

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Public Hearing

Case No. 11-03F [Wharf District Master Developer,
LLC. - First Stage PUD Modification and Second-Stage
PUD for Southwest Waterfront Redevelopment, Pier 4.]

6:35 p.m. to 8:16 p.m.

Thursday, May 26, 2016

Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220 South
Washington, D.C. 20001

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1 Board Members:

2 ANTHONY HOOD, Chairman

3 MARCIE COHEN, Vice Chair

4 PETER MAY, Commissioner

5 ROBERT MILLER, Commissioner

6

7 Office of Zoning:

8 SHARON SCHELLIN, Secretary

9

10 Office of Planning:

11 JOEL LAWSON

12 MATT JESICK

13

14 DDOT:

15 RYAN WESTROM

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

2 CHAIRPERSON HOOD: Okay. We're ready to get
3 started. Okay. Good evening, ladies and gentlemen.
4 This is the public hearing of the Zoning Commission
5 for the District of Columbia. Today's date is March
6 (sic) the 26th, 2016. It's about 6:35 p.m. in the
7 evening. We're located in the Jerrily R. Kress
8 Memorial Hearing Room.

9 My name is Anthony Hood. Joining me are Vice
10 Chair Cohen, Commissioner Miller, and Commissioner
11 May. We're also joined by the Office of Zoning
12 staff, Ms. Sharon Schellin, the Office of Planning
13 staff, Mr. Lawson and Mr. Jesick, the District
14 Department of Transportation, Mr. Westrom.

15 This proceeding is being recorded by a court
16 reporter. It's also webcast live. Accordingly, we
17 must ask you to refrain from any disruptive noises or
18 actions in the hearing room, including the display of
19 any signs or objects. Notice of today's hearing was
20 published in the D.C. Register and copies of that
21 announcement are available to my left on the wall
22 near the door.

23 The hearing will be conducted in accordance
24 with provisions of 11 DCMR 3022 as follows,
25 preliminary matters, applicant's case, report of the

1 Office of Planning, report of other government
2 agencies, report of the ANC, organizations and
3 persons in support, organizations and persons in
4 opposition, rebuttal and closing by the applicant.

5 The following time constraints will be
6 maintained in this meeting. The applicant has up to
7 60 minutes. We don't believe that they need 60
8 minutes. Organizations five minutes, individuals
9 three minutes.

10 All persons appearing before the Commission
11 are to fill out two witness cards. These cards are
12 located to my left on the table near the door.
13 Please turn off all electronic devices at this time
14 so as not to disrupt these proceedings. And I will
15 again mention that the Zoning Commission is now in
16 their summer attire uniform for the next few months.

17 Would all individuals wishing to testify, and
18 you're welcome to join us if you come back for later
19 hearings or meetings.

20 Would all individuals wishing to testify
21 please rise to take the oath? Ms. Schellin, would
22 you please administer the oath?

23 MS. SCHELLIN: Yes, please stand, Mr. Solon,
24 if you're going to testify you need to stand, take
25 the oath. Raise your right hand, please.

1 [Oath administered to the participants.]

2 MS. SCHELLIN: Thank you.

3 CHAIRPERSON HOOD: Okay. At this time the
4 Commission will consider any preliminary matters.
5 Does the staff have any preliminary matters?

6 MS. SCHELLIN: Yes, sir. At Exhibit 24 we
7 have a party status request from Mr. Solon in
8 opposition. The applicant has submitted a response
9 in opposition to his request at Exhibit 28. Ask the
10 Commission to consider Mr. Solon's request.

11 CHAIRPERSON HOOD: Okay. Commissioners, as
12 stated, we have a party -- a request for a party in
13 opposition from Mr. Solon. That's at Exhibit 28. As
14 well as the letter in opposition to that request, and
15 I'm looking to see what exhibit that is. I know I
16 passed it. So it was closer --

17 MS. SCHELLIN: Twenty-four.

18 CHAIRPERSON HOOD: Twenty-four. Okay. Thank
19 you. All right. So 24 is -- the request for party
20 status, I'm sorry, is 24. And the letter, the
21 response from the applicant who opposes us granting
22 party status is 28. So at this time let me open it
23 up for any questions or comments.

24 I will just say, though, I think that the
25 applicant made a strong case. And when I look at

1 what was submitted by Mr. Solon, and our regulations
2 are clear, it talks about uniquely affected and it
3 looks like he is actually basically with the general
4 public as far as what's affecting him in this
5 particular case. I don't think he's any more
6 uniquely affected than the rest of the community.
7 So, let me open it up to anyone else; any other
8 comments. Vice Chair Cohen.

9 MS. COHEN: Thank you, Mr. Chairman. Again,
10 I concur with your analysis that the applicant made a
11 very compelling statement that Mr. Solon is not
12 significantly, distinctly, or uniquely affected by
13 the applicant. So, I would deny him party status,
14 but of course will listen to his objections at the
15 appropriate time.

16 CHAIRPERSON HOOD: Okay. Any other comments
17 on that. Any objection. Commissioner May?

18 MR. MAY: I would just agree with the Chair
19 and the Vice Chair.

20 CHAIRPERSON HOOD: Okay.

21 MR. MILLER: And same.

22 CHAIRPERSON HOOD: Okay. So with that I
23 would move that we deny Mr. Solon party status, but
24 as always we listen to his comments and his testimony
25 at the appropriate time and ask for a second.

1 MS. COHEN: Second.

2 CHAIRPERSON HOOD: Been moved and properly
3 seconded. Any further discussion?

4 [Vote taken.]

5 CHAIRPERSON HOOD: Ms. Schellin, would you
6 record the vote?

7 MS. SCHELLIN: Yes, sir. Staff records the
8 vote four to zero to one to deny party status to Gene
9 Solon in opposition, Commissioner Hood moving,
10 Commissioner Cohen seconding, Commissioners May and
11 Miller in support of denial, Commissioner Turnbull
12 not present, not voting.

13 CHAIRPERSON HOOD: Okay. Ms. Schellin, I
14 think we have some -- anything else before I go to
15 proffered witnesses?

16 MS. SCHELLIN: Yes, that was what I was going
17 to go to next. There's only Mr. Schiesel and Mr.
18 Dettman have been proffered before, but I'm not sure
19 if they're going to be testifying. I'll leave that
20 to Mr. Glasgow. And then Mr. McGraw has not been here
21 before so that's the one that I'd ask that you guys
22 look at his resume.

23 CHAIRPERSON HOOD: Okay. And Mr. McGraw is
24 being proffered as an expert in architecture.

25 MR. GLASGOW: That is correct, Mr. Chairman.

1 MR. MAY: I'm sorry. For some reason I
2 missed that exhibit. Which one is it?

3 CHAIRPERSON HOOD: Do we know right off?
4 We're all having some problems with our equipment.
5 So do we know right off which exhibit that is?

6 Is it 16D?

7 MR. MAY: There we go. Yeah.

8 CHAIRPERSON HOOD: Sixteen -- yeah, there it
9 is. There it is, 16D.

10 MR. MAY: Yeah. Well, it certainly has nice
11 pictures of Mr. McGraw.

12 CHAIRPERSON HOOD: Mines hasn't opened up
13 yet. Has yours opened up? Okay, there it is.

14 [Discussion off the record.]

15 CHAIRPERSON HOOD: I thought we were having
16 technical difficulty but I guess we're having
17 operator's problems also. I have them too. I'm an
18 operator.

19 [Discussion off the record.]

20 CHAIRPERSON HOOD: Okay. So any objections?

21 MS. COHEN: No.

22 MR. MAY: No.

23 CHAIRPERSON HOOD: Okay. He's licensed.
24 Okay. All right. So we will accept Mr. McGraw as an
25 expert in architecture. Anything else?

1 MS. SCHELLIN: Are you going to accept the
2 [speaking off mic].

3 CHAIRPERSON HOOD: Who? The other two?

4 MS. SCHELLIN: Yeah.

5 CHAIRPERSON HOOD: We've already accepted the
6 other two previously, right? So I don't think we --

7 MR. GLASGOW: That is correct.

8 CHAIRPERSON HOOD: We don't usually go back
9 on what we've already done, so if the other two are
10 being proffered we'll accept them too. I don't think
11 anyone wants us to -- we're not going to revisit
12 that. Okay. Anything else? Okay. Well, we're
13 ready to get started.

14 MR. GLASGOW: Thank you, Mr. Chairman. Good
15 evening. For the record my name is Norman M.
16 Glasgow, Jr. of Holland and Knight. Here with me
17 this evening are Mr. Shawn Seaman on behalf of the
18 applicant, and Ms. Gabby Riegler is also here, and
19 Adam McGraw, the architect for the project.

20 And we will proceed very quickly that on an
21 overall basis comparing first -- excuse me, that from
22 the first stage PUD the property was a 45,000 square
23 foot residential building. Then at setdown we had
24 about a 36,000 square foot office marina type
25 building. And it had been reduced a couple feet in

1 height. And now we have had a lot of -- in response
2 to comments that the Commission had, which were very
3 similar to comments that we've received from the
4 Commission of Fine Arts, whose support we now have
5 and I think that's in the record. We wanted to go
6 through how we have responded since setdown to the
7 comments that the Commission had, and the Commission
8 of Fine Arts has.

9 And then I can turn it over to Shawn, but did
10 you want to please speak for a second? And then we
11 would turn it over to the architect, Adam McGraw.

12 MR. SEAMAN: Sure. Good evening. My name is
13 Shawn Seaman. I'm a principle with PN Hoffman, the
14 project director for the Southwest Waterfront for
15 Hoffman Madison Waterfront. And I'll go a bit off
16 script here. We're going to do a little before and
17 after for the last five years of the evolution of
18 Pier 4.

19 The stage 1 planned unit development was
20 approved in October 2011. At that time Pier 4 was
21 put forward as a residential building. It was 45
22 foot building and it had a 60-foot architectural
23 embellishment out at the extreme end of the pier, and
24 it had parking internal to the building as sort of a
25 townhouse setup with condominium units facing out,

1 private boat slips.

2 We took that plan and started to advance it
3 through the Army Corps of Engineers permitting
4 process. And despite having ANC support and support
5 of the community groups in the adjacent area,
6 individual petitioners wrote to the Army Corps and
7 caused concern regarding navigation and impacts of
8 the residential pier and ultimately the Army Corps
9 denied residential use out over the water and allowed
10 us to keep the existing commercial use on the pier
11 and a building up to 55 feet.

12 So after they took away the residential as an
13 option, if you go to the next slide, when we started
14 moving forward with the stage 2 PUDs in 2012, you'll
15 remember that we cut the site up into the overall
16 elements which were basically the horizontal ground
17 plane and the parks and then the marinas. And then
18 we started doing building by building from the north
19 to the south end of the site. And at that time we
20 had been through the process with the core and
21 started to make adjustments to the illustrative plan
22 which you can see here. So we actually increased the
23 gangplank marina to allow for the live-aboards to
24 move further south in the channel, and then we
25 consolidated all of the boat operations on to Pier 4.

1 So currently, today, Pier 4 is the home to
2 the two Spirit vessels and the Capitol Elite, so
3 there's three boats parked there and currently today,
4 if you're familiar with the Cantina Marina on Pier 3,
5 the Odyssey loads at Pier 3. Pier 3 is in completely
6 disrepair and needs to be rebuilt. So the plan now
7 is to remove the existing Pier 3. And you'll see
8 some of that in our stage twos for phase 2 that come
9 forward in the next 12 months. But remove Pier 3 and
10 then the Odyssey and Spirit are co-located on to Pier
11 4. So those are the designs that we began advancing
12 in 2012.

13 In the fall of 2015 we submitted for our
14 stage 2 on Pier 4, and that was the setdown that we
15 ultimately had in February. That building that you
16 see there is what we came forward with. It was a
17 three-story office building. As Chip mentioned, I
18 think it was 36,000 square feet.

19 We got a range of comments from the
20 commissioners, we got a range of comments from the
21 Office of Planning, from the ANC and the community,
22 and also from the Commission of Fine Arts and we had
23 a couple productive sessions with CFA staff. We made
24 some adjustments to the building and ultimately in
25 March of this year, received unanimous approval from

1 the CFA for concept and also from the ANC 6D, and
2 maybe, Adam, you can just -- I think you were looking
3 for an explanation of what's different between
4 setdown and today, architecturally. That will be in
5 the larger presentation but Adam can hit the high
6 points, maybe.

7 MR. MCGRAW: Thank you, Shawn. And thank
8 you, my name is Adam McGraw. I'm a principle at
9 McGraw Bagnoli Architects and -- which is the
10 architecture firm on Pier 4 working with PN Hoffman.
11 Some of the comments that the original design
12 received was that it was unfriendly with regard to
13 massing and transparency. There were comments
14 regarding the size of the penthouse structure. There
15 were questions surrounding the choice of fiber cement
16 panels, which were selected for both the entry tower
17 and at the pier level. There was a desire for more
18 detail with regard to the terraces, green roof and
19 exterior lighting. There were comments that the
20 design should be more reflective of the maritime
21 context of the project. And there were some
22 additional questions regarding bicycle parking and
23 LEED, amongst other comments.

24 Here's the current design for the project.
25 The Pier 4 building has been reduced from 45 to 43

1 feet. And the overall gross area has been reduced
2 from 34,700 to 31,900. The entry tower has been
3 reduced by a full story to create a better transition
4 from the existing head house, which is a story and a
5 half structure located at the land side of the pier,
6 which is going to remain to create a transition from
7 the head house up to the new commercial office
8 structure.

9 The finished material on the entry tower has
10 been changed from the cement panel to insulated metal
11 panel. The level one cladding of the pier supports
12 basis has been also changed from the fiber cement
13 panel to a polished concrete block like gemstone.
14 The corners of the building have been rounded to
15 respond to the shape of the existing canopy, to also
16 soften the edges and created what CFA referred to as
17 an appropriate maritime sensibility.

18 The footprint of the third floor has been
19 reduced, and it's also indented from the edges of the
20 building to reduce the massing and visual impact of
21 the structure, as well as the overall amount of glass
22 and store front on the third floor have been
23 increased to create a greater sense of transparency.

24 The mechanical penthouse has also been
25 reduced by 40 percent to -- and also had the corners

1 rounded to reduce the sort of blocky appearance.
2 We've provided landscape and paving plans for the
3 outdoor terraces and green roofs, as well as exterior
4 lighting plans which are later in our presentation.
5 And we have located and identified bicycle parking,
6 as well as updated our LEED status as LEED Gold, is
7 what we're aiming for.

8 Here again you can see the previous setdown
9 design as seen from Harbor Square, where you can see
10 the larger penthouse, the larger massing, and the
11 lower degree of transparency compared with current
12 design where the reduced scale of a third floor again
13 reduces the massing of the building, the increase in
14 storefront at the third floor, increases
15 transparency. There's an increase in the amount of
16 green roof, as well as a decrease in the bulk and
17 size of the penthouse.

18 There's also something to note, is also at
19 the left side of this picture is, you can see the
20 building in relationship to one of the Spirit boats,
21 which are the boats which currently dock at Pier 4
22 and will continue to do so into the current design.

23 MR. GLASGOW: That concludes our direct
24 presentation to give the before and after from the
25 setdown and we're prepared to answer any questions.

1 CHAIRPERSON HOOD: Okay. We thank you for
2 being straight to the point. Let's see if we have
3 any questions or comments. Commissioner May?

4 MR. MAY: Yeah, just a few. Do you have
5 tenants lined up at this point? Do you have an idea
6 who you might be leasing to?

7 MR. HOFFMAN: Sure. Entertainment cruises,
8 which is the consolidated operation of Spirit and
9 Odyssey are taking the first two floors, or most of
10 the second floor. And then it would be a third-party
11 tenant which we haven't identified, for the upper
12 floor.

13 MR. MAY: But it's still going to be
14 essentially just straight office space?

15 MR. HOFFMAN: Yeah. Yeah. I mean, it may
16 serve as a project office until we ultimately lease
17 it to somebody else. But, yeah.

18 MR. MAY: Yeah. Yeah, I'd do that too. Nice
19 space.

20 So the cladding has gone from fiber cement to
21 metal panel?

22 MR. McGRAW: On the entry tower we've changed
23 to insulated metal panel, which is a slightly
24 different color than what we're proposing on the rest
25 of the main body of the building.

1 MR. MAY: Yeah.

2 MR. McGRAW: And then at the actual pier
3 level we're proposing to use a polished concrete
4 block.

5 MR. MAY: Right.

6 MR. McGRAW: Brand name is Gemstone.

7 MR. MAY: Yeah, that's fine. Now, I mean,
8 I'm just a little curious because it seemed to do
9 with a durability issue from the CFA's perspective as
10 I recall, right?

11 MR. McGRAW: The durability, as we understood
12 it, was definitely at the pier level where you have
13 so many passengers walking within close proximity as
14 well as --

15 MR. MAY: Right. Right. And they think
16 metal panel is going to hold up better than a fiber
17 cement panel?

18 MR. McGRAW: The metal panel is located
19 outside the area where ticketed passengers are going
20 to be. Its' in the courtyard area.

21 MR. MAY: Oh.

22 MR. McGRAW: where it's just at the office
23 entry.

24 MR. MAY: Okay. All right. It just seemed
25 to me that the --

1 MR. MCGRAW: If I can stand I'll --

2 MR. MAY: You can stand up but you can't go
3 anywhere because you've got to be on a mic.

4 MR. MCGRAW: Thank you. The only insulated
5 metal panel at the pier level area is located right
6 here at the entry tower. All this level is going to
7 be the polished concrete block, which is adjacent to
8 where --

9 MR. MAY: Okay. Okay. So that's where the
10 real wear and tear issue is, not the front.

11 MR. MCGRAW: Yes. Correct.

12 MR. MAY: Okay. I just, I wouldn't -- I
13 mean, I would not change out to a metal panel on a
14 ground floor if you're concerned about people kicking
15 it because it's -- you know, that will dent faster
16 than the fiber cement panel would chip, but okay.

17 And the ANC had concerns about controls of
18 the use of the terrace and your response, basically
19 was that you know that there have to be these
20 controls and you'd work it out in the lease
21 agreement. And I'm wondering if that's -- if you
22 believe that at this point the ANC is satisfied that
23 they'll be able to address this later. I mean, I'll
24 ask them too but --

25 MR. HOFFMAN: Sure. We were trying to

1 address it tonight.

2 MR. MAY: Yeah.

3 MR. HOFFMAN: We met with Andy Litsky, who
4 is the Chair of and 6D twice. Once yesterday I
5 believe.

6 MR. MAY: Yeah.

7 MR. HOFFMAN: And once this morning.

8 MR. MAY: Uh-huh.

9 MR. HOFFMAN: We've attempted, and I think
10 this has been handed out to the Commissioners. Or if
11 it isn't, Shane can hand it out, but we were --

12 MR. MAY: Yeah, I haven't gotten it yet.

13 MR. HOFFMAN: We were proposing lease
14 restrictions for the third floor tenant.

15 MR. MAY: Yeah.

16 MR. HOFFMAN: That I mean, I think it's
17 primarily going to be used for folks eating lunch or
18 taking breaks outdoors.

19 MR. MAY: Sure.

20 MR. HOFFMAN: But I think Andy's concern is
21 evening events, weekend events, things that are
22 outside the normal use of the office.

23 MR. MAY: I understand, yeah.

24 MR. HOFFMAN: So it would --

25 MR. MAY: The space certainly lends itself to

1 the, you know --

2 MR. HOFFMAN: Yeah. So I can --

3 MR. MAY: -- the evening office party.

4 MR. HOFFMAN: I can read, you know, events on
5 the --

6 MR. MAY: That's okay. I mean, you can just
7 pass that up and we'll look at that.

8 MR. HOFFMAN: Yeah.

9 MR. MAY: And then we'll ask the ANC about
10 it.

11 MR. HOFFMAN: Sure.

12 MR. MAY: We don't need to --

13 MR. HOFFMAN: Yeah. But I mean, we tried to
14 have operating hours.

15 MR. MAY: So you are going to try to define
16 that for us here?

17 MR. HOFFMAN: Yeah. It's on this sheet,
18 yeah.

19 MR. MAY: Okay. Perfect. That's fine.

20 And then the last question or a suggestion I
21 had is that, you know, I do appreciate all of the
22 design changes for the building and I do think it's -
23 - the form of the building is improved, even from
24 what was approved in stage 1. I know that was just
25 notional, but in stage 1 it was a -- the building had

1 a lot more exuberance and this is a, you know,
2 interesting kind of nautical looking building.

3 But the penthouse enclosures, which I
4 understand, you know, you're trying to make them
5 rounded, but the material that you're using means
6 that they're basically going to be faceted. And I
7 don't think the rendering did you any -- you know,
8 helped you out there at all because the facets really
9 show. So if there's a way to actually make that a
10 curved surface, I think that would be really great
11 because I think it, you know, it gives you that same
12 sort of steamship chimney effect and so, I mean, if
13 you can do it I think it would be a great thing to
14 do. But if you can't I will definitely vote against
15 it. No, I'm just kidding. Just a suggestion. Thank
16 you.

17 CHAIRPERSON HOOD: Okay. Vice Chair Cohen.

18 MS. COHEN: Thank you, Mr. Chairman. A
19 question that I have regard the cruise ship operator.
20 What is their anticipated total operations? I mean,
21 they obviously use the river now, but are they going
22 to continue to increase their operations because they
23 have this separate building. I don't know how many
24 ships go -- cruise ships go each day and evening, but
25 that's a concern of the neighbors. So I would like

1 to know more about that.

2 MR. HOFFMAN: Sure. I'd like to introduce
3 Stan Leaman. He's the general manager for
4 Entertainment Cruises. He can answer operational
5 questions, probably more succinctly than I can.

6 MR. LEAMAN: Hello. You know, we --
7 combining the Odyssey over to Pier 4, we do not
8 foresee any, you know, increase in operations due to
9 the, you know, restructuring of the building. You
10 know, we're a business. We, you know, continue to
11 grow and to increase passengers. But nothing
12 significantly due to the change in the building or
13 the redesign of the Pier. Simply we're looking to
14 move the Odyssey from its current location over to
15 Pier 4 and hopefully operate more efficiently with
16 all of our boats in closer proximity.

17 MS. COHEN: And how many cruises do you have
18 during the day? How many in the evening? And is
19 there any way you can manage the, you know, lines of
20 people that board these boats so that they don't
21 create a nuisance to the neighborhood?

22 MR. HOFFMAN: I had more in my direct
23 testimony that I didn't get out, but I'll use it to
24 answer your question because there was a lot of
25 thought about patrons and we didn't want them

1 loitering in the park. There were a lot of
2 discussions with the ANC about that many people
3 coming down there. There is no real increase in
4 people. They all board from either the gangplank
5 parking lot or adjacent to the waterfront park today.
6 So the operations are going on today. As Dan said,
7 there's not a significant increased plan, nor are
8 they going out looking to increase it.

9 As far as staging, one of the design features
10 that Adam has in the larger presentation that's in
11 your book is we've put on Pier staging, so it's a
12 real push to get ticketed passengers, to get their
13 ticket at the ticket window, and then move on into
14 the Pier. So there would be areas for waiting and
15 staging on the pier so that they're not loitering in
16 the park or wandering around the neighborhood while
17 they're waiting for the boats to depart. So I just
18 wanted to add that.

19 And then also as part of the stage 2, overall
20 elements back in 2012, we had made a considerable
21 effort with the community to address the bus traffic
22 because right now the bus and drop offs for buses is
23 an epidemic in Southwest and we've actually put four
24 bus lay-bys that are drop only on Main Avenue. One
25 in front of Marina Stage, one in front of the

1 gangplank parking lot.

2 The new mode of operation for Entertainment
3 Cruises, and Dan is fully on board with that, and his
4 staff are starting to work to get it operational, is
5 the buses drop their passengers, they go away, and
6 then they come back when the passengers are ready.
7 The only way to get to the pier, but for handicapped
8 people in very narrow exceptions is to get off the
9 bus and walk down through the new M Street landing
10 park and along the promenade. So we've tried to
11 address the bus traffic so that the bus is -- yeah,
12 do we have a -- and while I go up there maybe you can
13 address the numbers of patrons you have on a daily
14 basis and --

15 MR. LEAMAN: I mean if you look -- interested
16 in the, you know, current number of passengers that
17 we operate with it will be the same, you know, after
18 the renovation is complete. But you know, where the
19 Odyssey, you know, averages 280 passengers per cruise
20 during the busy season, which is mid-March through
21 June, that will -- during the busy season we'll
22 cruise one to two times a day. The Spirit of
23 Washington averages about 340 passengers per cruise
24 during the peak season. That vessel will cruise two
25 to three times a day. The Spirit of Mount Vernon,

1 the other large vessel, cruises two to three times a
2 day, averaging about 280 passengers. And then the
3 Capitol Elite, which is the other vessel on Pier 4,
4 averages about 50 passengers. And during peak season
5 that cruises about four times a week. So that's the
6 peak schedule. You know, and that's mid-March
7 through June.

8 The rest of the year it's significantly less.
9 The off-season from January to mid-March, the Odyssey
10 cruises with about 260 passengers per cruise maybe
11 twice a week. The Spirit of Washington averages
12 about 140 passengers per cruise, and cruises maybe
13 once a week during the slowest time. And then we
14 kind of have our standard season from July to
15 September, as well as December, and it's in between
16 the two. You know, the Odyssey cruising eight times
17 a week with about 190 passengers, the Spirit of
18 Washington averaging 260 passengers a cruise about
19 eight times a week, and the Capitol Elite with about
20 50 passengers a cruise about four times a week.

21 So with a big variance in the time of year.

22 MS. COHEN: And those are all inclusive with
23 the dinner cruises that --

24 MR. LEAMAN: Yes.

25 MS. COHEN: -- are advertised. Okay.

1 MR. LEAMAN: Right. Those are the dining
2 cruises we have. Both lunch, mid-day, and dinner
3 cruises.

4 MS. COHEN: Okay. Thank you.

5 CHAIRPERSON HOOD: Do you have any special
6 cruises that you do? I mean, you know, like private
7 parties anything? I mean, I know you do it --

8 MR. LEAMAN: Yeah.

9 CHAIRPERSON HOOD: -- regularly, but I mean
10 other than what you just mentioned to the Vice Chair,
11 is there any other time that you're going to have
12 something special factored in that?

13 MR. LEAMAN: Yeah, those cruises and those
14 numbers include everything that we do.

15 CHAIRPERSON HOOD: I got you.

16 MR. LEAMAN: And we do a variety of types of
17 events.

18 CHAIRPERSON HOOD: So those special things
19 are included in that description you just gave?

20 MR. LEAMAN: Yeah. We have our jazz cruises,
21 our gospel cruises. Our things like that are all
22 included in those numbers.

23 CHAIRPERSON HOOD: Okay. Got you.

24 MR. HOFFMAN: I just wanted to point out the
25 pedestrian path. This is the future phase 2 and the

1 future M Street Landing parcel 11, where Saint
2 Augustin's Church is, is almost complete. It will be
3 complete this summer and Waterfront Park will be
4 complete late summer, early fall.

5 The laybys are actually in place up by Arena
6 Stage and adjacent to the Gangplank parking lot now.
7 This will be the condition, both temporarily and
8 permanently, but the patrons would get off the bus
9 and then work their way through M Street landing.
10 Currently the Odyssey parking lot down to the
11 promenade, and then work along the promenade to Pier
12 4, to the head house, where they'd purchase their
13 tickets or pick up their tickets. And then they'd
14 enter into the pier there.

15 And this just shows, this is where the
16 Odyssey is currently. This is where the Odyssey is
17 going in its new home, the two Spirit boats are on
18 the pier extension, and this is the Capitol Elite,
19 right? Or I'm sorry, this is the Capitol Elite
20 there.

21 MS. COHEN: So it appears it's got to be a
22 more efficient movement of traffic, pedestrian
23 traffic.

24 MR. HOFFMAN: Yeah, the --

25 MS. COHEN: From point A to, you know, the

1 Pier 4.

2 MR. HOFFMAN: Right. The only traffic -- the
3 buses can't come past this point.

4 MS. COHEN: Right. It's pedestrian.

5 MR. HOFFMAN: This is an access road for
6 trash and loading for the pier, but not for
7 commercial motor coaches, and it's the access to the
8 police, the police pier. It's being redone in an
9 oyster shell finish. It will be a very nice sort of
10 park road. It's not going to be a bus --

11 MS. COHEN: And can you point out where Mr.
12 Solon's co-op is?

13 MR. HOFFMAN: This is Harbor Square down
14 here, I believe.

15 MS. COHEN: Harbor Square is right there.

16 MR. HOFFMAN: Yeah.

17 MS. COHEN: Okay.

18 MR. HOFFMAN: And that's about, from the
19 front of Harbor Square out to the end of the pier is
20 about 500 feet. We had just, we had measured from
21 the third floor terrace because there were concerns
22 about the noise.

23 MS. COHEN: Okay. Thank you.

24 CHAIRPERSON HOOD: Okay. Any other
25 questions? Commissioner Miller.

1 MR. MILLER: Thank you, Mr. Chairman. And
2 thank you for your presentation. I agree that the
3 changes that have been made since setdown are all
4 improvements. The design changes, the more glass and
5 the setback of the third floor and the -- what you've
6 done on the roof. And I agree with Commissioner May
7 that if you can round that, the penthouse, but I
8 think it is much less, even with two structures
9 rather than one, I think it is much less visible with
10 the current revised design.

11 And the fact that you've added sustainable
12 points to go to LEED Gold. I think that's very
13 important and you're to be commended for that.

14 Mr. Seaman, you said that the -- I know the
15 Army Corps has denied the permit for the residential
16 and this use. This maritime related office use is
17 what the core permit permits. But you made a
18 reference to there having been opposition to the
19 residential use from, I think you said petitioners,
20 or the navigation community, or somebody. I am just
21 curious as to where the opposition was. It was going
22 to be a -- you did propose at stage 1, which I wasn't
23 here for, a 50-unit building, was it? Fifty-unit
24 residential building?

25 MR. HOFFMAN: Do you know what the specifics

1 were? I'm not sure what the specific unit count but
2 it was approximately 50. It was a residential
3 building.

4 MR. MILLER: But where was the opposition?
5 So somebody petitioned the Court to oppose it?

6 MR. HOFFMAN: Yeah. I'm operating off of a
7 five year memory. But my recollection is that we
8 actually had the support of not only the ANC but also
9 the Tiber Island community and also the Harbor
10 Square, the board at Harbor Square. And I'd have to
11 go back and make sure of that, but we did several
12 presentations to both Tiber and Harbor Square and had
13 the ANC support. There were individuals at Harbor
14 Square and in the Tiber Island community that were
15 still in opposition that spoke during the stage 1
16 about navigational safety. You'll remember, we had a
17 lot of discussion about mooring fields and piers and
18 pier extensions. Several of those folks had written
19 individually to Cathy Anderson, who is the reviewer
20 for the Corps, and then also to the navigational
21 branch of the Corps, and asked them to look into it.

22 And ultimately it came down to the fact that
23 the Corps was not comfortable in the Baltimore
24 District with the residential use out over a pier.
25 It's somewhat unusual for them to have residential

1 out over a pier in the Baltimore District, believe it
2 or not, despite seeing it all day long in Baltimore,
3 it's a different set of rules up there.

4 So it was hard for them to sort of get their
5 -- even with the support of Eleanor Holmes-Norton,
6 who was going to bat for the project, it was
7 something that they didn't feel comfortable with, but
8 they did feel comfortable grandfathering uses that
9 were historically on the waterfront, which included
10 the fish market barges, which included the Cantina
11 Marina and the commercial uses there and then the
12 commercial uses over Pier 4. So we were able to
13 preserve the commercial use.

14 MR. MILLER: And remind me where -- I asked
15 this at setdown but I forgot the answer. I've now
16 forgotten the answer, but you all answered it then.
17 Where was the -- before the residential use, before
18 you moved the cruise ship operations over to Pier 4
19 because of the denial of the residential use, where
20 were all the cruise ship operations going to be, at
21 Pier 3?

22 MR. HOFFMAN: There was an extension of Pier
23 3, yes. There was a large pier in the original stage
24 1 called Commercial Pier that, I think it went about
25 700 feet out from the edge of the bulkhead because of

1 the angle of the water there. And it was same
2 concept. It was just co-locating Odyssey, Spirit,
3 and any sort of tour vessels on the rebuilt Pier 3.

4 MR. MILLER: Yeah. I think I kind of like
5 that original concept that you wanted to do, better.
6 But you obviously -- and that might have had less --
7 the residential uses might have had less impact on
8 the adjacent neighbors to the Harbor Square
9 neighbors. But so I think that's all somewhat
10 unfortunate that it turned out the way -- I mean, but
11 the size of the building is actually less than what
12 you proposed --

13 MR. HOFFMAN: Yeah, it went from --

14 MR. MILLER: -- five years ago, is that now?
15 My God.

16 MR. HOFFMAN: Forty-five thousand square feet
17 down to I think 31, 32,000 right now.

18 MR. MILLER: Okay. All right. Thank you
19 very much.

20 MR. HOFFMAN: Thanks.

21 CHAIRPERSON HOOD: Let me ask, did the
22 Commission deal with the request for flexibility and
23 the administration of the hearing fees? Did you all
24 deal with that? Did we deal with that at setdown?
25 Was that dealt with?

1 MS. COHEN: No, it would have had to have
2 been.

3 CHAIRPERSON HOOD: Okay.

4 MR. HOFFMAN: We paid the full fee for --

5 CHAIRPERSON HOOD: Oh, you did? Okay. So --

6 MR. HOFFMAN: For that area.

7 CHAIRPERSON HOOD: -- that's off the table.
8 Okay. This language, Mr. Seaman, that you just
9 passed up in trying to meet some of the concerns of
10 the ANC, has the ANC looked at it and do they agree
11 with it? Or where are we along the lines?

12 MR. HOFFMAN: We got this to Andy late this
13 afternoon. So I think he probably hasn't had time to
14 fully digest it. We had something that was different
15 than this, this morning, when we were speaking with
16 him, and he still wasn't 100 percent of the way
17 there, but --

18 CHAIRPERSON HOOD: Okay. Well, we'll hear
19 from him.

20 MR. HOFFMAN: Okay.

21 CHAIRPERSON HOOD: And let me ask you, as we
22 go through this whole transformation of the
23 waterfront, the Wharf, are you having conversations
24 with the ANC and all the necessary stakeholders, the
25 community groups, those who have been there for a

1 while? Is that an ongoing dialog? And I'm not just
2 talking about just this case tonight, but through all
3 of the things that we're going to do, especially
4 through second stage, are we still having those
5 dialogs, those conversations?

6 MR. HOFFMAN: Yeah, absolutely. In this
7 particular project on Pier 4 we've spoken with the
8 ANC, the adjacent communities, we presented to the
9 board at Harbor Square. We have an ongoing
10 construction management committee that's run by our
11 construction folks and all of the contractors on site
12 where we provide updates on status of construction
13 and impacts on the community. So.

14 CHAIRPERSON HOOD: And are they meeting more
15 than a week before you come in front of the Zoning
16 Commission? Are they meeting like ongoing? You
17 know, and I'm not saying you would do this, but a lot
18 of times people have these meetings shortly before
19 they come in front of these bodies. And I just want
20 to make sure that we're having ongoing meetings in a
21 timely manner.

22 MR. HOFFMAN: We are. We have ongoing
23 quarterly community stakeholder meetings that Eleanor
24 Bacon, our partner, has set up. Both community
25 stakeholders and then also with the district

1 agencies. So we have an agency head meeting, every
2 quarter as well. And those have kept up since the
3 beginning of the project.

4 CHAIRPERSON HOOD: Okay.

5 MR. HOFFMAN: Thank you to Eleanor.

6 CHAIRPERSON HOOD: Well, I really like this
7 design of this. I really want to -- I think it's
8 very applicable and it fits the area. But I'm going
9 to hear some concerns that may come up after you all,
10 but I really do like the design. It's one of the --

11 MR. HOFFMAN: Thank you.

12 CHAIRPERSON HOOD: So hats off to you on
13 that. I'm sorry. One other question, Vice Chair
14 Cohen.

15 MS. COHEN: Thank you, Mr. Chairman. You had
16 made a substantial contribution to Workforce -- work
17 preparation. And I'm wondering how successful it's
18 been, if you're getting the cooperation from the
19 group that you contracted with and you're having
20 sufficient people be provided for you know, work
21 opportunities?

22 MR. HOFFMAN: Sure. I didn't bring my full
23 update on the First Source and the CBE track and
24 which we had done during the parcel 1 presentation a
25 couple months back. Eleanor Bacon also leads our

1 jobs effort. I know that we placed our first cohort
2 with the Construction Trades Academy, which was in
3 conjunction with the D.C. Workforce Intermediary
4 Council. That would have been a month or 45 days
5 ago. So that was the first class through and the
6 intent is that folks get through that and then
7 there's the potential to move on and work for the
8 subs on site.

9 So that was part of the workforce. We had a
10 million dollar contribution to the Workforce
11 Intermediary Program. There is an amount in escrow
12 that we are still trying to access with the District
13 to use for a program run by the Cardozo Construction
14 Trades Academy for a program that we've outlined.
15 And I think we've made good in-roads with the Deputy
16 Mayor's office and the attorney general, working with
17 the Deputy Mayor's office to try to release the funds
18 so we can enhance the Workforce Intermediary
19 Council's work. But I think we're doing very well on
20 jobs and CB. We'll be here next Thursday. I'm happy
21 to bring the update when we're here for Rec Pier, if
22 that would work.

23 MS. COHEN: We would appreciate that.

24 MR. HOFFMAN: Okay. Happy to.

25 CHAIRPERSON HOOD: Yeah. I'd actually like

1 to see that. I'd like to know a full update. I was
2 wondering if you had ever provided it, but just give
3 us a whole synopsis of how that's working, how that's
4 going with the Cordoza. And I remember having those
5 conversations. And are we making sure the District
6 residents are being able to participate in what's
7 going on, because this is a big piece. And I
8 remember saying this early on in the first stage. We
9 don't want to miss this opportunity for District
10 residents. I'm hoping to fulfil that need. Okay.
11 All right. So we're looking forward to get there
12 next week, even though I know it's another parcel and
13 it would appear that we're dealing it.

14 But anyway, any other questions up here?
15 Okay. Does the ANC have any cross-examination? And
16 we don't have a party in opposition. Okay. All
17 right. We thank you. We appreciate your testimony
18 and your comments to us. Let's go to the Office of
19 Planning and District Department of Transportation.

20 MR. JESICK: Thank you, Mr. Chairman and
21 Members of the Commission. The Office of Planning is
22 very supportive of this application. We have no
23 objection to the first stage modification or the
24 second stage approval. We feel the design has been
25 greatly improved since the time of setdown and we

1 recommend approval of the application. Thank you.

2 CHAIRPERSON HOOD: Thank you for getting
3 straight to the point, Mr. Jesick. Mr. Westrom.

4 MR. WESTROM: Thank you. Good evening,
5 Commissioners. And like OP, we've been appreciative
6 of the work that the applicant has done with us. We
7 dialoged with them in regards to access to the site,
8 in regards to the loading, and they satisfactorily
9 answered our concerns. And as well we again remind
10 them of our desire as we move to Stage 2 to look
11 again at some of the traffic analysis and the parking
12 provision that will come then.

13 But beyond that DDOT certainly does not
14 object to this particular modification and second
15 stage approval. And with that we can take any
16 questions.

17 CHAIRPERSON HOOD: I probably shouldn't say
18 this. Mr. Westrom, when I'm in traffic now I'm going
19 to be thinking about you. Okay. No, I'm just
20 playing. But it's certain people I -- I've been here
21 long enough to associate certain DDOT and traffic
22 consultants with certain cases. And when I'm sitting
23 in traffic for a long time I start thinking about
24 them and it just kind of comes back to me, so I just
25 figured I'd have to say that.

1 MR. WESTROM: We're certainly trying to do
2 the best that we can to make transportation function
3 well in the District.

4 CHAIRPERSON HOOD: I think you are and we
5 appreciate that.

6 MR. MAY: I can give you a tip on that topic.

7 CHAIRPERSON HOOD: Ride a bicycle.

8 MR. MAY: No. No, no, no.

9 MS. COHEN: Ride a bicycle. That's what --

10 MR. MAY: No, don't try to go --

11 MS. COHEN: Main.

12 MR. MAY: -- Main Avenue during the current
13 construction because it's constricted to one lane on
14 the south side of Main Avenue and it can be very slow
15 there. I ride past it in the other direction in the
16 morning.

17 CHAIRPERSON HOOD: Okay. Okay.

18 MR. MAY: It's not even good on a bicycle
19 because you've got to -- you know. I've done it in
20 the other direction and with all those cars there and
21 all the construction, it's not good. But it's a
22 temporary thing.

23 CHAIRPERSON HOOD: You all probably can tell
24 we've been down here four nights. We're starting to
25 get tired. Vice Chair.

1 MS. COHEN: Yeah, my recommendation would be,
2 take the Metro.

3 CHAIRPERSON HOOD: Thank you for your
4 recommendation. Okay. You have a recommendation?
5 We stalled enough just to get the list.

6 MR. MILLER: What's your alternate route for
7 Maine Avenue when you're going in the other
8 direction? When you don't want to be on the south
9 bounds? Where --

10 MR. MAY: I think you have to be on a
11 bicycle. I don't think there's a way to do it on --
12 it just, you know, coming off -- people coming in the
13 morning off of the 4th Street bridge and they want to
14 head down Main Avenue, down M Street, it gets very
15 slow there.

16 CHAIRPERSON HOOD: Okay. I guess I started
17 that, picking with Mr. Westrom. But anyway, I think
18 they do do a good job of trying to mitigate all the
19 different factors that go into transportation here in
20 this city. So we can balance for whether you ride a
21 bike, whether you walk, whether you run, whether you
22 take Metro, whether you drive a car like I do.

23 So, anyway, any questions up here? Any
24 cross-examination, Office of Planning or DDOT?

25 MR. GLASGOW: No, sir.

1 CHAIRPERSON HOOD: Does the ANC have any
2 cross? Okay. I have a list. I'm going to do my
3 best. Let's go to the organizations and persons in
4 support. I think this is Michael -- oh, I'm sorry.
5 Mr. Litsky, I need the ANC report.

6 MR. LITSKY: Good evening, Commissioners.

7 CHAIRPERSON HOOD: Good evening.

8 MR. LITSKY: I'm happy to be with you. My
9 name is Andy Litsky. I live at 423 N Street in
10 Southwest. Tonight I'll be delivering testimony on
11 behalf of ANC 6D where I serve as chairman. I'm also
12 the commissioner for the waterside area representing
13 the condominium and cooperative complexes directly
14 adjacent and across from where the building that
15 we're speaking about today.

16 I've lived at the waterfront for some 39
17 years and I've served on the ANC for 18, and I've
18 been active for about 30 in community affairs in the
19 area. And so I am very familiar with everything that
20 has come before the Wharf and have been steeped as
21 you have been steeped in all of the intricacies of
22 this project.

23 I have been a staunch proponent of what has
24 been largely put before us by Monty Hoffman and the
25 folks at the Wharf. This is going to mean great

1 changes and it also means great challenges. But as
2 we approach a discussion about this particular Pier
3 4, I want to make sure that we are characterizing the
4 support of the ANC properly.

5 When this site was initially proposed four
6 years ago I handed to the Wharf staff, they had
7 proposed a wonderful design. Commissioner Miller is
8 absolutely correct. It would have been a lot simpler
9 had the Army Corps of Engineer not decided to oppose
10 townhouses on that site. The ANC was fully in
11 support of that. Tiber Island Cooperative Homes was
12 fully in support of that and there were a number of
13 residents who caused Agita at the Army Corps, and as
14 a consequence we now have a continuing commercial use
15 down there instead of what we would have had, which
16 would have been a series of townhouses, each of which
17 would have had boat slips next to them. And it would
18 have been lovely and it would have increased
19 everybody's property values.

20 But some people complained, and as a
21 consequence we had those townhouses taken away. And
22 as a consequence, as I told them then, you've got to
23 be careful what you wish for because if you think
24 that nothing is going to be built there, think again.
25 So now we are readdressing the Pier 4 issue, and the

1 ANC has been working with the Wharf partners for the
2 better part of two years. As a matter of fact, I
3 think the designs that you had seen were only designs
4 that were brought to you. There was a design, I
5 think that was brought to me earlier on, it was way
6 out of proportion and I spurned it and I said, you
7 know, I really hope you go back to the drawing board
8 and develop a drawing that will utilize the
9 opportunity of doing the staging internal to the pier
10 itself.

11 Currently it's a hodgepodge. With the new
12 design it really is very well designed.

13 The one problem that we do have with it, and
14 I think that Shawn Seaman had described this, was the
15 use of the outside space on the terrace. It's
16 extremely problematic and I think to the extent that
17 when we normally have had problems with noise on the
18 water front we have been able to deal with that. And
19 because the places where we have had problems with
20 noise, we've had leverage points. And those have
21 basically been with bars and with a couple of
22 extraordinarily difficult night clubs, both of which
23 have disappeared. And a couple of restaurants. And
24 the leverage we had was through the liquor licenses.
25 Every three years at least we had an opportunity to

1 sit there, and if we had problems with noise, if we
2 had problems with crowd, noise in particular, we
3 could petition and we petitioned ABC and we got them
4 to ensure that these folks were brought to heel so
5 that we could live peaceably.

6 The Southwest water front is a very peaceable
7 kind of place. And when we embraced fully, and when
8 I embraced fully, this entire project, we did so with
9 the knowledge and the full expectation and the
10 promise that the residential portion of Southwest was
11 going to remain residential. It would have been more
12 residential if you had townhouses. I don't mind that
13 the Spirit ships are going to be staying there.
14 Frankly, I live at the waterfront. We all live at
15 the waterfront down there. We've got, you know, 900
16 residents between Tiber Island and -- 900 units
17 between Tiber Island and Harbor Square. And each of
18 us love the fact that we're close to the water. And
19 we hear the boats, you know, going in and out. I
20 love it. I don't mind that they're staying there. I
21 appreciate that fact.

22 Especially I understand that had they been
23 required to move it would have caused probably an
24 additional \$15 million. So, I'm happy to save them
25 money. What I'm not happy about, however, is the

1 possibility that we're going to have now a venue at
2 the waterfront, right in a residential area. And
3 that is not what should be happening. We agreed that
4 if it was going to be here we were going to wind up
5 having a wharf facility that was going to serve and
6 service the boats and it's patrons. And now we're
7 turning it into a venue and a profit center because
8 of this additional office that has absolutely no
9 relationship to the water at all, except to the idea
10 that you can look at it from a window or throw
11 parties on a deck.

12 Now, I'm not anticipating that we're going to
13 have weddings and bar mitzvahs, although I don't put
14 it past somebody to try to do that at some point.
15 More power to them. Mazel tov. What I am concerned
16 about, though, is that because this is going to be
17 among the most expensive rental real estate at the
18 Wharf, and indeed the Wharf people told me that well,
19 they may occupy this space during the period of time
20 that they are building the second stage. It would
21 not be in their best interest to occupy it after that
22 because it's really expensive and they want to turn
23 it over to have somebody pay for it and I don't blame
24 them.

25 So I'm thinking, who's able to pay for

1 something like that? And I can think of a boutique
2 law firm. I can think of a Washington corporate
3 interest of Google or somebody like that, or a
4 lobbying firm. And what do they want that outside
5 space for it? They don't want it for eating lunch.
6 I mean, let's get real here. They don't want it for
7 popping a beer after work. They want it so they can
8 party.

9 And I'm not talking about hoo-ha parties, but
10 I am talking about full utilization of that space.
11 I'm talking about, if it's a lobbying firm, or if
12 it's a big interest law firm, having regular
13 congressional, potentially, and I would expect fund
14 raisers there. And that's noise, that's people,
15 that's after hours, and that's not expected.
16 Normally it's a very quiet place there. The boats go
17 in, the boats go out, the people come in, the people
18 go out and it's quite.

19 What our concern is, is that when we have had
20 problems on the waterfront, we have particularly had
21 problems with Cantina Marina. Cantina Marina, a
22 number of years ago, was extraordinarily noisy. They
23 had outside speakers. They had bands with, what do
24 you call those? I feel like an idiot. What do you
25 call the -- with amplifiers. And it was

1 extraordinarily noisy, and we had to tell them,
2 you've got to stop it. It took a long time working
3 through ABC to do that. It's no easy way to wind up
4 getting that. And I know that Mr. Miller's wife is
5 on ABC. I know she probably comes back with stories.
6 Anybody who has been an ANC commissioner in this city
7 knows of some of the problems that some of us have
8 had in areas where we have had difficult operations.

9 But in this instance, if you allow this
10 entity to exist with the ability to house events for
11 250 people, you are creating a potential long-term
12 hazard to the quite residential use of the people who
13 live on the Southwest Waterfront. And quite frankly,
14 I don't want that on my watch. I don't.

15 My board chose not -- my board. I'm a
16 shareholder at Tiber Island, a founding shareholder
17 there, and I'll put that out. My board chose not to
18 address this. We have a brand new board. The Harbor
19 Square Board is also a relatively new board. Many of
20 them, they chose not to address this. But I'll
21 address it for them. I mean, I'll address it as a
22 longtime resident. I know the problems that we've
23 had. We've had problems with -- and we will not be
24 able to get these addressed. This is not going to be
25 able to be addressed in a lease because when I was

1 talking with the wharf folks earlier today I said,
2 you know, what happens if we have a problem? What
3 happens if there is a problem? He said, well, there
4 are noise restrictions and we will of course expect
5 that they will adhere to the D.C. Code.

6 I said, well, that's helpful. What happens
7 if they don't? He goes, well, then you have the
8 option to call the police.

9 I went, well, thanks a lot. A lot of good
10 that helps us. Again, the big bottom line is that
11 when we embraced this mammoth project we were told,
12 and we bought into the notion that the residential
13 waterfront where we live now, was going to be
14 respected and was going to be maintained. And the
15 fact that we now have the possibility, if you allow
16 them to have an entity that will be able to use that
17 space as they see fit, we will have that quite
18 significantly diminished on a regular basis. And we
19 will have no options. We will have no ABC Board to
20 go to every three years to tell them to cut it out.
21 It's going to be extremely difficult.

22 And so I've got to hand it to the operator
23 and the applicant for designing a beautiful building,
24 for putting in the glass, for being very thoughtful
25 when it comes to lighting so it will not disturb

1 folks who are across the street at either Tiber
2 Island or Harbor Square. I especially am extremely
3 thankful, and I know the residents are extremely
4 thankful for working with us for many years to ensure
5 that were the boats going to stay at Pier 4, that the
6 tour buses would not be down there at all. And that
7 is a huge help. But what we don't want is to
8 exchange one problem for something else that will be
9 ongoing. And if this open patio is allowed to exist,
10 I fear that we will have nothing but problems going
11 forward. And that's my concern.

12 MR. MAY: Can I ask --

13 CHAIRPERSON HOOD: You finished Mr. -- you
14 finished?

15 MR. LITSKY: Yeah.

16 CHAIRPERSON HOOD: Oh, okay.

17 MR. LITSKY: That's fine.

18 CHAIRPERSON HOOD: Sure.

19 MR. MAY: So my only question was, I mean, is
20 there any specific, I mean, there were certainly
21 things in what you testified to just now that speak
22 to the specific language that was offered by the
23 applicant tonight, and I'm wondering if you have
24 anything further that's specific to what they said.

25 MR. LITSKY: No, as a matter of fact I don't

1 even have that language. If it's language that had
2 been developed early on I expect that I'll have it,
3 you know, if it's handed to me now. But I'm not
4 going to read it now and then try to figure it out.

5 MR. MAY: No, no, no, and I'm not asking you
6 that. I just assumed that you had gotten it before
7 you came up and came to the table.

8 MR. LITSKY: Perhaps it did come in, but I
9 was working on other things and --

10 MR. MAY: I understand.

11 MR. LITSKY: You know, I don't --

12 MR. MAY: Okay. That's fine.

13 MR. LITSKY: -- keep my phone tethered to me.
14 So no, I don't know this. But the language that had
15 previously been provided, two days ago and then again
16 this morning, with them, was unacceptable.

17 MR. MAY: Uh-huh.

18 MR. LITSKY: And what we're doing, if we
19 start, you know, hustling about and making
20 determinations of where the commas go in a potential
21 lease agreement that doesn't yet exist is we've
22 already accepted the fact that this thing is going to
23 exist. We've already bought into the fact that this
24 is going to happen.

25 MR. MAY: So you simply just want that,

1 that --

2 MR. LITSKY: Enclose it. Enclose it.

3 MR. MAY: -- terrace to be --

4 MR. LITSKY: Enclose it. I have no problem
5 with the use of the space.

6 MR. MAY: Right.

7 MR. LITSKY: I have a problem that it's
8 outside.

9 MR. MAY: Sure.

10 MR. LITSKY: One more thing that you may not
11 be aware of, and this is something that we had had a
12 problem with ongoing, going back many years, with the
13 bars on the waterfront, in particular Cantina and
14 their progenitors is that when they wind up having
15 noise, the noise carries into Tiber Island and
16 bounces back and forth between Harbor Square and
17 Tiber Island. That's just the way the buildings are
18 built.

19 MR. MAY: Sure.

20 MR. LITSKY: And as a consequence, unless --
21 and especially if the noise is outside, it has no
22 place else to go, it cascades back off the water on
23 to the residential area and ricochets back and forth.
24 And it's really extraordinarily difficult.

25 MR. MAY: Uh-huh. I can understand that.

1 MR. LITSKY: So if we -- you know, this is a
2 big problem. This is going to be an open terrace and
3 we're not going to be able to have any opportunity to
4 address the problems that arise from it.

5 CHAIRPERSON HOOD: Let me ask this, Mr.
6 Litsky, in that line of questioning. I know you said
7 you would speak for other people who would not speak,
8 but do other people share your view with this, like
9 the ANC and other people in the community?

10 MR. LITSKY: Oh, the ANC, I mean, and its' in
11 my testimony, the ANC supported this except for the
12 fact that we were very concerned about the manner in
13 which this outside space was being used.

14 CHAIRPERSON HOOD: Okay. So you have some
15 language in front of you that was presented to us
16 tonight. And when I say us, I'm including you too.
17 So what we will do is at the end of this we'll make
18 sure that you all have some time to discuss that and
19 see how you can fine tune it to make it work for the
20 community, because that's what it's all about. And
21 I'm sorry, and I know, you know, you have other
22 things to do during the day than to wait for somebody
23 to send you something. So I understand that, so.

24 MR. LITSKY: Sure.

25 CHAIRPERSON HOOD: We want to make sure we're

1 fair to you and give you a chance, you and the
2 applicant or the whoever, the group, the ANC or
3 whoever, and the applicant, to be able to have time
4 to have a conversation to fine tune some of this
5 language and see if we can meet some of the concerns.

6 MR. LITSKY: I will tell you that --

7 CHAIRPERSON HOOD: So that's where I am.

8 MR. LITSKY: -- we did receive language. We
9 requested it seven weeks before we received it. So,
10 we had our ANC meeting on, I think, March 14th. We
11 got initial language May 4th. We weren't able to
12 have a meeting until this week because two of the
13 folks who were on were out of, you know, out of the
14 country. And, you know, I was in New York doing
15 family business.

16 So we requested it. We had hoped we would
17 have a lot longer to discuss this.

18 CHAIRPERSON HOOD: Okay.

19 MR. LITSKY: But we don't have real estate
20 attorneys and leasing agents at our disposal to be
21 able to analyze every last comma. So --

22 CHAIRPERSON HOOD: But let me just say, and
23 I'll go back to Commissioner May. So you have not
24 seen this, the one we got tonight?

25 MR. LITSKY: No. I don't know. When was

1 this sent?

2 CHAIRPERSON HOOD: Okay. Okay. That's all I
3 need.

4 MR. LITSKY: I mean, I have it.

5 CHAIRPERSON HOOD: It was either yesterday or
6 today.

7 MR. MAY: Yeah.

8 CHAIRPERSON HOOD: But anyway.

9 MR. LITSKY: If it was sent at 2:00 p.m., no,
10 I have not.

11 MR. MAY: So just to be clear, though, it
12 seemed to me that they could modify this language
13 and, you know, endlessly and it wouldn't necessarily
14 address your concerns. You're more concerned about
15 making physical changes to the building to prevent --

16 MR. LITSKY: Yes.

17 MR. MAY: -- this terrace space from even
18 existing.

19 MR. LITSKY: You're absolutely correct.

20 MR. MAY: Okay.

21 CHAIRPERSON HOOD: Okay. Well, here's what
22 we'll do. I think this is a good start and if we
23 come back with nothing on the sheet, that's a
24 different story. But we can start here and see how -
25 - sometimes it does work if we get together and you

1 know, you all have a record of making things kind of
2 work. You have a lot of development going in that
3 area and your ANC has been very active over the
4 years. So I would say, start with this and work your
5 way back. You know, that's just kind of where I am.

6 MR. LITSKY: Happy to do that.

7 CHAIRPERSON HOOD: Thank you. Okay. Vice
8 Chair Cohen.

9 MS. COHEN: Thank you, Mr. Chairman. Mr.
10 Litsky, do any of the properties have open space for
11 use by the residents? Like a public space on the
12 roof, or anywhere where it's open and, you know,
13 having parties.

14 MR. LITSKY: Yes.

15 MS. COHEN: And what is the noise level then,
16 and does it bounce between the two buildings?

17 MR. LITSKY: Sure. Well, and there's a
18 difference. Tiber Island does not. Harbor Square
19 does. Harbor -- we have balconies, but we don't have
20 open space of this size, and at this level, and on
21 the water. Harbor Square does have on at least one
22 of their buildings, or several of -- I can't remember
23 what the configuration is, outside space that the
24 residents can use. And they do, upon occasion. But
25 not in the manner in which this situation would be

1 used.

2 And it would be, of course, any of those
3 spaces are up high. They're eight stories off the
4 ground and the sound goes up. This is you know,
5 three stories off the ground, it goes out to the
6 river, and it cascades back on land and it buffets
7 between the two. So, where it's being held and the
8 size of the area that's being used, and with what
9 kind of speaker systems and everything else, is
10 completely different.

11 Additionally, if any of the residents were to
12 use this at Harbor Square, Harbor Square is a
13 cooperative and they cast a pretty mean spell on
14 anybody who screws around with the rules. And
15 they'll yank your proprietary lease if you mess with
16 them. So, the residents are very cautious in the
17 amount of noise that they make.

18 MS. COHEN: Thank you for your insights.

19 CHAIRPERSON HOOD: Okay. Any other
20 questions? Commissioner Miller.

21 MR. MILLER: Thank you, Mr. Chairman, and
22 thank you Chairman Litsky for your testimony this
23 evening. So, I hear where you're coming from, that
24 you want it to be enclosed in the end and not even
25 exist as an outdoor venue. But I would echo our

1 Chair's, Chairman Hood's suggestion to work with it
2 and maybe see if you can get to something that does
3 work.

4 MR. LITSKY: Absolutely.

5 MR. MILLER: We have a lot of -- we have a
6 lot of venues that are in residential neighborhoods
7 that have strict conditions when they rent it out for
8 outdoor venues and, have very strict conditions in
9 numbers and hours. And it can be in the zoning order
10 and be enforceable. It could have time limits where
11 they -- I think it could be time limits where they
12 have to come back and you could have a leverage
13 point. Although that's unusual in a PUD for -- but
14 we could explore whether that's something that's
15 possible, because that's where people have come back
16 and worked out a -- I've seen, not on cases that I've
17 sat on, just from observing in the community. I
18 think Hillwood Museum, off of Connecticut Avenue that
19 they worked it out with their neighbors and they came
20 up with a different -- they've come up with different
21 conditions at different times when they've had to
22 come back, and I think they're operating under a BZA
23 order of some sort.

24 But anyway, I would just encourage you all to
25 work together in good faith and see if you can --

1 because I can see how you don't want to live with
2 this right next door to you. But on the other hand I
3 can see this as a public community benefit for the
4 whole city. And we don't have adverse -- have city-
5 wide uses having adverse impact on neighborhoods.
6 But I could see how, you know, as a resident of the
7 city, if I happened to be hosting a wedding, which
8 I'm doing in two weeks, and we looked at a lot of
9 venues and there are so many. Some are in
10 residential areas and they have a lot of conditions
11 on them.

12 But to open up that kind of venue, which will
13 be incredible, and that's what you're worried about,
14 that it will be an attractive nuisance, nuisance to
15 the adjacent neighbors. But if there's a way we can
16 get to where it works for both the applicant, the
17 project and for the neighborhood, I would like to see
18 if we can get there. And I know that you'll make the
19 effort if there is a way to get there.

20 CHAIRPERSON HOOD: Okay. Any other comments
21 up here? Questions?

22 Okay. Does the applicant have any cross?

23 MR. GLASGOW: No cross-examination.

24 CHAIRPERSON HOOD: Okay. All right. Well,
25 thank you, Mr. Litsky, again for all the work that

1 you all do. Thank you.

2 Okay. I have a -- do we have any other
3 government reports? I saw a few reports which
4 already have been noted and I think spoke about in
5 the record. I have a list here of organizations and
6 persons in opposition, or organizations and persons
7 in support. But it's very few and I'm going to try
8 to call your name. Is this Michael Falkenau?
9 Michelle. I'm sorry.

10 Okay. We've heard from Chairman Litsky.
11 Anyone else who is here in support? Now there's one
12 here, I can't make out the last -- last name is
13 Threats, Threats, Threats. Treats? Look like
14 Threats. Is that for me? I mean, anyway. I can't
15 even pronounce the -- from ANC 5. That was last
16 night's case, wasn't it? Okay. All right.

17 Anybody else who would like to testify in
18 support?

19 All right. And I'm going to say this for
20 those who may have come late, the Zoning Commission
21 is dressed like this because we're relaxing our
22 rules. So I don't want anything -- not that I have
23 to report it. I don't want anything to get out that
24 we just come down here relaxed. We do this in the
25 summer when it's 90 degrees outside. So, we relax

1 our rules on dress.

2 Okay. Well, it looks like you're it. You
3 may begin.

4 Ms. Falkenau, if you hit your green button.
5 Yes.

6 MS. FALKENAU: All right. Okay. Good
7 evening. My name is Michelle Falkenau and I'm an
8 owner in Harbor Square in one of the two residential
9 complexes outside the 200-foot demarcation, but
10 immediately adjacent to the proposed Pier 4
11 development.

12 I thank the development team for their
13 thoughtful redesign of the originally proposed Pier 4
14 structure, taking into account the input from both
15 the commissioner's setdown hearing comments, and from
16 the community.

17 However, I am very concerned about the lack
18 of specificity in the applicant's supplemental
19 prehearing statement with regard to usage of the
20 outdoor terraces included in the Pier 4 building
21 design. As currently written there are no
22 protections of any type to ensure the tranquility of
23 both the new waterfront park and the adjacent
24 neighborhood is maintained. Even with the good will
25 of the developer, every tenant change would present

1 the possibility of new unrestricted usage.

2 Since this is not a commercial space which
3 can be controlled via the alcohol licensing process,
4 it's crucial that the standards be set now, and in a
5 binding and official manner. I urge the Zoning
6 Commission to set specific limits on the types of
7 uses, numbers of events, and hours of operation
8 allowed for this space. Thank you for your
9 consideration.

10 CHAIRPERSON HOOD: Okay. Thank you. And
11 you've heard our comments on that. Okay. Great.
12 Maybe you can participate with the ANC and you all
13 can work something out; try to work something out.
14 Okay.

15 Let's see. Hold on. Hold tight. We might
16 have some questions for you. Commissioners, any
17 questions?

18 Okay. Does the applicant have any cross?
19 Chairman Litsky, you have any cross-examination?

20 Okay. Thank you very much. We appreciate
21 you coming down.

22 Okay. So I think that's all that we had in
23 support. Mr. Solon, I have you in opposition. Is
24 there anyone else who is here in opposition? Anyone
25 else in opposition, organizations or persons in

1 opposition?

2 Okay, Mr. Solon. Turn your mic on, Mr.
3 Solon.

4 MR. SOLON: Greetings, Commissioners. Eugene
5 Solon, one of the many shareholders residing at the
6 Harbor Square Housing Cooperative, again come before
7 you to continue to try to reduce the harm wharf
8 developers' plans continue to do to this historic
9 southwest waterfront landmark we call home.

10 This time I appeal to you to make more
11 humane, the plans the developers have for office
12 building construction on Pier 4. All of my fellow
13 shareholders and I have always enthusiastically
14 welcomed redevelopment of a waterfront, and while
15 deeply disappointed in what we'll always consider to
16 be unnecessary community harmful wharf project land
17 side and waterway massiveness and density, all of us
18 have appreciate the Army Corps of Engineer's
19 rejection of plans for townhouses on Pier 4 and have
20 appreciated your work in bringing about some
21 community respectful improvements in overall project
22 plans.

23 But Commissioners, Harbor Square has for
24 decades been widely considered both a well sited
25 attractive home and a worthy real estate business

1 enterprise. It is unfair that our property's
2 traditionally high market appeal should be forced to
3 continue to suffer from overly aggressive nearby
4 development activity.

5 Commissioners, we ask that you continue to
6 make Pier 4 plans more community friendly and less
7 detrimental to our area's traditional residential
8 character. I appeal to you to act to reduce Pier 4
9 office building planned height by one story and
10 shorten its planned length by about one fourth,
11 eliminating that exposed upper story space.

12 This would result in lowering the number of
13 office and other workers there, softening the plan
14 design's impact on landside vehicular traffic, and
15 this would somewhat compensate for the increase in
16 the size of crowds attracted to our residential area
17 to take cruises on the cruise ships the current plans
18 add to Pier 4 comers.

19 Some improvement would at long last stem the
20 continued slicing away of Harbor Square resident's
21 view corridors. Commissioners, Mandarin Oriental
22 hotel customers and others were given view corridors.
23 Please, isn't it time to finally give us a break too?

24 In June 2012, in this room, following what
25 many think are obsolete zoning office procedures, a

1 Harbor Square corporation president signed up as a
2 project supporter. But it became crystal clear that
3 he stood against core proposed project features,
4 including planned pier overextension into the
5 Washington Channel.

6 Wharf developer principles have nevertheless
7 repeatedly presented to you misleading testimony,
8 touting Harbor Square support for their proposed
9 development. Commissioner's current arguments from
10 wharf project representatives and those supporting
11 them, continue to be off-base. Contrary to Holland
12 and Knight testimony, this admittedly old guy
13 recollects that I still own part of all common Harbor
14 Square property, and no matter where on that property
15 my apartment is located, and that I have testified
16 with party stages on interconnected wharf project
17 features farther away than the Pier 4 grounds or
18 customer passageway to them. Like, for example, what
19 the Office of Planning, OP cites as a quote, "New
20 promenade along the water, or through waterfront
21 park." End of quote.

22 Further, OP's quote, "Eight-foot tall
23 penthouse," unquote, creates a view plucking -- view
24 blocking planned building height of 51 feet, not 43
25 feet, and curved building corners are not what OP

1 calls major changes.

2 Now, I don't have party status. I only have
3 three minutes to speak.

4 CHAIRPERSON HOOD: Mr. Solon, I was going to
5 let you finish. You were actually working on five
6 minutes. So I'm going to let you finish. I want you
7 to finish your testimony, that's why I asked her to
8 keep the clock running.

9 MR. SOLON: Okay.

10 CHAIRPERSON HOOD: Because I knew you was
11 going to say that and I wanted to tell you how much
12 time I actually allowed you.

13 MR. SOLON: Okay.

14 CHAIRPERSON HOOD: So you and I are thinking
15 together. But we're going to let you finish.

16 MR. SOLON: I don't want to over do --

17 CHAIRPERSON HOOD: No, I want you to finish.
18 You prepared it, I want you to finish.

19 MR. SOLON: No, commissioners. Testifiers
20 should not lightly claim that Harbor Square looks
21 with favor upon Pier 4 building plan dimensions.

22 In 2012 many Harbor Square shareholders
23 strongly favoring humane development, signed a
24 petition against unwise overly aggressive development
25 plans, and while supporting Pier 4 renew,

1 successfully opposed planned townhouse construction
2 on that pier.

3 Commissioners, as a current expression of
4 Harbor Square shareholder opposition to developer's
5 plans for excessive Pier 4 massiveness is on its way
6 to you. We are rightfully concerned about OP text
7 stating that quote, "A new pier segment would be
8 constructed and extended further into the channel."
9 Shareholders have expressed verbal and written
10 concern about possible future police pier and more
11 southern waterfront changes. I believe that is
12 crucial that decision makers, including zoning
13 commissioners, understand what's been going on in our
14 near southwest/southeast community. Area residents
15 have often seem confused and intimidated and resigned
16 to done deals, have chosen to stay silent in public
17 while whispering discontent in private conversations.

18 Here were some recent occurrences, and I list
19 those stuff. I'll skip them for the moment, but if
20 you'll allow me, it's up to you, I'll go back and
21 enumerate what these comments have been recently.

22 CHAIRPERSON HOOD: Why don't you just keep
23 reading your testimony as you have it.

24 MR. SOLON: Great. Thank you a lot.

25 At ANC monthly meetings wharf project spokes

1 people kept changing their answers to repeated
2 questions about their project. Not from ANC
3 commissioners as would be expected, from community
4 residents. For example, it was left to me to raise
5 in public, important questions about the impact of
6 proposed Pier 4 building plan occupancy. First, we
7 were told, there were 90 3rd floor occupants. There
8 would be some 200 total office workers later, with
9 very limited reduction in building volume. That
10 total was claimed to have dropped precipitously to
11 124. Still later a spokesman claimed that he didn't
12 know what the occupancy number would be because
13 quote, "That would be up to the tenants to
14 determine."

15 As you may recall, wharf projects stated
16 policy has rightfully been periodically called a
17 moving target. Further intriguing behavior abounds.
18 A., a magazine reporter on ANC meetings told me that
19 if I, an advocate of safe massed emergency evacuation
20 by water told me I should buy a kayak for personal
21 evacuation.

22 B., a former harbor square board wharf
23 project liaison person stated at a board meeting that
24 quote, "We want a two-story Pier 4 building." But
25 when the board chairman asked them for advice on

1 corporation action she opined that given the ANC
2 approval vote Harbor Square should just be silent.

3 C., at a May 19th Harbor Square Committee
4 meeting a shareholder attends -- who attends area
5 wide meetings revealed that when he first learned of
6 planned 13-story wharf project buildings he was
7 furious, but acknowledged that for years he had been
8 completely silent on that issue.

9 D., a new Harbor Square shareholder wrote
10 this neighborhood insulting text on May 24th. Quote,
11 "I recently purchased my unit two years ago. I am
12 aware that there is some residents who are resistant
13 to the changes in the area. I can tell you that
14 these people don't like anything, ever. If they can
15 complain about the sounds of birds signing in the
16 spring, they would."

17 E., at a February 4th Harbor Square meeting
18 on Pier 4, another new shareholder public denigrated
19 the National Park Service for its inability to
20 properly maintain its nearby waterfront property and
21 stated that, get this, "If we irritate the wharf
22 project developers they would retaliate by refusing
23 to properly maintain the condition of their new
24 waterfront park they plan to create."

25 Of course I responded by assuring everyone

1 that the wharf people would tend to keep their new
2 park in good shape and make sure to enhance their
3 reputation by distributing photos of it worldwide.

4 Commissioners, through all the confusion and
5 irrationality, and worse, I ask you to again prove
6 your good sense and professionalism. Please, further
7 soften the Pier 4 proposed negative impact upon
8 Harbor Square and its traditionally residential
9 neighborhood by arranging for thoughtful community
10 respectful further reduction in its office building
11 planned excessive mass and density, and by curbing
12 rather than increasing over extension of Pier 4 into
13 the Washington Channel. Thank you. Thank you, Mr.
14 Hood, for allowing me to talk so long.

15 CHAIRPERSON HOOD: Okay. Thank you, Mr.
16 Solon. Let's see if we have any questions up here?
17 Any questions? Commissioner May.

18 MR. MAY: So, I appreciate the testimony, Mr.
19 Solon. I'm a little confused by one of your earlier
20 statements about the traditionally high market appeal
21 the property would be forced to continue to suffer
22 from the nearby development activity.

23 So it's a worthy real estate business
24 enterprise, yet the property values are going down
25 now, in Harbor Square?

1 MR. SOLON: It may well be the case.

2 MR. MAY: But you're testifying that it has
3 been and is continuing.

4 MR. SOLON: Oh, it has been and I --

5 MR. MAY: So your property value has gone
6 down? I mean, because that's what I'm reading in
7 your testimony.

8 MR. SOLON: Yeah. Mr. May.

9 MR. MAY: Yeah.

10 MR. SOLON: Harbor Square has been an
11 attraction for many years, particularly on July 4th,
12 Independence Day. I testified to that --

13 MR. MAY: I certainly understand that.

14 MR. SOLON: -- four years ago.

15 MR. MAY: So is the Park Service property.
16 Go ahead.

17 MR. SOLON: And piers are being extended into
18 Washington Channel preventing us from seeing
19 reflections that people came to see, of fireworks in
20 the water. And this was --

21 MR. MAY: I understand.

22 MR. SOLON: This was an attraction. And --

23 MR. MAY: But I'm not debating the --

24 MR. SOLON: I think most people don't come --

25 MR. MAY: -- value of the property. I

1 understand the inherent value of the property. I'm
2 asking a very specific question about whether your
3 property value has actually gone down as a result of
4 the development activity.

5 MR. SOLON: Mr. May, I cannot answer that
6 question with figures.

7 MR. MAY: Right.

8 MR. SOLON: Dollar figures at this point.

9 MR. MAY: So it's a co-op, you don't get an
10 annual tax bill related to your unit, do you?

11 MR. SOLON: We have access to that
12 information.

13 MR. MAY: So has that dollar value gone down?

14 MR. SOLON: Mr. May, I just mentioned that I
15 can't give you figures at this --

16 MR. MAY: Okay.

17 MR. SOLON: -- dollar figures at this moment.
18 But I can go home and look up the --

19 MR. MAY: Okay. It's just that you're
20 testifying that the property value has gone down, and
21 that's why I'm looking for --

22 MR. SOLON: I strongly suspect that it has.

23 MR. MAY: Okay. All right.

24 CHAIRPERSON HOOD: Any other questions? I
25 will tell you, I'm understanding your point but one

1 of the things that I've always grappled with, Mr.
2 Solon, is a missed opportunity. You know, and I
3 understand that those who are surrounded want to make
4 sure that the protections are in place. But when it
5 comes to the water in this city I think, you know,
6 all of us want to come down and enjoy the area, and I
7 know not necessarily -- and I know there are some
8 issues because my issue in my neighborhood is trash.
9 I smell trash transfer stations all the time. I
10 would much rather be down near the water. But I get
11 trash.

12 So I think, you know, as Commissioner Miller
13 and I, I think are in the same, we want to make sure
14 that that language, and try to work it out because
15 you know, sometimes we do stuff down here and it's a
16 missed opportunity. I can think of a lot of projects
17 that have been built, I've been here long enough to
18 see them, where I believe, Mr. Glasgow, you'd be
19 surprised that once they were built, I didn't think
20 we made them large enough. And I know that probably
21 will get me in trouble, but when you go in there --
22 we didn't maximize our opportunity at the time that
23 we had to do it, and I just hate to see us make this
24 a missed opportunity on the waterfront.

25 That's just where I am, Mr. Solon. And I'm

1 not saying I disagree with anything you said. I'm
2 just saying, we want to make sure that we maximize
3 what we're doing here because this is going to be
4 around for a while. And that's why I asked Mr.
5 Litksy, and I understand the concerns of the
6 community, but this is a -- you know, I like to come
7 down and enjoy some of that too. I don't want to
8 interfere or park in front of your home or anything.

9 MR. SOLON: We were inviting you guys to come
10 to our Harbor Square roof.

11 CHAIRPERSON HOOD: No, after. No, no, no,
12 no, no, after the case is over --

13 MR. SOLON: Right.

14 CHAIRPERSON HOOD: -- I'll probably come to
15 the waterfront. But the point is, I just want to
16 make sure that we don't miss this -- have a missed
17 opportunity.

18 MR. SOLON: Sure.

19 CHAIRPERSON HOOD: And underdevelopment.
20 Okay?

21 MR. SOLON: Mr. Hood, as I testified, almost
22 anyone I know at Harbor Square has been in favor of
23 improving the waterfront. We initiated -- we
24 complained about it disintegrating, becoming
25 obsolescent waterfront stretch of land. We welcomed

1 development, redevelopment of our southwest
2 waterfront. We objected to overdevelopment,
3 overextension of piers into the water, and in this
4 testimony all we're asking is that you do your best
5 to soften the impact of the proposed new building,
6 proposed to be erected on Pier 4.

7 CHAIRPERSON HOOD: Okay. Thank you. Any
8 other questions up here? Mr. Glasgow, you have any
9 cross-examination?

10 MR. GLASGOW: No cross.

11 CHAIRPERSON HOOD: Okay. Mr. Litsky, you
12 have any cross? Mr. Solon, thank you very much.
13 You've been very vigilant and we've seen you a number
14 of times so thank you. Keep up the good work.

15 MR. SOLON: I apologize for the few typos I
16 saw here.

17 CHAIRPERSON HOOD: Well, we work together.
18 We gave you some more time since we had the typos.

19 MR. SOLON: Thank you.

20 CHAIRPERSON HOOD: Okay. Okay. Mr. Glasgow,
21 you have any rebuttal and closing?

22 MR. GLASGOW: Yes, sir. It appears that the
23 one item that we have that we've -- that I understand
24 is trying to work with the community and with the ANC
25 with respect to the rooftop terrace restrictions,

1 from what I could hear from the testimony and the
2 evidence of record by the parties and the reports
3 from the ANC is that the design of the building, and
4 we were asked to take a look at not as a condition
5 but just to take a look at seeing if we could round
6 the penthouse structure, that the height and bulk of
7 the structure was appropriate, and that the use is
8 appropriate. And what we would like to see if we
9 could do is between -- have a proposed action tonight
10 so that we know how we can move forward, and then
11 between proposed action and final action see if we're
12 able to work out this language with respect to the
13 rooftop terrace use.

14 CHAIRPERSON HOOD: Okay. And was that your
15 closing? You put it all together?

16 MR. GLASGOW: Yes. Yes, sir.

17 CHAIRPERSON HOOD: All right. Any follow-up
18 questions, Commissioners? Vice Chair Cohen?

19 MS. COHEN: Yeah. What is the rush to get
20 proposed action tonight because the ANC is really
21 concerned and that makes me a bit uncomfortable?

22 MR. GLASGOW: Yes.

23 MR. HOFFMAN: You'll hear from us next week,
24 and you'll actually see the progression on the water
25 side, but it's actually a bit of a Rubik's Cube on

1 the waterside and that we need to move Odyssey off of
2 Pier 4, or Pier 3, pardon me, so that we can demolish
3 Pier 3. Demolish Pier 3 so that we can construct the
4 first gangplank live-aboard dock so that we can
5 relocate the gangplank live-aboards that currently
6 reside where the recreation pier is at the terminus
7 of 7th Street, so that we can deliver the 7th Street
8 Pier in October of 2017. And it's a pretty finely
9 tuned schedule where all of this needs to be
10 happening in relatively short order, and it all sort
11 of hinges on the Odyssey move from Pier 3 to Pier 4.

12 So there is a bit of an urgency and I think
13 that we can get to an agreement. We're not opposed
14 to any sort of regulations on the tenants use of the
15 space. We're honestly just trying to protect our
16 ability to lease it to a third-party tenant with, you
17 know, some flexibility so the provisions are not so
18 onerous on them that they don't want to lease the
19 space, or it has an impact on the economics.

20 The third floor tenant allows us to do a lot
21 of the things that we're doing on the first and
22 second floor for Entertainment Cruises, and the
23 upgrades that we're affording to do on Pier 4.

24 MS. COHEN: Are you suggesting that you would
25 not enclose that space? I mean, they could

1 appreciate it then in the rain as well as the sun.

2 MR. HOFFMAN: Honestly, we started with that
3 space enclosed and went down in flames at the
4 Commission of Fine Arts. I mean, we had more
5 enclosed FAR on the pier, and one of the asks of the
6 CFA process was to scale the building back at the
7 edges so it started to look more like a ship and the
8 terraces would look like the decks of the boats and
9 it had sort of a nautical theme to it. So we
10 actually had more square footage, that was the
11 difference when we went from 36,000 down to 32,000 as
12 we took the enclosed space and made it exterior to
13 satisfy the CFA.

14 So my concern is that we end up in a design
15 loop with CFA and Zoning Commission. I don't think
16 they would ever accept it going back to an enclosed
17 space.

18 MR. MAY: Yeah, I think the concern is that -
19 - and I mean, I have a real concern that you're not
20 going to fully be able to address the ANC's concerns
21 with just more words in the -- you know, in your
22 proposed conditions and that you may need to make
23 some modifications physically and that may -- you
24 know, you may need to you know, work that out through
25 CFA as well. So I'm a little concerned about us

1 getting ahead of it.

2 I mean, I understand it's all, you know, it's
3 on the critical path for part of the delivery for
4 your project, but I would be more comfortable if we
5 did not take -- we didn't jump into this too quickly
6 and allow you some more time to get it worked out
7 with the ANC. Again, I mean, if it does require -- I
8 mean, I don't know if it's going to require such
9 changes that you have to go back, that you're going
10 to put your approval at CFA in jeopardy, but I mean,
11 I think you really have to look at that; have to look
12 at some other changes to it that would limit --
13 basically we're talking about limiting the capacity
14 of the outdoor space. Maybe it is enclosing more of
15 the space. Maybe it's you know, having more
16 intensive you know, green roof or something like that
17 to limit the overall capacity of it or something like
18 -- or, you know, some other reconfiguration of the
19 space so that you wind up with the potential for
20 noise to be kind of focused away from the building,
21 away from the neighbors or something like that.

22 So I think there's a little more to it and
23 it's very hard for me to say that, yeah, between
24 preliminary and final we're going to -- you know, all
25 that is going to get resolved.

1 MR. HOFFMAN: I think we would prefer to keep
2 the design the same and come up with operational
3 limits on the terrace.

4 MR. MAY: Obviously. Absolutely. I
5 understand that's the easiest way --

6 MR. HOFFMAN: It is. Yeah.

7 MR. MAY: -- to do that. You know, I don't
8 know if Commissioner Miller's suggestion that there
9 would have to be a time limited approval of the use
10 of that, of those conditions would be subject to
11 revisiting every three years or something like that,
12 like a BZA order. I mean, maybe that's something
13 worth pursuing as well. But I'm not totally
14 comfortable with just moving ahead today versus
15 giving you a little bit more time to try to work it
16 out with the ANC.

17 And, you know, I mean, the fortunate thing
18 here is that you have one of the most capable and
19 positive ANCs to work with. They seem to be very
20 high-functioning and willing to work with you and I
21 think there's been a great partnership between you as
22 the developer and them as the ANC to move this entire
23 very difficult, very complex project forward. And it
24 really should continue to move in that way.

25 So I mean, I just think you know, another

1 three weeks to figure it out is probably going to be
2 the best course.

3 When you go back to ANC do you -- I mean,
4 sorry, CFA, is it -- have you been delegated to staff
5 at this point for final?

6 MR. HOFFMAN: We have, yes.

7 MR. MAY: Okay. So, I mean, I understand
8 that there are limits to how far the staff would go
9 in accepting any kind of physical changes to the
10 building, but you know, maybe you can still thread
11 that needle and not have to go back again to the
12 Commission. You know, when they're telling you that
13 it's got to be smaller they're pushing deeply into
14 the zoning domain, and you know, that's why we don't
15 say too much about the design when you're going
16 through their design review because we don't want to
17 push back into what's their territory.

18 But, you know, impact on the neighborhood and
19 the density of the project, those are things that are
20 strictly in our domain. Or not strictly in our
21 domain, but certainly in our domain. So anyway,
22 those are my thoughts.

23 MS. COHEN: I know you've had many
24 consultants. Have you had an acoustic consultant
25 that might look at the state of the art noise

1 attenuation materials, because that might again be a
2 very important route to go. That's something that
3 you know, has really become a very advanced science.
4 Especially with music halls, but it really works for
5 some outdoor spaces as well because there are outdoor
6 sheds, music sheds, that again are near neighborhoods
7 and they don't project as much. So you might need to
8 do that.

9 MR. HOFFMAN: Okay.

10 CHAIRPERSON HOOD: Commissioner Miller.

11 MR. MILLER: Thank you, Mr. Chairman. I
12 agree with everything Commissioner May and Vice Chair
13 just said. And we obviously want this to be worked
14 out. I mean, we've had this discussion many times.
15 And we expect something, even something big to be
16 worked out. And if it's not worked out between
17 proposed -- and we still take proposed action. And
18 you, I know, it's not going on the final action
19 agenda. You've taken it off because it wasn't worked
20 out.

21 So I've always -- I mean, we each have a
22 different philosophy of which way it works better. I
23 usually favor proposed action to keep the momentum
24 going, to keep people working together, but you know,
25 I defer to my colleagues. And we're missing one

1 colleague tonight, so that may be -- that's a reason
2 also to wait, but -- so he can review the record and
3 weigh in. But I usually do prefer we take proposed
4 action and with the expectation that there would be a
5 good faith effort by both the applicant and the ANC
6 to work it out in a way that would have, you know,
7 strict operational controls and I think the time
8 limit thing probably could work. But I'm sure the
9 attorneys who are involved in this, including our
10 own, will weigh in on that.

11 CHAIRPERSON HOOD: As I've heard from Mr.
12 Seaman, and I understand the issues at hand, we're
13 going to see them next week. And I'm going to throw
14 something out there for discussion. We don't need to
15 spend 30 minutes talking about it. But what I think
16 we could do is hear the case next week, on Thursday,
17 and we can plan to have a special public meeting
18 afterwards if we see a need because I think you tied
19 them in together. And in between that week, if Mr.
20 Litsky has the time or the ANC, I'm not sure how that
21 could work. And I'm just throwing this out here,
22 could go ahead and the ANC could -- and I hate to do
23 this on volunteers who don't get paid, can work
24 between now and next Thursday. And after the hearing
25 next Thursday we'll have a special public meeting to

1 revisit this discussion again, whether we want to
2 take proposed action one week ain't going to make a
3 difference.

4 I'm throwing that out for discussion with my
5 colleagues. If you understand what I'm saying.
6 We're going to have a hearing next Thursday. If they
7 can work out some of the language and we can come to
8 some conclusion we can revisit this next Thursday,
9 after the hearing. And then, you know, if it doesn't
10 go forward or if we see that we don't need to at the
11 special public meeting and the special public meeting
12 will be every bit of two minutes, or a minute. So,
13 you know, that's my -- I'm just throwing it out for
14 discussion. And let's hear what anybody has to say.

15 MS. COHEN: Mr. Chairman.

16 CHAIRPERSON HOOD: Yes.

17 MS. COHEN: I think that it's an excellent
18 proposal. I am basing it on the fact that Mr. Litsky
19 and the applicant have an excellent relationship.
20 They've always worked well together. And I know that
21 it's, you know, putting them into a time -- or really
22 the ANC into a time crunch. But I think that the ANC
23 has always been willing to go that extra, you know,
24 mile to meet its responsibilities, and then
25 understanding the importance of moving the -- I mean,

1 the most difficult client was the live-aboards, so I
2 understand that you have to keep that moving. It's
3 like a chess board. So I think your idea is very
4 good.

5 CHAIRPERSON HOOD: Okay. Thank you.

6 MR. MAY: Mr. Chairman, I would just say, you
7 know, you've been Chairman of the Commission for a
8 very long time and occasionally you remind us why,
9 and I think this is an excellent suggestion. I'm
10 very glad to provide them next week.

11 CHAIRPERSON HOOD: Man, I'm hitting the
12 jackpot tonight. Let me -- what time does the place
13 close?

14 MR. MILLER: I'll make it unanimous.

15 CHAIRPERSON HOOD: Okay. So let me just ask
16 Mr. Litsky, though, because I did put the volunteers
17 on the limb. If you can come forward, Mr. Litsky,
18 and tell me what you think about that proposal?

19 MR. MAY: Yeah, this might take you down a
20 notch.

21 MR. LITSKY: I thank you for advancing the
22 discussion, Mr. Chairman, and for putting the
23 opportunity forward that we move this more quickly
24 than not.

25 I agree with Commissioner Cohen and

1 Commissioner May that we have an extremely high
2 functioning ANC, considering that most of them are
3 not. My apologies to my other ANC commissioners
4 across the city who might be watching this. And we
5 have a terrific relationship with the applicant.

6 I am concerned, however, that this is taking
7 place over the course of a three-day weekend that
8 starts tonight. I mean, tomorrow is the beginning of
9 the Memorial Day holiday, and Monday is a holiday.
10 And so we'll essentially have two more business days
11 to get things together.

12 I will not have an opportunity to participate
13 fully because I have plans Memorial Day, and I'm not
14 sure what the schedule is for the rest of the crew.
15 Additionally, I won't have an opportunity to explore
16 fully the ideas that Commissioner Miller had brought
17 forth and perhaps other areas of the city where
18 things have been arranged and there are venues that
19 seem to be working out. I don't know where they are,
20 and I don't know that I can effectively do that in a
21 very short period of time. I need a little bit of
22 guidance, and at this point it's me.

23 CHAIRPERSON HOOD: Okay. Well, my head now
24 is deflated. But let me find out, when is our next
25 public meeting?

1 MS. SCHELLIN: June 13th.

2 CHAIRPERSON HOOD: June 13th. Is that going
3 to hurt everybody?

4 MR. HOFFMAN: We can make that work.

5 CHAIRPERSON HOOD: Okay. So June 13th, is
6 that -- okay. So why don't we --

7 [Discussion off the record.]

8 CHAIRPERSON HOOD: What do we have that
9 Thursday? The Thursday after June 13th? No, they
10 have their meeting on the second Monday, so if we
11 have the Thursday after.

12 MS. SCHELLIN: Actually, yes, it is a second
13 Monday. We actually have a 5:30 training with DOEE.

14 CHAIRPERSON HOOD: That's all we have?

15 MS. SCHELLIN: And a hearing.

16 CHAIRPERSON HOOD: Is the hearing going to be
17 long? Can we do a special public meeting at 6:15?

18 MS. SCHELLIN: Well, DOEE is going to take
19 the full hour or more.

20 CHAIRPERSON HOOD: I think this --

21 MR. MAY: This is going to be a 10-minute
22 special public meeting.

23 CHAIRPERSON HOOD: Right. Yeah. Well, what
24 we'll do is we'll just apologize to the people at
25 6:30 why we're late. So if you're watching it,

1 that's the date of your hearing, we apologize
2 already. We're going to start about 10 minutes late.
3 Yeah, let's just do that.

4 MS. SCHELLIN: It's probably Mr. Glasgow's
5 case.

6 CHAIRPERSON HOOD: Well, Mr. Glasgow, we
7 apologize for being 10 minutes late, whatever day
8 that is.

9 MS. SCHELLIN: Jamal's Gateway, I'm assuming.
10 It says for him anyway.

11 CHAIRPERSON HOOD: Jamal's Gateway?

12 MS. SCHELLIN: Yeah.

13 CHAIRPERSON HOOD: Tell Mr. Jamal and his
14 group we apologize for being 10 minutes late. I'm
15 sure that don't have -- Mr. Millstein, and I'm sure
16 they won't have a problem.

17 MS. SCHELLIN: So we'll just schedule it for
18 6:30 p.m.

19 CHAIRPERSON HOOD: 6:30, yeah. Starting to
20 get overbooked.

21 Okay. So is that okay? We'll schedule that.
22 And we won't be on the second Monday because you all
23 have your meeting. So if you all could do any
24 necessary actions and then we can get a report from
25 you by that Thursday, that will be helpful and we can

1 disseminate and deal with this for about 10 minutes.

2 MR. HOFFMAN: That will work well. Thank
3 you.

4 MS. SCHELLIN: That's June 16th.

5 CHAIRPERSON HOOD: June 16th. That's a
6 Thursday, right?

7 Okay. All right. So we all on the same
8 page? Do we have anything else? Dates? Anything
9 else we can do?

10 MS. SCHELLIN: I don't think it's going to
11 take you guys very long to make a submission. If
12 you're going to -- I mean, do you guys want them to
13 make the submission about trying to round the
14 penthouse, or do you want that done?

15 MR. MAY: No, you know, that's not
16 substantial. That's not going to be an issue for --

17 MS. SCHELLIN: They could do that --

18 MR. MAY: -- the special public meeting.
19 It's really just this issue with the ANC.

20 MS. SCHELLIN: Okay. So we can talk about a
21 date. They can make that submission after that.
22 Okay. Thank you.

23 CHAIRPERSON HOOD: Okay. Do we have anything
24 else?

25 MS. SCHELLIN: No, sir.

1 CHAIRPERSON HOOD: All right. I want to
2 thank everyone for their participation tonight,
3 especially my colleagues. We had a long week this
4 week. We normally only do two days, but we've done
5 quite a bit, so --

6 MS. SCHELLIN: Other than the record is
7 closed, correct?

8 CHAIRPERSON HOOD: The record is closed,
9 yeah.

10 MS. SCHELLIN: Correct?

11 CHAIRPERSON HOOD: Yes.

12 MS. SCHELLIN: Okay.

13 CHAIRPERSON HOOD: Okay. Anything else?

14 MS. SCHELLIN: No.

15 CHAIRPERSON HOOD: All right. With that I
16 want to thank everyone for their participation and
17 this hearing is adjourned.

18 [Hearing adjourned at 8:16 p.m.]

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