

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

THURSDAY

DECEMBER 4, 2008

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	CHAIRPERSON
GREGORY JEFFRIES	VICE-CHAIRPERSON
MICHAEL TURNBULL, FAIA	COMMISSIONER (OAC)
PETER MAY	COMMISSIONER (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN	SECRETARY
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OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
JOEL LAWSON

The transcript constitutes the minutes from the Public Hearing held on December 4, 2008.

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

(6:33 p.m.)

CHAIRPERSON HOOD: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, December 4th, 2008. My name is Anthony Hood. We're expected to be joined by the vice-chairman, Greg Jeffries. We're also joined by Commissioner Peter May and Commissioner Michael Turnbull. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin, and also the Office of Planning, Ms. Brown-Roberts and Mr. Lawson.

This proceeding is being recorded by a court reporter. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room. The subject of this evening's hearing is Zoning Commission case 84-19A. This is a request by the World Wildlife Fund for approval of a modification to a PUD for a property located in square 24,

1 lot 112.

2 Notice of today's hearing was
3 published in the DC Register on October the
4 17th, 2008, and copies of that announcement
5 are available to my left on the wall near the
6 door. This hearing will be conducted in
7 accordance with provisions under 11DCMR3222 as
8 follows: Preliminary matters, applicant's
9 case, the report of the Office of Planning,
10 the report of other government agencies, if
11 any, ANC-2A, organizations and persons in
12 support, organizations and persons in
13 opposition, rebuttal, and closing by the
14 applicant.

15 The following time constraints
16 will be maintained in this hearing: The
17 applicant 25 minutes if needed. Again, the
18 applicant 25 minutes if needed.

19 Organizations, five minutes, individuals,
20 three minutes. The Commission intends to
21 adhere to the time limits as strictly as
22 possible. All persons appearing before the

1 Commission are to fill out two witness cards.
2 Please come to the mic, turn your mic on,
3 identify yourself when presenting information
4 to the Commission.

5 When you are finished speaking,
6 please turn your mic off so that your
7 microphone is no longer picking up sound or
8 background noise. The staff will be available
9 throughout the hearing to discuss procedural
10 questions. Please turn off all beepers and
11 cell phones so not to disrupt these
12 proceedings. Would all individuals wishing to
13 testify please rise to take the oath? Ms.
14 Schellin, would you please administer the
15 oath?

16 (Whereupon, the witnesses were
17 sworn).

18 CHAIRPERSON HOOD: Ms. Schellin, do
19 we have any preliminary matters?

20 SECRETARY SCHELLIN: We do. I
21 believe Ms. Bray is going to ask -- regarding
22 posting of the property. We just discovered

1 that wasn't done. And then I believe they
2 have one expert witness to be proffered as an
3 expert.

4 CHAIRPERSON HOOD: Good evening,
5 Ms. Bray. You may begin.

6 MS. BRAY: Good evening, Mr.
7 Chairman and members of the Commission. My
8 name is Kinley Bray, with the law firm of
9 Arent Fox on behalf of World Wildlife Fund,
10 the applicant. As Ms. Schellin just alluded
11 to, she doesn't have in her file and nor do I
12 have it in mine tonight the affidavit of
13 posting, so at this point I'm not sure whether
14 the property was posted, and I would
15 respectfully request a waiver of the posting
16 requirement at this time.

17 The property has been properly --
18 the application has been properly advertised
19 and the advisory neighborhood commission 2C
20 has been contacted on at least two occasions
21 regarding this application and has not
22 expressed in any interest in proceeding with

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1 the application. In addition, we've spoken to
2 I believe two other community members living
3 in the square, on the other side of the square
4 on 25th Street about the property. So the
5 notice of the application was well advertised
6 to the ANC.

7 CHAIRPERSON HOOD: Ms. Bray, the
8 only thing concerning me is you said 2C. Is
9 this 2A?

10 MS. BRAY: I'm sorry, the advisory
11 neighborhood commission 2A.

12 CHAIRPERSON HOOD: 2A, okay, good.
13 All right, does anybody have any
14 problems?

15 COMMISSIONER MAY: Were there
16 parties in the original case?

17 MS. BRAY: There were parties in
18 the original case in 1985, but those are no
19 longer owners of the property. The party,
20 actually, in opposition in that case was a
21 partner in the ownership group of the
22 building.

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1 COMMISSIONER MAY: Okay, but like
2 you didn't have the West End Citizens
3 Association or any of those folks as a party,
4 as we ordinarily would in a West End case?

5 MS. BRAY: I believe the advisory
6 neighborhood commission participated, but I
7 don't believe the West End participated at
8 that time.

9 COMMISSIONER MAY: Okay, thanks.

10 CHAIRPERSON HOOD: Okay, not
11 hearing anything, we will waive our rules on
12 that by general consensus. Another thing is,
13 we have a proffered expert witness.

14 MS. BRAY: That's right. I'd like
15 to proffer Diana Horvat with Envision Design
16 as an expert witness in architecture. Ms.
17 Horvat is here and available to answer
18 questions from the Commission. Ms. Horvat has
19 a bachelor's of arts and architecture and has
20 been practicing in DC for 23 years,
21 specializing in commercial interiors. She's
22 been the project principal on this building

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1 and the World Wildlife Fund headquarters when
2 it was a tenant in this building, and her
3 expertise is relevant to the discussion of the
4 modification.

5 Her experience warrants her being
6 considered an expert. She's been previously
7 qualified as an expert before the planning
8 commission for the City of Alexandria, but not
9 before this Commission.

10 CHAIRPERSON HOOD: Okay, let's hold
11 that thought. We're going to suspend this
12 hearing for about two minutes while we reset
13 the system.

14 (Whereupon, the above-entitled
15 matter went off the record briefly).

16 CHAIRPERSON HOOD: Okay, we're
17 ready. We've been joined by the vice
18 chairman, Commissioner Jeffries.

19 MS. BRAY: Thank you very much, Mr.
20 Chairman and members of the Commission. Given
21 Mr. Hood's recommendation, we'll try to keep
22 our presentation limited to responding to the

1 staff report from the Office of Planning. I
2 first want to thank the Commission and the
3 Office of Planning, and start with a little
4 bit of procedural history on this application.

5 The original PUD was granted in
6 1985, primarily on the basis of the historic
7 preservation component of the project, which
8 preserved the historic Black & White Taxi
9 Company garage facade. Although the property
10 is not located within a historic district and
11 has not been designated as individual
12 landmark, at the original PUD hearing, an
13 architectural historian testified on the
14 record that the building was a good example of
15 early reinforced concrete structures,
16 deserving of preservation representative of
17 the taxi industry in Washington, DC, and that
18 the proposed design successfully preserved the
19 facade, creating a valuable asset to the
20 surrounding area.

21 Through the course of that
22 hearing, the community asked for retail to be

1 included as part of the public amenities
2 package, in part because of the dearth of
3 retail in the West End. Within two and a half
4 years of completion of construction, the
5 building owner was back before the Zoning
6 Commission seeking relief from the retail
7 requirement, due to failure to lease the
8 space. Prior to a set down hearing, the space
9 actually was leased, or at least a portion of
10 it was.

11 And the question essentially
12 became moot. The Zoning Commission denied set
13 down of that request. The preservation of the
14 facade and the design of the building addition
15 created an arcade along 24th Street, with
16 recess and sunken retail spaces that are not
17 truly on the ground floor. There is limited
18 visibility from the street. And as evidenced
19 by the 1989 modification request, leasing the
20 space has been problematic for some time.
21 Both spaces which exist in the building now
22 for retail use have been empty for almost two

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1 years.

2 We have three witnesses this
3 evening. Grant Baldwin, director of
4 facilities and administration for the World
5 Wildlife Fund, will discuss the acquisition of
6 the building, the rental history and
7 operation. Kimberly Keleher with Cassidy and
8 Pinkard Colliers, will discuss the suitability
9 of the space for retail and the type of
10 tenants that have approached the organization
11 about leasing the space. And finally, Diana
12 Horvat will testify as to the World Wildlife
13 Fund's initiative to retrofit the building.

14 It's important to note that World
15 Wildlife Fund does not propose any changes to
16 the building at this point. We are seeking a
17 modification for purposes of allowing
18 additional uses in the space. And contrary to
19 the Office of Planning's report, World
20 Wildlife Fund is not proposing lead
21 certification as a substitute amenity as part
22 of the PUD. We firmly believe that the

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1 modification has no meaningful impact on the
2 original PUD or its primary amenity, which was
3 the historic preservation of the facade of the
4 building.

5 However, World Wildlife is
6 undertaking, independently, a series of
7 improvements of the building which will result
8 in an enhanced building, which might serve in
9 the event that the Commission finds that
10 removal of the retail requirement would be
11 removing the primary amenity associated with
12 the PUD and the basis on which the PUD was
13 predicated.

14 So with that, I will turn it over
15 to Grant Baldwin.

16 VICE-CHAIRPERSON JEFFRIES: Excuse
17 me, before you get started, is the Trader
18 Joe's, is that on 24th, or what street is that
19 on?

20 MS. BRAY: That's on 25th Street.

21 VICE-CHAIRPERSON JEFFRIES: 25th,
22 it's the next block. Okay, thanks.

1 MR. BALDWIN: Thank you very much.
2 My name is Grant Baldwin, and I'm the director
3 of sustainable sourcing for World Wildlife
4 Fund. And my responsibilities include
5 overseeing the WWF building at 1250 24th
6 Street. The 290,000 square foot property has
7 been the US headquarters for World Wildlife
8 Fund for over two decades. Although we were
9 originally a tenant, we purchased the building
10 in the year 2000.

11 Currently, we occupy 46 percent of
12 the building, and we lease the remaining
13 space. Our current tenants consist of six
14 suites leased as office space, a daycare
15 facility, and a deli and news stand. The
16 space impacted by the approved plan unit
17 development consists of 17,000 square feet,
18 equally divided between a store front retail
19 and restaurant unit. As the building owner,
20 we have endured a financial hardship since
21 January 2007, when both tenants of our retail
22 spaces began to fail, and eventually ceased

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1 operations at about the same time.

2 This has resulted in an
3 accumulated loss rental income of nearly
4 \$900,000, and continues to grow at a rate of
5 \$39,000 per month. The Office of Planning has
6 recommended that any proposed use of the space
7 vacated by the retail tenants should be
8 visible from the street. I'd like to direct
9 your attention to the photographs of the
10 building we have on the boards, and which we
11 have provided in handout form.

12 These photographs were taken from
13 24th Street and show the facade of the
14 building and its entrance. As the photos
15 indicate, you can see the primary challenge
16 that has faced retail and restaurant
17 establishments at this location. The space is
18 located below the street level and set back
19 from the sidewalk. The last two photos in the
20 handout show the depth, both vertical and
21 horizontal, of the setback.

22 This building feature, compounded

1 by the lack of foot traffic passing the
2 building, has made it difficult to attract
3 prospective tenants that would meet the
4 requirements of the approved plan unit
5 development. As Kimberly Keleher will
6 explain, at the same time we have been able to
7 secure retail tenants, we have had to turn
8 away increase from businesses such as public
9 relations and architectural firms.

10 Condition number four of the
11 approved PUD prohibits both tenants as these
12 and our own organization from legally
13 occupying the space for office use. World
14 Wildlife Fund is an active part of the West
15 End community. We coordinate with our
16 neighbors' blood drive several times per year.
17 We have worked with the Fairmont Hotel on
18 Earth Day projects at Francis Junior High
19 School and Rock Creek Park.

20 The WWF building is an iconic
21 symbol of the Washington West End. And as its
22 owners, we take pride in the upkeep of the

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1 building and its perimeter. As Diana Horvat
2 will explain, World Wildlife Fund is currently
3 in the process of greening our building, and
4 in doing so, we hope to achieve lead platinum
5 certification for existing buildings. This
6 undertaking requires a significant investment
7 in our building, and is compatible with the
8 District's and Mayor Fenty's Green City
9 Initiative.

10 In November 2007, I attended the
11 ANC district 2A monthly meeting. During the
12 agenda opportunity for public comment, I
13 introduced myself to the commissioners and the
14 public. I briefly explained the modification
15 request that was being pursued, and I welcomed
16 any questions or comments from the community.
17 When this hearing was scheduled two months
18 ago, I sent an email on October 28th
19 reintroducing myself to the commissioners and
20 letting them know I was available for
21 questions, or to arrange a visit to the
22 building.

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1 I did not receive any responses.
2 The modification request will have no effect
3 on the neighborhood, other than what is caused
4 by having a fully leased building. Not only
5 would leasing the space for being able to
6 occupy it ourselves provide the resources to
7 properly manage our investment, a fully
8 occupied building benefits our other tenants,
9 neighborhood businesses, and the city. The
10 subterranean characteristic of the space makes
11 it ideal for office space, without encroaching
12 on the neighborhood's spark and vigor.

13 I'd like to thank Chairperson Hood
14 and the members of the Commission for
15 scheduling this hearing. It is my hope that
16 based on the submitted statements, and the
17 information provided by the witnesses tonight,
18 you will grant our request for the
19 modification of the approved plan unit
20 development for our building. Thank you very
21 much.

22 MS. BRAY: Ms. Keleher?

1 MS. KELEHER: Good evening. My
2 name is Kimberly Keleher. I'm with Cassidy
3 and Pinkard Colliers, and I'm the onsite
4 property manager of 1250 24th Street,
5 Northwest, which is subject property. I've
6 been a property manager for approximately 15
7 years, and have been onsite at this building
8 since 2003. The subject property has two
9 individual retail spaces, which were
10 previously occupied by a series of restaurants
11 and an office supply store.

12 As Grant described, and as the
13 photos show, these spaces are located below
14 grade and set back from the street wall by
15 approximately 20 to 25 feet. A trellis in the
16 openings of the buildings obscures most of the
17 view of the spaces and the signage available
18 to any retail tenant is limited, as you'll see
19 in the photos. World Wildlife Fund took
20 possession of the building in 2000 and has
21 attempted to lease retail space with little
22 success.

1 We hope that the requested
2 modification will result in a fully leased
3 building and a more active presence along 24th
4 Street, rather than black storefronts. As I
5 mentioned, the space is divided into two
6 separate leasable spaces of approximately 8400
7 square feet each. The spaces cannot be
8 combined due to the layout of the structural
9 support system in the building, which used to
10 be the garage for the Black & White Taxi
11 Company, and was originally constructed in
12 1925.

13 When the World Wildlife Fund
14 acquired the building, suite 110 was leased to
15 Soundbites, the operators of a restaurant
16 called West 24. The restaurant began to fail
17 in 2001, and then they vacated the space
18 pursuant to a settlement agreement with WWF in
19 June of 2002. Then in December of 2002, WWF
20 leased the space to another restaurant, Agua
21 Ardiente, for a term of ten years. In
22 November of 2006, Agua Ardiente began

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1 experiencing operational losses, and paid only
2 approximately 90 percent of its rent to WWF in
3 that fiscal year.

4 They stopped rental payments
5 altogether in February 2007, and notified WWF
6 that it would not continue to operate under
7 the current lease terms. In July 2007, WWF
8 initiated eviction proceedings in the DC
9 Superior Court, which were then stayed due to
10 the tenant's petition for bankruptcy. During
11 this period, WWF was restricted from showing
12 the space to potential tenants. In November
13 2007, the stay was lifted, and WWF was awarded
14 possession by the Superior Court the following
15 month.

16 Once World Wildlife Fund regained
17 possession, showing the space remained
18 difficult, because all of the restaurant's
19 personal property and fixtures remained in the
20 space until June of 2008, when the chapter
21 seven bankruptcy trustee held an auction for
22 the remaining personal property and fixtures.

1 The remaining retail space was leased to an
2 office supply store called Office Pavilion.
3 The 1989 modification request before the
4 Zoning Commission in this case also lists
5 Office Pavilion as a retail tenant in a
6 portion of the space, but does not provide
7 lease terms.

8 We do know that Office Pavilion
9 had leased approximately 8400 square feet of
10 the building from the prior owner in a lease
11 beginning in 1999, which World Wildlife Fund
12 took over when they acquired the building.
13 Office Pavilion vacated the premises in
14 January 2004, and defaulted under its lease in
15 February 2007. The space remains unoccupied.
16 In an effort to lease the space, my firm has
17 listed the space on CoStar, which is an online
18 listing service used by brokers to locate
19 office space for clients.

20 The listing broker, Richard Tonner
21 of my firm, has contacted office and retail
22 brokers in the area to acquaint them with the

1 space and give them the opportunity to view
2 the space. The space has been shown to
3 several prospective tenants, few of whom
4 propose retail uses. Those who wish to
5 operate retail enterprises have informed WWF
6 that due to the lack of foot traffic and
7 visibility of the street, as well as limited
8 opportunity for signage, the space is just not
9 suitable for their use.

10 There is not sufficient window
11 line relative to the total square footage to
12 make it attractive to retail tenants. An
13 architectural services firm and a public
14 relations firm have both expressed interest in
15 the space, but under the conditions of the
16 PUD, cannot lawfully occupy the space.
17 Suitable tenants might include professional
18 services, daycare, although there is a
19 competing use in the building which is not
20 interested in expanding an office space for
21 World Wildlife Fund.

22 Based on my calculation of loss of

1 rental income, which was included in the
2 application -- and I've updated the amount of
3 time that has passed since that was filed --
4 WWF has nearly lost \$900,000 in rental income,
5 due to the inability to lease the space.
6 Thank you.

7 MS. HORVAT: Good evening. My name
8 is Diana Horvat, and I'm a principal and
9 partner at Vision Design in Washington, DC.
10 I have been practicing in Washington for 23
11 years and have been focused on commercial
12 interiors and represented a broad range of
13 clients in the commercial interiors market.
14 With a previous professional affiliation in
15 another firm, I have also done retail work,
16 locally and nationally. So I'm familiar with
17 both ends of the tenant spectrum.

18 My affiliation with World Wildlife
19 Fund started when they purchased the building
20 and retained my firm, Vision Design, to
21 renovate the building for their purposes as
22 the owner. As we renovated the building, we

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1 saw the work going on in the retail spaces and
2 what was not happening on a productive basis.
3 Interestingly enough, my personal association
4 with the building began in 1989, when my own
5 firm that I was working with at the time
6 occupied space in the building.

7 So as a tenant in the building
8 from 1989 to 1993, I saw both how the building
9 was used and how the retail components
10 impacted both the tenants in the building and
11 the adjacent neighborhood. You have gotten a
12 description of the building itself, so I will
13 pass on the piece to save time. I think one
14 of the most important aspects of it is the
15 presence that retail space requires to have a
16 viable presence in a neighborhood.

17 You had asked about Trader Joe's.
18 Trader Joe's is actually on the opposite side
19 of N Street, so this is North of N, and Trader
20 Joe's is south of N. Signage is a big factor,
21 access to the building is a big factor.
22 Access can only be achieved through going to

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1 a side entrance and going into the building
2 itself. There is no direct entrance into the
3 space unless you enter the arcade that was
4 described as being about two thirds below
5 street level.

6 The hotel was originally thought
7 to provide customers for the restaurant
8 component, but in my years of being affiliated
9 with the building, I have not seen that be a
10 dramatic factor. Additionally, during the
11 time that this building was built, a sister
12 building was built by the same architect and
13 developer on 18th Street, 1150 18th Street.
14 The sister building in many ways looks the
15 same. The biggest difference is they provided
16 street front retail that has been viable for
17 the entire duration over the building's
18 existence.

19 They do have sub-level retail, but
20 it is interior to the building and has the
21 professional services component that we are
22 proposing that we would be able to provide in

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1 this building now. With that, I think that
2 World Wildlife Fund's interest in greening the
3 building and incorporating not only practices
4 of management, but improved efficiency energy-
5 wise, water usage and other operational
6 components, does provide an amenity to the
7 building and the city as a whole in terms of
8 its impact on the city, and any tenant that
9 would occupy the space would be held to those
10 same standards.

11 MS. BRAY: I just have one question
12 for Ms. Horvat. I know we have heard a
13 description of the building, but can you
14 describe the floor-to-ceiling height in the
15 retail space?

16 MS. HORVAT: The lower level retail
17 space has an achievable ceiling height of
18 about nine feet. And that is fairly
19 aggressive in the sense that it would only be
20 achieved were significant duct work not
21 required. It is a low ceiling height in terms
22 of retail standards.

1 VICE-CHAIRPERSON JEFFRIES: Floor
2 to ceiling is nine feet?

3 MS. HORVAT: Yes.

4 VICE-CHAIRPERSON JEFFRIES: Wow.

5 MS. BRAY: And then a second
6 question is, the condition which we're seeking
7 modification from allows retail service use or
8 public or private theater. In your opinion,
9 would build out for a public or private
10 theater be feasible or reasonable in this
11 space?

12 MS. HORVAT: The way the space is
13 divided by the internal atrium which runs the
14 entire length of the building, it only
15 provides approximately 7000 to 8000 square
16 feet on either side. Individually, those
17 spaces are not large enough or configured
18 appropriately enough to provide either theater
19 space or any of the other allowable uses.

20 MS. BRAY: And finally, the Office
21 of Planning has asked us to provide additional
22 information on the green initiative that you

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1 mentioned. Can you just describe what the
2 overall objective is, and you had mentioned
3 the certification -- and the status of that?

4 MS. HORVAT: At the request and
5 direction of the president at World Wildlife
6 Fund, we have undertaken a lead for existing
7 buildings analysis of the building. When the
8 headquarters was renovated after its purchase,
9 it was decided not to seek certification,
10 because lead for commercial interiors was only
11 in its pilot program. As they've occupied the
12 building, and as a leading organization in
13 conservation, they wanted to not only be able
14 to address conservation issues
15 internationally, they wanted to demonstrate
16 that they practice them in their own building.

17 Under the lead EB program, we have
18 been evaluating with associated engineers,
19 commissioning agents, and their own staff in-
20 house how they've operated the building, the
21 efficiencies of the equipment, and all of the
22 components that relate to the operations,

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1 including the tenant manual, the cleaning
2 practices, and are in the process of upgrading
3 components of it to provide better quality
4 air, water usage, and future practices for
5 tenants coming into the building.

6 World Wildlife Fund has achieved a
7 very high level of recycling, broadly, with
8 their tenants in the building. They have run
9 the building very efficiently, and what we are
10 doing will only enhance the efficiency of what
11 they have been doing. Thereby providing the
12 goals of the green initiatives in Washington,
13 DC in a building that is existing, which is an
14 important component of sustainability.

15 MS. BRAY: And finally, the Office
16 of Planning asked for specifics on a green
17 roof and whether that would be included in
18 that effort. Can you discuss where that
19 discussion is with World Wildlife Fund?

20 MS. HORVAT: The green roof
21 discussion was also undertaken at the
22 direction of the president of World Wildlife

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1 Fund. He asked us to look at the green roof
2 and assess the possibilities and what options
3 we had for the green roof. This initiative
4 was requested also because the roof that
5 exists needs to be replaced in the short term.
6 We are right now in the process of evaluating
7 designs and the costs associated with those
8 designs, which, based on our analysis, could
9 cost several million dollars.

10 And we are recognizing that as a
11 nonprofit organization, that raises money for
12 everything that they do, that we need to be
13 very diligent about assessing those costs
14 before we proceed with the project, and we are
15 in the process of doing that.

16 MS. BRAY: Thank you, Ms. Horvat.
17 We have no further testimony. If the Zoning
18 Commission has questions of our witnesses,
19 we'd be happy to entertain them. Otherwise
20 I'd just like to summarize very, very briefly.

21 CHAIRPERSON HOOD: Okay, thank you.
22 I think we may have a few questions. And

1 thank you all for your testimony and your
2 presentation. Commissioner May?

3 COMMISSIONER MAY: I just had one
4 question. The floor to ceiling height, that's
5 the condition throughout the space?

6 MS. HORVAT: The floor to ceiling
7 height on the retail space is nine feet.
8 Interestingly enough, what's called the second
9 floor in the building, which is actually
10 visible from the street -- there's a level at
11 this height that is actually office space. In
12 that second floor space, the finished ceiling
13 height that can be achieved is 14 feet. It's
14 an anomaly in the way the building was
15 designed. The balance of the building from
16 floors three through eight achieves about an
17 eight foot four finished ceiling height.

18 COMMISSIONER MAY: Okay. I was
19 just curious about the idea of it being some
20 sort of a performance space when what is
21 currently the retail space maxes out at nine
22 feet, and so not very practical even if you

1 could find an organization that would try to
2 do it.

3 MS. BRAY: I might add that over
4 the course of the last week we reached out to
5 the attorneys, and Ellen McCarthy in my firm,
6 who's a planner, reached out to Anne Corvat at
7 the cultural development corporation to see
8 whether she was aware of anybody -- we
9 actually weren't able to touch base, but Ellen
10 and I believe that given the ceiling height
11 and given the space available, the only way
12 that an arts organization could occupy the
13 space would be as an office, which wouldn't be
14 permitted.

15 COMMISSIONER MAY: Okay.

16 CHAIRPERSON HOOD: Did you say THE
17 Ellen McCarthy?

18 MS. BRAY: The Ellen McCarthy.

19 CHAIRPERSON HOOD: Oh. That's
20 where she is. Okay.

21 MS. BRAY: And you can expect to
22 see her testifying on behalf of our clients in

1 the future.

2 CHAIRPERSON HOOD: Oh, okay. Tell
3 her we said hello.

4 VICE-CHAIRPERSON JEFFRIES: So
5 could perhaps Ms. Horvat or Ms. Keleher, one
6 of you -- I'm curious. I know a little bit
7 about this area. I used to work about a block
8 or two away. Talk to me about the nature of
9 retail on this block, particularly you said
10 north of M Street. What's the character of
11 retail along the entire block? Could you
12 discuss that?

13 MS. HORVAT: The block between M
14 Street and N Street on 24th Street begins with
15 the two anchor hotels that are at M Street and
16 24th, on opposite sides of the street. World
17 Wildlife Fund is the next building in, on the
18 west side of the street. Adjacent on the east
19 side of the street is a residential building.
20 Going further north, there are two office
21 buildings, at the N and 24th Street corner.

22 VICE-CHAIRPERSON JEFFRIES: Do they

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1 have ground floor retail?

2 MS. HORVAT: None of them have
3 ground floor retail.

4 VICE-CHAIRPERSON JEFFRIES: And
5 then you dead end -- isn't there like a
6 parking lot?

7 MS. HORVAT: It's the parking lot
8 for the junior high school. I believe the
9 teachers and staff park in that parking lot,
10 and then anchoring either side of that parking
11 lot is the junior high and the residential
12 building that was built at 23rd and N.

13 VICE-CHAIRPERSON JEFFRIES: I'm
14 just bewildered. I don't understand why
15 anybody would expect foot traffic on a block
16 like this, even in this area. I mean, this is
17 very, very bizarre in terms of the
18 requirement. Secondly, how did we get into
19 this discussion about lead? Is it your
20 understanding that because if the retail
21 requirement goes away, then the requirement
22 will be that you have lead?

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1 MS. BRAY: The Office of Planning
2 asked us to consider what substitute amenities
3 might be appropriate in the event that the
4 Zoning Commission determined that the retail
5 was an amenity that needed to be replaced,
6 that the PUD was predicated on that amenity.
7 And so in discussions with the Office of
8 Planning, we mentioned that World Wildlife
9 Fund was undertaking this, and a green roof
10 could be possibly part of it and could be
11 considered as a substitute amenity in the
12 event that the Zoning Commission decided that
13 way, but after reviewing the transcript from
14 the original case and the Zoning Commission's
15 order, it's quite clear, at least to our team,
16 that the historic preservation part of this
17 was emphasized and that it was a preservation
18 of the facade and the use of an underutilized
19 site that was a benefit to the community.

20 The community specifically asked
21 for retail. That's why you have a retail
22 requirement. But it really seems to be an

1 afterthought as part of this project.

2 VICE-CHAIRPERSON JEFFRIES: Okay,
3 well, I'll wait to hear from the Office of
4 Planning. I'm curious about the replacement
5 here, given the circumstances. So, anyway,
6 thank you.

7 CHAIRPERSON HOOD: Mr. Turnbull?

8 COMMISSIONER TURNBULL: Thank you,
9 Mr. Chair. Is the canopied entrance the main
10 entrance into the building?

11 MS. HORVAT: Yes. It is the main
12 entrance into the building, and it actually
13 occurs halfway between the retail level and
14 the office level, so you actually either have
15 to go up or down in the building once you
16 enter that piece.

17 COMMISSIONER TURNBULL: And is
18 there then an elevator that takes you up or
19 down too, then?

20 MS. HORVAT: There is an ADA
21 elevator, a small, single-person use elevator
22 to the left side of that entrance that allows

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1 you to go either the half story up or the half
2 story down.

3 COMMISSIONER TURNBULL: But it's
4 not an enclosed elevator then?

5 MS. HORVAT: No.

6 COMMISSIONER TURNBULL: Oh, okay.
7 This picture here, whereabouts is that taken
8 from? I think it's third from the last.

9 MS. HORVAT: That is taken from
10 the left side of the building, as you would
11 approach the elevator. The elevator is to the
12 right of that picture, out of the picture. So
13 you would be looking down into the left side
14 retail space as you approached the building.

15 COMMISSIONER TURNBULL: Okay. So
16 none of the bays can be doors, obviously,
17 because there's nothing there. So you're
18 basically stuck by coming in the front door.

19 MS. HORVAT: That's correct.

20 COMMISSIONER TURNBULL: Now, there
21 was mention of the arcade. What are you
22 referring to as the arcade?

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1 MS. HORVAT: We are calling the
2 well between the original facade and the new
3 facade the arcade.

4 COMMISSIONER TURNBULL: Okay. All
5 right, I understand.

6 MS. HORVAT: For lack of a better
7 term.

8 COMMISSIONER TURNBULL: Okay.
9 Thank you.

10 MS. BRAY: The original PUD order
11 also referred to it as the arcade.

12 COMMISSIONER TURNBULL: As the
13 arcade, okay. Thank you.

14 CHAIRPERSON HOOD: Okay, thank you.
15 We'll now go to the Office of Planning. I ask
16 that the Office of Planning hit the issues
17 that are still of importance to the Office of
18 Planning, and after that if you can stay on
19 the record. I know that sounds crazy, but
20 let's try it.

21 MS. BROWN-ROBERTS: Good evening,
22 Mr. Chairman and members of the Commission.

1 I'm Maxine Brown-Roberts, representing the
2 Office of Planning. The Office of Planning
3 supported this proposal at the time of set
4 down. And we recommended that -- at least
5 three things we recommended that the applicant
6 provide us with: supporting documentation of
7 their efforts to market the space with details
8 regarding the proposed expansion and uses such
9 as professional uses, information on efforts
10 to use the space, and outreach to the
11 community.

12 To date, we have not received any
13 information. And basically, that's what our
14 recommendation is based on. We have not --
15 the applicant has not corresponded with us in
16 most of the case. Just prior to the set down,
17 we had a conversation with them regarding the
18 lead certification and the green roof as an
19 amenity. Because that was something that was
20 recommended that came from the community, we
21 thought that it was important that if that
22 amenity went away, something else replace it.

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1 The applicant offered to do the
2 lead certification and the green roof, and we
3 said okay. We requested information on that,
4 and to date, we have not received that. In
5 fact, I think tonight is the first time that
6 the Office of Planning is hearing that they
7 did not intend to make such a submission, and
8 that the lead certification was just something
9 that could be done, and not something that
10 definitely was going to be done.

11 It was our impression that that
12 was something that was definitely going to be
13 done. And so that is why we recommended that
14 -- we did not think that the approval -- we
15 did not recommend approval for the
16 modification at this time. One of the things
17 I want to make clear to the Commission is that
18 we do understand the hardship -- some of the
19 hardship that the applicant has been going
20 through. However, we always ask for
21 documentation of materials, and that is why
22 our recommendation is as it is. Thank you,

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1 Mr. Chairman.

2 CHAIRPERSON HOOD: Thank you. Ms.
3 Bray, do we know why there has not been a
4 response at all to Planning to work out some
5 of these issues?

6 MS. BRAY: Sure. We were asked by
7 the Office of Planning to provide
8 documentation some time ago, of the rental
9 history, and we provided what we have of the
10 rental history in the form of the affidavit
11 from Ms. Keleher and the application. Our
12 efforts to review additional records, our
13 files, the title history of the property, have
14 not revealed any additional information about
15 rental history. I'm actually looking at an
16 email that I sent to Ms. Brown-Roberts last
17 year that actually said that one potential
18 amenity would be the greening of the existing
19 building, and as leases in the building end,
20 World Wildlife Fund has made a concerted
21 effort to require green practices with new
22 tenant build outs, including requiring

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1 sustainable and energy-saving materials.

2 World Wildlife Fund is also
3 studying whether the building can support a
4 green roof, which it would consider installing
5 as a public amenity. World Wildlife Fund is
6 not committed to providing a green roof. We
7 simply discussed it in terms of studying it as
8 a possible amenity. We're at a point at this
9 time where the green initiative has not been
10 finalized by the organization, and that type
11 of amenity has not been budgeted.

12 So we've had no information to
13 provide to the Office of Planning. But we
14 have met with the Office of the Planning on
15 two different occasions over the course of
16 preparing this application and filing this
17 application. It has been some time since we
18 last met with them.

19 CHAIRPERSON HOOD: And let me ask
20 Ms. Brown-Roberts. If you had got that in
21 writing, the two or three lines, that they had
22 nothing else to offer or provide, and they

1 were not going to pursue it, would that change
2 any of what I see here for your
3 recommendation?

4 MS. BROWN-ROBERTS: If they were
5 not going to provide?

6 CHAIRPERSON HOOD: From what Ms.
7 Bray is saying, she's saying --

8 MS. BROWN-ROBERTS: I think we do
9 have a concern that, you know, this was an
10 amenity -- especially since it came from the
11 community, and granted that they have not
12 responded. But it is what it is. It was part
13 of the record, and we think that if it's going
14 to go away, something else should replace it.

15 CHAIRPERSON HOOD: Okay. I hear
16 you loud and clear. Okay, any other questions
17 for Office of Planning? Comments? Well this
18 is easier than Monday night.

19 COMMISSIONER TURNBULL: I guess my
20 only comment is, although I think the green
21 initiative, the fact that they're trying to do
22 the green initiative, in and of itself may be

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1 -- I mean, considering they are a nonprofit
2 organization, I don't know if we can hold
3 anybody to a green roof. I think a sustained
4 -- a due-diligent effort to try to incorporate
5 as many green initiatives into the building in
6 itself may be sufficient. I mean, maybe that
7 could be enunciated a little bit more, or
8 clarified a little bit more, but I don't know
9 if they'll be able to afford a green roof.

10 I think it's kind of a nice-to-
11 have amenity, but I don't know if it's
12 practically actually possible.

13 VICE-CHAIRPERSON JEFFRIES: And as
14 it relates to the retail, I mean, again, I
15 stand on my earlier comment that I just think
16 that this condition -- perhaps it's in
17 hindsight here, but it's just somewhat of a
18 faulty condition, the way I see it, as I know
19 this area to be and the surrounding
20 neighborhood, and I think that this applicant
21 has been -- I think this has been somewhat
22 punitive, quite frankly. And I think -- I'm

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1 just not in favor of this exchange. Just
2 given sort of what has occurred here and what
3 the nature of this neighborhood is.

4 So Mr. Chair, I'm prepared to move
5 forward. I don't know about my colleagues.

6 CHAIRPERSON HOOD: Okay. I think -
7 - I actually took a tally, and I can count, so
8 I think I know where we are. This is
9 certainly going a lot easier than Monday
10 night. Let me just call, just in case, the
11 report of other government agencies. Not
12 seeing any. Is anyone here representing ANC-
13 2A? Do we have any organizations or persons
14 in support? Any organizations or persons in
15 opposition? I don't know how much more
16 closing argument you wanted to give us.

17 MS. BRAY: I'd really just like 30
18 seconds, if you don't mind.

19 CHAIRPERSON HOOD: Sure.

20 MS. BRAY: If you would indulge us.
21 I'm reminded of what Commissioner Parsons said
22 at the set down hearing on this matter, which

1 is what took you so long, essentially. It
2 really appears to me and to our team that the
3 retail was an afterthought. It's poorly
4 designed, poorly suited for retail. And this
5 community clearly does have a dearth of
6 retail. It wouldn't be compatible with the
7 block, as Commissioner Jeffries has pointed
8 out.

9 World Wildlife Fund is committed
10 to being a good neighbor and enhancing its
11 facility and investing in its property, and
12 believes that the best way to do that is to be
13 able to occupy this space, either for
14 themselves or for another suitable tenant, and
15 we appreciate your consideration and time this
16 evening. And I would like to thank the Office
17 of Planning. I understand we've not really
18 seen eye to eye on this particular matter, but
19 I would like to thank them for their efforts
20 and apologize for any miscommunication.

21 CHAIRPERSON HOOD: Good. I will
22 tell you, since you brought that up, I have a

1 lot of respect for John Parsons, and I see
2 that he made the motion in the beginning. For
3 him to come back and say that really goes a
4 long way.

5 COMMISSIONER TURNBULL: If the
6 modification was granted, what do you see as
7 the time lag that you think that you can have
8 these spaces rented, given the market and
9 everything else? It sounds like you had
10 people that were definitely interested. Is
11 that still an option, or do you still have
12 potential people, or are you going to have do
13 a wait-and-see kind of thing?

14 MR. BALDWIN: Our first question
15 that we would ask once it was approved is, is
16 it possible for us to occupy the space
17 ourselves, because higher level floors are
18 much more desirable. Given that, it
19 absolutely opens up the market for us to go
20 back. But it has been quite sometime since
21 the architectural firm or the PR firms have
22 asked us. That's been over a year, so I doubt

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1 that they're still potentials.

2 COMMISSIONER TURNBULL: So you
3 yourself would take the less desirable space?

4 MR. BALDWIN: Exactly. That's what
5 we'd like to do. We'd like to take the less
6 desirable space.

7 COMMISSIONER TURNBULL: And go
8 ahead and promote the other floors?

9 MR. BALDWIN: That's correct.

10 COMMISSIONER TURNBULL: Okay, thank
11 you.

12 CHAIRPERSON HOOD: Okay.

13 COMMISSIONER MAY: Well, I would
14 just say that I agree with Commissioner
15 Jeffries about the assessment of the potential
16 of the retail, and I think we always try to be
17 very thorough and detailed in everything that
18 we do, and make sure that amenities gained in
19 a PUD are not easily lost, and the Office of
20 Planning always follows through diligently to
21 make sure that that's the case. In this
22 circumstance, I'm inclined to save everybody

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1 a lot of trouble and move forward tonight and
2 simply approve striking this amenity or this
3 requirement in the case.

4 I don't think that the case -- I
5 have to say frankly -- was the most completely
6 and thoroughly presented. It wasn't like it
7 was a slam dunk. We had to come and hear all
8 of this to know that, but I think having heard
9 it, it's really, I think, kind of -- it's an
10 easy decision to move forward, particularly
11 given that the owner of the building certainly
12 appears to have the best of intentions with
13 regard to greening the building in the future,
14 and I think that the city will gain as much
15 from that as they would from a meager bit of
16 underperforming retail.

17 So I would move approval of zoning
18 case 84-19A, World Wildlife Fund PUD
19 modification, and ask for a second.

20 COMMISSIONER TURNBULL: Second.

21 CHAIRPERSON HOOD: Okay, it's been
22 moved and properly seconded. Any further

1 discussion? All those in favor, aye.

2 (Chorus of ayes).

3 CHAIRPERSON HOOD: Ms. Schellin,
4 not hearing anyone in opposition, could you
5 record the vote?

6 SECRETARY SCHELLIN: Yes sir.
7 Staff records the vote four to zero to one to
8 approve proposed action for Zoning Commission
9 case number 84-19A, Commissioner May moving,
10 Commissioner Turnbull seconding, Commissioners
11 Hood and Jeffries in favor, the third mayoral
12 appointee seat vacant, not voting.

13 CHAIRPERSON HOOD: Are they all
14 going to be like this? This is very different
15 from Monday. With that, I thank everyone for
16 their participation tonight, and this hearing
17 is adjourned.

18 (Whereupon, the above-entitled
19 matter was adjourned at 7:24 p.m.)
20
21
22