

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 4<sup>th</sup> 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 4<sup>th</sup> 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

## TABLE OF CONTENTS

Opening - Chair Hood . . . . .	4
Preliminary Matters . . . . .	7
Applicant's Case	
Mr. Quin . . . . .	13
Mr. Fennell . . . . .	16
Mr. Hickok . . . . .	20
Office of Planning Report - Mr. Cochran .	48
Rebuttal and Closing of Applicant	
Mr. Quin . . . . .	51
Vote to Approve . . . . .	55
Closing - Chair Hood . . . . .	56

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 --

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 Fennel. 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

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

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.

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

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.

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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. FENNELL: 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

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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

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.

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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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