

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

IN THE MATTER OF:

PER STAR M STREET PARTNERS	Case No.
LLC & 2213 M STREET LP -	07-21
CONSOLIDATED PUD @ SQUARE 50	

Monday,
February 25, 2008

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

The Public Hearing of Case No.
07-21 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 Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairperson
GREGORY N. JEFFRIES	Vice-Chairperson
CURTIS ETHERLY, JR.	Commissioner
MICHAEL G. TURNBULL	Commissioner (AOC)
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

The transcript constitutes the
minutes from the Public Hearing held on
February 25, 2008.

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

2 6:34 p.m.

3 CHAIRPERSON HOOD: Good evening,
4 ladies and gentlemen. This is the public
5 hearing of the Zoning Commission of the
6 District of Columbia for Monday, February
7 25th, 2008.

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

12 We're also joined by the Office
13 of Planning -- I mean Office of Zoning Staff
14 Ms. Donna Hanousek and Ms. Sharon Schellin
15 and also the Office of Planning Staff Mr.
16 Lawson and his staff.

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

22 The subject of this evening's

1 hearing is Zoning Commission Case Number 07-
2 21. This is a request by Per Star M Street
3 Partners for approval of a consolidated PUD
4 for property bounded by 22nd -- by M, 22nd,
5 N and 23rd Streets, N.W. and located in
6 square 50, lots 82, 84, 813, 814 and 816.

7 Notice of today's hearing was
8 published in the D.C. Register on December
9 28th, 2007 and copies of that announcement
10 are available to my left on the wall bin
11 near the door.

12 The hearing will conducted in
13 accordance with the provisions of 11 DCMR
14 3022 as follows: Preliminary matters,
15 applicant's case, report of the Office of
16 Planning, report of other government
17 agencies, report of the ANC 2A,
18 organizations and persons in support,
19 organizations and persons in opposition,
20 rebuttal and closing by the applicant.

21 The following time constraints
22 will be maintained in this meeting: The

1 applicant 60 minutes, organizations five
2 minutes, individuals three minutes.

3 The Commission intends to adhere
4 to the time limits as strictly as possible
5 in order to hear the case in a reasonable
6 period of time. The Commission reserves the
7 right to change the time limits for
8 presentations if necessary and notes that no
9 time shall be ceded.

10 All persons appearing before the
11 Commission are to fill out two witness
12 cards. These cards are located to the --
13 upon coming forward to speak to the
14 Commission, please give both cards to the
15 reporter sitting to my right before taking a
16 seat at the table. These cards are located
17 to my left on the table near the door.

18 When presenting information to
19 the Commission, please turn on and speak into
20 the microphone first stating your name and
21 home address. When you are finished
22 speaking, please turn your microphone off so

1 that your microphone is no longer picking up
2 sound or background noise.

3 The decision of the Commission in
4 this case must be based exclusively on the
5 public record. To avoid any appearance of
6 the contrary, the Commission requests that
7 persons present not engage the members of
8 the Commission in conversations during any
9 recess or at any time.

10 The Staff will be available
11 throughout the hearing to discuss procedural
12 questions.

13 Please turn off all beepers and
14 cell phones at this time so not to disrupt
15 these proceedings.

16 Would all individuals wishing to
17 testify please rise to take the oath?

18 Ms. Schellin, would you please
19 administer the oath?

20 MS. SCHELLIN: Please raise your
21 right hand.

22 Do you solemnly or affirm the

1 testimony you'll give in this evening's
2 proceeding will be the truth, the whole
3 truth and nothing but the truth?

4 Thank you.

5 CHAIRPERSON HOOD: Okay. Thank
6 you. We're also joined by the District
7 Department of Transportation rep Mr.
8 Christopher Ziemann.

9 Okay. I thought you were with
10 the Office of Planning. That's why I kind
11 of went right on through. I didn't
12 recognize you and I didn't know you. Anyway
13 welcome.

14 Okay. At this time, the
15 Commission will consider any preliminary
16 matters. Does the Staff have any
17 preliminary matters?

18 MS. SCHELLIN: Just the party
19 status requests for consideration.

20 CHAIRPERSON HOOD: Okay.
21 Colleagues, let's try to move through this
22 rather quickly and briefly.

1 We have two requests for party
2 status I believe. The West End Citizen's
3 Association is asking to be a party in
4 support. The ANC is automatically a party.
5 So, we don't need to go through that.

6 Does anyone have any objection to
7 the West End Citizen's Association being a
8 party? Anyone have any objection to the
9 West End Citizen's Association being a
10 party?

11 VICE-CHAIRPERSON JEFFRIES: Mr.
12 Chair, obviously, I do not have an objection
13 and because the West End Citizen's
14 Association is so incredibly familiar with
15 our rules and regs, we couldn't even begin
16 to ask the question if it's possible that
17 they could just simply, you know, just two,
18 three, five minutes, but just wanted to know
19 if we could put that out there on the
20 record, you know.

21 CHAIRPERSON HOOD: Yes, I think
22 they may want party status for other

1 reasons. So.

2 VICE-CHAIRPERSON JEFFRIES: Okay.

3 CHAIRPERSON HOOD: We could hash
4 it out, but we'll spend that five minutes
5 doing that. So, just let's go ahead and --
6 and if you wouldn't mind, Vice-chair, let's
7 just go ahead and try to move just -- sorry.
8 Mr. Collins, do you have a problem with West
9 End Citizen's Association being the --

10 MR. COLLINS: No, I do not.

11 CHAIRPERSON HOOD: Okay. Now,
12 I'm going to ask the person who had the hand
13 up if you could come forward and identify
14 yourself first. If you can find a quick
15 place and let us know who you are and who
16 you represent.

17 MS. HOWELL: There we go. Hi.
18 I'm Joy Howell and I'm the President of the
19 Foggy Bottom Association.

20 CHAIRPERSON HOOD: You're in
21 opposition to West End Citizen's Association
22 having party status?

1 MS. HOWELL: Yes, we are.

2 CHAIRPERSON HOOD: It's not in
3 their boundaries?

4 MS. HOWELL: I have a statement
5 I'd actually like to read to you.

6 CHAIRPERSON HOOD: No, I just
7 need you -- I really just need you to tell
8 me what your opposition is because we're
9 weighing on that right now whether we're
10 going hear from you or not. I mean hear
11 what your argument is. So, just give me in
12 sound bite --

13 MS. HOWELL: Okay.

14 CHAIRPERSON HOOD: -- what the
15 issue is.

16 MS. HOWELL: They -- we don't
17 think they're a legally constituted group in
18 the District of Columbia.

19 They don't have members that they
20 put forward. They -- we don't know how many
21 members pay dues. We have a number of
22 structural issues and this, as you know, has

1 nothing to do with our support for the
2 project.

3 CHAIRPERSON HOOD: Right. But,
4 you know what? When I first looked at that,
5 when I saw FBA and West End, we've had this
6 discussion in other cases previously, but I
7 think that unfortunately, you know, we can
8 get into the bylaws and the boundaries.
9 But, as long as I've been here, nine years,
10 West End Citizen's Association as well as
11 FBA have gotten party status.

12 That is an issue, unfortunately,
13 which is not -- cannot be regulated by this
14 Commission. We have to make our decision
15 based on the merits in front of us and
16 that's kind of where we're going to move and
17 I notice FBA did not ask for party status,
18 but I'm sure you all will be testifying.

19 MS. HOWELL: We did not.

20 CHAIRPERSON HOOD: Okay. Thank
21 you.

22 MS. HOWELL: Right. We're

1 testifying in support.

2 CHAIRPERSON HOOD: Okay.

3 MS. HOWELL: But, we feel that
4 the ANC represents the area. Our group's
5 membership is totally contained within the
6 ANC. As we understand it, WECA is arguing
7 that somehow they are especially affected by
8 this by their members. We think they fail
9 to make their case.

10 CHAIRPERSON HOOD: Great. I will
11 tell you when I first looked, you bring up a
12 valid point, but thank you very much for
13 your testimony. I mean for your comments.
14 Okay. Thank you.

15 Okay. Colleagues, was anybody
16 moved by that? If not, I am in support of
17 making West End Citizen's Association a
18 party in support.

19 Can I get a motion? I move that
20 we make West End Citizen's Association a
21 party in support and ask for a second.

22 COMMISSIONER ETHERLY: Second,

1 Mr. Chair.

2 CHAIRPERSON HOOD: It's moved and
3 properly seconded. All those in favor?

4 (Ayes.)

5 CHAIRPERSON HOOD: Any
6 opposition? So ordered.

7 MS. SCHELLIN: Staff records the
8 vote 5-0-0 to approve party status in
9 support to the West End Citizen's
10 Association. Commissioner Hood moving.
11 Commissioner Etherly seconding.
12 Commissioners Jeffries, Turnbull and May in
13 support.

14 CHAIRPERSON HOOD: Our next party
15 status request and I'm going to try to deal
16 with this quickly, but we have two issues
17 here. There was a letter received by hand
18 from Hunton & Williams, Mr. Aguglia. Is Mr.
19 Aguglia -- okay.

20 This is a request on behalf of R.
21 S. Sandi Holdings, LLC, the owner of the
22 property 2215 M Street, N.W., who apparently

1 has an adjoin or right next door. I'm not
2 sure, but he's in very close proximity if
3 not right next door. I think they share a
4 wall or may share a wall and he's asking for
5 party status and he mentions the Applicant
6 has requested relief from the roof structure
7 setback requirements. If such relief is
8 granted, this will adversely affect Sandi's
9 property rights and interests at 2215 M
10 Street.

11 I really think that he is
12 affected. Kalbian Hagerty I think is the
13 attorney, but anyway, let's just stick with
14 Sandi Holdings, LLC and he is the owner of
15 the property at 2215.

16 Let me hear from my colleagues
17 first. Does anybody have any problem with
18 making him a party? Okay.

19 Mr. Collins.

20 MR. COLLINS: Mr. Chairman, I
21 would object to party status for R. S. Sandi
22 Holdings, LLC for a number of reasons. I'd

1 like to go through them now.

2 CHAIRPERSON HOOD: Okay.

3 MR. COLLINS: First of all, the
4 regulations.

5 CHAIRPERSON HOOD: Yes, I'm going
6 to be fair. They're going to be sound bite
7 reasons not a long statement.

8 MR. COLLINS: The regulations
9 would not allow them to be parties in this
10 case. There is no automatic party status to
11 anyone except the Applicant and the ANC.
12 Everyone else including an abutting neighbor
13 has to prove party status. They have to
14 meet the test for party status and I've
15 brought along the sections of the
16 regulations which I'd like to go over if I
17 may and I'll try and do it in as quick a
18 sound bite as possible. Give me some time
19 for the Board.

20 What I'm referring to -- if you
21 have your Zoning Regulations, I'm referring
22 to Sections 3022.3 and .4 and if you look at

1 the February 11th filing from Kalbian
2 Hagerty, LLP, we can see where they -- their
3 filing is deficient. Section 3022.3(a) in
4 the document I just handed in, that is
5 Zoning Commission Order Number 928 where the
6 Commission revised and strengthened the test
7 for party status, 3022.3, if you look at
8 page three and four of that document I just
9 handed in, you'll see -- I'm comparing it to
10 the February 11th letter. You'll see, of
11 course, with 3022.3(a) the name and address,
12 they give the name of R. S. Sandi Holdings,
13 Inc. They don't give the address of the
14 entity. They give the address of the
15 attorney.

16 On item (d), 3022.3(d), will you
17 appear through legal counsel? They list the
18 name of the legal counsel who is Mr. Hagerty
19 and then in (e), they ask for a list of
20 witnesses. They indicate again Mr. Hagerty.

21 The Commission is well aware that
22 you can't be the attorney and the witness in

1 a contested case proceeding before this
2 Commission. So, they have to choose one or
3 the other.

4 For item (f), the regulations
5 require a written statement setting forth
6 why the person should be granted party
7 status including reference to a number of
8 issues. There is no such information in
9 this February 11th filing. It simply says
10 in summary fashion right before the
11 signature of the attorney that Sandi's
12 development rights will be irrevocably
13 impaired if the action requested of the
14 Commission is approved.

15 It does not address the tests in
16 3022.3(f) nor 3022.4 which says that the
17 Commission shall grant party status only if
18 the person requesting party status has
19 clearly demonstrated that the person's
20 interest would be like to be more
21 significantly, distinctively or uniquely
22 affected in character or kind by the

1 proposed zoning action. They've not done
2 that. Okay. That's the test.

3 Secondly, the regulation on
4 representation contained in Section 3002 of
5 the Zoning Regulations. The person or party
6 may appear on their own behalf or may be
7 represented by another person duly
8 authorized in writing.

9 We don't have any duly authorized
10 signature from R. S. Sandi Holdings, LLC.
11 We have their attorney submitting something.
12 We have no authorization from the owner.

13 There's no indication that Mr.
14 Hagerty is the managing member of the LLC or
15 has any other officer or other position with
16 the LLC. He's the attorney for the LLC>

17 So, there's insufficient
18 information in the record for the Commission
19 to allow Mr. Hagerty to appear as a party.

20 Now, that's the February 11th
21 filing. Then you have Mr. Aguglia with his
22 filings on the 21st and 22nd. He's

1 authorized by Mr. Hagerty who's not
2 authorized.

3 Then we have the -- with Mr.
4 Aguglia also, his filing indicates that he
5 is bringing in an expert witness. Again,
6 there's not authorization from the owner of
7 the property.

8 So, basically, we have two basic
9 issues. Boil it down. We have an attorney
10 saying that he's going to represent himself
11 and be the attorney and the witness in the
12 hearing and we have -- probably more
13 importantly, we have no authorization.

14 The rules of procedure provide 14
15 days advance notice of party status and
16 there's a purpose for that and the purpose
17 is to notify this Commission as well as the
18 Applicant so that proper preparation can be
19 made for the hearing.

20 We have the February 11th
21 submission which on its face addresses some
22 but not all and has no authorization letter.

1 Then we have filings last Thursday and last
2 Friday indicating Mr. Aguglia's on board and
3 then we have an expert witness the Friday
4 before the Monday hearing.

5 That's just not in accordance
6 with the regulations and for those reasons,
7 I would suggest that they not be given party
8 status.

9 CHAIRPERSON HOOD: Okay. Mr.
10 Aguglia, you submitted something February
11 20th -- well, Hunton & Williams, under your
12 signature, you submitted something on
13 February 22nd asking us to waive our rules
14 in this regard. Now, you've heard the
15 argument from Mr. Collins.

16 In this regard, we know that we
17 are beyond the 14-day rule for providing
18 such submissions prior to asking -- ask the
19 Commission to waive the rule for good cause.

20 Tell me what the good cause --
21 and let me say this, Mr. Collins, this
22 Commission can waive any rule. Okay. We've

1 done it in the past and we can continue to
2 do it. So, I just want to make sure that we
3 agree with that.

4 MR. COLLINS: I understand.

5 CHAIRPERSON HOOD: Okay.

6 MR. COLLINS: I understand.

7 CHAIRPERSON HOOD: So, Mr. --

8 MR. COLLINS: You asked if I
9 object and I told you my objection.

10 CHAIRPERSON HOOD: Right. Right.
11 I got you. Okay. Mr. Aguglia.

12 MR. AGUGLIA: Thank you, sir.

13 CHAIRPERSON HOOD: Tell me what
14 the good cause is and what's going on.
15 You've heard the argument from Mr. Collins.

16 MR. AGUGLIA: Okay. I submitted
17 two letters. One on the 21st saying that I
18 was coming in as counsel along with an
19 authorization letter from R. S. Sandi
20 Holdings, LLC signed by its authorized
21 representative who is Mr. Hagerty. Mr.
22 Hagerty is acting as the client. The

1 clients are out of the country and he has
2 full authority to act for them.

3 So, on the 21st, I filed that
4 also noting my reasons for our objection
5 which is very limited to the west -- to the
6 heights of the westerly wall as it impacts
7 on our property. I'll call it the Sandi
8 property. Is immediately next door at 2215
9 M Street, N.W. The tax records of the
10 District of Columbia clearly show that is
11 the owner of the property. Bought the
12 property roughly a year ago for \$8 million.

13 Now, here's the good cause. In
14 July, notice was sent out by the Applicant
15 to Sandi at the official tax address on
16 Connecticut Avenue. However, at that point
17 in time, Sandi was in the process of moving
18 to 2215 M Street and to the best of my
19 knowledge and information, did not receive
20 that.

21 All right. Then the prehearing
22 statement was submitted by Mr. Collins in

1 December showing now Sandi Holding at the M
2 Street address and that address -- and, in
3 fact, that notice was in fact -- was, in
4 fact, posted on their door.

5 So, it was not until December
6 that they actually got notice of what was
7 going on.

8 I will also say that the public
9 notice in a sense to the untrained eye was
10 slightly off base in this sense. It says
11 that the building is going to be 110 feet
12 high. All right. It's not until you look
13 at the plans when Mr. Hagerty consulted me
14 that you realize that because there's no
15 rooftop setback, and this is our sole
16 objection, because there's no rooftop
17 setback for the penthouse on that westerly
18 side, it's actually 130 feet, so, it's a
19 monolith of 130 feet --

20 CHAIRPERSON HOOD: Okay.

21 MR. AGUGLIA: -- and you have --

22 CHAIRPERSON HOOD: Let's get back

1 to the point of why you were deemed party
2 status in opposition and without getting
3 into the setback issue. Property adjoining.
4 I mean just explain it to me.

5 MR. AGUGLIA: It's adjoining and
6 it's roughly 50 feet high and if the
7 proposed project is approved, the proposed
8 hotel, it will have 130-foot monolithic
9 concrete wall towering over our little 5-
10 foot building.

11 CHAIRPERSON HOOD: Now, the other
12 point that was raised authorizing you to do
13 this for Sandi's LLC -- Sandi Holdings, LLC,
14 where is that? Point me to that.

15 MR. AGUGLIA: February 21st and I
16 did also --

17 CHAIRPERSON HOOD: Okay. I have
18 that in front of me.

19 MR. AGUGLIA: Yes.

20 CHAIRPERSON HOOD: Okay.

21 MR. AGUGLIA: And it is in that
22 letter that I raised the fact that -- well,

1 first of all --

2 CHAIRPERSON HOOD: Oh, I see it.

3 I see it. I see it now.

4 MR. AGUGLIA: Yes. Right.

5 CHAIRPERSON HOOD: Okay. Okay.

6 MR. AGUGLIA: Right. Immediately
7 adjacent and that without the rooftop
8 setback, then we have a serious --

9 CHAIRPERSON HOOD: Okay.

10 MR. AGUGLIA: -- massing problem.

11 CHAIRPERSON HOOD: I think we got
12 it.

13 MR. AGUGLIA: Okay.

14 CHAIRPERSON HOOD: Anything else?
15 Okay. Thank you.

16 MR. AGUGLIA: Thank you.

17 CHAIRPERSON HOOD: Okay.

18 Colleagues, you heard the --

19 MR. COLLINS: May I just be heard
20 on those two points. I just want to raise
21 -- number one, he mentioned that it wasn't
22 until December that the neighbor actually

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1 got notice. That's 60 days ago. The
2 regulations require 40 days notice. They
3 have plenty of notice. So, much notice that
4 they timely filed their notice for party
5 status 14 days in advance, but there's no --
6 I heard nothing and neither did you
7 respectfully hear anything from Mr. Aguglia
8 to explain why they're submitting this three
9 and four days in advance of the hearing and
10 nothing from anyone to say why they have no
11 written authorization from R. S. Sandi
12 Holdings, Inc.

13 CHAIRPERSON HOOD: Mr. Collins,
14 did that tarnish your preparation? If we
15 were to give them party status of the issue,
16 would that -- did that tarnish your
17 preparation here tonight?

18 MR. COLLINS: I believe we could
19 have been more prepared. Yes.

20 CHAIRPERSON HOOD: Okay.

21 COMMISSIONER ETHERLY: Mr.
22 Chairman.

1 CHAIRPERSON HOOD: All right.
2 I'm going to open it up to my -- thank you
3 for your discussion.

4 Mr. Aguglia, if you could just
5 turn your mike off for me.

6 Okay. Colleagues, you've heard
7 that. Mr. May.

8 COMMISSIONER MAY: Yes, I think I
9 understand the arguments for and against
10 fairly clearly here, but my inclination when
11 you're dealing with a building being built
12 on the property next door is that it's a
13 fairly reasonable thing to assume that that
14 person deserves party status and I
15 understand there may be some technical
16 reasons why the filings are not exactly as
17 they should have been, but I think if we're
18 going to, you know, err on something like
19 this, I would err on the side of giving
20 protection to the neighboring property.

21 I mean I may regret this if we
22 wind up with a -- you know, a hearing that's

1 twice as long as a result of this, but
2 hopefully, that won't be the case. But, I
3 just -- you know, I think that it's some
4 technical objections.

5 I think that it's hard to imagine
6 why or how the case could be made
7 substantially different in that circumstance
8 by the Applicant, you know, having known
9 that this party status application was out
10 there. I mean the application was made in
11 advance initially and so, they were aware
12 with appropriate notice that the adjoining
13 neighbor wants to have party status.

14 Anyway that's my immediate
15 reaction to what I've seen so far.

16 CHAIRPERSON HOOD: Okay. Thank
17 you, Commission May. Would anybody else
18 like to comment? Okay. Hearing none.

19 Would you like to put that in the
20 form of a motion?

21 Hold on. Hold on. Is there
22 anyone else who has a problem an opposition

1 of us making Sandi Holdings -- given Sandi
2 Holdings party status in opposition in this
3 case? Okay. Hearing none.

4 COMMISSIONER MAY: I would move
5 that the Commission grant party status to
6 Sandi Holdings as a party in opposition in
7 this case.

8 CHAIRPERSON HOOD: Okay. It's
9 been moved. Can I get a second?

10 COMMISSIONER ETHERLY: Second it,
11 Mr. Chair.

12 CHAIRPERSON HOOD: Also, let me
13 just add a friendly amendment, Commissioner
14 May. Also, that we waive our rules --

15 COMMISSIONER MAY: Um-hum.

16 CHAIRPERSON HOOD: -- to accept
17 Mr. -- Sandi Holdings request that Mr.
18 Aguglia represent them and we accept that
19 filing and waive our 14-day rule.

20 COMMISSIONER MAY: I would agree
21 with that.

22 CHAIRPERSON HOOD: Okay. Okay.

1 It's been moved and properly second. All
2 those in favor?

3 (Ayes.)

4 CHAIRPERSON HOOD: Any
5 opposition? So ordered. Staff, would you
6 record the vote?

7 MS. SCHELLIN: The Staff records
8 the vote at 5-0-0 to grant party status in
9 opposition and to waive the rule to accept
10 the late filing filed by Mr. Aguglia. Party
11 status granted to R. S. Sandi Holdings, LLC.
12 Commissioner May moving. Commissioner
13 Etherly seconding. Commissioners Hood,
14 Turnbull and Jeffries in favor.

15 CHAIRPERSON HOOD: Okay. Do we
16 have anything else or can we get started
17 with the case? I think we can.

18 Mr. Collins.

19 MR. COLLINS: Good evening again.
20 My name is Christopher Collins with the law
21 firm of Holland and Knight.

22 Seated to my left is Kyrus

1 Freeman with our office and to my right are
2 a number of witnesses I'll introduce in a
3 second.

4 We have 60 minutes. So, I'll go
5 rather quickly through this.

6 This is an application for the
7 first LEED Certified hotel in the District
8 of Columbia. This is an exciting design as
9 you will see. It's a high-end hotel and we
10 have a number of witnesses here tonight to
11 speak with you.

12 We also have in this case a
13 number of significant benefits and amenities
14 in the project which will be described.
15 We've been working with the community since
16 last May.

17 We have the support -- this
18 application enjoys the support of the ANC,
19 the Foggy Bottom Association and the West
20 End Citizen's Association. There are
21 several other letters of support in the
22 record as well.

1 We also have the support of the
2 Office of Planning subject to issues to be
3 discussed further with DDOT.

4 We received a memo today from
5 DDOT. The Applicant's transportation expert
6 will address why we believe that the design
7 before you is appropriate and the
8 transportation analysis indicates adequate
9 parking, loading and circulation.

10 However, Mr. Chairman, we would
11 like the opportunity to continue to work
12 with DDOT after the hearing tonight to
13 resolve any outstanding issues. We believe
14 that we can resolve the issues. Some are
15 more difficult than others, but we believe
16 that we can reach some consensus with DDOT.
17 We'd like the opportunity to do that after
18 the hearing in light of their --

19 CHAIRPERSON HOOD: We're going to
20 see how it goes because the way I understand
21 it some of it is the design issue and, you
22 know, we have to kind of look at that also.

1 MR. COLLINS: Well, we can go
2 through some of what they are and -- but, we
3 think that they're --

4 CHAIRPERSON HOOD: Okay.

5 MR. COLLINS: Not design in the
6 sense of the skin of the building, but
7 design in sense of circulation. We think we
8 can address some of those.

9 CHAIRPERSON HOOD: Okay. Let's
10 see how it goes.

11 MR. COLLINS: Well, let me
12 introduce my witnesses. First, to my
13 immediate right, Mr. John Wood Bolton, Jr.,
14 from Starwood, I'm sorry, Perseus Realty, on
15 behalf of the Applicant.

16 Also, Mr. Kemper Hyers who's the
17 head of design for Starwood Capital Group.

18 We have Carl Romer from Oppenheim
19 Architects.

20 The submission -- the previous
21 submission included the résumé of Mr. Chad
22 Oppenheim from that office. Mr. Oppenheim

1 is unable to be here tonight. Mr. Romer is
2 the project manager. Has a very lengthy
3 résumé as you've seen in our submission.
4 His résumé indicates a broad range of
5 experience highlighting his hotel and condo
6 experience, but with a wide variety of other
7 types of projects as well.

8 Also, we have Jami Milanovich of
9 Wells and Associates with whom you're
10 familiar doing transportation and parking
11 analysis.

12 Mr. Eric Smart from Bolan Smart
13 who I know that you've also seen before
14 doing our land-use economic analysis.

15 And then we have Mr. Steve Sher
16 who's an expert in land use and zoning.

17 I would like to submit Mr. Romer,
18 Ms. Milanovich, Mr. Smart and Mr. Sher as
19 experts in this case.

20 CHAIRPERSON HOOD: Okay.
21 Colleagues, I've seen all of them I think
22 with the exception of Mr. Romer, but I've

1 read his résumé. Is there any issue or
2 problem with -- I've give you a few minutes.

3 COMMISSIONER MAY: Where's Mr.
4 Romer's résumé?

5 MR. COLLINS: It is in our -- the
6 submission in --

7 CHAIRPERSON HOOD: It's in the
8 latest one.

9 MR. COLLINS: The latest
10 submission. That's right. February --

11 CHAIRPERSON HOOD: I know I saw
12 it.

13 MR. COLLINS: -- February 4th
14 submission.

15 CHAIRPERSON HOOD: It's not in
16 the newer one. It's in the latest.

17 MR. COLLINS: It's item C in the
18 February 4th submission, Tab T.

19 COMMISSIONER MAY: Yes. Okay.

20 CHAIRPERSON HOOD: Green pages.
21 After this one.

22 COMMISSIONER MAY: Got it. Okay.

1 Not hearing anything, we will accept all the
2 witnesses as experts.

3 MR. COLLINS: All right. Okay.
4 Also, with us tonight not as witnesses-in-
5 chief, but here to answer questions if you
6 have them, Ms. Connie Wynne who's Executive
7 Vice President of Starwood Development,
8 Michael Hess with XNTH X-N-T-H XNTH the
9 mechanical engineer who's LEED Certified and
10 would be the person to answer any LEED-
11 related questions, Barbara Stafford from
12 VIKA the civil engineers on the project who
13 be here to answer any kind of questions on
14 public space improvement and Mr. Richard
15 Arentz the landscape architect from Arentz
16 and Associates -- Arentz Design.

17 In our submission, we'd ask for
18 flexibility in a number of areas.
19 Flexibility -- and we've noted them in
20 previous submissions as well.

21 Flexibility with public space at
22 the ground level under Section 633.1.

1 Flexibility from the rear yard
2 under Section 636.1 regulations. We're
3 providing a court in lieu of rear yard. The
4 CR regulations do not provide for a court in
5 lieu of rear yard, but as you'll hear, we're
6 providing a court the area of which is much
7 larger than a rear yard would be if we
8 provided one in this project and in a much
9 better location.

10 Also, request flexibility from
11 the roof structure setback and the number of
12 roof structures under Section 639.1. We
13 have a rood structure which does not meet
14 their setback from the rear walls. We do
15 meet the setback along the street. We
16 understand that there is opposition by a
17 party in opposition and we'd also like to
18 amend our request for flexibility to the
19 extent that it's necessary. We don't think
20 it is, but to the extent that it's
21 necessary, we'd like to amend our request
22 for flexibility to allow a setback from the

1 sidewalls as well.

2 Flexibility from the access to
3 parking is something we raised previously as
4 well as the flexibility on the size of the
5 parking spaces and the percent compact and
6 that was in our most recent submission.

7 We also have been requesting
8 flexibility, and our prior submissions
9 reflect this, to vary the number of rooms
10 depending on how many are made suites
11 ultimately with a range of between 142 and
12 170. Previously, we had mentioned 174.
13 We're now asking that that be up to 170 as a
14 maximum.

15 And other areas of flexibility
16 are included on page 10 of July 13th
17 submission and also as noted on the plans.

18 At this point unless there are
19 any questions, I'd like to go to my first
20 witness Mr. Bolton and assisted by Mr.
21 Kemper Hyers. Mr. Hyers does need to leave
22 to catch a plane and I was wondering if you

1 could -- if it would be all right, I'll ask
2 for your indulgence. If he could -- if you
3 could ask him any questions you might have
4 of him after his presentation. His is a
5 very minor part of the presentation, but if
6 you could do that, that would be great.

7 Thank you.

8 MR. BOLTON: Good evening, Mr.
9 Chairman and Members of the Zoning
10 Commission. I am Woody Bolton of Perseus
11 Realty, LLC. Along with my partner Connie
12 Wynne of Starwood Capital Group, are pleased
13 and honored to be before you tonight to
14 present the One Hotel project.

15 As you will hear tonight from our
16 team members, our PUD application merits
17 your approval by meeting or exceeding the
18 PUD benefit standards in the following way:

19 Through the One Hotel's
20 exceptional architectural approach to
21 sustainable design;

22 Through its enhancement of the

1 surrounding urban design and streetscape;

2 Through its mission to be part of
3 the first brand comprised solely of LEED
4 Certified hotels and as such, it is on track
5 to be the first LEED Certified hotel in
6 D.C.;

7 Through its commitment to eco-
8 consciousness and environmental friendly
9 construction and operations;

10 Through the One Hotel's education
11 and promotion of environmentalism in its
12 interactive kiosks in both the public spaces
13 and guest areas of the hotel;

14 Through its donation of 1 percent
15 of the operating profits to a local
16 environmental group to be chosen by the One
17 Hotel in an innovative partnership with the
18 Natural Resources Defense Council;

19 Through the One Hotel's
20 management commitment to good corporate
21 citizenship;

22 Through its long-term commitment

1 to the unity of ownership and management;

2 Through the return of a
3 restaurant open to both community members
4 and hotel guest;

5 Through community benefits and
6 amenities that have been planned in
7 conjunction with ANC 2A, Foggy Bottom
8 Association, West End Citizen's Association
9 that will enhance public urban spaces, park
10 land and create endowments for select Foggy
11 Bottom and West End institutions;

12 Through a community
13 representative on our design team;

14 Through entering into both first-
15 source employment and certified business
16 enterprise agreements with the District of
17 Columbia;

18 Through the use of the site as a
19 hotel, the highest and best use from an
20 economic and tax revenue perspective;

21 Finally, through returning this
22 property both to the tax rolls and

1 eliminating an unsightly former auto repair
2 shop, abandoned chancery and surface parking
3 lot.

4 We wish to thank ANC 2A, the
5 Foggy Bottom Association and West End
6 Citizen's Association for meeting with us
7 over ten times and spending countless hours
8 finalizing the community benefits and
9 amenities.

10 We also wish to thank the
11 Bernstein Company, our supportive neighbor
12 to our immediate north.

13 Washington, D.C. in 2007 had
14 approximately 27,000 hotel rooms in 103
15 properties. Yet, only seven properties
16 could be defined as luxury brands.

17 As the newest hotel in this
18 category, One Hotel will meet Washington,
19 D.C.'s growing demographic and social
20 economic members and their guests who demand
21 superior hotel concepts with the highest
22 quality of service and environment that One

1 Hotel will provide.

2 Kemper, would you like to say a
3 few words about the One Hotel brand
4 development?

5 MR. HYERS: Sure.

6 MR. BOLTON: Thank you.

7 MR. HYERS: Sure. Hi. I'm
8 Kemper Hyers Head of Design for One Hotels
9 and you're going to hear a lot of my
10 colleagues talk about how this One Hotel is
11 green. It's LEED Certified. It recycles
12 water. It does amazing things as a
13 building, but I really wanted to tell you
14 for two minutes why it's green. Why are we
15 doing this?

16 This brand is the brain child of
17 our Chairman Barry Stern who's always been a
18 -- I like to call him a hotel evolutionary.
19 He's always moving the hotel industry
20 forward. When he was at Starwood for ten
21 years, he invented W Hotels. He created St.
22 Regis. Moved the Westin Hotels to the brand

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1 that we know today and this is his newest
2 brain child and in some ways, the one he
3 loves the most.

4 I think he really believes that
5 there is a luxury in the world and it's the
6 luxury of enough.

7 You know, what is enough? I
8 think you go to a lot of hotels these days
9 and seven people greet you between the time
10 you arrive in the taxi and the time you get
11 to the room. By the end, you're like leave
12 me alone. I just want to get to my room.
13 That doesn't necessarily feel like luxury.
14 It's a kind of additive luxury. Lots of
15 people, lots of money, lots of da, da, da.

16 Barry believes that there's
17 actually another kind of luxury and it's
18 really that powerful word enough. You know,
19 what is enough service? I would like just
20 enough and I'd like it to be just right.
21 What is enough of the size of a room? What
22 is enough of the size of a hotel?

1 I think that it's actually going
2 to see its best evocation so far. We're
3 working on five of these. We're working in
4 Scottsdale, Atlanta, New York.

5 This one being an all hotel
6 project. Just hotel rooms. I think it's
7 going to be the purest form of the brand and
8 the scale of the building. How sort of
9 handsome and tight the building is, I think,
10 makes it the purest evocation of Barry's
11 vision.

12 Just -- I'm going to talk briefly
13 about design because that's what I do even
14 though there will be other people talking
15 more in depth. I really think Barry saw
16 this as an urban greenhouse and he sees the
17 brand as a retail outlet for nature. That's
18 his concept for how it should feel inside.
19 Which is why it has a green lung and if you
20 look at the outside of the building, it's
21 almost like, you know, the old Q Gardens
22 greenhouse with all the mulliont windows.

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1 It's really meant to be a
2 shimmery, natural, just barely a shell
3 containing the nature inside and that's how
4 it'll feel to the guests who stay with us.

5 And if we had to talk about how a
6 brand as a feeling, if we had to talk about
7 what the feeling is, we really want this
8 brand to be about empowerment. That's what
9 we're giving our guests. We're giving them
10 a chance for a day or a day and a half or
11 two days in Washington to not only be in
12 this city, but to also experience ways of
13 being sustainable. Ways of keeping us
14 holding onto enough that hopefully they'll
15 go home and do at their own home. We like
16 to think that we're a pioneer for change and
17 that's what we're trying to do with this
18 brand.

19 So, thank you.

20 CHAIRPERSON HOOD: Okay. If we
21 can stop the clock for a second please.

22 Colleagues, any questions for Mr.

1 Hyers? Okay. Right. here.

2 VICE-CHAIRPERSON JEFFRIES: Well,
3 okay, you're leaving in two minutes.

4 MR. HYERS: Not two, but a
5 couple.

6 VICE-CHAIRPERSON JEFFRIES: Yes,
7 a couple of minutes.

8 MR. HYERS: I hit the minor part
9 and I'm leaving in two minutes.

10 VICE-CHAIRPERSON JEFFRIES: In
11 terms of the materials, you have some of the
12 materials -- okay. So, we can talk about
13 that later.

14 I guess, you know, I'm really
15 curious about the ground floor and the
16 pedestrian level of this hotel and how it
17 really lends itself to sort of pedestrian
18 friendly street and so forth.

19 I mean can you just comment
20 somewhat on that?

21 MR. HYERS: Sure.

22 VICE-CHAIRPERSON JEFFRIES: Um-

1 hum.

2 MR. HYERS: We see it as a very
3 open building. You know, a lot of -- all of
4 the walls open up on the exterior. Not all,
5 but most. So, that there's a lot of
6 interaction between the street and the
7 hotel.

8 Once you're inside the hotel,
9 there are very few walls in the hotel. The
10 restaurant bleeds into the bar, bleeds into
11 the lobby. It's not these distinct rooms.
12 It's a very, very circulating kind of space
13 and then the little garden in the back
14 continues right into the building.

15 So, the idea is that entire
16 corner almost dissolves and becomes a part
17 of the street. Really is what we'd like it
18 to be.

19 VICE-CHAIRPERSON JEFFRIES: Well,
20 I'm very familiar with this location. I
21 used to -- my office was a block away for a
22 long time and I'm one of these persons who

1 gets on M Street just races through going
2 westbound.

3 So, you think this building will
4 somehow like slow -- I'm just trying to
5 understand with the traffic the way it is
6 and people sort of using M Street going
7 westbound as a track, you know, how this
8 building could, you know, sort of assist and
9 sort of, you know, making it more friendly
10 for the pedestrians and that's my -- really
11 my main concern for the building.

12 And by the way, I, you know,
13 think I'm on record at the set down that I
14 think this building is stunning, but I just
15 wanted to -- you know, I think a lot of our
16 questions are going to be around this whole
17 notion of how this building sort of to me
18 helps slow down people and make it more
19 comfortable for people to walk and so forth.

20 MR. HYERS: Right. I think we're
21 definitely having witnesses --

22 VICE-CHAIRPERSON JEFFRIES: Yes.

1 MR. HYERS: -- who are going to
2 address that and I do believe from the
3 design work we're doing that's exactly --

4 VICE-CHAIRPERSON JEFFRIES: Okay.
5 Okay. I have a question for you, but I can
6 -- I --

7 MR. BOLTON: I was going to say
8 I'm not leaving, but obviously our attempt
9 to making this as open as possible is indeed
10 because we don't have that 10 percent of
11 open to the sky accessible and as you know,
12 the balance of 22nd Street, what that
13 ultimately ends up being is a carport and we
14 didn't want that. So, we've -- again,
15 we've purposely engaged the public as much
16 as possible.

17 CHAIRPERSON HOOD: Any other
18 questions?

19 COMMISSIONER MAY: Yes, I just
20 had one point.

21 CHAIRPERSON HOOD: Commissioner
22 May.

1 COMMISSIONER MAY: You know, you
2 talk about very lofty aspirations for the
3 building and I was disappointed to see in
4 the latest from the Office of Planning that
5 the goal in terms of LEED Certification is
6 just maybe silver, but it may only be
7 certified and I have to say frankly that's
8 -- it's a little bit puzzling because, you
9 know, I've already had conversations not as
10 part of the Zoning Commission, but with
11 other -- with office building developers
12 around town who are aspiring to gold at this
13 point and settling for silver.

14 So, what's the strategy here? I
15 mean this is kind of -- you're saying LEED,
16 LEED, LEED and then it's -- well, you know,
17 certified.

18 MR. BOLTON: Well, we will be
19 LEED Certified and again, I think it's a
20 matter of, I think, the balance of two
21 things. Certainly, one is, you know, how we
22 approach the overall construction design

1 process and certainly, on the operational
2 side as well and so, you know, it's
3 absolutely the brand DNA that we're going to
4 be LEED Certified. We need to give
5 ourselves a little birth to again raise the
6 bar as we continue to go through the process
7 that's in front of us. The development
8 process.

9 MR. HYERS: And I also think, you
10 know, for us LEED is certainly a stick you
11 can put in the ground and say we're LEED
12 Certified and, you know, you check all the
13 things on the list.

14 As he said, we're trying to do
15 operationally. We're trying to do
16 culturally. We're trying to do as teaching.
17 We're trying to build something that has
18 more meaning than just ticking off all the
19 things on the list. You know, we would love
20 it to be absolutely platinum, of course.
21 We're trying to balance a lot of things.

22 We absolutely are going to be

1 LEED in every building and we're pushing as
2 far as we can to, you know, to get that LEED
3 Certification as high as it can be. I think
4 what you'll see though as -- and I wish I
5 had more time to talk about the brand
6 standards for this brand, but you'll see
7 that there are a lot of things that the
8 brand does for the guests where they start
9 to change their behavior.

10 They start to do things
11 differently and that's really our ultimate
12 goal. Is really to have people have an
13 experience, love it so much they go home and
14 replicate that experience at home and have
15 the sustainability and the green happen that
16 way, almost sneak up on you versus, you
17 know, being a LEED building although we will
18 be that.

19 VICE-CHAIRPERSON JEFFRIES:

20 Commissioner May, your point was not about
21 becoming -- just being LEED Certified.
22 You're talking about the upper echelon of --

1 COMMISSIONER MAY: Yes, I mean I

2 -- I was --

3 VICE-CHAIRPERSON JEFFRIES: Yes.

4 COMMISSIONER MAY: -- I mean at
5 this point it's --

6 VICE-CHAIRPERSON JEFFRIES: As
7 opposed to silver or just --

8 COMMISSIONER MAY: -- to say that
9 it's going to be --

10 VICE-CHAIRPERSON JEFFRIES: Yes.

11 COMMISSIONER MAY: -- to say that
12 something is going to be LEED Certified, you
13 know, it's -- that's kind of the minimum
14 even if it's not required.

15 I mean if you were building this
16 building, you know, a few years from now,
17 you know, silver might be required. I
18 forget when silver kicks in, but, you know,
19 there are green building standards for the
20 District that are going to require this kind
21 of performance within a few years and I'm
22 just -- you know, if you're trying to be

1 ahead of the curve, why isn't it, you know,
2 aspirations of gold and settling for silver.
3 That's all. But, I think I got an answer.

4 VICE-CHAIRPERSON JEFFRIES: Is it
5 something about it being a hotel I mean as
6 opposed to houses? I mean what's --

7 MR. BOLTON: Well, I was going to
8 say I think a lot of it's embodied in the
9 use. I mean clearly it's somewhat of an
10 easier standard in an office building. You
11 can certainly control a lot more. You
12 certainly don't have the water quantities,
13 the towels, the sheets. I mean many of
14 these things, these byproducts of a hotel,
15 you don't have that same standard in an
16 office building and again, in the office
17 building, you also can control the
18 environment centrally, the heating,
19 ventilation, air conditioning and such.

20 So, I think it's a mirror to
21 these things and again, I think the brand
22 standard at the cert of LEED and again, we

1 hope to grow that.

2 COMMISSIONER MAY: Are there
3 existing LEED-Certified hotels anywhere in
4 the country? Are there LEED-solar buildings
5 -- hotel buildings elsewhere in the country?

6 MR. HYERS: I'm not sure.

7 COMMISSIONER MAY: Okay. Thanks.

8 CHAIRPERSON HOOD: All right.

9 Well, have a safe trip. Okay. Let's start
10 the clock back.

11 Oh, I'm sorry. Hold on. Have a
12 seat. Mr. Hyers, can you come back? I'm so
13 glad. Anyway.

14 Cross examination. Does ANC 2A
15 have any cross examination? ANC 2A? Is
16 anyone here from ANC 2A? Maybe they come in
17 later.

18 Does the West End Citizen's
19 Association have any cross? Okay.

20 Sandi Holdings? Okay.

21 Is that everybody? Is that
22 everybody? Okay.

1 Thank you. Have a safe trip.

2 All right. Let's start the clock
3 back.

4 MR. COLLINS: All right. My next
5 witness is Mr. Carl Romer.

6 MR. ROMER: Good evening, Mr.
7 Chairman, Members of the Commission, City
8 Planners.

9 I'm the Funding Manager and Vice
10 President for Oppenheim Architecture and
11 Design.

12 CHAIRPERSON HOOD: Your name
13 again is? What's your name again?

14 MR. ROMER: Carl Romer.

15 CHAIRPERSON HOOD: Romer. Stay
16 in that mike by the way. Yes, get in
17 closer. Okay.

18 MR. ROMER: Together with the
19 design architects Leo A. Dailey, the
20 construction document architects, we form
21 the architectural team for the project.

22 We've been working on the project

1 now for quite some time now. We initiated
2 the project in a competition and we were
3 selected as the winners of the competition
4 because of a lot of the sustainable ideas
5 and concepts that we brought to the
6 building.

7 So, with that said, I know we've
8 been discussing that, I'd like to go into
9 the descriptions of some of, you know, the
10 features that we're providing in the
11 building.

12 The building, for those who don't
13 know, it's located at the intersections of
14 22nd and M Street. We are in the west end
15 corner of the northwest side of Washington
16 and this is where the property in question
17 is right here.

18 We're within a ten-minute walking
19 distance of four Metrorail Stations to the
20 building. Foggy Bottom to the south. We
21 have Farragut North and Dupont Circle and
22 there's another one on the red line which

1 escapes me.

2 The property as was mentioned
3 earlier is the site of the abandoned
4 existing Nigerian Embassy and this area
5 right here and there's a contextual image
6 showing what's in that area. This is on the
7 M Street side of the property and this is on
8 the 22nd Street side of the property down
9 below.

10 We're in the CR district and we
11 are allowed to have a total FAR of 8.0. Our
12 building is coming somewhat under that 8.0.
13 We're at 7.84. We have 122,235 square feet
14 of gross construction area.

15 We're proposing to build
16 somewhere between 142 and 170 hotel units
17 and we're providing as well parking for 42
18 spaces of which we have 20 spaces that are
19 full-size spaces and 22 that are compact
20 spaces and we'll get a little more detail
21 further along as I show the plans of the
22 parking area.

1 Overall, I included the basic
2 floor plate so that you can see the
3 calculation of the FAR gross areas for the
4 different levels as you go up the building
5 and we'll be getting into more detail when I
6 go into specific floor plans.

7 Here's the analysis that we
8 perform for the building envelope. We're
9 basically right up to the property line.
10 We're at 110 feet high from the property
11 line and both on 22nd and M Street, we have
12 a 20 -- we have 18 foot 6 setback which
13 responds to the one-to-one angle that's in
14 the Zoning Code and then we go up another 18
15 foot 6 which is to cover the mechanical
16 equipment in the back.

17 Along the back side of the
18 property line on the adjacent sides, we also
19 have a setback from the rear property on
20 this way and we have a setback from the rear
21 property in this direction. We basically
22 are flush with the adjacent property lines

1 both on 22nd and M Street to our neighbors
2 and we propose a courtyard in the center.

3 This is a study analysis that we
4 have done at three different periods of the
5 year. During the winter solstice, what we
6 can see is the building receives great
7 illumination and really the shadows that are
8 being cast by the buildings in the later
9 evening hours are somewhat, you know,
10 apparent from all the other buildings that
11 are around the site.

12 During the spring months, we can
13 see that the building is receiving a great
14 deal of sunlight and our shadows because of
15 the orientation of the buildings are really
16 being cast to the sides of the adjacent
17 properties minimizing their affect on the
18 adjacent properties.

19 I'm sorry and on the spring
20 period, again, the properties adjacent to us
21 to the west and to the north are receiving
22 minimal shadows and the building is really

1 -- it's in a great location because of the
2 corner to receive the sunlight.

3 We started to look around D.C.
4 and trying to find inspiration for the
5 building and what really drove our design
6 and we started to walk through all the
7 beautiful parks and gardens and see all the
8 different water features that, you know, are
9 surrounding and are typical of area and that
10 was one of the major directions that we
11 wanted to take the building in because of
12 the sustainable nature and because of the
13 eco-green architecture that we wanted to
14 promote for this particular project.

15 We also took inspiration from the
16 Victorian era U.S. Botanical Gardens that we
17 found here in D.C. We liked very much the
18 exterior laciness of the exterior skin, the
19 amount of light that it allowed to come into
20 the building and the articulation that it
21 promotes within that design.

22 The same thing occurs with the

1 beautiful walkways that are ivy covered on
2 the exterior of the buildings. We wanted to
3 really enhance that. We wanted to bring
4 this building alive. To make it seem to the
5 people that are visiting the building and
6 are staying in the building that they have
7 contact with nature even though it's a
8 luxury urban hotel design.

9 We're also very inspired by some
10 of the work that's being done by Patrick
11 Blank for the vertical green garden walls
12 and with G-SKY who we are working with for
13 the HM spaces. That we wanted to create
14 something special probably not seen here in
15 D.C.

16 The general organizational
17 diagram for the layout of the building in
18 essence breaks it up into three separate
19 structures and the response to this has to
20 do with, one, the access from M Street and
21 the entrance from M Street into the building
22 and another access from 22nd Street and the

1 entrance into the hotel portion of the
2 building. In essence, we generate three
3 separate volumes breaking down the scale of
4 the project further by this gap and
5 separation and we create a green lung that
6 is rising up the building and basically
7 coming through on the exterior of the
8 building and at night, it's going to be an
9 incredible illumination or the glow from the
10 green and the vertical gardens.

11 Below the ground level, we have
12 the first under basement level which is for
13 the back house services. There's a small
14 spa and the offices for the hotel personnel
15 and there are two levels below that as well
16 that are going to be for the parking and
17 I'll get more into the detail as we go into
18 the floor plan.

19 So, at the ground level, what we
20 have is we have the main entrance which is
21 the lobby. We have the bar area and we have
22 a restaurant and at that level, we also

1 include the kitchen area and we include the
2 back house and we include the loading dock.

3 This is the ground-level floor
4 plan. Our intention was, as I mentioned
5 earlier, to provide a connection, a
6 pedestrian-friendly connection from the
7 street side and we wanted to make it as
8 clear as possible at the ground level for
9 you to be able to look through the building
10 and be very inviting and we wanted to create
11 an interior courtyard garden which basically
12 supplanted the requirement for the 1500
13 square foot outdoor area open to this guy,
14 but really provide it within the building
15 and draw other people to come inside the
16 building and really appreciate this amenity.

17 And we were proposing to do this
18 all by creating walls open completely and in
19 the -- we would think that would be on 20 to
20 25 percent of the time here in D.C. that we
21 would have weather that's amiable to us
22 doing this and that way it would be more

1 inviting to the pedestrians that are walking
2 in there to feel in that this building is
3 really part of their lifestyle.

4 We have a drop-off area on north
5 22nd Street which is the main drop-off area
6 for the hotel guests coming in this
7 direction. The vehicles are going to be
8 parked by valet parking and they're going to
9 be going down an elevator lift which I'll
10 explain in more detail as I go through the
11 building sections.

12 On M Street, we have the main
13 entrance for the people that are coming to
14 the restaurant as well as to the bar or just
15 -- people that are just walking on M Street,
16 the porch side of it.

17 On the side of this, we have the
18 kitchen and we have the back of the house
19 course and the services and we have -- as
20 well as the loading dock two bays for the
21 required zoning vehicles on the back.

22 The hotel ground level is very

1 open. Like Kemper was mentioning earlier,
2 what we try to do is we want to make it as
3 transparent as possible with as few
4 obstructions as possible and just to let the
5 whole space kind of mingle with one another.

6 This is an illustration of what
7 we feel that the interior of the space can
8 be with the finishes on the lobby level
9 coming through. Also creating the courtyard
10 and that transparency and that connection,
11 the visual connection, to invite people into
12 the hotel.

13 This is a representation of a
14 section through the hydraulic elevator lift
15 that is capable of carrying the 8,000, you
16 know, car vehicle capacity. The vehicle
17 lift is going to go two levels below at
18 level B2 and level B3 where the main parking
19 levels are located. The elevator lift has a
20 capacity of a total of 43 cars, 23 in and 23
21 out, but it also can double up during high-
22 peak hours when the elevators are going up.

1 So, I can increase that capacity to 50
2 percent to a total of 68 vehicles coming
3 into the parking garage and these are just
4 different sections in both directions.

5 This is the first basement level.
6 In the first basement level, we find the spa
7 area and it's a small spa. Really, it's
8 meant for the hotel guests and we have a
9 gym. We also have the offices for the hotel
10 operations and we have other back of house
11 services. We have the laundry in the back
12 here and some other mechanical spaces down
13 below.

14 This is the first basement level
15 for the parking itself. This basement level
16 contains a total of 22 parking spaces. We
17 also have a total of 60 bicycle racks, you
18 know, that are distributed in both levels.

19 The access to this parking
20 basement is via valet service only. There
21 will be no -- none of the hotel guests will
22 be able to come down, you know, the lift.

1 So, what we plan to do is in the
2 event that it is require, we're able to park
3 a maximum number of 71 vehicles along the
4 aisles down in both of these levels. This
5 is the level below.

6 We also have a total five tandem
7 parking spaces which are not shown as
8 counted in the required number of parking.
9 We have one at level B3 and we have four at
10 level B2.

11 Okay. Now, we go -- as a
12 summary, the overall ground level floor
13 plan, we have the main reception area that's
14 open. We have a open area courtyard. We
15 have the restaurant portion and we have the
16 -- this portion is the bar area of the
17 restaurant, kitchen and back of house and
18 elevator lifts for the vehicles.

19 Above the first courtyard level,
20 we also have a second courtyard which is
21 what we call and determine as a tea garden
22 and the tea garden is going to also provide

1 access, you know, via there will be
2 elevators for the handicapped to get to this
3 level and that really enhances, you know,
4 the whole perspective of what you're going
5 to be experiencing in the garden itself.

6 The back wall of the tea garden
7 is expected to rise three levels up and we
8 are also going to grow vines on those walls
9 and this is the side that is facing the back
10 alley.

11 On the first level of the units,
12 you can see that the floor plan is bisected
13 by an atrium. The atrium cuts across in
14 both directions and creates a bridge and
15 connecting port between the different parts
16 of the building.

17 Our idea is that the atrium that
18 goes all the way to the sky with a skylight
19 above it is also going to be focal point.
20 Is going to be a point that is going to help
21 people get oriented because it's going to
22 bring a lot of natural light and our hope is

1 that the vertical green wall will also act
2 as a green living lung filtering and
3 cleaning the air and besides that, just the
4 regular perception of walking through a
5 green space and the lights, you know,
6 flowing out of it. I think it's going to be
7 quite -- quite inspiring.

8 We have a layout for the double
9 count for either the 144 units or we have a
10 layout where we basically make suites and
11 that -- I'm sorry, the layout that makes
12 suites is 144 and the ones that are single
13 goes up to 170 units. So, we're showing you
14 both floor plans. We are still trying to
15 define which is the best mix for this
16 building.

17 As we go up, we also propose to
18 have a rooftop garden and with the hardscape
19 area, we're going to have a bar -- a small
20 bar lounge. This is also going to be
21 accessible to the pedestrians from the
22 street level and we wanted to make this a

1 green roof and we also felt that it's
2 environmentally and a more responsive type
3 of a roof system.

4 We unfortunately have to housed
5 all of this mechanical equipment here. I've
6 been fighting with my mechanical engineers,
7 but they won't give in. So, with that, we
8 basically enclosed it so that they're really
9 out of sight and we're proposing to do a lot
10 of plantings in front and all around so that
11 is -- the equipment is really hidden behind
12 a forest of trees and this is the roof level
13 of the mechanical space.

14 And this is just an overall
15 general site plan showing the alignment of
16 the building on M Street where the adjacent
17 property is and on 22nd Street.

18 This is the building section
19 that's taken through the main lobby of the
20 building. The building section goes through
21 the courtyard area and as you can see in the
22 background, this is also a vertical green

1 wall that is meant to be with ivies, grown
2 with ivies. It's different planting
3 materials that what we're going to be using
4 on the interior of the building.

5 This is the section through that
6 vertical garden wall, the green lung and
7 these are the connecting bridges. So, you
8 can imagine just walking to the bridges and
9 just perceiving this, you know, green
10 forest, you know, coming out of the ground
11 and even at night, the line, you know, going
12 through and illuminating the green plant is
13 going to be, you know, quite spectacular.

14 You can see, you know, at these
15 levels, the ground levels has a 15 foot 1
16 inch floor-to-floor height and then we have
17 the first basement level which has a 12 foot
18 1 floor-to-floor height and then the two
19 basement levels for the parking.

20 We have ten upper levels which
21 are the unit levels and those are 9 foot 5
22 inch floor-to-floor elevation and again,

1 we're at the 110 foot 0 inches to the top of
2 that deck and with a step back on the back
3 to the top of the mechanical unit 18 foot 6
4 above that.

5 So, we took the inspiration from
6 the Lady Victoria Botanical Gardens that we
7 found that we wanted to reinterpret in a
8 more modernistic fashion. We wanted to
9 utilize the metalwork. We wanted to utilize
10 glass. Very light materials, very
11 transparent materials. We want to utilize a
12 lot of green vegetation on the outside of
13 the building.

14 We wanted to articulate it in
15 such fashion that the building has started
16 to become lighter as it goes up to the top
17 and meets the sky. Basically dissolving on
18 its way up and at the same time, punctuating
19 the entrances with these vertical HM spaces
20 where we have the vertical green walls
21 inside the building and we have exterior
22 landscape trees and potted plants.

1 And this is the M Street
2 elevation and this is the 22nd Street
3 evaluation and the same type of a treatment
4 and articulations.

5 In this elevation at the basement
6 level and you'll see, you know, we'll be
7 able to open the area that's at the bar.
8 So, you can communicate directly with the
9 street level and we'll show you.

10 The ends of the buildings are
11 treated in a simple stucco which we feel
12 that it really is in keeping with the
13 overall concept of the minimalistic and
14 simplistic design for the project. We're
15 following a series of score lines mimicking
16 the frames that we're utilizing for the
17 building in the front. The color is going
18 to be a charcoal grayish color and at the
19 upper level, we have the mechanical rooms.
20 We're going to make that a lighter color.
21 Again, trying to dissolve the elements as
22 they go up into the sky and into the garden

1 above.

2 This is again a view from the
3 other elevation. Similar treatment.

4 This is a 22nd Street elevation
5 blowup and showing the enhancements. We're
6 proposing to do a trellis with beautiful
7 vines hanging from the trellis. Very
8 transparent, you know, glass. We're using a
9 solar ban 60 clear glass at the ground level
10 so it can be as transparent as possible.

11 Main entrance again punctuated by
12 the vertical patron space.

13 This is the 22nd Street side.
14 We're proposing here to be able to open the
15 bar area and the reason that we're proposing
16 it in this side for one is quieter. Two,
17 there's a gentle slope that's to the side
18 and it basically flushes out with the level
19 of our finished elevation here.

20 As we move towards the parking,
21 you can see where we have the service
22 drawing for the vehicle -- for the vehicle

1 lift. The proposed materials are going to
2 be stone cladding which, you know, I brought
3 samples of here that you can take a look
4 afterwards. We want to have a, you know,
5 open-graded, you know, wall -- rolling wall
6 for the vehicle area lift area. This would
7 be where the vehicles attendants are going
8 to be stationed, the podium base and, you
9 know, this is the ground level below.
10 Again, the main entrance into the hotel on
11 this side.

12 This is a contextual image of the
13 hotel along M Street and this is another
14 contextual image along 22nd Street and as
15 you can see if you can kind of perceive the
16 type of frame that we're seeing on the
17 existing building that we're trying to also
18 pick up on our neighbors and what they were
19 doing.

20 The basic finish materials on the
21 project would be metals, stone, aluminum
22 frames, green walls, brick pavers and chain

1 link -- not chain link, grade for the roll-
2 down doors and that's pretty well it.

3 MR. COLLINS: Then the next
4 witness is Jami Milanovich.

5 MS. MILANOVICH: Good evening.
6 For the record, my name is Jami Milanovich,
7 Senior Associate with Wells and Associates.

8 Wells and Associates was retained
9 as the traffic consultant for the subject
10 PUD.

11 As Carl mentioned, the site is
12 situated on the northwest quadrant of the M
13 Street/22nd Street intersection. M Street
14 is one way westbound. Twenty-second Street
15 is one way northbound.

16 Access to the existing site is
17 provided via curb cut on M Street
18 approximately in this location. Currently,
19 there are three to four parking spaces along
20 M Street along the site frontage. There are
21 two parking spaces along the frontage on
22 22nd Street immediately north of M Street.

1 Right in that area.

2 In conjunction with the PUD, the
3 curb cut on M Street would be closed and a
4 new curb cut on 22nd Street would be
5 provided to access the proposed hotel
6 garage. Access to the garage would be
7 provided via two car elevators which would
8 be operated by valet parking attendants.

9 Those elevators are located here
10 and it's important to note that the
11 elevators can provide cars both directions.
12 In other words, there's not one elevator
13 dedicated to inbound cars, one elevator
14 dedicated to outbound cars. They can be
15 used interchangeably. For example, during
16 peak times, both elevators could park cars.

17 The garage would provide 42
18 striped parking spaces, but also could
19 accommodate up to 71 stacked valet parking
20 spaces in two underground levels.

21 The curb line along 22nd Street
22 in front of the site also would be modified

1 to provide a lay-by lane. You can see the
2 existing curb line here and the proposed
3 curb line here to make way for the lay-by
4 lane.

5 The lay-by lane would accommodate
6 the valet parking operation for the hotel
7 and guests of the hotel who are dropped off
8 or picked up without impeding traffic on
9 22nd Street. The lay-by lane would provide
10 stacking for four vehicles. Another one or
11 two vehicles could be accommodated in the
12 driveway in front of the elevators without
13 blocking traffic, I'm sorry, without
14 blocking pedestrians crossing the curb cut.

15 It should be noted that an island
16 is not proposed between the lay-by lane and
17 the adjacent travel lane here and that
18 decision was made to allow vehicles that are
19 at the back of the queue to exit without
20 having to wait for the vehicles in front of
21 them. If an island was provided, vehicles
22 would have to wait for all of the cars in

1 front of them to disperse before they could
2 leave the queue as well.

3 While the operation without an
4 island would be similar to on-street
5 parking, the proposed lay-by lane would be
6 11 feet wide or approximately 3 feet wider
7 than a typical parking lane.

8 The modified curb lane also would
9 provide a bulb out at the corner to provide
10 additional sidewalk width at the
11 intersection of 22nd and M.

12 Valet service for the restaurant
13 would be occurring on the north side of M
14 Street in this purple area. Those cars
15 would then be parked at an off-site
16 location.

17 Access to the loading dock and
18 trash receptacles would be provided via the
19 alley to the north of the site. Trucks
20 would enter the alley front first from 22nd
21 Street back into the loading dock and then
22 exit the alley front first onto 22nd Street.

1 No trucks would back onto 22nd Street.

2 When we first began this project
3 back in May of 2007, we first met with the
4 DDOT to introduce the project, discuss the
5 scope and parameters of the traffic study.
6 At DDOT's request, the traffic study
7 included the intersections of M Street and
8 23rd Street, M Street and 22nd Street and M
9 Street and New Hampshire Avenue.

10 The components of the study
11 included an analysis of existing conditions
12 in the study area and analysis of future
13 conditions without the proposed PUD and
14 analysis of future conditions with the
15 proposed PUD, a queuing analysis for the
16 proposed lay-by lane and a determination of
17 the impact of the proposed PUD.

18 The 170-room hotel and 8500-
19 square-foot restaurant would generate 68,
20 I'm sorry, 66 vehicle trips during the a.m.
21 peak hour and 126 vehicles trips during the
22 p.m. peak hour. This level of trip

1 generation would not have a significant
2 impact on the surrounding roadway network.

3 The graph shows the proportional
4 impact of the site-generated traffic at each
5 of the study intersections. The blue
6 portion of each bar represents the traffic
7 volume without the PUD at each of the
8 intersections. While the yellow portion
9 represents the volume of site-generated
10 traffic.

11 As shown here, you can see that
12 at the M Street/23rd Street intersection,
13 site-generated traffic would account for 1½
14 to 2 percent of the total traffic. At M
15 Street/22nd Street intersection, site
16 generated traffic would account for just 2
17 to 3 percent of the total traffic and at the
18 M Street/New Hampshire Avenue intersection,
19 site-generated traffic would account for
20 just 1 to 2 percent of the total traffic.

21 A queuing analysis was conducted
22 to determine the amount of storage that

1 would be required in the lay-by lane to
2 accommodate the projected traffic during the
3 peak periods. The analysis took into
4 consideration both hotel patrons who would
5 park in the garage as well as guests of the
6 hotel who would be dropped off or picked up
7 in front of the hotel. Based on the
8 analysis, storage for five vehicles would be
9 required to accommodate the proposed demand
10 associated with a 170-room hotel during the
11 peak hour.

12 As proposed, the lay-by lane and
13 garage operation would adequately
14 accommodate the projected volume of traffic.

15 In summary, the traffic
16 associated with the proposed PUD would have
17 a negligible impact on traffic operations at
18 the study intersections within the site
19 vicinity. The proposed lay-by lane would
20 increase safety and efficiency of the
21 loading and unloading process for hotel
22 guests without impeding traffic on 22nd

1 Street.

2 Access to the loading docks and
3 trash receptacles would be provided from the
4 alley. Trucks would enter and leave the
5 alley front first.

6 Finally, the proposed PUD would
7 close the existing curb cut on M Street and
8 provide a curb cut to access the garage on
9 22nd Street which carries a significantly
10 lower volume of traffic than does M.

11 While we understand DDOT's
12 preference to have access to the garage from
13 the site alley, there are several reasons
14 why access to the garage cannot and should
15 not be provided from the alley.

16 First, the configuration of the
17 site is such that it is bordered on two
18 sides by streets and on the other two sides
19 by buildings. You can see in this diagram
20 there's a building immediately to the west
21 and immediately to the north of the proposed
22 hotel. That leaves just a small area here

1 for the loading operation.

2 If both the loading and garage
3 access were to occur from the alley, they
4 would have to be on perpendicular faces of
5 the building. As proposed, the loading
6 docks are here. That would leave only this
7 area for access to the garage. However, by
8 necessity, the garage access would then be
9 blocked while trucks are backing into the
10 loading berths presenting a problem.

11 Traffic entering and exiting the
12 garage via the alley would interact with
13 trucks backing into the loading dock, both
14 trucks going to the proposed hotel and
15 restaurant and trucks that are currently
16 accessing the existing adjacent uses.

17 So, for those reasons, it is not
18 possible to provide both the loading and the
19 garage access from the public alley to the
20 rear of the site.

21 MR. COLLINS: Thank you. The
22 next witness is Mr. Eric Smart.

1 CHAIRPERSON HOOD: You want to
2 turn your microphone on?

3 MR. SMART: Thank you. Good
4 evening. I'm Eric Smart with Bolan Smart
5 Associates.

6 We were asked to address where
7 the hotel use is the best economic use for
8 the subject parcel. Some questions were
9 raised at set down. We have submitted in
10 the February 4th report which is really no
11 different from December 10th with the
12 exception of accommodating some changes
13 suggested in terms of the room count. Same
14 size of building. Same basic implications
15 for economic impact that we looked at before
16 and we didn't change any other aspects of
17 our study.

18 I wanted to make four points
19 relevant to the question of best use for the
20 corner site.

21 First, it is decidedly a
22 commercial location as you all are fully

1 familiar with I expect. Transition between
2 what is the commercial street of M Street to
3 the east into the West End and clearly the
4 adjoining corners or the facing corners at
5 the intersection are dominated by commercial
6 uses.

7 Secondly, a luxury boutique hotel
8 is ideal for this site and ideal for the
9 West End. There's no others like it. It's
10 a nitch product. We believe it complements
11 the base of hotels that are present in the
12 West End.

13 As the numbers run away, it would
14 represent less than 10 percent of the
15 inventory of hotel rooms at its completion
16 in the West End.

17 Number three, the question came
18 of how does the hotel use relate to the
19 intent or the mixture of land uses in the
20 West End. We look carefully at land use
21 date and the uses that are on the parcels in
22 the West End. There's a map in your

1 February, I'm mean, excuse me, the December
2 10th which demarcates what we looked at as
3 the generally understood West End at the
4 back of Section C I think it is.

5 The point here though is that for
6 120,000 square-foot hotel -- square-foot
7 hotel, again 6½ plus million square feet
8 which are represented in the dominate uses
9 in the West End, it doesn't make a material
10 difference in terms of the mix between
11 primarily residential and hotel.

12 The data as it stands today and
13 there's not that many more development sites
14 available as you know is that there are
15 something over 500,000 square feet more
16 existing residential much of it recently
17 developed in the defined West End area than
18 there is hotel and there's other data as
19 indicated in our report that profiles that.

20 Now, that's in the greater West
21 End and not strictly speaking within the CR
22 zone which is approximately half and it has

1 its own geography defined or at least
2 represented for you on that map.

3 But, whether you look at it as
4 the CR zone or really as the feel of the
5 neighborhood in terms of the West End, we
6 don't see that the mix is impacted by the
7 addition of a hotel and, in fact, we think
8 that it's complemented in terms of the
9 vitality of the other uses in the West End.

10 Fourth is revenues and economic
11 impact to the District. Something above \$4½
12 million of identified annual impact directly
13 associated with the project from the typical
14 sources of property taxes and so forth.
15 This is two or three times the amount that a
16 comparably-sized residential building would
17 be expected to generate. As luxury as you
18 might wish it and as the site would justify
19 perhaps if a residential building was to be
20 contemplated, we think this is of a
21 substantial benefit to the District.

22 Secondly, as an economic impact,

1 it's not question that it generates many
2 more jobs than a residential development
3 would do. Upwards of 100 jobs by the data
4 we've evaluated.

5 And number three, sort of pulls
6 it altogether is that the hotel use and its
7 associated retail restaurant use that it can
8 help support is a complement again to the
9 neighborhood itself and we think that it's
10 an amenity if you will helping anchor that
11 entry into the West End.

12 Thank you.

13 MR. COLLINS: Thank you and the
14 last witness is Mr. Steve Sher.

15 MR. SHER: Good evening, Mr.
16 Chairman, Members of the Commission.

17 For the record, my name is Steve
18 E. Sher, the Director for Zoning and Land
19 Use Services with the law firm of Holland
20 and Knight.

21 I'm like to go through just a
22 number of points about this application. I

1 think you've heard Eric just talk about the
2 West End. It is predominately high-rise,
3 mixed-use area. Combination of office,
4 residential, hotel. It's got some other
5 things like a library and a firehouse and
6 some other stuff like that.

7 When it had a hospital which is
8 no longer there, I thought it was sort of a
9 quintessential mix of uses. It had
10 everything within what is a relatively
11 compact area.

12 What you have here is a site
13 that's essentially square with a little bit
14 chopped out at the northwest corner and has
15 been noted, it fronts on two streets, M and
16 22nd Streets.

17 In following up on the thought of
18 high rise, mixed use here, there are many
19 buildings in the immediate vicinity which
20 have been approved or, in fact, have already
21 been constructed at a height of 110 feet or
22 greater. There are properties both east and

1 west of New Hampshire Avenue. In fact, the
2 building immediately across M Street to the
3 south containing the Ritz-Carlton Hotel, the
4 LA Sports Club and the residence there is a
5 110-foot-high building.

6 There are other buildings. The
7 Commission just approved an addition to the
8 hotel at 143 New Hampshire Avenue, one block
9 to the east and also recently approved a
10 renovation and reconstruction of the BNA
11 buildings over on 25th Street at 110 feet.
12 So, 110 feet in this neighborhood is not out
13 of character. In fact, it very much begins
14 to form the character of the West End area.

15 In terms of what the regulations
16 require the Commission to look at, the PUD
17 evaluation standards of Section 2403, the
18 Commission has to essentially judge, balance
19 and reconcile the relative value of projects
20 benefits and amenities with the degree of
21 development incentives and potential adverse
22 affects.

1 The benefits and amenities have
2 been described in general terms by some of
3 the preceding witnesses. They are detailed
4 in the written filings that we have made for
5 the record, but the design and architecture
6 and green features of the landscaping, the
7 sustainable design elements of the building
8 and the community benefits and amenities
9 package which will involve an expenditure of
10 about \$300,000 by the Applicant to a variety
11 of projects the specifics of which have all
12 been provided in the record and as noted by
13 Mr. Smart just in the last testimony, the
14 tax revenue for the District that will
15 result and then the participation in the
16 LSDBE and First Source Programs which have
17 those sort of citywide benefits.

18 What's that balance against
19 again? We're going from what would be a 90
20 foot building to 110-foot building. So,
21 there's a 20-foot increase in height and an
22 increase in density of about 28,000 square

1 feet. That's all hotel. So, this is a
2 building which at the FAR proposed would be
3 about 122,000 square feet.

4 What else are we asking for? One
5 of the things as was indicated, I think, by
6 Mr. Collins at the outset was this building
7 is in a CR District. It does not have the
8 rear yard that is ordinarily required.

9 In many of the higher density
10 commercial zones when you're on a corner
11 lot, you can provide a court in lieu of a
12 rear yard and the theory there is, and this
13 is looking at the site plan, that where you
14 have a corner what you do is you abut a
15 building on one side and you abut a building
16 the other side and if you had to provide a
17 rear yard on one of those two sides, you
18 would create a gap in a streetscape.

19 So, instead of providing that
20 rear yard along either in this case, the
21 west side or the north side, what we've done
22 is we've provided a court that shows up

1 better in the drawing which we'll get to in
2 a second. That court has an area of about
3 3,800 square feet. If we provided a rear
4 yard along one side or the other, that would
5 have an area of about 2600 square feet. So,
6 in fact, providing the court in lieu of the
7 rear yard actually gives more open space at
8 the same time holding the streetscape on
9 both of the two street frontages that we
10 have.

11 The public space at ground level
12 again is a requirement of the CR District
13 that was written in in 1974. I confess I
14 had a hand in that in that I sat at the next
15 desk over from the guy who proposed it. It
16 wasn't my idea, but I was there and actually
17 when Lew Waters proposed that, he thought
18 that that was going to become a standard for
19 all zones. The CR was a new zone written in
20 the regulations in 1974.

21 This 10 percent of the space at
22 ground level doesn't apply in any other

1 zone. It only applies in the CR zone and I
2 think events overtook Mr. Waters. It's the
3 only zone that ever has it and I think most
4 people would say what you really want is you
5 want the building to hold the street not to
6 create some void in the middle of the facade
7 that opens up something different than what
8 you would get otherwise.

9 In fact, as Mr. Romer noted in
10 his presentation, we have plenty of that
11 space. It's just inside the door of the
12 building as opposed to outside the door of
13 the building.

14 As a hotel, this building is
15 going to be open 24 hours a day. It's going
16 to have all that area in the lobby portion
17 and extending back into the open court yard.
18 In fact, more space than would be required
19 under the strict 10 percent calculation.

20 The roof structures and that's an
21 issue I want to spend just a couple of
22 minutes on. The regulations allow roof

1 structures to exceed the normal height of
2 the building provided they meet certain
3 requirements of the regulations.

4 We do not meet two of those
5 requirements. One, we have three roof
6 structures instead of one. The regulations
7 require a single enclosure. The reason that
8 we have three instead of one is precisely
9 because we have these atrium that are green
10 lungs as they've been referred to before
11 that start at the ground floor and go all
12 the way up to the top of the building.

13 So, but for that, we frankly
14 could have connected all these three roof --
15 there's one roof structure here. There's
16 one here and there's one here. They could
17 all be connected, but we think that that
18 interrupts a very critical design feature of
19 the building and, in fact, would put a
20 little more extra mass up on the roof that
21 we don't need. So, for that reason, we have
22 three roof structures instead of the one

1 single enclosure.

2 The other thing that we have is a
3 request for setback relief, but I want to be
4 very clear. At least in our view, the
5 setback relief is along this wall and this
6 wall. It's not along the street frontage
7 because we meet the 18-6 setback along the
8 two street frontages and at least under the
9 current interpretation of the regulations,
10 no setback is required along a party wall or
11 a lot-line wall on either of those two
12 sides, i.e., the north side and the west
13 side.

14 Theory again that at some point
15 in the future, buildings on the adjoining
16 properties could be built up. In fact,
17 there are buildings on those properties that
18 have party walls just at a lower height and
19 much as this building has sat at a lower
20 height for a long time, at some point in the
21 future, the CR District would allow either
22 or both of those properties to be

1 redeveloped to a higher height and
2 therefore, the roof structures would be
3 obscured by whatever occurs on those two
4 properties.

5 That is a ruling that's been
6 upheld by the BZA and is how those
7 structures are being interpreted and applied
8 at the moment.

9 The last area of relief that I
10 want to talk about quickly is just parking
11 and we have the right number of parking
12 spaces on according to the regulations.
13 What we don't have is a driveway paved with
14 an all-weather surface. We have two car
15 elevators instead.

16 Under the current regulations,
17 that is not a permissible means of access.
18 It is something that I know that the Board
19 of Zoning Adjustment has seen a couple of
20 cases on. I think this Commission has seen
21 a couple of those as well.

22 I wouldn't want to guess when the

1 regs are being amended, but at some point, I
2 think the idea of using elevators as opposed
3 to all-weather impervious concrete ramps may
4 find itself into the regulations.

5 It's not there now. So, we need
6 relief on that.

7 And then the other is that the
8 percentage of compact spaces. We're allowed
9 40 percent. We have 52.4 percent and so, we
10 need some relief on that and Mr. Romer
11 explained the grid for that earlier and I'm
12 not going to spend anymore time on that.

13 I have a done a detailed analysis
14 of the 2006 Comprehensive Plan and that's in
15 the outline and I'm not going to spend a lot
16 of time -- I'm not going to spend anymore
17 time on that other than to say that the
18 future land-use map designates the property
19 in the mixed-use high density residential
20 medium-density commercial category and I
21 think this development fits within that
22 scope. It is the same general land-use

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1 category that applies to the West End as a
2 whole and since this is a project that is
3 consistent with the uses and buildings that
4 are out there, I think it's consistent with
5 the Comp Plan.

6 It is my conclusion that the
7 project is not inconsistent with the
8 Comprehensive Plan. It's within the
9 applicable height in both standards of the
10 regulations, provides an appropriate balance
11 between the development proposed, the
12 flexibility requested and the benefits and
13 amenities provided and, of course, the PUD
14 allows the Commission to approve what is
15 specifically proposed and impose whatever
16 conditions may be necessary for the
17 development and I, therefore, believe the
18 project is worthy of your approval and I
19 left 3 minutes and 30 seconds on the table.

20 MR. COLLINS: Thank you very
21 much. We're available for questions. I'd
22 like to bring all the witnesses back plus

1 those who are here to answer any questions
2 that you might have.

3 CHAIRPERSON HOOD: Okay. Thank
4 you very much for that presentation. I'm
5 sure we have a number of questions, but I'll
6 just say to Ms. Milanovich that that traffic
7 circulation pattern just -- hopefully, my
8 colleagues will go first because I'm
9 thoroughly confused about that whole way
10 that's going to operate and it still goes
11 back to my same comments at set down, but
12 let's see if some of that could evolve
13 itself to my understanding as my colleagues
14 ask questions.

15 Commissioner Etherly.

16 COMMISSIONER ETHERLY: Thank you
17 very much, Mr. Chair. I'd love to hop in
18 because I don't bring some of the well-
19 learned history from the prior set down on
20 this case, but so, I'm going to kind of run
21 quickly through a couple of questions that
22 just jumped out at me. I'll apologize if

1 some of this may be repetitive for my
2 colleagues and I'll just kind of run through
3 the witnesses.

4 Mr. Romer, if I could start with
5 you first. A couple of quick questions or I
6 should say one thing that stood out to me
7 was kind of the issue of the pedestrian
8 experience if you will along the M Street
9 and 22nd Street frontages if you will and by
10 that, I'm thinking more of the issue of --
11 first, the tree planters or however you
12 would describe those objects, where are they
13 at relative to a pedestrian's placement on
14 the sidewalk?

15 CHAIRPERSON HOOD: Can you turn
16 on your microphone? Thank you.

17 MR. ROMER: Right. Along M
18 Street, these are the tree planters right
19 here where we have the trees shown.

20 COMMISSIONER ETHERLY: Um-hum.

21 MR. ROMER: This area. We have a
22 couple of tree planters also at the entrance

1 to accent the entry here point and the hotel
2 entry point as well.

3 COMMISSIONER ETHERLY: So, it
4 would be the intention that a pedestrian's
5 experience would be to walk essentially in
6 between the tree planters and the edge of
7 the building itself. Correct?

8 MR. ROMER: Yes, the edge of the
9 building -- the sidewalk distance is 17 feet
10 8 inches here and I'll show you.

11 On this side, we have a canopy
12 that's 10 foot and then a setback that's 10
13 foot and ½ inch from the sidewalk to the
14 edge of the canopy above and then 7 feet.
15 So, we have a 17-foot wide canopy there.
16 Sidewalk, I'm sorry and on this side, it's
17 very similar. This one is -- I believe it's
18 hidden by the tree, but I believe it's 18
19 foot 8 inches.

20 COMMISSIONER ETHERLY: Okay.
21 Okay. So, it's your opinion that there most
22 certainly would be plenty of clearance for

1 lack of a better term --

2 MR. ROMER: Absolutely. Yes.

3 COMMISSIONER ETHERLY: -- for
4 pedestrian traffic moving between the edge
5 of the curb, those tree planters and the
6 building itself.

7 MR. ROMER: Yes, I believe so.

8 COMMISSIONER ETHERLY: Okay. My
9 next question again for you, Mr. Romer, is a
10 little bit of a random question, but I did
11 just kind of wanted to -- perhaps more out
12 of curiosity. The issue of the bike racks
13 in the basement.

14 MR. ROMER: Yes.

15 COMMISSIONER ETHERLY: Kind of
16 what's the point there or what's the
17 thinking there? To an extent, I kind of
18 understand it. It's obviously another mode
19 of transportation that could be enjoyed by,
20 you know, either patrons or what have you,
21 but it's perhaps an amenity that I'm not
22 typically familiar with in a hotel

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1 experience.

2 MR. ROMER: Yes, this is part of
3 the LEED requirements and I'm going to ask
4 -- let --

5 MS. WYNNE: Can I speak to that,
6 Carl?

7 MR. ROMER: Yes, go ahead.

8 MS. WYNNE: Connie Wynne,
9 Starwood Development.

10 COMMISSIONER ETHERLY: Good
11 evening.

12 MS. WYNNE: When we operate the
13 property, we'll provide incentives for our
14 employees to be able to come by bicycle and
15 we'll provide change room, showers, et
16 cetera. We'll reward those employees that
17 take advantage of that because we want,
18 again, to promote the sustainability, the
19 smart traffic, smart transportation.

20 COMMISSIONER ETHERLY: I see. Do
21 you have and is it fair to say that you have
22 some experience with that type of promotion

1 at other properties?

2 MS. WYNNE: Unfortunately, this
3 is the first property. So, we don't, but
4 this is part of the brand DNA and part of
5 the culture of what we want to promote in
6 the hotel.

7 COMMISSIONER ETHERLY: Okay.
8 Okay. And that's fair and I hadn't thought
9 of that as I kind of pondered the existence
10 of the bicycle racks. I mean again if I'm a
11 patron of a high-end brand, I perhaps am not
12 going to be open to bicycling around when I
13 check in, but --

14 MS. WYNNE: We're going to
15 promote it.

16 COMMISSIONER ETHERLY: But,
17 again, I don't run in the circles that Mr.
18 Jeffries runs in. So, I won't go too far
19 there.

20 But, thank you. No, that's a
21 fair answer.

22 With respect -- I'm going to come

1 back to you if I could, Mr. Romer. With
2 respect to the issue of the surfacing -- and
3 I apologize for not having the sheet handy
4 that spoke to the issue. It would be sheet
5 822. It's building materials and finishes.
6 With respect to the concrete pavers which is
7 indicated as a kind of illustration number
8 five --

9 MR. ROMER: Yes.

10 COMMISSIONER ETHERLY: Was there
11 any thought or is there any utility in --
12 I'm curious just about the perviousness of
13 that particular paver. Is that -- what was
14 the thinking behind that particular design
15 choice there and is there an opportunity for
16 something that provides perhaps a little
17 more perviousness or just kind of walk me
18 through that decision if you would.

19 MR. ROMER: Yes, for the ground
20 pavement, we were really looking -- one is
21 the scale of the material. So, we wanted to
22 break down the scale of the sidewalk so it

1 has, you know, a smaller and more
2 reticulated, you know, feel to it.

3 We also like the tackle
4 sensation, you know, of the scoring coming
5 through and we were also trying to pick a
6 paver that's within the standards of D.C.
7 which I'm pretty sure they are.

8 Barbara who would like to --
9 maybe you could talk to -- about --

10 CHAIRPERSON HOOD: Could you
11 speak into your mike even though I know
12 you're trying to turn around?

13 MR. ROMER: Yes.

14 COMMISSIONER ETHERLY: Excellent.
15 Good evening, ma'am. Could you identify
16 yourself for the record?

17 MS. STAFFORD: Thanks. I'm
18 Barbara Stafford, a landscape architect with
19 VIKI, Incorporated.

20 COMMISSIONER ETHERLY: Excellent.
21 Welcome.

22 MS. STAFFORD: Thank you. The

1 paver that was chosen is the downtown
2 streetscape standard paver which is the 2 by
3 3 by 2 inch deep pressed concrete paver in
4 kind of a light gray.

5 COMMISSIONER ETHERLY: Okay. Was
6 there or is there -- as this would be
7 probably one of the first cases where I've
8 had an opportunity to encounter that
9 standard, is there flexibility or was there
10 flexibility there in terms of the type of
11 decision you made regarding the paver?
12 Could you have gone in a different direction
13 or you felt that was most consistent with
14 the overall kind of aesthetic of the
15 project?

16 MS. STAFFORD: We did feel it was
17 consistent with the overall aesthetic. We
18 wanted to keep it very simple and in harmony
19 with the downtown streetscape.

20 COMMISSIONER ETHERLY: Okay.
21 Okay. That's fair. That's fair. All
22 right. Let me come to Ms. Milanovich if I

1 will and the Chairman perhaps kind of gave a
2 little bit of a queue to my initial question
3 and I'll denote as Mr. Jeffries, my
4 colleague, alluded to also an experience
5 with this particular segment of our
6 community having a day-care placement which
7 is neither here nor there, but a day-care
8 placement in this immediate vicinity. So,
9 I'm down there on a frequent basis.

10 Are you in a position to identify
11 what the level of service is for that
12 intersection currently at M and 22nd and
13 I'll give you a little bit of background to
14 the question. DDOT to an extent spoke to
15 it. The concerns about the impact on both
16 your north/south traffic, but for the
17 purposes of 22nd Street, your south to north
18 traffic and then, of course, the east to
19 west traffic on M Street.

20 So, perhaps I want to start first
21 with that primary corner there as we're
22 talking about that lay-by lane and what's

1 going to be happening there from a queuing
2 standpoint and also especially the timing
3 associated with getting vehicles in and out
4 of the elevator. Now, I forget where it was
5 referenced that you're looking at about a
6 2.6 minute time frame if I recall the figure
7 correctly.

8 MS. MILANOVICH: That's correct.

9 MR. ROMER: Two point three six.

10 COMMISSIONER ETHERLY: Two point
11 three six. I cut you off by about .36
12 seconds. But, could you speak to what the
13 level of service is for that intersection
14 now?

15 MS. MILANOVICH: For the
16 intersection of 22nd/M, the existing level
17 of service based on the existing traffic
18 volumes that are out there now, the signal
19 timings that are at that intersection, the
20 existing level of service during the a.m.
21 peak hours and overall level of service B
22 and also during the p.m. peak hour.

1 COMMISSIONER ETHERLY: Okay.
2 Level B and what would your -- what would
3 the anticipated or projected level of
4 service be were the project to be approved
5 in its current form without any significant
6 changes?

7 MS. MILANOVICH: With the PUD,
8 the projected level of service in the a.m.
9 peak hour remains at a B and the projected
10 p.m. peak hour level of service for the
11 overall intersection would be a level of
12 service C.

13 COMMISSIONER ETHERLY: Okay. For
14 the overall intersection. Okay. And did
15 you look at that with respect to -- I
16 understand, of course, where the Applicant
17 is with respect to DDOT's desire to move
18 everything to the alley, but did you look at
19 it with respect to what the level of service
20 would be if loading and garage functions
21 were moved to the alley?

22 MS. MILANOVICH: No, we did not

1 explicitly look at, you know, obviously if
2 the alley was moved, I'm sorry, if the
3 garage access was moved to the alley,
4 vehicles would be entering the site using a
5 slightly different pattern and we did not
6 run the model with that access in the alley.
7 We looked at it more from a practicality
8 standpoint in terms of being able to provide
9 that garage access via alley.

10 COMMISSIONER ETHERLY: Okay.
11 Okay. Again, coming back to the Chairman's
12 question, if we could pull up either your
13 traffic circulation plan or perhaps the
14 truck diagram for the 30-foot single unit.
15 I just want to make sure I'm clear on the
16 movement. You indicated it during your
17 presentation, but I just wanted to make I'm
18 clear on what the anticipated movement would
19 be for truck traffic going in and out of the
20 route that you currently have in mind.

21 That diagram can work fine. So,
22 the vehicular traffic, the truck traffic

1 would head north on 22nd Street.

2 MS. MILANOVICH: That's correct.

3 COMMISSIONER ETHERLY: And would
4 proceed to the public alley.

5 MS. MILANOVICH: Right. It would
6 make a left turn into the alley.

7 COMMISSIONER ETHERLY: Okay. And
8 then proceed past the next public alley and
9 back in?

10 MS. MILANOVICH: That's correct.

11 COMMISSIONER ETHERLY: Okay.

12 MS. MILANOVICH: And there are
13 trucks actually doing that today for the
14 adjacent use. They actually -- they pull in
15 the public alley, move forward and then back
16 into the loading dock here.

17 COMMISSIONER ETHERLY: Okay. And
18 then the anticipated movement for exit would
19 be to proceed cab forward.

20 MS. MILANOVICH: Right. They
21 would just pull forward out, make a right
22 and come back out and make a left onto 22nd

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1 Street.

2 COMMISSIONER ETHERLY: I see and
3 it's your sense that that is a better
4 outcome. Well, let me rephrase it. That
5 movement would most certainly be complicated
6 in your opinion by introducing the garage
7 entrance back there as well.

8 MS. MILANOVICH: Well, right.
9 What you would be doing is introducing
10 vehicular traffic into an area where you
11 have trucks backing into loading docks which
12 certainly is not a desirable situation.

13 COMMISSIONER ETHERLY: Okay.
14 But, is it a matter of just that particular
15 point that you have vehicles having to deal
16 with trucks that are making a movement as
17 opposed or is it a matter of just too much
18 volume back there and this would put it over
19 the edge if you would?

20 MS. MILANOVICH: Well, I mean
21 it's a matter of mixing the two traffic
22 streams, but also, as I had indicated, I

1 mean we've got the loading -- you know,
2 we're abutted on two sides by buildings and
3 on the other two sides by streets. So, we
4 have just this area right here where we're
5 proposing to provide the loading which is
6 certainly desirable.

7 I think DDOT is certainly in
8 favor of having the loading occur from the
9 alley instead of from the public street or
10 from the main streets and there's simply not
11 physically enough room to provide a garage
12 entrance here and the loading docks here
13 because, you know, as you would have
14 vehicles trying to come into the garage
15 access, you would also have trucks backing
16 into the loading dock and frankly blocking
17 the garage access at times.

18 COMMISSIONER ETHERLY: Okay. So,
19 physically not enough room to pull it off.

20 MS. MILANOVICH: That's correct.

21 COMMISSIONER ETHERLY: Okay.

22 Excellent. Excellent. Thank you.

1 MS. MILANOVICH: Yes.

2 COMMISSIONER ETHERLY: Mr. Smart,
3 where did -- did I miss Mr. Smart.
4 Excellent, Mr. Smart.

5 My final question, Mr. Chair.
6 Thank you very much, Mr. Smart, for your
7 analysis. I simply wanted to be sure I
8 understood as we talked about the percentage
9 of the hotel -- the existing hotel
10 inventory, in your report, both the earlier
11 report and the one that was just introduced
12 to us, you indicated that accounting for --
13 even accounting for the proposed rooms that
14 would come online with this project, this
15 project still constitutes just 1 percent of
16 the -- would constitute only 1 percent of
17 the existing hotel inventory?

18 MR. SMART: No, I'm sorry. It
19 was 10 percent. There's around 2,000 rooms
20 in the West End if you take the Fairmont in
21 the west and the Marriott and pool them all
22 up. So, something less than 170 or 170

1 rooms would be less than 10 percent. So, it
2 was not 1 percent. I'm sorry.

3 COMMISSIONER ETHERLY: Okay. And
4 that's accounting for -- you said what I
5 think I needed to hear. That's accounting
6 for the West End. Because I wanted to make
7 sure I didn't read that figure to mean that
8 you weren't accounting for those hotel
9 properties that were south of M Street.

10 MR. SMART: It's including yes,
11 the -- everything that fronts on M Street
12 and then up 22nd and perhaps a couple of
13 others that are. We drew the line
14 somewhere. It doesn't include the hotel on
15 the east side of New Hampshire for example.
16 You know to the east. So, there are some if
17 you do reference the map, but if you
18 included those, it would be substantially
19 more than 2,000 rooms.

20 COMMISSIONER ETHERLY: Okay.
21 Excellent. Thank you. Thank you, Mr.
22 Chair. That concludes my questions.

1 CHAIRPERSON HOOD: Thank you,
2 Commissioner Etherly. Who wants to go next?
3 Okay, Vice-Chair.

4 VICE-CHAIRPERSON JEFFRIES: Okay.
5 There are an assortment of people that I
6 want to speak to. I'll start with Mr.
7 Smart.

8 So, I believe -- or perhaps Mr.
9 Bolton. Initially, Mr. Bolton mentioned
10 that there were about 27,000 units of -- I
11 mean rooms -- hotel rooms, but there are
12 only seven luxury hotels in the district.

13 MR. BOLTON: You know, I would
14 refer to Mr. Smart's --

15 VICE-CHAIRPERSON JEFFRIES: Or --

16 MR. BOLTON: -- accuracies
17 greater than mine. Again, we -- when we
18 looked as far as the justification for
19 building what we call a luxury hotel, we
20 looked at a certain comp set that doesn't
21 necessarily cover the West End. It actually
22 covers all of Washington and that's where I

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1 was deriving what we believe is our, if you
2 will, competition for this hotel.

3 MR. SMART: I'm not sure whether
4 it's seven or ten or six, but the boutique
5 element I think is what you also mean to
6 perhaps include within the definition of
7 luxury and not necessarily price. Is that a
8 complement to what --

9 MR. BOLTON: That's correct. For
10 instance, the Ritz next to us is over 300
11 rooms and we don't necessarily see that as
12 our -- I mean it's competition absolutely.
13 It's a Ritz.

14 VICE-CHAIRPERSON JEFFRIES: Yes,
15 that's what I was going to ask. You're
16 right across the street.

17 MR. BOLTON: Yes, I mean it is in
18 our comp set, but again to the boutique
19 nature of it, it's certainly would be a
20 little bit of an outlier.

21 VICE-CHAIRPERSON JEFFRIES: Well,
22 because, you know, that new restaurant that

1 -- and I'm certain that Mr. Etherly will be
2 going there soon, but the West End
3 Bistro restaurant with, you know -- I mean
4 that's a very nice restaurant and it's Ritz-
5 Carlton and so forth. I mean it does seem
6 like there's some level of, you know,
7 duplication I mean and it's right across the
8 street. I mean so, I'm just -- but, you're
9 saying that that is really not part of your
10 competition.

11 MR. BOLTON: I'm going to ask my
12 partner Connie Wynne to answer that
13 question.

14 MS. WYNNE: We are certainly of
15 the same level of service and experience as
16 the Ritz in the restaurant, but what we'd
17 like to provide is something just a little
18 bit more unique and distinct in that we'll
19 be sourcing with local farmers and reaching
20 out to a partnership. Our menu will change
21 everyday to what's fresh. Our chef, Fabio,
22 out of New York right now Theamos, will be

1 coming to D.C. and he will go out to the
2 market every day and select the freshest
3 goods possible in order to prepare and
4 service the restaurant. So, it is a higher
5 level, but then it's got that uniqueness
6 that it will in partnership with the local
7 farmers and fresh -- as fresh as we can get
8 it.

9 VICE-CHAIRPERSON JEFFRIES: Okay.
10 Okay. I just -- you know, I just -- you
11 know, again, I mean having been there just
12 last week and then looking at this, I'm
13 just, you know, wondering in terms of
14 proximity and so forth, but, you know,
15 obviously, I mean you wouldn't have moved.
16 I mean you clearly understand that there's a
17 large enough target here for both hotels to
18 exist and so forth and I understand the
19 differentiation you're making here. So.

20 MS. WYNNE: And I apologize. I
21 missed the part about the room as well, but
22 the rooms will -- the experience in our

1 rooms will also be a little bit unique and
2 distinct although they're luxury. They'll
3 have a bit of a distinctive flare in that in
4 order to turn on the lights, you've got to
5 activate the LED card. In order to, you
6 know, use a lot of the functions that we are
7 trying to promote the environmental,
8 sustainable aspects of the hotel.

9 VICE-CHAIRPERSON JEFFRIES: My
10 other question is either for Mr. Romer or
11 well, let's just do it with Mr. Romer.

12 The green lung, I don't fully get
13 it. I like it, but I don't fully get it. I
14 understand it in terms of an organizing
15 element as relate to the three towers and so
16 forth. I think it does a wonderful,
17 marvelous job there. I'm trying to
18 understand first of all what's the width of
19 it. What is the width of the actual --

20 MR. ROMER: It's 8-feet wide.

21 VICE-CHAIRPERSON JEFFRIES:
22 Eight-feet wide and this thing goes up a

1 hundred. So, it's a shaft.

2 MR. ROMER: Yes, it goes all the
3 way up.

4 VICE-CHAIRPERSON JEFFRIES: So,
5 what --

6 MR. ROMER: It's not a shaft
7 because it's open on the end. So, it's
8 glass all the way open and it's also with
9 the skylight up above and then there's no
10 enclosure at the end. We just have bridges
11 crossing.

12 VICE-CHAIRPERSON JEFFRIES: So,
13 what does this look like in the wintertime?

14 MR. ROMER: Because this is an
15 interior condition, the G-SKY system that
16 we're utilizing basically implements 13
17 plants that are rooted in a special pot that
18 is, I guess, watered via drip irrigation and
19 during the winter months, it's going to be
20 green because it's also responding to the
21 interior. It's almost like a botanical
22 garden. Is what it is because it's enclosed

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1 and it's regulated.

2 VICE-CHAIRPERSON JEFFRIES: I'm
3 dealing more with the light. The natural
4 light that comes in in the wintertime.

5 I'm just wondering what that
6 looks like.

7 MR. ROMER: As far as --

8 VICE-CHAIRPERSON JEFFRIES: I
9 mean at 2:00 or 3:00 in the afternoon the
10 assault system I'm just trying to get it --

11 MR. ROMER: Um-hum. Um-hum.

12 VICE-CHAIRPERSON JEFFRIES: -- I
13 mean there's going to be some natural light
14 going down this lung. Correct?

15 MR. ROMER: Yes.

16 VICE-CHAIRPERSON JEFFRIES: So,
17 I'm just trying to understand in the winter
18 months, you know, what's the experience
19 going to be like for the --

20 MR. ROMER: For the guests?

21 VICE-CHAIRPERSON JEFFRIES: Yes,
22 for the guests. For the --

1 MR. ROMER: Well, I think you're
2 going to still perceive, you know, the light
3 whether it's not an intense light, whether
4 it's a more opaque light coming in through
5 and filtering through the green lung. I
6 think, you know, you're going to have the
7 vegetation there. You're going to have the
8 greenness coming through. You're going to
9 start -- you're going to experience that
10 even in the evening hours, too. You know,
11 we're going to light the wall up so that the
12 plants are lit, you know, as nighttime as
13 well.

14 So, we are considering that
15 there's going to be, you know, like if you
16 were in a botanical garden, you know,
17 walking through the plants.

18 Was that the botanical gardens
19 that he --

20 COMMISSIONER TURNBULL: That was
21 my question. I think you need to take a
22 good look at that photograph.

1 VICE-CHAIRPERSON JEFFRIES: Well,
2 we can go -- he'll get to you on that.

3 COMMISSIONER TURNBULL: Right.
4 Yes.

5 VICE-CHAIRPERSON JEFFRIES: I was
6 looking at -- that's why I asked him, you
7 know. So, is there an example of this like
8 element somewhere else? I mean this lung
9 configuration.

10 MR. ROMER: Let me show you.

11 VICE-CHAIRPERSON JEFFRIES: And
12 you said it's five different plants.

13 MR. ROMER: It uses 13 different
14 plants.

15 VICE-CHAIRPERSON JEFFRIES:
16 Thirteen -- thirteen different plants.

17 MR. ROMER: Yes.

18 VICE-CHAIRPERSON JEFFRIES: And
19 maintenance of this is going to be fairly
20 labor intensive or it just sort of takes
21 care of itself?

22 MR. ROMER: No, there will be

1 maintenance that's going to be performed on
2 the plants, but --

3 VICE-CHAIRPERSON JEFFRIES: Well,
4 I knew there was some.

5 MR. ROMER: -- guy who are the
6 ones that are doing the vertical garden
7 walls, you know, basically have designed the
8 plants and have selected the groups of
9 plants for this specific use for it to be,
10 you know, growing. It mean it's somewhat
11 scientific in the nature. You know, similar
12 to what Paul Black is doing with his
13 vertical garden walls. I think he's going
14 to be -- you know, G-SKY is going to be
15 doing the same thing along with this wall.

16 Let me show you an image. See if
17 I can get to it.

18 VICE-CHAIRPERSON JEFFRIES: Yes,
19 I'm just trying to get to the bottom of sort
20 of the practical nature of this lung. I
21 mean again it looks wonderful. It looks
22 innovative. I just -- you know and

1 obviously, the illustrations, you know, it's
2 full of light and you know.

3 MS. WYNNE: Carl, while you're
4 looking at it --

5 MR. ROMER: Yes, I'm sorry.

6 MS. WYNNE: -- can I just jump
7 in?

8 MR. ROMER: Here we go.

9 MS. WYNNE: Actually, it's a 2 by
10 2 grid and it's about a five inch kind of
11 mat that these plants are grown in. They're
12 grown a year in advance and then they're
13 hung on a grid system.

14 VICE-CHAIRPERSON JEFFRIES: Okay.

15 MS. WYNNE: And so the
16 maintenance of them, the way that the system
17 is put together, it allows for one guy to be
18 able to go up and replace a whole 2 by 2
19 grid --

20 VICE-CHAIRPERSON JEFFRIES: Okay.

21 MS. WYNNE: -- in order to
22 maintain the look year round. So, it's

1 green. It's fresh. There is a rigid
2 maintenance program, but each of these 2 by
3 2 grids have their own self irrigation
4 system built in. It's a celluloid plant
5 material that is grown out of -- they're
6 very scientific.

7 VICE-CHAIRPERSON JEFFRIES: Is
8 there a blow-up of -- I mean just a section?
9 Did we get that?

10 MR. ROMER: Yes, you did.

11 VICE-CHAIRPERSON JEFFRIES: I
12 didn't.

13 MR. ROMER: That's the blow-up
14 right there that you're seeing.

15 VICE-CHAIRPERSON JEFFRIES: Well,
16 no, I guess I'm looking at something more
17 mechanical in nature, a drawing of some sort
18 that had really --

19 MR. ROMER: A section through the
20 grid or something?

21 VICE-CHAIRPERSON JEFFRIES: Yes.
22 Yes. Yes, but blown up.

1 MR. ROMER: No, unfortunately, I
2 didn't bring those drawings. I only brought
3 the section through the atrium.

4 COMMISSIONER TURNBULL: I wonder
5 if I might just kind of tag on your
6 comments. I think what Mr. Jeffries is
7 struggling with is that is the green lung as
8 you're calling it an actual working system
9 that's integral with the HVAC system or is
10 it just hyperbole? In other words, does
11 this shaft of green plant does this actually
12 integral fully with the air and is filtering
13 things out or is it something you see and
14 look at?

15 MR. ROMER: I have my mechanical
16 engineer. He's going to address that.

17 MR. HESS: It doesn't necessarily
18 integrate, but the point is that, you know,
19 we spend most of our time indoors, probably
20 90 percent of our time indoors and every
21 building when you look at carbon dioxide and
22 you look at contaminants inside of a

1 building, it's always higher than it was
2 meant to be outside in nature.

3 VICE-CHAIRPERSON JEFFRIES: Okay.

4 MR. HESS: And we all know by
5 common sense that plants take carbon dioxide
6 and make oxygen. So, when we bring them
7 back inside the building, what we're trying
8 to do is to really reduce carbon dioxide and
9 increase the oxygen. Now, it's not as
10 integrated with the mechanical system as we
11 would have liked and that's because we get
12 into fire control issues when we combine
13 corridor air and room air, but it will
14 actually decrease carbon dioxide in the
15 space.

16 CHAIRPERSON HOOD: Excuse me.

17 COMMISSIONER TURNBULL: That's
18 mainly related to hallways and corridors.

19 CHAIRPERSON HOOD: Excuse me one
20 second. Let me just interrupt.

21 Before you speak, if you --
22 whoever speaks for the first time, if you

1 could just identify yourself so we know
2 exactly who gave us that information.

3 Excuse me, Mr. Turnbull.

4 MR. HESS: Sure I'm Mike Hess.
5 I'm with XNTH.

6 COMMISSIONER TURNBULL: I guess -
7 - yes, it would do that in the corridors.
8 You're going to do it in the corridors, the
9 hallways, but it doesn't really get into the
10 units, to the restaurant and a lot of the
11 other places because they're separated.

12 I think what -- maybe what Mr.
13 Jeffries is concerned -- back in December,
14 in your original booklet, you sort of show
15 that it's open on top and we see these
16 little blue lines. That sort of says that
17 it's working like a lung, but it really
18 isn't working like a lung and filtering the
19 whole building.

20 I mean it's a wonderful concept.
21 Don't -- I mean I think you've really hit on
22 something nice, but I think it's maybe more

1 hyperbole than really what it's actually --
2 would you would like it to do.

3 MR. ROMER: Well, let me address
4 the original design basically. We had a
5 double skin system and one of the reasons
6 that that type of a ventilation and
7 circulation system went away was because we
8 were not allowed to keep the parapet at the
9 height all the way through of the 18 foot 6
10 and because we didn't have the height in the
11 parapet, that eliminated the chimney -- the
12 stack effect to draw the air through.

13 Originally, we had it venting
14 through the rooms and we had the air
15 circulating all the way through the
16 building, but because the height of the
17 building was cut down, we no longer were
18 able to make that work mechanically and we
19 had to remove that and then limit it to a
20 smaller concept and still try to achieve
21 something in the corridors.

22 COMMISSIONER MAY: Can I ask one

1 follow up on that?

2 Are you suggesting that if you
3 were able to extend the face of the building
4 up 18 6, you know, at the exterior faces of
5 the building that you'd be able to do this
6 innovative air circulation system?

7 MR. ROMER: Yes, originally it
8 was intended to create the draw affect on
9 the building.

10 COMMISSIONER MAY: Okay. Okay.
11 Maybe it's a matter of semantics, but, you
12 know, it's not that you're, you know, not
13 able to run it all the way up to 18 6.
14 There's a height limit at the street that
15 you can't exceed.

16 You could very easily have
17 dropped the height of your building, your
18 occupied floors down to -- you know, lop off
19 two floors and still had the same affect.
20 Right? I mean I -- like I said, it's
21 semantics, but I don't want anybody to get
22 confused about what you're being prevented

1 from doing in terms of zoning. What you're
2 dealing with is a height matter.

3 MR. ROMER: Well, I understand
4 our engineers did a -- you know, a -- I
5 think you call it a thermodynamic model to
6 try to see how the circulation, the flow of
7 the air was going to go up around the
8 building and the height of the stack above
9 the building basically was -- you know,
10 caused us to, you know, pull back from
11 utilizing and implementing the system in the
12 way that we originally conceived it.

13 COMMISSIONER MAY: Okay.

14 VICE-CHAIRPERSON JEFFRIES:
15 Sorry. I just have one more questions and
16 then I have a question for Ms. Milanovich.

17 But, Mr. Romer, so were you going
18 to show me an example of another building
19 that has a very similar system?

20 MR. ROMER: No, I was showing you
21 an image of a vertical green garden wall.

22 VICE-CHAIRPERSON JEFFRIES: The

1 vertical green.

2 MR. ROMER: Yes. Right.

3 VICE-CHAIRPERSON JEFFRIES: Okay.

4 Okay. And then, Ms. Milanovich, can you go
5 back to your famous -- the backing of the
6 truck into the alley drawing.

7 Now, if you're on 22nd Street,
8 what is -- if you're going north on 22nd
9 Street, what are the buildings that are to
10 the east there?

11 MS. MILANOVICH: You mean the
12 ones that are fronting?

13 VICE-CHAIRPERSON JEFFRIES:
14 Fronting yes, 22nd Street.

15 MS. MILANOVICH: I'm not sure
16 what -- what the specific names of the
17 buildings are, but I know that there's --
18 along 22nd Street here, there is a curb cut
19 that allows --

20 VICE-CHAIRPERSON JEFFRIES: On
21 the east side of 22nd Street. Across the
22 street.

1 MS. MILANOVICH: Oh, on the east
2 side there's the Marriott Hotel.

3 VICE-CHAIRPERSON JEFFRIES: Okay.
4 And continue going north. What's up there?
5 Is that Ward Street? Aren't there -- there
6 is -- isn't a Postal Service or some sort of
7 mail service? There are lots of trucks and
8 things that are going down that street. I
9 know Ward Street because I park there. Put
10 my coins in.

11 But, I'm wondering what impact
12 this development's going to have -- when you
13 sort of couple the vehicles that are turning
14 going north on 22nd Street to get to Ward
15 Street, what impact, you know, this
16 development will have on that -- on Ward
17 Street and all those trucks that are going
18 and delivering? I think -- I thought it was
19 the Postal Service, but I'm not certain.

20 So, I'm just concerned. I mean
21 did all your level of service did it take
22 into consideration those trucks that go

1 through there and this is just right up --
2 this is not far north from where these
3 trucks are making their left turn to go into
4 the subject property here.

5 MS. MILANOVICH: Right. I will
6 say we did not specifically look at the
7 intersection on Ward Street, but our traffic
8 counts that were done at 22nd and M did
9 include a separate count of trucks. So, we
10 counted, you know, basically passenger
11 vehicles at the intersection and then
12 separately we counted trucks because those
13 do have a different impact on the operations
14 of the intersection.

15 So, to the extent that we counted
16 trucks at the 22nd and M Street, then I
17 would say yes, we did take that into
18 account, but again, you know, when we met
19 with DDOT to scope out the project, the Ward
20 Street intersection was not included in our
21 study area. So, I don't have specific
22 information at that particular intersection.

1 VICE-CHAIRPERSON JEFFRIES: So,
2 in the evening, everyone's going down 22nd
3 Street because they're trying to get to Rock
4 Creek Parkway. Right? So, and that traffic
5 gets real tight and you said the level of
6 service -- you didn't -- you just studied
7 22nd and M.

8 MS. MILANOVICH: Right.

9 VICE-CHAIRPERSON JEFFRIES: You
10 didn't go further north.

11 MS. MILANOVICH: That's correct.

12 VICE-CHAIRPERSON JEFFRIES: Okay.
13 I mean it's already tight.

14 MS. MILANOVICH: Um-hum.

15 VICE-CHAIRPERSON JEFFRIES: It
16 really is. I mean it's -- you know, I sit
17 in it quite often. So, and while I
18 understand and I appreciate your bar graph
19 that talks about just minimally, you know,
20 this -- the impact that this development
21 will have, but it might be very interesting
22 to, you know, get a better sense of sort of,

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1 you know, just how much more -- you know,
2 just with this development just what impact
3 it's going to have just really following up
4 22nd Street going north.

5 And then the other question I
6 have I believe is for M Street and again,
7 this whole pedestrian-friendly notion. Will
8 there be tables set outside from time -- I
9 mean winter, spring?

10 MS. WYNNE: We'd like to offer
11 tables so we can engage the street and met
12 the street. Yes.

13 VICE-CHAIRPERSON JEFFRIES: Okay.
14 So, that's the plan and did I hear someone
15 say that one of the windows that there might
16 be an open air like a bar situation that you
17 could walk along and order something just
18 from -- did I hear something like that?

19 MS. WYNNE: The doors will be
20 walls opening doors so that --

21 VICE-CHAIRPERSON JEFFRIES: Um-
22 huh.

1 MS. WYNNE: -- they open, but
2 there won't be a bar that just serves --

3 VICE-CHAIRPERSON JEFFRIES: Won't
4 be like a pass through.

5 MS. WYNNE: No.

6 VICE-CHAIRPERSON JEFFRIES: Okay.
7 Okay.

8 MR. ROMER: Now, you can walk
9 into the space from the street.

10 VICE-CHAIRPERSON JEFFRIES: I'm
11 sorry.

12 MR. ROMER: You can walk into the
13 space from the street like that.

14 VICE-CHAIRPERSON JEFFRIES: Okay.
15 But, it's not a situation where it's like
16 we're in Miami or something and -- okay.

17 MR. ROMER: They're not serving
18 drinks, you know, right through the window.

19 VICE-CHAIRPERSON JEFFRIES: Yes.
20 Right. Okay. Okay. I thought I heard
21 something and I'm like wait a minute. Okay.

22 MR. ROMER: No, it's just that

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1 the bar is located at this end and the
2 restaurant is located on the other end.

3 VICE-CHAIRPERSON JEFFRIES: Okay.
4 Okay.

5 MR. ROMER: And this is where the
6 opening occurs.

7 VICE-CHAIRPERSON JEFFRIES: Okay.
8 Listen, guys, I'm going to need a better
9 understanding of the green lung and, you
10 know, I will need a section and I -- you
11 know and it needs to be cut, you know, in
12 such a way and blown up that I clearly have
13 a good understanding of mechanically how
14 it's working.

15 I mean again this is a -- I love
16 what this looks like, but I'm just concerned
17 about the practical nature of it going
18 forward and how it works and so forth and
19 I've gotten some enlightenment here. So,
20 I'm happy to some degree, but that will be
21 very helpful to me. So, thank you.

22 CHAIRPERSON HOOD: All right.

1 Thank you, Vice-Chairman. Who's next?

2 Commissioner May.

3 COMMISSIONER MAY: Okay. You
4 know, I have to say I share some of the
5 concerns about the big green wall and how
6 that will work.

7 I'm also -- I'm very concerned
8 about the proportions of this space. I mean
9 this is 110 feet tall and it's 8 feet wide
10 and at least for the one that runs from 22nd
11 Street in, it's going to be -- the green
12 wall is going to be in shadow for most of
13 the year and presumably, the plantings in it
14 will be intelligently selected so that it'll
15 grow well, but I would hate to think that
16 the -- that there's going to be special
17 lighting on those things to keep the plants
18 alive. I mean it kind of defeats the
19 purpose to be burning light bulbs to keep
20 plants alive in that sort of a circumstance.

21 And I almost -- I mean it's a
22 nice feature and it's nice idea and it looks

1 very persuasive in the drawings that are
2 shown, but we don't even know what the wall
3 opposite it looks like. All right. I mean
4 what does that wall look like that's facing
5 the green wall? Do we have an elevation
6 somewhere that shows us what it looks like?

7 MR. ROMER: That wall is just
8 going to be a textured wall on the opposite
9 side. It's not going to contain any plants.
10 The plants are only one direction.

11 COMMISSIONER MAY: Right. But,
12 what is it made of? What is it textured
13 with? Is it stucco? Is it concrete? Is --

14 MR. ROMER: It'll be --

15 COMMISSIONER MAY: -- it brick?

16 MR. ROMER: -- a skim coat finish
17 on it.

18 COMMISSIONER MAY: A skim coat.
19 So, there's going to be plaster?

20 MR. ROMER: Yes, a skim coat.
21 Yes, it's a plaster finish over the wall.

22 COMMISSIONER MAY: Painted?

1 MR. ROMER: Yes.

2 COMMISSIONER MAY: Okay. And
3 there isn't going to be any kind of relief
4 to it at all? It's just going to be --

5 MR. ROMER: No, it'll be a -- no,
6 it'll be --

7 COMMISSIONER MAY: -- plaster?

8 MR. ROMER: It'll have reveals,
9 you know, going through.

10 COMMISSIONER MAY: Reveals?

11 MR. ROMER: Hand breaking.

12 COMMISSIONER MAY: Okay.

13 MR. ROMER: Taking into scale.

14 COMMISSIONER MAY: I think we
15 need to see the elevation of that wall to
16 know what that looks like just because this
17 is such a prominent feature. You know, I
18 hate to see that we're seeing one really
19 good thing on one wall and then the other
20 side doesn't quite match in terms of its
21 elegance or grandeur.

22 And I have to say again, you

1 know, eight feet wide really concerns me. I
2 mean it's just -- it's really narrow. It
3 would be a kind of an interesting experience
4 to walk through, but --

5 COMMISSIONER TURNBULL: It seems
6 timid.

7 COMMISSIONER MAY: Yes, I mean
8 it's almost as if you took the two eight
9 foot pieces and put them together. You get
10 16 feet. Maybe then you'd get some
11 appreciation of this big green wall.

12 COMMISSIONER TURNBULL: I would
13 agree with your point that you almost -- you
14 wish the elevators were pushed back and you
15 can walk through it. Walk through the space
16 and --

17 COMMISSIONER MAY: Yes.

18 COMMISSIONER TURNBULL: -- maybe
19 even feel the water.

20 COMMISSIONER MAY: Well, I'm not
21 sure I want to feel the water, but --

22 COMMISSIONER TURNBULL: That

1 would be nice.

2 COMMISSIONER MAY: -- you know, I
3 -- I -- you know, getting that kind of a
4 feel from it, I think would be important,
5 but -- let's see if I have other questions
6 that relate to that.

7 I had a question about the bikes
8 and I know that -- this was addressed a
9 little bit earlier, but I wasn't paying full
10 attention I think.

11 This is just staff bike parking
12 and it's 60 or 70 spaces. Something like
13 that?

14 MR. ROMER: Yes, there's 60
15 spaces and it's not only for staff. It's
16 also for guests.

17 COMMISSIONER MAY: Oh, it is for
18 guests.

19 MR. ROMER: As well, yes.

20 COMMISSIONER MAY: So, is that
21 guests arriving on their bicycle?

22 MR. ROMER: Yes.

1 COMMISSIONER MAY: Yes.

2 MR. ROMER: Yes, it's part of
3 the, you know, LEED also criteria that we
4 provide, you know, bicycle spaces and
5 parking. That is also going to incentivate
6 people that come to this type of a hotel --

7 COMMISSIONER MAY: Um-hum.

8 MR. ROMER: -- you know, to use
9 those type of transportation.

10 COMMISSIONER MAY: Um-hum. Well,
11 I'd say, you know, I ride my bike a lot and
12 I commute by bicycle, but I don't -- I would
13 never imagine that I would actually be going
14 to a hotel on my bicycle.

15 MS. WYNNE: May I, Carl, jump in?

16 MR. ROMER: Yes.

17 COMMISSIONER MAY: Yes, thanks.

18 MS. WYNNE: Primarily for --
19 guests will be able to reserve bikes and
20 we'll be promoting bikes. We'll be
21 promoting all kinds of smart transportation
22 including the Metro and smart cars,

1 preferred parking and free valet service for
2 alternate-fuel vehicles. So, it's a whole
3 system that we'll be promoting.

4 COMMISSIONER MAY: Okay. Well,
5 that's good I mean and I can imagine you
6 might have people arriving with their
7 bicycles. It would be good to know that
8 your elevator is long enough to --

9 MS. WYNNE: We'll be able to
10 accommodate.

11 COMMISSIONER MAY: -- handle a
12 big SUV with bikes on the back of it --

13 MR. ROMER: I mean you could be
14 going to dinner --

15 COMMISSIONER MAY: -- you know,
16 because that's --

17 MR. ROMER: -- on a bike.

18 COMMISSIONER MAY: Hum?

19 MR. ROMER: You could be going to
20 dinner on the bike.

21 COMMISSIONER MAY: Well, I
22 certainly have done that before. No, but

1 I'm -- people arriving with bicycles on the
2 back of their vehicles. They have to be a
3 little bit longer. You might want to take
4 that into consideration.

5 I have seen that the penthouse is
6 referred to as three penthouses and yet,
7 I've seen drawings that show glass joining
8 them. Can you explain to me whether it's
9 one interconnected structure with glass or
10 whether it's three different ones and the
11 roof of the skylight is at the level of the
12 roof and not the penthouse roof?

13 MR. ROMER: You're talking about
14 the mechanical penthouses? Is that what
15 you're saying?

16 COMMISSIONER MAY: Yes, well,
17 there are three penthouse structures that
18 are labeled in the drawings.

19 MR. ROMER: Yes.

20 COMMISSIONER MAY: And they're
21 very clearly labeled --

22 MR. ROMER: Yes.

1 COMMISSIONER MAY: -- as
2 penthouse A, B and C or something like that.
3 Are they all connected by a glass roof over
4 that part where you just ran the house?

5 MR. ROMER: Right. It's -- this
6 area is bisected by the skylight and the
7 skylight covers and connects it through
8 glass between the volumes.

9 COMMISSIONER MAY: And --

10 MR. ROMER: So, they are
11 connected to glass.

12 COMMISSIONER MAY: Where is the
13 level of the glass? Is it at the top of the
14 penthouse or is it at the top of the roof of
15 the building?

16 MR. ROMER: It's at the top of
17 the penthouse. Let me try to look at this
18 section.

19 COMMISSIONER MAY: Okay. I would
20 tend to -- I mean maybe we need to have a
21 more official judgment on this, but I would
22 tend to think that that means it's a single

1 penthouse. It's just --

2 MR. ROMER: Yes.

3 COMMISSIONER MAY: --

4 structurally -- I mean it's a single
5 penthouse with -- Mr. Collins is -- it's a
6 legal question apparently.

7 MR. COLLINS: Well, we erred on
8 the side of caution by calling it three
9 because there's actually no doorway to get
10 from one penthouse into the glass atrium --

11 COMMISSIONER MAY: Right.

12 MR. COLLINS: -- unless one fall
13 several stories. So, we called it three
14 with a -- we called it three with an
15 architectural embellishment between and that
16 would be the extended green lung to the top
17 of the level of the penthouse.

18 COMMISSIONER MAY: Um-hum.

19 MR. COLLINS: That's the way we
20 described it. If the Commission chooses to
21 consider it as one penthouse --

22 COMMISSIONER MAY: And not grant

1 the relief? I mean in other words --

2 MR. COLLINS: And not grant the
3 relief for three, sure.

4 COMMISSIONER MAY: Yes.

5 MR. COLLINS: You have the
6 flexibility to do that. We just took the
7 erring on the side of caution to call three
8 in case someone decided it was three because
9 it wasn't physically connected. You
10 couldn't walk from one to the other, from A
11 to B to C and that's why we did it.

12 COMMISSIONER MAY: Okay. Yes,
13 I'm not sure how I feel about that, but I
14 think it's something that we should address
15 when we get to decision making on that.

16 The surface -- the exterior
17 surfaces on the party walls of the adjoining
18 properties, the elevations call it out as a
19 smooth cementitious finish with reliefs and
20 there seems to be some sort of tracing of
21 sort of the frame to indicate that the kind
22 of frame idea that is -- that embellishes

1 the front elevation is carried through and
2 how that's treated. Is that -- do I
3 understand that correctly? Is there some --

4 MR. ROMER: No.

5 COMMISSIONER MAY: Is that what
6 the relief is or what's the relief?

7 MR. ROMER: Yes, basically, it's
8 an M joint, you know, in the stucco
9 providing the horizontal lines, thin
10 horizontal lines.

11 COMMISSIONER MAY: Um-hum.

12 MR. ROMER: Making the frames
13 that we have in the front of the building.

14 COMMISSIONER MAY: Okay. And are
15 they only horizontal lines or are they also
16 vertical? Because it --

17 MR. ROMER: No, they're also
18 vertical. They're showing --

19 COMMISSIONER MAY: Yes. Okay.

20 MR. ROMER: Both directions.

21 COMMISSIONER MAY: And how deep
22 are they?

1 MR. ROMER: They're going to be
2 about -- cement plaster's around 7/8th of an
3 inch. So, it's about 7/8th of an inch deep.

4 COMMISSIONER MAY: Seven-eighths.

5 MR. ROMER: Yes.

6 COMMISSIONER MAY: Okay. Not
7 much of a relief.

8 MR. ROMER: No, but it's enough
9 to show a shadow line and all -- that's all
10 we wanted to do. We wanted to show a very
11 light thin shadow line on the building.

12 COMMISSIONER MAY: Yes, assuming
13 that the sun is out which --

14 MR. ROMER: No, you should still
15 be able to perceive the reliefs on the
16 building. It's not going to look blank.

17 COMMISSIONER MAY: Okay. I'm not
18 quite sure I buy into that at 7/8ths of an
19 inch, but I'll have to think about that.

20 I am concerned about the
21 penthouses going all the way out to the
22 party walls and I'm -- I know that this has

1 been done in the city before. There is some
2 very prominent examples of it. The most
3 prominent of them is -- to date I think is
4 probably driving into the city from Virginia
5 on the 14th Street Bridge and you can see
6 straight ahead of you. It's the building
7 that was just built just past the Mandarin
8 Hotel where they're obviously anticipating
9 that the next building is going to take up
10 where that one left off.

11 VICE-CHAIRPERSON JEFFRIES: The
12 portals?

13 COMMISSIONER MAY: It's portals.
14 Yes, okay, it's a portal.

15 But, what we see for now and for
16 who knows how long is a very, very tall flat
17 almost white surface and it's -- you know,
18 it's just off to the right of the Jefferson
19 Memorial and it -- you know, frankly, if it
20 were just another building, it would be a
21 completely different view and different
22 perspective and the Jefferson would be

1 appropriately set off, but it is -- as it is
2 right now, you have this -- it's almost like
3 if you look too fast you might see some
4 other kind of obelisk white thing there or
5 what have you.

6 You know, I know that most people
7 are not really even going to see the this
8 because of the direction of the traffic, but
9 I'm not sure that I mean we need to be
10 thinking just about people in their cars. I
11 think the people walking down the street are
12 really going to see this and it's going to
13 be very noticeable.

14 I also know that the one -- you
15 know, the portals' example, even if it was
16 set back, it wouldn't look that much better
17 because it's still big and bland, but in
18 this circumstance, I think if it were set
19 back, it would look better and so, I'm -- I
20 just want to register that concern.

21 I understand the constraints on
22 that rooftop given the size of the

1 courtyard, given the depth of the building,
2 the fact that we're dealing with a hotel
3 floor plate and not an office building floor
4 plate. So, I understand those sorts of
5 complications, but, you know, our -- I think
6 our biggest concern on projects like this is
7 how it looks like from the outside and so,
8 I'm concerned about that.

9 I also -- it's been awhile since
10 I've been involved in a zoning case where we
11 had to consider the setback question for
12 penthouse roofs and whether it applies only
13 on the front and the back or applies on the
14 sides as well.

15 Reading the regulations, it just
16 says exterior walls. Looking in the
17 regulations for a definition of exterior
18 walls, you don't find one. Looking in -- at
19 the definition in the dictionary as would be
20 our next step, I'm not sure that you would
21 find a definition that includes or that
22 excludes a party wall when it comes to an

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1 exterior wall.

2 So, I think it would be -- at
3 least for my comfort, it would be good to
4 see that there is some, you know, legal
5 interpretation, if you will, that justifies
6 not treating that as an exterior wall
7 because frankly the plain language to me
8 indicates that it is an exterior wall.

9 MR. COLLINS: Yes, well, let me
10 just address that point if I may.

11 The Board of Zoning Adjustment
12 had a case several years ago which addressed
13 that very issue and it was a very extensive
14 discussion including testimony from the
15 Zoning Administrator and the history of that
16 very issue and it's BZA Case 17-109 and I
17 have a copy with me. I don't have 15 copies
18 with me, but I'd be happy to get it and read
19 to you the sections. There's very few
20 sentences which address the issue if I may.

21 VICE-CHAIRPERSON JEFFRIES:
22 What's the case?

1 MR. COLLINS: BZA Number 17-109.

2 VICE-CHAIRPERSON JEFFRIES: Not
3 the number. The name of the case.

4 MR. COLLINS: Oh, let me look.

5 VICE-CHAIRPERSON JEFFRIES: Okay.
6 Gives numbers.

7 MR. COLLINS: It's Appeal 17-109
8 of Kalorama Citizens Association and it had
9 to do with the construction of a building at
10 1819 Belmont Road which was referred to --
11 some that you may recall, Mr. Etherly, the
12 Belmont Tower Case and in that case, and I'm
13 reading from page 11 beginning at page 11
14 through page 13 is where there was a very,
15 very exhaustive analysis by the Board
16 including citing Zoning Commission cases and
17 just allow me to read several here.

18 It talks about the conclusion
19 that they reached that you could put the
20 roof structure on the side against the
21 sidewall.

22 "This conclusion is in accord

1 with the historical treatment of the term
2 exterior walls under the Zoning Regulations
3 and the Height Act. While there have been
4 differing opinions regarding the correct
5 interpretation of exterior walls under the
6 Height Act, the Zoning Commission has
7 adopted the view that the Height Act
8 requires set back only from a properly line
9 which abuts a street." It says "See Zoning
10 Commission Order Number 749A, Case Number
11 93-9C at page 12 wherein the Zoning
12 Commission concurred with the conclusion of
13 the Zoning Administrator."

14 In that case, the Zoning
15 Administrator submitted a memorandum to the
16 Zoning Commission stating that the setbacks
17 of roof structure under the provisions of
18 the Height Act have always been interpreted
19 by the Zoning Commission as being required
20 to set back from the property line which
21 adjoins a street and it cites the
22 memorandum.

1 In that same memorandum, the
2 Zoning Administrator advised that the Zoning
3 Commission under a planned unit development
4 does have the authority to waive the setback
5 of a roof structure from a property line
6 that does not adjoin the street.

7 COMMISSIONER MAY: I'm sorry.
8 Repeat that.

9 MR. COLLINS: Okay. In that same
10 memorandum --

11 COMMISSIONER MAY: Just that last
12 sentence.

13 MR. COLLINS: -- the Zoning
14 Administrator advised that the Zoning
15 Commission under a PUD does have authority
16 to waive the setback of a roof structure
17 from a property line that does not adjoin a
18 street.

19 COMMISSIONER MAY: So, in other
20 words, relief would be necessary.

21 MR. COLLINS: Well, let me just
22 go on if I may.

1 "While the term exterior walls
2 has been interpreted more broadly under the
3 Zoning Regulations to include a wall setback
4 from the property line that abuts" -- let me
5 start again. "While the term 'exterior
6 walls' has been interpreted more broadly
7 under the Zoning Regulations to include a
8 wall setback from the property line that
9 abuts a yard or a court as opposed to a
10 street or alley, it has not been interpreted
11 to apply to a sidewall constructed to the
12 lot line of an abutting property. This type
13 of wall has been considered a party wall or
14 common division wall not subject to the
15 setback regulations. See testimony of" and
16 it cites the Zoning Administrator.

17 "Accordingly, what distinguishes
18 an exterior wall for zoning purposes is not
19 whether it is exposed to the elements, but
20 whether it is set back from a property
21 line."

22 CHAIRPERSON HOOD: Mr. May, if I

1 could, can we ask maybe -- we'll ask you
2 just to submit that part to us for the
3 record --

4 MR. COLLINS: Certainly.

5 CHAIRPERSON HOOD: -- as opposed
6 to reading the whole order to us.

7 MR. COLLINS: That's fine.

8 CHAIRPERSON HOOD: And then I
9 think we -- you know, just highlight it for
10 us.

11 MR. COLLINS: Yes. I will --

12 CHAIRPERSON HOOD: It'll save us
13 a little work.

14 MR. COLLINS: -- do that.

15 COMMISSIONER MAY: I know it was
16 opening Pandora's Box. So --

17 MR. COLLINS: We're happy to have
18 it. What it really boils to is this.
19 There's different interpretations of what is
20 the exterior wall under this 1910 Height Act
21 and under the Zoning Regulations.

22 As applied to this case under the

1 1910 Height Act, an exterior wall is a wall
2 that abuts the street. Under the Zoning
3 Regulations, it is a wall that abuts a
4 street or a setback where there's a court or
5 a yard. But, under the Zoning Regulations,
6 it does not apply where you have a wall that
7 is on the property line.

8 So, Zoning does not require the
9 setback. The 1910 Height Act does not
10 require the setback.

11 And I'll be happy to submit the
12 case.

13 CHAIRPERSON HOOD: Okay. Mr. May
14 that was it for him. Mr. Turnbull and then
15 we'll come to Commissioner Jeffries.

16 COMMISSIONER TURNBULL: Thank
17 you, Mr. Chair.

18 I guess -- I think we see a very
19 interesting project before us and I think
20 the green lung idea is interesting. I think
21 the problem, and I think a lot of you have
22 all said the same thing, the 8 feet seems --

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1 seems like you're looking down a shaft. You
2 almost want to see more of the whole length
3 of the thing.

4 It's almost as if it's -- and you
5 look at interesting ideas in hotels and you
6 look back to John Portman with his atrium
7 concept and Hyatts and you could almost see
8 this as a green hanging gardens if the whole
9 thing was there. You want it -- it's almost
10 like it's in its initial stage that wants to
11 go further, but I think the concern that I'm
12 reading from a lot of you and I share that
13 is that it's going to be a dark shaft and
14 that it may not grow as green as everybody
15 wants it. It just seems it's a weak idea,
16 but it needs to go more. But, it's an
17 interesting -- it's a fascinating idea and I
18 think it's something that is -- it fits in
19 with the rest of the concepts especially
20 outside, the green wall, the courtyard, but
21 I do share some concerns about the overall
22 maintenance of this thing and it's almost

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1 like you wish you could have gone further.

2 I share the same thing with Mr.
3 May on the penthouse, the setback. I'm also
4 concerned and I guess we'll get into talking
5 with OP and DDOT regarding the lay-by and
6 the access into the garage.

7 I think I'm getting the feeling
8 that a lot of the green aspects of the hotel
9 comes from the operational end, too and I'm
10 just curious. If I don't reuse my towel, do
11 I get in trouble? Do I have to? Do I pay
12 more?

13 MS. WYNNE: Absolutely not, but
14 what we want is to accent the exercise that
15 you have a choice. So, you know --

16 COMMISSIONER TURNBULL: A lot of
17 hotels are doing that, you know. If you
18 don't need it clean, just, you know, which
19 is fine. It's just like at home.

20 COMMISSIONER MAY: I think you
21 have to bring your own actually. That's --

22 COMMISSIONER TURNBULL: So, I

1 have a feeling that a lot of the products,
2 the food is kind of going in with the fair
3 trade aspect. You're using local Virginia,
4 Maryland products, West Virginia. You're
5 using D.C. Okay. Good.

6 I don't have any other questions
7 right now. I'd like to get into hearing
8 from OP and the others.

9 MS. WYNNE: If I may, could --

10 COMMISSIONER TURNBULL: Yes.

11 MS. WYNNE: -- I just respond to
12 your concern on the 8 foot width of the
13 atrium.

14 We have also designed in glass
15 elevators. The front door of the elevator
16 is glass as well as the back door. So, you
17 have the depth of the elevator itself and in
18 standing in a lobby while you're queuing and
19 waiting for the elevator, you also have that
20 depth. So, you're looking -- it's maybe
21 more like 16/20 feet when you're standing
22 there and then you get the experience of

1 rising slowly up through the atrium, through
2 the garden.

3 COMMISSIONER TURNBULL: Yes, I
4 guess my one thought was if the elevators
5 were pushed back and I could almost walk in
6 front, it's one of those things you want to
7 -- you want more of this green wall that
8 goes all the way around. I think it would
9 be kind of a unique experience just to have
10 a whole green atrium. No, I understand your
11 limits, but thank you.

12 COMMISSIONER MAY: Mr. Chairman,
13 could I --

14 CHAIRPERSON HOOD: Let me go to
15 Commissioner Jeffries.

16 COMMISSIONER MAY: Okay.

17 CHAIRPERSON HOOD: Then we'll
18 come right back to you. Unless it was in
19 line with what was --

20 COMMISSIONER MAY: No, I just
21 want to let you know I have one more
22 question I had forgotten. I'll come back to

1 it.

2 CHAIRPERSON HOOD: Okay. He had
3 one more and then we'll come to you and then
4 I'll ask my two questions.

5 VICE-CHAIRPERSON JEFFRIES: I
6 don't know who can -- perhaps Ms. Wynne.
7 I'm starting to hear a little bit of a theme
8 that you feel that this development promotes
9 sort of less vehicular use and so forth. I
10 mean you -- it's not really a transit-
11 oriented development though. I mean you're
12 just a tad bit too far from these Metros. I
13 mean I don't think that people are going to
14 be walking as much -- I don't know quite who
15 your target market is, but the location of
16 this project is just a hair longer than it
17 probably needs to be to take advantage and
18 then it's a luxury hotel. So, you know, I
19 assume the target is going to be, you know,
20 less dependent on, you know, the Metro, but,
21 you know, obviously using taxis and I don't
22 know about the bicycles.

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1 So, I guess I just put that as an
2 observation that I think that this building
3 given the nature of the target users and the
4 location of the actual hotel that this is
5 going to be somewhat of a very vehicular-
6 dependent project and so, that's why I think
7 we really need to give a lot of care to, you
8 know, how these streets work, 22nd Street
9 and M Street. I mean, you know, 22nd Street
10 in the evening is always congested. M
11 Street is a racetrack and we're inserting in
12 a building that by just the very nature of
13 it being a luxury building I think is going
14 to be dependent on lots of vehicular use.

15 I mean people are not going to be
16 walking to this thing or taking bicycles and
17 they're not going to be walking to the
18 Metro. They're going to be driving up or a
19 taxi is going to be driving up.

20 I mean you mentioned, Mr. Romer,
21 Farragut North is very far from here. I
22 mean you're not going to be walking to

1 Farragut North. You could perhaps go to
2 Dupont, but that's a little bit of a walk
3 and summer months, I mean that's a bit of a
4 stretch.

5 So, I just want you to be
6 thoughtful at least as we look at this
7 project and again, I think it's wonderful.
8 It looks good. These illustrations are
9 fabulous, but, you know, I just think we
10 need to give a lot more thought to, you
11 know, how this building interacts with the
12 location that it's in given the nature of
13 the users for it. I think it's going to be
14 somewhat dependent on a lot of vehicular
15 use.

16 CHAIRPERSON HOOD: Okay.
17 Commissioner May.

18 COMMISSIONER MAY: Yes, this was
19 a truck-related question. The truck diagram
20 that shows the truck pulling into the alley
21 and then backing up, could you bring that
22 back up on the screen.

1 MR. ROMER: Yes.

2 COMMISSIONER MAY: Yes, the
3 famous truck diagram. Yes. Okay. So, now,
4 up at the upper left-hand corner of the
5 diagram, right under the words -- the
6 letters K and D, there's the truck coming to
7 a rest before it backs up or pulls out or
8 whatever.

9 What is that line that is sort of
10 -- that demarcates the alley? What does
11 that mean at that point? What are pulling
12 into there? You're pulling into somebody
13 else's property or what?

14 MR. COLLINS: Mr. May, you asked
15 another legal question. That -- you've
16 asked another legal question.

17 COMMISSIONER MAY: Okay. Good.

18 MR. COLLINS: That is the alley
19 system. There used to be an east/west alley
20 that went from 22nd to 23rd. The western
21 half of that alley west of the north/south
22 portion was closed, but an easement for

1 public use was granted in that alley
2 closing. So, you're pulling into --

3 COMMISSIONER MAY: So, it's
4 somebody's property, but you have the right
5 to access it.

6 MR. COLLINS: But, the public has
7 the right to use it.

8 COMMISSIONER MAY: Okay.

9 CHAIRPERSON HOOD: What are we
10 talking about? We're talking about the mid-
11 part of the --

12 COMMISSIONER MAY: Yes, right up
13 in there.

14 CHAIRPERSON HOOD: Okay. Because
15 this is in line with some of my questions.

16 COMMISSIONER MAY: Yes,
17 apparently when you cross that black line
18 there with the truck, you're on somebody's
19 property, but there's an easement that
20 allows you to use it.

21 CHAIRPERSON HOOD: Yes. Yes. I
22 guess how far -- how much of an easement?

1 MR. COLLINS: Well, I have a copy
2 of the easement right here.

3 CHAIRPERSON HOOD: Okay.

4 COMMISSIONER MAY: Does it go all
5 the way through to 23rd Street?

6 MR. COLLINS: Yes, it does.

7 COMMISSIONER MAY: Yes.

8 MR. COLLINS: Let me just --

9 COMMISSIONER MAY: So, if in the
10 event that the DDOT succeeded in convincing
11 the Applicant to park all of the cars off of
12 the alley instead of off of 22nd Street,
13 could all of those cars then exit through
14 whoever's property that is over there on
15 that easement?

16 MR. COLLINS: Well, let me just
17 read and I'm reading -- I'm reading from
18 Instrument Number 38681. I'm happy to
19 submit it. It's a covenant and easement
20 agreement for alley purposes in square 50 in
21 Case SO-79-47.

22 Reading paragraph three of that

1 easement: "Tasea" which was T-A-S-E-A, I
2 don't know how to say it, "hereby grants to
3 the District of Columbia an easement in
4 perpetuity to the space, the alley closed,
5 for public purposes related to vehicular and
6 pedestrian circulation in and through square
7 50."

8 COMMISSIONER MAY: Okay. Thanks.

9 CHAIRPERSON HOOD: Let's finish
10 with that. Let's -- as I'm backing up, Ms.
11 Milanovich, help me with that. Help me with
12 the truck if I'm backing up. I pulled into
13 the easement. Now, I'm backing up.

14 MS. MILANOVICH: Right.

15 CHAIRPERSON HOOD: Walk me
16 through it. I'm a little --

17 MS. MILANOVICH: Okay. You would
18 pull into the easement and then you would
19 back the truck down the alley and into the
20 loading berth.

21 CHAIRPERSON HOOD: Now, how am I
22 going to go right into the loading berth?

1 Don't I have to make another turn?

2 MS. MILANOVICH: Well, yes, you'd
3 be in reverse and you would make a bend and
4 the lines here show the wheel paths of the
5 truck. We actually have a program that
6 allows you to simulate the turning of the
7 trucks. So, the lines that are shown here
8 are the actual wheel paths of the truck.

9 CHAIRPERSON HOOD: Okay. So,
10 now, that's --

11 MS. MILANOVICH: So, you'd be
12 backing right into that loading berth making
13 that turn right there.

14 CHAIRPERSON HOOD: Okay. The
15 loading berth we're going in there is
16 closest to the -- I guess to the structure,
17 to the building.

18 MS. MILANOVICH: Right. Because
19 that's sort of the most conservative case.
20 I mean if they can make that maneuver. Then
21 they can certainly make the maneuver into --

22 CHAIRPERSON HOOD: Okay. Now, we

1 got another truck already parked. I'm
2 already on the one furthest to the south of
3 the diagram then. I'm already a truck
4 parked there. I'm already doing whatever
5 I'm doing.

6 MS. MILANOVICH: Um-hum.

7 CHAIRPERSON HOOD: Tell me how
8 that other truck is going to get in there.
9 How is that going to work?

10 MS. MILANOVICH: If there's a
11 truck here?

12 CHAIRPERSON HOOD: Right. If
13 there's a truck there.

14 MS. MILANOVICH: Well, I think
15 this area right here is the trash receptacle
16 and this is the loading berth. So, I mean
17 -- and you can see the truck that's backing
18 in where the trash receptacle is doesn't
19 encroach on the loading berth. The area of
20 the loading berth here.

21 CHAIRPERSON HOOD: Well, you have
22 two loading berths there. Right? Yes, you

1 have two loading berths.

2 MS. MILANOVICH: Yes, they're --

3 CHAIRPERSON HOOD: So, let's talk
4 about the loading berth. Trash, that's not
5 in there. I'm sure the trash receptacle is
6 not in the loading berth or do you have one
7 loading berth?

8 MS. MILANOVICH: There's --

9 CHAIRPERSON HOOD: I'm looking
10 here. I see two here.

11 MS. MILANOVICH: There's two.
12 Yes, there's two.

13 CHAIRPERSON HOOD: Okay. So, I'm
14 already parked there.

15 MS. MILANOVICH: Yes, if there's
16 a truck parked in the lower loading berth,
17 that's your question?

18 CHAIRPERSON HOOD: Right.

19 MS. MILANOVICH: Right. It would
20 be parked right here and you can see from
21 the wheel path a truck backing into the
22 upper-loading berth doesn't encroach in the

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1 area where this -- where this truck is in
2 the lower loading.

3 CHAIRPERSON HOOD: Yes, it
4 doesn't there, but I'm just saying.
5 Systematically, I -- I think I've dealt with
6 a case like this before and I just don't see
7 how that's going to happen.

8 VICE-CHAIRPERSON JEFFRIES: Just
9 -- I just want to add.

10 CHAIRPERSON HOOD: Turn your mike
11 on.

12 VICE-CHAIRPERSON JEFFRIES: I
13 might want to add. I mean this is a luxury
14 hotel. I mean, you know, they're going to
15 be -- I mean that loading berth's going to
16 be used. I mean there's going to be trucks
17 moving in and out of there. I mean this is
18 a luxury hotel. So, you know, in terms of
19 -- this is going to be a labor intensive
20 little area there. That's going to be a hot
21 spot. So, I think the Chair's question is a
22 very good one. I mean there are probably

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1 many times when there will be, you know, two
2 or three trucks that are there and so, the
3 question is around maneuvering. So --

4 CHAIRPERSON HOOD: It's almost
5 like making a turn with a 90 degree angle.
6 I just don't understand it, but anyway, I
7 will tell you that I'm prepared to really be
8 hard on this. I'd like to hear from DDOT,
9 but I notice they didn't -- and you're
10 right, Ms. Milanovich. They didn't mention
11 it. But, that is an issue. That's a major
12 issue.

13 VICE-CHAIRPERSON JEFFRIES: And,
14 Mr. Chair, I think that's another thing that
15 you need. You need to blow this one up,
16 too. You need to give us a huge blow-up so
17 we're very clear about the clearance and
18 turning in this area. Because I think this
19 goes back to my question about this project
20 is going to be very intensive, vehicularly-
21 intensive project. We need to get a better
22 understanding. A blow-up of that loading

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1 berth area and be clear about when there's
2 resting vehicles how other vehicles that are
3 coming in maneuver. So.

4 CHAIRPERSON HOOD: Okay. Thank
5 you. No, that's good. Couldn't have
6 expressed it better. I appreciate it.

7 The other thing, Ms. Milanovich,
8 again, let's go through the traffic
9 circulation plan. Let's talk -- walk me
10 through the whole lay-by, how this piece is
11 going to work. Just give me sound bites
12 because I know the hour is getting late and
13 I do plan on finishing this case tonight.

14 That's the goal, colleagues.
15 Right? Okay.

16 MS. MILANOVICH: If you're going
17 to the hotel, the lay-by lane for the hotel
18 is shown here in yellow. So, if you're
19 going to the hotel, whether you're arriving
20 in a taxi being dropped off or you're in
21 your own car and you're going to have to
22 valet park you in the garage, you would pull

1 into this lay-by lane and we've done an
2 analysis that takes into account both the
3 fact that this lay-by lane will be occupied
4 by hotel guests who are arriving by their
5 own vehicle that will stop here and turn
6 their car over to the valet who will then
7 continue to take the car into the garage
8 elevator and park it in the lower-level
9 garage. As well as hotel guests that are
10 being dropped off by taxis or town cars.
11 That type of thing.

12 CHAIRPERSON HOOD: What is a taxi
13 going to do? What is a taxi going to do?
14 Say I'm the third car. I'm the taxi. The
15 second car, I'm trying to get into the
16 garage.

17 MS. MILANOVICH: Um-hum.

18 CHAIRPERSON HOOD: So, just tell
19 me how that's going to work.

20 MS. MILANOVICH: Well, the taxi
21 would drop off the guest. They'd unload
22 their luggage and then assuming that the

1 taxi was ready to leave before the car in
2 front of them --

3 CHAIRPERSON HOOD: Which we know
4 that's going to be the case.

5 MS. MILANOVICH: -- pulled into
6 the garage --

7 CHAIRPERSON HOOD: Right.

8 MS. MILANOVICH: -- that's
9 exactly why we did not propose a median, an
10 island, separating the lay-by lane from the
11 travel lane. Because that taxi then can
12 pull out much as he would from an on-street
13 parking space. You know, he would check to
14 make sure the road is clear and then --

15 CHAIRPERSON HOOD: He could pull
16 out into oncoming traffic. There's no
17 mitigation factor there to break the speed
18 of -- and I don't -- unlike my colleagues, I
19 don't get over there much because of the
20 traffic.

21 MS. MILANOVICH: Um-hum.

22 CHAIRPERSON HOOD: But, I will

1 tell you that I'm pretty sure going down,
2 what's that, 22nd Street --

3 MS. MILANOVICH: Um-hum.

4 CHAIRPERSON HOOD: -- I don't
5 know how fast they go or I'm not sure.

6 MS. MILANOVICH: Well, a couple
7 of things. Number one, there is a traffic
8 signal here which is breaking up the
9 traffic, creating gaps in the traffic and
10 then the second thing is I mean currently
11 there are two parking spaces right here
12 under existing conditions. So, if those
13 cars that are parked there currently are
14 leaving their parking space and finding gaps
15 in the traffic stream, it would be the same
16 situation for a taxi. Only it would be, you
17 know, slightly further up from where those
18 existing cars are parking today.

19 CHAIRPERSON HOOD: Now, let's
20 talk about the entrance to the, what do you
21 call it, the elevator.

22 MS. MILANOVICH: Um-hum.

1 CHAIRPERSON HOOD: What is it
2 called again?

3 MS. MILANOVICH: The elevators.
4 The garage elevators.

5 CHAIRPERSON HOOD: Right. The
6 garage elevators. Right. Yes, I thought
7 they used to call them a vault or something
8 once before, but anyway, now, if I'm that
9 first car and I'm trying to get into an
10 elevators -- now, you say there were two
11 other parking spaces where people can I
12 guess wait.

13 MS. MILANOVICH: Right. Well,
14 there's two spots in front of the elevator
15 shown here in the darker yellow color and
16 those would -- only the valets would be able
17 to pull cars into those two spots. So, when
18 a valet gets into a car waiting here to be
19 parked, they will then pull that car in here
20 to get into the elevator.

21 CHAIRPERSON HOOD: But, you're
22 going to have one for egress and -- ingress

1 and egress. Right? So --

2 MS. MILANOVICH: Well, it doesn't
3 have to be necessarily dedicated one for
4 ingress, one for egress. For example, the
5 valets would know, you know, if they have a
6 line of cars waiting to come in and there's
7 no one waiting to get their car out of the
8 garage, they can pull two cars in here into
9 both of those elevators to park those below
10 grade.

11 CHAIRPERSON HOOD: Okay. So, if
12 I'm coming out of there, say if I'm coming
13 out of the garage, I'm a valet. I'm pulling
14 out.

15 MS. MILANOVICH: Um-hum.

16 CHAIRPERSON HOOD: And that first
17 car's a cab, he will pull to the right or is
18 he going to pull forward? What's going to
19 be there to let them know that there's a car
20 pulling out and there's a car coming out of
21 the garage?

22 MS. MILANOVICH: Are you talking

1 about the cab in the lay-by lane?

2 CHAIRPERSON HOOD: Yes, I'm the
3 first car. I'm now the first car.

4 MS. MILANOVICH: Right. Well,
5 that's where you stop and turn your car over
6 to the valet.

7 CHAIRPERSON HOOD: Oh, so, a cab
8 wouldn't get that far up?

9 MS. MILANOVICH: Well, a cab
10 could get that far up, but that's the
11 stopping point. The cab can't go beyond
12 that point.

13 CHAIRPERSON HOOD: So, if I'm a
14 cab dropping somebody off and I got that far
15 up, then how do I get around without pulling
16 straight some?

17 MS. MILANOVICH: How do you pull
18 out into the 22nd Street? Is that your
19 question?

20 CHAIRPERSON HOOD: Does I just
21 pull -- I mean normally you go straight a
22 little bit. You go at an angle. You don't

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1 just -- cars don't just flop out into the
2 lane. You follow me.

3 MS. MILANOVICH: Right. Right.

4 CHAIRPERSON HOOD: Okay.

5 MS. MILANOVICH: Well, this -- I
6 mean you'll notice that we have the inbound.
7 You actually go -- the valets will drive
8 left. Inbound on the left side. Sort of
9 reverse of conventional.

10 CHAIRPERSON HOOD: But, I thought
11 you said -- maybe I'm just not
12 understanding. I thought you said that it
13 didn't matter. You didn't have -- when I
14 said ingress and egress, you said it didn't
15 matter.

16 MS. MILANOVICH: Right. Well,
17 when the valets bring the cars out, they'll
18 be bringing them out on this side. It's
19 just that they can also bring cars in. You
20 know, they can -- they have room to maneuver
21 here so you can have two cars going into the
22 elevator here. But, when a car comes out

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1 whether it comes out the bottom elevator or
2 the top elevator, it'll egress the site
3 here.

4 CHAIRPERSON HOOD: So --

5 MS. MILANOVICH: So, the cab
6 that's waiting here has room to pull out
7 into --

8 CHAIRPERSON HOOD: So, it does
9 matter at that point? You do have one way
10 in and one way out at that point?

11 MS. MILANOVICH: At the very
12 throat, yes, it's one way out, one way in.

13 CHAIRPERSON HOOD: Okay.

14 MS. MILANOVICH: But, when you
15 get in here, the valets, you know, if
16 they've got two car waiting to be parked and
17 no cars coming out from the garage, they
18 come in here, but then they -- you know,
19 they can come in and, you know, provide two
20 inbound cars in both of those spaces.

21 CHAIRPERSON HOOD: I know once
22 before there was a place in the city that

1 tried to do that and it didn't work. Well,
2 they didn't build it actually.

3 Is there somewhere in the city
4 that actually happens now?

5 MS. MILANOVICH: Has an elevator
6 or the --

7 CHAIRPERSON HOOD: Has that type
8 of system or is this new?

9 MS. MILANOVICH: There are --

10 CHAIRPERSON HOOD: New to me
11 probably, but --

12 MS. MILANOVICH: Well, there's --
13 I can think of one place, the Summit on -- I
14 believe it's on I Street. It's a
15 residential building.

16 VICE-CHAIRPERSON JEFFRIES:
17 Fifteenth -- 15th. Right -- I think it's
18 right down the street from Georgia Brown.

19 MS. MILANOVICH: Right. Right.

20 VICE-CHAIRPERSON JEFFRIES: Yes.

21 MS. MILANOVICH: It's a
22 residential building that has a car

1 elevator.

2 MR. COLLINS: Mr. Hood, there is
3 another project, too. The office building
4 on top of the Hecht Department Store at
5 Metro Center. It's operated by garage
6 elevators and the parking is actually up --
7 several floors up.

8 CHAIRPERSON HOOD: Is that where
9 that long line is?

10 MR. COLLINS: No, it's a very
11 short line.

12 CHAIRPERSON HOOD: Oh. Okay.
13 Okay. I figured it was going to get short.
14 All right.

15 VICE-CHAIRPERSON JEFFRIES:
16 There's another project. I don't think it
17 was built, but T Street Flats was going to
18 do something similar to that on 14th Street.
19 They were going to have a very similar
20 system.

21 CHAIRPERSON HOOD: It's just that
22 the one case I was on previously they -- I

1 don't know whatever happened to it, but it
2 never came to fruition.

3 Okay. Thank you for helping me
4 understand it a little better. I have --

5 VICE-CHAIRPERSON JEFFRIES: Just
6 one other question just --

7 CHAIRPERSON HOOD: Sure.

8 VICE-CHAIRPERSON JEFFRIES: -- on
9 his line. I want to be clear. When you
10 make the left-hand -- the right-hand turn,
11 you're traveling on M Street. You make the
12 right-hand turn. You go into the hotel.
13 You see a line just as it's shown here, four
14 cars that are parked. Okay. I'm a taxi or
15 I'm driving and I stop and I'm -- and then
16 the second car at the top takes off, I have
17 to come out of my queue and then come into
18 traffic. Me?

19 I'm just concerned. I understand
20 what you're doing in terms of the median and
21 not having the median because that allows
22 the vehicles just to step out, to drive off.

1 But, I'm concerned that if there's another
2 car or two that's waiting while these four
3 cars are parked that even if that second car
4 takes off, I have to come out of my -- you
5 know, out of line and come around and get
6 into that parking space. Am I not going to
7 be somehow obtrusive to traffic?

8 Do you follow what I'm saying?

9 MS. MILANOVICH: You're talking
10 about somebody that's entering the lay-by
11 lane?

12 VICE-CHAIRPERSON JEFFRIES: Yes.

13 MS. MILANOVICH: So, instead of
14 entering here, you're saying if they would
15 come up and in a sense parallel park.

16 VICE-CHAIRPERSON JEFFRIES: Take
17 your red dot and take it south. Go down.
18 Okay. Now, you have four cars now. Let's
19 say I'm coming in and I'm right behind that
20 last vehicle.

21 MS. MILANOVICH: Um-hum.

22 VICE-CHAIRPERSON JEFFRIES: Okay.

1 And I'm waiting to get in and, you know, my
2 tail is out and then all of a sudden, I
3 determine that the second car to the north,
4 take your red dot up there, and that car
5 takes off. Okay. Are these other cars
6 going to move up or am I going to have to go
7 around them?

8 MS. MILANOVICH: Well, you would
9 wait in line. I mean the cars could move up
10 if they haven't unloaded.

11 VICE-CHAIRPERSON JEFFRIES:
12 Absolutely.

13 MS. MILANOVICH: Or if a valet is
14 in there to park a car in the garage. The
15 valet would move this third car, for
16 example, into that vacated space.

17 VICE-CHAIRPERSON JEFFRIES: But,
18 chances are they're not moving until they
19 take care of all their business and so, even
20 if that second car moves, I'm going to have
21 to -- if I'm behind, I'm at the end of the
22 line. I'm going to have to come out and

1 somehow maneuver myself into that second
2 spot and that's just a hypothetical.

3 Is that what's going to happen?

4 MS. MILANOVICH: Well, no, I
5 think what would happen is that that car
6 would --

7 MS. WYNNE: I hate to interrupt.

8 VICE-CHAIRPERSON JEFFRIES: Sure.

9 MS. WYNNE: But, we've got
10 operational plan that we've laid out where
11 it's really a lot like the airport
12 management system. You know, the hotel
13 again being a luxury-class hotel will accent
14 service. So, we'll have adequate staff out
15 there to be able to manage --

16 VICE-CHAIRPERSON JEFFRIES: Okay.

17 MS. WYNNE: -- the valets as they
18 come and direct the traffic so that it's not
19 chaos.

20 VICE-CHAIRPERSON JEFFRIES: Okay.

21 MS. WYNNE: It will be our goal
22 to get in there and get people out of their

1 cars as quickly as possible so we can
2 service that front door.

3 VICE-CHAIRPERSON JEFFRIES: Okay.
4 So, it's going to be like being at National?

5 MS. WYNNE: Right.

6 VICE-CHAIRPERSON JEFFRIES: Okay.
7 Because -- okay. That was my concern.
8 Because this could be another hot spot
9 that's going to clearly have impact on that
10 street and that's -- that was what -- so, if
11 you're going to be keeping it fluid and so
12 forth, okay, for your transportation plan.
13 Okay. Thank you.

14 CHAIRPERSON HOOD: Okay. Thank
15 you, Vice Chair.

16 Mr. Collins, let's look at this
17 memorandum of understanding. Typically, as
18 you know, we don't incorporate memorandums
19 of understanding in our orders and another
20 thing that I would caution the ANC, Mr.
21 Corson hopefully -- is Mr. Corson? Okay.

22 The only other thing I would --

1 first of all, we don't incorporate
2 memorandums of understanding in our orders.
3 We may point to it.

4 The other thing is we -- the ANC
5 may want to look at this and make it a
6 condition. The other thing is I'm looking
7 at this contribution to ANC 2A. Last time I
8 check, you couldn't give money to an ANC and
9 the thing is what we need to do is make
10 sure. So, it depends upon what happens with
11 this because I don't know, but what I think
12 needs to happen is this needs to show how
13 it's being administered especially A, B, C
14 and D. Because it talks specifically about
15 a contribution to ANC 2A for the
16 installation of a new streetlight. It needs
17 to show how it's administered.

18 MR. COLLINS: We understand.
19 That is --

20 CHAIRPERSON HOOD: Okay.

21 MR. COLLINS: -- that was just a
22 kind of a -- at the time it was entered

1 into, it was to show the intent. We
2 understand that you can't give money to ANC.
3 The ANC can't accept them. There is
4 mechanisms to work out all these things.

5 CHAIRPERSON HOOD: Okay. Okay.

6 MR. COLLINS: And we will make
7 that clear in our submission.

8 CHAIRPERSON HOOD: Okay. Thank
9 you. Sounds good. Okay. Any other
10 questions? Okay. We have cross
11 examination.

12 First, I'm going to ask Mr.
13 Corson, ANC 2A, do you have any cross
14 examination? Okay.

15 I'm not sure. Ms. Kahlow, are
16 you speaking for -- are you speaking or Ms.
17 Maddux? That's okay. We're not getting
18 that on the record. But, I just want to
19 know do you have any cross examination. You
20 can tell us when you come up here in about
21 -- hopefully before 10:30 and tell us --
22 okay. No cross examine from West End.

1 Sandi Holdings, any cross
2 examination, Mr. Aguglia?

3 And I know I pronounced your name
4 incorrectly that time.

5 MR. AGUGLIA: Thank you. Richard
6 Aguglia for Sandi Holdings in opposition to
7 the application as it relates to the lack of
8 a setback on the westerly portion of the
9 subject hotel.

10 I just have a few questions for
11 Mr. Romer and I just have a few questions
12 for Mr. Sher. All right.

13 Mr. Romer, if you would please
14 put up on your screen A11, level 13 roof
15 plan.

16 MR. ROMER: Okay.

17 MR. AGUGLIA: All right.

18 MR. ROMER: This is on.

19 MR. AGUGLIA: Would you please
20 point out to the Commission where the garage
21 exhaust fans and the kitchen exhaust fans
22 are? Can you highlight that?

1 MR. ROMER: Yes, they're in this
2 area.

3 MR. AGUGLIA: In that area?

4 MR. ROMER: Yes.

5 MR. AGUGLIA: Now, is that along
6 the westerly portion of the subject hotel?

7 MR. ROMER: Correct.

8 MR. AGUGLIA: And that's next to
9 the Sandi Holdings Building? We'll call it
10 the Sandi Building.

11 MR. ROMER: That's correct.

12 MR. AGUGLIA: And there's not
13 setback provided for in your plans that's
14 right to the tip of the property.

15 MR. ROMER: Right to the property
16 line.

17 MR. AGUGLIA: Right to the
18 property line. All right. Would it be
19 possible if you removed the green lung as it
20 was called or the dark shaft as I would call
21 it since it is un-integrated to be able to
22 setback those exhausts from the property

1 line? Would that be possible?

2 MR. ROMER: Well, you know, you
3 can make anything possible, but, you know,
4 along the way, you don't want to destroy the
5 building. I mean I think that's the reality
6 of it. I think there are many elements that
7 -- throughout the development of the project
8 that we have looked at and try to find the
9 best location for the functioning.

10 In this case, after extensive and
11 numerous, you know, studies, you know, this
12 is where our shafts are, you know, coming up
13 on the building.

14 If you're saying eliminate the
15 green lung, eliminate the atrium, you're
16 telling me, you know, it's another building.
17 So, I couldn't say, you know, whether or not
18 it would work. It would definitely not work
19 in this building.

20 MR. AGUGLIA: Could you
21 reconfigure the rooms so there would be a
22 setback there so the exhaust would not be

1 right on the Sandi Holdings property? Could
2 you reconfigure the rooms?

3 MR. ROMER: Well, I'd really have
4 to look at and I wasn't really prepared
5 because I wasn't given sufficient time to
6 look at these conditions and what other
7 options we have. I'm -- I'm uncertain
8 because we have so many pieces of equipment
9 there, located in that particular corner.
10 The kitchen is -- you know, the kitchen is
11 located in that corner. We have some fire
12 protection equipment, you know, also located
13 in that corner.

14 The ramifications of kind of
15 shifting everything over without really
16 studying at this point, I couldn't tell you.

17 MR. AGUGLIA: I understand.
18 Thank you.

19 I have a few questions for Mr.
20 Sher.

21 Mr. Sher, I'm referring to page
22 five of your report that you submitted to

1 the Commission tonight. Do you have page
2 five?

3 MR. SHER: I do.

4 MR. AGUGLIA: All right. I take
5 it the purpose of this is to show that the
6 height of the proposed structure at 110 feet
7 not counting the rooftop structures is
8 consistent with other heights in that
9 particular area.

10 MR. SHER: Yes.

11 MR. AGUGLIA: All right. The
12 first one, A, 2200 M Street, was, in fact, a
13 map change. Is that correct?

14 MR. SHER: It involved a rezoning
15 as well as approval of a PUD.

16 MR. AGUGLIA: That was not in the
17 original CR zone. Was it?

18 MR. SHER: No.

19 MR. AGUGLIA: Okay. B, that --

20 CHAIRPERSON HOOD: Yes, are we
21 going to go down each one of the --

22 MR. AGUGLIA: Very quickly.

1 CHAIRPERSON HOOD: Most of these
2 are --

3 MR. AGUGLIA: Are not in the CR
4 zone?

5 CHAIRPERSON HOOD: Except that a
6 few -- some of us were here with the
7 exception of a few of these.

8 MR. AGUGLIA: All right. Well,
9 let me say -- let me put it this way. It
10 appears from your study that only G was in
11 the original CR zone which is the BNA
12 Building. Is that correct?

13 MR. SHER: Of these listed, yes.

14 MR. AGUGLIA: Okay. Do you know
15 if that building had a setback for the roof
16 house structure? For the roof house -- for
17 the rooftop penthouse?

18 MR. SHER: I don't know.

19 MR. AGUGLIA: So, was it fair to
20 say that this particular property, the
21 subject hotel that we are here today may be
22 the first of its kind to incorporate 110-

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1 foot height under the PUD and an 18.6-foot
2 rooftop structure that is not set back?

3 MR. SHER: I don't know if that's
4 fair or not.

5 MR. AGUGLIA: So, you don't know?

6 MR. SHER: That's what I just
7 said.

8 MR. AGUGLIA: Okay. Now,
9 assuming that the subject property, the land
10 area is under 4,000 square feet and, in
11 fact, the District tax records indicate that
12 it has 3,767 square feet of land area. This
13 is the Sandi Holdings Building. Is that
14 property -- is our property eligible for a
15 PUD?

16 MR. SHER: Not at that size.

17 MR. AGUGLIA: Okay. What is the
18 maximum height it could achieve under matter
19 of right?

20 MR. SHER: Ninety feet.

21 MR. AGUGLIA: All right. The
22 subject hotel excluding the penthouse is

1 proposed to be at 110 feet. Is that
2 correct?

3 MR. SHER: Yes.

4 MR. AGUGLIA: So, the Sandi Hotel
5 if built out to its maximum 90 feet could
6 never, in fact, completely mesh with the
7 hotel? With the hotel at 110 feet?

8 MR. SHER: Ninety feet is not as
9 high as 110 feet.

10 MR. AGUGLIA: Now, Mr. Sher, you
11 testified that -- and I will get into the
12 case when I present my -- as to my -- the
13 case 17-109 with all due respect to Mr.
14 Etherly is a confusing case.

15 But, wasn't the essential purpose
16 of that case since the buildings would mesh
17 and there would be no exposed wall that, in
18 fact, the sidewall was an interior wall and
19 not an exterior wall? Wasn't that the
20 thrust of the case?

21 MR. SHER: I think the Commission
22 can read the case. You can read the case.

1 I can read the case. My understanding of
2 what the Board held was that a setback was
3 not required on a party wall or a lot-line
4 wall on those sides of the building.

5 MR. AGUGLIA: But, you're
6 familiar with the case.

7 MR. SHER: Yes.

8 MR. AGUGLIA: All right. And you
9 do know that the first part -- that Mr.
10 Collins read from the second part of the
11 case. That the first part of the case talks
12 about the long-standing policy of the Zoning
13 Administrator in that if the buildings
14 meshed it was considered an interior wall
15 and not an exterior wall and if they did not
16 mesh, then it was, in fact, an exterior wall
17 that needed to be set back. Are you
18 familiar with that portion of the opinion?

19 MR. SHER: Not right offhand.

20 MR. AGUGLIA: All right. I'll
21 address that when we come up.

22 I have no further questions.

1 CHAIRPERSON HOOD: All right.

2 Thank you.

3 MR. COLLINS: I have several on
4 redirect if I may.

5 CHAIRPERSON HOOD: Okay.

6 MR. COLLINS: Mr. Romer, the
7 question about the garage exhaust and the
8 kitchen exhaust that Mr. Aguglia asked you,
9 do the plans at any point show the garage
10 exhaust or the roof exhaust venting onto to
11 the adjacent property to the west at any
12 level of the building?

13 MR. ROMER: No, they don't.

14 MR. COLLINS: How high is the
15 level or at what level is the top of that
16 exhaust where the exhaust would go out into
17 the atmosphere?

18 MR. ROMER: Well, it comes out at
19 110 and then it continues -- it continues up
20 high for 18 foot 6 inches.

21 MR. COLLINS: So, the --

22 MR. ROMER: So, it comes out from

1 the sidewall.

2 MR. COLLINS: It vents out to the
3 -- at the very highest point including the
4 building and the roof structure. So, it
5 vents out at a height of 110 plus 18.6.

6 MR. ROMER: Plus 18.6. Yes.

7 MR. COLLINS: Okay. In your
8 professional opinion having designed as many
9 buildings as you do, would this vent at this
10 level have an impact on a four-story
11 adjacent building at all?

12 MR. ROMER: Well, we're
13 substantially above the height of the
14 building below. So, I would tend to think
15 not.

16 MR. COLLINS: In fact, 110 plus
17 18.6 if I'm doing the math correct is 128.

18 MR. ROMER: Is 128.6. Is 128.6.

19 MR. COLLINS: And assuming a
20 building next door of four stories, that may
21 be ten foot per floor.

22 MR. ROMER: Right.

1 MR. COLLINS: That's 40 feet.

2 MR. ROMER: That's 40 feet.

3 MR. COLLINS: So, the vent would
4 actually be 130 minus 40. Ninety feet
5 above.

6 MR. ROMER: Approximately.

7 MR. COLLINS: Okay. Thank you.
8 Let me see if I anything for you. No,
9 that's it. No -- no, further. Thank you.

10 MR. AGUGLIA: One more question.
11 Don't you think that the owner of the Sandi
12 property would be discouraged from building
13 out to the matter of right knowing that the
14 vents are right on his westerly portion --
15 right on abutting his property? Wouldn't
16 that discourage you as a property owner?

17 CHAIRPERSON HOOD: Did he testify
18 to that? Okay. Let's end it right here.
19 Let's end it. Okay. All right. Thank you.

20 What I'm going to ask -- we're
21 going to go to the Office of Planning and
22 I'm going to ask at the tail end of Mr.

1 Cochran's report that Mr. Ziemann --
2 Ziemann. I'm sorry. Thank you. Mr.
3 Ziemann do his report at the same time. Got
4 me? OP do your report and right after that,
5 let's go right into Mr. Ziemann and then we
6 will ask questions collectively of both to
7 try to speed things up. Okay.

8 MR. COCHRAN: Thank you. For the
9 record, my name is Steve Cochran. I'm with
10 the D.C. Office of Planning.

11 And the office recommends that
12 the Zoning Commission approve the
13 consolidated PUD subject to the resolution
14 of several issues relating to the location
15 of the garage entrance and exit and to the
16 proposed design of the drop off and access
17 lane and the sidewalk along 22nd Street and,
18 of course, subject to conditions relating
19 to, as you might have noticed from our
20 report, signage, the design of the sidewall
21 and the roof structures surface.

22 I don't think that after this

1 extensive presentation by the Applicant that
2 we really need to review the development
3 statistics of the building. So, I'll just
4 go right to the relief and to the benefits
5 and amenities.

6 Although the proposed plan is
7 consistent with the Comprehensive Plan's
8 Land-Use Map and the written elements, we
9 noted all that in our final report, it also
10 complies with the Zoning Regulations for a
11 PUD in the CR zone.

12 So, let's look at the requested
13 relief. For 636.1, the rear yard
14 requirements, it's a corner site. Providing
15 a rear yard would as Mr. Sher noted actually
16 result in a 27 foot 6 inch gap between
17 buildings on streets where the District
18 wishes to encourage pedestrian activity.
19 The rear yard requirements are intended to
20 protect accessibility to light and air and
21 in low and some moderate density zones, to
22 encourage the provision of green space.

1 For this project, the landscape
2 open court from the second level up would
3 reduce any shadowing on the rear of any
4 nearby structures. It's an L-shaped
5 building, but there's a two-story element in
6 the rear that has a landscape terrace on top
7 of it and the green elements of the building
8 would certainly compensate for the loss of
9 what would actually otherwise more like than
10 not be an impervious rear yard. So, OP
11 recommends that the rear yard relief be
12 granted.

13 With respect to the roof
14 structure requirements, OP was prepared to
15 say that we recommend approval of the relief
16 from one structure to three structures.
17 Given that it's not likely you'll be making
18 a decision tonight, OP is prepared to
19 explore this further and report back to you
20 on our opinion.

21 With respect to the setbacks,
22 above the second floor as I noted, the

1 building is L-shaped. The roof structures
2 do meet the setback requirements from 22nd
3 and M Street, but are setback only 6 feet
4 from the rear walls of the upper story -- of
5 the L of that upper story. But, in these
6 locations the penthouses are set back from
7 the property line by between 37 and 40 feet
8 from the property lines that abut the alley.

9 The Applicant states that it
10 would not be possible to meet the front
11 setback requirements and accommodate the
12 standard mechanical equipment and fire
13 stairs and provide for additional
14 sustainability features without receiving a
15 setback from the rear and OP recommends
16 approval of this relief from the rear
17 setbacks.

18 With respect to the setbacks from
19 sidewalls, party walls, OP has been dealing
20 with this issue as part of the investigation
21 it's doing of the Zoning Regulations and so
22 far, we -- our working group does believe

1 that there is not a required setback from
2 the party walls. Obviously, OP as we'll get
3 to was concerned about this to the extent --
4 because it will be a -- until a building is
5 developed to somewhere between 90 and 110
6 feet adjacent, the appearance will -- is of
7 concern which is why we hit hard on the
8 design and the color and the materials of
9 these walls, but not on their setback.

10 The Applicants look for relief
11 from parking space size. This is newly
12 requested relief that came with the
13 preliminary statement -- the prehearing
14 statement. Excuse me.

15 Now, depending upon the number of
16 hotel rooms that are actually built, the
17 Applicant will be required to provide
18 somewhere between 37 and 43 parking spaces
19 that meet zoning requirements and of these,
20 40 percent may be designated for compact
21 cars under the Zoning Regulations, but the
22 Applicant is requesting permission to

1 designate 60 percent of these spaces for
2 compact car parking.

3 Now, the Applicant has testified
4 that they've determined the garage's over
5 capacity to be 71 spaces if elevators and a
6 higher percentage of compact spaces are
7 permitted. Since none of the vehicles would
8 be self-parked, OP recommends approval of
9 the requested relief on the maximum number
10 of spaces that could be devoted to compact
11 car parking spaces.

12 With respect to 27 -- 2117.4,
13 excuse me, the parking accessibility
14 requirements, there are several
15 ramifications to that requested relief.
16 Parking spaces are required to be accessible
17 at all times via unobstructed driveways or
18 ramps, but the Applicant is proposing to use
19 vehicle elevators and valets to access the
20 parking spaces. Now, these have been used
21 successfully in other places in the
22 District, but it still requires relief from

1 the direct accessibility requirements.

2 At set down, both the Commission
3 and OP expressed concern about the impact of
4 the garages queuing on 22nd Street traffic
5 particularly during the evening rush hour.
6 This was actually on a possible queuing
7 because the actual queuing had not been
8 demonstrated at that point at somewhere
9 between four and five vehicles.

10 OP has told the Applicant several
11 times of its concern about the impact of a
12 proposed drop off and the garage access and
13 queuing. The impact that that might have on
14 pedestrian activity. So, the Applicant's
15 pre-hearing filing including a revised truck
16 -- as you know a traffic and truck
17 circulation plan. It provided for parking
18 operations from valets for the hotel guests
19 on 22nd Street and for restaurant patrons
20 from M Street and the drop-off areas would
21 actually eliminate about six parking spaces
22 on the street and the Applicant has also, of

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1 course, eliminated that landscaped island
2 between the drop-off lane and 22nd Street.

3 Now, this has been discussed with
4 DDOT by the Applicant at a meeting on
5 February 4. DDOT staff expressed concern
6 about the proposed lay-by and I suppose DDOT
7 staff will be speaking to this more
8 directly, but some of this testimony was
9 written before today.

10 DDOT also, as you know, filed a
11 letter on February 22nd and I'll let them
12 address that more, but we note that the DDOT
13 concerns are more about the impact of the
14 drop off and queuing and the impact that
15 that would have on pedestrians and traffic.

16 Accordingly, OPs not able to make
17 a recommendation on the relief that's
18 requested from 2117.4 tonight. It
19 recommends that the Applicant and DDOT be
20 given additional time to continue their
21 discussions about this and to develop
22 mutually acceptable solutions to the garage

1 ingress and egress, the queuing situation
2 and the sidewalk configuration.

3 Section 633 requires 10 percent
4 of the -- a certain level of public space to
5 be devoted to outdoor public use, publicly
6 accessible uses. It's the equivalent of 10
7 percent in the CR zone of the total lot area
8 public space that's adjacent to the main
9 entrance. It has to be open to the sky on a
10 continuous -- open to the public on a
11 continuous basis and open to the sky or have
12 a minimum vertical clearance of 10 feet. Of
13 course, the Applicants asked for relief from
14 this.

15 OP's report, our final report,
16 noted changes that the Applicant has made
17 since set down to compensate for the
18 requested relief from Section 633. It's
19 made changes to its facade and canopy
20 design, parts of its sidewalk layout. It's
21 reinforced its open cafe and garden policies
22 open to the public and the inclusion of

1 sustainability, education materials in the
2 public areas as OP had requested at set
3 down.

4 Although the full impact of
5 receiving the requested relief from Section
6 633 won't be able to be assessed until the
7 Applicant has resolved Section 2117.4 issues
8 with DDOT, that is to say the parking access
9 issues, OP feel confident that any changes
10 that will result from addressing Section
11 2117.4 will certainly benefit the public
12 space and pedestrian usage of this area. So
13 OP feels comfortable recommending that you
14 approve relief from Section 633 contingent
15 on review of whatever alternative proposals
16 the Applicant and DDOT come up with for
17 Section 2117.4 relief.

18 Now, with respect to the project
19 impacts, at set down, the Commission had
20 asked the Applicant to supply additional
21 information to help evaluate four issues.
22 The Applicant seems to have responded

1 satisfactorily to two of these issues. The
2 one is the ground floor facade design and
3 they supplied additional details. They've
4 made changes to make it more transparent,
5 more accessible and the impact of the
6 proposed hotel use on the West End generally
7 and that was addressed earlier tonight.

8 The other issues have not been
9 resolved yet and they relate, you know, to
10 the parking garage and 22nd Street sidewalk
11 issues.

12 The Applicant has listed several
13 areas where it considers the PUD to deliver
14 significant benefits and amenities.

15 The first of these is the
16 enhanced urban design, architecture,
17 landscaping and open spaces. This will be,
18 as everyone seems to agree, a building with
19 outstanding architectural design and it
20 would be more environmentally friendly than
21 most buildings and certainly most hotels in
22 the District would be.

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1 But, the Office remains concerned
2 about three design aspects. The first as
3 we've noted repeatedly is the 22nd Street
4 drop off and the access lane and sidewalk
5 configuration.

6 We're also concerned about the
7 location and design of exterior signage.
8 It's not that we don't like what the
9 Applicant has designed. It's that we
10 haven't seen anything that the Applicant has
11 designed.

12 And the third issue is the
13 materials that are used on the sidewalls of
14 the building and the penthouse structures
15 particularly above the 90-foot level and the
16 design, of course, of the material on the
17 roof structure's westernmost and
18 northernmost walls.

19 We're concerned about the areas
20 that would remain exposed should any
21 building be built adjacent to these. We're
22 far more concerned about how these are going

1 to look from the street level than we are
2 about the impact that they might have on
3 adjacent buildings. Because as we have
4 already heard, those buildings' roofs will
5 be impacted not the light and air that's
6 available to them. So, basically, we're
7 talking about shadows on roofs which means
8 you're casting shadows on areas that don't
9 receive light. But, we are concerned about
10 the way that they'll look.

11 Now, with respect to the
12 environmental benefits, the Applicant has
13 talked about these extensively, but we do
14 feel that in order to better monitor the
15 sustainability requirements, excuse me, the
16 issue of sustainability, the Commission may
17 wish to include a condition that requires
18 LEED Silver Certification and requires the
19 Applicant to return for a minor PUD
20 modification prior to receiving a
21 certificate of occupancy if the project does
22 not achieve LEED Silver Certification.

1 I have to give you a caveat on
2 that though. I am not positive that LEED
3 will be able to determine a silver
4 certification before a building's in
5 operation and if that's the case, then OP
6 would, of course, modify this recommendation
7 when we come back for a decision meeting.
8 But, for now, we think that that would be a
9 good way of accommodating the Commission's
10 desire for this building to actually achieve
11 LEED Certification and the possibility that
12 that might not be able to happen a C of O.

13 The Applicant's already signed a
14 First Source employment agreement, but it --
15 and a LSDBE agreement, but actually, it
16 hasn't signed the CBE agreement. But, it
17 should sign the CBE agreement before a
18 building permit is issued. So, that should
19 be a condition of your order also we feel.

20 Other community benefits and
21 amenities, very briefly, the Applicant's
22 offering to provide the ANC with \$146,000 to

1 provide public amenities and benefits
2 including park benches, trees, landscaping,
3 landscaping fence, tree boxes and
4 streetlights at locations that they've
5 outlined in the prehearing statement.

6 They also have agreed to provide
7 \$153,500 to specific groups or individuals
8 for particular projects including repair of
9 a fresco in a church, a sculpture project, a
10 dog park renovation and the development of
11 neighborhood landscaping standards.

12 Even excusing a proffer that the
13 Applicant has proffered, but that OP doesn't
14 feel should be counted as a proffer and
15 that's the payback of a debt from a previous
16 sculpture project, the projects overall
17 benefits and amenities do sufficiently
18 balance the PUD's additional FAR and
19 requested relief.

20 However, we recognize that the
21 Applicant needs to develop alternative
22 recipients to the ANC for the monies and it

1 needs to specify administrative measures and
2 measurable standards for determining whether
3 project -- amenity projects have actually
4 reached completion of not.

5 DDOT will tell you its comments.
6 There haven't been any other agency
7 comments. The ANC agreed to support the
8 case contingent on the signing of this MOU
9 which has been signed. The Foggy Bottom
10 Citizens Association we know is going to be
11 testifying tonight.

12 So, finally, OP's recommendation
13 emphasizes that the PUD would emphasize a
14 prominently located site with an
15 architecturally and environmentally
16 progressive building with proffers
17 associated with it that would enhance public
18 space and community-related elements for the
19 West End neighborhood.

20 We recommend that the Commission
21 approve the application subject to the
22 following conditions: That it either

1 achieve LEED Certification prior to
2 certificate of occupancy being issued or
3 that it return to the Zoning Commission for
4 a minor modification to the order and this
5 condition; that prior to proposed action,
6 the Applicant shall address DDOT's and/or
7 OP's concerns about the 22nd Street garage
8 entrance and exit, the drop off and queuing
9 lane and the sidewalk design and
10 desirability of the benefits and amenities
11 proposed for the public space to compensate
12 for the Section 633 relief; that prior to
13 the proposed action, the Applicant shall
14 provide the Commission with information
15 about proposed signage design and location
16 and finally, that prior to proposed action,
17 the Applicant shall address OP's concerns
18 about the durability and appearance of the
19 proposed cementitious roof structure
20 surfaces and surfaces of the sidewall above
21 90 feet.

22 That concludes our report. Now,

1 let's go on to part two which is DDOT.

2 MR. ZIEMANN: Hello. My name's
3 Christopher Ziemann. I'm the Ward 2
4 transportation planner at DDOT.

5 DDOT can't support the project
6 under its current design. We all obviously
7 know where it's located on the corners of
8 22nd and M Street. Each street carries an
9 average of 14,000 vehicles per day on one-
10 way streets.

11 The site is also served in the
12 back by an L-shaped alley which is 25 feet,
13 I'm sorry, 20-feet wide connecting to the
14 road network on 22nd Street and 30-feet wide
15 within the square that accesses the project
16 site.

17 The main hotel entrance is on
18 22nd Street. The entrance for the bar and
19 restaurant tenant is on M Street. Loading
20 services facilities in the back alley and
21 the parking garage entrance is located on
22 22nd Street.

1 Now, the Applicant seeks
2 variances from parking requirements for
3 designated valet only facilities and an
4 elevator system. The design of the parking
5 garage and its operations creates negative
6 impacts on the treatment of the public space
7 and on traffic conditions.

8 The Applicant proposes creating
9 the lay-by for queuing vehicles to wait on
10 22nd Street by redesigning the curb at the
11 intersection and reducing the sidewalk
12 width. The reduction of the sidewalk would
13 require the elimination of curb trees which
14 provide important shade and reduce the heat
15 island effect of the urban environment.

16 The on-site plan submitted by the
17 Applicant show queuing vehicles -- showing
18 the queuing vehicles as shown either
19 blocking the sidewalk or waiting along the
20 curb creating unnecessary safety hazards
21 that would be a standard condition of the
22 operations of a site using the current

1 design. DDOT can't support a parking lot
2 design that does not provide adequate
3 queuing area for vehicles.

4 The alley network provides access
5 to the loading and parking facilities for
6 other buildings within square 50 and DDOT
7 encourages the Applicant to relocate the
8 parking garage entrance to the rear of the
9 property using the alley system for access.

10 And that's it.

11 CHAIRPERSON HOOD: Thank you
12 both, Mr. Cochran and Mr. Ziemann.

13 Let me open it up for questions.
14 Commissioner Etherly.

15 COMMISSIONER ETHERLY: Thank you
16 very much, Mr. Chair. I'm going to be very,
17 very brief and to the point because I
18 believe both reports were very helpful in
19 decisively and concisely setting forth the
20 issues.

21 I'm comfortable with the Office
22 of Planning's report and the issues that I

1 think have been identified.

2 Let me come directly to Mr.
3 Ziemann, correct, on the DDOT side.

4 With respect to the DDOT's
5 recommendation or desire to see the loading
6 and parking facilities going into the alley
7 network, you heard a little bit of the
8 exchange with Ms. Milanovich about the
9 alley's ability to absorb that additional
10 capacity.

11 Does DDOT have any concern about
12 the ability of the alley to handle all of
13 those functions if they were to be relocated
14 to that network?

15 MR. ZIEMANN: No, the alley
16 currently serves other parking garages and
17 other loading uses right now. The alley at
18 its narrowest is 20-feet wide. Which if it
19 were a street would be two -- the width of
20 two travel lanes and 30-feet wide is pretty
21 much DDOT's maximum alley width.

22 COMMISSIONER ETHERLY: So, based

1 on DDOT's familiarity and understanding of
2 the alley network, the proposed traffic
3 movement, of course, would be altered if
4 everything were move to the back. But, we'd
5 essentially be looking at -- let me rephrase
6 it. Would DDOT be contemplating a traffic
7 movement where all of the vehicles would
8 continue to proceed north on 22nd Street
9 making a left turn into the alley and just
10 for the purposes for the truck traffic, they
11 would still be doing that reverse movement
12 where they'd proceed west and then proceed
13 to reverse and come back into the alley.
14 That would still be the anticipated traffic
15 movement. Correct?

16 MR. ZIEMANN: Yes, for the most
17 part. Obviously, the possibility of coming
18 south on 23rd Street is also an option.

19 COMMISSIONER ETHERLY: Okay.
20 Okay. With respect to the issue of the
21 intersection and this much discussed lay-by
22 lane, can -- I'm trying to assess what

1 options the Applicant would have. Is it the
2 sense that DDOT can visualize a lay-by setup
3 that would function more comfortably or is
4 there enough space on the 22nd Street
5 frontage, in fact, for any kind of lay-by
6 system to work?

7 I'm worried that it's kind of a
8 zero sum game there. That if there's -- if
9 there's going to be any type of lay-by, this
10 is perhaps the best place to put it.
11 Otherwise, the Applicant is going to run out
12 of space as they proceed northward along
13 their frontage for lay-by space.

14 MR. ZIEMANN: Right. Well, that
15 doesn't mean that the parking garage --
16 there's no other alternative --

17 COMMISSIONER ETHERLY: I see.

18 MR. ZIEMANN: -- but putting in
19 the alley.

20 COMMISSIONER ETHERLY: And if the
21 parking garage were placed in the alley,
22 DDOT's recommendation would be to simply

1 maintain a standard curve front along 22nd
2 Street?

3 MR. ZIEMANN: Yes, with street
4 trees.

5 COMMISSIONER ETHERLY: Okay. Any
6 concerns on DDOT's part with respect to
7 programming for valet service for the
8 restaurant or any other functions on M
9 Street? Any concerns there about traffic
10 impacts or other impacts?

11 MR. ZIEMANN: Well, DDOT's
12 currently rewriting the valet regulations
13 right now. So, as long as those are
14 followed, I think legally there's not much
15 else we can ask for.

16 However, obviously, I think we've
17 all seen, you know, from personal experience
18 how lay-bys or how valet parking usually
19 leads to double parking and everything.
20 But, that will be for bars and restaurants
21 and not peak hours, we don't see that as a
22 main issue.

1 COMMISSIONER ETHERLY: Okay. And
2 then my final question is with respect to
3 broadly the issue of the level of service at
4 that relevant intersection, again, you may
5 recall a little bit of my exchange with Ms.
6 Milanovich about the level of service which
7 I think they identified as --

8 MR. ZIEMANN: B.

9 COMMISSIONER ETHERLY: -- B.

10 MR. ZIEMANN: Yes.

11 COMMISSIONER ETHERLY: And
12 potentially after the introduction of the
13 project if it were approved in its current
14 fashion, the overall level of service I
15 believe would be C and I'm looking gently in
16 Ms. Milanovich's way just to make sure I
17 don't misrepresent her statement and she's
18 nodding in the affirmative.

19 Does DDOT agree with that
20 reading, that assessment of the level of
21 service at that intersection?

22 MR. ZIEMANN: Yes, our traffic

1 engineer who took a look at it didn't find
2 any problems with it.

3 COMMISSIONER ETHERLY: Okay. And
4 I'm very interested in that particular issue
5 because I think to an extent we've -- myself
6 and a number of my colleagues perhaps have
7 all alluded to the sensation that I think
8 many of us perhaps have felt on M Street
9 during our various and assorted travels.
10 That there are times when it feels less than
11 a positive traffic experience in that
12 corridor and so, part of what I'm trying to
13 kind of ferret out is whether we're nearing
14 potentially some kind of tipping point with
15 the introduction of another high-traffic use
16 be it a hotel or some other project.

17 I've alluded to experiences in
18 other corridors in the immediate vicinity,
19 but I do not want to hold this Applicant
20 prisoner of those experiences because, one,
21 that's outside the scope of this record here
22 and that's a long soliloquy that you don't

1 need to respond to.

2 But, I just want to be sure that
3 I'm very clear that DDOT's understanding of
4 this intersection is that it is indeed in
5 that level B/level C area and the
6 introduction of this project regardless of
7 how you program it whether it's your
8 proposed way or the Applicant's way, doesn't
9 move the level of service significantly
10 downward into the D and the F range.

11 MR. ZIEMANN: Well, the thing
12 about level of service for a entire
13 intersection, and perhaps Ms. Milanovich can
14 clarify things, is that the level of service
15 is for the entire intersection not just for
16 northbound traffic on 22nd Street.

17 COMMISSIONER ETHERLY: Um-hum.
18 Understood.

19 MR. ZIEMANN: So, if there's
20 significantly shorter waits on M Street,
21 that would kind of lower the average or --
22 yes, lower the average to be --

1 COMMISSIONER ETHERLY: Um-hum.

2 MR. ZIEMANN: Even though -- I
3 don't have the numbers in front of me, but
4 the level of service on northbound 22nd
5 Street might be higher.

6 COMMISSIONER ETHERLY: Okay.
7 Okay. Thank you. Thank you, Mr. Chair.

8 MR. ZIEMANN: Yes.

9 CHAIRPERSON HOOD: Let me just
10 follow up on Commissioner Etherly's question
11 about level of service.

12 Mr. Ziemann, do you basically
13 take the Applicant, in this case, Ms.
14 Milanovich's data and just look at it and
15 see if you agree with it or does DDOT go out
16 and collect their own data?

17 MR. ZIEMANN: DDOT doesn't
18 collect its own data, but DDOT does -- we
19 have trained traffic engineers who look at
20 the parameters they use and the assumptions
21 they use. For example, time of day. The
22 methods that they conducted to gather data.

1 These types of things.

2 CHAIRPERSON HOOD: Okay. Good
3 answer. I asked that question about three
4 years ago. Same answer. Okay.

5 Okay. Colleagues, any other
6 questions? Commissioner Turnbull.

7 COMMISSIONER TURNBULL: Mr.
8 Chairman, thank you.

9 I just have one question for Mr.
10 Cochran and I've got a question. The
11 building to the west of the Applicant's site
12 if they build to a matter of right, it's 90
13 feet.

14 MR. COCHRAN: That's correct.

15 COMMISSIONER TURNBULL: If -- and
16 I guess the question that concerns me about
17 the setback issue is that there is a major
18 exhaust bank right now planned for the --
19 that end of the Applicant's building. If
20 they go to 90 feet and they try to configure
21 a green roof or they try to figure their
22 penthouse, they're going to have a whole new

1 penthouse, they're going to have fresh air
2 intake, I'm just concerned of the
3 environmental impact of health on the next
4 building with the exhaust -- the major
5 exhaust bank being next to their building.

6 Where if it had been setback, at
7 least -- again, you're still going to have
8 some overflow, but it just seems as if we're
9 maybe stretching the ability of this
10 Applicant to dictate what's going to happen
11 on the next site.

12 MR. COCHRAN: I don't agree with
13 you, but --

14 COMMISSIONER TURNBULL: So, you
15 think it's okay to put the exhaust right
16 next to another property line?

17 MR. COCHRAN: I think that the
18 location of the exhaust would not
19 necessarily impact the development of the
20 adjacent site. Of course, I would defer to
21 an air quality engineer on this.

22 Perhaps you would want to suggest

1 that the Applicant explore ways to direct
2 its exhaust northward. Then it would land,
3 if it does, on its second-level terrace.

4 COMMISSIONER TURNBULL: Okay.

5 MR. COCHRAN: And it's own
6 guests.

7 COMMISSIONER TURNBULL: Good.
8 Thank you.

9 VICE-CHAIRPERSON JEFFRIES: I
10 have a question. Mr. Lawson, this was a
11 case that we had about -- it's tied to a
12 question I have for DDOT. It seems that I'm
13 seeing a trend or maybe it's been around.
14 I'm just really starting to pay closer
15 attention to it and that is making certain
16 that the alley network really is, you know
17 -- has pretty intensive use, you know, in
18 terms of garage egress and ingress and
19 loading docks and so forth and I'm recalling
20 the case, the New Jersey Avenue case, M
21 Street where you had a curb cut on New
22 Jersey Avenue and I think OP was -- and so,

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1 it's almost a similar setup here.

2 I don't know if you recall. What
3 was the -- the width of the alley in that
4 case was a -- it was a much narrower alley
5 than this alley. Correct? Do you recall?

6 MR. LAWSON: Yes, in that case,
7 the alley was 14-feet wide I believe and it
8 was a kind of a straight shot alley. It
9 wasn't like this one. There wasn't a --
10 like a -- like doglegs and angles, but it
11 was 14-feet wide.

12 VICE-CHAIRPERSON JEFFRIES: Yes,
13 well, I just -- my question for Mr. Ziemann
14 is that, you know, I'm just -- it seems to
15 be a bit of a stretch, you know, that this
16 alley would be able to absorb so much
17 activity and use. I am certainly willing to
18 sort of investigate or at least look at some
19 evidence that could, you know, get me
20 comfortable.

21 But, you know, I am
22 systematically having some difficulty just

1 seeing how these alleys or just a network of
2 alleys in this particular situation can
3 absorb so much activity and use. Maybe I'm
4 a lot more comfortable here because I think
5 that the alley from the New Jersey case was
6 a much narrower alley, but it just seems
7 that I'm starting to see a lot more trends
8 of really putting a really heavy, heavy use
9 on the alley network just so that we could,
10 you know, obviously keep the pedestrian
11 walkway and avoid curb cuts and things of
12 that sort.

13 Are we going to start seeing a
14 lot of that or it's just -- it's been
15 happening and it's just that I'm just --
16 this is two cases that have been fairly
17 close in proximity and I'm just -- I've
18 heard the same thing from whoever your
19 colleague was from DDOT.

20 MR. ZIEMANN: It's not so much
21 that we're trying to load the alleys with
22 vehicle -- with vehicles. What we're --

1 it's been a priority of DDOT and I think
2 people are starting to pay a lot more
3 attention to it now lately. Is that we want
4 to basically make the sidewalk for the
5 pedestrian and we want to make the roads --
6 well, we've seen -- you know, if you take K
7 Street as an example, we've seen -- there's
8 a lot of curb cuts on K Street. The alley
9 systems behind the buildings for the most
10 parts have been closed or extremely limited
11 and we see the negative affects of that. We
12 see the negative affects just on the
13 pedestrian environment and the quality of a
14 walk down the street, for example.

15 We also see the negative effects
16 on traffic both from queuing and loading
17 blocking lanes.

18 We also -- it's kind of a highway
19 term of access management where -- the idea
20 in highways is that you limit the number of
21 -- you limit the number of exits so that
22 it's safer for cars to travel straight and

1 fast.

2 VICE-CHAIRPERSON JEFFRIES:

3 Right.

4 MR. ZIEMANN: Obviously, our
5 priority isn't to have cars travel straight
6 and fast, but if you limit the number of --
7 if you limit the amount of access to a
8 roadway, then it does make traffic go a lot
9 safer and a lot more smoothly. So, that's
10 why we're also trying to prevent -- reduce
11 the number of curb cuts in the District.

12 VICE-CHAIRPERSON JEFFRIES: Does
13 it make a difference whether it's a hotel
14 use versus an office use? I mean because I
15 think we were trying to make the case
16 earlier that -- you know, I think that this
17 project is going to be very vehicular
18 intensive and I think it's going to be a lot
19 of vehicles coming and going and I'm just
20 wondering about whether this alley can
21 absorb it and that's just -- just to -- you
22 know, a gut feeling I have here without a

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1 lot of, you know --

2 MR. ZIEMANN: Yes.

3 VICE-CHAIRPERSON JEFFRIES: --
4 scientific evidence.

5 MR. ZIEMANN: Yes, well, a lot of
6 the traffic according to the traffic impact
7 study is going to come from taxis. So, it's
8 not going to be people looking for parking
9 spaces and the -- in Ms. Milanovich's
10 numbers, the p.m. peak hour which would be
11 the highest vehicular demand, it would be
12 about 76 cars per p.m. peak hour. If I'm
13 reading your numbers correctly. For both
14 the restaurant and the hotel. I'm sorry. A
15 hundred and twenty-six. So, that's
16 basically two a minute. So, one every 30
17 seconds. Which for a 20-foot-wide alley
18 isn't a great burden and if you take 126
19 cars and figure a certain percentage of
20 those would be taxis arriving at the hotel,
21 then DDOT isn't concerned with congestion.

22 VICE-CHAIRPERSON JEFFRIES: Well,

1 I'm -- you know, I'm -- and I think Office
2 of Planning knows that I'm a big supporter
3 of pedestrian friendly, less curb cuts and
4 so forth, but I just -- you know, I think
5 there are examples of situations where, you
6 know, there are buildings -- certain types
7 of buildings where, you know, you know, it
8 might require that curb cut and so forth and
9 we just need to find mitigants that sort of
10 address it.

11 So, I look forward to figuring
12 out sort of what -- sort of consensus
13 agreement that comes forward here, but I
14 have some sympathy to the Applicant in terms
15 of this alley and what I consider will be a
16 heavily loaded alley for this particular
17 use. So.

18 CHAIRPERSON HOOD: Okay. Do we
19 have any other questions? Commissioner May?

20 COMMISSIONER MAY: Yes, just
21 following up on that, you know, what we
22 don't get when we start to look at alleys

1 and whether it can handle the traffic is any
2 sense of level of service for the alley
3 itself. Right. You know, we say okay, yes,
4 this alley can probably handle it. It's
5 wide enough or, you know, what we don't know
6 -- but, what we don't know is we don't know
7 what other uses there are in that alley,
8 what other buildings front on that alley,
9 what anticipated uses, you know, looking
10 five years down or whatever as you would
11 with a regular traffic analysis and I think
12 that anytime we get into this discussion, I
13 would find it very, very helpful if we could
14 have that kind of analysis. Whether it's
15 done by the Applicant or whether it's done
16 by DDOT, but some projection of that use.

17 And, you know, I just think we
18 can't just keep going on feel on this thing
19 because I think in some cases, it just
20 doesn't make sense and I think when you have
21 a building on a corner like this that's on a
22 dead-end alley, it's -- I don't think it's a

1 particularly good case for funneling all
2 that traffic down the -- down that alley and
3 having that -- you know, having the cars
4 coming and going. In addition, the trucks
5 coming and going and the trucks coming and
6 going, you know, facing only one way. You
7 know, it just -- it doesn't feel like a good
8 situation to me and I'm rather not go on
9 feel. I'd rather go on some kind of
10 numbers.

11 So, I would take that as a
12 suggestion for all future buildings where we
13 are considering alley use or alley access to
14 parking.

15 Do you have copies of Mr. Sher's
16 statements that was submitted earlier?

17 On the very back of it, last
18 page, we have this aerial photo and, you
19 know, looking at the aerial photo and
20 looking at generally where the CR District
21 is, you see a lot of buildings where that --
22 you know, the corner is kind of chamfered

1 off or cut off and I think that that had to
2 do -- I'm guessing that had to do with the
3 open-space requirement, that 10 percent
4 open-space requirement.

5 But, my recollection is that in a
6 lot circumstances when that happens
7 particularly with some of the hotels, that
8 becomes the lay-by space. In other words,
9 the lay-by occurs on the hotel's property as
10 opposed to happening in the public space.
11 I'm thinking in particular of the hotel at
12 24th and M I want to say. It used to be the
13 Regent, but I don't know what it is now.

14 I know there there's a driveway.
15 I mean is that -- am I correct? I mean this
16 is a question for Office of Planning, too.
17 Am I correct in saying that we see that with
18 these hotels where, in fact, they have the
19 driveways and they have an ability to hold
20 three or four vehicles in front of the
21 building and not be in the public space?

22 MR. COCHRAN: Certainly for the

1 -- what I used to know as the Grand Hotel at
2 24th and M there is a circular driveway
3 which results in two curb cuts on streets
4 that we would prefer to have pedestrian
5 friendlier.

6 There have also been -- there's
7 also a taxi stand on the south side of M
8 Street for any taxi queuing that might
9 occur.

10 COMMISSIONER MAY: Yes, so, those
11 things happen. You know, one of the things
12 that strikes me about the overall design of
13 the first floor here is that in an effort to
14 meet certain design goals such as the size
15 of the restaurant and having the, you know,
16 the open courtyard in the back and those
17 sorts of features, that we wind up with a
18 situation where we're really not taking any
19 space away from the building in order to
20 create ramps or much in the way of loading
21 dock space. I mean a loading dock just
22 dropped, you know, butts right up against

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1 the alley.

2 You know, I don't want to attempt
3 to redesign the building, but I -- it seems
4 to me that with many other hotels that are
5 designed in the District, there actually is
6 an opportunity to pull vehicles into the
7 property whether it's going through to an
8 alley or going through to another curb cut
9 or have you and I wonder whether, you know,
10 your sense about whether this is -- you
11 know, it's some of these other external
12 things like the size of the restaurant or
13 the fact of a -- of the courtyard or any
14 other of these other design features that
15 are causing the necessary space for vehicles
16 being pushed out of the building and pushed
17 onto the lay-by and you know what I'm -- can
18 you understand where I'm getting to?

19 MR. COCHRAN: Yes, sir.

20 Certainly hotels that were built before the
21 last ten years seem to have had either lay-
22 bys or dedicated spaces. The Mayflower has

1 what would have been a lay-by at its
2 secondary entrance on 17th Street. There's
3 certainly plenty of lay-by room on the east
4 side of Connecticut Avenue.

5 The same thing, of course, is
6 true of the Hiltons and the Wardman Parks
7 and the Sheratons.

8 In the last ten years as we've
9 gotten a few boutique hotels, many of them
10 have not had pull offs. The Helix does on
11 Rhode Island Avenue. The Rouge on 16th
12 Street doesn't. The Kimpton Hotel on N
13 Street, N.W. does not.

14 So, we're seeing as we get
15 smaller boutique hotels that we're not
16 getting that kind of dedicated pull-off
17 space.

18 On the other hand as you have
19 implicitly pointed out, they don't have the
20 same size of dining room and publicly
21 accessible space that this building is
22 intending to provide. I've discussed this

1 with a number of people and frankly, the
2 common answer is a taxi cab is going to stop
3 where a taxi cab wants to stop.

4 So, when it comes to lay-bys, it
5 might be of use to someone who's driving
6 their own private vehicle who may be more
7 concerned about getting rear ended than a
8 taxi driver, but someone will always find a
9 way to get dropped off.

10 COMMISSIONER MAY: Um-hum. So,
11 it almost sounds like you're just
12 recommending that there be no lay-by
13 whatsoever. There just be a curb and a
14 loading zone if you will for hotel guests.

15 MR. COCHRAN: DDOT is certainly
16 recommending that. OP would like to see
17 what comes out of discussions. Maybe there
18 could be -- maybe there could well be a
19 smaller lay-by, a narrower lay-by, a less
20 lengthy lay-by or no lay-by. But, we need
21 to explore that and get back to you.

22 COMMISSIONER MAY: Yes, it seems

1 to me they could also configure the first
2 floor of the building in such a way that
3 they have a private access or a private
4 alley if you will or a way to go from where
5 the driveway is into the garage.

6 MR. COCHRAN: It's possible.

7 COMMISSIONER MAY: Into the alley
8 and that could give them access -- better
9 access to their loading dock and better
10 access --

11 MR. COCHRAN: We'll be discussing
12 that as well as different ways that the
13 vehicle elevators might operate. What would
14 happen if they had doors on two sides and
15 could use the alley for ingress and the --
16 and 22nd Street for egress. There are all
17 kinds of things that are on the table.

18 COMMISSIONER MAY: Yes. Okay. I
19 think it's a worthwhile discussion.

20 The last thing I will touch on
21 is, Mr. Cochran, when you talk about the
22 impact of the penthouse on the adjacent

1 neighbor to the west, you said that there
2 really wouldn't be any impact due to light.
3 The fact that the -- that the higher
4 penthouse is just going to cast shadows on
5 the neighbor's roof. Right?

6 MR. COCHRAN: I did say that.

7 COMMISSIONER MAY: Yes, if the
8 adjacent neighbor builds up to 90 feet and,
9 you know, puts a green roof and a patio or
10 something like that on top of their
11 building, it's conceivable that there would
12 be greater shadows having to do with the
13 penthouse that's now 38 feet above them
14 instead of just the 20 feet of the adjacent
15 building. Right?

16 MR. COCHRAN: In the summer in
17 the morning hours, there would be more
18 shadows, but --

19 COMMISSIONER MAY: Yes.

20 MR. COCHRAN: -- certainly for
21 two-thirds to three-quarters of the year,
22 the property to the west on M Street would

1 not get anymore shadows from noon on.

2 Because the sun --

3 COMMISSIONER MAY: Right.

4 MR. COCHRAN: -- is to the south.

5 COMMISSIONER MAY: Yes, because
6 the sun is to the south. Right. But, there
7 would be an impact in the morning?

8 MR. COCHRAN: Yes.

9 COMMISSIONER MAY: Yes. Okay.

10 MR. COCHRAN: There might be. I
11 shouldn't say definitively yes.

12 COMMISSIONER MAY: Well, it
13 depends on where they put their --

14 MR. COCHRAN: Exactly.

15 COMMISSIONER MAY: -- patio. If
16 they put one or, you know, I mean it's a lot
17 of conjecture, but it's -- I think it's
18 premature to say that there's really no
19 potential impact from blocking the light
20 there.

21 Okay. Thanks.

22 COMMISSIONER ETHERLY: Mr. Chair,

1 if I could just ask one kind of follow-up
2 question and I'll perhaps preface it very,
3 very quickly because I don't want to dig too
4 deep and I want to be very careful again
5 about ascribing to an applicant that we have
6 here the experience perhaps that has been
7 felt by other properties in the region or in
8 the area.

9 But, let me highlight two other
10 hotel properties that are nearby that I kind
11 of tend to have some familiarity with.
12 They're referenced in Mr. Smart's report.
13 So, I'll kind of bring them in this way and
14 I know that they have lay-by type of
15 activities.

16 One is the Westin which something
17 of a circular type of -- I don't even. It
18 would be grand to call it a lay-by, but it's
19 right on the corner and the other is the
20 Fairmont which is in the immediate vicinity
21 on 24th Street. Has more of a true lay-by
22 with a canopy over the driveway and I

1 believe an island between the sidewalk and
2 the entrance to the hotel.

3 Again, I want to be very careful
4 in how I phrase this because I'm not -- I
5 don't want to say this is the experience
6 that we're going to see with this property,
7 but again, knowing that there's some
8 experience in the area, does OP or does DDOT
9 have any experience in -- or would you be
10 able to characterize what the experience has
11 been with the functions of those two
12 properties and a lay-by or circular drive
13 type of setup?

14 MR. COCHRAN: Let me let DDOT, of
15 course, address it. The traffic issues.

16 One would need to check the
17 property lines certainly on 24th Street
18 given that the Westin, for instance, is --
19 it's wall is lined up with the building
20 which was constructed in the 1920s. It
21 seems very possible that that lay-by is on
22 public space and I believe the other hotel

1 that you mentioned may also have its lay-by
2 on public space.

3 Nevertheless, when it comes to
4 the pedestrian experience, I think it's
5 instructive to go by for instance the West
6 End Ritz-Carlton. There you have a sidewalk
7 and a drop-off lane. It still feels, at
8 least to me when I'm walking by, that I'm
9 intruding on private space and there are
10 other situations in town where I get shunted
11 close as a pedestrian to the wall of the
12 building. Again, feeling like, well, am I
13 suppose to be here or not? That was one of
14 our concerns.

15 Now, the Applicant addressed part
16 of that by pulling back the depth of the
17 canopy that goes from the restaurant on the
18 M Street entrance around to the entrance for
19 the hotel on 22nd Street. So, that there
20 will be at least eight, maybe ten, feet of
21 sidewalk open to the sky. Now, that may be
22 slightly compromised by street trees and/or

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1 street furniture, but I know that you've got
2 eight feet that's clear.

3 So, that felt better, but you
4 still have to -- for at least the length of
5 four cars, you have to detour in towards the
6 building to continue walking. You cannot
7 walk in a straight line. So, that's what we
8 were concerned about from a pedestrian and
9 streetscape --

10 COMMISSIONER ETHERLY: And that's
11 helpful. Your answer, and I'll let Mr.
12 Ziemann jump in, your answer perhaps framed
13 my question better. What is the experience
14 that you're trying to avoid and I think you
15 helped me to visualize that sense of
16 intrusion. You represent in your report,
17 but it's helpful to try to draw that out a
18 little more.

19 You're trying to avoid a
20 pedestrian feeling as though they're walking
21 on space that isn't otherwise available to
22 them and that creates an experience that

1 perhaps may not be as positive as you'd
2 like. I get it.

3 And just for the benefit of my
4 colleagues, the two properties I'm
5 referencing, they're somewhat pictured on
6 both the overhead that was provided at the
7 close of Mr. Sher's summary analysis. The
8 Westin is at the corner of 24th and M Street
9 and as Mr. Cochran alluded to, that could
10 conceivably be public space, but you'll see
11 right at that triangle corner that's
12 essentially a drive aisle for ingress and
13 egress off of M Street or off of 24th and
14 the Fairmont property is north of M Street
15 on 24th. You don't really have a good
16 representation of its lay-by, but those are
17 the two properties that I referenced in
18 terms of my question.

19 Thanks again, Mr. Cochran. Mr.
20 Ziemann.

21 MR. ZIEMANN: One, I'd like to
22 preface by saying I'm not familiar enough

1 with each of the sites --

2 COMMISSIONER ETHERLY:

3 Understood.

4 MR. ZIEMANN: -- to give a
5 transportation analysis of them, but I do
6 know that it's for -- you know, again, going
7 back to this pedestrian experience, I know
8 it's very important especially in D.C. that
9 -- that comfort is an -- is a priority for
10 people whether they decide to walk or take a
11 taxi or something and I say especially in
12 D.C. because of our summer months and the
13 amount of shade that trees give and the
14 general -- you know, it's generally
15 comfortable to walk there and also walking
16 next to just kind of blank garage doors also
17 degrades from that experience.

18 Now, from a transportation
19 perspective, I know that 24th Street isn't a
20 major arterial in anyway. So, that could be
21 a reason why there might not be any
22 perceived traffic problems right now just

1 because it's not used very much as opposed
2 to say 22nd Street.

3 COMMISSIONER ETHERLY: I see.

4 MR. ZIEMANN: But, again, I'm not
5 familiar enough with the sites.

6 COMMISSIONER ETHERLY: Okay.
7 Thank you. That's fair. Thank you, Mr.
8 Chair.

9 CHAIRPERSON HOOD: Any other
10 questions? Mr. Turnbull.

11 COMMISSIONER TURNBULL: No
12 question, Mr. Chair. I would just like to
13 maybe reiterate Mr. May -- Commissioner
14 May's comment about level of service in the
15 alleys. Now, I think that's a -- I think
16 it's a very good point and I think it's
17 something we ought to either have the
18 Applicant or Department of Transportation
19 look into when we get into these situations.

20 I'd hate to have an alley
21 suddenly degenerate into a level of F
22 service or something and you know and I

1 think it's a very good point.

2 CHAIRPERSON HOOD: I do, too, and
3 I think we can start with this case. I
4 really do. I think we'll start here.

5 Okay. Any other questions?

6 Okay. What we're going to do for me to save
7 time so I don't have to talk as much when we
8 do cross we'll go in this order. I believe
9 Mr. Corson has left from ANC 2A, but I have
10 his piece I'm going to read some of it when
11 we get to his ANC.

12 But, when I ask for cross, it's
13 going to be in this order each time: West
14 End Citizen's Association, Ms, Kahlow and
15 then Sandi -- excuse me. Yes, I'm going to
16 do that Applicant first. I'm just letting
17 everybody else know.

18 After the Applicant goes first,
19 thank you, Ms. Schellin, it's going to be
20 West End Citizen's Association and then
21 Sandi Holdings.

22 All I'm going to say is cross.

1 Okay. Okay. Cross.

2 MR. COLLINS: Just one question
3 for Mr. Ziemann.

4 You've heard the Applicant's
5 presentation tonight and the Applicant has
6 heard your presentation tonight. Is DDOT
7 open to continue discussions with the
8 Applicant in an attempt to resolve these
9 outstanding issues?

10 MR. ZIEMANN: Of course. I think
11 we have to be. Right? Yes.

12 MR. COLLINS: Thank you.

13 CHAIRPERSON HOOD: I hate to
14 redundant. I actually missed that question.
15 Okay. I got you. I got you. Thank you.

16 Okay. Moving right along. I
17 have to look at Ms. Schellin from time to
18 time because I -- if you saw this area up
19 here, you would know why I'm so -- okay.
20 The ANC's report, Mr. -- the Chairman, Mr.
21 Corson, had to leave and I want to just
22 highlight a few points and I appreciate him

1 staying this long so he can convey that back
2 to the Chairperson.

3 It says at a duly noticed meeting
4 -- actually, it's dated February 4th. At a
5 duly noticed public meeting on November
6 14th, 2007 with a quorum present, Advisory
7 Neighborhood Commission 2A voted 4-0 to
8 support the above referenced application.
9 He also talks about the LEED Certified hotel
10 and it will help to re-energize the corner
11 of 22nd and M Street. In addition, the
12 community amenities package will be provide
13 a number of needed enhancements to the
14 community. It also goes on the ANC is
15 urging the Zoning Commission to approve the
16 Case Number 07-21 as expeditiously as
17 possible so the project can promptly move
18 forward. Also says ANC 2A further requests
19 that the Zoning Commission give great weight
20 to their recommendation which we do.

21 Okay. Okay. Now, we're going to
22 have organizations in support. We're going

1 to call the West End Citizen's Association.
2 Are there any -- and the Foggy Bottom
3 Association if you can come at the same
4 time.

5 Who is -- let me just ask. Who
6 is representing the FBA? Who's the -- you
7 are. Right. Okay. Just hold tight. Let
8 me deal this first.

9 Now, remember in totality, the
10 Applicant only took an hour. So, we're
11 going to have to break it up and I think
12 West End asked for what? Ten minutes? Five
13 minutes? Five minutes. Okay. Let's go
14 ahead and get started.

15 MS. KAHLOW: Thank you. I,
16 Barbara Kahlow, live at 8000 25th Street,
17 N.W. I am testifying on behalf of the West
18 End Citizen's Association, the oldest
19 citizen's association in the Foggy Bottom-
20 West End area.

21 I would like to submit for the
22 record a copy of the WECA's incorporation

1 certificate with the District of Columbia.
2 WECA's most recent board meeting was
3 February 1. In addition, the WECA maintains
4 a list of members who have paid dues.

5 The WECA is primarily interested
6 in maintaining and improving the quality of
7 life for the existing residential community
8 in Foggy Bottom-West End.

9 As stated in it December 9th, '07
10 letter, the WECA supports proposed Per Star
11 PUD at 2201 M Street in square 50. The
12 Applicant's community amenities package
13 includes part of the amenities recommended
14 for the West End area by the WECA.

15 Specifically, the amenities for
16 WECA include \$146,000 which reflect the
17 developers environmental commitments. They
18 include: (a) three segmented benches, (b)
19 ten replacement street trees, (c) three-
20 sided tree box fencing and inside greenery
21 within the tree boxes with missing or
22 plastic fencing and (d) upgraded

1 streetlights in the immediate vicinity of
2 the site within the West End.

3 These will all be implemented by
4 the developer working with DDOT. There's no
5 private party involved at all.

6 The WECA had also recommended
7 upgraded streetlights in the adjoining
8 street grid with the West End. Hopefully,
9 this amenity will be provided in a future
10 PUD. Similar streetscape amenities were
11 included in other PUDs in Foggy Bottom and
12 the West End.

13 The WECA has concerns about the
14 delivery of amenities as envisioned by the
15 PUD process which are to provide benefits to
16 the community in exchange for long-term
17 financial returns to the developer. These
18 concerns include the implementation as
19 overseen by D.C. entities to insure
20 appropriate and timely execution.

21 For example, the WECA filed an
22 August 22, '06 Complaint of Non-compliance

1 in a PUD case for a second headquarters
2 building for the International Monetary Fund
3 at 1900 Pennsylvania Avenue. None of the
4 beautification amenities, which the Zoning
5 Order specified, were to be implemented by
6 Green Spaces for D.C., an entity unmentioned
7 in any of the Zoning Commission's
8 proceeding, ever materialized and Green
9 Spaces inappropriately took a 10 percent
10 management fee and retained interest on over
11 \$500,000 of amenity funds intended for
12 public purpose.

13 In addition, the WECA believes
14 that PUD amenities should benefit the
15 immediately impacted area, not other areas
16 within an ANC that are located a
17 considerable distance from the PUD site.

18 For this PUD, the immediately
19 impacted area is the West End which is
20 located north of Pennsylvania Avenue and not
21 south of Pennsylvania Avenue.

22 Lastly, the WECA wants to express

1 its support for this PUD's environmentally
2 sustainable features which would result in
3 D.C. first LEED-Certified hotel.

4 Thank you for your consideration
5 of our views and I need to give this one
6 copy to someone. Sharon, I'll give that to
7 you. I'll give it to you at the end. Thank
8 you.

9 CHAIRPERSON HOOD: Okay. Hold
10 your seat, Ms. Kahlow. Colleagues, any
11 questions of Ms. Kahlow?

12 Okay. Ms. Kahlow, as you know,
13 we always go through whether West End is
14 legitimate and I think I remember one case
15 and I want to put this on the record because
16 that was somewhat dealt with earlier. It's
17 also been mentioned there's only one or two
18 members or three members. We've been
19 through that.

20 MS. KAHLOW: It's obviously
21 untrue. I'm not sure who mentioned that.

22 CHAIRPERSON HOOD: Right. We've

1 been through that. I've heard it before. I
2 do -- I can say that one time I know at
3 least it was about six people --

4 MS. KAHLOW: That's is correct.

5 CHAIRPERSON HOOD: -- from West
6 End, but let me ask you. Is this within the
7 boundaries?

8 MS. KAHLOW: Yes, it is.

9 CHAIRPERSON HOOD: Okay.

10 MS. KAHLOW: The West End goes to
11 N Street on the north.

12 CHAIRPERSON HOOD: Right.

13 MS. KAHLOW: And on the east,
14 it's actually -- most of it is New Hampshire
15 Avenue. So, it's right in the middle of the
16 West End for the West End Citizen's
17 Association.

18 CHAIRPERSON HOOD: So, basically,
19 what you have is a citizen's association and
20 a civic association which overlap.

21 MS. KAHLOW: That is correct.

22 CHAIRPERSON HOOD: Okay.

1 MS. KAHLOW: And the ANC also is
2 more or less contiguous. We have a little
3 bit larger boundaries than they do. We have
4 more of downtown, but basically, as I said
5 many times, we're focused east of 23rd.
6 They're focused west of 23rd.

7 CHAIRPERSON HOOD: Okay.

8 MS. KAHLOW: So, this is our
9 focus area.

10 CHAIRPERSON HOOD: Okay. Hold
11 your seat.

12 MS. KAHLOW: Thank you.

13 CHAIRPERSON HOOD: Any other
14 questions? Because does the Applicant have
15 any cross? Okay. Thank you very much, Ms.
16 Kahlow.

17 Okay. Let me go by the list
18 because I was thinking that Foggy Bottom was
19 a party, but actually, they're not. So, let
20 me go by the list of proponents.

21 I do have Ms. Sara Maddux. Okay.
22 And if it sounds like your name, please come

1 forward. Jacqueline Lemire.

2 MS. LEMIRE: Lemire.

3 CHAIRPERSON HOOD: Lemire. I'm
4 sorry. Okay. Commissioner I think.
5 Commissioner -- Ms. Elliott. Still a
6 commissioner? Oh, former commissioner.
7 Okay. Ms. Elliott and Ms. Howell.

8 And actually let me just state
9 for the record. Early on, I actually
10 thought Ms. Howell was the chair of the ANC
11 because when I asked her does she have any
12 objections, really didn't have any standing,
13 Ms. Howell, but I did that. So, I'm going
14 to reflect -- let the record reflect that I
15 made a mistake earlier. She should not have
16 been able to comment on whether or not we
17 give party status or not. Okay.

18 All right. Thank you. Oh.
19 Okay. Who's going to speak for the Foggy --
20 I assume, Ms. Howell, you are?

21 MS. HOWELL: I think so. I'll
22 just --

1 CHAIRPERSON HOOD: Okay. Turn
2 your mike on. Because whoever speaks for
3 the association is going to get five
4 minutes. Everybody else is going to have
5 three.

6 MS. HOWELL: We'll let Elizabeth
7 Elliott do it.

8 MS. ELLIOTT: No.

9 CHAIRPERSON HOOD: Okay. Well,
10 I'll take three and everybody get three and
11 I'll get three.

12 MS. HOWELL: I can give back a
13 lot of minutes.

14 CHAIRPERSON HOOD: Oh, okay.
15 Well, let's --

16 MS. HOWELL: And at this point,
17 you'd probably like that.

18 CHAIRPERSON HOOD: No, we're here
19 to hear you. Trust me.

20 MS. HOWELL: Just -- it's just
21 very brief. We support this package and we
22 think that the developer has done a very

1 good job working with the community and with
2 the neighborhood associations.

3 We do represent the entire area
4 just for clarification's sake. There's no
5 west of 23rd or east of 23rd. Our
6 boundaries are contiguous with the ANC.

7 That's about it really unless you
8 have any questions for me.

9 CHAIRPERSON HOOD: Okay. If you
10 can just hold your seat. We'll take you
11 next.

12 MS. LEMIRE: My name is
13 Jacqueline Lemire. I'm the Vice-President
14 of Foggy Bottom Association. I live at 2555
15 Pennsylvania Avenue, N.W.

16 As a resident of the West End,
17 I'm pleased to support the consolidated PUD
18 for the development of a hotel by Per Star M
19 Street Partners. I believe that this
20 environmentally-friendly development will be
21 a positive addition to the northwest end.

22 And I would like to thank Per

1 Star M Street Partners for their inclusion
2 of amenities related to two projects that
3 the FBA is supporting. One is Arts in Foggy
4 Bottom and the other one is St. Mary's
5 Episcopal Church.

6 Funds for these projects will
7 benefit the residents of Foggy Bottom West
8 End as well assure that one of the jewels of
9 our neighborhood will return to its original
10 grandeur.

11 Funds for the Foggy Bottom
12 Association's Arts in Foggy Bottom
13 Initiative will be used to underwrite an
14 outdoor sculpture project beginning this
15 spring. The goal of the project is to
16 enrich the cultural environment of our
17 community by placing sculptures in the front
18 gardens of homes for a period of six months
19 for the enjoyment of all. It will showcase
20 ten sculptors from the greater Washington
21 area and will create education opportunities
22 for residents, non-residents and students

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1 through sculptor and curator-led tours of
2 the sculpture. It will create a catalyst
3 for energizing and connecting the business,
4 educational and residential communities of
5 Foggy Bottom in the West End.

6 St. Mary's Episcopal Church of
7 which \$35,000 in funds would be going is a
8 historically landmarked building designed by
9 James Renwick. In addition, St. Mary's
10 represents a landmark in the history of the
11 Black American struggle for equal rights and
12 dignity as it was the first church built
13 exclusively for Washington's Black
14 Episcopalians. A place where Black people
15 could worship without being subjected to the
16 discrimination rules of White people of the
17 time. It was opened for services in 1887.

18 The funds are needed to repair
19 the stenciling on the chancel wall which
20 dates back to 1887 and which was badly
21 damaged by a water leak.

22 I believe that this amenities

1 which have been agreed to by the developer
2 and ANC 2A will greatly benefit our
3 community. Thank you for considering my
4 testimony.

5 CHAIRPERSON HOOD: Okay. Thank
6 you. Ms. Elliott.

7 MS. ELLIOTT: Good evening,
8 Commissioners. I'm Elizabeth Elliott and I
9 am a member of the Foggy Bottom Association
10 Board.

11 As a nearly 30-year resident of
12 Foggy Bottom, I'm pleased to support this
13 consolidated PUD for the development of what
14 many of us have come to know as the green
15 lung hotel.

16 Per Star M Street Partners should
17 be commended for finally proposing an
18 environmentally conscious development into a
19 section of our neighborhood that is
20 reminiscent of a frying pan in the summer
21 and vacillates between a refrigerator and an
22 Arctic wind tunnel in the wintertime.

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1 Specifically, I would also like
2 to commend Per Star for its selection of
3 Professor Iris Miller of the Catholic
4 University School of Architecture as a
5 consultant for Landscape Architectural
6 Services in conjunction with the Project
7 Streetscape plantings and roof garden.

8 Professor Miller's consulting fee
9 with be donated to the School of
10 Architecture's Urban Institute Studio.

11 Her students led by Professor
12 Miller have worked diligently, extensively
13 and in a very professional manner with our
14 community over the last three years to
15 develop some real world solutions to chronic
16 issues in our neighborhood.

17 Additionally, Professor Miller
18 and Catholic have been at the vanguard of
19 the sustainability movement. She is
20 currently working with the Embassy of
21 Austria on an urban watershed conference for
22 June of this year to focus on the Anacostia

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1 and Potomac Rivers. The objective is to
2 transfer the Austrians' management success
3 with restoring the Danube, providing
4 remarkable flood control, clean water and
5 recreation areas including swimming in the
6 vicinity of Vienna to our own urban
7 watershed including the Rock Creek Tributary
8 which is just a few blocks from the Per Star
9 site.

10 In the same vein, I would like to
11 see the amenities to our community in the
12 form of benches, replacement trees, street
13 tree boxes and new streetlights on M Street
14 and 22nd Street adhere to the highest
15 sustainability alternative energy standards.
16 Numerous community members expressed
17 considerable concern about these items and
18 their appropriateness as amenities since
19 they are elements already funded by our tax
20 dollars.

21 From a personal perspective as a
22 citizen forester with the Casey Trees

1 Foundation, I would support installation and
2 repair of fencing and street tree boxes if
3 it promotes the viability of our street
4 trees. However, I oppose planting anything
5 other than the trees in that very limited
6 space. The soil, biochemistry of trees and
7 ground cover and plants are incompatible and
8 will create a competition for what little
9 space and nourishment is available. For the
10 trees, it is a lose/lose situation the
11 result of which are evident throughout the
12 West End and Foggy Bottom as well as most of
13 downtown currently home to thousands of
14 plant-filled tree boxes containing dead,
15 dying or no trees.

16 Thank you for considering my
17 testimony and I would urge the Commission to
18 approve this application.

19 CHAIRPERSON HOOD: I want to
20 thank all three of you for sticking with us
21 and hanging in there so we can hear your
22 testimony. Greatly appreciate that.

1 Colleagues, any questions? Any
2 cross? Mr. Collins.

3 MR. COLLINS: I just have a few
4 questions for Ms. Lemire having to do with
5 the amenity that is the Arts in Foggy
6 Bottom.

7 MS. LEMIRE: Um-hum.

8 MR. COLLINS: That amenity is to
9 -- from the Applicant is to help to fund
10 this program that you have and your program
11 is starting when?

12 MS. LEMIRE: Our program is
13 starting -- the sculptures will be installed
14 on April 25th and 26th and run -- will run
15 through October 25th.

16 MR. COLLINS: So, the purpose of
17 structuring that amenity as a loan as
18 opposed to a funding is because of the
19 timing of the PUD versus the timing of the
20 Arts Program?

21 MS. LEMIRE: I'm not sure what
22 you're talking about of the loan --

1 MR. COLLINS: Well, the PUD --
2 the amenity with regard to that is to help
3 to fund that program.

4 MS. LEMIRE: Yes.

5 MR. COLLINS: And the fund -- and
6 the program will be beginning before the PUD
7 is over.

8 MS. LEMIRE: But, we have -- the
9 Foggy Bottom Association Defense and
10 Improvement Fund have given us a loan to get
11 the project started.

12 MR. COLLINS: I see. So, this
13 amenity would be to repay that loan?

14 MS. LEMIRE: That's right.

15 MR. COLLINS: Okay. Thank you.

16 CHAIRPERSON HOOD: But, Mr.
17 Collins, understand there are other issues
18 that are going to come in place and if not,
19 we may need to revisit that. We may need to
20 revisit that whole amenity. Because
21 dependent upon how fast this case moves, I'm
22 not sure where you were going, but I think I

1 know where you were going. You were saying
2 that it's going to -- this amenity needs to
3 be done because of what's transpiring here.
4 Is that where you were going?

5 MR. COLLINS: The program --

6 CHAIRPERSON HOOD: Right.

7 MR. COLLINS: Well, I don't want
8 to testify. But, the program -- when the
9 discussion began, the idea, the intention
10 was that the PUD would be finished up about
11 the same time that the program would be
12 beginning.

13 CHAIRPERSON HOOD: And it doesn't
14 look like that's going to happen at this
15 point.

16 MR. COLLINS: That's correct.

17 CHAIRPERSON HOOD: Right.

18 MR. COLLINS: So, it's a loan
19 payback.

20 CHAIRPERSON HOOD: So, we
21 probably -- I'm just going to preempt
22 everything. We probably need to start

1 looking at something else earlier. Let's
2 just see. Because it looks like we're going
3 to be a minute. I mean that's just -- just
4 take that as some advice.

5 MS. LEMIRE: May I say something?

6 CHAIRPERSON HOOD: Sure.

7 MS. LEMIRE: We're -- you know,
8 we're ready. We can run our project and
9 wait for this grant which will be to repay
10 the loan that we've gotten from a local --

11 CHAIRPERSON HOOD: That's --

12 MS. LEMIRE: -- from our Foggy
13 Bottom Association Defense and Improvement
14 Corporation.

15 CHAIRPERSON HOOD: Okay.

16 MS. LEMIRE: Which by the way --

17 CHAIRPERSON HOOD: All right.

18 MS. LEMIRE: -- is not part of
19 the Foggy Bottom Association.

20 CHAIRPERSON HOOD: Okay. All
21 right. Thank you.

22 I just was trying -- that line of

1 questioning -- I didn't want out backs to be
2 up against the wall. They won't be.

3 MS. LEMIRE: No.

4 CHAIRPERSON HOOD: Okay. All
5 right. Thank you. Anymore cross? Okay.
6 Again, thank you. Thank you, three, for
7 coming down.

8 Okay. Anyone else like to
9 testify in support?

10 Okay. Now, I'm going to ask Mr.
11 Aguglia to come up with Sandi Holdings, LLC
12 and about how much time do you need, Mr.
13 Aguglia?

14 MR. AGUGLIA: We will do our best
15 to do it in 30 minutes or less.

16 CHAIRPERSON HOOD: Okay. You
17 think you can be finished before the subway
18 close? If not, I have to -- you have a
19 request for -- I'll let you --

20 MR. AGUGLIA: I'm waiting for him
21 to hook up the computer.

22 CHAIRPERSON HOOD: Okay. You

1 have an opening statement or something?

2 MR. AGUGLIA: Yes.

3 CHAIRPERSON HOOD: Okay.

4 MR. AGUGLIA: Richard Aguglia for
5 the adjacent property owner to the subject
6 hotel, Sandi Holdings and the adjacent
7 property is at 2215 M Street, N.W.

8 Mr. Hagerty would like to say --
9 would like to take just a few moments to
10 state the condition of the property -- of
11 the Sandi property.

12 MR. HAGERTY: Yes, this is Jim
13 Hagerty. I'm the attorney representing Dr.
14 and Mrs. Sandi and the Sandi Group who owns
15 the property.

16 They purchased the building last
17 year for \$7,150,000 and closed on the sale
18 in January. They use it and intended to use
19 it as the office building which houses a
20 number of employees for the various
21 companies and businesses that they're
22 engaged in and that's why they purchased it.

1 They didn't purchase it as a speculative
2 venture. They purchased it to use the
3 property as offices and to that end, they've
4 spent considerable amount of money, several
5 hundred thousand dollars, after they first
6 leased it back to the Federal Bar
7 Association who had owned the property and
8 then built it out and spent several hundred
9 thousand dollars doing so.

10 So, we just wanted to -- I think
11 the intent here is just to let you know
12 exactly what R. S. Sandi Holdings has been
13 doing with the property.

14 MR. AGUGLIA: Thank you, Mr.
15 Hagerty.

16 I wanted to qualify Craig
17 Bennett, AIA, as an expert witness before
18 the Commission. I've given the Commission a
19 copy of his résumé when I filed my letter on
20 -- last week and I gave a copy to opposing
21 council. He has over 27 years of experience
22 and including 20 years

1 of being a qualified or certified
2 architect in the District of Columbia. Has
3 worked on many projects. Has worked with
4 many architects in the District of Columbia
5 and has substantial experience in hotels and
6 mastering plans for hotels.

7 CHAIRPERSON HOOD: Okay.
8 Colleagues, we have Mr. Bennett's résumé.
9 Any objections? No objections. He'll be
10 proffered.

11 MR. AGUGLIA: Thank you. Mr.
12 Bennett, would you turn on your microphone
13 and introduce yourself?

14 MR. BENNETT: I'm Craig Bennett,
15 architect. Been a practicing architect for
16 over 27 years in D.C. Numerous experience
17 in downtown office buildings, hotels and so
18 forth.

19 MR. AGUGLIA: Okay. You've been
20 qualified. Do you want to go through your
21 PowerPoint presentation?

22 MR. BENNETT: Yes, I just --

1 VICE-CHAIRPERSON JEFFRIES: I
2 don't think he was ready to go.

3 MR. COLLINS: Mr. Chairman, while
4 we're waiting, could I just ask a question?
5 What is Mr. Bennett qualified as an expert
6 in?

7 CHAIRPERSON HOOD: Architecture.
8 Right? Is it architecture?

9 MR. BENNETT: Architecture and
10 urban design.

11 CHAIRPERSON HOOD: I'm not going
12 to ask you do you have any objections. I'm
13 sure you would have told me if you did.

14 MR. COLLINS: Well, you didn't
15 ask, but if you're asking now --

16 MR. AGUGLIA: I will get you
17 multiple copies tomorrow. Well, that is
18 simply the paper version of the PowerPoint.

19 CHAIRPERSON HOOD: Okay. Hold
20 tight one second for me, Mr. Aguglia.

21 MR. COLLINS: If you're asking
22 now, I would object to his qualifications as

1 an expert in architecture and urban design
2 if it has to do with this project.

3 CHAIRPERSON HOOD: Why is that?

4 MR. COLLINS: Well, because his
5 résumé -- his résumé shows a number of
6 different activities, but nothing -- no base
7 building projects in the District of
8 Columbia for the last 14 years.

9 MR. AGUGLIA: Will you speak to
10 that, Mr. Bennett?

11 MR. BENNETT: Yes, most recently,
12 I've --

13 CHAIRPERSON HOOD: Turn your --

14 MR. BENNETT: Oh. Most recently,
15 I've been a consultant to the master
16 planning and conceptual design of Gallery
17 Place for West Development as well as
18 Georgetown Park in Georgetown. That
19 résumé's about four years old -- four or
20 five years old.

21 CHAIRPERSON HOOD: Okay. Okay.
22 All right. So noted, Mr. Collins. Are we

1 about ready or --

2 VICE-CHAIRPERSON JEFFRIES: Sir,
3 you can begin.

4 MR. BENNETT: Should I start?
5 Okay. This aerial shows a red outline
6 around the CR zone. The blue is the hotel
7 site and the red is my client's property and
8 I'm just going to do a quick walk through
9 around the block to show you the context.

10 VICE-CHAIRPERSON JEFFRIES: Do
11 you need the lights off? It's a scary thing
12 right now, but do you want the lights off?

13 MR. BENNETT: Yes, probably.

14 VICE-CHAIRPERSON JEFFRIES: Okay.

15 MR. BENNETT: Okay. Sorry. This
16 is down 22nd Street looking down towards M
17 Street to the hotel site. The hotel site is
18 on the corner. The existing four-story
19 building that's adjacent to it. This is
20 looking the other way up 22nd Street and
21 these are existing eight-floor buildings.
22 They don't exceed -- they don't exceed 90

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1 feet. This is M Street. The Fairmont
2 Hotel. It's nine floors. The Park Hyatt
3 Hotel down 24th Street which is nine floors.
4 This is the Fairmont Hotel looking down 24th
5 towards N and that's nine floors. This is
6 25th looking towards M. These are eight --
7 they're eight stories. This one is looking
8 the other direction still down on 25th
9 Street towards M. These are 90 feet and
10 below. This is on 26th Street looking down
11 M Street. You have the embassy. Five-story
12 embassy there and this is --

13 CHAIRPERSON HOOD: Can you make
14 sure you're speaking into the mike?

15 MR. BENNETT: Right. This is
16 26th Street. Embassy on the left which is
17 five stories. Building on the right is less
18 than -- it's 90 feet. This is the corner of
19 24th and M. Again, this does not exceed 90
20 feet. Just looking down the other direction
21 and the same building down the other block.
22 Looking down 24th Street. Again, these

1 building do not exceed 90 feet.

2 VICE-CHAIRPERSON JEFFRIES:

3 Excuse me. What -- I just --

4 MR. BENNETT: Looking towards M
5 Street.

6 VICE-CHAIRPERSON JEFFRIES: I'm
7 just trying to get --

8 MR. BENNETT: I'm showing the
9 overall context to show the hotel property
10 in context to the other CR zoning.

11 VICE-CHAIRPERSON JEFFRIES: Oh.
12 Okay.

13 MR. BENNETT: How it fits into
14 the existing --

15 VICE-CHAIRPERSON JEFFRIES: Okay.

16 MR. BENNETT: And this is the --

17 COMMISSIONER MAY: Can you move
18 that microphone in a little bit closer
19 because I can barely hear you?

20 MR. BENNETT: Yes. This is the
21 property. My client's property is brick
22 building. Which is an existing four-story

1 building with a rooftop structure. This is
2 just the existing conditions and this is the
3 view of the existing conditions looking down
4 M Street towards the east and the next, note
5 the four-story building rooftop structure
6 and the next slide will show the proposed
7 hotel structure and this -- I think this
8 slide clearly demonstrates -- we're showing
9 the 110-foot height limit, 18 foot 6
10 penthouse and I think this clearly
11 demonstrated it doesn't look good. It
12 doesn't fit into the fabric and that's our
13 contention.

14 MR. AGUGLIA: Is it your opinion
15 that the proposed hotel will affect the
16 light of the Sandi Building?

17 MR. BENNETT: Well, I haven't had
18 time to do a lighting study, but I assume it
19 has some effect.

20 MR. AGUGLIA: You can turn it
21 towards you.

22 MR. BENNETT: Oh.

1 MR. AGUGLIA: Turn the -- okay.
2 Is your opinion that the subject hotel will
3 have an impact on the air of the Sandi
4 Building?

5 MR. BENNETT: I would assume so,
6 but again, we haven't had time to do a study
7 on that as well.

8 MR. AGUGLIA: From an urban
9 design standpoint, do you feel that this is
10 a good design?

11 MR. BENNETT: No, not from this
12 vantage point.

13 MR. AGUGLIA: Okay. I will speak
14 very briefly to the legal question and then
15 we will have concluded our presentation.

16 You know, it's our position that
17 the regulations do, in fact, require a
18 setback. The case that the other side has
19 presented to you, number 17-109, has various
20 readings. It's internally inconsistent, but
21 I think when you look at the big picture, it
22 supports us. At page 12 of the BZA

1 decision, it states "With respect to the
2 subject property, since the connected
3 buildings on the adjacent lots could reach
4 the same maximum height of 70 feet and
5 thereby cover the exposed portion of the
6 walls, the Zoning Administrator did not err
7 in considering the sidewalls to be
8 interior."

9 So, therefore, there was a mesh
10 or a connection and, therefore, it was not
11 considered an exterior wall.

12 In our case as you heard from Mr.
13 Sher on cross examination as well as from
14 OP, that ours cannot mesh or connect because
15 we cannot go above 90 feet and we're too
16 small to be a PUD and, therefore, the
17 subject hotel at 110 feet will be an exposed
18 wall and, therefore, it is an exterior wall.

19 I can see that in the same
20 opinion the language reads the other way,
21 but in a PUD context, I'm focusing this
22 case, this BZA decision, on your decision in

1 this case.

2 When we go to the 110 feet and
3 then we had no setback for the penthouse
4 structure, we virtually have a 130-foot wall
5 imposing on our property and that, I think,
6 is pushing the envelope and I say in this
7 context, it should be set back as it looks
8 more like a C4 Zone than it does a CR Zone.

9 And that is our presentation.

10 CHAIRPERSON HOOD: Thank you, Mr.
11 Aguglia. Let me just ask -- just a minute.
12 I stepped out. Maybe, Mr. Aguglia, you can
13 help me. I stepped out to the rest room.
14 When I came back, I heard I guess the ending
15 of your presentation and I really didn't get
16 to the gist of what I was -- maybe I missed
17 something. Maybe -- I really didn't get
18 anything from that and I'm not trying to put
19 you down. I'm just -- maybe I missed most
20 of it while I was out. Me and Mr. May must
21 have missed it.

22 MR. AGUGLIA: Right.

1 CHAIRPERSON HOOD: Or maybe I
2 just missed it.

3 MR. AGUGLIA: In the CR Zone, in
4 the original CR Zone, he took a walk around
5 the neighborhood and essentially, all the
6 buildings are in the 90-foot range and as we
7 saw from Mr. Sher's list, there's only one
8 property in the original CR Zone that
9 exceeds that and he was not sure and I am
10 not sure because I just saw the list
11 tonight, if, in fact, that building has the
12 roof penthouse setback or not.

13 So, what I'm saying is it appears
14 that this is going to be the first building
15 in the CR Zone that will go up a solid 128.6
16 feet and we're saying that that's out of
17 context with the neighborhood and the zone
18 and he's also testified that he didn't like
19 it from an urban design standpoint.

20 CHAIRPERSON HOOD: Okay. Now,
21 are you all still in negotiations in working
22 with the Applicant? Are you still working

1 with him or are you at a standstill or --

2 MR. AGUGLIA: We're at a
3 standstill and that accounts for why we're
4 coming in here a little bit -- you know, a
5 little bit late with this information. So,
6 we're at a standstill. We tried to
7 negotiate and we were not successful.

8 CHAIRPERSON HOOD: So, you didn't
9 get the information. That's one piece that
10 you mentioned earlier. You didn't get
11 proper notice. Right. You didn't get
12 proper notice.

13 MR. AGUGLIA: We didn't get what
14 I would say real notice until December and
15 then --

16 CHAIRPERSON HOOD: Okay.

17 MR. AGUGLIA: -- there was an
18 attempt to do some negotiation between then
19 and now with the Applicant and it didn't
20 work out.

21 CHAIRPERSON HOOD: Okay. So, the
22 major issue for you is the setback on that

1 wall. That's the issue.

2 MR. AGUGLIA: Correct. We do not
3 oppose the project per se. It is just the
4 effect of that 130-foot monolithic wall on
5 our property and you heard OP say that
6 they're sensitive about the fact that it
7 doesn't have any designer scoring. We're
8 sensitive to the massing issue.

9 CHAIRPERSON HOOD: Okay. All
10 right. I'm going to open up for any
11 questions, colleagues? Commissioner May.
12 I'm sorry. Commissioner Etherly.

13 COMMISSIONER ETHERLY: No, I'm
14 just going to be very brief because I think
15 it's going to be most helpful for all of us
16 to steep ourselves in Belmont because
17 obviously there's quite a bit of Mr.
18 Aguglia's discourse that kind of hinges on
19 how one chooses to approach that case and
20 the parties are indeed right. I have
21 entirely too much familiarity with that case
22 having sat on it for as long as we did to

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1 grapple with that issue.

2 So, I'm perhaps going to not
3 verge into a debate on it tonight, but I am
4 compelled to ask is it your sense that the
5 articulation in Belmont of what the Zoning
6 Administrator's practice was traditionally
7 with respect to dealing with the issue of
8 party walls, is that incorrect? Because I
9 would hazard -- offer that the Zoning
10 Administrator's statement in that case spoke
11 to what was a -- what they felt to be a
12 long-standing practice of how a party wall
13 was dealt with for purposes of determining
14 whether it was an exterior wall or not.

15 MR. AGUGLIA: As I read the case,
16 the Zoning Administrator said if the walls
17 of each building are -- of neither building
18 are exposed and you said you have to look to
19 what the matter-of-right height could be.

20 COMMISSIONER ETHERLY: Um-hum.

21 MR. AGUGLIA: So, in our case, 90
22 feet. As long as the subject hotel would be

1 at 90 feet --

2 COMMISSIONER ETHERLY:

3 Everything's fine.

4 MR. AGUGLIA: Everything's fine.

5 It's an interior wall not an exterior wall
6 because they mesh. All right. That was the
7 Zoning Administrator's long-time practice
8 according to this case. Whether or not it
9 was exposed given both buildings are at
10 matter of right.

11 However, in the same opinion,
12 they cite Faye Gunye as the Chief of the
13 Zoning who says something totally different
14 and she says it's not the exposition so to
15 speak. It's whether or not you build it to
16 the property line without a setback and if
17 you build it to the property line without a
18 setback, she says you don't need a setback.

19 COMMISSIONER ETHERLY: um-hum.

20 MR. AGUGLIA: So, all of that
21 aside, what I'm saying is in the context of
22 this case, we're already giving them an

1 extra 20 feet. To give them another 18.6
2 with no setback is too much.

3 COMMISSIONER ETHERLY: In terms
4 of -- and I'll leave that alone for the
5 moment. In terms of the contextual piece
6 and this perhaps comes back to the Chair's
7 question as he and my colleague Mr. May came
8 back in, a lot of the discussion, of course,
9 is about context and whether this fits or
10 not.

11 When I take a look at -- and I'm
12 coming back to the PowerPoint presentation
13 that was provided by the Applicant and I'm
14 looking at what is existing site photos E2
15 which tries to provide both an M Street
16 contextual elevation and a 22nd Street
17 contextual elevation, is it your sense that
18 even looking at these elevations, the
19 subject property would still be out of
20 context?

21 Because my concern here is as you
22 look at this area, the term monolithic was

1 used to describe the wall that you're
2 potentially looking at here, but I don't --
3 I'm not sure if I agree that it is a
4 monolithic area today in terms of what the
5 context is. So, perhaps I'm kind of coming
6 back to that question and just trying to
7 make sure I understand what you're asserting
8 with respect to the overall context.

9 MR. AGUGLIA: Well, we were
10 looking just in the CR Zone.

11 COMMISSIONER ETHERLY: Okay.

12 MR. AGUGLIA: All right. Now,
13 many of the examples that Mr. Sher used in
14 his statement on page five --

15 COMMISSIONER ETHERLY: Go beyond
16 the CR Zone.

17 MR. AGUGLIA: Are outside the CR
18 Zone.

19 COMMISSIONER ETHERLY: I see. I
20 see.

21 MR. AGUGLIA: And I think some of
22 the pictures there may be across the street

1 which are beyond the CR Zone.

2 So, we kind of limited his -- he
3 limited his view of the context to the CR
4 Zone. The original CR Zone.

5 COMMISSIONER ETHERLY: Okay.
6 Okay. Thank you. Thank you, Mr. Chair.

7 CHAIRPERSON HOOD: Thank you,
8 Commissioner Etherly. Any other questions?
9 Commissioner May.

10 COMMISSIONER MAY: I just want to
11 get it clarified. Is it both of -- I mean
12 it looks like there are two four-story
13 buildings there that are separated by the
14 party wall or is that just one building?

15 Just having seen the elevation of
16 -- of --

17 MR. BENNETT: You're looking at
18 this? That's a --

19 COMMISSIONER MAY: No, the -- is
20 everything between the firehouse and that --

21 MR. BENNETT: There's an alley
22 right here --

1 COMMISSIONER MAY: Okay.

2 MR. BENNETT: -- between the
3 firehouse --

4 COMMISSIONER MAY: Then that's
5 all the Sandi's property.

6 MR. BENNETT: The alley's is not.

7 COMMISSIONER MAY: I know. The
8 alley is not, but --

9 MR. BENNETT: Yes.

10 COMMISSIONER MAY: That --

11 MR. BENNETT: That is correct.

12 COMMISSIONER MAY: Okay. Because
13 when we saw the first elevation head on, it
14 kind of looked like there were three
15 buildings there and it looks like one is
16 gone because I assume it's part of what's
17 being redeveloped.

18 MR. AGUGLIA: Why don't you go
19 back to that so we'll get our frame of
20 reference?

21 COMMISSIONER MAY: There we go.

22 MR. AGUGLIA: Stop. Stop there.

1 COMMISSIONER MAY: Oh, the other
2 one. Okay.

3 MR. AGUGLIA: Stop there.

4 COMMISSIONER MAY: So, that looks
5 like three buildings to me or three
6 properties.

7 MR. AGUGLIA: The Sandi Building
8 is on the left.

9 COMMISSIONER MAY: It's those --
10 it's six windows wide.

11 MR. AGUGLIA: Correct. The
12 middle building is -- it used to be
13 Asianora. It's going to be torn down as
14 part of this and then the vacant lot.

15 COMMISSIONER MAY: Okay. But,
16 that's -- I just want to make sure I
17 understood what the property was there.
18 Thanks.

19 CHAIRPERSON HOOD: Any other
20 questions? All right. Cross.

21 MR. COLLINS: Just a couple of
22 questions. Start with the architect.

1 The plan that you have up there
2 on the -- we're calling the Sandi Building.
3 The picture you have up there I think is
4 page four of your handout.

5 You have -- on the Sandi
6 Building, there's a white structure above on
7 the top.

8 MR. BENNETT: Right.

9 MR. COLLINS: As is that setback
10 to the side lot line?

11 MR. BENNETT: The white
12 structure, no.

13 MR. COLLINS: Okay. All right.
14 Bear with me a second. In your résumé that
15 admittedly is four years old, your last
16 experience in D.C. on that résumé dated back
17 to 1994 -- '87 to '94 that Kies, Kind and
18 Florence?

19 MR. BENNETT: Yes.

20 MR. COLLINS: And you list a
21 number of buildings on that. Were you the
22 design architect on any of those buildings?

1 MR. BENNETT: I was the design
2 architect for a number of building in 500
3 5th Street.

4 MR. COLLINS: You were the --

5 MR. BENNETT: Design architect.

6 MR. COLLINS: -- design architect
7 on that?

8 MR. BENNETT: Yes, never --

9 MR. AGUGLIA: I'm guess I'm going
10 to have to object that we went over -- old
11 territory.

12 CHAIRPERSON HOOD: Let me just
13 say this. Okay. Let me just say this. I
14 have a problem with us not being able to
15 engage anybody because we don't have copies
16 of the presentation. I have a big problem
17 with that. So, I don't know if this is even
18 worth it for me or for my colleagues. You
19 know, I really don't think -- that's very
20 disingenuous to bring that and not give us
21 copies of it.

22 MR. AGUGLIA: I apologize. I

1 thought since we had the videos and I gave
2 one copy, I thought that was sufficient. I
3 apologize.

4 CHAIRPERSON HOOD: We have -- we
5 do have one copy?

6 VICE-CHAIRPERSON JEFFRIES: It's
7 just that Mr. Collins is now making other
8 references to a document that we don't have.

9 CHAIRPERSON HOOD: And we like to
10 look at --

11 MR. COLLINS: Well, I'm referring
12 to the résumé which you do have. This list
13 of buildings and I'll start with the 500 5th
14 Street. Does that have -- is that a tall
15 building next to shorter buildings?

16 MR. BENNETT: Actually, that was
17 a complicated building that -- at the time,
18 yes, and it had some existing facades that
19 we had to retain.

20 MR. COLLINS: Okay. All right.
21 Eighteen Zero Eight I Street, do you recall
22 how tall that building is?

1 MR. BENNETT: You're going back
2 15 years. I don't recall.

3 MR. COLLINS: Well, that's what
4 your résumé shows.

5 MR. BENNETT: I don't recall.

6 MR. COLLINS: So, you don't
7 recall these buildings that you claim some
8 design application.

9 MR. BENNETT: I recall 1808 I
10 Street. I don't recall how tall it is.
11 That's 15 years ago.

12 MR. COLLINS: About how many
13 stories?

14 MR. BENNETT: Probably at the
15 location, it was probably a 12-story
16 building.

17 MR. COLLINS: Twelve-story
18 building. Do you recall the building
19 immediately to the east of that?

20 CHAIRPERSON HOOD: Let me ask
21 this. I know I was out of the room, but did
22 he testify to that. I mean, you know --

1 MR. COLLINS: He's testified to
2 the juxtaposition of tall buildings next to
3 short buildings as an urban design
4 principle. He's said it's improper.

5 CHAIRPERSON HOOD: Okay. Let's
6 -- you're going up and down his résumé.

7 MR. COLLINS: That's right.

8 CHAIRPERSON HOOD: That's why I
9 thought you were going up and down his
10 PowerPoint presentation or whatever this is
11 that we don't have a copy of.

12 MR. COLLINS: No.

13 CHAIRPERSON HOOD: Let's focus on
14 what he testified to.

15 MR. COLLINS: I am. I'm
16 attacking his credibility, sir, and that's
17 the whole purpose --

18 CHAIRPERSON HOOD: Okay. I will
19 ask you again focus your attention on what
20 we're talking about here not his résumé.

21 MR. COLLINS: Well, I'll just ask
22 for his -- his prior -- he's testified that

1 this building at which we take issue with
2 this representation of the hotel building,
3 but a tall building next to a shorter
4 building that his client owns is bad from an
5 urban design standpoint. I'm asking him
6 other examples of other projects he's worked
7 on. I have a similar situation.

8 CHAIRPERSON HOOD: Okay. Give
9 him one or two examples and let's cut it.

10 MR. BENNETT: Architecture's a
11 setback of the penthouse. It's not a taller
12 building versus a shorter building. The
13 sole contention here is the penthouse.

14 MR. COLLINS: Well, you're lawyer
15 referred to it as a single monolithic
16 building.

17 Tell me about the building next
18 to 1808 L Street -- I Street.

19 MR. BENNETT: I don't recall
20 1808. It's been 15 years ago. It was a
21 very narrow building. Probably 20-feet
22 wide.

1 CHAIRPERSON HOOD: I apologize,
2 Mr. Collins. I did miss something. Could
3 you give him two examples of what you're
4 doing --

5 MR. BENNETT: Most recently, I've
6 working -- I worked on Georgetown Park.
7 That's what I'm working on right now and
8 that is adding residential on top of an
9 existing shopping mall. Residential or a
10 boutique hotel on top of the existing
11 shopping mall.

12 Also worked on Gallery Place
13 extensively.

14 CHAIRPERSON HOOD: Okay.

15 MR. COLLINS: Could --

16 MR. BENNETT: Most recent D.C.
17 buildings.

18 MR. COLLINS: Could you just
19 clarify for us what you believe are the
20 adverse impacts on your client's building?

21 MR. BENNETT: The non-setback of
22 the penthouse is what I am addressing.

1 MR. COLLINS: And specifically
2 what about the non-setback of the penthouse
3 that creates adverse impact in your client's
4 building?

5 MR. BENNETT: Aesthetically, it's
6 not pleasing. It causes a 20 foot -- 40
7 foot from the top of the roof to the top of
8 our building. Our building would be -- this
9 would be the 90-foot roof here. So, you're
10 talking about 20 feet of wall.

11 MR. COLLINS: As expert in urban
12 design, you surely have seen other examples
13 where a tall touches short buildings in the
14 District of Columbia.

15 MR. BENNETT: Not -- yes, of
16 course, but not a -- well, not a solid
17 monolith like this. No.

18 MR. COLLINS: So, a solid
19 monolith, is it your testimony that every
20 building in a be of equal height?

21 MR. BENNETT: In an ideal world,
22 they should be relatively consistent with

1 each other. Yes.

2 MR. COLLINS: So, they all should
3 be the same or consistent with each other.
4 So, the situation in the urban fabric where
5 you have taller buildings, shorter
6 buildings, that's inconsistent with good
7 urban design?

8 MR. BENNETT: Correct.

9 MR. COLLINS: I see. Thank you.
10 So, the impact on your client's property
11 would be perceived from where? From
12 standing on your client's property and
13 looking at this? What is -- I'm really
14 having honestly trouble following what would
15 be the adverse impact on your client's
16 property.

17 MR. BENNETT: We're dealing -- on
18 the client's property?

19 MR. COLLINS: Well, that's what
20 you're saying. It's having an adverse
21 impact on your client's property.

22 MR. BENNETT: Well, I'm dealing

1 with aesthetics.

2 VICE-CHAIRPERSON JEFFRIES: I
3 thought there was a comment about light and
4 air.

5 MR. BENNETT: I have not done --
6 I think I mentioned --

7 CHAIRPERSON HOOD: Said he didn't
8 do the study.

9 MR. BENNETT: I didn't do a study
10 of light and air. Obviously, there's an
11 impact on light and air. You got an kitchen
12 exhaust and garage exhaust coming out there.
13 But, I haven't had time to do the detail
14 study.

15 MR. COLLINS: So, what you're
16 saying is that it's a light and air impact,
17 but you haven't done the study?

18 MR. BENNETT: Correct.

19 MR. COLLINS: An urban design
20 impact, but from your client's property when
21 you -- if you -- so, looking up and seeing
22 it from your client's property, the issues

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1 are adverse impact on light and air?

2 MR. BENNETT: I'm not addressing
3 light and air. I'm addressing the massing
4 of the property, of the building.

5 MR. COLLINS: As it --

6 MR. BENNETT: As it appears on
7 the sidewalk. As it appears from the
8 street. As it --

9 MR. COLLINS: Well, that's
10 different than from your client's property.
11 Are you testifying on behalf of your client
12 or on behalf of someone else?

13 MR. BENNETT: I'm testifying on
14 behalf of my client.

15 MR. COLLINS: So, what is your
16 client's concern about the impact of what
17 this building looks like from your vantage
18 point at the intersection of 23rd and M
19 Streets here?

20 MR. BENNETT: They're concerned
21 about the view from their -- that their
22 potential rooftop deck.

1 MR. COLLINS: But, that -- this
2 is not what you're showing. It's not the
3 view from their rooftop deck. You're
4 showing the view from a block away.

5 The view from their rooftop deck,
6 would you be able to perceive the height of
7 the building whether it's 90, 100 or 110
8 feet if you stood on the top of the deck and
9 looked straight up?

10 MR. BENNETT: You would see a big
11 wall. Yes.

12 MR. COLLINS: Okay. Would you
13 see a big wall if it was 90-feet tall?

14 MR. BENNETT: If it was 90? You
15 got 110 feet here. This is 90 feet right
16 here. So, the answer's no.

17 MR. COLLINS: So, it wouldn't be
18 tall at 90, but it would be tall at 110?

19 MR. BENNETT: This is 90 feet
20 right here. This is -- as maximum build
21 out, this is where the top of our building
22 would be right here.

1 MR. COLLINS: So, with no roof
2 structure?

3 MR. BENNETT: We haven't designed
4 a building.

5 MR. COLLINS: You're talking
6 about your building? Your building at 90
7 feet.

8 MR. BENNETT: Our building at 90
9 feet would be right here.

10 MR. COLLINS: Didn't your client
11 testify that he has no intention to rebuild
12 the building that they just spent several
13 hundred thousand dollars to renovate the
14 existing building?

15 MR. BENNETT: He's answering --
16 he's answering the question.

17 MR. COLLINS: Well, don't you
18 have to answer in the contest of what your
19 case is all about?

20 CHAIRPERSON HOOD: Mr. -- he's
21 going to ask the questions and you answer.

22 MR. BENNETT: Okay.

1 CHAIRPERSON HOOD: We want to
2 hear both of you. So, one person talk at a
3 time so we can hear you and let's try to get
4 through this, Mr. Collins.

5 MR. COLLINS: I am trying my
6 best, sir.

7 So, the impact would be that if
8 you're client built their building to 90
9 feet, you'd have a wall next to you. Is
10 that right?

11 MR. BENNETT: Correct.

12 MR. COLLINS: And the wall would
13 be -- it would be 20 feet taller?

14 MR. BENNETT: It would -- well,
15 the top of the penthouse would be 40 foot.
16 If you had a setback, we really don't even
17 have the -- we don't even have the 20 feet.

18 MR. COLLINS: So, how tall would
19 your client's penthouse be?

20 MR. BENNETT: I don't know. I
21 haven't design a building.

22 MR. COLLINS: I see. So, your

1 client would probably have either no
2 penthouse or a minimal penthouse. Is that
3 what you're saying?

4 MR. BENNETT: My client might
5 have a seven-story building.

6 MR. COLLINS: Okay. So, the
7 answer is you really don't know.

8 MR. BENNETT: The design of our
9 future building, no.

10 MR. COLLINS: No. You really
11 don't know what the adverse impact would be
12 and how to quantify it.

13 MR. BENNETT: I didn't say that.

14 MR. COLLINS: Well, you didn't
15 say much of anything else.

16 CHAIRPERSON HOOD: Mr. Collins,
17 let him answer and if he doesn't know, we
18 will know. Silence is golden. Okay. If he
19 doesn't know something, he won't answer.

20 MR. COLLINS: All right.

21 CHAIRPERSON HOOD: Okay.

22 MR. COLLINS: Let me ask you one

1 last question. Well, strike that.

2 Do you believe as an expert
3 architect in urban design that the
4 development of the hotel PUD as proposed
5 would irrevocably impair the development
6 rights of your client's property?

7 MR. BENNETT: I don't know.

8 MR. COLLINS: So, you neither
9 agree nor disagree with that statement?

10 MR. BENNETT: I don't -- I don't
11 know.

12 MR. COLLINS: Okay. Does your
13 client, to your knowledge, hold any easement
14 for light and air across the hotel site?

15 MR. BENNETT: I don't know.

16 MR. COLLINS: Okay. Is there, to
17 your knowledge, any kind of common-law right
18 to receive light and air from an abutting
19 property?

20 MR. BENNETT: I don't know.

21 MR. COLLINS: Does the D.C.
22 Building Code require natural light and

1 ventilation for office buildings?

2 MR. BENNETT: Yes.

3 MR. COLLINS: It does? That's
4 your testimony?

5 MR. BENNETT: I have not done a
6 detailed analysis of light and air of this
7 project. I'm just addressing the massing.

8 MR. COLLINS: Well, I'm -- you're
9 an experienced architect in D.C. You've
10 testified that you've done a number of
11 buildings in D.C. So, you must know the
12 building code.

13 Does the building code require
14 natural light and natural ventilation for
15 office buildings?

16 MR. BENNETT: I'm not address --
17 I'm here as an expert in urban design. I'm
18 not a mechanical engineer.

19 MR. COLLINS: Certainly an urban
20 design --

21 CHAIRPERSON HOOD: That was his
22 answer.

1 MR. COLLINS: Okay. Got it.

2 CHAIRPERSON HOOD: Let's move to
3 the next question. We've been around
4 enough. We know how to take answers in.
5 So, you can just go with your next question.

6 MR. COLLINS: All right. Thank
7 you. I have no more questions of Mr.
8 Bennett.

9 I have a couple for Mr. Hagerty.
10 Some of these have been testified to
11 already.

12 You testified previously that
13 your client, Sandi Holdings, Inc., purchased
14 the property about a year ago. Is that
15 right?

16 MR. HAGERTY: Yes, that's
17 correct.

18 MR. COLLINS: Maybe we should --

19 CHAIRPERSON HOOD: You don't mind
20 sharing with him. Do you, Mr. Collins? You
21 can go back and forth. Forget it. Forget
22 it.

1 MR. COLLINS: And you testified
2 that the purchase price was \$7.95 million?

3 MR. HAGERTY: That's right.

4 MR. COLLINS: Okay. All right.
5 Do you know what the assess value of the
6 property is?

7 MR. HAGERTY: Yes.

8 MR. COLLINS: Could you tell us?

9 MR. HAGERTY: It is -- I think
10 the proposed -- do you want the proposed
11 assessment or --

12 MR. COLLINS: Sure. Proposed is
13 fine.

14 MR. HAGERTY: Seven million nine
15 hundred and fifty thousand three hundred and
16 forty dollars.

17 MR. COLLINS: Okay. So, that's
18 about the same as the purchase price?

19 MR. HAGERTY: That's right.

20 MR. COLLINS: Okay. In your
21 letter of February 11th, you claim that the
22 development rights -- your development right

1 would be irrevocably impaired by this
2 proposed element. Is that right?

3 MR. HAGERTY: Yes.

4 MR. COLLINS: In what way?

5 MR. HAGERTY: We believe that the
6 -- you know, we were talking about light and
7 air. We think that that would be impaired
8 by not having a setback. We were -- we were
9 concerned about the exhaust fumes and the --
10 and the design of that and its affect on --
11 possible affect on the building. We -- you
12 know, it -- the -- the -- we could not -- I
13 think from a design perspective, we would
14 like to go to 110 feet or have the option to
15 go up to the 130 or 40 feet that they're
16 going up so we could be contiguous and --
17 and so -- and we accordingly also believe
18 that the law with regard to setbacks -- a
19 setback of -- again, so our party wall would
20 enhance the value of our property.

21 MR. COLLINS: So --

22 MR. HAGERTY: In accordance with

1 the regulation in the case.

2 MR. COLLINS: So, assuming that
3 the regulation would require the setback,
4 your property value would be enhanced if
5 there was a setback?

6 MR. HAGERTY: That's correct.

7 MR. COLLINS: And that's how your
8 development right would be irrevocably
9 impaired? That's your answer?

10 MR. HAGERTY: Along with -- yes,
11 sir, and along with the natural air and
12 light that we talked about before.

13 MR. COLLINS: Okay. Did you ever
14 speak with the Applicant or you or your
15 client ever speak with the Applicant or any
16 representative of the Applicant about your
17 concerns?

18 MR. HAGERTY: Yes.

19 MR. COLLINS: Were there any
20 meetings, correspondence?

21 MR. HAGERTY: There were
22 meetings. There were a couple of meetings

1 that -- that we had.

2 MR. COLLINS: Do you recall when
3 the last meeting was?

4 MR. HAGERTY: Thursday, midday.

5 MR. COLLINS: Of last week?

6 MR. HAGERTY: Correct.

7 MR. COLLINS: I see. Was there
8 any correspondence that came out of that
9 meeting?

10 MR. HAGERTY: It was a -- at the
11 request of the Applicant, I sent over a
12 preliminary draft of an agreement that was a
13 settlement document. So, yes.

14 MR. COLLINS: Okay. I've handed
15 you and I'll wait for Mr. Freeman to give to
16 the Members of the Commission.

17 I've given a letter that appears
18 to be a draft on your letterhead addressed
19 to John Wood Bolton, Jr. dated February 21.
20 Is that a letter that you authored?

21 MR. HAGERTY: Yes.

22 MR. COLLINS: Okay. So, in that

1 letter, you offered to withdraw your
2 opposition under certain circumstances. Is
3 that correct?

4 MR. HAGERTY: It was a
5 preliminary draft document and it was going
6 to form the basis of a discussion that never
7 took place, but yes.

8 MR. COLLINS: And in that -- in
9 this letter, paragraph one talks about
10 formation of a partnership between the two
11 entities.

12 MR. HAGERTY: That's what Mr.
13 Bolton had proposed.

14 MR. COLLINS: I see. Okay. And
15 then there would be an option agreement that
16 was to be signed by 11:00 today or your
17 offer would be terminated. Is that right?

18 MR. HAGERTY: Yes.

19 MR. COLLINS: Okay. And at the
20 time of signing that option agreement, the
21 Applicant was to pay you a non-refundable
22 cash deposit of half a million dollars.

1 MR. HAGERTY: It's blank. It was
2 subject to negotiations. A preliminary
3 draft.

4 MR. COLLINS: Okay.

5 MR. HAGERTY: This wasn't entered
6 into. I mean this is really -- it's a
7 settlement agreement that was never entered
8 into. So, I don't know what evidentiary
9 value it has.

10 MR. COLLINS: Well, it's your
11 proposal.

12 MR. AGUGLIA: I would object to
13 this whole --

14 CHAIRPERSON HOOD: I'm going to
15 object myself to the whole thing. Because,
16 first of all, I don't -- did you testify to
17 this?

18 MR. AGUGLIA: No.

19 MR. COLLINS: He testified as to
20 discussions and I asked him -- he said that
21 he had discussions. They never went
22 anywhere. I asked him about the discussions

1 and I asked him what was the result of those
2 discussions.

3 CHAIRPERSON HOOD: Well,
4 obviously, from reading number two right
5 quickly, this is null and void now. Right?

6 MR. COLLINS: Well, it's -- Mr.
7 Hood, it is a proposal that this opponent
8 gave -- right.

9 CHAIRPERSON HOOD: And it has --
10 okay. So, let me ask you a question. What
11 does this have to do with where we are?
12 Explain to me. Where -- what is your point?
13 Get to your point.

14 MR. COLLINS: Here's the point.
15 The point is paragraph number five. Okay.
16 The paragraph number says that provided
17 Perseus has delivered the initial cash
18 deposit to Sandi, that's a half million
19 dollars, by expiration date which is today,
20 Sandi will withdraw its opposition to the
21 PUD and execute any reasonable letter in
22 support of the PUD for delivery to the

1 Zoning Commission.

2 My point is this. All this is is
3 about money. There's -- if you read this
4 draft that Mr. Hagerty offered, there is no
5 obligation on either party to do anything
6 after my client delivers half a million
7 dollars and he writes a letter of support.

8 COMMISSIONER ETHERLY: Mr. Chair,
9 I'll --

10 MR. COLLINS: That's what it's
11 all about.

12 COMMISSIONER ETHERLY: -- agree
13 with, I think, the direction of your
14 inquiry. I understand I think the point
15 you're trying to make, Mr. Collins, but I
16 tend to think that this is well outside of
17 the scope of what we need to be dealing
18 with. The motivations, the subtext, the
19 back story, I could care less about and
20 that's not to say that you might have a
21 valid point in another forum, but, Mr.
22 Chair, I would tend to agree with the

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1 direction of your question. I don't think
2 this is relevant or pertinent to what we're
3 -- to the inquiry that is before us.

4 MR. COLLINS: With all due
5 respect, sir, it goes to the credibility of
6 the witness.

7 The witness has hired an
8 architect, has hired a lawyer all at the
9 last minute to try and get some leverage and
10 they're testifying about adverse impacts
11 here which cannot be quantified and then
12 they delivered a proposal that says if you
13 pay me a half million dollars, I'll go away.

14 COMMISSIONER ETHERLY: I
15 understand, but I think my posture is fairly
16 clear on this one, Mr. Chair. Thank you.

17 CHAIRPERSON HOOD: Okay. Thank
18 you.

19 VICE-CHAIRPERSON JEFFRIES: And
20 let me -- let me chime in. I agree with
21 both the Chair and Commissioner Etherly.
22 This is a preliminary draft. This is a

1 sideshow.

2 You know, Mr. Collins, you've
3 asked questions. You have made your point
4 in several different places. This is more
5 than icing on the cake. It's just not
6 helpful.

7 I mean I understand you're trying
8 to get to the creditability here, but you've
9 already done that based on what has been
10 presented to this Commission in terms of
11 their testimony and so forth. So, this is
12 not helpful.

13 MR. AGUGLIA: Just for the
14 record. Thank you. Just for the record, it
15 was Mr. Hood who asked Mr. Hagerty if there
16 was any attempt to settle. That's where it
17 came in. It was never brought up by me and
18 I didn't get --

19 CHAIRPERSON HOOD: Oh, so, it was
20 my fault. Okay. I'll take the blame.

21 MR. AGUGLIA: And do we want to
22 get into the MOU and the payments to the

1 ANC? Do we want to go there? No.

2 CHAIRPERSON HOOD: Okay. Any
3 other questions, Mr. Collins? Any other
4 cross? Mr. Collins?

5 MR. COLLINS: I'm checking.

6 CHAIRPERSON HOOD: Yes, he --
7 yes.

8 MR. COLLINS: No, thank you.

9 CHAIRPERSON HOOD: Okay. All
10 right.

11 MR. AGUGLIA: Thank you.

12 CHAIRPERSON HOOD: Okay. Any
13 other cross? All right. Put up my --

14 MR. AGUGLIA: It was my fault
15 that there were not enough copies of the
16 PowerPoint presentation. I will deliver a
17 point to --

18 CHAIRPERSON HOOD: It was just --

19 MR. AGUGLIA: -- and it was my
20 fault.

21 CHAIRPERSON HOOD: -- my
22 colleagues expressed an interest to engage

1 and we were at a disadvantage and this late
2 hour. So.

3 MR. AGUGLIA: Yes. Yes, sir.

4 CHAIRPERSON HOOD: Okay. If you
5 can just provide that. Thank you.

6 CHAIRPERSON HOOD: Okay. Mr.
7 Collins, if we can do any rebuttal or
8 closing. About how much time do you think,
9 Mr. Collins?

10 MR. COLLINS: Ten minutes we'll
11 be done.

12 Mr. Romer, a couple of questions.
13 The -- you heard the points that were
14 testified to by the architect regarding the
15 impact on the adjoining property. Impact of
16 this development on the adjoining property.

17 Do you agree with his
18 conclusions? The architect's conclusions?

19 MR. ROMER: I believe that the
20 attempt that was made to do an urban
21 analysis for the building, for the height,
22 for the context was -- falls very short for

1 what it should be. It's very difficult to
2 look at what's been presented and come out
3 with any sort of conclusion. So, I
4 completely disagree that the reasoning
5 behind it had any credibility to the point
6 of whether or not the building was
7 urbanistically proper for that site.

8 MR. COLLINS: Thank you. Mr.
9 Sher, you heard the testimony of the
10 opponents including the architect. Do you
11 have any comments on the submissions?

12 MR. SHER: Just a couple of quick
13 things. I know you don't have this in front
14 of you. This map is wrong. Okay. Mr.
15 Aguglia made a big deal about talking about
16 the boundaries of the CR District as
17 originally adopted and outlined -- had his
18 architect outline them in red. Those
19 boundaries are wrong.

20 The CR District includes more
21 property than is shown on this map. You'll
22 get a -- you can go look at the Zoning Map

1 or you can get the history. It's just
2 wrong.

3 The second thing, the photographs
4 have gone up and down the block and said
5 these are all 90-foot buildings. If you
6 went right up 25th Street where you just
7 approved the 110-feet height on the two BNA
8 building reconstructions and just ride by
9 that. That's within 2007. Within a year.
10 So, that piece of it is wrong.

11 I don't personally understand
12 what difference it makes for figuring out
13 context for the development whether this
14 side of M Street is zoned CR and this side
15 of M Street was zoned CR at a later date.
16 It is an existing building. It's out there.

17 By these photographs, you can't
18 tell it's out there because he didn't bother
19 to turn around and look across the street,
20 but if you go out there and stand at the
21 corner of 22nd of M, you're going to see
22 right across the street 110-foot high hotel.

1 You're going to find all these
2 other buildings that I've referenced in here
3 as being 110-feet height with the exception
4 of the two that have been approved, but not
5 yet built, they're there. The context is
6 there.

7 This neighborhood is a bunch of
8 different heights predominantly high rise.
9 There are some smaller buildings that are in
10 the process of being redeveloped. The BNA
11 buildings are smaller buildings that are
12 getting added to. These buildings will be
13 demolished and replaced with a bigger
14 building should you approve same.

15 Other projects over the years
16 since the CR was adopted in 1974. The
17 neighborhood has gradually become exactly
18 that which was envisioned. A high-rise
19 mixed-use neighborhood.

20 I don't see this building being
21 out of context with that neighborhood.

22 I don't think that this -- the

1 representation on -- there's no even a page
2 number on this one. It's the page -- I
3 guess it's page 19. The last page of that
4 building. I don't think that's an accurate
5 representation of the design of the building
6 as it was shown earlier.

7 Clearly, the -- the scoring and
8 other things don't show the differentiation
9 in color of the roof structure. It doesn't
10 show -- I don't know where that came from,
11 but I don't think that's an accurate
12 representation of what Mr. Romer showed
13 before.

14 I know Mr. May was concerned
15 about whether you could see the scoring if
16 the depth was only about an inch, but I
17 don't think this is an accurate
18 representation.

19 With respect to whether that
20 representation is a good thing or a bad
21 thing as Mr. Collins was asking before,
22 there are conditions all over the District

1 of Columbia particularly in neighborhoods
2 that have been designated for high-rise
3 development where you have low buildings
4 that are sitting there next to high
5 buildings that are being redeveloped already
6 and those high building walls are often not
7 particularly finished. They're -- they're
8 walls that are eventually going to be
9 abutted by another building and maybe that
10 building goes all the way up and maybe steps
11 back because the other owner wants to step
12 back, but I think that in general the
13 facades of the public sides of this
14 building, the M Street and the 22nd Street
15 facades, have been attended to by great --
16 in great detail by the architect.

17 If there's something more you
18 want us to do for the other facades, we're
19 happy to look at that.

20 I think I'm done.

21 MR. COLLINS: I'd just to submit
22 one more document in rebuttal and it's a

1 case from the D.C. Court of Appeals called
2 Hefazi, that's H-E-F-A-Z-I, v. Stiglitz, S-
3 T-I-G-L-I-T-Z, case from 2004, the Court of
4 Appeals and when you receive it, if you
5 would please look at page 16.

6 Page 16 is where the court in
7 that case gives their view of the law on
8 light and air for neighboring properties.

9 VICE-CHAIRPERSON JEFFRIES: It's
10 page 16?

11 MR. COLLINS: Page 16. Yes.

12 And this is a case where there
13 were two abutting owners in Georgetown. The
14 facts of that case really don't need to be
15 gotten into because what the court in this
16 on page 16 is talking about is what is the
17 law in the District of Columbia about light
18 and air of one property over another
19 property.

20 And they say, I'm quoting here,
21 "It is well settled that a negative easement
22 cannot be created by prescription. A

1 negative easement can only be granted by
2 express grant." And they quote a treatise
3 and then it says -- the quote is "An
4 easement in the unobstructed passage of
5 light and air cannot be acquired by
6 prescription. American courts have wisely
7 refused to allow the acquisition of
8 prescription of easements for light and air.
9 In fact, this is the rule now established in
10 all American states with the single
11 exception" and they cite Delaware. "This
12 rule flows from the basic principle that the
13 actual enjoyment of air and light by the
14 owner of the house is upon his own land only
15 and that the owner of the adjoining lands
16 has submitted to nothing which actually
17 encroached upon his rights."

18 As claimed here, the point is the
19 owner -- the Applicant does not owe the
20 abutting owner any light and air for his own
21 property. He finds his light and air on his
22 own property. That's what that stands for.

1 The only thing that the
2 opposition's architect could identify as an
3 adverse impact was light and air and that's
4 what the Applicant -- the opponent himself,
5 Mr. Hagerty mentioned.

6 Finally, one more point, on DDOT,
7 we do appreciate Mr. Ziemann's offer to work
8 with us. I believe there might have been
9 some confusion on documents because he did
10 in his report refer to a plan that showed
11 cars blocking the sidewalk and we did not
12 have any cars blocking the sidewalks in our
13 plan.

14 So, we'd like to actually sit
15 down with them and talk about that.

16 So, what we'd like to do is --
17 there are certain items we need to submit to
18 the record, but we'd also like some time to
19 work with DDOT. I'm not sure at this point
20 how long that might take.

21 VICE-CHAIRPERSON JEFFRIES: We
22 did actually see a couple of -- from a prior

1 drawing, I believe there were some cars that
2 were right outside the elevator vehicle. I
3 think it was December or whatever.

4 MR. COLLINS: Okay. I'm sorry.
5 The most recent set of plans. So, I'm
6 saying we're working from different sets.
7 The more recent set did not show that.

8 So, we'd like an opportunity.
9 So, we're assuming that -- we really need to
10 get a date to sit down with them and see,
11 you know. So, it's going to depend on that.
12 I'm hoping we can get it done in 30 days.
13 But, at this point, I don't know. We could
14 shoot for 30 days and see how it goes.

15 CHAIRPERSON HOOD: Well, we were
16 proposing that a decent request would be due
17 by 3:00 p.m. March the 17th. Responses
18 there by parties due by 3:00 p.m. March
19 24th.

20 If parties choose to provide
21 draft findings of facts and conclusions of
22 law, they will be due March 24th and we

1 anticipate trying to deal with this at our
2 April 14th meeting.

3 Is that too soon?

4 MR. COLLINS: Well, it all
5 depends on how much time it takes us to get
6 with OP. March 17th, I would love to say
7 yes. But, March 17th is three weeks away
8 and assumes that we can get together and
9 work something out and I just maybe defer to
10 -- well, the one unknown here is how quickly
11 we can get a meeting with DDOT. We're
12 prepared to meet tomorrow, but I don't know
13 whether they are.

14 CHAIRPERSON HOOD: Okay. What
15 we'll do is tentatively -- you know, I'm
16 trying to think how we can do this. Let's
17 tentatively go with the schedule and if it
18 changes, you just submit asking for
19 additional time. Can we do that?

20 MR. COLLINS: I assume, yes.

21 CHAIRPERSON HOOD: But, then
22 we'll have to rework the schedule and I

1 guess we'll just have to do some more
2 advertizing.

3 Mr. Aguglia, if you're going to
4 comment on light and air, we're not --

5 MR. AGUGLIA: No, sir.

6 CHAIRPERSON HOOD: Okay.

7 MR. AGUGLIA: No, sir.

8 CHAIRPERSON HOOD: It's about --
9 oh --

10 MR. AGUGLIA: No, on the
11 schedule. That's all.

12 CHAIRPERSON HOOD: Okay.

13 MR. AGUGLIA: 3/17 for any
14 further submissions by any party -- by
15 either parties?

16 CHAIRPERSON HOOD: Do we have
17 cross on rebuttal?

18 MR. AGUGLIA: No, sir.

19 CHAIRPERSON HOOD: Okay. Okay.

20 I didn't think so. Okay. Anyway, I want to
21 make sure because --

22 MR. AGUGLIA: No.

1 CHAIRPERSON HOOD: -- we had a
2 whole another hearing because I forgot to do
3 something, but anyway.

4 MR. AGUGLIA: March 17th is open
5 for any of the parties to submit additional
6 material?

7 MS. SCHELLIN: No, the March 17th
8 date is only for -- unless the Commission
9 leaves the record open for everything, it's
10 only for the items they requested. The
11 additional documents.

12 CHAIRPERSON HOOD: I'm sorry.

13 MR. AGUGLIA: I was going to
14 suggest that you also request, you know,
15 legal briefing on the setback issue and the
16 light and air issue.

17 CHAIRPERSON HOOD: Okay. That's
18 fine. Yes, we'll do that. Can we run that
19 -- so, we're going to stick with that
20 schedule?

21 MR. COLLINS: Okay.

22 CHAIRPERSON HOOD: Okay. Can we

1 run down a list of what we asked for or what
2 was asked for? What to do?

3 MS. SCHELLIN: I have a couple
4 notes here. Mr. Jeffries wanted a better
5 sense of the traffic impact the project will
6 have going north on 22nd. He also asked for
7 a section of the green wall. How does it
8 work mechanically?

9 Mr. May added to that talking
10 about the green wall, on 22nd Street, he'd
11 like to see an elevation of the opposite
12 wall.

13 And I -- so, I'm not sure if he
14 got his answer on the legal interpretation.
15 Not treating the party wall as the exterior
16 wall. Needing the setback. I think sounds
17 like we might need some --

18 COMMISSIONER MAY: I think the
19 Applicant is probably going to submit
20 something on that.

21 MS. SCHELLIN: Yes. Right and I
22 don't think we have that yet.

1 Then there was a question
2 regarding the easement granted for the alley
3 between 22nd and 23rd. I think that got
4 answered.

5 Mr. Jeffries asked for a blow-up
6 of the truck circulation to and from the
7 loading berth areas.

8 Mr. Hood asked regarding the
9 amenities, that they be fleshed out because
10 the ANC -- the MOU can't be included. So,
11 those conditions need to be in the order and
12 reminded the Applicant the ANC can't receive
13 money.

14 And then the last thing, the
15 legal briefing regarding light and air.

16 CHAIRPERSON HOOD: Thank you.

17 COMMISSIONER TURNBULL: Didn't we
18 ask for something about level of service in
19 the alley or did you mention -- future.

20 CHAIRPERSON HOOD: No, we want to
21 start with this one.

22 COMMISSIONER TURNBULL: I thought

1 -- I --

2 CHAIRPERSON HOOD: We said we
3 want to start with this.

4 COMMISSIONER TURNBULL: --
5 thought that's --

6 CHAIRPERSON HOOD: We actually
7 probably need to start with this --

8 COMMISSIONER TURNBULL: I thought
9 Mr. --

10 CHAIRPERSON HOOD: Did you agree?
11 You asked for it. Level service in the
12 alley.

13 COMMISSIONER MAY: The thing
14 about level of service in the alley is that
15 I don't think the Applicant wants to do
16 anything in the alley. So, I think that if
17 DDOT -- if the deal in the end that's made
18 with the DDOT involves bringing cars through
19 the alley, then I think that we need to see
20 that level of service analysis.

21 VICE-CHAIRPERSON JEFFRIES:
22 Unless the Applicant can make the case that

1 it would just be too intensive to, you know,
2 to --

3 COMMISSIONER MAY: But, they can
4 work that out with DDOT. We don't need to
5 decide that.

6 VICE-CHAIRPERSON JEFFRIES: Are
7 we going to --

8 COMMISSIONER TURNBULL: But, if
9 they don't reach an agreement, then --

10 CHAIRPERSON HOOD: Then we're
11 going to have to make a decision.

12 COMMISSIONER MAY: Then DDOT
13 might not want -- might want to do that
14 analysis anyway.

15 CHAIRPERSON HOOD: Right. Okay.
16 Anything else?

17 VICE-CHAIRPERSON JEFFRIES: I
18 just wanted to make certain in terms of the
19 things that I requested. I mean really it's
20 just a blow-up. Just need to get very clear
21 on, you know, some of the hot spots in terms
22 of this lay-by and then the loading dock

1 area and then just a blow-up of the section
2 of the green lung and just understanding how
3 it's maintenance -- how it's maintained and,
4 you know, that kind of -- thank you.

5 CHAIRPERSON HOOD: All right.
6 Anything else? Is everyone on -- we on the
7 same page.

8 MR. COLLINS: OP asked for some
9 additional submissions, too.

10 CHAIRPERSON HOOD: OP.

11 MR. COLLINS: On signage and
12 things.

13 CHAIRPERSON HOOD: Do we know
14 what OP -- if you want -- do you think we
15 need to reiterate that, Mr. Cochran? I'm
16 sure you all will be talking. So. Did you
17 want to reiterate some of the things that
18 you asked for?

19 MR. COCHRAN: No, sir.

20 CHAIRPERSON HOOD: Okay. All
21 right. That's it. Anything else?
22 Commissioner Jeffries.

1 VICE-CHAIRPERSON JEFFRIES: Yes,
2 could everyone wish our Chair a happy
3 birthday. He spent the full day as a public
4 servant and he has a few minutes left on his
5 birthday. So, happy birthday, Chair.

6 CHAIRPERSON HOOD: Thank you.
7 That was real nice of you. Maybe I can --
8 all right. Well, if there's nothing else,
9 this hearing is adjourned.

10 (Whereupon, the hearing was
11 adjourned at 11:44 p.m.)
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