

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

-----: :  
 IN THE MATTER OF: : :  
 : :  
 Request for a Modification : Case No.  
 of an Approved Planned : 70-16B  
 Unit Development : :  
 : :  
 -----: :

Thursday,  
November 18, 2010

Hearing Room 220 South  
441 4<sup>th</sup> Street, N.W.  
Washington, D.C.

The Public Hearing of Case No. 70-16B by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
GREG SELFRIDGE, Commissioner  
PETER MAY, Commissioner (NPS)  
MICHAEL G. TURNBULL, FAIA, Commissioner  
(AOC)

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Board of Zoning Adjustment  
District of Columbia  
CASE NO. Transcript  
EXHIBIT NO.null

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER  
KAREN THOMAS

The transcript constitutes the minutes from the Public Hearing held on November 18, 2010.

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

2 6:35 p.m.

3 CHAIRMAN HOOD: Good evening,  
4 ladies and gentlemen. This is a Public  
5 Hearing of the Zoning Commission of the  
6 District of Columbia for Thursday, November  
7 18, 2010. My name is Anthony Hood.

8 Joining me are Commissioners  
9 Selfridge, May and Turnbull. We are also  
10 joined by the Office of Zoning staff Ms.  
11 Sharon Schellin. Also, the Office of Planning  
12 staff Ms. Thomas.

13 The subject of this evening's  
14 hearing is Zoning Commission Case No. 70-16B.

15 This is a request by CESC 2101 L Street for  
16 approval of modification of property located  
17 at Square 72.

18 Tonight's hearing is a continuation  
19 of the October 7, 2010 hearing.

20 Notice of today's hearing was  
21 published in the DC Register on July 9, 2010  
22 and copies of that announcement are available

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1 to my left on the wall near the door.

2 This hearing will be conducted in  
3 accordance with provisions of 11 DCMR 3022 as  
4 follows: preliminary matters, applicant's  
5 case, report of the Office of Planning, report  
6 of other government agencies, report of ANC-  
7 2A, organizations and persons in support,  
8 organizations and persons in opposition,  
9 rebuttal and closing by the applicant.

10 The following time constraints will  
11 be maintained in this meeting: the applicant,  
12 45 minutes; organizations, 5 minutes;  
13 individuals, 3 minutes.

14 The Commission intends to adhere to  
15 the time limits as strictly as possible in  
16 order to hear the case in a reasonable period  
17 of time. The Commission reserves the right to  
18 change the time limits for presentations if  
19 necessary and notes that no time shall be  
20 ceded.

21 All persons appearing before the  
22 Commission are to fill out two witness cards.

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1           When presenting information to the  
2 Commission, please turn on and speak into the  
3 microphone, first stating your name and home  
4 address. When you are finished speaking  
5 please turn your microphone off so that your  
6 microphone is no longer picking up sound or  
7 background noise.

8           To avoid any appearance of the  
9 contrary, the Commission requests that persons  
10 present not engage the members of the  
11 Commission in conversation during any recess  
12 or at any time.

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

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

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

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

22           (WITNESSES SWORN.)

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1 MS. SCHELLIN: Thank you.

2 CHAIRMAN HOOD: Okay. Also we are  
3 joined by Ms. Steingasser from the Office of  
4 Planning.

5 At this time the Commission will  
6 consider any preliminary matters.

7 Does staff have any preliminary  
8 matters?

9 MS. SCHELLIN: Yes, sir. We do  
10 have a request from the WECA. If you recall,  
11 on October 7 they were granted party status in  
12 opposition.

13 Today they filed a request to  
14 change their standing to party status in  
15 support. We'd ask the Commission to consider  
16 that. Barbara Kahlow was their  
17 representative.

18 CHAIRMAN HOOD: Okay. Thank you  
19 very much.

20 MS. SCHELLIN: I'm sorry. Chairman  
21 Hood, I would also state that the applicant  
22 has filed their affidavit of maintenance and

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1 it is in order.

2 CHAIRMAN HOOD: What do we have to  
3 do in the changeover from opposition to  
4 support; do we need to accept it as support as  
5 opposed to opposition?

6 MS. SCHELLIN: Right. I just ask  
7 that the Commission would consider that.

8 CHAIRMAN HOOD: And the letter, Ms.  
9 Schellin, maybe you can help us with. In one  
10 of Ms. Kahlow's letters she still said for the  
11 Commission to deny.

12 MS. SCHELLIN: You may want to call  
13 Ms. Kahlow to the table and ask her about  
14 that.

15 CHAIRMAN HOOD: Is that a typo?

16 Ms. Kahlow, would you come forward  
17 and explain that? Thank you.

18 MS. KAHLOW: I'd be happy to. We  
19 are in support. And what we did is we  
20 attached the testimony that was the basis for  
21 the agreement that we reached with the  
22 developer which turned us into supporters.

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1           We just thought that since you all  
2 know the West End Citizens Association's views  
3 on amenities that you'd be happy that we were  
4 able to reach an agreement, that you could at  
5 least understand the logic behind our original  
6 opposition and the change now.

7           CHAIRMAN HOOD: We appreciate that.  
8 I'm glad you all have an agreement but we  
9 still have to run it through its course.

10          MS. KAHLOW: Of course.

11          CHAIRMAN HOOD: I'm still concerned  
12 though about your testimony because it's dated  
13 November 18.

14          MS. KAHLOW: It was printed and  
15 intended for today, and we got the agreement  
16 at 12:17 last night.

17          CHAIRMAN HOOD: Right. That's my  
18 point. Unless I'm missing something, it still  
19 has November 18 and as I look through your  
20 five-page testimony, when I look at the  
21 recommendation it still says that WECA  
22 believes that in the interests of more street

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1 life on 21<sup>st</sup> Street, the Board should deny the  
2 proposed modification.

3 MS. KAHLOW: That was our testimony  
4 before the agreement was prepared. Clearly,  
5 we are now in support of the agreement. We do  
6 not think you should deny it. We think you  
7 should approve with the understandings that we  
8 have community amenities.

9 CHAIRMAN HOOD: Thank you very  
10 much.

11 MS. KAHLOW: Thank you for asking  
12 me to clarify that.

13 CHAIRMAN HOOD: I just wanted you  
14 to clear that up for the record. Thank you.

15 Okay. Is that it?

16 MS. SCHELLIN: Is the Commission  
17 going to by consensus accept that change?

18 CHAIRMAN HOOD: West End is now in  
19 support. Is there any objection?

20 General consensus?

21 Okay. Thank you.

22 COMMISSIONER TURNBULL: Mr. Chair,

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1 I just have -- we can get into it later. I  
2 just have a problem with the amenities but we  
3 can get into that later and what these  
4 amenities really mean as far as relating to  
5 the retail of the building. But we can get  
6 into that later on.

7 CHAIRMAN HOOD: Okay. I think Ms.  
8 Bray has heard you loud and clear. Maybe  
9 she'll address that in her presentation.

10 You may begin, Ms. Bray.

11 We have proffered witnesses too,  
12 right? Do you want to run through that?

13 MS. BRAY: Yes, sir. Thank you  
14 very much, Mr. Chairman and members of the  
15 Commission. My name is Kinley Bray, for the  
16 record, with the law firm of Arent Fox.

17 We do have three witnesses in  
18 support tonight as part of our case  
19 presentation. With me to my right is Michael  
20 Novotny with the applicant. We also have  
21 Charlie Papadopoulos with Papadopoulos  
22 Properties, who is an expert in retail

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1 leasing, and Ellen McCarthy, an expert in  
2 planning and zoning.

3 I believe the record has Charlie's  
4 partner's resumΛ and I'd like to submit  
5 Charlie's for the record. They are partners  
6 in their retail brokerage. I believe they  
7 have very similar experience which has  
8 qualified them both as experts.  
9 Unfortunately, Tom wasn't able to be with us  
10 but Charlie is here.

11 CHAIRMAN HOOD: Okay. We will take  
12 his resumΛ.

13 But I think, Commissioners, we know  
14 Ms. McCarthy very well so I don't think there  
15 is any objection she's an expert. So we'll  
16 accept her as an expert.

17 MS. BRAY: We'd also request expert  
18 status for Mr. Papadopoulos as well.

19 CHAIRMAN HOOD: Is this in  
20 commercial real estate?

21 MS. BRAY: An expert in retail  
22 leasing.

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1 CHAIRMAN HOOD: We have Mr.  
2 Papadopoulos' brother today?

3 MS. BRAY: That's right.

4 CHAIRMAN HOOD: Okay. I'm getting  
5 confused here.

6 MS. BRAY: Yes. With our initial  
7 filing we had submitted Tom Papadopoulos' CV  
8 and today we have Charlie Papadopoulos,  
9 Charles.

10 CHAIRMAN HOOD: Give us a moment to  
11 look at the resumΛ.

12 Commissioner Selfridge?

13 COMMISSIONER SELFRIDGE: Thank you,  
14 Mr. Chairman. I was just looking, it looks  
15 like Mr. Papadopoulos is an expert in  
16 restaurant leasing. But this is more general  
17 in terms of retail leasing that we're  
18 discussing tonight. So I would just want to  
19 point that out. Certainly, very qualified in  
20 restaurant leasing.

21 CHAIRMAN HOOD: You wanted to  
22 proffer him in as retail leasing?

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1 MS. BRAY: We would prefer to  
2 proffer him as retail leasing. Restaurant is  
3 certainly a part of retail use. But Mr.  
4 Papadopoulos' experience, I believe, as  
5 reflected on the resuΛ is in restaurants.

6 Perhaps, Mr. Papadopoulos, you  
7 could give us some more information about your  
8 general retail leasing experience?

9 MR. PAPADOPOULOS: We've been in  
10 business for over 25 years now. We are  
11 commercial real estate brokers in Washington,  
12 DC.

13 We do specialize in restaurant  
14 leasing but when -- we take listings in market  
15 properties for landlords. Of course, we have  
16 several different types of properties and we  
17 lease. It's not always restaurants. It might  
18 be a dry cleaner, it might be a cell phone  
19 store, etc. But restaurants seem to be the  
20 most popular use in downtown office buildings  
21 right now.

22 MS. BRAY: Just for clarification,

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1 Mr. Papadopoulos, do you draw a distinction  
2 between general retail leasing and general  
3 commercial leasing; do you specialize in  
4 office?

5 MR. PAPADOPOULOS: No. We always  
6 refer office leasing out. I couldn't even  
7 tell you what office leases go for in the  
8 city.

9 MS. BRAY: Okay. Thank you.

10 CHAIRMAN HOOD: Thank you, Ms.  
11 Bray.

12 Thank you, Mr. Papadopoulos.

13 I would agree with Commissioner  
14 Selfridge. I want to hear from my other  
15 colleagues. But I just think the resumΛ is  
16 what it is.

17 COMMISSIONER TURNBULL: Yes. I  
18 think the curriculum vitae that we've got here  
19 is kind of light. If you're submitting a  
20 resumΛ and you want qualifications, I think it  
21 should be a little more thorough and complete  
22 than this one-page item, especially if you

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1 want him on a broad scope. And I think this  
2 falls a little short.

3 CHAIRMAN HOOD: Mr. May?

4 Anyone else?

5 So we will not proffer him but we  
6 will hear his testimony. Because what you're  
7 asking us to proffer him for and what we see  
8 are two different things.

9 MS. BRAY: May I ask, would you  
10 accept him as an expert in restaurant leasing  
11 based on this?

12 CHAIRMAN HOOD: I don't think --  
13 let me go to my expert here. I don't think  
14 that's a problem when I look here and I see --  
15 you know, I'm trying to figure out if I eat at  
16 some of these places.

17 COMMISSIONER SELFRIDGE: I would  
18 think that would be more consistent with the  
19 resumΛ in front of us. I have no doubt that  
20 they do quite a bit of leasing. But from what  
21 I see in front of me, it would seem to be  
22 focused on restaurants more narrowly as

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1 opposed to retail broadly.

2 CHAIRMAN HOOD: Yes. We'll offer  
3 him as an expert in restaurant leasing.

4 MS. BRAY: Thank you, Mr. Chair.

5 CHAIRMAN HOOD: Is that the subject  
6 tonight?

7 MS. BRAY: I'm sorry. I didn't  
8 hear.

9 CHAIRMAN HOOD: Is that going to be  
10 the subject tonight, restaurant leasing?

11 MS. BRAY: That is part of our  
12 presentation.

13 CHAIRMAN HOOD: Okay. Well, let me  
14 let you do your presentation.

15 MS. BRAY: Sure. Thank you again.

16 We'd like to provide a little bit  
17 of context and background on the underlying  
18 PUD that we're here today to modify.

19 The approved PUD is one of the  
20 oldest PUDs as we know them in the city.

21 The PUD process was enacted in 1969  
22 and prior to that there was a large-scale

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1 planned development process which yielded only  
2 a couple of private sector projects, such as  
3 the Watergate and Columbia Plaza.

4 The regulations in effect in 1973  
5 when this PUD was approved were significantly  
6 less detailed and, frankly, less onerous than  
7 the PUD standards we're familiar with today.  
8 The only mention of amenities, for example,  
9 are that the -- well, I'll just read this.

10 From Order No. 3 of Zoning  
11 Commission dated January 29, 1969, "Increases  
12 in building height and density are permitted  
13 as an incentive to allow flexibility of  
14 development. However, such increases should  
15 not be granted when they do not provide future  
16 occupants of planned unit developments with a  
17 living or working environment and amenities  
18 superior to those which can be achieved by  
19 applying the general provisions of the zoning  
20 regulations."

21 The main objectives of the Zoning  
22 Commission, NCPC, the Zoning Advisory Council,

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1 and BZA review of PUD applications at that  
2 time were to ensure that the uses, bulk,  
3 height, and density were appropriate for the  
4 proposed location. Which is similar to our  
5 special exception process now.

6 The initial PUD saw to change a  
7 portion of the site from R-5-D to C-2-B. C-2-  
8 B would have permitted development of up to 90  
9 feet and 6.5 FAR at 100 percent lot occupancy.

10 The R-5 would have permitted a residential  
11 development or a hotel of up to 90 feet, 6.0  
12 FAR at 75 percent lot occupancy.

13 The applicants requested approval  
14 of a PUD and related map amendment to  
15 consolidate the zoning on the site, and to  
16 permit office and retail uses at a height of  
17 110 feet. The overall density sought and  
18 ultimately constructed was 7.0 FAR.

19 Essentially, the PUD process  
20 yielded a 0.5 FAR of additional density on the  
21 site, 25,416 square feet and 20 additional  
22 feet in height.

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1           Since this is one of the earliest  
2 PUDs approved, we've carefully reviewed the  
3 order and of course the regulations under  
4 which it was approved, and have noticed a few  
5 factual errors in the initial PUD order which  
6 I think are worthy of mention tonight before  
7 the applicant gets into his testimony.

8           The PUD order, first of all, states  
9 in condition four that the maximum gross floor  
10 area of the property is 557,000 square feet.  
11 That is incorrect. That is actually the  
12 overall floor area, not gross floor area, and  
13 is inclusive of basement levels.

14           The maximum permitted gross floor  
15 area with the 7.0 FAR is 356,181 square feet  
16 and that is what the building was constructed  
17 to.

18           Additionally, the PUD order states  
19 that 32,000 square feet shall be devoted to  
20 retail uses on the first floor. However, the  
21 entire first floor comprises 32,000 square  
22 feet.

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1           It was certainly always the intent  
2           that the first floor, exclusive of lobby and  
3           other common areas necessary for operation of  
4           a commercial office building, be devoted to  
5           retail uses.

6           But the 2006 PUD modification in  
7           this case corrected this error by specifically  
8           stating that 24,100 square feet of floor area  
9           shall be devoted to retail uses, because that  
10          was what was feasible physically on the  
11          property.

12          It's also important to note that  
13          the approved PUD did not require an additional  
14          20,000 square feet of retail in the basement  
15          level. In fact, the order merely provides  
16          that the basement level may be used for retail  
17          purposes.

18          We think that this is similar to a  
19          developer asking for flexibility of uses as  
20          part of a PUD that you might approve today,  
21          that the developer was seeking the flexibility  
22          to either put office uses or retail uses on

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1 the basement level.

2 Michael Novotny from  
3 Vornado/Charles E. Smith will go into the  
4 details of the 2006 PUD modification request.

5 But that was indeed a major modification of  
6 an approved PUD and processed in accordance  
7 with the requirements of a second-stage PUD.  
8 It was essentially a new application.

9 We are back before you seeking  
10 further amendment of that to deal with some of  
11 the problems that Vornado has encountered in  
12 trying to lease the space since the renovation  
13 approved in 2006 was completed.

14 With that, I'll turn it over to Mr.  
15 Novotny.

16 CHAIRMAN HOOD: Ms. Bray, let me  
17 ask, the square footage issue has been  
18 corrected in the 2006 order, correct?

19 MS. BRAY: That's correct.

20 CHAIRMAN HOOD: So all that's taken  
21 care of now?

22 MS. BRAY: Right.

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1 CHAIRMAN HOOD: Okay.

2 MS. BRAY: The basis for the  
3 reduction in retail square footage in 2006 was  
4 the fact that, exclusive of elevator lobbies,  
5 loading docks, and the main lobby of the  
6 building, 24,100 square feet is what was left  
7 for retail uses.

8 CHAIRMAN HOOD: Thank you.

9 MR. NOVOTNY: Good evening and  
10 thank you for taking time to hear our  
11 application. As Kinley mentioned, my name is  
12 Michael Novotny. I'm with Vornado/Charles E.  
13 Smith, the owner of the building.

14 What I'll do is take you through  
15 just a general overview of the building, our  
16 PUD, the original PUD, the modification, and  
17 what we're requesting now to give you a bit  
18 more context.

19 Very high level. The land itself  
20 is a little over an acre.

21 As Kinley mentioned, the PUD order  
22 in 1973 permitted a 10-story office building

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1 to be constructed at a 7.0 FAR. By right, it  
2 was 6.5 FAR at the time but the PUD allowed  
3 the additional bump.

4 As Kinley mentioned, approximately  
5 355,000 square feet of office space --

6 CHAIRMAN HOOD: Excuse me. Mr.  
7 Novotny, we're going to turn the lights out.  
8 Are you going to still be able to --

9 MR. NOVOTNY: Yes. That'd be  
10 great.

11 CHAIRMAN HOOD: All right. Thanks.

12 MR. NOVOTNY: Ultimately, a  
13 355,000-square-foot office building was  
14 constructed in accordance with the PUD.

15 This is a picture of the original  
16 building, for any of you that may recall what  
17 used to stand at the corner of L Street and  
18 21<sup>st</sup>.

19 The PUD modification in 2006 asked  
20 for a couple of different things. First I'll  
21 mention we acquired the property in 2003 and  
22 soon thereafter sought to modify the PUD so we

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1 could in fact redevelop the building.

2 In 2006 we requested two things,  
3 essentially. One, we wanted to replace the  
4 existing facade and put a glass curtain wall  
5 in its place, which required some design  
6 changes. Those design changes required the  
7 elimination of the second floor balconies and  
8 ninth floor setback.

9 The second thing that we asked to  
10 do was to enclose the arcade on the ground  
11 floor so that we could really utilize more  
12 current urban design standards, bring out some  
13 nice retail storefront. Our goal was to  
14 activate the streetscape.

15 Our goal to activate the  
16 streetscape under this application does not  
17 change. As I hope you'll see as we go through  
18 this, the purpose for our application is so  
19 that we may do that.

20 The net changes from the  
21 modification in 2006 is that we added 5,000  
22 square feet to the building. So it went from

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1 355,000 to 360,000. In FAR terms, it went  
2 from 7.0 to 7.1. I would just suggest that  
3 these were driven more by design than a desire  
4 to add square footage to the building.

5 Just to demonstrate a little bit  
6 better what the changes were, I'll just point  
7 to the screen over here. Here's the ninth  
8 floor setback that's in the old building. The  
9 second floor balconies are right here in the  
10 old building. It's harder to see in this  
11 picture but this is the retail arcade, that  
12 setback.

13 This is how the building looks  
14 today. You'll see it's a complete re-skin and  
15 redevelopment of the building. The ninth  
16 floor setback obviously eliminated to  
17 accommodate the curtain wall; the same thing  
18 with the second floor setback. We did bring  
19 out the retail facade to the sidewalk.

20 At the time for approval to take a  
21 very massive undertaking for the building, we  
22 provided \$100,000 to the DC Housing Production

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1 Trust Fund. We also provided \$25,000 to Green  
2 Spaces, and that was to improve park and open  
3 spaces and plant trees in parts of the city.  
4 We made those payments after we were approved  
5 with the last PUD modification.

6 Other things that were highlighted.

7 As part of our community benefits we retained  
8 the existing parking and we added secure bike  
9 parking.

10 I will just anecdotally offer to  
11 you, there's quite a bit more bike parking  
12 even than what has been required in the PUD  
13 because of our tenants and the nature of some  
14 of our tenants, one of which is USGBC.

15 They relocated their headquarters  
16 to this building which brought a big green  
17 focus to this building. We're very happy  
18 about that. But we added a lot of secure bike  
19 parking for them.

20 We have other tenants that have  
21 also sought LEED certification at very high  
22 levels. So that was part of what we actually

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1 modified in the existing building.

2           The other benefits -- again, these  
3 are noted in the PUD approval -- is the high-  
4 quality design, superior glass and metal use  
5 for the facade as you can see between the two  
6 pictures, and the quality ground floor retail  
7 space.

8           Additional benefits that were not  
9 listed in the approval but I would just  
10 suggest ought to be considered. We reused an  
11 existing aging structure and created a new  
12 Class A commercial office building in a key  
13 area in downtown.

14           That's something if you are looking  
15 to focus on green movements and trying to  
16 reuse structures rather than completely get  
17 rid of them. I'm proud to say that we were  
18 able to reuse much of that building.

19           Through the redevelopment we feel  
20 that we've contributed to improving the  
21 architecture and the quality of the  
22 neighborhood. We have enlivened L Street with

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1 retail that we've been able to put in along  
2 that side of the building.

3 We're very proud of the new tenants  
4 that we've brought to the building. We think  
5 we've brought some good life to that  
6 particular street. As you'll see, it's a very  
7 different street than 21<sup>st</sup> Street. I'll get  
8 into that in a bit.

9 Finally, I would just point out  
10 that through the redevelopment we were able to  
11 -- for the District we doubled the annual tax  
12 property revenue to the District, which prior  
13 to the redevelopment was \$1.4 million for  
14 year. Now it's \$2.9 million per year.

15 To the retail requirements  
16 specifically, the original PUD required 32,000  
17 square feet on the first floor level. In 2006  
18 we sought a modification to this because there  
19 was not 32,000 square feet on the first floor  
20 to lease.

21 We have a lobby, we have a loading  
22 corridor, we have a loading dock. To be

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1 honest with you, I'm scratching my head. I  
2 tried looking at the old plans. I don't know  
3 how they came up with 32,000 square feet.

4 But as confirmed in 2006, in the  
5 report it says, "Given that it is not possible  
6 to dedicate 32,000 square feet of ground floor  
7 to retail use, the Commission finds that  
8 24,000 square feet is sufficient."

9 So the actual space that we can  
10 lease -- BOMA is sometimes more of an art than  
11 a science. But given what the total square  
12 footages are with all of the leases that we  
13 have in place plus the remaining space, we  
14 have roughly 26,000 square feet that we can  
15 overall lease as retail space.

16 Everything else is common area or  
17 just does not exist beyond that number. In  
18 2006, I think that was recognized and  
19 acknowledged as part of this approval.

20 As Kinley mentioned, the 1973 PUD  
21 also stated 20,000 square feet of additional  
22 retail uses -- and I've underlined this -- may

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1 also be provided in the first basement level.

2 It was not a requirement. I know that you  
3 all have heard suggestions in the past that  
4 that was in fact a requirement. That's not  
5 the case.

6 The actual retail requirement from  
7 the original PUD was 32,000 square feet, which  
8 was for good reason reduced to 24,100 in 2006.

9 I just want to give you a glimpse  
10 of what the building used to look like. These  
11 are the prior retail tenants before the  
12 development. If I could just point to the  
13 screen for you, the tenants starting at this  
14 corner and working left.

15 You had Bank of America here.  
16 There was a small camera shop. This was  
17 Simply Wireless. There was a small hair  
18 salon. There was a Mail Boxes Etc. right  
19 here, a small caf , and then a small  
20 drycleaner. This is the side, as you'll see  
21 in a little bit, that we've been able to  
22 successfully lease to new retail uses.

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1           As we go to this side of the  
2 building you'll notice a very different  
3 dynamic in how the space is sized and the  
4 dimensions, and how this portion goes behind  
5 the elevator lobby.

6           But were fortunate at the time to  
7 have Galileo in there. When it was there it  
8 was a 9,000-square-foot restaurant. That's a  
9 very large restaurant by today's standards.  
10 Above here we had a doctor that had cosmetic  
11 surgery, a laser center.

12           That's how the old building was  
13 configured. Here's a couple of pictures just  
14 to give you an idea and if you recall going to  
15 Galileo.

16           I did like Galileo myself and I'll  
17 mention that we tried to get them back in. In  
18 fact, we had a signed lease for Roberto to  
19 come back into the building after we  
20 redeveloped. Unfortunately, he defaulted on  
21 the lease and he did not come back in.

22           The prior retail tenants on the L

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1 Street side of the building.

2 That brings us to today, who the  
3 current retail tenants are. Again, I'll just  
4 point to the screen here. We have Citibank  
5 that's taken the corner spot.

6 This next space is Bourbon Coffee.

7 It used to be a Starbucks. Unfortunately, it  
8 was the one Starbucks store that closed their  
9 doors when they had financial troubles a  
10 couple of years ago. But we were fortunate to  
11 have Bourbon Coffee come in there and it's  
12 always busy when I go by, I'm happy to say.

13 Brueggers right next to there. A  
14 new concept Litestars has just opened as of a  
15 couple of weeks ago, in fact. It's a French  
16 Bistro concept so we're hopeful that that will  
17 be very successful.

18 Here's the remaining vacant space.

19 We redeveloped the building in 2007. Really,  
20 you start your leasing as soon as you start  
21 your plans going forward. So we've tried to  
22 lease this space for over 3 years, probably

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1 going on 4 years at this point. But this is  
2 the chunk that remains vacant.

3 A couple of shots of the current  
4 retail tenants that are in there. I'll just  
5 kind of go through very quickly.

6 This is the 21<sup>st</sup> Street side of the  
7 building. This is the current vacant space.  
8 You'll see all the windows are covered up  
9 right now. We've tried to make it a nice side  
10 of the building just by covering the windows,  
11 but obviously it doesn't have any kind of  
12 streetlight to it. That's something that we  
13 would prefer to change.

14 Here's a closer shot of the same  
15 thing.

16 Then this is looking towards M  
17 Street. Again, 21<sup>st</sup> Street here and the vacant  
18 space going all the way to the end of the  
19 building.

20 This is a shot of across the  
21 street. This is the Verizon switching  
22 station. They have had RFPs out to try to

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1       redevelop the building. In fact, we looked at  
2       it ourselves.

3                It's going to be a very difficult  
4       redevelopment. There's a lot of switching  
5       equipment in there that's very sensitive. But  
6       nonetheless, we're hopeful it redevelops.

7                If it does, I don't know if this  
8       first floor will change. This right now is  
9       granite and concrete. For successful retail  
10      you like to have two sides of the street if  
11      you can get it, which helps both sides of  
12      retail. I don't know if we'll have that in  
13      the near term here.

14               This is another shot of the Verizon  
15      station. This is almost directly across from  
16      the lobby entrance from 2101 L Street and  
17      directly across from the vacant space.

18               I'm going to highlight three  
19      different issues that we've faced and we think  
20      are the reason that we have not been able to  
21      lease this space and why we're here asking for  
22      some relief.

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1           The first issue is kind of what I  
2 just hinted at, that it's a challenging  
3 location. Not only with the building directly  
4 across the street but you also have one-way  
5 streets that are working; L Street and 21<sup>st</sup>  
6 Street kind of converging in these directions.

7           What that does is it limits access,  
8 visibility. And interestingly enough, if  
9 you're going to put a restaurant in here, it  
10 limits your ability to valet park. That's not  
11 to say it can't be done. Galileo did valet  
12 park.

13           The way they did it is you would  
14 pull up right here, you'd jump out of your  
15 car, and they would reverse the car and go  
16 into the parking garage of 2200 M Street.  
17 They actually didn't use our parking garage  
18 and that's because the parking garage entrance  
19 is over here.

20           So to valet park you'd actually  
21 have to drive down 21<sup>st</sup>, take a right onto K  
22 Street, come back, then take a right onto L

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1 Street, and then back into the garage.

2 Obviously, that wasn't very  
3 convenient for their customers. But  
4 interestingly enough, it created quite a  
5 traffic dynamic having to reverse to get back  
6 to your garage.

7 Then also, I'd mention 21<sup>st</sup> Street  
8 being a secondary street as opposed to L  
9 Street or K Street certainly doesn't help.

10 The second issue; this is a really  
11 big deal. I can tell you that to the first  
12 issue, hey, there are challenges. And I'm  
13 sure you say, "Okay. Well, try to overcome  
14 them." We have and we will continue to do  
15 that. But the second issue I don't know how  
16 to overcome.

17 You have a 140 feet deep space  
18 right here on this side of the building. It's  
19 very unique to have 140 feet deep space and to  
20 try to lease the entire portion as retail.

21 For perspective, if you look at the  
22 L Street side, this space is 70 feet deep and

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1 it's very good for retail of all different  
2 types. You have a bank, you have different --  
3 you have a coffee shop and restaurants. It's  
4 conducive to having a good amount of  
5 storefront and laying out your space so that  
6 you're not too deep. There are only certain  
7 types of users that can use a real deep space  
8 that doesn't have the window frontage to go  
9 with it.

10 Then you get into this portion  
11 behind the elevator lobby. This is 120 feet  
12 wall to wall, but this portion here is a  
13 pretty significant portion of area that's  
14 behind the elevator lobby with zero  
15 visibility.

16 It could make a good kitchen for a  
17 restaurant. It might make a good stock room  
18 for a CVS if there was another pharmacy that  
19 wanted to come in, something like that. But  
20 it's a challenge and I think that it's a  
21 fundamental challenge.

22 It's not something that was

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1 discussed in the 2006 PUD. I think part of  
2 the reason it wasn't discussed is because we  
3 -- Roberto was coming back in as a restaurant  
4 user and we thought that we wouldn't have an  
5 issue with being able to lease the space. But  
6 as I mentioned, he defaulted on the lease and  
7 it didn't happen.

8 The third issue is essentially  
9 related to two. It's how do you subdivide the  
10 space. If you're going to make it two or  
11 three tenants, you're essentially going to  
12 create this bowling alley effect between these  
13 different tenants. How many tenants want a  
14 140 feet deep space and 25 feet of storefront?

15 It's very challenging.

16 I've put together a couple of  
17 slides here from an architect that we use  
18 quite a bit, WDG. They have a lot of  
19 experience with trying to fit out retail  
20 spaces. I'll just flip through a couple.

21 This is probably the best option if  
22 you're going to put two retail tenants in.

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1 But you notice it's a 6,000-square-foot tenant  
2 and 145 feet deep and you only have 40 feet on  
3 the front. If you're a modern retail tenant  
4 it's hard to make work. We've talked to a lot  
5 of different types of tenants that try to make  
6 it work.

7 Then that leaves this L-shaped  
8 space which is equally challenging, if not  
9 more challenging, unless you can find a use  
10 for this portion back here.

11 The next option looks at three  
12 tenants if we could subdivide that way.  
13 Again, it's kind of the first graphic I showed  
14 you which is the bowling alley effect. This  
15 is not desirable for any retail tenants that I  
16 can think of. Perhaps Charlie can speak to  
17 that a bit more as we go through.

18 Here it starts to become a more  
19 appealing option for retail tenants that are  
20 at the front of the building with the  
21 storefront.

22 However, you're left with a very

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1 big chunk here that, again, the amount of  
2 users -- and I won't suggest that no retail  
3 use can go in there, but I will suggest that  
4 the universe of retail users that would use  
5 this space is very small.

6 That's the challenge that we're  
7 faced with. If we could figure out how to  
8 make this space work, that's great. But then  
9 we're left with this chunk here.

10 And with the PUD requirement as it  
11 stands, essentially, if we made something work  
12 here, we would be left really with completely  
13 vacant space for I don't know how long.

14 It's obviously not a desirable  
15 situation as a property owner to be in to  
16 carry that kind of vacant space in the  
17 building for years and years. It's very  
18 costly to do that.

19 Option four is really just a slight  
20 modification of option three where perhaps you  
21 have one potential tenant that takes this  
22 front space and then you leave the back space

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1 here.

2 This kind of transition of  
3 different options that were drawn up by our  
4 architect to try to -- I asked him to come up  
5 with the best fits that he could to try to  
6 make retail tenants work in this space and  
7 this is what he came up with.

8 From that we kind of drew the next  
9 conclusion, which brings us to our  
10 application.

11 What we're asking for today is your  
12 permission to be able to lease -- require this  
13 portion of the space to be retail. Give us  
14 the flexibility to lease this to retail or  
15 non-retail uses. We're not saying strictly  
16 non-retail, but we're saying span the uses to  
17 those permitted in C-3-C.

18 If you were to grant that, that  
19 gives us a much better shot at being able to  
20 lease this space here as a lively restaurant  
21 or other retail use, and it doesn't leave us  
22 holding this kind of vacant space for I don't

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1 know how long.

2 So it allows us to do a retail deal  
3 and it allows us to activate the streetscape.

4 I'll just point out here what we're  
5 talking about. This is the entire building  
6 footprint. What we're talking about is  
7 activating the streetscape almost around the  
8 entire building, the only exceptions being in  
9 front of the lobby and then right here.

10 We need a little bit of a space,  
11 about a 20-foot space right there, to provide  
12 a second means of egress, which is a code  
13 requirement. So if we do lease this space to  
14 whomever and it's configured like this, we'll  
15 need that second means of egress.

16 This, just to kind of superimpose  
17 on the picture what that really means, is all  
18 of this vacant space here. Our hope is that  
19 we can lease this portion of it to an active,  
20 vibrant retail use that will activate the  
21 streetscape.

22 This would be the doorway to the

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1 rear of the space.

2 What we're requesting in the  
3 application before you is two things. One, we  
4 reduced the requirement from 24,100 to  
5 16,7000, consistent with the drawing that I  
6 just showed you.

7 Then the other piece is really  
8 clarification that the retail uses are those  
9 permitted in the C-3-C Zone District. It's  
10 nothing more than clarification on that piece.

11 What we are willing to provide in  
12 our application. We've met with ANC-2A, we've  
13 met with OP, we've met with the West End  
14 Citizens Association. ANC-2A asked us to  
15 restrict nightclubs to the building and we've  
16 agreed to do that.

17 West End Citizens Association asked  
18 for contributions. In our early meetings it  
19 was discussed potentially for the fire station  
20 and the library. Ultimately, we came to  
21 agreement on a \$20,000 contribution to the  
22 local fire station and a \$10,000 contribution

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1 to the library for their children's room.

2 I will also mention one other  
3 benefit that is not specifically related to  
4 this application but I think it's important  
5 nonetheless to raise. We decided to pursue  
6 LEED certification for the building despite no  
7 requirement to do so. We're in the middle of  
8 that now.

9 We're proud to say that we've  
10 already received 25 points and we're hopeful  
11 that we'll reach 39 points, which will make us  
12 LEED certified. We think it's an important  
13 thing to do for the community and the  
14 neighborhood.

15 Final remarks. ANC-2A voted  
16 unanimously to support us. It was a 6-0 vote.

17 West End Citizens Association, you heard from  
18 them earlier, they are a party in support. OP  
19 has supported our request. West End Friends  
20 are here tonight to also offer support.

21 Ultimately, we hope that you  
22 recognize that there's a fundamental issue

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1 with the PUD requirement that we're trying to  
2 overcome. If you agree to change that, we  
3 hope to bring vitality to the 21<sup>st</sup> Street side  
4 of our building.

5 Thank you very much.

6 CHAIRMAN HOOD: Ms. Bray, do we  
7 need more time?

8 MS. BRAY: Mr. Chair, we have  
9 prepared to put Ms. McCarthy on and Mr.  
10 Papadopoulos. I would suggest that they be  
11 here to answer any questions that the  
12 Commission may have.

13 But at this time I realize that the  
14 representatives from the District of Columbia  
15 Public Library are in the room and I would  
16 like to give them an opportunity to testify,  
17 if we could --

18 CHAIRMAN HOOD: Okay. Sure. You  
19 can call them before.

20 MS. BRAY: -- before completing our  
21 case. Thank you.

22 CHAIRMAN HOOD: Are they both

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1 coming forward?

2 MS. BRAY: Just one.

3 CHAIRMAN HOOD: I'd like to have  
4 both of them come forward but I guess they  
5 both don't want to come forward. Maybe  
6 because I know one of them.

7 MS. DAVENPORT: And I believe it's  
8 the other one.

9 Good evening, Chairman Hood and  
10 members of the Commission. My name is Nancy  
11 Davenport and I am the Director of Library  
12 Services for the District of Columbia.

13 I'm here to acknowledge the  
14 commitment that you've just heard about, the  
15 \$10,000 that would be dedicated to the  
16 children's room at the new West End Library.  
17 We would be very pleased to accept this  
18 donation.

19 You know that there are multiple  
20 pieces of development that will result in a  
21 fire station and in a new library. The  
22 project that's been approved for East Bank

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1 will result in a shell of a library, a shell  
2 that still needs to be outfitted.

3 We do have a commitment on record  
4 that would help to outfit this from a hotel.  
5 I am unsure tonight of the state of that  
6 particular development or whether that  
7 actually will result in a \$400,000-some  
8 contribution to the library.

9 To outfit a neighborhood library  
10 costs us in the neighborhood of over \$1  
11 million to do.

12 We've had experience, as you might  
13 know, in opening several neighborhood  
14 libraries recently. In this past year we have  
15 opened brand new libraries at Anacostia, at  
16 Benning, at Shaw, and two weeks ago we  
17 reopened Georgetown after the fire. Tenley  
18 will come in December -- January, and Petworth  
19 will be reopened in February.

20 So you're looking at a team of  
21 library managers who have been delivering a  
22 library to this city about every other month

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1 for the past year. So we can tell you with  
2 pretty exactitude what it would cost us to  
3 outfit it with meeting room space, with  
4 reading room space, and with the kind of  
5 particular space that you want to have in a  
6 children's room.

7 If you're like me and like many  
8 others, you developed your love of reading  
9 when you were a child and you were allowed to  
10 explore. You found some pretty special space  
11 that was created just for you.

12 That's what this \$10,000 would  
13 allow us to do. We would add it to that space  
14 that is devoted to children where we conduct  
15 early literacy training for children and their  
16 parents, where we do story hours where Mother  
17 Goose is on the loose, and where we lead  
18 children through to homework help.

19 So we hope to grab them when  
20 they're young and keep them. That's exactly  
21 how we would use this particular donation.

22 CHAIRMAN HOOD: Okay. Thank you.

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1 Are you going to have to leave?

2 Do we have any questions?

3 Mr. Turnbull?

4 COMMISSIONER TURNBULL: How far  
5 away is the library; where is the location of  
6 the library?

7 MS. DAVENPORT: The new location of  
8 the library?

9 COMMISSIONER TURNBULL: Right.

10 MS. DAVENPORT: I'm sorry. I'm not  
11 part of capital construction. I wait until  
12 they build them.

13 COMMISSIONER TURNBULL: No. The  
14 library you're talking about.

15 MS. DAVENPORT: The library right  
16 now?

17 COMMISSIONER TURNBULL: Right. The  
18 one for the \$10,000. Where is that going?

19 MS. DAVENPORT: We have two  
20 options. We can put that \$10,000 into the  
21 current library or we can hold in the  
22 library's foundation the \$10,000 to outfit the

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1 new space.

2 COMMISSIONER TURNBULL: That sounds  
3 a little wishy-washy as to where this money is  
4 going.

5 MS. DAVENPORT: No. The money  
6 would go to the Public Library Foundation for  
7 the benefit of the West End Library. The West  
8 End Library -- it could be used immediately at  
9 West End or it could be used --

10 COMMISSIONER TURNBULL: How far  
11 away is that?

12 MS. DAVENPORT: The West End  
13 Library is at 24<sup>th</sup> and L.

14 COMMISSIONER TURNBULL: 24<sup>th</sup> and L?

15 MS. DAVENPORT: Yes. Less than  
16 three blocks away. And the only library over  
17 there that serves that whole community all the  
18 way up to Dupont Circle.

19 COMMISSIONER TURNBULL: Okay.  
20 Thank you.

21 CHAIRMAN HOOD: Any other  
22 questions?

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1 Mr. May?

2 COMMISSIONER MAY: Yes. This is -  
3 - I'm sorry. Was it \$10,000 that we're  
4 talking about? Ten thousand dollars and you  
5 just said that you need \$1 million to set up  
6 every library typically. So it seems like  
7 this is a real drop in the bucket.

8 Is this for something above and  
9 beyond what is being paid for out of the  
10 city's capital budget?

11 MS. DAVENPORT: Yes, it is. It  
12 would be added to.

13 COMMISSIONER MAY: Okay. What is  
14 it by that isn't already covered by the  
15 capital budget?

16 MS. DAVENPORT: The capital budget  
17 includes the initial outfit. If you are in a  
18 children's room that has 100 children and  
19 caregivers come for story hour day in and day  
20 out, that initial outfit needs to be refreshed  
21 very frequently.

22 So this money could be used to do

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1 the refresh; it could be used to do the  
2 initial outfit. We can do it either way. We  
3 simply know that when we open a children's  
4 room, that room is the one that needs to be  
5 cleaned, sterilized, and refreshed very  
6 quickly.

7 Special furniture is another  
8 option. These are the kinds of rooms that we  
9 can outfit with rocking chairs, we can outfit  
10 with special small children furniture.

11 There are a variety of options to  
12 us. But as I understand, the donor at this  
13 point would be willing to allow the library to  
14 make that decision.

15 COMMISSIONER MAY: If it is special  
16 furniture, this is stuff that the capital  
17 budget won't pay for or the library's budget  
18 won't pay for?

19 MS. DAVENPORT: The library's  
20 budget will pay for it when we have a capital  
21 budget for West End. The development of West  
22 End is all put together in this East Bank

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1 development. We have no capital money  
2 ourselves right now for West End.

3 COMMISSIONER MAY: Okay. But if  
4 you didn't get this \$10,000 -- I'm trying to  
5 figure out if you didn't get this \$10,000 --

6 MS. DAVENPORT: We wouldn't do  
7 special furniture that would have cost  
8 \$10,000.

9 COMMISSIONER MAY: Okay.

10 MS. DAVENPORT: We wouldn't do the  
11 rocking chairs, we wouldn't do artwork. There  
12 are things that we would not do.

13 COMMISSIONER MAY: Okay. Thanks.

14 MS. DAVENPORT: Yes.

15 CHAIRMAN HOOD: We have, I think,  
16 one more question. Ms. Davenport, we still  
17 have a few more questions.

18 MS. DAVENPORT: Yes, sir.

19 CHAIRMAN HOOD: Commissioner  
20 Selfridge?

21 COMMISSIONER SELFRIDGE: I think,  
22 as with the other Commissioners, I'm still a

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1 little confused.

2           There's an existing library and  
3 there's a potential library. This \$10,000 is  
4 going to put into a trust to be held to be  
5 used at a later date, either for the existing  
6 library or the future library if it occurs?

7           MS. DAVENPORT: And if it didn't  
8 occur it would be used for the current  
9 library.

10           COMMISSIONER SELFRIDGE: When does  
11 that determination take place?

12           MS. DAVENPORT: You can determine  
13 it now, if you choose.

14           COMMISSIONER SELFRIDGE: I think  
15 the money is being given to the library. For  
16 how long would you hold onto it before you  
17 would actually put it into use?

18           It sounds like this other project  
19 is held up. So I guess we're trying to  
20 understand where the money is going to go and  
21 when it'll go to that.

22           MS. DAVENPORT: I could use \$10,000

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1 to refurbish the children's room right now  
2 with no difficulty at all.

3 COMMISSIONER SELFRIDGE: What is  
4 the annual amount of donations that you  
5 usually receive for a library; how much do you  
6 guys usually see in private foundation money  
7 or private enterprise money?

8 MS. DAVENPORT: We get very little  
9 money but it comes unspecified. The majority  
10 of the money comes for a particular purpose  
11 for close to that donor's heart.

12 We have gotten a lot of money out  
13 of the Georgetown community as a result of the  
14 fire. The majority of it has been specified  
15 for one of two purposes: to rehab the  
16 collection in the Peabody Room, the paintings  
17 that were damaged in the fire, those research  
18 collections; or for the children's room.  
19 Those are the two places that usually pretty  
20 much grab people.

21 We have raised a lot of money from  
22 our Friends of the libraries to -- not for

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1       furnishings, but to do programming specific  
2       for children.

3                       There are six early literacy skills  
4       that parents really need to use with their  
5       children. And we bring them in for Books,  
6       Babies, and Breakfast so that the parents  
7       learn how to teach these skills at home and we  
8       give the parents all the tools to be able to  
9       do this at home. It's been pretty easy to  
10      raise money for those kinds of programs.

11                      We have raised money to do computer  
12      programs for seniors. The library represents  
13      the bridge across the digital divide in much  
14      of the city. We've been able to raise money  
15      to bring senior citizens in, help them to  
16      learn how to use a computer, help them to get  
17      a refurbished computer for free, and to get  
18      free internet access for a period of time.

19                      We can raise money for very  
20      specific, targeted projects. Raising  
21      generalized money is hard to do.

22                      COMMISSIONER   SELFRIDGE:       Well,

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1 you're an excellent advocate for the library.

2 MS. DAVENPORT: Thank you.

3 COMMISSIONER SELFRIDGE: There's no  
4 question about that.

5 What do you think in a year you  
6 would raise, whether it's general funds which  
7 is obviously scarce or dedicated funds? Does  
8 the library see \$100,000, \$200,000, \$1  
9 million?

10 I'm trying to understand how much  
11 \$10,000 represents in your annual budget from  
12 private donors.

13 MS. DAVENPORT: From --

14 COMMISSIONER SELFRIDGE: Generally.

15 MS. DAVENPORT: If you put aside  
16 the Georgetown fire, because that was a unique  
17 situation -- if you set that aside, the  
18 library raises usually -- the Foundation on  
19 our behalf will raise \$100,000 to \$200,000 a  
20 year. The majority of it also still earmarked  
21 as this piece of the paper.

22 COMMISSIONER SELFRIDGE: Thank you.

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1 CHAIRMAN HOOD: Mr. Turnbull?

2 COMMISSIONER TURNBULL: Maybe the  
3 owner could put a display in his lobby, an  
4 advertising for funds for this, some type of  
5 an encouragement to get money for the library.

6 MS. DAVENPORT: We would be quite  
7 amenable to having someone do that for us.

8 You should also know that there's  
9 an active Friends group for the West End  
10 Library. It is a very good Friends group,  
11 raises money. The woman who is the president  
12 of that Friends group happens to be also the  
13 president of the federation of all of the  
14 Friends groups.

15 They raised among them \$24,000 that  
16 they donated to us last summer for the  
17 purposes of summer reading so that we were  
18 allowed to bring in some special performers  
19 and entice children into the library.

20 COMMISSIONER TURNBULL: I just  
21 think \$10,000 doesn't really cover all of it.  
22 I mean, I've done enough libraries in

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1 designing of millwork and casework for  
2 children's libraries that it just seems --  
3 you're going to get six or eight pieces of  
4 furniture. It just seems very light. But  
5 that's up to you.

6 MS. MCCARTHY: Maybe I could  
7 supplement this just a little bit. The  
8 situation with the West End Library is that  
9 the library is going to be redeveloped.

10 East Bank has been given the  
11 development rights by the city. We spoke to  
12 East Bank. They will provide the shell of the  
13 library and as much as they can for the  
14 agreed-upon amount of the project. At this  
15 point the library is not designed, so they  
16 don't know how much of the fit-out of the  
17 project will be able to come from that source.

18 There is another PUD that has  
19 indicated \$462,000 for outfitting. But that's  
20 for a project that so far has not gone forward  
21 and there's some indications it might not go  
22 forward, and the library has received none of

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1 that money.

2 So when we called the library and  
3 said, "If we" -- when we talked to the head  
4 librarian, Ginnie Cooper, and said, "If we" --  
5 I'm sorry -- "If we had a contribution of  
6 \$10,000 for the children's room" -- "If we had  
7 \$10,000, what would the library use it for?"

8 And her response was, "Children's  
9 rooms should be very special places. They're  
10 a very important part of the library."

11 We will outfit it in the basic kind  
12 of way with tables, chairs, and the rest of  
13 it. But if we had an additional \$10,000 that  
14 wasn't a general fund kind of contribution, we  
15 could do a mural, a special little nook,  
16 something that would not typically be part of  
17 the specs for the library.

18 Her suggestion -- I had told her,  
19 "Here's a range of money. What would make  
20 sense?" And she said, "Well, for \$10,000 this  
21 is what we could do, and that would really  
22 help make it a special place." So that's how

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1 we arrived at that amount of money.

2 COMMISSIONER TURNBULL: Okay.

3 Thank you.

4 MS. McCARTHY: It's not designed to  
5 meet the basic kinds of needs or the things  
6 that the city is obligated to do. It's to  
7 provide something extra and special.

8 CHAIRMAN HOOD: Okay. So this is  
9 over and above --

10 MS. McCARTHY: Yes.

11 CHAIRMAN HOOD: -- what's already  
12 there?

13 I'm glad to hear that you have a  
14 Friends group. Because one of the things that  
15 we do depending upon how we move forward with  
16 this request is that the applicant usually --  
17 we don't usually just give the money to the  
18 Friends group.

19 The applicant usually -- and I  
20 think this is how we're doing it as on the  
21 rewrite. The applicant usually produces it.  
22 He produces the extra whatever you're going to

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1 use to refresh the room, whether it be some  
2 additional tables or chairs or whatever you  
3 do, additional reading rooms or lamps or  
4 whatever the case is.

5 The applicant does it. We just  
6 don't give money to the library.

7 Because one of the things that  
8 concerns me when I, you know -- sometimes  
9 things get lost. And I know we only usually  
10 give money to the general fund. I hear that  
11 things -- I don't know this, but I hear things  
12 that when it goes to the general fund it gets  
13 lost.

14 So what we've done is make sure  
15 that the applicant provides whatever it is  
16 that you're going to need, Ms. Davenport.  
17 Because I think that -- did I have your name  
18 right, Ms. Davenport?

19 MS. DAVENPORT: Yes.

20 CHAIRMAN HOOD: Yes. Ms.  
21 Davenport. So that's one of my concerns but I  
22 understand.

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1                   This is over and above what's going  
2 to happen depending upon what is used for the  
3 old -- well, basically, this is only going to  
4 be for the new if it's over and above. But  
5 you can use it either way, though.

6                   MS. DAVENPORT:     We can use it  
7 either way. And we would try to use also it  
8 if it's artwork that can be relocated.

9                   CHAIRMAN HOOD:    All right. Any  
10 questions?

11                   Mr. Selfridge?

12                   COMMISSIONER SELFRIDGE:     Mr.  
13 Chairman, I would just like to, I guess,  
14 concur with Mr. Turnbull that of all the  
15 donors we've heard of and all the needs that  
16 these libraries and facilities face, that  
17 \$10,000 seems a little light in general.

18                   I thikn that there's probably a  
19 greater need, particularly depending what  
20 happens with this other PUD or if this  
21 development goes forward. These are a lot of  
22 uncertainties.

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1 I think we have an opportunity in  
2 front of us to see maybe some of these funding  
3 mechanisms be put in place with some  
4 certainty. And I find that very interesting.

5 CHAIRMAN HOOD: I think both of my  
6 colleagues bring up a good point. When we  
7 look at what's being asked for and when we  
8 look at the amenities that exist including  
9 with the fire house, I think we'll weigh that  
10 when we do our deliberations.

11 But I think the applicant is  
12 hearing loud and clear what two of my  
13 colleagues have already said. I don't know,  
14 you know. I'm not trying to say do this or do  
15 that. But you're hearing what is coming from  
16 a dais.

17 All right. Ms. Davenport, thank  
18 you very much.

19 MS. DAVENPORT: Thank you, sir.

20 CHAIRMAN HOOD: Next time bring  
21 that other guy up here with you.

22 MS. DAVENPORT: I will.

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1 CHAIRMAN HOOD: Okay. Ms. Bray, we  
2 can go back to -- do you need some additional  
3 time? We haven't heard from Ms. McCarthy.

4 MS. BRAY: Yes. I would like some  
5 additional time. And actually, I -- just a  
6 moment. Thank you, Chairman Hood.

7 I just have one question for Mr.  
8 Novotny before we move on to Ms. McCarthy.

9 Mr. Novotny, would you give a  
10 little bit more detail about the planned  
11 donation to the fire station?

12 I understand that that was a late  
13 addition to the modification request. The  
14 record is a little light on what exactly is  
15 being provided. Can you describe the basis of  
16 that?

17 I'd like you to answer that. And  
18 perhaps Ms. Kahlow could come up and speak to  
19 that, as well.

20 MR. NOVOTNY: I can take it.

21 CHAIRMAN HOOD: Let me say this.  
22 Let's just deal with the applicant before we

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1 go on.

2                   Actually, we have that. Is that  
3 the with the pots and pans? Yes. We actually  
4 have that.

5                   He can speak to it but let's just  
6 hold up. We don't want to get too far out of  
7 order. We do have a record of what was the  
8 late negotiation at 12:00 while the rest of us  
9 were asleep that Ms. Kahlow and her crew were  
10 doing.

11                   Go ahead.

12                   MR. NOVOTNY: Okay. I'll just very  
13 briefly -- in discussions with Ms. Kahlow she  
14 described to us the fire station that is in  
15 great need of furnishings in general. She had  
16 indicated to me that she had been there not  
17 long before we talked and observed that there  
18 really was no furniture or even kitchen  
19 supplies and so forth.

20                   So that was the origin of that  
21 particular part of our proposed community  
22 amenity and we're hopeful that it will go to

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1 good use.

2 What the fire station described is  
3 a need for exercise equipment, furnishings,  
4 kitchen supplies, and the like.

5 MS. BRAY: So it's your  
6 understanding that \$20,000 would buy more than  
7 just pots and pans for the facility; is that  
8 right?

9 MR. NOVOTNY: To that question,  
10 yes. The list seemed like it would not  
11 require that kind of contribution.

12 But be that as it may, we did feel  
13 as though that would be a very meaningful  
14 solution and they could do something very good  
15 with it. And we did feel that it was, you  
16 know, in some respects proportional with what  
17 we were asking for in our application combined  
18 with the library and doing something very  
19 special with the children's room.

20 I will just comment, as a new dad  
21 that kind of -- that hits a special place for  
22 me. I like the idea of doing something very

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1 special for the kid's room in the new library.

2 And also, meeting ANC-2A's request  
3 that they made for our application,  
4 restricting nightclubs. Which, quite frankly,  
5 could have a big impact on us going forward.  
6 But we elected to do what we felt was the  
7 right thing, which was to restrict that.

8 MS. BRAY: You say that that could  
9 have a big impact on you going forward. How  
10 so?

11 MR. NOVOTNY: Well, the ANC-2A's  
12 primary concern was -- and I think they had  
13 been wrestling with the issue of nightclubs  
14 elsewhere -- was that, you know, they want  
15 something that contributes to the neighborhood  
16 but not in that kind of way.

17 Interestingly enough, the space  
18 that's vacant right now is large enough to  
19 accommodate such a use and could be  
20 potentially effective to that kind of use. Or  
21 even if you could assume a restaurant of that  
22 size would require a very big bar tab to

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1 support it and make it successful.

2 In fact, we did have negotiations  
3 with one particular restaurant that ended up  
4 going elsewhere in the city. We ended up not  
5 moving forward with them because we couldn't  
6 underwrite their finances. But the fact was  
7 it was more of a nightclub than a restaurant  
8 in many respects.

9 We opted against it then and we're  
10 comfortable with meeting ANC-2A's request to  
11 opt away from that in the future.

12 MS. BRAY: Chairman Hood, I would  
13 ask that we would have an additional 15  
14 minutes to produce Ms. McCarthy's and Mr.  
15 Papadopoulos' testimony.

16 CHAIRMAN HOOD: Okay. And I wasn't  
17 making light of amenity, Ms. Bray. I just  
18 remembered the pots and pans.

19 MS. BRAY: I know.

20 CHAIRMAN HOOD: I thought that was  
21 very thoughtful of whoever negotiated that,  
22 and the mattresses and the DVD player. Maybe

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1 I'll go back to school and be a fireman  
2 myself.

3 Okay. Ms. McCarthy?

4 MS. MCCARTHY: Good evening, Mr.  
5 Hood and members of the Commission. For the  
6 record -- this is working? Okay. I'll just  
7 tilt it up a little bit.

8 For the record, my name is Ellen  
9 McCarthy. I am an expert in planning and  
10 zoning with more than 35 years of experience  
11 in planning and more than 15 years spent  
12 specializing in zoning and land use.

13 Today I wanted to talk -- I wanted  
14 to sort of dial back a little bit and talk  
15 about PUDs in the broader sense first and then  
16 get into the specifics of this case.

17 I think it's very important to  
18 start with PUDs and the rationale for them  
19 being projects that are designed to -- PUDs  
20 are designed to encourage high-quality  
21 projects that provide public benefits. But  
22 the emphasis is on doing something better than

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1 what could be achieved as a matter-of-right.

2 As Ms. Bray pointed out, when this  
3 PUD was first done in 1973 there were no  
4 requirements for public benefits. It was all  
5 related to something that was better than what  
6 could be achieved as a matter-of-right.

7 This site had a four-story parking  
8 garage that was 40,000 square feet that was  
9 already zoned C-3-C, or C-3-B which became C-  
10 3-C, and then it had this 10,000-square-foot  
11 lot.

12 So the only benefit that the  
13 applicant got out of it at that point in time,  
14 the prior owner of the building, was that the  
15 10,000-square-foot lot got rezoned from R-5-C,  
16 I believe -- R-5-D up to C-3-B. And it was  
17 basically 0.5 FAR of density that they got.

18 The quid pro quo was to have a  
19 better building, a better project on the site  
20 than what they could have gotten if they had  
21 left a 10,000-square-foot lot in residential  
22 zoning and then redeveloped the 40,000-square-

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1 foot parking garage into something else.

2 So the description of the project  
3 was basically, well, we'll do the first floor  
4 as retail and if you want to use the basement  
5 you can use that for retail too.

6 As we've already documented, there  
7 were -- everybody was clear on what was being  
8 discussed but the numbers weren't right. I  
9 think, if you'll recall from the Downtown  
10 Development District and the other projects  
11 where we talk about a retail requirement on  
12 the ground floor, generally the expectation is  
13 you can't do any more than 0.5 FAR or half of  
14 the first floor because you've got all these  
15 other things that have to happen on the first  
16 floor like fire escapes, fire suppression  
17 rooms, lobbies, loading and unloading, and  
18 back corridors.

19 So it was always unrealistic to say  
20 that there was going to be 30,000 square feet.

21 Which is what the Zoning Commission  
22 recognized in 2006 when they said, "Okay.

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1 That's crazy. You can't even fit 30,000  
2 square feet. Let's be realistic and dial this  
3 down to 24,000 square feet."

4 And the reason that it was set at  
5 24,000 square feet, as you heard from Mr.  
6 Novotny, is because they had Galileo's  
7 restaurant in there that was going to take  
8 what space would otherwise have been  
9 unleaseable and to move in there. And then  
10 they get the PUD approved and Galileo defaults  
11 on their lease.

12 So they have been left with this  
13 very large, very deep space that has been very  
14 difficult to lease and doesn't fulfill the  
15 main thing that you several members of the  
16 Commission that were back in 2006 were looking  
17 to achieve. Which was, hey, let's get some  
18 retail at the ground floor that will animate  
19 the space around there.

20 The other thing that was brought  
21 before you in 2006 was that we had these  
22 arcades and the retail was recessed behind

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1 these arcades. Well, the Commission just,  
2 what, a month ago held that arcades are such a  
3 disaster for street life and for enlivening  
4 retail that you have allowed people to do away  
5 with them as a matter-of-right throughout the  
6 city in commercial zones.

7 So they -- the 2006 PUD eliminated  
8 unattractive arcades, re-skinned an  
9 unattractive building, pushed the retail to  
10 the street, and for all of -- and paid  
11 \$125,000 in community benefits and a number of  
12 other benefits which this Commission at that  
13 point in time held were public benefits and  
14 amenities.

15 That included transportation  
16 parking for bicycles; urban design  
17 architecture site planning and green building  
18 practices including the high quality of  
19 design, extending the arcade to the street,  
20 using superior quality glass and metal for the  
21 facade, implementing low emitting materials;  
22 ground floor retail; a pedestrian-oriented use

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1 that will enhance the street activity of the  
2 area; and then monetary contributions to the  
3 neighborhood organizations.

4 The important thing to keep in  
5 mind, and one thing that's very striking when  
6 you look at the history of this site, is this  
7 project could be built as a matter-of-right  
8 today. It's in a TDR Receiving Zone so it  
9 could go as a matter-of-right to the 7.0 FAR  
10 and to the 90 feet, and then purchase TDRs for  
11 the additional square footage. It could have  
12 filled in the arcade as a matter-of-right.

13 So the relief that you granted in  
14 2006 was really very minor benefit to the  
15 developer. It was really to get a more  
16 attractive building, to double the tax revenue  
17 for the building.

18 There was not a substantial benefit  
19 to the developer. And yet the developer still  
20 paid \$125,000 in community benefits in  
21 addition to the amenities that were proffered.

22 So in other words, the benefits and

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1 flexibility that the developer has derived  
2 from the original PUD and the PUD are quite  
3 limited. No more than 30,000 square feet if  
4 you added everything up, and then for this PUD  
5 which is not getting any additional square  
6 footage.

7 I think it's important to note --  
8 and you can talk to Mr. Papadopoulos in more  
9 detail if you want -- if we go from a typical  
10 restaurant or other retail user on this site  
11 to whatever user is going to take the deep,  
12 windowless, hidden space, whatever a tenant is  
13 going to pay for that space is probably going  
14 to be less than half of what a retail tenant  
15 would pay.

16 So it's not that what  
17 Vornado/Charles E. Smith is asking for is  
18 something that is going to be of benefit to  
19 them. What they're asking for is something  
20 that's going to be of benefit to the  
21 community. Because by having more flexibility  
22 in the use of that ground floor space, they'll

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1 actually be able to achieve a ground floor use  
2 that will be of benefit to the community.

3 In addition to providing \$20,000  
4 for the fire station and \$10,000 for the  
5 children's room; and maintaining the open  
6 plaza at the rear of the building, which was  
7 an important part of the original PUD, to give  
8 some light and air for the buildings behind  
9 them.

10 And the secure bicycle parking  
11 area, and the \$125,000 that's already been  
12 given for affordable housing and community  
13 green spaces, and the redevelopment of the  
14 exterior of the building with superior  
15 materials, and the commitment not to lease to  
16 a nightclub, and the commitment to retain the  
17 retail all around the periphery of the  
18 building, and the commitment to pursue the  
19 lead EB.

20 Now, why does that retail component  
21 -- why can that be reduced without any  
22 reduction in benefits to the community?

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1           First of all, think about what you  
2 saw in the slide presentations from Mr.  
3 Novotny. That block of L Street between L and  
4 M is a very poor retail environment.

5           In fact, in 2006 OP's report noted,  
6 "The ground floor frontage of the abutting  
7 property to the north consists of a wide  
8 garage driveway, retail card storefront, an  
9 entrance foyer, and a branch office of the  
10 Social Security Administration.

11           "The entire ground floor of the  
12 building to the east across 21<sup>st</sup> Street  
13 consists of a garage entry and opaque walls.  
14 In addition, the entrances to the Lafayette  
15 Center building to the north and east are  
16 hidden behind recessed arcades."

17           It doesn't indicate to any  
18 potential shopper that there is any retail  
19 worth visiting here, and yet retail is very  
20 context sensitive. So in other words, there's  
21 nobody walking by here who's in the mood to  
22 shop because there's nothing else to shop for

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1 on L Street.

2 The OP report then concluded, "This  
3 land use pattern is not the continuous retail  
4 needed to support a strong commercial corridor  
5 such as exists along 18<sup>th</sup> Street or Connecticut  
6 Avenue. OP therefore agrees some flexibility  
7 in the original ground floor uses may be  
8 merited."

9 So it makes it hard to do general  
10 retail, so that's one of the reasons we've  
11 been trying to focus on restaurants. But the  
12 most important aspect of the ground floor  
13 retail was that it activate the street.

14 What's being proposed by the  
15 applicant is a commitment, which is not in the  
16 wording of the existing current order, that  
17 the retail will ring the entire periphery of  
18 the building except for the required  
19 entrances.

20 Transparency and visibility from  
21 the street, as we noted before, are critical  
22 to retailers.

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1                   The       Urban       Land       Institute  
2       Publication   10   Principles   for   Rebuilding  
3       Neighborhood Retail sites William B. Renner, a  
4       national   retail   expert,   "Transparency   is  
5       critical.   Buyers   want   to   see   inside   the  
6       store.   They   want   it   to   look   safe.   They   want  
7       to   see   that   it   offers   the   goods   or   services  
8       they're   interested   in,   and   they   want   to   feel  
9       comfortable.   The   best   design   provides  
10      visibility   into   the   store.

11                   "The   standard   retail   bay   in   the  
12      United   States   is   30   feet   wide   by   60   or   90   feet  
13      deep;   not   140   feet   deep,   not   120   feet   wide."

14                   So   note   that   the   space   we're  
15      talking   here   is   considerably   difficult   than  
16      space   that's   considered   optimal   in   terms   of  
17      transparency   and   visibility.

18                   In   the   interest   of   time   I   won't  
19      read,   but   there   are   selections   from   the  
20      Comprehensive   Plan   on   page   5   and   page   6   of   my  
21      testimony   that   also   reinforce   the   importance  
22      of   enhanced   street   walls,   improved   street

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1 environment along the periphery of the  
2 buildings.

3 In addition, if one views the level  
4 of community benefits, \$30,000 being provided  
5 now plus moving to do the LEED certification  
6 in addition to the \$125,000, is a  
7 substantially larger package than has been  
8 provided in any of the PUDs we reviewed in the  
9 Foggy Bottom/West End area for square foot of  
10 benefit received.

11 In fact, let me just remind you for  
12 a very similar case, the World Wildlife Fund  
13 that you heard recently, the Fund had asked  
14 for a total relief from its ground floor  
15 retail requirements, which was more than  
16 16,000 square feet.

17 It was granted by this Commission  
18 without a dollar of any additional community  
19 benefits. We're talking about a reduction of  
20 6,700 and only so that we can make the retail  
21 that's there more successful.

22 What I have posted here that you

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1 may have to turn off the lights to read is a  
2 comparable set of statistics for other PUDs  
3 that had existed in the West End. Mind you,  
4 these are PUDs that were getting additional  
5 benefits like 181,000 square feet, 225,000  
6 square feet, 28,000 square feet more. These  
7 were people who were looking for additional  
8 density.

9           The amount provided ranged from \$0,  
10 \$8.89 per square foot gained, \$10.44 per  
11 square foot gained, \$15.29 per square foot  
12 gained.

13           And it looks like this has frozen  
14 on my screen. Oh, good.

15           For PUD modifications that were  
16 comparable, 2200 M Street got 9,000 square  
17 feet more, paid \$0 in the way of community  
18 benefits. World Wildlife Fund reduced 100  
19 percent of the retail requirement, paid \$0 in  
20 the way of benefits.

21           With the 5,000 extra square feet  
22 that we got the last time around in 2006, that

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1 \$125,000 in community benefits added up to  
2 \$16.89 a square foot, more than any of the  
3 other PUDs that had taken place in the West  
4 End.

5 And if you throw in the \$30,000  
6 that's been offered now for 0 additional  
7 square feet and the privilege of converting  
8 from more profitable retail space into  
9 something less profitable like daycare,  
10 they're going to be paying \$30 a square foot.

11 So although \$10,000 seems small or  
12 \$20,000 seems small, you have to compare that  
13 against the benefit, which is minimal. And  
14 that's the important basis of comparison.

15 I'm sorry, Sharon. Could I get the  
16 lights back on?

17 MR. NOVOTNY: If I could just add  
18 one quick point, I think the irony in this  
19 case and the dilemma for us is that while  
20 we're asking for a retail reduction, in fact  
21 what we're asking to do is add retail to the  
22 building.

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1           By irony I mean that as the current  
2 PUD stands it's actually preventing us from  
3 doing a 4-5,000-square-foot restaurant deal.  
4 We can't do that right now under the current  
5 PUD because it leaves us unleaseable space.

6           The back portion of the space -- I  
7 think it might be helpful to understand this  
8 is not something that we're trying to create  
9 as, you know, some profitable venture. This  
10 is something that this will be difficult space  
11 to lease.

12           We are considering a use such as a  
13 daycare use at this point, which would  
14 represent a significantly lower rent than a  
15 retail user. They're tough deals to do.

16           So we're not looking for a huge  
17 boost in profitability to the building. We  
18 want to put some retailers at the front of the  
19 building on the 21<sup>st</sup> Street side. But the fact  
20 is and the irony is the PUD as it stands is  
21 actually preventing us from doing that.

22           MS. MCCARTHY: That's basically it.

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1 You can --

2 CHAIRMAN HOOD: You can go ahead  
3 and finish up, Ms. McCarthy.

4 MS. MCCARTHY: All right. In  
5 summary, the flexibility obtained by the  
6 applicant and its predecessor over the years  
7 has been minimal. The public benefits and  
8 amenities provided have been more than  
9 commensurate.

10 The addition of these amenities and  
11 benefits already provided in fulfilment of  
12 conditions of the prior modification, in  
13 addition to the applicant agreeing to limit to  
14 no nightclubs and the EB certification and the  
15 additional amenities we're talking about  
16 providing tonight.

17 The reduction in retail requirement  
18 is minor; will require the applicant -- will  
19 permit the applicant to finally land a retail  
20 tenant to activate the 21<sup>st</sup> Street side of the  
21 building as successfully as it has done with  
22 the L Street facade.

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1           And I would add parenthetically, it  
2 might not have been clear to you when Mike was  
3 describing what Galileo's had to do to park  
4 those cars. It was running cars backing up  
5 the wrong way down a one-way street in order  
6 to valet park the cars. That's the kind of  
7 problem that we have when you're trying to  
8 operate a valet parking from that site.

9           Thank you very much.

10           MS. BRAY: Mr. Hood -- Chairman  
11 Hood, in the interest of time I just have, I  
12 think, three questions for Mr. Papadopoulos  
13 that I would like to ask so that we can get  
14 them on the record.

15           Mr. Papadopoulos, can you please  
16 describe for me the amount of your familiarity  
17 with this project and how long you've been  
18 working on this particular property?

19           MR. PAPADOPOULOS: We started  
20 working on this property before we were hired  
21 by Vornado, actually, on some smaller spaces  
22 in the building because they thought they had

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1 Galileo. When Galileo fell through they hired  
2 us. It's been close to two years now that  
3 we've been working on it.

4 The biggest complaint we get is the  
5 space is too big, too deep, and unusable. I  
6 do get probably four or five calls a week from  
7 nightclubs that would love to open up because  
8 they like dark spaces, deep spaces, and they  
9 don't want to be seen. They don't need a lot  
10 of frontage.

11 But for restaurants today,  
12 restaurants have evolved in the last 20 years.

13 You don't see fine dining restaurants popping  
14 up all over DC anymore. It's more casual due  
15 to the change of the economy. And it's 5-  
16 6,000 square feet is what restaurateurs are  
17 looking to do.

18 MS. BRAY: Can you give me an idea  
19 of the types of restaurants, users, or other  
20 retail users you have reached out to and the  
21 quantity of people that you have talked to  
22 about this space?

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1 MR. PAPADOPOULOS: I don't have my  
2 list with me. But I know that we've submitted  
3 it to Vornado because they --

4 MS. BRAY: I believe it's in the  
5 record on the case.

6 MR. PAPADOPOULOS: From local  
7 restaurateurs, you have from chefs attempting  
8 to open up their first restaurant to national  
9 chains from New York, Chicago, Los Angeles.

10 And again, there are issues with  
11 the space. It's too deep, it's a one-way  
12 street, and it's too large for them to take a  
13 risk for that type of build-out.

14 It really needs to be more of a  
15 casual restaurant bar, not -- it can't be a  
16 nightclub because the landlord did not want  
17 that. A fine dining restaurant of that size  
18 is just not going to work.

19 MS. BRAY: You're familiar with the  
20 recent restaurant developments throughout the  
21 city. Can you tell me how this space compares  
22 in terms of rental rate in addition to the

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1 size of recent restaurant deals?

2 MR. PAPADOPOULOS: I mean, we've  
3 done a lot of restaurant deals in the city as  
4 you may or may not know. And I would say this  
5 is one of the most aggressive rents that we've  
6 worked with. The landlord has been very  
7 aggressive in terms of rent and helping the  
8 tenant towards building out a restaurant.

9 To build out a restaurant the cost  
10 varies from \$300 to \$400-500-600 a foot  
11 depending on the finishes. So at 12,000  
12 square feet you're looking at \$3 million to  
13 build out a restaurant. If you're going to  
14 spend \$3 million, you better have an A plus  
15 location where people can get in and out and  
16 spend a lot of money.

17 MS. BRAY: I have four questions.  
18 This is truly my last. Is it your opinion  
19 that the rental rate has anything to do with  
20 the lack of ability to lease this space?

21 MR. PAPADOPOULOS: No. The rental  
22 rate -- again, this is one of the lowest

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1 rental rates in the CBD. That's what's helped  
2 us attract interest and have people look.

3 But always the question is, "Can I  
4 cut the space? I don't want -- what am I  
5 doing to do with the back space? I'm paying  
6 rent for a non-usable space."

7 MS. BRAY: Thank you.

8 MR. PAPADOPOULOS: As a matter of  
9 fact, I don't know of a cheaper rent in the  
10 city right now. And this is, you know -- this  
11 is the CBD.

12 MS. BRAY: Thank you very much.

13 Mr. Chairman, in lieu of a closing  
14 statement since we're well over the time frame  
15 than we thought we would go, I'd like to just  
16 reserve a couple of minutes at the conclusion  
17 of if there's any additional testimony  
18 tonight, if the Commission would allow.

19 CHAIRMAN HOOD: Sure. We're going  
20 to ask our questions.

21 Let me just ask, the other  
22 restaurant that pulled out, how long were they

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1 there? What was the name of it?

2 MR. NOVOTNY: Are you asking about  
3 Galileo?

4 CHAIRMAN HOOD: Galileo. Yes.  
5 That's it.

6 MR. NOVOTNY: Prior --

7 CHAIRMAN HOOD: That's all right.  
8 I'll wait and ask Ms. Kahlow when she comes  
9 up.

10 MR. NOVOTNY: I'll defer to Barbara  
11 since she --

12 CHAIRMAN HOOD: Okay. I'll wait  
13 and ask her.

14 MR. NOVOTNY: -- checked into it.  
15 Twenty years?

16 CHAIRMAN HOOD: But if they were  
17 there -- I'll wait and ask her. I'm just  
18 curious.

19 MR. NOVOTNY: I would add we did  
20 what we could to get them back. We actually  
21 transitioned them into a swing space in  
22 Crystal City while the building was being

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1 redeveloped at a significantly -- in a  
2 discounted situation. We tried to get them to  
3 come back to the building and it was, you know  
4 -- it was a very lengthy process.

5 And ultimately, he was not able to  
6 do it, wasn't able to financially come through  
7 on a commitment for the lease.

8 CHAIRMAN HOOD: Okay. Is he still  
9 over in Crystal City?

10 MR. NOVOTNY: He's not. He has  
11 since vacated that space, unfortunately. I  
12 won't speak to the details but that didn't --

13 CHAIRMAN HOOD: Okay.

14 MR. NOVOTNY: -- work out as well  
15 as we would have hoped.

16 He did just recently open a new  
17 restaurant. Interestingly enough, I think the  
18 restaurant -- and I'll defer to Charlie, but I  
19 think it's 5,000 square feet.

20 MR. PAPADOPOULOS: Yes. He opened  
21 up a restaurant down in the old Butterfield  
22 Nine space. It's about 5,000 square feet,

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1 half the size of what he used to have.

2 And it took him -- just a side  
3 comment; he signed that lease -- it was a  
4 build-out restaurant. He signed the lease  
5 about 12 months prior to opening and it was a  
6 difficult struggle there too for him to get it  
7 open.

8 CHAIRMAN HOOD: All right. Any  
9 questions? Let's open it up, Commissioners.

10 Commissioner May?

11 COMMISSIONER MAY: Yes. I made a  
12 list of questions but most of them got  
13 answered over the course of the presentation,  
14 particularly with regard to the leasing.

15 I do have one and maybe this was  
16 covered in that chart that I couldn't read.  
17 Do we have copies of that in the record?

18 MS. MCCARTHY: We don't have it in  
19 the record. I could provide it for the  
20 record.

21 COMMISSIONER MAY: Yes. I think  
22 that would be very helpful. It's too bad we

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1 don't have copies in front of us because  
2 obviously I couldn't really read that.

3 In the modification in 2006 there  
4 was some FAR that was added or there was some  
5 floor space added to the building, right?

6 MS. McCARTHY: Yes.

7 COMMISSIONER MAY: How much was  
8 actually added?

9 MS. McCARTHY: Five thousand square  
10 feet from the filling in of the arcades and  
11 the filling in of those almost-invisible  
12 balconies.

13 COMMISSIONER MAY: Okay.  
14 Invisible, but still balconies.

15 That was covered in your chart as  
16 well? Okay.

17 And what was the dollar per square  
18 foot as it related to the --

19 MS. McCARTHY: \$16.89.

20 COMMISSIONER MAY: Okay. That does  
21 explain why there was a larger amenity bump,  
22 if you will, at that stage than we're talking

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1 about here even though we're talking about a  
2 relatively similar reduction in the amount of  
3 retail.

4 That's what it's largely attributed  
5 to; that's why there was such an emphasis, I  
6 assume, on the amenities at that point. It  
7 was because there was a gain of space?

8 MS. McCARTHY: Correct.

9 COMMISSIONER MAY: Okay.

10 MS. McCARTHY: There was also a  
11 considerable investment in improving the  
12 building.

13 COMMISSIONER MAY: I understand  
14 that. There are lots of reasons to do that,  
15 right? That's where the Green Building  
16 Council actually had their offices, is that  
17 right?

18 MS. McCARTHY: That's where they  
19 moved into after the building was done.

20 COMMISSIONER MAY: I think that  
21 they probably wanted it to be LEED certified  
22 so I think that was part of the incentive for

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1       them.

2                   MS. McCARTHY:  Actually, it wasn't.

3       Their part --

4                   COMMISSIONER MAY:  Well, I imagine  
5       that was part of the incentive to get that  
6       done.  It wasn't just for the good of the  
7       neighborhood.

8                   MR. NOVOTNY:  Two things.  One,  
9       companywide  Vornado/Charles E.  Smith has  
10      adopted policies that we want to be green  
11      certified with all of our new buildings going  
12      forward and, if we can do it, at a Gold level  
13      or higher.  It's a more recent policy.

14                   You are correct in pointing out  
15      that there, you know -- in bringing USGBC in  
16      as a tenant, there were certainly discussions  
17      on certifying the building as well their  
18      space.  Their space is LEED Platinum.

19                   That was a mutually interested  
20      thing that we wanted to do and it wasn't just  
21      because of USGBC.  It was because of adopting  
22      a greater policy and making a real statement

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1 that we want to be environmentally friendly as  
2 a company. That's how it played out.

3 COMMISSIONER MAY: So now we know  
4 where all those -- the fees that go to USGBC  
5 for LEED certification go into making their  
6 offices Platinum, right?

7 I guess you're sort of underscoring  
8 my point, which is that there were lots of  
9 reasons why the building wound up being LEED  
10 certified or is heading in the direction of  
11 being LEED certified if it hasn't been  
12 completed yet, which is simply that it made  
13 sense from a lot of perspectives.

14 I'm just trying to, you know --  
15 what we're really talking about here, I think,  
16 is the balancing of the benefits versus  
17 whatever flexibility or whatever modification  
18 to original PUD you're seeking.

19 I don't think you're -- you made  
20 the case, I think, pretty strongly about the  
21 need to look differently at that space at the  
22 rear of the building. It's easy to understand

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1 why that's difficult to lease.

2 So I don't think that's really -- I  
3 mean, I can quibble about some of the points.

4 I can quibble about secondary means of exits  
5 and stuff like that because there are lots of  
6 ways to solve that problem. But it is  
7 understandable, I think, why it's a difficult  
8 space to lease as the kind of active retail  
9 that we want.

10 And we certainly don't want to  
11 create a situation where you're backing cars  
12 up on 17<sup>th</sup> Street in order to park them and so  
13 on; that's not good.

14 Anyway, that's it for my questions.

15 CHAIRMAN HOOD: Anybody else?

16 Commissioner Turnbull?

17 COMMISSIONER TURNBULL: Yes.

18 Ms. McCarthy, you had mentioned in  
19 showing your PUD comparison -- I think you  
20 mentioned something about without reduction in  
21 benefits.

22 I was sort of thinking that you

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1 really didn't think the \$30,000 were needed,  
2 then, in order to grant what we're doing with  
3 what he's doing, with what the owner wants.  
4 You're basically saying that we've done even  
5 more on others without requiring any.

6 MS. McCARTHY: Right. When we  
7 first talked to the Office of Planning and  
8 when we went to the ANC-2A, they didn't  
9 feel --

10 COMMISSIONER TURNBULL: Right.

11 MS. McCARTHY: -- that any  
12 additional benefits were necessary. Because  
13 they agreed that the back space was unleaseable  
14 and they wanted us to get going with leasing  
15 the front space.

16 COMMISSIONER TURNBULL: Okay. I  
17 mean, we're not convinced about the West End's  
18 -- we'll wait until Ms. Kahlow comes up and  
19 we'll talk about it.

20 The other thing; is one of the  
21 issues too for the lack of -- with that street  
22 there's a lot of grills in the sidewalk. Is

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1 that hampering -- has that been an issue in  
2 leasing at all?

3 I mean, they're there. They have  
4 to be there.

5 MR. PAPADOPOULOS: It's a little  
6 bit of a problem as far as outdoor seating,  
7 because many restaurants want outdoor seating  
8 and we can't put tables and chairs on those  
9 grills.

10 COMMISSIONER TURNBULL: It's hard.  
11 Yes.

12 MR. PAPADOPOULOS: Yes.

13 COMMISSIONER TURNBULL: Getting to  
14 the back, the rear plaza, you mentioned a  
15 daycare or possibly a daycare.

16 Are you looking to build out in  
17 there for a playground? That's not really a  
18 useable space, per se, the plaza; can you do  
19 that?

20 MR. NOVOTNY: If we do go down that  
21 route, yes. We would look to carve out a  
22 portion.

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1                   COMMISSIONER TURNBULL: So you can;  
2 there is enough room? I can't remember what  
3 that site at the back looks like.

4                   MR. NOVOTNY: It's actually a  
5 fairly sizeable courtyard and it's configured  
6 in such a way that it could be logical to have  
7 one portion as a playground and one portion as  
8 a public kind of gathering area for the  
9 tenants of the building. I say public, but  
10 it's not accessible from the front of the  
11 building so it would only be for the tenants.

12                  COMMISSIONER TURNBULL: Is it  
13 landscaped or is it just -- is it a green  
14 space or just mainly hard surfaces?

15                  MR. NOVOTNY: It's a combination.

16                  COMMISSIONER TURNBULL: Both?

17                  MR. NOVOTNY: It's a hard surface  
18 with some flat areas, and then some stairs  
19 that go up and around the building. Then  
20 there's landscaping and planters around it.

21                  COMMISSIONER TURNBULL: You  
22 mentioned that narrow neck as a secondary

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1 egress. But it also would be the entrance,  
2 no?

3 MR. NOVOTNY: That's right. I'm  
4 sorry. From 21<sup>st</sup> Street?

5 COMMISSIONER TURNBULL: Right.

6 MR. NOVOTNY: Yes.

7 COMMISSIONER TURNBULL: That would  
8 be the main entrance?

9 MR. NOVOTNY: That would be the  
10 main entrance.

11 COMMISSIONER TURNBULL: So other  
12 than the daycare, have you thought about laser  
13 tag or paintball?

14 MR. NOVOTNY: We think it could be  
15 a good space for a medical office, something  
16 along those lines. In fact, the old building  
17 a doctor office there before, which  
18 technically I'm not sure if that met the  
19 retail definition in the old building.

20 COMMISSIONER TURNBULL: Right.

21 MR. NOVOTNY: I mean, that's the  
22 kind of thing that they could use the deep

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1 space.

2 COMMISSIONER TURNBULL: Yes. They  
3 don't really need visibility --

4 MR. NOVOTNY: Right.

5 COMMISSIONER TURNBULL: -- with the  
6 various rooms they need. Yes.

7 MR. NOVOTNY: A print shop.

8 MS. MCCARTHY: For the kind of  
9 laser surgery he was doing, the patients would  
10 probably prefer less visibility.

11 COMMISSIONER TURNBULL: Okay. I'm  
12 trying to think of what else I had. I guess  
13 those were my main issues, Mr. Chair.

14 CHAIRMAN HOOD: Any other  
15 questions?

16 Okay. Commissioner Selfridge?

17 COMMISSIONER SELFRIDGE: Thank you.

18 Like Mr. May, I think most of my questions  
19 were answered.

20 I guess just more generally for Mr.  
21 Papadopoulos is, the DC retail market in  
22 general, are you saying it's everywhere or is

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1 it unique to this space; are people just  
2 having problems leasing in this market?

3 MR. PAPADOPOULOS: No. I'll be  
4 honest with you. The DC market is not  
5 undergoing a recession like the rest of the  
6 country. The DC restaurant market is hot.  
7 Our business has not gone down, actually.  
8 We're busier than we've ever been.

9 If you look at DC over the past 20  
10 years and how the restaurant landscape has  
11 changed, restaurants are the heart of any  
12 retail area.

13 So earlier when you asked about me  
14 being a retail expert, there's really  
15 commercial agents or office and retail. Most  
16 developers, when they build a development,  
17 they consider restaurants the most important  
18 thing in their development.

19 If you look at 7<sup>th</sup> Street, what  
20 revitalized that area other than the arena was  
21 the restaurants; 14<sup>th</sup> and U, it's restaurants.  
22 Bethesda, if you go to Bethesda Row, it's all

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1 restaurants.

2 The DC market is a hot market but  
3 it has to be useable space. I mean, I would  
4 love to lease that space at 12,000 square  
5 feet. I earn commission and the larger the  
6 space, the more money I make. I can't lease  
7 it for 12,000. People don't want it.

8 So we could find a nice 4-5,000-  
9 square-foot restaurant that's willing to take  
10 the chance and become successful. But it's  
11 just, it's going to be difficult. And that's  
12 the problem is the space has too much unusable  
13 space in there.

14 So, yes. The DC market in general  
15 is hot. There's not a lot of restaurant space  
16 out there. But it has to work.

17 Like I said, it's a minimum of \$300  
18 per foot to build out a restaurant, most  
19 realistically \$500 a foot. So if it's not  
20 going to work then they're not going to spend  
21 that kind of money.

22 COMMISSIONER SELFRIDGE: Thank you.

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1 I would agree with Mr. May, just as  
2 comment, that the case being made here is a  
3 pretty compelling case. I think it's a  
4 difficult space to rent.

5 I think the concern remains that  
6 it's also significant reduction in something  
7 that was considered a core benefit originally.

8 I think that's what I know that I'm  
9 struggling with and I maybe heard that from  
10 some of the other Commissioners as well.

11 I don't think there's a lot of  
12 disagreement with the facts here in terms of  
13 the layout of the space and how difficult it  
14 is.

15 CHAIRMAN HOOD: I would agree with  
16 what I heard, other than when Ms. McCarthy did  
17 a roll call on some things that we've done in  
18 the past. At least I know I've been here.

19 I think that sheet is coming.  
20 You're going to give us that sheet, I think.  
21 Because one thing we try to do is here is at  
22 least be consistent and I know that we base

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1 each case individually.

2 But some of the alarming results  
3 that she told me what we did previously when  
4 we didn't ask for anything, and I want to see  
5 it now. So that sheet is going to be very key  
6 for me, Ms. McCarthy. I appreciate it.

7 While I agree with what I'm hearing  
8 now, that sheet kind of -- wait a minute; you  
9 made me start thinking a different way. But  
10 we'll see what happens when we get the sheet  
11 and when we deliberate.

12 Any other questions?

13 MS. MCCARTHY: Mr. Hood, the other  
14 thing that I would add to what Mr.  
15 Papadopoulos said is DC is a very hot  
16 restaurant town. But look at where we're hot:  
17 places like the East End where you've got MCI  
18 Center, Shakespeare Theatre, Woolly Mammoth.  
19 You've got a lot of things that are generating  
20 activity there.

21 Or 14<sup>th</sup> and U, further to the West  
22 End, Georgetown where you've got a very

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1 significant residential population. Here, you  
2 know, if Stevens School had stalled that would  
3 have been a residential development or a  
4 hotel, something to generate additional foot  
5 traffic.

6 But there's nothing in this  
7 immediate area that generates foot traffic  
8 that would make this desirable if you're a  
9 restaurateur other than serving lunch, and you  
10 can't make a decent restaurant work just on  
11 lunch. It's an urban planning thing.

12 MR. PAPADOPOULOS: I will add that  
13 we worked with a tenant -- I don't know if  
14 you've heard of Bobby Flay. He's a famous  
15 chef.

16 He looked at the space to do his  
17 new concept and it was too big. He went up  
18 the street to 21<sup>st</sup> and K and we put him there,  
19 4,400 square feet. I mean, he's got a lot of  
20 money, a lot of investors and they were not  
21 interested in a large space.

22 CHAIRMAN HOOD: Any other comments

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1 or questions?

2 COMMISSIONER TURNBULL: I just want  
3 to follow up on one point on the floor plan  
4 that you show of the first floor, which shows  
5 the retail space, the little square that we've  
6 got at 3,498.

7 Would you or are you asking for  
8 flexibility that if you have to go back  
9 another 10 feet?

10 I guess what I'm saying, you're  
11 not locking into that one number? I guess we  
12 need to know, I mean, would you do possibly  
13 4,000?

14 I don't know how far you can go  
15 back without it not being a soluble space.  
16 But I'm assuming the street width is a given  
17 and the depth could vary?

18 MR. NOVOTNY: It could vary. The  
19 depth could vary. And we would be happy to  
20 lease retail space deeper than what's shown  
21 here.

22 This is drawn at a depth of 60

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1 feet, I believe, which is a standardized, you  
2 know -- we think a leasable depth.

3 COMMISSIONER TURNBULL: Okay.

4 MR. NOVOTNY: Which is very similar  
5 to the depth down below. And if we could go  
6 back farther, we would.

7 We are asking to reduce the number  
8 to 16,700, which matches this exhibit here, to  
9 give a little bit of flexibility. But it's  
10 possible that we could go -- lease a bigger  
11 retail space.

12 COMMISSIONER TURNBULL: I guess I'm  
13 looking at it if, going forward, saying we  
14 approve and that we're going forward, I don't  
15 want to lock it in at this number and then  
16 have you come back for a modification.

17 I think we need to look at an  
18 option as to the depth if that is something  
19 you're interested in.

20 MR. NOVOTNY: I can't foresee a  
21 situation where we would come back and ask for  
22 additional relief to lower it any more. We

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1 think this is leasable.

2 COMMISSIONER TURNBULL: Okay.

3 MR. NOVOTNY: We do want to put in,  
4 you know, something good; a good restaurant if  
5 we can get it in. We think it's a good  
6 amenity for our tenants and for the  
7 neighborhood, and we're going to try our best.

8 I can't foresee a situation where  
9 we would come back and ask for anything less.

10 COMMISSIONER TURNBULL: I'm just  
11 saying, if you've got to deal with someone who  
12 wants 4,000 square feet?

13 MR. NOVOTNY: If it were that, then  
14 -- if you were to grant our request today then  
15 that would be permissible. We could still --  
16 it's a minimum threshold so we could still  
17 exceed that if we got a 4,000-square-foot  
18 tenant or a 5,000-square-foot retail tenant.  
19 Absolutely. And we would try to do that.

20 COMMISSIONER TURNBULL: Okay.

21 MS. BRAY: Mr. Novotny, how much  
22 space is leased on the L Street side; what's

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1 your total leased space at this point?

2 MR. NOVOTNY: Thirteen thousand,  
3 roughly, square feet that's currently leased  
4 on the L Street side.

5 MS. BRAY: So to meet the 16,700-  
6 square-foot minimum threshold of retail, which  
7 is what we're asking for, you could do that  
8 quite easily in the space you've reserved?

9 MR. NOVOTNY: The 16,700-square-  
10 foot represents all of this blue and this blue  
11 here.

12 I thikn the question is, could we  
13 do something bigger? That would be our goal.

14 This is -- we came up with this  
15 plan understanding kind of some basic rules of  
16 what a good retail space ought to be. But if  
17 we can find a larger retail tenant then we  
18 would be happy.

19 COMMISSIONER TURNBULL: Yes. I  
20 just didn't want it, if going forward, locked  
21 into a number that doesn't help you or doesn't  
22 come back, and you're coming back and saying,

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1 "I really need another 500 square feet or  
2 1,000. I've got a restaurant or something  
3 that needs more room."

4 MS. McCARTHY: The 16,700 is a  
5 minimum of the retail that should be provided.

6 But if they, you know -- they could find  
7 another bigger retailer.

8 And the ANC, you'll notice in the  
9 support that they gave us, said they were  
10 signing onto that minimum. They were  
11 perfectly happy if there were variation in  
12 where the rear walls were located. They  
13 weren't trying to lock us into exactly that  
14 configuration. They just wanted a commitment  
15 of at least 16,700.

16 COMMISSIONER SELFRIDGE: I guess  
17 this is for Mr. Novotny. I would assume that  
18 the retail price per square foot is going to  
19 be your highest and best use anyway, right, as  
20 opposed to whatever; certainly more than a  
21 daycare or a laser tag arena? You would be  
22 incentivized to get as much retail as you can

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1 in that space?

2 MR. NOVOTNY: Absolutely.

3 CHAIRMAN HOOD: Okay. Both good  
4 points.

5 Any other questions?

6 Okay. Do we have a representative  
7 from ANC-2A?

8 Cross-examination?

9 Okay. Ms. Kahlow, do you have any  
10 cross-examination?

11 MS. KAHLOW: No, sir.

12 CHAIRMAN HOOD: Okay. Let's go to  
13 the Office of Planning's report.

14 MS. THOMAS: Good evening, Mr.  
15 Chairman, members of the Commission. Karen  
16 Thomas for the Office of Planning.

17 We are recommending approval of  
18 this application as requested and we would be  
19 happy to stand on the record.

20 CHAIRMAN HOOD: Thank you, Ms.  
21 Thomas, for being so succinct.

22 Any questions of the Office of

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1 Planning? Any questions?

2 Okay. Does the applicant have any  
3 questions of the Office of Planning?

4 MS. BRAY: No, we do not. Thank  
5 you.

6 CHAIRMAN HOOD: Again, I don't see  
7 anyone here from the ANC.

8 Ms. Kahlow, do you have any  
9 questions of the Office of Planning?

10 Okay. We'll move right along.

11 The report of -- Ms. Thomas, did  
12 you want to say something else? You've got  
13 plenty of time.

14 Okay. Ms. Steingasser?

15 MS. STEINGASSER: I was just going  
16 to offer a very small insight into how OP  
17 approached this and how we made our  
18 assessment.

19 We didn't come to this review  
20 through the lens of a diminution in amenities.  
21 We looked at the PUD a little bit broader  
22 back.

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1           We started looking at the  
2 mathematical errors that were made in the  
3 original PUD, taking into consideration that  
4 this was one of the very first PUDs done. So  
5 there wasn't a lot of experience in how to  
6 actually write the orders and how to make them  
7 really reflect the project. So we considered  
8 the mathematical errors that we considered  
9 done.

10           We also looked at the wording of  
11 the order and the fact of what was being  
12 proffered, what was intended, and what was  
13 permitted in addition.

14           Then we looked at it in terms of  
15 under today's lens, would we accept this PUD  
16 with the minimum flexibility and the amenities  
17 and benefits that were being proffered.

18           Through those two lenses, we felt  
19 that the project did merit our full support  
20 and didn't -- though we're very happy to  
21 accept the additional proffers, we did not  
22 feel they were warranted.

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1 CHAIRMAN HOOD: Okay. Any  
2 questions or comments?

3 Thank you, Ms. Steingasser. I  
4 appreciate that information.

5 Did we do cross-examine? Did I  
6 ask? I asked. Okay. I did that.

7 Report of other government  
8 agencies? I didn't see any. Am I missing  
9 any? Somebody can help me.

10 I know we have some other comments.

11 I don't have -- I know we had a  
12 letter from Mr. Miller, who also rescinded his  
13 first letter. He had a letter dated November  
14 3 and he rescinded it November 15.

15 Exhibit 28, which basically says,  
16 "I am formally retracting myself on behalf of  
17 my company, the attached letter dated November  
18 3 to Mr. Anthony Hood."

19 So he's retracting his statement  
20 which talked about us not taking away the  
21 retail, the same thing that I think West End  
22 proposed to us at first. They both seem to

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1 have retracted.

2           There was one other letter. I  
3 think it had WTH or something at the top of  
4 it. I actually don't have that one in front  
5 of me. Maybe my colleagues can help me out.

6           I want to make sure we get that on  
7 the record. I think it was WTH at the top of  
8 the letter, NCC, or something like that. I  
9 just wanted to read that into the record.  
10 That was that in opposition, I believe, at  
11 first.

12           MS. BRAY: Chairman?

13           CHAIRMAN HOOD: Do you have that  
14 letter?

15           MS. BRAY: I do. I actually have  
16 that letter. It was submitted in opposition,  
17 again as part of West End Citizens  
18 Association's withdrawal of their opposition.

19           CHAIRMAN HOOD: So this went along  
20 with West End? Oh, they took this one away  
21 too? Okay.

22           A lot of putting in and taking away

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1 here. I'm getting confused. Okay. We'll  
2 disregard that. They also have retracted.

3 The report of ANC-2A --

4 MS. MCCARTHY: Mr. Hood, we did  
5 also have a letter from a tenant in the  
6 building, Cassidy/Turley, which is also a  
7 commercial real estate brokerage firm that  
8 supported the reduction in the retail, and  
9 supported also what Mr. Papadopoulos had said  
10 about their experience and the depth of the  
11 retail space.

12 Unfortunately, it doesn't seem like  
13 they submitted it in time for the record. But  
14 I'd be happy to submit that when I submit the  
15 zoning chart as well.

16 CHAIRMAN HOOD: That will be fine.

17 I know the ANC supported, ANC-2A.

18 I'll go now to the list of -- I  
19 only have two names on the list. Actually,  
20 the two people I have can come up here to the  
21 right. You all can keep your seats so we  
22 don't have to do a whole lot of moving around.

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1 Ms. Barbara Kahlow from the West  
2 End Citizens Association and Ms. Anita  
3 Diliberto, West End Friends. Both are  
4 proponents.

5 Do we have any additional people in  
6 the audience who would like to testify as  
7 proponents?

8 Do we have any here who would like  
9 to testify in opposition?

10 Okay. Ms. Kahlow, you're going to  
11 go first and you are a party. You can give us  
12 your testimony.

13 MS. KAHLOW: Thank you. I'm  
14 Barbara Kahlow. I live at 800 25<sup>th</sup> Street,  
15 Northwest in Foggy Bottom.

16 I will be very brief and try to  
17 speak to some things that I thikn are new  
18 information.

19 First was the fire station. The  
20 fire station -- nearby fire station had its  
21 100<sup>th</sup> anniversary and opened to the public for  
22 the first time. We were able to see what they

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1 didn't have.

2 Captain Ellerbe I spoke with there.

3 He is unfortunately sequestered for the week  
4 so he was not able to come today. But he was  
5 retaining a list of what he wanted and I had  
6 said, "We will call you someday." And he had  
7 the list.

8 The list you have in front of you  
9 is his rank order list of what he wanted. And  
10 we added it together and that's how we came up  
11 with the numbers.

12 Some of the things are special,  
13 like they have to have fire-resistant  
14 mattresses and stuff like that. But the  
15 workout equipment, reclining chairs,  
16 mattresses, DVD player, kitchen pots and pans,  
17 plates and cups, is his list of what he  
18 doesn't have and they needed desperately. So  
19 that's how we got that.

20 The second thing I thought I would  
21 cover, you want to know about Galileo's. It  
22 was on that site for 22 years and its new

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1 space is 6,109 square feet.

2 Third, I didn't get a chance  
3 because it was on the screen and I don't have  
4 a copy of Ellen's chart. But some of the  
5 different items that she mentioned, Ms.  
6 McCarthy, were incorrect about amenities.

7 I'll give an example. One, there  
8 was specific amenities of adding the numbers  
9 146, 35, 16, 50 by \$250,000 in amenities.

10 So I would appreciate it if we  
11 could look at the chart and actually correct  
12 that what's in the chart so you don't have  
13 misinformation in the future. Because it is  
14 our community. We know what we've negotiated  
15 and what's in those orders. And I'd like to  
16 be able to do that.

17 As for how we feel, we clearly like  
18 street life which is for safety. We decided  
19 that they had given their point of view and we  
20 had our fire station that desperately needed  
21 things.

22 And they live on the same street,

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1 21<sup>st</sup> Street, and we thought that we needed to  
2 see if we could help them out, that our public  
3 service needed it. And we felt we could reach  
4 an understanding of balancing the different  
5 things.

6 And we thought this was in the best  
7 interest of the Foggy Bottom/West End  
8 community, specifically our neighborhood.

9 I hope that helps you.

10 CHAIRMAN HOOD: Thank you, Ms.  
11 Kahlow.

12 Let me do this. Colleagues, do we  
13 have any questions of Ms. Kahlow?

14 Ms. Kahlow is a party; she can be  
15 cross-examined.

16 Does the applicant have any cross-  
17 examination of Ms. Kahlow?

18 MS. BRAY: No, we do not. Thank  
19 you.

20 CHAIRMAN HOOD: Again, no one's  
21 here from the ANC.

22 Okay. Let's move right along.

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1 Ms. Diliberto? Hopefully I'm not  
2 butchering your name.

3 MS. DILIBERTO: Diliberto.

4 CHAIRMAN HOOD: Diliberto? Okay.

5 MS. DILIBERTO: Good evening. My  
6 name is Anita Diliberto and I am President of  
7 West End Friends. I reside at 2425 L Street.

8 Just to give you a brief history on  
9 West End Friends, we are a growing group of  
10 citizens that actually reside in the West End  
11 who are interested in working on neighborhood  
12 improvement projects, assisting in raising  
13 funding for those projects, and also seeing  
14 those projects to completion.

15 West End Friends is part of Friends  
16 of Francis Field, which is a nonprofit  
17 corporation, a tax-exempt educational and  
18 charitable organization.

19 With that said, West End Friends  
20 has met and voted in support of modification  
21 for this PUD. We believe that it's a minor  
22 modification and feel that it should be

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1 granted to help promote new business to the  
2 area and benefit the West End neighborhood.

3 Thank you.

4 CHAIRMAN HOOD: Okay. Thank you  
5 very much.

6 Any questions, Commissioners?

7 Commissioner May?

8 COMMISSIONER MAY: I'm just curious  
9 about whether the West End Friends have taken  
10 a particular position about the benefits that  
11 have been proffered here, the \$20,000 for the  
12 fire station and the \$10,000 for the library,  
13 whether you have considered that specifically  
14 or not.

15 MS. DILIBERTO: We have discussed  
16 that. We're in support of the amenity money  
17 for the library. We're not in support of the  
18 funding for the fire station.

19 COMMISSIONER MAY: That's  
20 interesting. Tell me why.

21 MS. DILIBERTO: Because this is a  
22 project that's in actually the West End, this

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1 PUD request. And we feel that the amenity  
2 money should stay within the West End.

3 COMMISSIONER MAY: Okay. Thanks.

4 COMMISSIONER SELFRIDGE: I remember  
5 we established where the library was.

6 Did we establish where the  
7 firehouse is, anybody?

8 MS. KAHLOW: If I can, it's at 2119  
9 G, right down the street on the same street,  
10 21<sup>st</sup> Street. And it services that building as  
11 well as the White House.

12 CHAIRMAN HOOD: So it must be out  
13 of bounds. Is it out of the boundary?

14 MS. DILIBERTO: That's in Foggy  
15 Bottom.

16 CHAIRMAN HOOD: In Foggy Bottom?

17 MS. DILIBERTO: Yes.

18 CHAIRMAN HOOD: All right. Any  
19 other questions, Commissioners?

20 Does anybody have any cross-  
21 examination?

22 Applicant?

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1 MS. BRAY: No, we do not. Thank  
2 you.

3 CHAIRMAN HOOD: Ms. Kahlow?

4 MS. KAHLOW: I do not.

5 CHAIRMAN HOOD: Okay.

6 MS. KAHLOW: Thank you.

7 I guess I'd like one clarification.  
8 It is in the CBD. That was an incorrect  
9 statement. But that's not critical.

10 CHAIRMAN HOOD: Okay. Thank you,  
11 Ms. Kahlow.

12 Who said it was in there; who said  
13 that?

14 MS. BRAY: I'm not clear on who  
15 said what was in the CBD.

16 MS. KAHLOW: Ellen. Ellen --

17 CHAIRMAN HOOD: Oh, some -- okay.

18 MR. PAPADOPOULOS: She said it  
19 regarding the retail space.

20 CHAIRMAN HOOD: Okay.

21 MS. KAHLOW: Two of the witnesses  
22 did. And I thought it's important to qualify.

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1           We spend a lot of time, the West  
2 End Citizens Association, actually mapping  
3 what would be in the Central Business District  
4 and what would not. And we were able to  
5 successfully get things out of the CEA and  
6 testified five times at NCPC. So we're kind  
7 of experts on this thing.

8           CHAIRMAN HOOD: Well, thank you  
9 very much, Ms. Kahlow.

10          MS. KAHLOW: Thank you.

11          CHAIRMAN HOOD: I know you've been  
12 in the trenches a long time so thank you for  
13 that clarification.

14          MS. KAHLOW: Thank you.

15          CHAIRMAN HOOD: I appreciate it.

16                Okay. I think that's it.

17                Do we have any closing comments?

18                First, let me thank you both. We  
19 appreciate your comments and testimony.

20                Ms. Bray, do you have any closing?

21                MS. BRAY: I just have a very brief  
22 closing. And that is I would urge the

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1 Commission to look at the initial order from  
2 1973 and the 2006 modification.

3           There's been a lot of talk about  
4 whether the retail was a core amenity as part  
5 of the project. And it's clear from the 1973  
6 PUD approval that at that time, and consistent  
7 with the 1969 regulations establishing the PUD  
8 process, that community benefits and amenities  
9 were thought of quite differently and not held  
10 in as high regard in the way that we look at  
11 community benefits and amenities today.

12           As Ms. Steingasser said on behalf  
13 of OP, this is an extremely early PUD. I  
14 believe there were only two previously  
15 approved at that time. And there was not a  
16 significant discussion either in the order or,  
17 as we have been able to glean, from the old  
18 record in that case that retail was a core  
19 community benefit.

20           In the 2006 modification the  
21 Commission's order specifically lists the  
22 public benefits and amenities.

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1           First is transportation, the fact  
2 that the building would retain the same number  
3 of parking spaces and would maintain a section  
4 devoted for parking bicycles, and that it was  
5 easily accessible by public transportation.

6           Second was urban design,  
7 architecture site planning, and green building  
8 practices, something which has been maintained  
9 and supported by Mr. Novotny's testimony and  
10 Ms. McCarthy's testimony was clearly related  
11 to the design of the building, the re-skinning  
12 of the building, refurbishing of the building,  
13 and revitalization of the streetscape as a  
14 result.

15           Third, the third listed  
16 benefit/amenity is uses of special value. And  
17 that is simply a mention that it would provide  
18 ground floor retail in pedestrian-oriented use  
19 that will enhance the street activity of the  
20 area.

21           Finally was monetary contributions  
22 to neighborhood organizations, namely the

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1 \$125,000 that were paid at the time of the  
2 initial approval.

3           Going back to this third item in  
4 the list of project amenities, uses of special  
5 value, it is precisely the goal of this  
6 requirement that the project would provide  
7 ground floor retail in a pedestrian-oriented  
8 use to enhance the street activity of the area  
9 that is hampering the ability to deliver just  
10 that.

11           Because as you heard and as you  
12 stated the very compelling testimony of Mr.  
13 Novotny, the ability to provide the useable  
14 space along the 21<sup>st</sup> Street frontage is  
15 inextricably linked at this point with the  
16 interior space which is not as favorable for  
17 the retail uses and, frankly, has no impact on  
18 the street vitality that is observed on 21<sup>st</sup>  
19 Street.

20           It is that street frontage that is  
21 most important and it is that street frontage  
22 that the applicant is committed to providing

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1 as retail uses.

2 We believe this modification meets  
3 all the requirements of a second-stage PUD  
4 application, and that with the benefits and  
5 amenities that West End Citizens Association  
6 fought so hard for and that the developer is  
7 willing to give, that this is a project which  
8 complies with all of the applicable  
9 regulations.

10 We would urge you to approve the  
11 proposed action tonight, if it is the pleasure  
12 of the Commission.

13 Thank you very much.

14 MR. NOVOTNY: Mr. Chairman, if I  
15 could just add very quickly, I think it's very  
16 tempting to fix on the quantity, the number,  
17 the numbers that are presented here. But I  
18 would encourage you to focus more on the  
19 quality of the street front that we're trying  
20 to achieve and the quality of the tenants that  
21 we're trying to attract.

22 We've worked very hard to come up

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1 with what we think is a good, meaningful, and  
2 appropriate benefits package.

3 One thing I don't want to get lost  
4 in the conversation though is what this would  
5 mean for 21<sup>st</sup> Street that right now is  
6 struggling with retail.

7 We think this is a good mechanism  
8 to actually increase the quality of that side  
9 of the building and that portion of the  
10 street. I hope that doesn't get lost as  
11 probably the most important community benefit  
12 for those that live in that area.

13 I thank you again for your  
14 consideration tonight.

15 CHAIRMAN HOOD: Okay. Thank you  
16 very much.

17 Give me one moment. Okay.

18 This is a very efficient Commission  
19 and for efficiency we're going to try to see  
20 how far we get. I'm going to ask Commissioner  
21 May to start us off.

22 COMMISSIONER MAY: Okay.

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1 Efficient. We're all set at 8:40. Two and a  
2 half hours later.

3 I think that, generally speaking,  
4 the case has been made that this modification  
5 needs to be made in order to get the retail  
6 space, or at least the street-fronting retail  
7 space, rented out. So I think that that, you  
8 know -- I've said this before; I think that  
9 that part of the case has been made.

10 I think the thing that I'm still  
11 uncomfortable about is not the dollar value of  
12 the benefits that have been offered, but the  
13 specifics about what it's about. This goes to  
14 an ongoing struggle that we have with  
15 essentially cash payments to certain groups to  
16 buy kind of undefined stuff or do undefined  
17 projects.

18 So I think I would be inclined to  
19 move ahead with that general dollar value  
20 established as the appropriate level of  
21 offsetting amenity here. But would ask for a  
22 more specific statement about exactly what the

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1 owner of the building will actually buy or do,  
2 as opposed to writing a check to the Library  
3 Foundation so that it can be used in any  
4 number of ways.

5 That's not -- I mean, if it were  
6 \$10,000 to buy X, Y, and Z, I think I'd be  
7 more comfortable with that.

8 And frankly, I'm more convinced on  
9 the library side, I think, than I am on the  
10 firehouse side in terms of what needs to be  
11 done. But I don't want to direct exactly what  
12 the package would be.

13 Some of these things you'd think,  
14 given the city's capital expenditures, they  
15 ought to be paying for themselves; the city  
16 ought to paying for them out of a regular  
17 budget. Particularly when you're talking  
18 about unionized employees who probably have  
19 specific requirements in their contracts that  
20 need to be met and so on.

21 That's not to diminish the need for  
22 it. I understand the need for it.

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1           But you know, they're -- it's  
2           troubling when we get -- when the Zoning  
3           Commission is put in a position of having to  
4           fund things that you would think would be  
5           covered in other ways.

6           The library thing is a little bit  
7           more understandable because I think libraries  
8           is a charity that one often winds up giving  
9           to, kind of like schools. They wind up  
10          accepting donations and things. I know I give  
11          money to my public school that my kids go to  
12          and so on.

13          It's a little different;  
14          firehouses, I mean. This is basic city  
15          services.

16          So anyway, that's my general  
17          thoughts on this.

18                   CHAIRMAN HOOD: Okay. Anyone else?  
19                   Commissioner Turnbull?

20                   COMMISSIONER TURNBULL: Yes. I  
21                   guess we've done it before. I think we want  
22                   to shy away from an escrow account or just

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1 giving it to a group that it just gets lost  
2 somehow.

3 I think as we would prefer a list  
4 of things with a dollar amount that then the  
5 owner could buy and provide to the firehouse,  
6 I would think a list of items that could be  
7 purchased and delivered as a package.

8 Now with the library, I don't know.  
9 Because they're going between a new library  
10 and the existing library. Well, I guess I'd  
11 rather deal with the existing library and help  
12 refurbish. But I don't know how you --

13 COMMISSIONER MAY: Or ideally  
14 something that could be used in both places.

15 COMMISSIONER TURNBULL: Both.

16 COMMISSIONER MAY: I mean, if  
17 you're talking about buying rocking chairs --

18 COMMISSIONER TURNBULL: Right. If  
19 you can buy furniture that can be then reused  
20 when they -- that would be something.

21 I think, as Commissioner May is  
22 saying, we need that tightened up as to so

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1 it's not just an open-ended dollar amount  
2 going away; that there is a list of items that  
3 can be bought, purchased, and provided, and  
4 then your obligation is over. That money then  
5 is -- we've done our due diligence and we've  
6 taken care of the community's need.

7 CHAIRMAN HOOD: Okay. Any other  
8 comments?

9 Commissioner Selfridge?

10 COMMISSIONER SELFRIDGE: I would  
11 support that. That seems reasonable.

12 What you're saying, this is  
13 something we've talked about just in my short  
14 time in the Commission and we keep coming back  
15 to it. I think we're getting away from it  
16 quickly, so I don't know if there's any reason  
17 to keep reinforcing the old practice.

18 CHAIRMAN HOOD: So we're looking at  
19 fine-tuning or refining the two amenities  
20 proffered to the firehouse. But I want to  
21 associate myself with Commissioner May's  
22 comments about the firehouse.

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1           To start, I always think about my  
2 neighborhood. Not that I'm selfish, but I'm  
3 scared to even go in there now to see what the  
4 firehouse looks like when I'm hearing what's  
5 going on over in West End.

6           That should be something -- that's  
7 a basic service, the mattress. My hat's off  
8 to the negotiation if that's what's needed.  
9 But anyway, that's disturbing.

10           Also, as I look at this case, I  
11 thikn the case has been made for me. I know  
12 there's still some questions about the  
13 amenities. But I think from what I heard in  
14 testimony --

15           Ms. McCarthy, I'm still looking  
16 forward to that sheet, hopefully before final  
17 depending upon how we move tonight.

18           Also I listened to the comments of  
19 Ms. Steingasser, how they took into  
20 consideration that this is one the first PUDs  
21 when PUDs came out in the early 1970s, and how  
22 they evaluated and how they got to where they

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1 are to give support to this case.

2 So those were two main key factors  
3 for me. Because I can tell you, that's what  
4 kind of got me over the hesitation that I  
5 actually had when I was just all about  
6 amenities. But those two factors.

7 I'm still looking forward to the  
8 sheet, Ms. McCarthy. I'm very interested in  
9 that. Because one of the things that I've  
10 always tried to do and this Commission has  
11 always tried to do since I've been here is be  
12 kind of consistent. I think we have been  
13 pretty consistent. That's why I want to look  
14 at that sheet. But we deal with every case on  
15 its own merit.

16 With that, my recommendation,  
17 Commissioners, is that we do a bench decision  
18 tonight unless someone says hold up.

19 COMMISSIONER TURNBULL: The only  
20 other thing that I had brought up before --  
21 and I don't know whether -- again, not wanting  
22 a modification -- is that the 16,700 be put

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1 down as a minimum rather than an absolute  
2 number.

3 COMMISSIONER MAY: I think it's a  
4 minimum anyway. I mean, it's not written that  
5 way.

6 COMMISSIONER TURNBULL: I think  
7 that's the intent.

8 COMMISSIONER MAY: Yes.  
9 Absolutely. It's a minimum.

10 COMMISSIONER TURNBULL: Okay.

11 CHAIRMAN HOOD: Thank you, Mr.  
12 Turnbull. We will encompass that. I'm not  
13 sure what it was; 16,000 and whatever is a  
14 minimum.

15 PARTICIPANT: 700.

16 CHAIRMAN HOOD: Okay. 16,700.

17 COMMISSIONER MAY: Mr. Chairman, I  
18 would make a motion that we approve Zoning  
19 Case No. 70-16B, CSE 2101 L Street Pud  
20 Modification at Square 72, noting that for  
21 final we would request some refinement of the  
22 benefits package along the lines of the

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1 comments that have been made tonight.

2 I would ask for a second.

3 COMMISSIONER TURNBULL: Second.

4 CHAIRMAN HOOD: It's been moved and  
5 properly seconded.

6 The only other caveat is we're  
7 still looking for the sheet from Ms. McCarthy.  
8 I want that sheet.

9 It's been moved and properly  
10 seconded.

11 Any further discussion?

12 Are you ready for the question?

13 All those in favor, aye?

14 ALL: Aye.

15 CHAIRMAN HOOD: Not hearing any  
16 opposition of those of us present.

17 Ms. Schellin, would you record the  
18 vote?

19 MS. SCHELLIN: Yes. Before I do,  
20 I'd make a note that Commissioner Schlater has  
21 advised that he will be participating in final  
22 action.

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1           Staff would record the vote 4-0-1,  
2           Commissioner May moving, Commissioner Turnbull  
3           seconding, Commissioners Selfridge and Hood in  
4           support, Commissioner Schlater not present/not  
5           voting.

6                   CHAIRMAN   HOOD:           Okay.        Ms.  
7           Schellin, do we have anything else before us  
8           tonight?

9                   MS. SCHELLIN:  I'd just like to set  
10          a schedule for these additional documents,  
11          which I have the PUD chart that Ms. McCarthy  
12          presented, the letter from the tenant in the  
13          building that she'd like to present, and then  
14          a statement from the applicant with regard to  
15          specifically what the dollar amounts to the  
16          library and the fire department will be spent  
17          on.

18                   If we could get those by December 2  
19          and allow the parties, the ANC and WECA, until  
20          December 9 to respond.

21                   We will probably not be taking this  
22          up until our January meeting.

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1 COMMISSIONER MAY: Ms. Schellin?

2 MS. SCHELLIN: We have to refer  
3 this to NCPC.

4 COMMISSIONER MAY: Sorry. I just  
5 wanted to note, with regard to the refinement  
6 of the package, it's not just how it would be  
7 spent in terms of a list of what it's spent  
8 on.

9 MS. SCHELLIN: What they would  
10 purchase?

11 COMMISSIONER MAY: But how it  
12 actually -- the mechanics of it; who is going  
13 to be buying it and that kind of thing.

14 MS. SCHELLIN: Okay. Who will buy  
15 and what.

16 CHAIRMAN HOOD: I think they're  
17 using Blu-ray. They're not doing DVDs. But,  
18 anyway.

19 MS. SCHELLIN: It's still Blu-ray  
20 DVD.

21 CHAIRMAN HOOD: Okay. Excuse me.  
22 Better throw that in there while they're doing

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1 it.

2 Ms. Schellin, do we have anything  
3 else?

4 MS. SCHELLIN: That's it.

5 CHAIRMAN HOOD: I really want to  
6 --

7 MS. SCHELLIN: Also, if the  
8 applicant would provide a draft order by  
9 December 9.

10 CHAIRMAN HOOD: Okay. Anything  
11 else, Ms. Schellin?

12 MS. SCHELLIN: That's it.

13 CHAIRMAN HOOD: I really want to  
14 thank the participants, especially the  
15 community for their late developments. I  
16 understand that you worked on this until 12:00  
17 last night, at least that's what I was told.

18 Anyway, I think you all have done a  
19 great job. When you're in a volunteer role  
20 sometimes it's not easy. But we appreciate  
21 you making this hearing probably an hour or so  
22 shorter for us tonight.

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1 I appreciate all of that, and  
2 everyone's attention to this and all your  
3 participation.

4 With that, this hearing is  
5 adjourned.

6 (Whereupon, at 8:50 p.m. the  
7 hearing was adjourned.)

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