commercial office building.

5 MR. QUIN: And have you been also
6 involved in the economics of development?

7 MR. FENNELL: I have. I've worked
8 on the finance side as well as the design,
9 construction and I head up the development
10 group for William C. Smith & Company. They
11 have over a thousand employees. Seventeen of
12 them are in the development. We have nearly
13 -- well, we just completed 1100 units of
14 multifamily. We have another 500,000 square
15 feet of commercial office space and
16 development and various other projects I could
17 list if you'd like.

18 MR. QUIN: I would submit that
19 this establishes the expertise of this
20 witness.

21 COMMISSIONER MAY: That's fine.
22 If next time we have it on paper, we can save

1 some times.

2 MR. QUIN: Thank you.

3 COMMISSIONER MAY: Thanks.

4 CHAIRMAN HOOD: And I would just
5 concur with Commissioner May. Because what
6 you just explained is not slighting or putting
7 your résumé now, but I'm --

8 MR. FENNELL: I haven't read it.
9 I'm sorry.

10 CHAIRMAN HOOD: Oh, you haven't.
11 Oh. Okay.

12 MR. FENNELL: I should have seen
13 it.

14 CHAIRMAN HOOD: Okay. All right.
15 I don't want to damage that anymore. Where we
16 are. Okay.

17 Mr. Quin, you ready?

18 MR. QUIN: Yes, Mr. Chairman.

19 CHAIRMAN HOOD: And yes, they all
20 are proffered as -- any problems? Okay.

21 MR. QUIN: Thank you very much.

22 CHAIRMAN HOOD: They all are

1 proffered.

2 MR. QUIN: We'll try to do a
3 better job on the explanation. I think it's
4 the first time we've missed it, but we'll do
5 better next time.

6 Mr. Chairman, Members of the
7 Commission, my name is Whayne Quin with Kyrus
8 Freeman of Holland & Knight. We represent the
9 Applicant.

10 As you know, this case -- in this
11 case, the Applicant seeks a modification of
12 the PUD for 250 M Street, S.E. in two
13 respects.

14 One, a change in permitted height
15 from 110 feet to 130 feet to allow the
16 Applicant to come closer to the previously
17 approved gross floor area that was approved by
18 the Zoning Commission and it also, at the same
19 time, increases the height to better balance
20 and match the building -- existing building
21 that's on the west side of the Canal Park to
22 be. The net increase in height is about 7

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1 feet 10 inches will be explained by the
2 architect.

3 The second request is an increase
4 in the gross floor area which sort of ties in
5 with the height which would go from 201,000 to
6 approximately 234,000 square feet. Still
7 below the original 236,000 previously approved
8 by the Commission.

9 We are very pleased with the
10 Office of Planning report in support of this
11 application.

12 We are not aware of any
13 opposition.

14 In fact, today, we entered into an
15 agreement with ANC-6D, a majority of the
16 Commission, to support this application and
17 that has been submitted for the record. Which
18 is something that we were hoping to get, but
19 did not get until -- accomplish until today.

20 The Zoning Commission at its set
21 down had two concerns that were expressed in
22 the record and at the meeting.

1 One was the design of the top of
2 the building as it related to the roof
3 structure enclosures which I think part of the
4 issue there was that the roof structure was --
5 part of it was contained within one of the
6 floors of the building, but that has been
7 revised and will be explained by the
8 architects.

9 The second question was one about
10 the timing and the change in the requested
11 height. We believe our prehearing statement
12 answers both of those issues. The plans for
13 the top of the building and roof structures
14 have been significantly revised with a greater
15 setback as the architects will explain and the
16 history and background relating to the height
17 is set forth at pages 4 and 5 of our
18 prehearing statement.

19 And I'd be glad to go into any
20 details that the Commissioners may wish on
21 either of those issues as to how we got here,
22 the background, the history and the basis for

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1 the 130 feet in height if that's the wish of
2 the Commission.

3 Unless there are questions, we
4 would like to go forward with our first
5 witness Mr. Fennel and that would be followed
6 by Mr. Hickok and those would be the only two
7 witnesses we would have aside from any
8 questions that you might wish.

9 CHAIRMAN HOOD: Those questions
10 that you say we can now, we still may have
11 those same questions, but we'll let you --

12 MR. QUIN: Yes.

13 CHAIRMAN HOOD: -- we'll do it
14 after the presentation.

15 MR. QUIN: That's fine. Thank
16 you.

17 MR. FENNEL: Good evening. My
18 name is Brad Fennell. I'm a Senior Vice
19 President with William C. Smith & Company.
20 William C. Smith & Company is a District-based
21 owner, developer, manager of residential and
22 commercial real estate.

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1 I'm here tonight representing the
2 joint venture of Square 769, LLC, a
3 partnership between the D.C. Housing Authority
4 and William C. Smith & Company.

5 As landowners within the
6 development parcel, each contributed land to
7 the joint venture and seek a long-term
8 partnership in this commercial office project.
9 Known as Federal Gateway 2, this office
10 project will bring a class A LEED Silver
11 office building with ground floor retail to
12 the fast developing capital river front
13 business district along the M Street corridor.

14 I would first like to thank the
15 Zoning Commission for your prior approvals on
16 this case and for allowing us the opportunity
17 to present testimony requesting this
18 modification to the approved second stage PUD.

19 Our application requests an
20 increase in the building height to 130 feet.
21 Thus, permitting the recapture of nearly
22 33,000 square feet of office space granted

1 under the approved preliminary PUD.

2 This is important because the
3 decrease in square footage from the original
4 PUD diminished the projected cash flow
5 available to the D.C. Housing Authority to
6 leverage for supportive services attached to
7 the replacement public housing unit within the
8 Capper/Carrollsborg redevelopment.

9 Several factors have influenced
10 our decision to request this modification.

11 First, the reopening of 2nd Street
12 as a public street.

13 Second, through our active
14 marketing of the building, perspective tenants
15 searching for space have specifically inquired
16 about the amount of space granted us under the
17 original PUD and finally, new elevator
18 technology such as the OTIS Gen2 elevators,
19 have allowed us to rethink our building design
20 from the last approval without the need for
21 the typical extra ten feet of space on the
22 roof for the elevator machine room. This

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1 allowed us to minimize the net increase of
2 height of the proposed building versus the
3 approved building by only 7 feet 10 inches.
4 Mike Hickok will cover this in more detail
5 tonight.

6 With regard to ANC's support, we
7 have met with the local ANC-6D on two
8 occasions, April 14th and May 12th, to present
9 the modifications to the request and we have
10 submitted to you tonight evidence of ANC-6D's
11 support for the modification.

12 Amenities, in addition to the
13 public amenity package recorded under the
14 Capper/Carrollsborg PUD, we will increase our
15 commitment to the affected community by, one,
16 recruiting constructor workers from ANC-6D by
17 purchasing quarterly adds in The Southwester,
18 creating an overall goal of 20 percent per
19 source employment for qualified ANC-6D
20 residents and providing contracting and new
21 hiring opportunities for local residents and
22 subcontractors by giving tie-breaking

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1 preferences to subcontractors headquartered in
2 ANC-6D and for qualified construction workers
3 living in that area.

4 As I said earlier, 250 M Street
5 will be designed to achieve a LEED Silver
6 rating from the U.S. Green Building Council
7 and feature amenities such as a green roof and
8 rooftop terrace.

9 In conclusion, for the reasons
10 I've stated above plus the testimony you will
11 hear tonight, I ask that you grant us approval
12 for the modification requested so the project
13 can move forward.

14 Thank you for your consideration
15 and I'm available to answer questions.

16 MR. QUIN: At this point, we'll
17 proceed to our architectural witness unless
18 there's a question now.

19 Mike.

20 MR. HICKOK: Thank you. My name
21 is Mike Hickok. I'm a principal of Hickok
22 Cole Architects. I'm a resident of the

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1 District and live at 3755 Jocelyn Street, N.W.

2 I'm going to try to be pretty
3 brief with this. I think you have a basic
4 understanding of the overall concept of this
5 building, but I'll walk you through. I
6 believe you have in front of you an 11 by 17s
7 which represent the selected slides that I'm
8 going to show you here.

9 The initial slide as you can see
10 locates the site in the Capper/Carrollsborg
11 PUD area. Oh, cool. How did I do that?
12 That's right.

13 Locates the PUD -- locates the
14 site in the southwest corner. This is
15 proposed Canal Park. You'll see a little bit
16 more of that. This is 2nd Street which has
17 been reopened and this is the newly reopened
18 L Street as well.

19 At an earlier hearing, I think you
20 -- it was requested that we try to show as
21 much of the design of the proposed Canal Park
22 as we can. We took this off their website.

1 We believe it to be current.

2 We also -- as we increased the
3 size of the building, we also increased the
4 number of loading docks adding one loading bay
5 here. The basic service pattern remains the
6 same. M Street, 2nd Street. A service drive
7 here. Access to our parking garage in this
8 location.

9 The parking numbers have not been
10 increased. Because at the time when we had
11 the smaller building, we had actually over
12 parked in an anticipation of ballpark parking.
13 So, those numbers remain the same and satisfy
14 the zoning requirements.

15 Speaking of which, we have access
16 from a set of jump elevators here to the
17 outside directly to provide access to the
18 ballpark.

19 We were also asked to prepare some
20 shadow studies to understand the impact of 130
21 feet as compared to 110 feet on the park
22 itself. Consistently with this next set of

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1 slides, you'll find 110 on the left as
2 approved. One thirty on the right.

3 This particular study is at the
4 spring equinox, 9:00 a.m. There's slightly
5 more shadow falling on the part at this time.

6 So, the next. This now has then
7 moved the time to 12:00 noon when the sun is
8 virtually going from the due south. That has
9 virtually no change in the shadow on the part
10 and, of course, as the western light comes
11 around and the shadow is cast much more by
12 Federal Gateway than our building.

13 Next. In this case, we're now
14 looking at the winter solstice, the most
15 radical angle of sun. This is for 9:00 a.m.
16 and the entire park is virtually -- this is
17 under the 110. The entire park is virtually
18 in shadow based on the DOT south of M Street
19 not based on additional height of our
20 building. Because you see there's no change
21 in the shadow on this side.

22 So, the next. In this case, we're

1 looking again at 12:00 noon and again, the
2 predominate shadow is the shadow cast by the
3 DOT to the south.

4 Next. When viewed from the west
5 again, our building obviously does not cast a
6 shadow on the park in the west.

7 The next point that I want to talk
8 about here a little bit is the relationship of
9 our proposed building 250 M Street to Federal
10 Gateway. Part of the original urban design
11 concept that we had when designing this
12 building and with the knowledge that Canal
13 Park would be built in the future was to set
14 up a pair of towers, architectural towers on
15 the end of 250 and another one here at our
16 entry that begin to mark the gateway to the
17 Canal Park. Both buildings as you can see now
18 are close to the same height at 130 feet.

19 Next, we also were asked to
20 compare this to other sort of known public
21 spaces to get a better idea of the spacial
22 affect that this will have relative to Canal

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1 Park.

2 So, we had the -- can you back up
3 one?

4 In this case, we're looking at --
5 it's 130 feet in height, approximately, I
6 think, that's 205 -- 257. Good. Your eyes
7 are better than mine. Two fifty seven between
8 the buildings here.

9 Next slide. In this case, there's
10 a computer rendering of 130 -- 130. This
11 building is existing 130 and Canal Park as you
12 can see stretching off three blocks to the
13 north.

14 We compare this to John Marshall
15 Park which is at C Street and Constitution
16 Avenue. One hundred and thirty feet -- 130
17 and also somewhat linear spacial pattern and
18 this is -- I think that says 278 plus or
19 minus. So, it's very similar in the scale to
20 that.

21 We then went to two other parts
22 which are substantially different because

1 they're squares and surrounded on all sides
2 which makes for a different sort of envelope
3 of space. There we have Farragut Square, 130.
4 Is that 301? Is that 301? Three eighty-one
5 in width. In this case, McPherson Square also
6 an enclosed square rather than a linear park,
7 130 and 379.

8 So, that's for -- just as a point
9 of information in response to a question that
10 we were asked in the past.

11 In this case, this slide is
12 showing you the comparison between the
13 approved M Street elevation and height at 110
14 and the proposed M Street elevation and height
15 at 130.

16 As you can see, there's very
17 little difference between these two in the
18 absolute height when you go to the top of
19 penthouse here and top of penthouse here. In
20 fact, our penthouse is only 7 feet 10 inches
21 higher than the penthouse of the approved
22 scheme before.

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1 Next slide. This gives you a
2 closer look. I'm sorry this is not as bright
3 as I might have hoped. Here's a red dotted
4 outline of the approved profile at 110 feet
5 laid on top of our elevation at 130 feet.

6 Now, part of what we're
7 demonstrating here is that while we have added
8 two floors and while we have -- we obviously
9 have a penthouse, we've really only increased
10 the height of the building by a relatively
11 small amount.

12 Now, you might ask how did you do
13 that? And the basic answer to that is that we
14 decreased the floor to floor height on all the
15 intermediate floors by 6 inches. We have then
16 taken the area of the penthouse and set it on
17 the 11th floor rather than on the roof of the
18 11th floor.

19 Next slide. So, when you look at
20 that 11th floor plan, and this is our top
21 occupied floor, this area is a penthouse.
22 Mechanical equipment and open yard on this

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1 side. This area is occupied space. So, they
2 are sharing the same floor.

3 Now, obviously, the penthouse when
4 measured from this 11th floor goes it's full
5 18-6 and we've now incorporated -- and this is
6 also in response to your comments from last
7 time or at set down. We've incorporated a
8 full 18-6 setback on this side, 18-6 setback
9 on this side and 18-6 setback on this side.

10 We have an accessible roof terrace
11 along these two sides and on this small
12 portion here, we have green roof. The entire
13 roof of the building is a green roof. I don't
14 have that plan to show you, but all roof areas
15 are covered.

16 MR. QUIN: Mike, just to make
17 clear, the penthouse is on from the 10th floor
18 not the 11th floor. Is that correct?

19 MR. HICKOK: I'm sorry. It's
20 sitting on the 10th floor and occupying the
21 space of the 11th floor. I'm sorry. It's
22 exactly right, Whayne.

1 I wanted to point out. You can't
2 quite see it here. We've dotted in the
3 mechanical equipment on all of these floors to
4 -- on this roof plan -- on this penthouse plan
5 to demonstrate the amount of equipment. These
6 doors by the way are necessary for the
7 maintenance of the coolers, the condensing
8 units in this location. You have to be able
9 to pull those tubes out a certain length and
10 those maintenance doors.

11 We were also asked by OP to take
12 down a small piece of decorative fencing which
13 was occurring in this location and we've done
14 that as well.

15 Next slide. No, back one more.
16 I'm sorry. This section is cut through the
17 mechanical looking west. Okay. You can see
18 our parking below grade, our ten floors of
19 office. This then is cut through that
20 penthouse area and here and here you can see
21 the occupied 11th floor beyond.

22 So, as you can see, our penthouse

1 occupies the same height as the 11th floor and
2 we have some additional screen that goes above
3 that height to a maximum of 18-6. We have our
4 18-6 setback here and 18-6 setback here.

5 Next slide. This is a little bit
6 more detail. The 130 is measured to this red
7 line which is the roof of the occupied space
8 beyond and the roof of the occupied space
9 beyond and here's the two penthouse levels
10 which are pushing through that 130, you know,
11 to only -- I forget what that dimension is.
12 About 6 feet I would guess.

13 Here then we cut that section
14 through the elevator bays. So, now, the
15 penthouse would be behind you and you're
16 looking at the occupied space here and the
17 occupied space here. The red line measuring
18 to the roof at 130.

19 And then, of course, we have our
20 tower as we have always had. The tower
21 projecting up to the north -- the tower beyond
22 the 130.

1 This now then is again back to the
2 elevation. I want to should you each of the
3 elevations so you understand where this is.
4 This is looking at M Street. This is our
5 tower. That red line is our 130 at the roof.
6 This is our projection of the penthouse beyond
7 the 130. There's our 18 foot 6 setback on the
8 -- from the M Street side.

9 Next. This is now taken from 3rd
10 Street. Similar, you can see the full height
11 of the penthouse. In this case, 18-6. Got a
12 setback here of 18-6. Eighteen-six setback
13 here and you see the tower beyond.

14 Now, viewed from the service
15 alley, similar to the M Street only with a
16 different architectural expression.

17 On the canal side, what -- this is
18 where, I -- well, we'll go to the next slide
19 and we'll see this, but we've added -- in
20 order -- when we added the two floors, we
21 added one bay of precast in this area and we
22 added another bay of window wall or curtain

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1 wall in this area. The top floor was always
2 set back. This is the 11th floor. This is
3 where you get that small terrace. Then you
4 see the projection of the penthouse beyond and
5 the entry tower.

6 Ground floor still remains retail
7 as designed in the past. We've sort of begun
8 to break that down with a more vertical bay
9 within the overall bay. So, I've got one,
10 two, three bays with a more vertical
11 expression there and there and there. Two
12 floors of store front and ground floor retail.

13 Next. Now, the rendering. Again,
14 this is a view taken essentially from across
15 the street in front of DOT. Park to the left.
16 Materials now have not changed from the
17 approved materials. We're still using precast
18 concrete in this area. We have two kind of
19 curtain wall. We have curtain wall here with
20 spandrel glass. We have curtain walls here in
21 a more horizontal expression with metal
22 panels. The vertical tower separating the

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1 two. Ground floor retail. Entry here as
2 marked by the tower.

3 We worked carefully with OP on
4 tweaking the design of this in a number of
5 areas and I spoke to Steve on the phone the
6 other day and I actually thanked him for his
7 dedication to this because I think he's pushed
8 us to a place where we've actually designed a
9 better tower than we had in the past.

10 In the past, I don't have a
11 comparison to show you, but in the past, this
12 was a more or less monolithic block up here.
13 We've now split it into two. This is precast.
14 It turns and goes back. As your eye comes up,
15 it sort of inflects you back towards the
16 north. The remainder of the tower then
17 projects beyond that in metal panels.

18 We have stone at the base, at the
19 entry, at the columns and a small stone base
20 along the store front as well.

21 I think that's as much as I have
22 to say now except to answer your questions or

1 clarify any other remarks I've made for you.

2 CHAIRMAN HOOD: Okay. We thank
3 you. We can turn the lights back on. Did you
4 have anything else, Mr. Quin?

5 MR. QUIN: That's completes direct
6 testimony. Again, we're here for questions.

7 CHAIRMAN HOOD: Okay. Good. We
8 will -- let me ask one quick question before
9 I -- before we all get into some architectural
10 questions because I have a few myself.
11 Hopefully, they'll get answered before I ask
12 mine.

13 This memorandum agreement, let me
14 ask. Some of the things that are on here
15 between the Applicant and the ANC weren't they
16 in the original -- were they part -- a lot of
17 the elements -- what's different here? Is
18 there one thing? For example, development.

19 MR. QUIN: Yes, if you look at
20 page 2 of the agreement, the focus is -- the
21 difference really is focusing on ANC-6D as
22 opposed to the general commitment and as you

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1 go through each one, you can see recruitment
2 of construction workers from ANC-6D by
3 purchasing quarterly ads in The Southwester
4 and overall, 20 percent first source
5 employment goal for qualified ANC-6D residents
6 and tie-breaking preferences to 6-D and
7 construction workers for qualified workers.

8 So, that's the essential
9 difference with an annual report under six.

10 Also, LEED certification is
11 something that is new that was not presented
12 earlier although that's been part of it and --

13 CHAIRMAN HOOD: So, everything on
14 page 2 is new or --

15 MR. QUIN: Except for the
16 development of Canal Park which has always
17 been a commitment. I think that's basically
18 everything else is new.

19 CHAIRMAN HOOD: Okay. All right.
20 Let's open it up for questions. We'd like to
21 start us off? If not, I'll ask Mr. Hickok if
22 -- I'm sorry.

1 COMMISSIONER MAY: Chairman Hood.

2 CHAIRMAN HOOD: Okay. You want to
3 start.

4 COMMISSIONER MAY: Yes, I just
5 have -- go ahead. I'd be happy to defer to
6 you if you'd like. I just thought you were
7 going to --

8 CHAIRMAN HOOD: Well, is it in
9 reference to what I was just speaking of?

10 COMMISSIONER MAY: It was on the
11 ANC question.

12 CHAIRMAN HOOD: Okay. Go ahead.

13 COMMISSIONER MAY: Which was that
14 -- it was presented to the ANC recently. Did
15 they actually formally take a vote?

16 MR. QUIN: Let me defer that to
17 Mr. Fennell.

18 MR. FENNELLS: They took a vote and
19 it was three to three at the night of the
20 presentation. Subsequently, the ANC contacted
21 Holland & Knight the next day and sought for
22 the progression of dialogue that led to this

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1 agreement because they felt that they could
2 get four of the commissioners to sign on and
3 so, that's what we pursued and that's what
4 we've achieved.

5 MR. QUIN: If your question, Mr.
6 May, relates to the great weight issue --

7 COMMISSIONER MAY: Um-hum.

8 MR. QUIN: -- I would have to say
9 I do not believe that this qualifies for you
10 to give it great weight.

11 We think it's very persuasive, but
12 I don't think it was taken at a action that
13 was advertised when the commissioners all sat
14 together.

15 COMMISSIONER MAY: Right. Okay.
16 That was the point I wanted to clarify.

17 CHAIRMAN HOOD: You know what?
18 That's a good point, Commissioner May. I'm
19 not even sure because it doesn't constitute
20 great weight.

21 COMMISSIONER MAY: Right.

22 CHAIRMAN HOOD: Even if our order

1 could even point to this, I mean, you know,
2 even point to agreement.

3 COMMISSIONER MAY: Yes, I mean,
4 you know, pointing to the agreement is like
5 pointing to any agreement that would be part
6 of a PUD and, you know, the proffered
7 amenities if you will, but it doesn't -- I
8 mean it might as well be, you know, just a
9 neighborhood association --

10 CHAIRMAN HOOD: Right.

11 COMMISSIONER MAY: -- in terms of
12 the weight that was given.

13 CHAIRMAN HOOD: Because -- yes,
14 right. Okay. All right. Any opening
15 questions? Who wants to start us off. Okay.
16 Okay. Commissioner May.

17 COMMISSIONER MAY: Sorry. I'm
18 always waiting for somebody at that end of the
19 dais to speak up, but I'll go first again.

20 And actually, my question is
21 specific to the new elevator design that was
22 referenced in the opening presentation because

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1 we didn't hear that in the architectural
2 presentation.

3 MR. HICKOK: I think the elevator
4 override was -- is not the crucial issue.

5 COMMISSIONER MAY: Um-hum.

6 MR. HICKOK: What we have done is
7 guaranteed our -- is agreed to use the Gen2
8 which does not have an elevator override. So,
9 we're staying within the height of the
10 existing penthouse.

11 What it prevented us from doing is
12 have to lift the penthouse any higher than we
13 have now.

14 COMMISSIONER MAY: Um-hum. Right.

15 MR. HICKOK: I think it was -- not
16 to contradict Brad, but I think it was more an
17 issue of getting enough height in the
18 penthouse to handle the equipment and the Gen2
19 also fit within that same profile.

20 COMMISSIONER MAY: Okay.
21 Specifically, what does the Gen2 do? It just
22 -- you only have to deal with the man height.

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1 You don't have to deal with the equipment
2 overhead.

3 MR. HICKOK: Exactly, the
4 equipment's on the side or at the --

5 COMMISSIONER MAY: Right.

6 MR. HICKOK: I'm not sure where it
7 is, but it's not sitting on top.

8 COMMISSIONER MAY: Right. But,
9 you still have the 8 foot or whatever so that
10 somebody can work on top.

11 MR. HICKOK: Whatever -- yes,
12 whatever the code requires we still have.

13 COMMISSIONER MAY: Yes.

14 MR. HICKOK: Right.

15 COMMISSIONER MAY: And so, I
16 understand this completely in the earlier
17 version of this building, the penthouse was
18 strictly equipment. Is that right?

19 MR. HICKOK: In the earlier
20 version, the penthouse sat on top of the top
21 floor in what one would describe as a normal
22 way.

1 COMMISSIONER MAY: Right.

2 MR. HICKOK: And, therefore, had
3 only equipment at that elevation.

4 COMMISSIONER MAY: Right. And was
5 it -- I mean it looks like it might have been
6 twice the area of the current penthouse. I
7 mean just looking at how -- I mean I don't
8 have it in plan. I only see it in elevation.

9 MR. HICKOK: Right. No, I think
10 -- well, there's screen and there's screen and
11 then there's enclosed penthouse.

12 COMMISSIONER MAY: Right.

13 MR. HICKOK: Part of what you saw
14 on the original elevation was the screen that
15 went beyond the roof.

16 COMMISSIONER MAY: Okay. So, the
17 area of the penthouse didn't really change
18 from the earlier version to the later version.

19 MR. HICKOK: Yes, in fact, it got
20 somewhat smaller. The actual footprint of the
21 penthouse itself, of the mechanical space,
22 indoors and outdoors --

1 COMMISSIONER MAY: Yes.

2 MR. HICKOK: -- actually got
3 smaller. We engineered it more tightly. We
4 went back to the engineers and asked them to
5 take some out.

6 COMMISSIONER MAY: Right and I
7 mean that's what I was asking. Is did that --
8 did the mechanical portion of it get smaller?
9 I mean --

10 MR. HICKOK: It did, but that's
11 not --

12 COMMISSIONER MAY: -- 10 percent,
13 50 percent? I mean ballpark.

14 MR. HICKOK: Five hundred square
15 feet out of -- you know, out of 3,000 square
16 feet.

17 COMMISSIONER MAY: Okay.

18 MR. HICKOK: It wasn't a big
19 number.

20 COMMISSIONER MAY: Okay. Because
21 it seemed like it was a pretty substantial
22 mechanical penthouse before and now, it's

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1 gotten small enough that you can actually cram
2 in a lot of usable space.

3 MR. HICKOK: Well, what -- there
4 was always -- it's not -- the penthouse isn't
5 driving the usable space. The usable space is
6 driving the penthouse. In other words, we --

7 COMMISSIONER MAY: Yes.

8 MR. HICKOK: -- we need to have an
9 amount of room up there which makes sense to
10 run -- to make it rentable, to make it
11 efficient to run elevators up, to bear the
12 expense of the construction and as we got
13 closer to our limit which we have not yet
14 quite gotten to, as we got closer to our
15 limit, it became clear that we could also
16 share that floor with the penthouse and the
17 benefit would be that we would -- we were
18 always going to have a smaller floor on that
19 top floor if we took all of the square footage
20 available.

21 COMMISSIONER MAY: Um-hum.

22 MR. HICKOK: But, then would have

1 had to put the penthouse sitting on top of
2 that and would have had this sort of --

3 COMMISSIONER MAY: Right.

4 MR. HICKOK: -- uncomfortable I
5 think wedding cake --

6 COMMISSIONER MAY: Yes.

7 MR. HICKOK: -- effect.

8 COMMISSIONER MAY: Right.

9 MR. HICKOK: So, for the loss of a
10 couple of thousand rentable square feet, the
11 owner recognized the value of keeping the
12 overall height of the building down.

13 COMMISSIONER MAY: Okay. As for
14 the restaurant, you know, I know I raised a
15 number of questions at the set-down discussion
16 and I think that those have been fairly well
17 addressed. So, I'm comfortable with that so
18 far.

19 That's it for me.

20 CHAIRMAN HOOD: Okay. Any
21 questions? Mr. Turnbull.

22 COMMISSIONER TURNBULL: Mr. Chair,

1 thank you.

2 I guess, Mr. Hickok, on the -- we
3 didn't have a roof plan I think you mentioned
4 of the conference center roof. Is that -- you
5 said it's a green roof. It says in the
6 drawings. Is that sedum roof or --

7 MR. HICKOK: It's a sedum roof.

8 COMMISSIONER TURNBULL: It is.

9 MR. HICKOK: As well as the all-
10 enclosed roof area, both the penthouse and --
11 and the --

12 COMMISSIONER TURNBULL: The
13 cooling tower part?

14 MR. HICKOK: Yes, well, the
15 cooling tower has to be open air obviously.

16 COMMISSIONER TURNBULL: Right.

17 MR. HICKOK: But, the --

18 COMMISSIONER TURNBULL: The
19 enclosed portion of that?

20 MR. HICKOK: Yes. Yes.

21 COMMISSIONER TURNBULL: Okay. All
22 right. Thank you.

1 CHAIRMAN HOOD: Any other
2 questions?

3 Mr. Hickok, let me ask. In your
4 testimony, you mentioned -- you said you're
5 probably wondering how we did it. My
6 colleagues obviously they caught on a little
7 faster than I did. So, can you explain that
8 again to me exactly?

9 Because when I do the math and
10 when I look at the pictures, it doesn't look
11 like much, but when I do the math, it seems to
12 be quite a bit and I understand you took off
13 6 inches floor to ceiling and I try to do the
14 math and I come up with maybe 3 or 4 feet and
15 it's just not working out. Maybe I just need
16 a calculator.

17 But, if you give me the one-on-one
18 version.

19 MR. HICKOK: Well, my literal math
20 is not going to be any better than your
21 literal math. So, I'll give you my conceptual
22 math.

1 If we took out 6 inches out of ten
2 floors which we had before, right, that saves
3 5 feet and if a standard floor-to-floor height
4 for a top floor is in the 12 -- 12 foot 6
5 range and if we're building the penthouse
6 within that 12 foot 6 and we've saved 6 feet,
7 5 to 6 feet, we're up to 18-6. So, that the
8 height of the penthouse and the height of the
9 roof of that 11th floor more or less match.

10 Now, we didn't get there. The
11 height of the penthouse actually projects 7
12 feet above the height of the 11th floor, but
13 that's how it happened. Because we
14 essentially dropped the penthouse down into
15 occupied -- into what otherwise would have
16 been occupied space.

17 CHAIRMAN HOOD: I'm saying maybe
18 I'll get it when I get home. So, okay, any
19 other questions, colleagues and thank you. I
20 do -- it's a little clearer.

21 MR. HICKOK: I'd like to correct.
22 Let me -- I've got your real numbers now on

1 the size of that penthouse and your eye is
2 better than mine. The old penthouse was 6375
3 square feet and the new penthouse is 3,459 --
4 call it 3,460 square feet. So, there's an
5 almost 900 square foot change in the size of
6 the penthouse.

7 CHAIRMAN HOOD: Can you give me
8 those numbers one more time?

9 MR. HICKOK: Sure. Oh, no, I'm
10 sorry. I'm sorry. It's more than 900.

11 CHAIRMAN HOOD: Right.

12 MR. HICKOK: It's 2900.

13 CHAIRMAN HOOD: Thank you. Okay.
14 Now, I got it.

15 MR. HICKOK: I told you my math
16 was not reliable.

17 CHAIRMAN HOOD: Okay. Any other
18 questions, colleagues? Okay. With that,
19 let's go to the Office of Planning's report.
20 Mr. Cochran and we've also been joined by Mr.
21 Lawson.

22 MR. COCHRAN: For the record, my

1 name is Steve Cochran with the Office of
2 Planning and the Office of Planning would be
3 pleased to stand on the report that it
4 submitted unless you have any questions. So,
5 that's all we have to say.

6 CHAIRMAN HOOD: Okay. Thank you,
7 Mr. Cochran. Any questions of the Office of
8 Planning? Does the Applicant have any
9 questions of the Office of Planning?

10 MR. QUIN: No questions.

11 CHAIRMAN HOOD: Any report -- I
12 did see any reports of any other government
13 agencies.

14 The report from ANC-6D, we have a
15 letter, a memorandum of agreement, but I don't
16 know how to equate this because it's not
17 dealing with the full commission. For the
18 record, I don't know. Does this have an
19 exhibit number, Ms. Schellin?

20 MS. SCHELLIN: We're just now
21 putting it in.

22 CHAIRMAN HOOD: Okay. But, it

1 will have an exhibit --

2 MS. SCHELLIN: So, it will have
3 one.

4 CHAIRMAN HOOD: Okay. So, I -- it
5 will be referenced in the record. At a later
6 time, it will be given an exhibit number.

7 And basically, what it is is a
8 memorandum of agreement and at the end, I'm
9 going to ask the Applicant if he can make it
10 a condition in the order. That would probably
11 be the easier way to do that.

12 MR. QUIN: We have no objection.

13 CHAIRMAN HOOD: Okay. Okay. Do
14 we have anyone here from ANC-6D first of all?
15 Okay. Let the record reflect no one
16 responded.

17 Organizations and persons in
18 support?

19 Organizations and persons in
20 opposition?

21 Okay. Rebuttal and closing by the
22 Applicant.

1 MR. QUIN: Mr. Chairman, I don't
2 know that I have anything else to say.

3 I will make an observation which
4 is that I just have been at the Urban Land
5 Institute in Dallas and I've been looking at
6 roofs just to try to figure out what's going
7 on across the nation and I'm finding that the
8 new technology is changing the way you do
9 things and I'm not an architect. You all are.
10 I mean you got several people there that know
11 what you're doing, but I don't.

12 But, what seemed fascinating to me
13 is that there are so many buildings where on
14 the same floor you have habitable space and
15 the mechanical equipment which heretofore in
16 D.C. is something that just normally hasn't
17 happened.

18 So, I see advantages both ways and
19 I hope that you all see the same thing.

20 We would hope that you could
21 decide this case as quickly as possible. Like
22 tonight if at all possible and I think we've

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1 done our burden of proof and we are very
2 pleased that we did not have any opposition
3 and we think that you can consider the ANC
4 report. Not for great weight purposes, but
5 just as anyone else in the neighborhood would
6 appear.

7 And thank you very much.

8 CHAIRMAN HOOD: Okay. Thank you
9 and again, if you could make that a condition
10 in the order. This -- I think that would help
11 us out a lot and give us a better confident
12 level. Okay.

13 Unless someone feels moved to make
14 a motion. Mr. Turnbull.

15 COMMISSIONER TURNBULL: Mr. Chair,
16 I would make a motion that we approve case
17 number 03-12F/03-13-F, Square 769, LLC and
18 DCHA - Modifications to PUD in Square 760,
19 Lots 18, 20 and 21.

20 COMMISSIONER ETHERLY: Second, Mr.
21 Chair.

22 CHAIRMAN HOOD: Been moved and

1 seconded. Any further discussion? Any
2 further discussion? All those in favor?

3 (Ayes.)

4 COMMISSIONER MAY: Chairman.

5 CHAIRMAN HOOD: Okay. Hold on.

6 COMMISSIONER MAY: I'm sorry. I
7 put my microphone on. I thought you saw me
8 motioning.

9 CHAIRMAN HOOD: I thought you were
10 just ready to say aye.

11 COMMISSIONER MAY: No. No. No,
12 I'm ready to speak.

13 CHAIRMAN HOOD: Okay.

14 COMMISSIONER MAY: Sorry.

15 CHAIRMAN HOOD: Okay. This is
16 back to further discussion.

17 COMMISSIONER MAY: No, I just --
18 all I -- yes, if we could go just -- I just
19 want to know one point which is the -- with
20 regard to the ANC, it's a little discomfoting
21 that there would have been a vote and it was
22 a three-to-three tie when it was presented and

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1 then we wind up with this agreement that shows
2 up as a four-to-three or a four person
3 majority of commissioners.

4 However, I also appreciate the
5 fact that we -- you know, we learned from the
6 Applicant honestly that it was a three-to-
7 three vote and we still don't have anybody
8 here from the neighborhood who's speaking up
9 in opposition.

10 So, I just would note it for the
11 record because if there -- you know, if there
12 is opposition within the ANC, I think it's
13 worth noting, but again, if they don't show up
14 tonight, it doesn't really mean very much.

15 CHAIRMAN HOOD: Okay.

16 COMMISSIONER MAY: So.

17 CHAIRMAN HOOD: So noted and --

18 COMMISSIONER MAY: Yes.

19 CHAIRMAN HOOD: -- again, as you
20 stated, I look in here. I see four signatures
21 and I appreciate the Applicant telling us
22 about three and three, but when I see four

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1 signatures, I'm not sure what happened to the
2 vote.

3 COMMISSIONER MAY: Right.

4 CHAIRMAN HOOD: Maybe one time
5 have a meeting and who knows. It could have
6 been a million reasons why this didn't exactly
7 happen to give them the great weight.

8 COMMISSIONER MAY: I agree.

9 CHAIRMAN HOOD: But, again --

10 COMMISSIONER MAY: I mean --

11 CHAIRMAN HOOD: -- so noted.

12 COMMISSIONER MAY: Okay. Thank
13 you.

14 CHAIRMAN HOOD: Okay. Any further
15 discussion? Any further discussion? All
16 those in favor?

17 (Ayes.)

18 CHAIRMAN HOOD: No opposition.

19 Ms. Schellin, would you record the vote?

20 MS. SCHELLIN: Staff records the
21 vote 5 to 0 to 0 to approve proposed action in
22 Zoning Commission Case Number 03-12F/03-13F.

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1 Commissioner Turnbull moving. Commissioner
2 Etherly seconding. Commissioners Hood,
3 Jeffries and May in support.

4 CHAIRMAN HOOD: Okay. Ms.
5 Schellin, do we have anything else this
6 evening?

7 MS. SCHELLIN: No, sir.

8 CHAIRMAN HOOD: Okay. With that,
9 I'd like to thank everybody for their
10 participation and especially answering our
11 questions. Good night.

12 (Whereupon, the hearing was
13 concluded at 7:22 p.m.)

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