



OFFICE OF ZONING STAFF PRESENT:

DONNA HANOUSEK, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

PAUL GOLDSTEIN  
JOEL LAWSON

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF  
PRESENT:

FLEMING EL-AMIN  
JAMIE HENSON

The transcript constitutes the  
minutes from the Public Hearing held on  
October 7, 2013.

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

1 (6:33 p.m.)

2 CHAIRMAN HOOD: Good evening  
3 ladies and gentlemen. This is a public  
4 hearing of the Zoning Commission for the  
5 District of Columbia for Monday, October 7th,  
6 2013. My name is Anthony Hood. Joining me  
7 are Vice Chair Cohen, Commissioner Miller and  
8 Commissioner Turnbull.

9 Commissioner May may be reading  
10 this record, we're not sure. It depends on  
11 how this proceeding goes. We're also joined  
12 by offices. On the staff is Donna Hanousek.

13 Office of Planning we have Mr. Lawson and  
14 Mr. Goldstein. District Department of  
15 Transportation, Mr. Hemson and Mr. El-Amin.

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

21 The subject of this evening's

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1 hearing is on the Commission Case Number 12-  
2 14/12-14a. This is request by 3rd & M LLC  
3 and Park Inn Associates for approval of a  
4 consolidated PUD and related map amendment  
5 for property located at Square 542.

6 Notice of today's hearing was  
7 published in the D.C. Register on July the  
8 19th, 2013, and copies of that announcement  
9 are available to my left on the wall near the  
10 door.

11 This hearing will be conducted in  
12 accordance with provisions of 11 DCMR 3022 as  
13 follows. Preliminary matters, applicant's  
14 case, report of the Office of Planning,  
15 report of other government agencies, report  
16 of the ANC, in this case it's ANC 6B,  
17 organizations and persons in support,  
18 organizations and persons in opposition,  
19 rebuttal and closing by the applicant.

20 The following time constraints  
21 will be maintained in this meeting. The  
22 applicant 60 minutes, organizations five

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1 minutes, individuals three minutes. All  
2 persons appearing before the Commission are  
3 to fill out two witness cards. These cards  
4 are located to my left on the table near the  
5 door. Upon coming forward to  
6 speak to the Commission, please give both  
7 cards to the reporter sitting to my right  
8 before taking a seat at the table. When  
9 presenting information to the Commission,  
10 please turn on and speak into the microphone,  
11 first stating your name and home address.  
12 When you are finished speaking please turn  
13 your microphone off so that your microphone  
14 is no longer picking up sound or background  
15 noise.

16 The decision of the Commission in  
17 this case must be based exclusively on the  
18 public record. To avoid any appearance to  
19 the contrary, the Commission requests that  
20 the persons present not engage the members of  
21 the Commission in conversation during any  
22 recess or at any time.

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1           In addition, there should be no  
2 direct contact whatsoever with any  
3 commissioner concerning this matter be it  
4 written, electronic or by telephone. The  
5 staff will be available throughout the  
6 hearing to discuss procedural questions.

7           Please turn off all beepers and  
8 cell phones at this time so as not to disrupt  
9 these proceedings. Would all individuals  
10 wishing to testify please rise to take the  
11 oath?

12                   (All those testifying sworn in)

13           CHAIRMAN HOOD: Okay, at this  
14 time the Commission will proceed in the  
15 preliminary matters. Does the staff have any  
16 preliminary matters?

17           MS. HANOUSEK: There are --

18           CHAIRMAN HOOD: Other than the  
19 ones that you have noted.

20           MS. HANOUSEK: Nothing else.

21           CHAIRMAN HOOD: All right, let's  
22 take up the notice of posting, Commissioners,

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1 and that's Exhibit 49.

2 Vice Chair Cohen?

3 VICE CHAIR COHEN: I believe that  
4 the applicant has made significant efforts in  
5 reaching out to the community with numerous  
6 meetings in 2012 and 2013 as outlined in  
7 their submission which is Exhibit Number 49.

8 So I don't have a problem and without any  
9 waiting.

10 CHAIRMAN HOOD: Okay, no  
11 comments?

12 Commissioner Miller?

13 COMMISSIONER MILLER: Thank you,  
14 Mr. Chairman. I would agree with the vice  
15 chair.

16 CHAIRMAN HOOD: Okay. So we  
17 will, in general consensus, agree. Let's do  
18 a motion. Mr. Turnbull, do you have any  
19 comments?

20 MR. TURNBULL: I'm fine with it.

21 CHAIRMAN HOOD: I would move that  
22 we waive the posting requirement. As is

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1 stated, I think in Exhibit 49 as stated by  
2 the applicant and as we can see by the  
3 record, obviously these cases have been read  
4 in their community. I think the two postings  
5 and others, I think the notice has been  
6 properly given on a number of occasions at  
7 least the first occasion for sure. We can  
8 tell that by the merits of the submissions  
9 that we have. So I would move that  
10 we would grant the request for Exhibit Number  
11 49 and ask for a second.

12 VICE CHAIR COHEN: I'll second.

13 CHAIRMAN HOOD: It's been moved  
14 and properly seconded. Any further  
15 discussion? Did we leave anything out  
16 pertaining to that? All those in favor?

17 (Chorus of ayes)

18 CHAIRMAN HOOD: Any opposition?  
19 So the staff, would you record the vote.

20 MS. HANOUSEK: Yes. The  
21 Commission voted to waive the posting  
22 requirement, a motion made by Hood, seconded

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1 by Cohen and also approved by Miller and  
2 Turnbull. May not present, not voting.

3 CHAIRMAN HOOD: Thank you Ms.  
4 Hanousek. Next, I think, a preliminary  
5 matter, if we could do party status and then  
6 we'll go to expert witnesses.

7 (Off microphone comments)

8 Let's go through the exhibits.  
9 We had a number of requests for party status.

10 Commissioners, if you have Exhibit Number 26  
11 in front of you.

12 (Off microphone comments)

13 CHAIRMAN HOOD: I'm sorry.  
14 Anytime you have a problem, anyone, if you  
15 can't hear us let us know. We do our best  
16 with these mics, that's why I pulled it  
17 closer. And if it sounds distorted, just  
18 raise your hand and I'll try to arrange so  
19 you can hear. Thank you for letting us know.

20 Okay, Exhibit 26. You know what  
21 I think I'd like to do, colleagues, if it's  
22 okay. Let me hold Exhibit 26 in abeyance for

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1 a moment. Let's go to 24. I have some  
2 questions on 32. I have a question on 25.

3 I have a question. Okay, I would  
4 propose, Commissioners, that Exhibit Number  
5 27, Exhibit Number 31, Exhibit Number 29,  
6 Exhibit Number 33, Exhibit Number 25, those  
7 exhibits, the submission, the request for  
8 party status, you didn't tell us whether it  
9 was a proponent, opponent.

10 It just gave us an address, and  
11 they would not appear to legal counsel, in  
12 the names of Major, I'm just going to call  
13 the last name, Chris Lianyer-- forgive me if  
14 I mess your name up, Shayler, Ziola Howell,  
15 and Paek.

16 I would move that those  
17 submissions be stricken. Well, not stricken,  
18 but those submissions be not counted because,  
19 first of all, they didn't answer any of the  
20 questions about why they should get party  
21 status.

22 MR. TURNBULL: Excuse me, Mr.

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1 Chair. On one of them, Exhibit 25, there is  
2 a 25A.

3 CHAIRMAN HOOD: 25A, right.

4 MR. TURNBULL: Which looks like  
5 it's a supplemental filing by the same  
6 person.

7 CHAIRMAN HOOD: Right. I was  
8 going to go back to that.

9 MR. TURNBULL: Do that later?  
10 Okay.

11 CHAIRMAN HOOD: Yes, I was going  
12 to go back to that.

13 MR. TURNBULL: Just the base  
14 numbers, okay.

15 CHAIRMAN HOOD: Right. I was  
16 just basing it on those numbers there. And  
17 the reason being, even though I have a  
18 solution for these members, but right now I  
19 would move that we deny party status, first  
20 of all, for the incomplete application. We  
21 don't know whether they're a proponent or an  
22 opponent, and I don't see where any of the

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1 questions asked, we basically have a blank  
2 form.

3 VICE CHAIR COHEN: Mr. Chairman,  
4 I agree with you. I think at the end of the  
5 hearing --

6 CHAIRMAN HOOD: I have a motion  
7 on the table. If I can get a second.

8 COMMISSIONER MILLER: Second.

9 CHAIRMAN HOOD: Okay, it's moved  
10 and seconded. Now a discussion. Vice Chair?

11 VICE CHAIR COHEN: Okay. I would  
12 just say that I concur with you, and I think  
13 these individuals will have an opportunity  
14 being in the opposition or a proponent of the  
15 project to provide testimony later on.

16 CHAIRMAN HOOD: All right. In  
17 keeping with what Mr. Turnbull just  
18 mentioned, Exhibit Number 32 and 25A, and 25A  
19 as Mr. Turnbull's already mentioned, Olivia  
20 Paek has already, we just turned her down for  
21 what she had in that submission. She did a  
22 supplemental, I believe, which is 25A.

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1                   And Daoud is 32.       They have  
2 checked that they are proponents of this  
3 case, but when you read on the back they have  
4 some issues.       And I guess I need  
5 clarification from either one of them.   Would  
6 you like for us to see you as a proponent or  
7 someone who's in opposition?       Are you  
8 present?

9                   (Off microphone comments)

10                  CHAIRMAN HOOD:   Okay, are you a  
11 proponent in this case?

12                  MS. PAEK:    I have to say I'm a  
13 proponent.

14                  CHAIRMAN HOOD:   Okay, you can  
15 come forward.   You know what.   Before you  
16 speak, I left someone out.   Also Kilkenny,  
17 Kilkenny also is a proponent of this case.  
18 You know what, I left him out for a reason.  
19 Let's just deal with these two, 25A and 32.  
20 And your name is?

21                  MS. PAEK:    Olivia Paek.

22                  CHAIRMAN HOOD:   Olivia Paek, I'm

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1       sorry.       Forgive me.       Okay, are you a  
2       proponent in this case?

3               MS. PAEK:       I have to say  
4       proponent, otherwise legal action will be  
5       upon me. So I have to say a proponent.

6               CHAIRMAN HOOD: I'm not following  
7       that.

8               MS. PAEK:       I also am a board of  
9       director on the Waterfront Tower, which  
10       directly affects the PUD that we're here for  
11       tonight.

12              CHAIRMAN HOOD:       So you're  
13       supportive of it?

14              MS. PAEK:       I have to say I'm  
15       supportive of it. If I say that I'm against  
16       it they will sue me. We received a letter  
17       saying that if we are against it there will  
18       be legal action. And I'd rather not be sued.

19              VICE CHAIR COHEN: Who said that?

20              MS. PAEK:       The letter that we  
21       received, our attorneys have it. But I'm  
22       here to represent myself.

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1                   CHAIRMAN HOOD:       Okay.       Well,  
2       here's the thing.  You can actually, if I go  
3       by your submission -- well, let me hear from  
4       my colleagues on this.  If I look at your  
5       submission I would not grant you party status  
6       as a proponent, because when I look at your  
7       submission, "because I live next to the  
8       development site I would be affected."  
9       There's a whole lot of people that live next  
10      to the development site that are going to be  
11      affected.

12                   MS. PAEK:       Yes, sir.       I was  
13      really confused when I filled it out.  That's  
14      why I sent the blank one accidentally.

15                   When I filled it out I had to  
16      select proponent otherwise legal action would  
17      be carried against me, and I am in no  
18      monetary financial way to hire a lawyer to  
19      defend myself.  Because apparently, according  
20      to the bylaws I signed said somewhere hidden  
21      in the document that if you are against any  
22      future development the developer can come

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1 back and sue you. So I was too afraid to say  
2 that I'm against this PUD.

3 CHAIRMAN HOOD: Okay. Thank you.

4 Let me see, any other questions?

5 VICE CHAIR COHEN: I just have a  
6 comment. That's very, very disturbing to  
7 hear that and astounded, frankly, but --

8 MS. PAEK: It was actually  
9 addressed at our ANC meeting about a few  
10 months ago when we received the letter. And  
11 they asked the developers to retract that  
12 letter that they sent to us and they have yet  
13 to do so, which is why I still am afraid to  
14 say that I am against it, because I do not  
15 want to be sued.

16 CHAIRMAN HOOD: We don't want you  
17 to get sued. But anyway we have to go on the  
18 merits. We have to go what's in the file.  
19 And let me open it up for comments.

20 Commissioners? You heard my  
21 statement, and I understand Ms. Paek's issue  
22 that she can take this if that happens. But

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1 I think the merits of this are filled out.  
2 It says, "Explain how the person's interest  
3 would be more significantly, distinctly or  
4 uniquely affected."

5 And basically what she answers is  
6 because I'm next to the development site I  
7 would be affected along with 123 others. I  
8 think when she mentions that that takes her  
9 away from anything which would give her party  
10 status, even as a proponent.

11 Commissioner Miller?

12 COMMISSIONER MILLER: I would  
13 agree, Mr. Chairman.

14 CHAIRMAN HOOD: Anybody else?  
15 Okay, thank you Ms. Paek. And you'll have a  
16 chance to testify. I'm sure you signed the  
17 upon the witness list.

18 Exhibit Number 32, any comments  
19 Commissioners?

20 This particular person mentions  
21 that they are, or Lee Daoud mentions that  
22 they actually own a unit facing one of the

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1 proposed buildings. They're concerned that  
2 the light will be blocked, property value  
3 will decrease, privacy and access to living  
4 space will be reduced. Commissioner Miller?

5 COMMISSIONER MILLER: I would  
6 think the same concern that you expressed  
7 about the other previous request, that the  
8 request has not demonstrated that they are  
9 more significantly, distinctly or uniquely  
10 affected. So I would not support party  
11 status.

12 CHAIRMAN HOOD: Okay, so we will  
13 deny both of those exhibits, Exhibit 25A and  
14 Exhibit 32, party status, and ask for a  
15 second.

16 VICE CHAIR COHEN: Second.

17 CHAIRMAN HOOD: It's moved and  
18 properly seconded for the reasons stated.  
19 Any further discussion? All those in favor?

20 (Chorus of ayes)

21 CHAIRMAN HOOD: Not hearing  
22 opposition, Ms. Hanousek, will you record the

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1 vote.

2 MS. HANOUSEK: Point of  
3 clarification. Is this vote just on those  
4 two or on that group that you --

5 CHAIRMAN HOOD: Just on those  
6 two.

7 MS. HANOUSEK: Okay.

8 CHAIRMAN HOOD: We took a vote  
9 prior on the other ones, which because of the  
10 lack of information on their submissions. So  
11 we've taken two votes now on party status.

12 Okay, would somebody like to take  
13 -- I'm sorry?

14 The court reporter said I was  
15 talking too much, so would somebody else like  
16 to take the lead on one or two of the other  
17 ones? Just a joke. We've got to have some  
18 fun sometime.

19 Okay, let's go Exhibits 28A.  
20 Let's do 28A right now. I actually, again  
21 Ms. Kilkeny who wanted to be a proponent, I  
22 think the issue is the same here. I don't

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1 see any difference. And they mention, we are  
2 living in a building that would directly,  
3 physically block, unless there's something I  
4 don't see it says physically block, and  
5 that's where we left it off. Physically  
6 block?

7 VICE CHAIR COHEN: Again, I think  
8 that is similar to the others that she'll  
9 have an opportunity to testify when we call  
10 individuals either in support or against.

11 CHAIRMAN HOOD: Okay, I would  
12 move that we deny Exhibit Number 28, and ask  
13 for a second.

14 VICE CHAIR COHEN: Second.

15 CHAIRMAN HOOD: It's moved and  
16 properly seconded. Any further discussion?  
17 All those in favor aye?

18 (Chorus of ayes)

19 CHAIRMAN HOOD: Not hearing any  
20 opposition, Ms. Hanousek, would you record  
21 the vote.

22 MS. HANOUSEK: The Commission

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1 voted to deny party status in Exhibits 28A by  
2 a vote of 4-0-1. Motion by Hood and second  
3 by Cohen, with Miller and Turnbull approving  
4 and May not present.

5 CHAIRMAN HOOD: Okay, let's look  
6 at Exhibits 21 and Exhibit 30. Estrada,  
7 Bouganim, somebody like to correct me? But  
8 anyway "I'm in the area." These citizens who  
9 have asked to be opponents in this case, and  
10 let's look at Exhibit 30 first.

11 I actually cannot make out what  
12 it says in 6, because I always look at 6  
13 where it says, how are you uniquely more  
14 affected? Can anybody make that out?

15 (Off microphone comments)

16 CHAIRMAN HOOD: And then Number 5  
17 just says, "I would have to live with the  
18 blinds down," and I just don't see where this  
19 meets the threshold. But anyway, any  
20 comments? Vice Chair?

21 VICE CHAIR COHEN: Yes. Again,  
22 Mr. Chairman, I think that we should deny

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1 this person party status. They are uniquely  
2 affected, but again they will be given the  
3 opportunity to testify as an individual.

4 CHAIRMAN HOOD: Okay.

5 VICE CHAIR COHEN: So I move to  
6 deny, I don't know if Ms. or Mr. Estrada,  
7 party status.

8 CHAIRMAN HOOD: Okay, it's been  
9 moved. Can I get a second? Second. Moved  
10 and properly seconded. Any further  
11 discussion? All those in favor, aye.

12 (Chorus of ayes)

13 CHAIRMAN HOOD: Not hearing any  
14 opposition, Ms. Hanousek, will you record the  
15 vote.

16 MS. HANOUSEK: Who seconded that  
17 one?

18 CHAIRMAN HOOD: I did. I  
19 seconded it.

20 MS. HANOUSEK: Okay. The  
21 Commission has denied party status in  
22 Exhibits 21 and 30 by a vote of 4-0-1, with

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1 Cohen moving and Hood seconding, and Miller  
2 and Turnbull in support, and May not present.

3 CHAIRMAN HOOD: Okay, let's look  
4 at Exhibit 21. Again, I don't think this  
5 meets, but I'm open for discussion. It is  
6 filled out. I just still don't think it  
7 meets the uniqueness and being distinctly  
8 affected, uniquely affected more than anyone  
9 else. But I would have to say this one is  
10 pretty filled out.

11 (Off microphone comments)

12 CHAIRMAN HOOD: We just did  
13 Exhibit Number 30. We're on 21 now. And one  
14 of the things that you see on the top, it  
15 reduces light, air, common space, building  
16 access, and we already know what the courts  
17 say about light and air. It only goes up to  
18 your property line.

19 COMMISSIONER MILLER: Mr.  
20 Chairman?

21 CHAIRMAN HOOD: Mr. Miller?

22 COMMISSIONER MILLER: I agree

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1 that this is in the same category as the  
2 others, and the person will have an  
3 opportunity to testify.

4 CHAIRMAN HOOD: Someone like to  
5 make a motion on that one in particular? I  
6 wanted to do them en bloc, but I think some  
7 of them are filled out differently. That's  
8 why we're doing it this way.

9 COMMISSIONER MILLER: I would  
10 move to deny party status to the person in  
11 Exhibit Number 21.

12 CHAIRMAN HOOD: It's been moved  
13 and --

14 VICE CHAIR COHEN: I'll second.

15 CHAIRMAN HOOD: Moved and  
16 properly seconded. Any further discussion?  
17 All those in favor?

18 (Chorus of ayes)

19 CHAIRMAN HOOD: Any opposition?  
20 So ordered. Ms. Hanousek, could you record  
21 the vote.

22 MS. HANOUSEK: The Commission

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1 denied party status for Exhibit 21 on a vote  
2 of Miller moving and Cohen seconding, and  
3 then Hood and Turnbull in support, and May  
4 not present.

5 CHAIRMAN HOOD: Okay, thank you  
6 Ms. Hanousek. Okay, Exhibit 24. Okay, this  
7 is the condominium as a whole, which is about  
8 170 feet away. It mentions there has been  
9 articles written about building tall  
10 buildings and what that does to the landscape  
11 of Washington, D.C., and it goes on.

12 Obstructing the view of the  
13 building design by the great I.M. Pei would  
14 not only affect the residents and visitors,  
15 but the District as a whole. Our interest is  
16 uniquely affected because we are a community  
17 of 425 homeowners who live in Southwest less  
18 than 200 feet from the proposed zoning  
19 action. This sits in our back door and  
20 uniquely affects how and why we chose to live  
21 in Southwest. Any comments?

22 That one right there for me, and

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1 then I looked at the proximity and on this  
2 submission, I would be on the fence about it,  
3 but I would probably go ahead and grant party  
4 status as an opponent on this one. Let me  
5 hear from my colleagues.

6 I think that while the other ones  
7 does not clearly state on the subjects of  
8 uniquely affected, when it goes into the  
9 issue about talking about the interest of 425  
10 town homes who live in Southwest less than  
11 200 feet, I think that if this development  
12 goes forward they and others will be  
13 impacted, but this is a group. So I would be  
14 more inclined to grant status to this group  
15 as an opponent. Any objections?

16 COMMISSIONER MILLER: No  
17 objections.

18 CHAIRMAN HOOD: No objections?  
19 Ms. Prince, do you have any objections?

20 MS. PRINCE: No objection.

21 CHAIRMAN HOOD: All right, so we  
22 will make Carrollsburg condominiums a party

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1 in this case, and I'll ask for a second.

2 VICE CHAIR COHEN: Moved and  
3 properly seconded. Any further discussion?  
4 All those in favor aye?

5 (Chorus of ayes)

6 CHAIRMAN HOOD: Any opposition?  
7 Ms. Hanousek, would you record the vote.

8 MS. HANOUSEK: The Commission  
9 approved party status in opposition for  
10 Carrollsburg, A Condominium on a vote of 4-0-  
11 1, with Hood moving and Cohen seconding and  
12 May not present, and also Miller and Turnbull  
13 approving.

14 CHAIRMAN HOOD: Okay. Now this  
15 last one is Exhibit 26. It's not going to  
16 work like I was thinking. I was thinking  
17 that all the folks that we had done  
18 previously, I was thinking they could join  
19 this group. But now looking at it again,  
20 this group, Waterfront Tower Condominiums, is  
21 a proponent. All those folks that  
22 we just denied status, trust me, we will

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1 listen to you when it's time for you to be a  
2 witness. Any comments on this one? Exhibit  
3 26.

4 COMMISSIONER MILLER: I would  
5 think this would fit into the same category  
6 as the Carrollsburg Condominium in terms of  
7 granting party status.

8 CHAIRMAN HOOD: Anybody else? I  
9 would agree. Any other comments?

10 MR. TURNBULL: Is this the  
11 organization that has a gag rule against  
12 their members for opposing?

13 CHAIRMAN HOOD: I think that  
14 particular board member, I'm not really sure  
15 about what's going on with that.

16 MR. TURNBULL: Okay. Thank you  
17 Mr. Hood.

18 CHAIRMAN HOOD: I mean I want to  
19 get your question answered. I mean, you  
20 don't have any other witness for it.

21 MR. TURNBULL: Well, I'm just  
22 confused. I mean, I see an email address

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1 here for Waterfront Tower and it's the same  
2 email address for Ms. Paek. I'm just  
3 confused as to --

4 CHAIRMAN HOOD: So the whole  
5 board of the condominiums, as Ms. Paek said,  
6 she would have to be a proponent, and I guess  
7 the whole condominium group would have to be  
8 a proponent.

9 MR. TURNBULL: Right.

10 CHAIRMAN HOOD: But at the end of  
11 the day, this is the whole group that's  
12 coming as a proponent. So I think  
13 Commissioner Miller's reasoning for granting  
14 this is proper and in order.

15 MR. TURNBULL: I'm okay with it.  
16 I just have trouble with the whole aspect  
17 behind this. But we can get into that as we  
18 get into this.

19 VICE CHAIR COHEN: I actually  
20 concur with Commissioner Turnbull. This is  
21 confusing and disturbing at the same time,  
22 but I have no problem with giving them party

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1 status, Waterfront Tower Condominium.

2 CHAIRMAN HOOD: And believe me,  
3 the courts definitely look at our  
4 transcripts. Trust me.

5 Okay, so Commissioner Miller,  
6 would you like to make a motion?

7 COMMISSIONER MILLER: Sure. I  
8 would move that we grant party status to the  
9 Waterfront Tower Condominium, and ask for a  
10 second.

11 VICE CHAIR COHEN: Second.

12 CHAIRMAN HOOD: Okay, great.  
13 It's been moved and properly seconded. Any  
14 further discussion? All those in favor, aye?

15 (Chorus of ayes)

16 CHAIRMAN HOOD: Not hearing any  
17 opposition, Ms. Hanousek, could you record  
18 the vote.

19 MS. HANOUSEK: Yes, and I want to  
20 confirm that that's party status in support,  
21 correct?

22 CHAIRMAN HOOD: Party status in

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1 support.

2 MS. HANOUSEK: Okay. The  
3 Commission approved party status in support -  
4 -

5 MR. TURNBULL: If they weren't  
6 they're going to have to sue themselves.

7 MS. HANOUSEK: The Commission  
8 approved party status in support for the  
9 Waterfront Tower Condominium on a vote of 4-  
10 0-1, with the motion by Miller, Cohen  
11 seconding, Turnbull and Hood in support, and  
12 May not present.

13 CHAIRMAN HOOD: Okay. Let's go  
14 through -- Ms. Prince, let me just ask you.  
15 I didn't do it every time, but did you have  
16 any objections on what we just did, on  
17 anything?

18 MS. PRINCE: I do not.

19 CHAIRMAN HOOD: Okay, thank you.  
20 I should have asked you as we went along,  
21 but I'm sure you would have objected if you  
22 had an objection. Okay, let's do expert

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1 witnesses. I think we have two, Ms. Prince.

2 MS. PRINCE: We have three.

3 CHAIRMAN HOOD: Three. I missed  
4 one. Oh, no, I didn't. Two of them have  
5 already been previously accepted.

6 MS. PRINCE: Yes. Rob Schiesel  
7 and Maurice Walters have been an expert  
8 numerous times before this Commission. In  
9 addition we have Betsy Boykin, an expert in  
10 landscape architecture. We submitted her  
11 resume in advance. She has a long career in  
12 landscape architecture with a degree from  
13 Harvard, undergraduate degree from Williams.

14 If you'd like to ask her a few  
15 questions I'm happy to bring her up, but she  
16 has worked many years at Ayers Saint Gross  
17 and has testified as an expert witness in  
18 other forums.

19 CHAIRMAN HOOD: Thank you.

20 VICE CHAIR COHEN: I have a  
21 question.

22 CHAIRMAN HOOD: Let me just say,

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1 for the record we don't have any objections  
2 on the two that we previously accepted. So  
3 now, Vice Chair?

4 VICE CHAIR COHEN: No, I don't  
5 have any objection to Ms. Boykin, but I just  
6 was curious what year were you at the GSD.

7 CHAIRMAN HOOD: Can you come  
8 forward and identify yourself?

9 MS. BOYKIN: Hi. I graduated in  
10 1997.

11 VICE CHAIR COHEN: Thank you.

12 MS. BOYKIN: Sure.

13 CHAIRMAN HOOD: Okay, any  
14 objections? Any other questions? Okay,  
15 anyone like to move a motion that we accept  
16 her in landscape architecture?

17 VICE CHAIR COHEN: I'll move to  
18 accept Betsy Boykin as an expert witness in  
19 landscape architecture.

20 COMMISSIONER MILLER: Second.

21 CHAIRMAN HOOD: It has been moved  
22 and properly seconded. All those in favor,

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1 aye.

2 (Chorus of ayes)

3 CHAIRMAN HOOD: Not hearing any  
4 objections, Ms. Hanousek, will you record the  
5 vote.

6 MS. HANOUSEK: The Commission  
7 accepted Betsy Boykin as an expert in  
8 landscape architecture by a vote of 4-0-1.  
9 Motion made by Cohen and seconded by Miller,  
10 Hood and Turnbull in support, and May not  
11 present.

12 CHAIRMAN HOOD: Okay, thank you.  
13 Do have any other -- all right, let me do  
14 this first. Do we have any other preliminary  
15 matters that we need to discuss? Okay, so  
16 we're ready to move into the case.

17 But I do have one here that I'm  
18 reminded of. We're getting ready to see a  
19 PowerPoint and we did not get copies of it,  
20 right?

21 MS. PRINCE: We understood that  
22 we needed to download it onto ISIS but I

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1 didn't know that additional paper copies had  
2 to be submitted tonight. We have all of the  
3 slides in the earlier submissions we've made.

4 There are some small additions to make but -  
5 -

6 CHAIRMAN HOOD: How many slides  
7 are we going to be looking at? Believe it or  
8 not, we pay attention to those slides. Well,  
9 you know that Ms. Prince.

10 MS. PRINCE: Yes.

11 CHAIRMAN HOOD: And we make  
12 little notes so when we deliberate we go back  
13 and deliberate that. That puts us at a  
14 disadvantage, but I know with this ISIS and  
15 everything, some of that is new. So we'll do  
16 our best and if we can just get them here at  
17 a later time that would be great.

18 MS. PRINCE: We'll submit them.

19

20 VICE CHAIR COHEN: What is the  
21 latest submission because, you know, we have  
22 received them earlier.

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1 MS. PRINCE: Right, I would just  
2 use the submission that was filed 20 days  
3 ago.

4 VICE CHAIR COHEN: The September  
5 18th?

6 MS. PRINCE: Yes.

7 CHAIRMAN HOOD: And there's not  
8 many changes from that to this?

9 MS. PRINCE: There's some  
10 additional slides that we thought were  
11 responsive to some of the questions that have  
12 been raised and some fairly nuanced pieces of  
13 information that we thought would be helpful  
14 to the Commission.

15 VICE CHAIR COHEN: All right, if  
16 you can elaborate on those as we follow along  
17 as much as possible.

18 MS. PRINCE: Definitely.

19 VICE CHAIR COHEN: Thank you.

20 CHAIRMAN HOOD: Do we have  
21 anything else? All right, we're ready to get  
22 into the case. Thank you. Ms. Prince?

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1 MS. PRINCE: Allison Prince of  
2 Goulston & Storrs. I'm here tonight with  
3 Cary Kadlecek also of Goulston & Storrs here  
4 on behalf of the Bernstein Companies, the  
5 applicant in this application.

6 We're very pleased to present a  
7 project that will make an important  
8 contribution to a newly designated landmark  
9 site in Southwest that will truly benefit the  
10 neighborhood.

11 (Off microphone comments)

12 CHAIRMAN HOOD: We always seem to  
13 get everybody when we turn the lights out.  
14 Okay.

15 MS. PRINCE: Thank you.

16 All right, I'll begin again. A  
17 project that will truly benefit the  
18 neighborhood as a result of the design  
19 flexibility afforded by the PUD process.

20 This application, if granted,  
21 will allow some additional height, but does  
22 not use any of the density beyond the Matter

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1 of Right density available under the existing  
2 R-5-D zoning.

3 In other words, the CR zoning has  
4 been sought for the sole purpose of allowing  
5 20 feet more additional height on the site.  
6 And we'll explain why we think that's a very  
7 positive thing for the project from a design  
8 standpoint.

9 As I think you're aware, the site  
10 is located along M Street and is bounded by  
11 3rd on the east and K on the north. To the  
12 east are a series of high density residential  
13 and commercial buildings.

14 In 1960, two I.M. Pei design  
15 towers flanking a central courtyard were  
16 constructed on the property. All the parking  
17 was provided at grade. As a result,  
18 currently 41 percent of the site consists of  
19 asphalt parking.

20 This will be minimized to  
21 approximately 11 percent of paved surface  
22 area as a result of the project. That's a

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1 dramatic reduction in paved area on the site  
2 which we believe is an important benefit of  
3 the project.

4 The project includes two new  
5 towers on the surface parking lots and a  
6 glassy link that connects the existing  
7 northern tower to the proposed new tower to  
8 the north.

9 Two generous landscaped  
10 courtyards will be introduced in the area  
11 that will separate the new and existing  
12 buildings. The central courtyard between the  
13 two I.M. Pei buildings will not only remain,  
14 but it will be greatly enhanced through a  
15 thoughtful landscape plan.

16 Our original plan also called for  
17 a small building along 3rd Street at the  
18 eastern end of the courtyard. That building  
19 has been eliminated entirely directly as a  
20 result of community input, particularly input  
21 from the residents of Waterfront Tower.

22 The owner has taken a careful and

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1 thoughtful approach to the project. From the  
2 very beginning when this project was  
3 initially presented, the owner has been  
4 attentive to the site's unique  
5 characteristics and the importance of  
6 community input.

7 Over the past year when the owner  
8 was meeting with the community and revising  
9 the plans to address the comments received,  
10 at the setdown meeting a landmark application  
11 was filed for the property. The site was  
12 designated as a landmark in July, and so  
13 although the case was set down almost one  
14 year ago, the owner has opted to delay the  
15 hearing not once but twice to ensure there  
16 would be adequate community input and further  
17 time to secure conceptual design approval  
18 from the HPRB now that the property has been  
19 landmarked.

20 Such approval was granted in  
21 September. The staff report recommending  
22 conceptual design approval stated, the plan

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1 compliments the prevailing pattern of  
2 buildings in the area resulting in two pairs  
3 of towers being drawn into a unified,  
4 balanced and symmetrical composition set  
5 within a landscape of communal open spaces.

6  
7 Furthermore, during the hearing  
8 one of the board members mentioned that the  
9 parking lots themselves were certainly not  
10 valuable aspects of the landmark.

11 So tonight we're presenting a  
12 plan that has been the subject of more than  
13 15 community meetings and discussions,  
14 numerous email exchanges and many phone  
15 conversations that has resulted in unanimous  
16 support of the ANC. And while there are some  
17 residents who remain concerned about the  
18 proposal, we're confident that we went to  
19 extraordinary lengths to attempt to address  
20 their concerns. As I mentioned at the  
21 outset, the flexibility afforded to this  
22 project through the PUD process is very, very

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1 limited. The PUD does not involve a request  
2 for more than the Matter of Right density  
3 permitted under the R-5-D zoning.

4 With inclusionary zoning to which  
5 we fully commit, a 4.2 FAR is committed on  
6 the site, this project is a 4.1 FAR. The  
7 rezoning of the site to CR is being requested  
8 only to allow the additional 20 foot of  
9 height permitted in the CR zone, so that  
10 allows our 110 as opposed to 90.

11 With the additional height, the  
12 buildings can be massed with a narrower  
13 profile that allows greater distance between  
14 the new and the old. The distance allows  
15 great respect for the landmark towers and  
16 also responds to concerns about the privacy  
17 of the residents of the south tower.

18 An important and valuable change  
19 to the project since the supplemental  
20 submission is that we will no longer request  
21 relief from the inclusionary zoning  
22 requirements. The project will comply with

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1 the requirements of IZ. The project will  
2 devote eight percent of the two new buildings  
3 to affordable housing in perpetuity. This  
4 equates to approximately 38 units.

5 When this Commission adopted IZ  
6 it was very clear at the time that the  
7 Commission weighed the benefits of housing in  
8 perpetuity versus housing for a term, and  
9 ultimately the Commission concluded, and it's  
10 reflected in the order on IZ, that the needs  
11 that IZ was intended to meet can be best  
12 accomplished by keeping the requirements in  
13 place for the life of a project.

14 The project amenities are aligned  
15 with the limited extent of the relief that is  
16 requested. The amenities are as follows.

17 A total of \$200,000 for direct  
18 construction support for capital improvements  
19 to the Randall Recreation Center and/or funds  
20 to DPR for program activities at the Rec  
21 Center and/or direct construction support for  
22 capital improvements to the Landsburg Park.

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1 In addition, at least two 240-volt electric  
2 car charging stations will be provided in the  
3 underground parking garage.

4 Also and importantly, since the  
5 site is now a landmark, the tenant-in-place  
6 renovations to the north building, the  
7 existing north building are noteworthy  
8 benefits to the community.

9 We are pleased that we have the  
10 support of the Office of Planning and DDOT as  
11 well as the ANC. Both agencies were  
12 extensively involved from the outset and  
13 helped shape the approach to the  
14 redevelopment of the site.

15 And you've already accepted my  
16 expert witnesses, so if you have no questions  
17 I'd like to proceed with the testimony of  
18 Mark Duber from the Bernstein Companies.

19 MR. DUBER: Good evening,  
20 Commissioners. My name is Marc Duber and I'm  
21 chief operating officer, executive vice  
22 president of the Bernstein Companies, and

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1 managing partner, known as, this property  
2 known as Town Center East, the subject of  
3 this hearing. I appreciate the opportunity  
4 to comment on the site and the application  
5 before you today.

6 The Bernstein Companies, a third  
7 generation Washington, D.C. development  
8 company was founded in 1933 and became  
9 involved with this project in 2004, when the  
10 tenants living in these two buildings  
11 received a notice of demolition of both  
12 buildings. Because we believed in the  
13 revitalization efforts in Southwest, we began  
14 working with the tenants' association and the  
15 city to save the buildings and create the  
16 opportunity for home ownership for the  
17 residents.

18 At the time we purchased the  
19 buildings the property was in deplorable  
20 condition and over 50 percent vacant. As we  
21 considered the best way to move forward we  
22 formulated a phased plan for the development

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1 of the property which included substantial  
2 amount of relocation payments for those  
3 residents who wanted to move, many of whom  
4 used these funds to purchase other homes.

5 And we created an amazing  
6 opportunity for the existing residents to  
7 purchase their units at an approximate two-  
8 thirds discount off of market value.  
9 Together with the tenants' association, we  
10 purchased with great difficulty and expense  
11 the ground from the District so we could  
12 create a condominium regime.

13 In broad terms our plan developed  
14 into first renovating the south tower and  
15 converting it into condominiums, thus  
16 honoring the agreement with the original  
17 tenants' association. The next phase, where  
18 we are today, would include the construction  
19 of new high-rise residential buildings on the  
20 two outer parking lots and an additional  
21 smaller scale building in the courtyard area.

22 All of the plans were designed in

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1 a way that always complemented and assumed  
2 there would be the addition of a southwest  
3 historic district, thus we were very  
4 respectful of the existing I.M. Pei  
5 buildings. Recently HPRB with support from  
6 us designated this site.

7 We have diligently worked with  
8 the HPO, the ANC, and the existing  
9 condominium owners next door and modified our  
10 plan based on their collective concerns.  
11 Through this process we eliminated all large  
12 balconies, added frosted glass to the balcony  
13 panels, reduced the size of the new buildings  
14 and completely eliminated the center building  
15 at the request of the Waterfront Tower  
16 residents. We are confident what  
17 you see before you today is a realistic plan,  
18 sensitive to all concerned. At the same time  
19 our design incorporates new infill to be  
20 built on two asphalt parking lots. This aims  
21 to achieve today's sustainable urban transit  
22 orient development standards.

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1           There are many planning standards  
2 today that were never contemplated in the  
3 past and smart development on parking lots  
4 next to a Metro station is an example of how  
5 planning priorities have changed over the  
6 years.

7           From the very beginning our  
8 design strategies for our PUD plan for the  
9 site included consultation with HPO, the  
10 staff, in all of our design efforts. We are  
11 confident that our plan is appropriate and  
12 compatible with the I.M. Pei towers.

13           On a larger scale, our Town  
14 Center East property is part of a much  
15 greater and grander plan for the blocks of M  
16 and K Street, S.W., between 3rd and 6th  
17 Streets. As you may know there are in fact  
18 two projects that contain a total of four Pei  
19 towers flanked by large parking lots at the  
20 corners of 3rd and 6th Street.

21           Between these two projects used  
22 to be failed and now appropriately demolished

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1 Waterside Mall. It has been replaced with  
2 the vibrant, mixed use commercial superblock  
3 and the reintroduction of 4th Street, S.W.

4 We thank you for the opportunity  
5 to comment on this application and are most  
6 appreciative of the planning staff's efforts  
7 to ensure a high quality and architecturally  
8 compatible project that will further enhance  
9 all that is being done to create the new  
10 Southwest. We look forward to working with  
11 the planning staff in the future. Thank you.

12 MS. PRINCE: Now the lights can  
13 come down for our architect Maurice Walters.

14 CHAIRMAN HOOD: Ms. Hanousek, now  
15 we can put the lights out.

16 You need to be on a microphone.

17 MR. WALTERS: Thank you. This  
18 first slide shows the context of the proposed  
19 site located at 3rd and M Streets, S.W., near  
20 the Waterfront redevelopment, you can see in  
21 the middle, and more importantly the Metro  
22 station.

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1           So the site is a center for the  
2 neighborhood, an area of increasing  
3 development. A lot of that has occurred  
4 already, a lot of it will be reoccurring in  
5 the future.

6           The second slide is a new slide  
7 that we've added. And we think it's  
8 important, because in addition to the Metro  
9 and development that's ongoing, also DDOT's  
10 plan for the streetcar trolley system has the  
11 streetcar coming down M Street here and then  
12 projecting the ridership or daily boardings  
13 in the range of 2,000 to 4,000. So the site  
14 is obviously very transit-rich, a very good  
15 environment for development.

16           I'll only call up the slides that  
17 are new. This one was in the submissions.  
18 So these are images of the existing Pei  
19 buildings. On the upper left you see the  
20 south Pei tower.

21           The other things that have been  
22 mentioned is there are two large parking lots

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1 outboard of those towers. They are also  
2 walled off with a series of brick walls and  
3 fences, and later in the presentation I'll  
4 show you how we're going to be removing those  
5 and opening the sites to be much more porous  
6 and open to the neighborhood.

7           The important architectural  
8 aspects of the Pei buildings that we've tried  
9 to draw upon and be influenced by with a kind  
10 of rationalist expression of the structure,  
11 the structure is expressed on the skin and it  
12 gives it the rhythm and the pattern to the  
13 buildings and the large expanses of glass.

14  
15           The units within them are very  
16 lovely. They have great views, very open,  
17 with lots of glass. Also the context, upper  
18 left, some of the Waterfront redevelopment,  
19 the very modern style office buildings as  
20 well as things like the Carrollsburg Building  
21 across the street, again very kind of  
22 rationalist, structurally expressive

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1 buildings.

2 This diagram represents the  
3 existing conditions on the site that we find  
4 today. Two large parking lots on M Street  
5 and K Streets, and those are the areas to be  
6 redeveloped.

7 The central courtyard over the  
8 years has kind of diverged from the original  
9 design intent, and as you'll see later in the  
10 presentation we hope to restore it more to  
11 the original design intent.

12 Quickly, a diagram with our site  
13 plan. You'll see now the addition of a new  
14 building on the south and the north as well  
15 as the new landscaped courtyards where the  
16 parking lots used to exist and the beginning  
17 of, you're seeing the concept of the  
18 restoration of the central courtyard.

19 This is a new slide. When we  
20 first started working on the project we  
21 looked at approved, the Commission had  
22 approved a PUD for the Town Center West

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1 project earlier, and those are a symmetrical  
2 pair of Pei towers, symmetrical without of  
3 course being identical to our project.

4 So we looked at the planning of  
5 that as well as there had been other  
6 architects working on our sites previously  
7 and we looked at those. So in this diagram,  
8 the areas in grey represent those kind of  
9 previous studies and what we saw there, and  
10 the areas in red indicate where we kind of  
11 got to, philosophically, in what we're  
12 proposing today.

13 And I think what you see is the  
14 other schemes and they both, you know, not  
15 the same ones and better than the other, but  
16 they're both viable ideas. But both of them  
17 kind of looked, the preceding ones looked at  
18 kind of undulating facades that might pinch  
19 down a little bit more.

20 In the case of the Town Center  
21 West it went down to 56 feet, the spacing  
22 between the buildings at the minimum points.

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1       This other one even had a tighter spacing.  
2       I think in evolving our design what we were  
3       striving to do is do something that was a  
4       little more, say, democratic, or evened out  
5       the spacing to maximize it.

6               So you'll see in our designs  
7       there's a 63-foot dimension on the south in  
8       the middle and then that will open up to 74  
9       feet on the ends.

10               Another important thing that we  
11       choose and it actually is necessitating one  
12       of our areas of zoning relief is, whereas  
13       these views we're building up to the property  
14       line which occurs along that road line, we  
15       chose early on to align the kind of inboard  
16       faces of our buildings with the Pei  
17       buildings. And then that created a small  
18       side yard of about 16 feet. So we have that  
19       alignment on both of the sides and we feel  
20       that that kind of respects the Pei buildings  
21       stronger.

22               Another thing we did in our

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1 initial approach was just thinking about  
2 building separations that are successful  
3 around the city and that we're comfortable  
4 with and just looked at a variety of  
5 conditions.

6 Here we have DeSales Street in  
7 Northwest, buildings that are similar in  
8 height and scale to what we're dealing with,  
9 with a 60-foot separation across the street.

10 Or down at 601 Pennsylvania Avenue, an east-  
11 west, very charming little landscaped  
12 courtyard between two buildings. In this  
13 case it's only 40 feet, but very nice light  
14 and light and air in there.

15 A residential street, Church  
16 Street, an historic district approximately 48  
17 feet from building face to building face, and  
18 you really get a good sense of residents, you  
19 know, coexisting, and even in some cases some  
20 balconies in some of the buildings, or very  
21 similar to kind of Juliet type balconies.

22 And then lastly, a project that

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1 we designed and brought before the Commission  
2 a number of years back. It's recently being  
3 completed, the Brookland Works project at the  
4 Monroe Street Market at Catholic University,  
5 and in that case we have a separation at the  
6 smallest dimension of 36 feet and then  
7 opening up to 52 feet. And as you can see, a  
8 very nice pedestrian active space, very  
9 pleasant to be in. And then the upper  
10 levels, residents facing each other.

11 Since we were here for the  
12 setdown hearing last year, as Allison  
13 mentioned, we were landmarked, and that led  
14 us to a process of working with both the  
15 community and the Historic Preservation  
16 Office, and the scheme's gone through  
17 numerous revisions.

18 And as has been mentioned, this  
19 will kind of help graphically to convey it.  
20 The red indicates, here's the middle building  
21 that was removed from the proposal. Also the  
22 red that you see in the four corners of each

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1 the buildings indicates building massing that  
2 was removed from the ground floor all the way  
3 to the sky at those four corners.

4 The ochre color represents  
5 building massing that was removed on the  
6 tenth and the 11th floor to create setbacks  
7 that you'll see. And then lastly, within the  
8 north courtyard of the connector there's some  
9 red there to working with Historic  
10 Preservation staff we sculpted away the  
11 massing of the glassy connector.

12 To quantify those reductions,  
13 that was a reduction of 33,393 square feet or  
14 42 dwelling units were removed from the  
15 project during that time frame. This was not  
16 in your submission you just received, I'm  
17 sorry, and neither was this image, so those  
18 are new images.

19 This was what you saw a year ago  
20 at the setdown hearing. And I just wanted to  
21 recap some of the things we heard and it  
22 really was just about a year ago, I think,

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1 and a week.

2 Some of the comments on the  
3 design were a concern about the redundancy of  
4 the louvers at the top of the building, a  
5 concern about what the building looked like  
6 at street level, could we provide additional  
7 renderings of the street frontage.

8 Concern about the scale of the  
9 middle building, is the 45 feet appropriate.

10 What was our commitment to LEED. A concern  
11 over the size of the penthouses and the  
12 functions in the roof level, and additional  
13 renderings showing the height in our  
14 connector.

15 So getting into the new design,  
16 this is from the same vantage point at 3rd  
17 and M Street, and things I think that's  
18 important to see is the building massing's  
19 been removed to provide a narrower proportion  
20 of the building at the end. You can see the  
21 two floors of massing that have been removed  
22 in this area.

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1           The louvering or the shading that  
2 we have we've attempted to simplify and kind  
3 of get it cleaner. The one at the ninth  
4 floor has been solidified to be more like the  
5 adjacent piers. The one at the top of the  
6 bay windows has been removed to kind of give  
7 prominence to the lower shading device.

8           Also important, if you were to  
9 compare this with the existing or the old  
10 rendering, the middle building has been  
11 removed in the middle of the 3rd Street  
12 frontage.

13           This is a view along M Street,  
14 giving you a sense of the kind of base of the  
15 building where the pedestrians will interact  
16 with it. We will have some areas of small  
17 retail at the ends of the building as well as  
18 the amenities from the building and the lobby  
19 entrance in the middle of the building.

20           A view of the south motor court.  
21 You can see the courtyard facades of the  
22 buildings are very similar to the street, but

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1 we're introducing a series of Juliet  
2 balconies with frosted glass. So just a  
3 little bit of a space for the residents to  
4 step out and get some fresh air.

5 A view along 3rd Street at the  
6 new south building, the new south Pei  
7 building, looking down the green space. And  
8 I think this gives you a good idea of the  
9 scale of the green space that we're proposing  
10 for the building, as well as you're starting  
11 to pick up on some of the relationships and  
12 the setbacks that are tying the new building  
13 into the Pei buildings and the proportions of  
14 the emphasis on being very similar to the Pei  
15 buildings.

16 I forgot to mention in the kind  
17 of rework we went through with HPO and the  
18 community. Another thing that we heard a lot  
19 about was the ends of the buildings. So if  
20 you were to go back and look at that old  
21 rendering you'll see that we've greatly  
22 increased the amount of fenestration on the

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1 ends of the buildings to really kind of keep  
2 a consistency and make the buildings in the  
3 round.

4 Moving around to the north motor  
5 court, again a very similar facade to what we  
6 see in the south motor court. In this case  
7 though the northern buildings do not have  
8 access to a private side street like the  
9 south buildings do.

10 So to get vehicles into the site  
11 we've had to create a paseo off of K Street  
12 that leads into the motor court. And that  
13 paseo will access the garage ramp to below  
14 grade parking as well as the loading, and  
15 then allow people to kind of come and turn in  
16 and make dropoffs in the motor court.

17 You're also getting a glimpse of  
18 the connector that runs between the north  
19 building and the existing north Pei building.

20 This rendering, a close up showing how that  
21 connector interacts with the north Pei  
22 building.

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1           And it's very important in this  
2           that the developer's goal is for the north  
3           Pei building and the new north building to  
4           function as one residential complex, so they  
5           will share entries. This connector will give  
6           the north Pei building a front door on K  
7           Street, as well as allowing them to kind of  
8           share amenities and services via one cohesive  
9           building.

10           This is a photo of an example  
11           from Capitol Park, also apartments just about  
12           two blocks to the north of the site. And  
13           this has a very similar situation. You'll  
14           see running between the two towers it has a  
15           one-story glass connector, and that contains  
16           the vehicular dropoff and entrance to access  
17           both of the buildings.

18           Just a section starting to show  
19           the relationship to the courtyard but I'll  
20           get into more of those later. You might be  
21           wondering why the dimensions of the  
22           courtyards differ. The south courtyard is 63

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1 feet. The north courtyard 66 feet.

2 That's a result of very early  
3 discussions with the Office of Planning. And  
4 they had requested that we push the south  
5 building back away from our property  
6 building, so you'll see in this diagram the  
7 property line, and we've actually pushed the  
8 building back three feet to augment the M  
9 Street sidewalk to give it some more width.

10 The conceptualization of the  
11 building, how we relate to the Pei buildings,  
12 this diagram is important for illustrating  
13 that. One of the primary things is there's a  
14 strong north-south access running through the  
15 lobbies of the site.

16 And you'll see in some subsequent  
17 exhibits how we've even honored that but also  
18 picking up on the structural rhythm of the  
19 facades where the structure's expressed on  
20 the Pei buildings, we've brought those lines  
21 through. And then those are expressed in a  
22 series of column covers on the building that

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1 pick up the same mood.

2           And then lastly, I think  
3 important, is if you look at the proportion  
4 of the footprint of the Pei buildings when we  
5 sculpt away the ends of the buildings and the  
6 setbacks in the top, it's very deliberately  
7 to get an underlying massing that is of the  
8 same proportion as the Pei towers.

9           This is a little view from M  
10 Street looking through that axis, that north-  
11 south axis. So this is the lobby for our  
12 building. So you're seeing through the  
13 lobbies and the courtyards, and the lobbies  
14 and the courtyards.

15           They all string together, and  
16 ultimately if you follow that you could just  
17 keep walking all the way through to K Street.

18       So there's a visible connection through  
19 there.                   Getting into the details  
20 of the plan, starting at the south tower you  
21 can see there's a through-lobby that will  
22 allow both entrances on M Street, the view we

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1 just saw, as well back in that motor court.

2 And if you were to remember the  
3 view that I showed you, there's a canopy back  
4 there so it's a building that has both kind  
5 of a front and a back door, two front doors,  
6 if you will. To activate the street, again I  
7 mentioned there's amenity space as well as  
8 some retail at both corners of the building.

9 As we go around on the new  
10 private street there will be access to the  
11 garage ramp and also access to the loading.  
12 The new motor court here, which will serve  
13 the new south building as well as provide  
14 access to the front door of the existing  
15 south building which currently is only  
16 accessed through a parking lot.

17 Moving over to the north pair of  
18 buildings, again we have the entrance off of  
19 K Street, and then the connector allowing the  
20 two to kind of cofunction via a combined  
21 residential development, and they will be  
22 able to walk all the way through the

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1 connector into the front area of the Pei  
2 building.

3 That building also, the paseo  
4 here with the access to the garage ramp and  
5 the loading and then the motor court for  
6 turnarounds and vehicular dropoffs, both  
7 buildings have below grade parking. The  
8 south building has two levels of below grade  
9 parking. The north building is pretty level,  
10 so below grade parking.

11 Moving up the levels of the  
12 building, there's a double height space in  
13 the lobbies on the second floor as well as  
14 some double height space in the loading dock.

15 Getting to a typical floor, apartments both  
16 sides, at the tenth floor the building steps  
17 in significantly, creating terraces, and  
18 that's creating that kind of narrower massing  
19 that I spoke about a moment ago that gives  
20 the building the relationship to the Pei  
21 buildings.

22 Up to the roof, the north

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1 building will have a pool deck facing views  
2 to the north. It'll have a small kind of  
3 glassy gallery when you come up the elevators  
4 to walk out to the deck. And there'll be  
5 some toilets and a pool equipment room, and  
6 then flanking that will be mechanical spaces  
7 for the building mechanicals.

8 South building very similar,  
9 without the pool but with a little sun shed  
10 and a sun deck for the residents to go out on  
11 to. And then on top of that, the penthouses  
12 will have green roofing on top of them  
13 whenever we can and when we don't need  
14 uncovered.

15 This diagram is response to  
16 comments from the setdown hearing. Really  
17 it's just illustrating all of the mechanical  
18 appurtenances that we need to contain up  
19 here. So we have the elevators, we have the  
20 gallery, toilets. We do have a small kind of  
21 seating area for snacks, the pool terrace.

22 And then we are just pretty full

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1 of stuff on both sides, on these wings with  
2 the mechanical, with corridor ventilation,  
3 garage exhaust, water heaters, stair  
4 pressurization, our cooling towers.

5 Over on this side more stair  
6 pressurization and building ventilation. And  
7 then a view of the roof terrace looking at  
8 that glass gallery, the pool, and then the  
9 mechanical beyond screened with planting.

10 And importantly, there is that  
11 north-south access that we talk about on the  
12 bottom. It actually manifests itself with a  
13 glass opening through the gallery that will  
14 allow you to walk along, to see back along  
15 that axis at the roofscape.

16 Elevations of the building, this  
17 is at 3rd Street so you see the two existing  
18 Pei buildings with the large open space. In  
19 the middle the new buildings, and you start  
20 to see the relationship where the building  
21 steps up to the tenth floor.

22 Moving around to the west side,

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1 very similar. As I mentioned, the facades  
2 are kind of designed or are designed in the  
3 round with the same fenestration keeping it  
4 in the round.

5 The south facade of the south  
6 building, this is the expression of the  
7 structural grid that occurs in the K  
8 buildings with the aluminum column covers and  
9 shading devices. We designed what we think  
10 will be a very deep and kind of rich facade  
11 which it'll cast shadows. I'll show you that  
12 in three dimensions in a moment.

13 Moving around to the courtyard  
14 facade, really the same facade but with again  
15 the change being the introduction of the  
16 Juliet balconies with the frosted glass on  
17 the more private courtyard side.

18 A view of that window on the  
19 north-south access up at the penthouse. A  
20 detail of the south facade or the street  
21 facade and the north facade of the north  
22 building would be identical.

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1           So you're seeing the aluminum  
2 kind of column covers expressing the  
3 structural grid, but infilled in that grid  
4 large expanses of glass very similar to the  
5 Pei design, but then with some flanking  
6 smaller operable vent windows.

7           And then within that kind of  
8 framed, smaller horizontal shading device is  
9 that it will provide shade for each of the  
10 windows to try to mitigate the heat gain. So  
11 as I mentioned, a lot of depth and character  
12 to the facade.

13           At the top we're proposing a  
14 design for the kind of flanking wings of the  
15 mechanicals, a new louvering system that has  
16 varying depth so we can create kind of a  
17 texture and a pattern almost like a fabric in  
18 it. And you're seeing an example from the  
19 manufacturer's offering in how we're  
20 proposing it looks when both open.

21           Moving around to the courtyard,  
22 again a very similar facade, just the

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1 introduction of the frosted glass balconies.

2 And we have the material for the samples of  
3 the frosted glass. Maybe when we can bring  
4 the lights back on, would you like me to pass  
5 it around so you can see it?

6 The developer also actually built  
7 a little mock-up of the balcony condition  
8 with the frosted glass to take out to show to  
9 the residents' concerns about visibility. So  
10 in this case this is showing that the frosted  
11 glass, how both it will restrict views into  
12 the units here as well as when people are  
13 sitting down there'll be a degree of privacy  
14 for the units on the other side of the  
15 separation.

16 The access to the site and the  
17 gating and the circulation of it, the areas  
18 in red here indicate areas of fencing that  
19 currently exist on the site that will be  
20 removed as part of this proposal. Those are  
21 the parking lots that are completely enclosed  
22 on those sides.

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1           And then what we're proposing,  
2           the building obviously will be located here,  
3           and then at the courtyards that will set back  
4           into the courtyard and there will be a new  
5           gate and a new fence with gates to let people  
6           into the courtyards on the south courtyard.

7           On the middle courtyard the wall  
8           will be retained. There's an existing metal  
9           fence on the top of the one we'll take off,  
10          and we'll show you some details of how we  
11          plan on improving the appearance of that.

12          The north courtyard's similar.  
13          The existing fence line will be removed. A  
14          new porous fence with a gate will be  
15          installed further back on the site. A view  
16          of the fence line on the north court, the  
17          south court would be similar, a little low  
18          brick wall with something to kind of  
19          reconcile the sloping grade and then the  
20          fence, and then a portal with gates that will  
21          open for passage.

22          And you can see here the existing

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1 wall in the center courtyard. We're going to  
2 remove this area of metal fence, and also  
3 you'll see in the next slide we're going to  
4 remove some concrete in front of the wall and  
5 allow greenery to grow up on that wall to  
6 soften it. And over here at the north  
7 parking lot you'll see some of the fencing  
8 that will be removed.

9 Here's an image of, we actually  
10 went over to 6th Street, and notice that this  
11 has been built this way with about a one-foot  
12 swath of greenery between the sidewalk and  
13 the wall and it just really helps to kind of  
14 improve the appearance. And we plan to  
15 plant, you know, vertical plants in there  
16 that will kind of grow up on the wall and  
17 soften it the appearance of that on 3rd  
18 Street.

19 A diagram that we prepared for  
20 one of the residents of the south tower,  
21 there's concerns about pick-ups for disabled  
22 people, and what this diagram is showing is

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1 where they would be able to come down to the  
2 lobby -- the developer's committed to install  
3 cameras out at the motor court as well as a  
4 monitor in the lobby so they'll know when  
5 vehicles have come to pick them up -- and  
6 then they can either exit the building  
7 through the doors, go down the covered loggia  
8 to the Pei buildings, come out at a new walk  
9 into the motor court to be picked up, or if  
10 they want to they can continue down an  
11 interior hallway.

12 The developer will install an  
13 automatic door opener so they can exit the  
14 building, go through the loggia to the Pei  
15 building and access a waiting vehicle at that  
16 point.

17 These diagrams would be new.  
18 These are for the inclusionary zoning. I  
19 think the previous documents you have were in  
20 LDDA, but these are showing the distribution  
21 of the IZ, as was mentioned at eight percent.  
22 It's equating to 19 units per building.

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1           So here we're seeing the north  
2 building, and you're seeing a pretty even  
3 distribution of the units through the first  
4 through the ninth floor. You'll see one of  
5 the units, a corner unit on the ground floor,  
6 and then units kind of distributed on both  
7 sides of the building, some in the corners,  
8 some in the middle as you move up the  
9 building.

10           And they're representative of the  
11 unit types as well as the handicap units in  
12 the building. The similar diagram for the  
13 south building.

14           Shadow studies to look at the  
15 impact of the buildings. We had originally  
16 just done the plan diagrams, and then working  
17 with the ANC they had requested a diagram to  
18 give more of a three-dimensional  
19 representation so we generated these diagrams  
20 in the upper right.

21           So here we are at March 21st  
22 showing the impact of the south building at

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1 11:00 a.m. in the morning. You can see the  
2 sun rising up to the top of the second floor.

3 And then we go to the afternoon and you  
4 start to see the sun coming in from the west  
5 and more sun reaching into the courtyard and  
6 a just a bit of the first, well, the first  
7 floor of this building is kind of always in  
8 the shadows because of the loggia, but the  
9 second floor getting a little bit of shadow.

10 As we move into June and the  
11 sun's moving up in the sky, 11:00 a.m., all  
12 of the Pei building in the sun and the  
13 majority of the courtyard in the sun. We  
14 move to the afternoon, 2:00 p.m., and really  
15 a majority of the courtyard in the sun. Just  
16 a little bit of that in the shadows from the  
17 new building. December, of course,  
18 the sun very low. The shadows, as you can  
19 see all of the buildings and the neighborhood  
20 casting quite long shadows. The afternoon on  
21 December 21st, a bit of sun getting in from  
22 the west, illuminating half of the building.

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1           One of the comments from the  
2           setdown hearing was what level of LEED are we  
3           committing to.       We submitted their  
4           checklists. We're committing to silver with  
5           approximately 58 points.

6           Kind of wrapping up here and  
7           getting close to the end, the areas of relief  
8           that we're asking for. One of them is side  
9           yards. In this zone you're not required to  
10          provide side yards, but if you do, and if you  
11          remember that kind of early conceptual  
12          diagram I showed where we chose to pull the  
13          buildings back to align with the Pei  
14          buildings, we therefore created a side yard.

15          So it's not quite of the dimension that  
16          would be required by the zone, so we're  
17          asking for relief on that.

18          A diagram showing the open space  
19          for the site, we think we greatly exceed the  
20          requirement of 10,800 square feet with  
21          24,000. OP staff has had some concerns about  
22          what is being counted, so therefore we are

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1 asking for the relief.

2 The rooftop, we had always had  
3 relief on the inside, on the courtyard side  
4 of the penthouses where the elevators are.  
5 We are at 17'8" of setback where we would be  
6 required for 18'6". We're a little bit shy  
7 there and it just has to do with the way the  
8 elevators sit in the building.

9 As we move out to the wings, the  
10 mechanical wings, we step those down to 15  
11 feet, so we're good except for in our last  
12 round of me working with the HPO, when we  
13 sculpted the building at the top at the ends  
14 we took away our setback and that brought us  
15 under the required 15 foot, one/one setback,  
16 so we're asking for relief on the ends of the  
17 building for setback.

18 Loading. We have provided a 30-  
19 foot berth and a platform for each of the  
20 buildings as well as a 10 by 20 service  
21 delivery space. We do not have the full 50  
22 foot spaces on the site. And I would like to

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1 quickly show you a little animation that, a  
2 fly-around animation that will hopefully kind  
3 of help to visualize the entire ensemble.

4 So starting here at 3rd and M  
5 Street, we're moving across the side on 3rd  
6 Street, and I think you get a real sense of  
7 the openness of the court and also how we've  
8 worked here to relate the heights of the  
9 buildings with the setbacks and their really  
10 kind of grand, gracious opening of the  
11 middle courtyard and the softening of that  
12 edge.

13 Moving up to the north courtyard,  
14 again an ample green space. You get a little  
15 glimpse of the connector back there.  
16 Starting to pick up and move up into the sky  
17 you'll see the roof deck for the north  
18 building with the pool at the top and the  
19 green roofs on the top.

20 And then we're going to kind of  
21 move over and track up high and look down on  
22 the courtyards from a different perspective

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1 to hopefully help you understand kind of the  
2 dimension of those as well as the motor  
3 courts at the west end, large grand central  
4 lawn, the south courtyard with the motor  
5 court and the green space beyond.

6 Moving back you can really get a  
7 sense of how the buildings are designed in  
8 the round with the fenestration consistent  
9 all the way around, and then the stepping and  
10 sculpting of the building.

11 So where we're at is we had our  
12 hearing with the Historic Preservation Review  
13 Board. We were approved in concept. We have  
14 had a meeting with the staff to kind of  
15 follow up on some comments that we've heard.

16 We'll be meeting with them more to continue  
17 to work through them.

18 So with that I'd like to turn it  
19 back over to Betsy Boykin to talk about the  
20 landscaping architecture to the project.

21 MS. BOYKIN: Good evening. I  
22 think Maurice has covered most of what we

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1 need to cover, but I would like to say,  
2 broad, but run through it pretty quickly but  
3 make a few main points.

4 Here's where we are on the site.

5 Okay, again the ochre is our site, and the  
6 existing aerial. Really, the point here is  
7 to notice, actually, what a large percent of  
8 parking there is relative to the site itself.

9 So I think this has been a great  
10 opportunity in an urban environment to really  
11 develop a project that is essentially  
12 buildings in a park. So that's what we've  
13 tried to do with the landscape.

14 So the two views. This is the  
15 view looking through the parking lot at the  
16 south tower and the parking lot at the north  
17 tower, and really that's the condition today  
18 that we're trying to get away from.

19 And the pictures, the low, shows  
20 some of the images of precedents that we  
21 would like to develop in the development of  
22 the project in more of a courtyard setting

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1 with various scales of open spaces. And  
2 again just at the section through the  
3 existing.

4 And so here's the plan. As  
5 Maurice said, we will try to do what is in  
6 the development of the redevelopment of the  
7 central courtyard is echo the historic design  
8 with the circle, with the smaller courtyards  
9 in the flanking north and south courtyards.

10  
11 We've tried to stay with a  
12 geometric design that's typical of this  
13 period, and really overall create a variety  
14 of sizes of spaces for unprogrammed and for  
15 whatever other uses the residents care to do.

16 Again, a comparison of the  
17 sections seeing how lush the proposed is, on  
18 the bottom, and likewise at the shorter other  
19 section looking north. The north courtyard  
20 with the connector, the driving court, all  
21 intended to have a very pedestrian feel to it  
22 with a sort of higher level paving.

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1           The central courtyard using a  
2           planted strip to screen, actually, the cars  
3           that will remain in that parking area. The  
4           south, again just noticing in all of it that  
5           the axial connection that Maurice described  
6           is maintained, actually, through the  
7           landscape as well and emphasized.

8           And sections showing what the  
9           street edge would like on all three sides of  
10          the project. The driving patterns, I think  
11          that's pretty clear, and then the pedestrian  
12          connections and joined actually, really how  
13          one would get to the Metro.

14          This is the existing tree cover  
15          on the project. It's fairly sparse. And  
16          this is the proposed. So really trying to  
17          create a lush landscaped setting. And then  
18          again, just a view in that central courtyard  
19          towards the parking area showing that we're  
20          screening that and really creating a nice  
21          park-like feel. And that's it.

22                   MR. SCHIESEL:           Good evening

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1 Commissioners. My name is Rob Schiesel, the  
2 project manager at Gorove/Slade. I do not  
3 have any slides tonight. I just plan to  
4 speak briefly on the transportation proposal  
5 of the application so you'll have to turn the  
6 lights on for me too.

7 We performed the transportation  
8 study that was submitted with the  
9 application, and like I said I'm just going  
10 to briefly discuss our findings and  
11 conclusions.

12 The study we conducted followed  
13 industry standards and part of that included  
14 the scope of the study with DDOT. In fact,  
15 we've been coordinating with DDOT on this for  
16 over a year, not just on the study, also on  
17 some of the site design elements.

18 I'm not going to stress the  
19 technical details of the report, so I'm going  
20 to focus on what DDOT suggested and with the  
21 requirements that are listed in their staff  
22 report from September 30th.

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1           In brief, applicants tried to  
2 accommodate all of DDOT's requests as  
3 follows. DDOT mentioned certain 55-foot  
4 truck maneuvers in their report. The  
5 applicant agrees that they don't want any 55-  
6 foot trucks coming into their motor court and  
7 is willing to work with the property  
8 management of the building to make sure that  
9 all move-ins, move-outs, all deliveries are  
10 done with trucks that fit, accommodating the  
11 loading docks and they'd all be scheduled  
12 through the property management.

13           And tenants will know that they will  
14 not be allowed to do deliveries in 55-foot  
15 trucks. If they show up they will be shied  
16 away from the site. They're not intended for  
17 use in the motor courts.

18           DDOT requested more long-term  
19 bicycle parking for the residents in the  
20 buildings. The applicant agrees and can  
21 commit to a minimum of 119 spaces throughout  
22 the buildings.

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1           DDOT       was       requesting       more  
2 pedestrian accommodations up around the motor  
3 courts.    This was before some of the more  
4 recent diagrams were out, so I believe that  
5 the applicant has already addressed the  
6 pedestrian issue in the motor courts.

7           DDOT also requested some more TDM  
8 that the applicant provides a basis for car  
9 sharing services in the garage, for free.  
10 The applicant is fine, allowing, reserving a  
11 spot in the parking garage they would prefer,  
12 and will not commit to free.

13           Would rather charge the same  
14 price, residents, or similar monthly price  
15 for car sharing services, even provide  
16 additional, if the demands for these car  
17 sharing services is high enough and the  
18 residents are using it, may be willing to  
19 provide even more spaces based on demand.

20  
21           DDOT       was       looking       for       an  
22 electronic message screen with real-time

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1 transportation information on it in the  
2 lobbies. The applicant agrees that they want  
3 to provide information for their residents,  
4 they're just a little bit hesitant to commit  
5 to an electronic message screen right now  
6 based on who knows what technology is going  
7 to be like in a few years. So they can  
8 commit to having the information but not  
9 necessarily the mechanism.

10 In addition, DDOT noted the  
11 applicant's proposed TDM measure of providing  
12 a one-year car sharing subsidy membership fee  
13 for the initial residents. DDOT suggested  
14 that they add bike share to that and/or bike  
15 share or car sharing at the residents' choice  
16 and the applicant agrees to that.

17 And finally, as Allison already  
18 mentioned, DDOT, there's going to be some car  
19 charging stations, one in each garage, and  
20 that was one of the other requests that the  
21 applicant has already met that.

22 So in conclusion, we're pleased

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1 to have DDOT's support with these conditions  
2 met. I appreciate your time and we'll be  
3 glad to answer any questions you have.

4 MS. PRINCE: Our final witness is  
5 Greg Rooney, also from the applicant.

6 MR. ROONEY: Good evening  
7 Commissioners. My name is Greg Rooney, vice  
8 president of development for the Bernstein  
9 Companies.

10 One of my roles for this project  
11 has been to coordinate the various community  
12 leaders, area residents, ANC commissioners as  
13 well as different departments of D.C.  
14 government. I'd like to share with you some  
15 of our outreach efforts of the last year and  
16 a half.

17 Since May of 2012 I've worked  
18 closely with Waterfront Tower Homeowner's  
19 Association, their board of directors, ANC  
20 6D, and CBCC, Community Benefits Coordinating  
21 Council.

22 May of last year, 2012, is when I

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1 first reached out to the president of  
2 Waterfront Tower Homeowner's Association who  
3 helped set up the first presentation to the  
4 homeowners on June 21st, 2012. Since then  
5 we've had two additional meetings,  
6 presentations with all the owners as well as  
7 three meetings with the board of directors.

8 In these meetings we listened to  
9 concerns the community had regarding our  
10 development and the changes made to our  
11 design, the removal of the courtyard  
12 building, the removal of large balconies,  
13 frosting the glass railings, cutting back the  
14 ends and the tops of the buildings.

15 We've addressed all their major  
16 concerns today. As late as this afternoon,  
17 we've been working with the board of  
18 directors to satisfy their many concerns  
19 about privacy, and it's our understanding the  
20 board of directors will be supportive of our  
21 project tonight as a result, which we're glad  
22 to hear. ANC commissioner Ron

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1       McBee, Roger Moffatt and Andy Litsky were  
2       present for the majority of these discussions  
3       and have been critical participants in the  
4       success of these meetings.       Concurrently,  
5       I've been working with ANC 6D to identify the  
6       community benefits package, and that with  
7       Commissioner McBee back in June of 2012, who  
8       at the time was our representative of our  
9       single member district.       He set up  
10      meetings with CBCC, Commissioner Moffatt, who  
11      later became our single member district  
12      representative.       Reverend Ruth Hamilton,  
13      chair of CBCC introduced me to Eve Brooks  
14      who's the chair of the CBCC's community  
15      enrichment initiatives.       CBCC and ANC  
16      have been leading community efforts to reopen  
17      the vacant Randall Rec Center as a community  
18      center.       Over the years a number of community  
19      forums have highlighted the need for such a  
20      facility in Southwest neighborhood.       Included  
21      in the discussions was the planning and  
22      design officer at DPR, Department of Parks

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1 and Recreation, together with ANC.

2 The three organizations  
3 considered the most appropriate manner to go  
4 forward in recognition that the area plan  
5 will be considered in the small area of  
6 planning now preceding both the renovation  
7 and programming of Randall Rec Center was  
8 prioritized.

9 Thus as outlined, our community  
10 amenities package will include a \$200,000  
11 commitment to the construction and/or  
12 programming of Randall Rec Center. The funds  
13 will be handled by DPR directly.

14 If the Randall Rec Center is  
15 reprioritized before a certificate of  
16 occupancy, an alternative park has been set  
17 forth as a backup plan. That park will be  
18 the Landsburg Park, and again our efforts  
19 would be under the jurisdiction and direction  
20 of DPR. Thank you.

21 MS. PRINCE: That concludes our  
22 presentation with six minutes to spare. My

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1 panel is available for questioning if you  
2 have any questions.

3 CHAIRMAN HOOD: Okay. Thank you  
4 all very much. We appreciate it. Is that  
5 how it worked out in rehearsal?

6 MS. PRINCE: Not quite. Not  
7 quite.

8 CHAIRMAN HOOD: That's become a  
9 standard question there, I'm just curious.  
10 Usually I let my colleagues go first, but I  
11 have two quick questions. One is, I know  
12 that the company has changed to Bresler.  
13 Does that name sound familiar?

14 MR. ROONEY: Bresler & Reiner was  
15 the company that we purchased the property  
16 from.

17 CHAIRMAN HOOD: Got purchased  
18 from Mr. Bresler, okay. Another question is,  
19 I'm more interested, I'm sure, I'm going to  
20 let my colleagues go, but I want you to think  
21 about the young woman who came. I'm very  
22 curious what kind of strong arm is that. I'm

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1 very curious about that, but that's to  
2 answer.

3 Maybe one of them will ask it,  
4 but I go last so I want you to be prepared  
5 for that answer.

6 Okay, Mr. Miller?

7 COMMISSIONER MILLER: Thank you  
8 Mr. Chairman. Let me say at the outset I was  
9 very pleased to hear in the beginning of your  
10 presentation that you are no longer  
11 requesting relief from the long-term  
12 affordability requirement for the  
13 inclusionary zoning, and I think that was  
14 where most of my questions and concerns were,  
15 would have been addressed. So I think that  
16 was a great move on your part. You are  
17 providing under the LDDA more units than  
18 would have been required by IZ and deeper, I  
19 don't know if it is deeper. Is it deeper  
20 level for affordability? I think it is, than  
21 what we require by IZ.

22 So you said that it's 38, it's 20

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1 percent of the units under the LDDA are the  
2 affordable range between 50 and 80 percent,  
3 less than 50 and up to 80 percent. What's  
4 that, about 95 units or --

5 MS. PRINCE: I'm not sure of the  
6 exact count.

7 COMMISSIONER MILLER: And so 30  
8 and then 38 units would be the inclusionary  
9 zoning. And what is the mix of the 487 total  
10 number of residential units, and mix, the  
11 sizes. Are they one bedrooms mostly or --

12 MR. WALTERS: It ranges between  
13 studios, one bedroom. Studios, one bedrooms  
14 and two bedrooms.

15 COMMISSIONER MILLER: Did you get  
16 percentage, the rough percentages just to --

17 MR. WALTERS: I'm sorry, the  
18 percentage of each unit type?

19 COMMISSIONER MILLER: Of the  
20 total, what percentage of the total of 487  
21 are studios?

22 MR. WALTERS: I'm sorry, I don't

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1 have that with us on hand, but we may  
2 shortly. We can get back to you.

3 COMMISSIONER MILLER: Okay. It's  
4 very attractive. I think all of the  
5 community meetings and the meetings you've  
6 had with the Historic Preservation office  
7 and, HPRB, have really resulted in a much  
8 more cohesive and attractive project than the  
9 one that we saw at setdown, and it seems very  
10 compatible with, and particularly with the  
11 neighborhood, and the landscaping is  
12 excellent. The LEED silver is excellent.

13 So I'm, in general, very pleased  
14 with the direction that this project has gone  
15 and how you've worked with the ANC on a  
16 community benefits package and you'll have  
17 their support with all their conditions. You  
18 do agree with all their conditions that they  
19 outlined in their testimony?

20 MS. PRINCE: Yes, we do.

21 COMMISSIONER MILLER: Okay. I  
22 guess the only thing, Mr. Chairman, I guess

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1 we'll see something when we hear from some of  
2 the parties, but I just don't have a good  
3 sense of how this looks or which rendering of  
4 the renderings we have, how this looks from  
5 the two condominiums that we're going to hear  
6 from.

7 I don't know if you can point me  
8 to a rendering, if there is one that would  
9 show an existing condition of what you're  
10 seeing in terms of the Pei buildings, I  
11 guess, and then what you'll see with the two  
12 new buildings.

13 But you can think about that  
14 because we're going to hear testimony on  
15 that. It just would be useful to have that  
16 up and while that discussion is going on.  
17 Thank you.

18 MS. PRINCE: And we do have the  
19 unit division among the various unit types if  
20 you'd like that. We have that now.

21 MR. WALTERS: This is for the  
22 south building. The north building condition

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1 is very similar.

2 CHAIRMAN HOOD: Microphone.

3 MR. WALTERS: This is for the  
4 south building. The north building is almost  
5 identical. But we have 37 percent studios,  
6 32 percent one bedrooms, nine percent one  
7 bedroom plus dens, 22 percent two bedrooms.

8 COMMISSIONER MILLER: Great.  
9 Thank you very much.

10 CHAIRMAN HOOD: Okay, Mr.  
11 Turnbull, the vice chair told me you can go  
12 second tonight.

13 MR. TURNBULL: I see your arm is  
14 bent backwards so I can understand. I would  
15 echo Commissioner Miller's statements. I'm  
16 glad you resolved the IZ issue, and I want to  
17 congratulate you on the changes that you've  
18 made to date. And I think they've been  
19 significant from some of the concerns we had  
20 at setdown.

21 Notwithstanding any additional  
22 questions, I want to talk about the

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1 amenities. There seems to be like three  
2 different options and I don't know how we  
3 handle that. So that needs to be resolved  
4 and we need to be able to come up with some  
5 kind of a finality on how this gets put into  
6 our order.

7 That we know exactly how this  
8 money is going to be used, with the timing on  
9 this how it's going to be spent. And so  
10 there's a big question as to, for us, how to,  
11 and probably the chair can go over that later  
12 too.

13 This is a gated community, is  
14 that my understanding? This is totally  
15 surrounded by fence out of the public?

16 MR. WALTERS: No, if I were to go  
17 back to that diagram showing the fence lines,  
18 it's completely open on the west at the south  
19 side --

20 (Off microphone comments)

21 MR. WALTERS: As you can see here  
22 on the west side, all of the, it's currently

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1 a gated community and it's not porous. So  
2 all of that gating is going away and you'll  
3 be able to flow into this courtyard.

4 MR. TURNBULL: Are you saying the  
5 red is going away?

6 MR. WALTERS: The red is going  
7 away, that's correct.

8 MR. TURNBULL: Okay.

9 MR. WALTERS: So it'll be  
10 completely open from that side. There will  
11 be a gate at, I believe this property will be  
12 open during daylight hours where you can pass  
13 through this courtyard as well as that  
14 courtyard. The main courtyard will remain  
15 enclosed. It is enclosed.

16 MR. TURNBULL: And what happens  
17 up here? It's a little bit, and again I'll  
18 beat your dot here. That's where the porte  
19 cochere is, is that a wall there?

20 MR. WALTERS: That's a wall, and  
21 really that is there to screen the, that's  
22 the loading for the Safeway.

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1 MR. TURNBULL: Okay.

2 MR. WALTERS: So we're building  
3 the wall, really, for visual separation so we  
4 don't have to look at their trucks.

5 MR. TURNBULL: So this area here  
6 is restricted to the residents.

7 MR. WALTERS: That's correct.

8 MR. TURNBULL: So the other areas  
9 that are open on either side.

10 MR. WALTERS: That's correct.

11 MR. TURNBULL: And although  
12 there's gates here, during daylight hours  
13 they're going to be open until sometime --

14 MR. WALTERS: Just during  
15 daylight hours.

16 MR. TURNBULL: Maybe we could  
17 specify that. The porte cochere, just  
18 curious. This is a loading area. You've got  
19 cars coming in and you've got loading going  
20 in here. People are coming down this way or  
21 can they come on Wesley Place? Yes? Both  
22 ways?

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1 MR. WALTERS: Yes, if driving you  
2 could come to the site this way or you could  
3 come on K Street and then turn into this  
4 aisle and then you'd go down the ramp to  
5 park.

6 MR. TURNBULL: Is there enough  
7 room, turning radius?

8 MR. WALTERS: Yes, actually we've  
9 studied that and there's a little chink that  
10 was introduced there to get the turning  
11 radius to work.

12 MR. TURNBULL: And the same with  
13 the trucks? You can maneuver in trucks? Do  
14 they've got to back in or --

15 MR. WALTERS: The 30-foot truck  
16 would pull in, drive under the paseo and then  
17 back into that berth and then they would pull  
18 out and back out.

19 MR. TURNBULL: Okay. All right,  
20 thank you. All right, I guess I had one, Ms.  
21 Boykin made a comment. Said you were trying  
22 to create a park-like feel. Does that mean

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1 you're not creating a park? Is this like a  
2 step down from a park?

3 MS. BOYKIN: No, I guess I think  
4 that a park is, it's an issue of scale. And  
5 I guess I think a park as, there's a park on  
6 the corner, in fact, where the duck pond  
7 park, which is a bit large. I'm not sure how  
8 big they are but, so I would say, you know,  
9 if you like, we are creating a park, a  
10 smaller park.

11 MR. TURNBULL: Okay, I don't  
12 mean, I'm being sarcastic. When someone says  
13 a park-like feel it sounds like it's  
14 something less than what it should be.

15 MS. BOYKIN: I guess what I was  
16 suggesting is that it's a largely green and  
17 planted with appropriately scaled trees to  
18 provide shade and, you know, flowers and --

19 MR. TURNBULL: What about in this  
20 area, is there conservation, water  
21 conservation? Are the plants native plants?

22 MS. BOYKIN: Actually, the first

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1 step of that is the removal of roughly half  
2 an acre of pervious surface from the site.

3 MR. TURNBULL: Right. I know  
4 that.

5 MS. BOYKIN: Right. Okay, and  
6 then the green rooves themselves are keeping  
7 the water on the site as opposed to --

8 MR. TURNBULL: Okay, but is there  
9 water retention in the park down here?

10 MS. BOYKIN: And, you know, it's  
11 at the planning stage and that's the intent  
12 is to hold the water on the site. Again, it  
13 is in fact in the two, the north and the  
14 south courtyards are over structure, so we  
15 will, like we hold it and we use, if  
16 possible, on site, the water.

17 MR. TURNBULL: Okay. Thank you.  
18 And if you could maybe clarify that by final  
19 in which, if you have a little bit more ideas  
20 on how you're going to do it, I think that  
21 would be, anyway I'd appreciate it.

22 MS. BOYKIN: Be happy to.

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1           MR. TURNBULL: I guess my still  
2 last concern is though I like the changes,  
3 most of the changes you've made, I still have  
4 a problem with the roof and the penthouse.  
5 And what bothered me, I thought I heard  
6 something to the effect that HPO was telling  
7 you, was guiding you on the penthouse? Did I  
8 understand that?

9           MR. WALTERS: No, what I was  
10 talking about is where we had set the  
11 building back at the ends.

12           MR. TURNBULL: Okay.

13           MR. WALTERS: Do you see the west  
14 ends? That had then created the need for  
15 relief for setback for the penthouse. We  
16 basically sculpted away about four feet of  
17 roof that we had before to create those  
18 setbacks, then the penthouses moved that  
19 distance closer to the edge.

20           MR. TURNBULL: Well, one of my  
21 concern is the penthouses are still huge. I  
22 mean if I look at it, you didn't give us the

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1 PowerPoint but I printed out a couple of them  
2 ahead of time. But I would appreciate it  
3 next time you do provide your PowerPoint  
4 presentation so we can make notes.

5 But on this one in which that I'm  
6 looking at, these are huge. I mean, and the  
7 looks of it when you do your fly-by and you  
8 look at the Pei buildings, now obviously  
9 you're dealing with a different generation of  
10 building, mechanical, but my god, these are  
11 like ten times and that they really dwarf the  
12 whole building.

13 And I'm still not sure. We  
14 didn't get to see your, I'm still concerned  
15 about what you're doing up there whether  
16 they're louvers or green on those side  
17 mechanical areas. Are you doing louvers or  
18 greening? Which way are you going?

19 Then you're talking about doing  
20 some change or going to have a competition.  
21 I don't know what you're doing up there on  
22 this, different alternates for what you're

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1 doing on those mechanical penthouse. I saw  
2 louvers and then you talked about greening.  
3 So what are you doing?

4 MR. WALTERS: Sorry for the  
5 confusion. I'll see if I can do that,  
6 alleviate that.

7 MR. TURNBULL: The pictures on  
8 the pool, when you showed the pool picture  
9 you showed that and you talked about possibly  
10 having greening.

11 MR. WALTERS: We intend to have  
12 greening in the areas of the mechanicals that  
13 are kind of visible from the more public  
14 areas. That's where we were proposing little  
15 planters. So if we go back to our mechanical  
16 plan, here you can see the planter strip  
17 right there because this is the public area.  
18 So we will plant greenery in there that will  
19 screen that louvering.

20 MR. TURNBULL: And then louvers  
21 are all around the back here?

22 MR. WALTERS: Yes, the whole

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1 thing is louvers so that equipment can be  
2 ventilated. I mean to try and answer your  
3 other question, these are not terribly large  
4 buildings, really. There's not a lot of  
5 footprint to --

6 MR. TURNBULL: Well, what I'm  
7 concerned about is from the major street you  
8 need relief, you're not anywhere near 18'6"  
9 for here, for on 3rd Street.

10 MR. WALTERS: What we did is the  
11 middle penthouse rises up to 18'6" because of  
12 elevator overrides, but then to break down  
13 the massing, these are set at 15 feet. So  
14 that's also reducing the amount of setback  
15 required. We had that setback from, because  
16 of the ultimate face of the building we had  
17 that prior to the sculpting of the building  
18 that occurred in working with HPO.

19 Basically that little swath was  
20 removed and that took away our one to one  
21 setback. So that's what I meant when I said  
22 HPO didn't tell us how to design the

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1 penthouses, it was just to reveal a little  
2 bit more, or it reduced our setback.

3 MR. TURNBULL: I just think these  
4 are huge. I guess the other thing that  
5 strikes out is this little window which this  
6 theoretical view down the world that aligns  
7 up with the sun and the moon is, if I look at  
8 the elevation of that building that's from  
9 this courtyard and I look at what this does,  
10 four people standing in bathing suits get to  
11 look out that window and look in the  
12 courtyard, it doesn't make sense.

13 If you got rid of that window you  
14 could hopefully maybe tighten up some of this  
15 space and try to get more space at the end so  
16 that we take away the overall bulky  
17 appearance of this penthouse.

18 I think you really need to look  
19 at what this does and how you could try to  
20 tighten this up to get some more space so  
21 we're not looking up at a huge penthouse.  
22 And let's look at the elevation of the

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1 courtyard. I don't -- yes, there.

2 To me, if you did some kind of  
3 architectural treatment that would go along  
4 here and line those up, either a row of  
5 darkened bricks or something that would make  
6 this, bring this down a bit and make this  
7 darker.

8 You know, one of my fellow  
9 commissioners who is not here tonight would  
10 be going nuts with the light colored  
11 penthouse, and maybe he will when we come  
12 back for later on to view at this, but I  
13 don't know why you haven't tried to at least  
14 give a gesture of trying to lessen the height  
15 of this instead of going up to the full -- I  
16 don't know, to me this just looks huge.

17 And your fly-by, when you looked  
18 up from the street and you looked at it, I  
19 just think it really is too heavy. I think  
20 you really need to, to me, a little bit more  
21 effort and you could reduce the scale of this  
22 a bit and make this building not quite so

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1 bulky on top.

2 I mean, the pool, fine. You  
3 know, the trellises, I think Commissioner May  
4 had some trouble with the trellises before  
5 and I'm glad that they're gone.

6 You made one comment which I  
7 didn't understand. You talked about getting  
8 rid of the upper, the brise soleil, so give a  
9 prominence to the lower shading decks, which  
10 to me that sounds like it's a gimmick and  
11 you're really not using it as a brise soleil  
12 what it should be used.

13 So that disturbs me a bit but I'm  
14 glad it's gone. I think it did make the  
15 building look a little strange, and I think  
16 Commissioner May made his comments on that.  
17 But I still think you need more work on this,  
18 on the penthouse, to make it a little bit  
19 less overpowering.

20 Mr. Chair, those are my comments.

21 Other than that I think the changes are very  
22 well, and I think this project is going to be

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1 very good for the community. But I just  
2 think it needs to be tightened up a little  
3 bit architecturally.

4 CHAIRMAN HOOD: Okay, thank you  
5 Commissioner Turnbull. Vice Chair?

6 VICE CHAIR COHEN: Thank you Mr.  
7 Chairman. Actually I concur with  
8 Commissioner Turnbull at his concern about  
9 the penthouse and its bulkiness, and I also  
10 agree that probably, although I cannot speak  
11 for him, I wouldn't even attempt to, but  
12 Commissioner May have some issues again with  
13 the dark color of the penthouse. So I would  
14 again really spend time evaluating that.

15 Can you turn to the prospective  
16 north building motor court please? Yes.

17 (Off the record discussion)

18 VICE CHAIR COHEN: I was just  
19 looking at the louvers on the left. What is  
20 their purpose?

21 MR. WALTERS: I'm sorry, you're  
22 pointing to over here?

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1                   VICE CHAIR COHEN:   Sort of like  
2 above the wall, yes.

3                   MR. WALTERS:    Yes, those?    I'm  
4 sorry, you're talking about right there?

5                   VICE CHAIR COHEN:   That's it.  
6 Thank you.

7                   MR. WALTERS:    That's the wall, if  
8 you heard me earlier, on the other side of  
9 that wall about two or three feet out is the  
10 loading dock for the new Safeway over there,  
11 and it's a rather robust environment with  
12 trucks to put.

13                   So that's why we're building the  
14 wall and the louvers, so we get some air flow  
15 through there.    It's not completely a hard  
16 wall, but we're trying to screen out what's  
17 going on over there in the loading of  
18 Safeway.

19                   VICE CHAIR COHEN:   Okay.

20                   MR. WALTERS:    And then also plant  
21 some greenery that could ultimately grow up  
22 those walls and soften that edge.

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1                   VICE CHAIR COHEN:    Yes, I think  
2                   that would be a good idea.  Can we also go  
3                   down to the, it was the park-like setting.  I  
4                   think there was like a long sort of roadway  
5                   that was covered for people to walk down.  
6                   And I was just wondering what type of  
7                   lighting there will be in that canopied  
8                   walkway.

9                   MR. WALTERS:    You mean this?

10                  VICE CHAIR COHEN:        No, keep  
11                  going.  See, I don't have the same --

12                  MR. WALTERS:        Oh, did you mean  
13                  the paseo?

14                  VICE CHAIR COHEN:    Yes.  When you  
15                  worked on the paseos, what kind of lighting?

16                  MR. WALTERS:        Actually that's  
17                  kind of fun.  We're proposing a series of  
18                  little slots of LED lights.  That would be a  
19                  wood panel.  And we've undulated that to give  
20                  it interest as you drive through, and there's  
21                  little slots with LED lighting that will  
22                  light that up.

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1                   VICE CHAIR COHEN:    So it's going  
2                   to be above?

3                   MR. WALTERS:     The lighting will  
4                   be above and it'll shine down onto the  
5                   ground.

6                   VICE CHAIR COHEN:   And you are  
7                   going to remove the walls, like the one that  
8                   shows on the corner of 3rd Street, S.W., and  
9                   M Street?

10                  MR. WALTERS:     Yes.    Yes, those  
11                  are going to be removed.

12                  VICE CHAIR COHEN:     And what  
13                  material will you be using for the fences?  
14                  Did you indicate what material?    Because I  
15                  would like to see the materials board that  
16                  you brought.

17                  MR. WALTERS:     I'm sorry, we don't  
18                  have the fencing on it.   It'll probably be of  
19                  pre-finished metal fencing with the, I had  
20                  that one drawing.   It will be a very simple  
21                  metal design, and then we'll be working with  
22                  the HPO staff.   The thought was at the gates,

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1 maybe they'd become something a little more  
2 decorative to signify a point of interest.

3 VICE CHAIR COHEN: And what are  
4 the times that the gates will be open and  
5 closed? I know you said it.

6 MR. WALTERS: Daylight hours.

7 VICE CHAIR COHEN: And that's  
8 just for the residents, that entrance and  
9 exit during daylight, or is it public?

10 MR. WALTERS: I think that opens  
11 up to the public.

12 VICE CHAIR COHEN: And is it  
13 obvious for the public to know that? I ask  
14 that question because this was a huge  
15 controversy in New York City that no one knew  
16 what was public and what was private. Will  
17 it be a --

18 MR. WALTERS: Your question was  
19 that it be propped open or would it be left  
20 closed and --

21 VICE CHAIR COHEN: Well, some  
22 people won't venture into something that

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1 looks like it's, you know, not welcoming.  
2 And then of course some of us do it anyway  
3 but --

4 MR. WALTERS: I guess we'll have  
5 to consider ways to make that readily  
6 apparent.

7 VICE CHAIR COHEN: Okay, that  
8 would be helpful. Okay, on the affordable  
9 housing. Again you are providing both IZ and  
10 a deeper subsidy units, correct?

11 MS. PRINCE: For purposes of this  
12 PUD we are absolutely agreeing to the full  
13 eight percent, 80 percent AMI units that are  
14 required under IZ. In addition, we have a  
15 separate LDDA.

16 Now in the interest of full  
17 disclosure, we have had discussions with the  
18 deputy mayor's office about the requirements  
19 of the LDDA because we're not entirely clear  
20 on how the ten-year term provision of the  
21 LDDA will mesh with IZ. So for purposes of  
22 this Zoning Commission for this PUD we want

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1 you to understand that regardless of what  
2 happens with the LDDA we're fully committing  
3 to IZ.

4 VICE CHAIR COHEN: Is it the ten  
5 years that is the issue, or is it the deeper  
6 subsidy that is at issue with the applicant?

7 MS. PRINCE: It's the fact that  
8 at the time that the LDDA was an entirely  
9 separately negotiated document with the  
10 deputy mayor's office with the counsel that  
11 was arrived at, at a time when IZ was on the  
12 horizon but not yet adopted.

13 And at that time, certainly there  
14 hadn't been the five hearings and complete  
15 thought given to the full panoply of issues  
16 that were raised in connection with IZ. So,  
17 you know, we didn't have the benefit of all  
18 that.

19 So the thinking at the time was  
20 that certainly shorter term, deeper levels of  
21 affordability was the preference. That  
22 changed very profoundly with IZ, and I

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1 participated in all those hearings and really  
2 remember vividly the discussions about the  
3 importance of perpetuity.

4 Our LDDA does require deeper  
5 levels of affordability and more units, but  
6 as I said that's a separate agreement.  
7 That's separate and before, you know, the  
8 deputy mayor's office, and therefore we felt  
9 it was important to make a commitment in  
10 connection with this PUD as to we will just  
11 fully comply with IZ, we'll be guaranteed the  
12 perpetuity of the 80 percent AMI units.

13 VICE CHAIR COHEN: When was the  
14 original LDDA signed?

15 MS. PRINCE: 2005, I believe. IZ  
16 was very much on the horizon but it had not  
17 yet been adopted.

18 VICE CHAIR COHEN: Yes, I  
19 understand that except the need is for the  
20 deeper subsidy units, if you look at who is  
21 on housing lists versus who is not on housing  
22 lists. I'm not saying that we don't need 80

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1 percent working families but we do need  
2 deeper subsidy which I was very pleased to  
3 see, frankly, even if was just for the ten  
4 years.

5 I would like to hear your point  
6 of view as to what sort of the individuals  
7 who came up or submitted their information to  
8 try to be opposed for the project, if you  
9 know anything about what they're talking  
10 about basically. If you have anything that  
11 you could just shed on that I'd like to know.

12 MS. PRINCE: I'd really like to  
13 address that issue. You know, the owners are  
14 obviously here, but just as a zoning lawyer  
15 who does this all the time, the last thing in  
16 the world we ever want to do is not get a lot  
17 of community comment and input on designs.

18  
19 And I think what we've seen in  
20 this PUD are some fairly dramatic changes  
21 that were made as a result of community  
22 input, including the removal of an entire

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1 building from the courtyard. Extensive  
2 discussions about privacy issues, the balcony  
3 treatment, the actual construction of a mock  
4 balcony to demonstrate to the community, you  
5 know, what would happen from a privacy  
6 standpoint with frosted glass, I mean many,  
7 many discussions. I do understand where  
8 this whole issue is coming from. It's not  
9 coming out of nowhere. It's coming out of  
10 the fact that from the time Bernstein bought  
11 the property they knew much as Fairfield did  
12 when they bought the companion Pei tower site  
13 that any redevelopment of the site would  
14 involve two new towers at the ends of the  
15 site.

16 And I think it was a very wise  
17 thing that they felt for the protection of  
18 all future purchasers, as well as their own  
19 protection, everyone needed to be on notice  
20 when they bought their condos, many of which  
21 were at deeply, deeply discounted values by  
22 the way, everyone needed to be on notice that

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1 these parking lots were not going to remain  
2 parking lots in perpetuity.

3           Unfortunately, when we reminded  
4 the community that wait a minute, there was  
5 plenty of public notice in the condo docs  
6 that these were going to be developed, that  
7 was seen as a gag order.

8           So what did we do after that? We  
9 just rolled up our sleeves and met and made  
10 changes and had meetings and incorporated  
11 changes to reach an agreement, which we in  
12 fact have with the Waterfront Towers  
13 association and the lawyers here tonight.

14           And we frankly thought this issue  
15 was completely resolved, because all we've  
16 been doing for the past two postponements is  
17 addressing all of these issues as they've  
18 come up.

19           So if there was an atmosphere of  
20 a gag order I can't imagine why we eliminated  
21 a whole building, built a mockup of a  
22 balcony, talked about film on windows and

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1 frosted glass and all the various things that  
2 we've discussed.

3 So we regret that there is still  
4 any lingering sense of that, but I think  
5 actions speak louder than words and we really  
6 have bent over backwards to get a lot of  
7 input and earned the support of the ANC which  
8 I think you'll hear tonight as well.

9 VICE CHAIR COHEN: Thank you.

10

11 Thank you Mr. Chairman.

12 CHAIRMAN HOOD: Ms. Prince, do  
13 any of the, let me ask this. The existing  
14 buildings, what's going on there with the  
15 existing buildings? People living in them?  
16 What's going on?

17 MS. PRINCE: That's a good  
18 question. One of the existing buildings was  
19 fully renovated by the Bernstein Companies  
20 and sold off as condominiums and that is the  
21 south building. That is the Waterfront Tower  
22 building. It is fully occupied.

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1                   CHAIRMAN HOOD:    Not to cut you  
2                   off but I have a problem, north-south being  
3                   confused with that.    The south building is  
4                   the one --

5                   MS. PRINCE:    Closer to M Street,  
6                   the building closer, the front side of the  
7                   street.

8                   CHAIRMAN HOOD:    How did they get  
9                   those names, north and south, when it seems  
10                  to me it would be exactly the, I mean, are we  
11                  going by the orientation of the city or, I  
12                  mean, how did they get north and south?

13                  MS. PRINCE:    It's south on the  
14                  site.    It's on the southern end of the site.

15                  MR. WALTERS:    We've rotated a lot  
16                  of our drawings too, so that might be the  
17                  confusion.    When this says north it's to the  
18                  right.    So when we refer to that building  
19                  we're referring to the south tower, and that  
20                  building the north tower.

21                  MS. PRINCE:    North is on top in  
22                  that drawing.    That's why you're getting

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1 confused.

2 CHAIRMAN HOOD: Okay, that's a  
3 whole other story.

4 MS. PRINCE: And then the north  
5 building is also tenanted and owned by --

6 CHAIRMAN HOOD: That's on the  
7 east side. This project is on the east side  
8 of the old east tower of the EPA building,  
9 correct?

10 MS. PRINCE: Correct. Exactly.

11 CHAIRMAN HOOD: And I don't know  
12 which building, the one right across from  
13 where the library is, is the library still  
14 there?

15 MS. PRINCE: That's the north  
16 building. And that building is tenanted as  
17 well.

18 CHAIRMAN HOOD: By the library,  
19 that's the north building.

20 MS. PRINCE: That's the north  
21 building.

22 CHAIRMAN HOOD: Okay, now I'm

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1 right. Okay. That's it. Now let me ask,  
2 occupancy. Some years ago I know they were  
3 having a problem filling it. People are  
4 living in that building now, right?

5 MS. PRINCE: Oh yes.

6 CHAIRMAN HOOD: Is it full?  
7 Because it used to be empty.

8 MS. PRINCE: A hundred percent  
9 full.

10 CHAIRMAN HOOD: Oh, things have  
11 changed.

12 MS. PRINCE: Things changed,  
13 once, you know, with the --

14 CHAIRMAN HOOD: Once EPA moved  
15 out. I'll have to tell them. Okay. All  
16 right, I'm just trying to understand all this  
17 going on. Mr., I'm sorry, what's your name?

18 MR. ROONEY: Rooney.

19 CHAIRMAN HOOD: Mr. Rooney. And  
20 I heard Ms. Prince's explanation of the young  
21 lady who came up and get sued. Early on,  
22 obviously, I think, and I appreciate Ms.

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1 Prince bringing it up, because a lot of  
2 places in the city has parking lots which,  
3 you know, eventually are going to be built  
4 on. So was it the person who owned it prior  
5 to you that set that in motion about, you  
6 know, these parking lots are going to be  
7 built on, or who set that in motion?

8 MR. ROONEY: We set it in motion  
9 with the tenant association. The tenant  
10 association's lawyer was Rick Eisen at the  
11 time, and he actually crafted the condo docs.

12 So when we took the condo docs to  
13 put it into the public offering statement  
14 when we started selling the condos, there are  
15 the majority of those condo docs are written  
16 by the tenants' association's lawyers.

17 CHAIRMAN HOOD: So you put that  
18 in motion. So somebody was there prior to  
19 you coming. I think you all gave them a way  
20 to opt out.

21 MR. ROONEY: That's right.

22 CHAIRMAN HOOD: Right, okay.

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1           MR. ROONEY:    So their dream was  
2   home ownership.    A little bit of the  
3   background is we only bought the buildings  
4   and District still owned the land.    So the  
5   tenants' association had to work specifically  
6   with Sharon Ambrose to buy the fee from the  
7   District.

8           We went along with it, but they  
9   really did the negotiating with the District.

10          That's where the LDDA came from.    I think at  
11   the time the rent on the land was extremely  
12   affordable, \$75,000 a year.

13          By the time we add up the value  
14   of the LDDA we spent millions buying the land  
15   for the tenants' association.    So, you know,  
16   the 28 unit owners who finally moved in and  
17   bought a condo, there was dozens others that  
18   opted not to buy a condo.

19          There's also financing problems  
20   that people had.    We actually financed, we  
21   promised the tenants' association home  
22   ownership and we gave it to them, a number of

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1       them couldn't even qualify for HPAP or any  
2       types of loan, so we're currently carrying  
3       quite a few loans for those tenant  
4       associations.       It's a really remarkable  
5       story.

6                   CHAIRMAN HOOD:     Okay.     And Ms.  
7       Prince, let's talk about, and I'm sure I want  
8       to continue the discussion from last week  
9       about this RPP.     What is your impression?

10                   One of the things that I'm sure  
11       this Commission does not want to happen is a  
12       community believes that somebody's not going  
13       to enter into our RPP, and then at some point  
14       in time, 15 years from now they're able to  
15       qualify or the community's able to qualify  
16       for RPP.     What is your understanding of that  
17       whole process?

18                   MS. PRINCE:     I'm going to let Rob  
19       Schiesel address the RPP issue.

20                   MR. SCHIESEL:     The applicant is  
21       willing to make several commitments regarding  
22       RPP as far as going and requesting that the

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1 DMV remove the building's address from their  
2 database that allows them, the residents,  
3 when they get their power and register to get  
4 residential parking permit.

5 In addition, they can put  
6 language regarding the reselling of the units  
7 that the same type of commitment confers and  
8 that they will put language in all the leases  
9 and any agreements to let residents know that  
10 they will not be eligible for RPP before they  
11 get into an agreement to live there.

12 As far as I cannot speak to some  
13 of the legal processes of how these things  
14 get enacted, but all those commitments are  
15 willing to be made to make sure that what  
16 they're saying actually happens.

17 CHAIRMAN HOOD: So the difference  
18 here is it's going to be in the lease  
19 agreements. That's what you're committed to  
20 is going to be in the lease agreements.

21 MR. ROONEY: I don't exactly know  
22 how the legal side works, but something to

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1 that effect.

2 MS. PRINCE: Lease or purchase.

3 CHAIRMAN HOOD: Lease or purchase  
4 agreement. Okay. But it would be more than  
5 just, okay, right now we're going to remove  
6 this from RPP. You can't get an RPP sticker  
7 if you live in these buildings. There's a  
8 little more to it than that.

9 MS. PRINCE: Oh yes, to make it  
10 enforceable.

11 CHAIRMAN HOOD: Okay, just wanted  
12 to get that on the record. Commissioner  
13 Turnbull talked about the, I actually thought  
14 it was two alternatives. I guess I didn't  
15 turn over here what I did.

16 But the applicants have  
17 contributed a total value of \$200,000 for one  
18 or more of the following public amenities.  
19 We need to nail that down a little. I  
20 understand where we're going because there's  
21 certain things that may happen, but at the  
22 end of the day, if DPR feels like they don't

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1 need these improvements it goes to, I think,  
2 the splash pot with a priority given to the  
3 splash pots. So who ends up with what after  
4 we get through these three "and" and "ors"?  
5 Who ends up with what? And I'll go to the  
6 vice president. We kind of need to nail that  
7 down.

8 MR. ROONEY: We worked, one of  
9 the reasons this got brought up in the  
10 beginning, it was clear, Allison made it  
11 clear that you didn't want cash payments  
12 floating around. So that's why we brought on  
13 DPR.

14 At the time, DPR did not have,  
15 prior to about a year ago, did not have a  
16 planning and design officer. They do now.  
17 Sarah Moulton is her name. And she has  
18 finally been able to coordinate some of these  
19 things.

20 So we made sure before we went  
21 down this road that DPR would be, we would be  
22 managing construction or whatever needed to

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1 be happening, but we wouldn't be giving CBCC  
2 or, we were going to be giving monies  
3 directly in coordination with DPR.

4 One of the things going on is  
5 that Southwest small area plan review going  
6 on, and the ANC wanted to make sure whatever  
7 our amenity package was, was consistent with  
8 that going forward. So they spent a lot of  
9 time, ANC, CBCC and DPR making sure that this  
10 was a legal way of doing it in capturing the  
11 dollars.

12 And they wanted to stick the  
13 dollars in one of those two places. They put  
14 in, ANC specifically asked for and/or because  
15 they wanted the flexibility, if Randall Park  
16 only used a hundred of it we could use the  
17 other hundred.

18 They didn't want us to say, to  
19 commit, Randall's fully committed or fully  
20 subsidized so we don't have to give the  
21 money. They wanted to make sure that we were  
22 going to give the full \$200,000. That's why

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1 they added on Landsburg Park.

2 There was also at the time --

3 CHAIRMAN HOOD: So let me ask  
4 this. It won't be any money going to DPR?

5 MR. ROONEY: DPR is going to be  
6 managing direct. We're going to be following  
7 their direction on this.

8 CHAIRMAN HOOD: So, but I mean  
9 there won't be a payment going to them.

10 MR. ROONEY: No, we're supposed  
11 to manage the construction process.

12 CHAIRMAN HOOD: Because things  
13 change, people change.

14 MR. ROONEY: Right.

15 CHAIRMAN HOOD: ANC commissioners  
16 change, and I'm sure that ANC 6D would not  
17 like to see that money come over to something  
18 in my neighborhood.

19 MR. ROONEY: Right.

20 CHAIRMAN HOOD: Okay. That's my  
21 point. I would like to see that.

22 MR. ROONEY: An example I would

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1 put in the other one was also because at the  
2 time when we were negotiating this school  
3 project at the Randall Rec Center was a  
4 viable option to wipe out the Rec Center. So  
5 it now seems that Randall is good and Kipp  
6 School is not going there for the time being,  
7 and so we're committed to Randall Rec Center.

8 CHAIRMAN HOOD: So again, it  
9 won't be a cash payment. You will find out  
10 what needs to be done and --

11 MR. ROONEY: That's right.

12 CHAIRMAN HOOD: Okay.

13 MR. TURNBULL: We can work with  
14 it.

15 CHAIRMAN HOOD: Okay. Because I  
16 know these commissioners are very good.  
17 They've been doing this a long time, Chairman  
18 Litsky, Mr. Moffatt and others.

19 All right, Mr. Schiesel, I'm  
20 sorry you didn't bring the slides because I  
21 wanted you to take me on a ride or a bicycle  
22 around the whole site. But I actually liked

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1 the animation. Can we do that one more time?

2 MS. PRINCE: Sure.

3 CHAIRMAN HOOD: And I'll tell you  
4 that may get to the question I have for you  
5 about how the circulation pattern around the  
6 site is, even though I know how M Street and  
7 all that goes. But maybe the animation may  
8 get it going.

9 Actually, like this, could you  
10 tell me the name of the software?

11 MR. WALTERS: Lumion. It's a  
12 plug-in to the, the main software we use is  
13 Revit, but this is --

14 CHAIRMAN HOOD: Turn your mic on.

15 MR. WALTERS: The software, this  
16 is produced and it's called Lumion. It's a  
17 new software package that we export our model  
18 from Revit into it when making animation.

19 CHAIRMAN HOOD: Okay, very  
20 helpful.

21 MR. WALTERS: So we're starting  
22 on 3rd Street and you see M Street on the

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1 left. The existing traffic patterns on 3rd  
2 Street pretty much don't change. One thing I  
3 forgot to mention is there is an existing  
4 curb cut back down on M Street that is  
5 removed as a function of this project. So  
6 traffic patterns very similar.

7           When we do go along K Street,  
8 another thing I forgot to mention with the  
9 paseo is the curb cut there virtually  
10 corresponds exactly to where the curb cut is  
11 to enter the parking lot. So that was  
12 something we did to not kind of move curb  
13 cuts there. So again the traffic pattern is  
14 very similar to the way they exist today.

15           Over here on the lower right,  
16 that's where you'd see the private --

17           (Off microphone comments)

18           MR. WALTERS: And your private  
19 street right there that provides access to  
20 the garage as in the loading and the motor  
21 court. And there is currently a bus stop on  
22 this site, and you would, as you're seeing

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1 here there would be a bus stop.

2 CHAIRMAN HOOD: Have the  
3 residents that live in Greenleaf, have they  
4 been involved? I haven't heard them even  
5 mentioned. Have they been involved in this  
6 whole thing, Ms. Prince?

7 MS. PRINCE: They certainly have  
8 gotten all the required notices and there  
9 have been many ANC meetings, but, you know, I  
10 personally have not had any direct  
11 discussions with Greenleaf residents. I  
12 don't know.

13 CHAIRMAN HOOD: I'm sure their  
14 ANC commissioner has been involved, so I'll  
15 talk to Mr. Moffatt.

16 Okay, any other questions? I  
17 think it's Mr. Turnbull.

18 MR. TURNBULL: Yes, Mr. Chair, if  
19 I might. I just wanted to go back, getting  
20 back to the question of the vice chair and  
21 Ms. Prince was talking about the gag order.  
22 So as far as you know there were no letters

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1 sent out telling people that they were going  
2 to be sued?

3 MS. PRINCE: I mentioned that the  
4 original condo documents had language noting  
5 to all the purchasers that the lots would be  
6 developed. And we did send a letter to the  
7 residents of Waterfront Tower quite awhile  
8 ago reminding them that this was in the condo  
9 docs, and you're now suggesting that you have  
10 concern about any building go there, please,  
11 you are aware or you should have been aware  
12 that there were buildings going to go there.

13 That was the letter that was  
14 perceived as very negative, major. And so  
15 there was a follow-up letter, you know, that  
16 encouraged, I believe, the dialogue that that  
17 in fact happened. And subsequent to the  
18 follow-up letter we never got any suggestion  
19 that people felt that that didn't address  
20 their concern.

21 And because there was so much  
22 dialogue particularly following that letter,

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1 frankly, we thought it was a closed issue. I  
2 mean, after that letter a landmark  
3 application was filed that we supported.  
4 Some people spoke in opposition to our  
5 conceptual design approval at HPRB. We  
6 certainly had continued discussions about  
7 concerns that residents had. But the  
8 end result was, and we can let Waterfront  
9 Tower speak for themselves, but we addressed  
10 so many of their concerns that they are in a  
11 position to support the application.

12 So I don't, you know, I regret  
13 that it was perceived that way, but I believe  
14 that we did everything we could have done,  
15 you know, to correct that perception by our  
16 subsequent actions.

17 MR. TURNBULL: Okay, thank you.

18 The only other thing I had, and  
19 it was you commented about the transit  
20 screens, the transit screens for the lobbies  
21 that the Department of Transportation would  
22 like. Just so you know, we had a hearing

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1 last week with a PUD, North Capitol and  
2 Florida.

3 One building came back for a  
4 modification. They actually lowered their  
5 building, changed their penthouse, did a lot  
6 of different things and it's a beautiful  
7 building. It's going to be a nice addition  
8 to their neighborhood. And you know what  
9 they're putting in the lobby? The transit  
10 screens. Because I'll tell you  
11 something, when you talk about technology and  
12 you don't know where it's going, you know,  
13 next year there's going to be a new iPhone.  
14 And the year after that, you know, it's like  
15 Beta and VHS. This is minuscule. This is  
16 minuscule. You've got the  
17 connection in the wall and if it changes to  
18 some other flat screen technology it changes.  
19 I think you're missing a tremendous  
20 opportunity for the people in your building.  
21 And I think DDOT is trying to make this city  
22 more accessible to everybody. So if a

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1 building which is one quarter the size of  
2 this PUD is willing to go and do it it's  
3 peanuts.

4 Thank you Mr. Chair.

5 CHAIRMAN HOOD: Thank you, and I  
6 agree with you Mr. Turnbull. Vice Chair?

7 VICE CHAIR COHEN: Yes, I just  
8 have a quick question. The year that you  
9 converted from rental to condominium, did you  
10 have to follow the Tenant Opportunity to  
11 Purchase Act? TOPA?

12 MR. ROONEY: Yes, that's what I  
13 meant by the tenants' association that was  
14 formed. So the tenants' association I think  
15 was 80, 90 people in the association and  
16 about a third of those purchased.

17 VICE CHAIR COHEN: Thanks.

18 MR. ROONEY: Yes.

19 CHAIRMAN HOOD: Mr. Rooney, how  
20 long have you owned the property? How long  
21 have you owned the buildings?

22 MR. ROONEY: We've owned them

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1 since '04, I believe.

2 CHAIRMAN HOOD: 2004?

3 MR. ROONEY: Yes, 2004.

4 CHAIRMAN HOOD: Okay, thank you.

5 Any other questions up here? Let's see if  
6 we have any cross examination. Does ANC 6D  
7 have any cross? No cross. Does Waterfront  
8 Tower Condominium have any cross?

9 MALE PARTICIPANT: No sir.

10 CHAIRMAN HOOD: No cross. And  
11 Carrollsburg, A Condominium, any cross?

12 FEMALE PARTICIPANT: No, sir.

13 CHAIRMAN HOOD: All right, let's  
14 go to the Office of Planning and DDOT. We'll  
15 hear both your points at the same time. Mr.  
16 Goldstein and then Mr. El-Amin.

17 MR. GOLDSTEIN: Good evening, Mr.  
18 Chair and members of the Commission. The  
19 Office of Planning recommends approval  
20 subject to conditions that were outlined in  
21 the Office of Planning report.

22 Just to summarize, one was a

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1 clarification of the development timeline  
2 that we are suggesting. The second was an  
3 earlier trigger to the benefits and amenities  
4 package, which is also another thing that we  
5 suggested. OP now understands that the  
6 relief request from IZ has been withdrawn.  
7 We've heard some information about that.

8 One thing that came up, I also  
9 concur with the Commission. I would like the  
10 access to the courtyards to be clarified. I  
11 think the latest submission seems to say that  
12 they would all be accessible from the east  
13 during the daytime hours, and so just noting  
14 that.

15 Since the setdown meeting as  
16 you've heard, there have been a number of  
17 changes that have actually strengthened the  
18 proposal, and OP notes that HPRB approved the  
19 project, in concept, subject to comments  
20 regarding a few areas of the design, and that  
21 was at the September 26th meeting. And OP  
22 understands that the project will return to

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1 the HPRB for additional review.

2           Considering the comprehensive  
3 plan, the future land use map designates the  
4 site as residential high density, and the  
5 proposed CR zoning would be consistent with  
6 that and would largely accommodate the  
7 residential project's additional height.

8           The Office of Planning recommends  
9 that the Commission approve the project  
10 subject to conditions, and we're available  
11 for any questions that you may have.

12           CHAIRMAN HOOD: Thank you Mr.  
13 Goldstein. Mr. El-Amin?

14           MR. EL-AMIN: Thank you Mr.  
15 Chairman and fellow board members. The  
16 applicant has accurately described our  
17 requested conditions as noted in our report.

18           I would like to reiterate that we  
19 do stand by our recommendation for the  
20 transit screens. On the scale of things  
21 these are minimal cost, roughly \$2,000 or in  
22 that ballpark, and we find that they will be

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1 very useful to residents and it provides a  
2 great benefit for those that just would like  
3 to actually have that information as they're  
4 entering or leaving the residential units.  
5 So we think it would be a great asset and  
6 benefit to the site and also help with TDM  
7 measures. Another point I wanted  
8 to make is that we find that the site will  
9 generate minimal or nonsignificant amounts of  
10 new vehicle trips in terms of the new units  
11 that would be developed on the site.

12 And then lastly, I wanted to just  
13 briefly address one of the concerns that was  
14 raised in the ANC report relating to a curb  
15 cut on 3rd Street. During the comprehensive  
16 transportation review process we met with the  
17 applicant to review different access options  
18 with regards to how the property would be  
19 accessed.

20 And through those discussions it  
21 was determined that K Street would provide  
22 the most suitable access to the site, and so

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1 that was what we kind of based our review  
2 upon. And so we were looking primarily at  
3 the number of curb cuts not necessarily that  
4 it be on 3rd versus K Street. So just wanted  
5 to make that point of clarification, and that  
6 concludes my report. Thank you.

7 CHAIRMAN HOOD: Thank you both.  
8 Commissioners, any questions? Commissioner  
9 Turnbull?

10 MR. TURNBULL: Yes, Mr. Chair, I  
11 just have one for Mr. Goldstein. Mr.  
12 Goldstein, what percentage of the rooftop  
13 relief for penthouses do you feel is  
14 appropriate on any PUD?

15 MR. GOLDSTEIN: I don't have an  
16 answer, a specific number. I believe the  
17 rooftop has to have less than 0.37 FAR.  
18 Certainly I've heard the Commission mention  
19 that they think this penthouse is too large,  
20 so it's something that we can continue to  
21 have conversations or be thinking about.

22 MR. TURNBULL: Okay. I won't

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1 press you any further, thank you.

2 CHAIRMAN HOOD: Is there any  
3 other questions? Okay, let's see if we have  
4 any cross examination of ANC 6D? Mr.  
5 Moffatt, any cross of either one, Office of  
6 Planning or DDOT? Waterfront Towers  
7 Condominiums, any cross examination of either  
8 one? Okay. And Carrollsburg, A Condominium,  
9 any cross? Okay, thank you very much.

10 Let's go to the report of other  
11 government agencies. Vice Chair, do we have  
12 a report from any other government agencies?

13 VICE CHAIR COHEN: Yes, sir. We  
14 do. We have one from DC Water and they say  
15 that the, basically there is enough water and  
16 sewer demand for the proposed buildings. And  
17 their final determination of the existing  
18 public systems, the ability to support the  
19 proposed project, cannot be made until  
20 detailed plans are submitted to DC Water for  
21 review.

22 CHAIRMAN HOOD: Okay, and thank

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1 you, Vice Chair. And also we had a comment  
2 from MPD in the Office of Planning report.  
3 I'm sure my colleagues have read that.  
4 That's one of the questions I meant to ask  
5 the applicant about, but maybe I'll do it  
6 when they come back up.

7 Any other reports that I may have  
8 missed? Okay, thank you. Let's go to the  
9 report of the ANC 6D. I want to ask  
10 Commissioner Moffatt, I think you're  
11 representing the ANC.

12 And let me just say, we do have  
13 some other letters from the Community  
14 Benefits Coordinating Council. I do see one  
15 from Arena Stage, and we've got some other  
16 letters that are in the file. So noted.

17 Okay, Commissioner Moffatt,  
18 welcome. Okay, LCOR also. Thank you.

19 MR. MOFFATT: Good evening  
20 Chairman Hood and other distinguished  
21 commissioners of the Zoning Commission of the  
22 District of Columbia, and good evening to

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1 fellow citizens of the District of Columbia.

2 My name is Roger Moffatt, and as  
3 commissioner of ANC 6D05 I'm here tonight to  
4 speak on behalf of ANC 6D. At a duly noticed  
5 public meeting on Monday, September 9, 2013,  
6 at which a quorum, four being a quorum, of  
7 ANC commissioners attended, ANC 6D voted 4-0-  
8 1 to conditionally support ZC Number 1214 and  
9 1214A for approval of PUD contingent upon the  
10 developer's inclusion of the PUD filing,  
11 acceptance of the list of conditions and  
12 construction management plan, both of which  
13 were submitted online, and Form 129, the ANC  
14 report, and their recommendations.

15 This has been a long process in  
16 moving the initial plan provided to the ANC  
17 to the plan that is front of the Zoning  
18 Commission tonight. Of course this process  
19 has involved work by the ANC, but we were but  
20 a small part of the work.

21 The residents of the Waterfront  
22 Tower Condominium, WFT, and indeed the entire

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1 community played a huge part in making this  
2 project better. WFT worked with the  
3 applicant and the ANC to define what they  
4 wanted and needed to make the project work  
5 for the residents currently residing within  
6 the footprint of the PUD.

7 Privacy remains their greatest  
8 concern because virtually the entirety of  
9 their apartment is glass and the proposed  
10 south building will be a mere 63 feet away.

11 The applicant agreed to make  
12 changes to enhance privacy, including making  
13 the balconies Juliet that will be less than  
14 two feet deep and will have a four and a half  
15 foot frosted glass panel that will dissuade  
16 persons from congregating on the balcony for  
17 long periods of time, and preclude persons  
18 from seeing or being seen while sitting, and  
19 the applicant has agreed to explore window  
20 treatment in WFT that is workable with the  
21 historical designation of both PEI buildings  
22 within the PUD site.

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1           This historical designation is  
2 where the community involvement came into  
3 play in making the project better. The  
4 Southwest neighborhood assembly, along with  
5 countless others from the ANC 6D service  
6 area, worked tirelessly to secure a  
7 historical designation for the I.M. Pei  
8 buildings on this site along with the open  
9 spaces associated with them.

10           This action helps the guarantee  
11 of the maintenance and continuation of the  
12 Southwest character exemplified by varying  
13 height, open green space and the ability to  
14 have the line of site through buildings.

15           For reasons stated in prior  
16 testimony and in other cases, the ANC  
17 continues to have significant concerns about  
18 development along M Street that allows for  
19 buildings to tower over other existing mid-  
20 century residential structures.

21           This, coupled with a lack of  
22 appropriate setback, is inconsistent with

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1 what we find in residential projects south of  
2 M Street. Such development will continue to  
3 create an unfortunate imbalance that extends  
4 east to South Capitol Street should it  
5 continue to evolve in that manner.

6 Consequently, the ANC chose to  
7 try to improve the PUD by seeking removal of  
8 the shorter center building facing 3rd  
9 Street. Our thought was that not building  
10 between the PEI buildings on 3rd would open  
11 the site to the community and actually allow  
12 the current buildings to retain an address  
13 attached to a beautiful building rather than  
14 one where the end of the building only is  
15 beautiful.

16 The applicant has agreed perhaps  
17 for not the same reasons, nonetheless it was  
18 a remarkably positive decision to agree to  
19 remove the building from the plan.

20 The following is not an  
21 indictment of the applicant but of DDOT, who  
22 steadfastly refuses to allow curb cuts. In

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1 this case, curb cuts on 3rd Street would open  
2 up the project to the community to the east  
3 by making it less centered to the Metro stop.

4 This would be an agreement with  
5 the OP setdown which advises breaking up the  
6 superblocks in Southwest, while DDOT's mantra  
7 against curb cuts further promotes  
8 superblocks. In addition, the ANC worked to  
9 have the parking lot that remains between the  
10 PEI buildings to be taken underground.  
11 Unfortunately, each of the spaces is  
12 individually owned and not everyone, which is  
13 a requirement, believes that a garage parking  
14 is better.

15 We believe and still contend that  
16 additional green space and less asphalt  
17 between the two buildings would have raised  
18 the values of all apartments in the complex  
19 as well at the same time enhancing  
20 livability. The following was  
21 received from the applicant who has added the  
22 same to the PUD filing copy and applicant

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1 cover attached hereto. This along with the  
2 promises and commitments already made in the  
3 filing are a basis for our support for the  
4 PUD.

5 The PUD application will not  
6 include the previously included center  
7 building, all subsequent submissions to the  
8 Zoning Commission and HPRB for the PUD will  
9 not include the center building.

10 The applicant will work with the  
11 ANC and HPO to create a signage plan for K,  
12 M, and 3rd Streets that precludes arts and  
13 billboards on the side of buildings. The  
14 applicant will work with ANC and HPO to  
15 address gate/door designs for new entrances  
16 from 3rd Street, S.W., modification to the  
17 west end of 1101 3rd Street for ADA access  
18 and for trash container storage, and window  
19 treatment and film energy efficiency for WFT.

20 Prior to the issuance of a  
21 certificate of occupancy for the first  
22 building, the applicant will take all

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1 necessary steps to remove all building in the  
2 PUD from residential permit parking that  
3 would be zoned for so long as such removal is  
4 legal.

5 Necessary steps include the  
6 following. One, the applicant will send a  
7 letter to the Department of Motor Vehicles  
8 and Department of Transportation requesting  
9 removal of addresses of new buildings, with  
10 copies of it filed with the ANC.

11 Two, the applicant will include  
12 the RPP exemption notice and leases and/or  
13 sales agreements for new buildings. The  
14 applicants shall abide by the terms reached  
15 on the construction management plan. The  
16 applicant will have the opportunity to make  
17 any necessary changes to the CMP through  
18 process delineated in the CMP.

19 To the extent of any of the  
20 buildings in the PUD may have different  
21 ownership in the future, easements preserving  
22 pedestrian and vehicle access for the entire

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1 PUD site, particularly the courtyard and the  
2 parking areas, will be recorded.

3 The easements will remain with  
4 and convey with the land. The applicant  
5 shall contribute a value of \$200,000 for one  
6 or more of the following public amenities,  
7 and they've read this several times, so I  
8 think you might have heard these enough  
9 already. If you want me to I'll go back over  
10 them.

11 Number 8, as indicated on the  
12 plans, the applicant shall retain the ADA  
13 compliant dropoffs that are between the two  
14 south buildings and between the two north  
15 buildings. The applicant shall provide  
16 electric vehicle charging stations in the  
17 locations indicated on the plans.

18 As indicated on the plans the  
19 applicant will install frosted glass panels  
20 on Juliet balconies. The applicant shall  
21 prohibit smoking in the building so long as  
22 the applicant owns the buildings. If any of

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1 the buildings become condominiums then the  
2 applicant shall include a prohibition on  
3 smoking in the condominium declarations.

4 The September 9th ANC approved  
5 motion allows me and the negotiating  
6 committee to unconditionally support the PUD  
7 if the conditions outlined were met. Having  
8 filed the above with the Office of Zoning,  
9 they enable the side shoulder to be crossed.

10 For these reasons we believe that  
11 the project will be beneficial to the  
12 community and we ask the Commission to  
13 approve the PUD application. Thank you for  
14 allowing me to speak and hearing on behalf of  
15 the ANC 6D and our constituents.

16 CHAIRMAN HOOD: Okay. I want to  
17 thank you Commissioner Moffatt in all the  
18 work the ANC and the groups have done on this  
19 report to us tonight. Let's see if we can  
20 get, anybody have any questions now?

21 Commissioner Turnbull?

22 MR. TURNBULL: Thank you Mr.

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1 Chair. Commissioner Moffatt, thank you for  
2 coming, and it sounds like you put in a lot  
3 of time on this.

4 MR. MOFFATT: A little bit.

5 MR. TURNBULL: I just had one  
6 question. There were four members present at  
7 the meeting? I mean, there was seven members  
8 present?

9 MR. MOFFATT: Actually that was  
10 what was listed on the thing that we  
11 reported. It was 4-0-1 was the vote at the  
12 time that we took the vote.

13 MR. TURNBULL: Okay, I was just  
14 curious because it said seven. I'm just  
15 wondering what the other people did or --

16 MR. MOFFATT: They probably left,  
17 because it should have actually said five.

18 MR. TURNBULL: Okay.

19 MR. MOFFATT: Because at the time  
20 the vote was taken --

21 MR. TURNBULL: There was five.

22 MR. MOFFATT: Yes.

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1 MR. TURNBULL: Okay, got you.

2 Thank you.

3 CHAIRMAN HOOD: Vice Chair?

4 MR. TURNBULL: Oh yes. Thank  
5 you, Mr. Chair.

6 MR. MOFFATT: Did you have a  
7 comment or a question about Greenleaf annex?

8 VICE CHAIR COHEN: Yes.

9 CHAIRMAN HOOD: The vice chair  
10 makes me go last, but if she asks first then  
11 --

12 MR. MOFFATT: Oh I'm sorry. I  
13 thought you were all finished.

14 VICE CHAIR COHEN: No, actually  
15 now that you bring up Greenleaf, you do  
16 represent that particular property, is that  
17 correct?

18 MR. MOFFATT: Actually no, that's  
19 Commissioner Keith McBee's area. Mine is,  
20 grabbed a little piece of his across the  
21 street there. However, you can ask a  
22 question.

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1                   VICE CHAIR COHEN: Well, do these  
2 people attend your meetings? Do you reach  
3 out to them? You know, are they active in --

4                   MR. MOFFATT: He reaches out to  
5 them all the time. Right now their main  
6 concern is what's going to happen with their  
7 property in the future. But as far as  
8 access, I am sure that they would, this would  
9 be a supposition, but I think they would like  
10 to have access across there. It would be  
11 much more simpler to walk through than all  
12 the way around.

13                  VICE CHAIR COHEN: Now that the  
14 developer has agreed to meet inclusionary  
15 zoning, what is, you know, the ANC's  
16 position, your position with regard to  
17 keeping in place the agreement set forth by  
18 the LDDA of having greater affordability as  
19 well in the project?

20                  MR. MOFFATT: We haven't really  
21 discussed that to any great extent. We did  
22 ask the question of why low income housing

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1 would be made at a lesser level with worse  
2 appliances and that type of information, and  
3 the answer is that that is according to what  
4 regulations specify.

5 VICE CHAIR COHEN: No, I thought  
6 at the briefing it would be comparable. You  
7 know, the units had to be throughout the  
8 building and all the, just so you know what I  
9 understand is that everything has to be  
10 comparable. They may have higher appliances,  
11 but more or less I think they have to have  
12 comparability.

13 MR. MOFFATT: Well, I think they  
14 are spread throughout the building. But what  
15 we were saying was that the appliances and  
16 those type of things, such as another one  
17 that I can recall as a specific example was  
18 on the Arthur Capper when they came in and  
19 asked that the corner units have trash cans  
20 on the outside and all the corner units were  
21 going to be low income.

22 Well, I voted no, but it went all

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1 the way through. But that's where we are on  
2 that. I don't know whether that really  
3 answers your question or not.

4 VICE CHAIR COHEN: I think it  
5 does, thank you.

6 CHAIRMAN HOOD: Okay. Thank you  
7 for answering the question about Greenleaf.  
8 You mentioned that the residents agreeing  
9 they wanted to be able to cut through?

10 MR. MOFFATT: Well, I'm just  
11 saying rather than if you're locked out  
12 constantly from going through a gated  
13 community, and I'm not speaking for or  
14 against a gated community, I'm just saying  
15 that you would rather walk through than going  
16 to the corner. I would rather walk through  
17 than walk to the corner.

18 And actually that's one thing  
19 that I was saying here and when I was talking  
20 about the curb cut on 3rd Street. Because  
21 that also allows the address for 3rd Street  
22 to be more, if you have a place that you can

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1 be dropped off there rather than having to go  
2 over to the center of this complex it keeps  
3 that from being a superblock situation.

4 It includes people and makes them  
5 part of the community, at least I look at it  
6 that way, rather than everything being Metro-  
7 centric there it actually pulls it out a bit.

8 CHAIRMAN HOOD: Okay. All right,  
9 thank you very much. Any other questions up  
10 here? Do we have any cross examination?  
11 Waterfront Towers? Okay, and Carrollsburg, A  
12 Condominium. Okay, thank you Mr. Moffatt.

13 MR. MOFFATT: Thank you.

14 CHAIRMAN HOOD: Oh, I'm sorry.  
15 Does the applicant have any cross? Okay,  
16 with that support letter I didn't think so,  
17 but I didn't mean to miss you.

18 Okay, I have a potential issue  
19 that I'm just not sure if it was raised, and  
20 we should have discussed this earlier. We  
21 gave the Waterfront Tower Condominium party  
22 status and support, and I know that they're

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1 requesting an hour and a half.

2 First of all, we don't give an  
3 hour and a half. You have to split your time  
4 with the applicant. And the applicant, I  
5 don't know if this was worked out, Ms.  
6 Prince, earlier, because you all left them  
7 six minutes.

8 MR. LA FIANDRA: Sir, I think  
9 that we can use that --

10 CHAIRMAN HOOD: Okay, have a  
11 seat.

12 MR. LA FIANDRA: -- maybe four  
13 minutes.

14 CHAIRMAN HOOD: Well, you know I  
15 want you to have a seat. I don't have issue  
16 with that. Have a seat. Good, thank you. I  
17 heard what you said, but you --

18 MR. LA FIANDRA: Thank you very  
19 much.

20 CHAIRMAN HOOD: But typically  
21 it's the total of an hour and you have to  
22 share with the applicant and that stuff

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1 should have been worked out earlier.

2 MR. LA FIANDRA: That's fine.

3 CHAIRMAN HOOD: We'll give you  
4 seven minutes.

5 MR. LA FIANDRA: Thank you very  
6 much.

7 CHAIRMAN HOOD: Make sure your  
8 microphone is on and you may begin.

9 MR. LA FIANDRA: I believe the  
10 microphone is on. My name is Dino --

11 CHAIRMAN HOOD: No, I don't think  
12 it's on.

13 MR. LA FIANDRA: Oh. How's that?

14 CHAIRMAN HOOD: There you go.

15 MR. LA FIANDRA: Thank you very  
16 much. My name is Dino La Fiandra. I'm an  
17 attorney with the law firm of Whiteford,  
18 Taylor & Preston. It's my pleasure to  
19 represent Waterfront Tower Condominium  
20 Association, the board of that condominium  
21 association.

22 My law firm has an office in

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1 Washington, D.C., at 1025 Connecticut Avenue.

2 My office is located in Towson, Maryland.

3 I was not prepared, actually, to  
4 discuss the letter that has referred to  
5 tonight, but I will say that I concur with  
6 Ms. Prince's characterization of the efforts  
7 that the developers made since that letter  
8 was circulated, and the efforts that the  
9 developer has made since that time.

10 The developer has worked with the  
11 board and many of the residents, and while  
12 you cannot please everybody on all the issues  
13 there certainly has been a fair amount of  
14 progress made on this plan. I can tell you  
15 that the board of the condominium association  
16 does not oppose this plan. That's the  
17 statement that I'm prepared to make.

18 Over the course of several  
19 meetings and emails and telephone calls we  
20 supplied a list of concerns. The developer  
21 was responsive where they could be. Our  
22 primary concerns were in the area of privacy

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1 as it related to the proximity of the  
2 proposed building, particularly to the south  
3 side of the existing building.

4 And the developer made some  
5 design changes as it related to the balconies  
6 that will be facing the south face of the  
7 existing building. They made the balconies  
8 narrower from front to back. They have now  
9 become what are being referred to as Juliet  
10 balconies. They've also agreed to use some  
11 type of frosted glass.

12 And another area that was of  
13 concern was for maintenance of various common  
14 areas that are being proposed, both the  
15 common area which will be created between the  
16 two buildings, the new south building which  
17 is being proposed to be built and the  
18 existing Waterfront building, and also the  
19 existing common area which is referred to as  
20 the courtyard, between the two existing Pei  
21 buildings.

22 And as recently as today the

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1 developer has agreed to examine the  
2 respective obligations of the parties as it  
3 relates to the maintenance and the expense  
4 obligations with an eye toward, I don't want  
5 to misstate what we agreed to, but with an  
6 eye toward examining the respective  
7 obligations of the parties to see if any  
8 adjustments need to be made for those expense  
9 obligations. And we intend to look at those  
10 obligations over the next 30 days.

11 So perhaps I've taken about four  
12 minutes of your time, and the Waterfront  
13 Towers Condominium board is here with a  
14 statement of not opposing this development.

15 CHAIRMAN HOOD: Let me just ask,  
16 do we have anything in the file other than  
17 Exhibit 26 that authorized you to represent  
18 the Waterfront Tower Condominium?

19 MR. LA FIANDRA: I have the  
20 president of the condominium association  
21 board here. I don't think there's anything  
22 else in the file.

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1 CHAIRMAN HOOD: Okay. Can the  
2 president just raise their hand? Okay, and  
3 what's his name, for the record?

4 MR. LA FIANDRA: Josh Zembik.

5 CHAIRMAN HOOD: Josh Zembik. So  
6 Josh Zembik authorizes you to represent the -  
7 -

8 MR. LA FIANDRA: I believe he  
9 does.

10 CHAIRMAN HOOD: Since you're on  
11 the mic I want to give --

12 MR. LA FIANDRA: Yes, sir.

13 CHAIRMAN HOOD: Because I'm sure  
14 if he didn't, trust me, I've been here long  
15 enough, he would have been at that mic as  
16 soon as I finished saying what I was saying.

17 So okay. All right, thank you.

18 MR. LA FIANDRA: Yes.

19 CHAIRMAN HOOD: Any questions  
20 Commissioners?

21 MR. TURNBULL: Yes, Mr. Chair, I  
22 just have one. Mr. La Fiandra, you said you

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1 were not prepared to talk about the letter.

2 MR. LA FIANDRA: I had not  
3 prepared to talk about it. It didn't seem --

4 MR. TURNBULL: Could you at least  
5 clarify that the letter did not threaten  
6 residents who had an opposing view of being  
7 sued?

8 MR. LA FIANDRA: The letter  
9 addressed legal issues that might have been  
10 consequences if residents expressed opposing  
11 views.

12 MR. TURNBULL: In a hearing?

13 MR. LA FIANDRA: Yes.

14 MR. TURNBULL: Okay.

15 VICE CHAIR COHEN: I mean why are  
16 you saying that?

17 MR. LA FIANDRA: Because I  
18 believe that's what the letter said.

19 VICE CHAIR COHEN: It was a  
20 threat then.

21 CHAIRMAN HOOD: Right, it's a  
22 threat. And, you know, I don't know about --

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1 MR. LA FIANDRA: The letter  
2 caused a great deal of consternation for the  
3 board and the residents of the condominium  
4 association. Despite that fact we dealt with  
5 it, and to be honest, that's the reason that  
6 the request for party status was filed with  
7 the designation Proponent as opposed to  
8 Opponent at the time. Because nobody wanted  
9 to take the risk of putting down Opposed.

10 At the time back in May when we  
11 were filing, we certainly were not proponents  
12 of this development. Since that time the  
13 developer has reached out to the condominium  
14 association and worked with us and we were  
15 able to address primarily our privacy  
16 concerns and the maintenance concerns, and  
17 also the other architectural concerns that we  
18 had with the building, and we were able to  
19 not oppose this proposed development. That's  
20 why we are here not opposed to the  
21 development.

22 CHAIRMAN HOOD: Okay, Mr.

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1 Turnbull first.

2 MR. TURNBULL: All right. Is  
3 there something in the contract that a lease  
4 through whoever is in your building that  
5 forbids them from going against the condo  
6 board expressing their free will, a  
7 democratic process?

8 Is there something that then says  
9 that they can't agree with the condo board is  
10 saying or else they're going to be severely  
11 dealt with?

12 MR. LA FIANDRA: I'm not sure I  
13 understand your question, sir.

14 MR. TURNBULL: You just said  
15 earlier --

16 MR. LA FIANDRA: First of all, I  
17 certainly --

18 MR. TURNBULL: You were talking  
19 about the letter.

20 MR. LA FIANDRA: Yes.

21 MR. TURNBULL: And how the letter  
22 said that they would be dealt with. That if

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1 they went ahead to testify they would be  
2 dealt with.

3 MR. LA FIANDRA: I believe there  
4 may have been follow-up letters. There might  
5 have been another letter or follow-up  
6 communication which said that the initial  
7 letter from a date in April was an  
8 overstatement of some type or some type of  
9 hyperbole or they misspoke, and that it  
10 wasn't their intention to threaten. And if  
11 it was taken that way then that was not their  
12 intention.

13 So I don't --

14 MR. TURNBULL: Are you going on  
15 record saying that people who testify here  
16 tonight will not be threatened? They can  
17 testify freely?

18 MR. LA FIANDRA: Sir, I'm not  
19 threatening anybody. I didn't write any of  
20 those.

21 CHAIRMAN HOOD: Wait a minute.

22 MR. TURNBULL: We're not talking

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1 about you, we're talking about the letter.

2 CHAIRMAN HOOD: You're  
3 representing --

4 MR. TURNBULL: You're  
5 representing --

6 CHAIRMAN HOOD: -- the Waterfront  
7 Tower.

8 MR. LA FIANDRA: Yes, sir.

9 CHAIRMAN HOOD: So answer the  
10 question, or they need to get them another  
11 representative. Because I'm having a  
12 problem, because I've been here for years and  
13 every time a threaten of folks and they can't  
14 speak their own mind I've got a problem with  
15 that.

16 MR. LA FIANDRA: I don't  
17 understand your question. I'll answer any  
18 question you have.

19 CHAIRMAN HOOD: Okay, there you  
20 go. He's asking it now.

21 MR. TURNBULL: I wanted to know,  
22 you heard from one person who was going to

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1 testify. She's afraid to testify because of  
2 a letter.

3 MR. LA FIANDRA: Yes.

4 MR. TURNBULL: If that person  
5 testifies is she going to be sued by the  
6 condo association, the board?

7 MR. LA FIANDRA: I don't think  
8 so. I mean, I don't --

9 MR. TURNBULL: You're their  
10 attorney. My god, if their attorney for the  
11 board can't answer the question who can?

12 MR. LA FIANDRA: No, the board  
13 would not sue her for testifying. No, the  
14 condo board wouldn't --

15 MR. TURNBULL: It sounded like  
16 there was that letter out there, which we  
17 have not seen, but it sounds like, Ms. Prince  
18 said there was no gag order, but it sounds  
19 like from your earlier comments that there is  
20 a gag order.

21 MR. LA FIANDRA: No, no, no.  
22 Perhaps you misunderstood.

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1 MR. TURNBULL: We can go back  
2 over the --

3 MR. LA FIANDRA: No, the --

4 MR. TURNBULL: -- testimony you  
5 just stated.

6 MR. LA FIANDRA: Sir, the condo  
7 board was the subject of --

8 MR. TURNBULL: Sir, please sit  
9 down.

10 MR. LA FIANDRA: Sir --

11 CHAIRMAN HOOD: Mr. Turnbull, if  
12 you don't mind, let's get somebody who can  
13 answer the question.

14 MR. TURNBULL: Yes.

15 CHAIRMAN HOOD: We're going to  
16 let the president speak. Hold on a second,  
17 sir.

18 MR. LA FIANDRA: Yes, sir.

19 CHAIRMAN HOOD: Mr. President, if  
20 you could speak and bring some clarity to the  
21 situation. Thank you.

22 MR. ZEMBIK: Sure. So I got the

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1 letter right here.

2 COMMISSIONER MILLER: Could you  
3 identify yourself for the record?

4 MR. ZEMBIK: Sure. My name is  
5 Josh Zembik. I'm the condo board president  
6 of Waterfront Tower. This is a letter, April  
7 19, 2013. It's from Shapiro, Lifschitz &  
8 Schram. This actually came on the heels,  
9 immediately after a condo board meeting that  
10 we had.

11 So this from the developer's  
12 attorney, so there seems to be confusion  
13 about who's threatening to sue whom. Our  
14 board is not threatening to sue anyone. This  
15 came from their attorney to our board.

16 CHAIRMAN HOOD: So the developer  
17 is threatening the board.

18 MR. ZEMBIK: Exactly.

19 CHAIRMAN HOOD: Is there any way  
20 you can give that letter --

21 MR. ZEMBIK: I would be more than  
22 happy to answer --

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1 (Simultaneous speaking)

2 MR. TURNBULL: Copy of that  
3 letter?

4 MR. ZEMBIK: -- into the record,  
5 yes.

6 CHAIRMAN HOOD: I'd like to have  
7 it.

8 MR. ZEMBIK: Want it now?

9 CHAIRMAN HOOD: What year was  
10 that?

11 MR. ZEMBIK: This year, April 19.

12 CHAIRMAN HOOD: April 19, this  
13 year. Thank you. Mr. Zembik, you can  
14 continue.

15 MR. ZEMBIK: Okay. So as  
16 background for that we had a board meeting  
17 where the notion of historic designation,  
18 actually, came up. And immediately after  
19 that, to show you how into the idea of having  
20 our building historically landmarked the  
21 board's scheme was, we received a letter  
22 threatening to sue us.

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1           So we obviously sought counsel  
2 immediately after that even though one of the  
3 threats was that if we sought counsel we  
4 would be sued. So that's when we found Dino,  
5 and not long after that we ended up at ANC.  
6 And the reason that the developer came back  
7 to us and worked with us again is because ANC  
8 reacted exactly the way that you were  
9 reacting right now.

10           And they said we would like for  
11 you to rescind this, but it was not entirely  
12 rescinded. The follow-up letter that we  
13 received did not say that we will not sue  
14 you, the follow-up letter that we received  
15 said that we will work with you, and that's  
16 where we are.

17           CHAIRMAN HOOD: We're going to  
18 take a five-minute break. We're not going  
19 into any closed session. I'm just going to  
20 give my colleagues time to concentrate on  
21 this.

22           So if anyone has to go to the

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1 restroom, we're going to take our time on  
2 this letter. Go take a five-minute break.

3 (Whereupon, the foregoing matter  
4 went off the record at 9:22 p.m. and resumed  
5 at 9:29 p.m.)

6 CHAIRMAN HOOD: Okay, any  
7 questions from you, Mr. Miller, or is there  
8 no comments?

9 Commissioner Miller?

10 COMMISSIONER MILLER: Thank you  
11 Mr. Chairman. I just wanted to clarify the  
12 statement that Mr. La Fiandra made that the  
13 position of the board of directors of the  
14 Waterfront Tower Condominium Association is  
15 that the board does not oppose the project.

16 MR. LA FIANDRA: We absolutely do  
17 not oppose.

18 COMMISSIONER MILLER: Okay. Was  
19 that an action taken, a vote action taken by  
20 the board or just by consensus or --

21 MR. LA FIANDRA: Just by  
22 consensus.

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1 COMMISSIONER MILLER: Okay, and  
2 is there a date on that action? Is it today?

3 MR. LA FIANDRA: It was as  
4 recently as this weekend.

5 COMMISSIONER MILLER: Okay.

6 MR. LA FIANDRA: Mr. Zembik could  
7 speak more clearly about it, but yes.

8 MR. ZEMBIK: So we're finalized  
9 today.

10 COMMISSIONER MILLER: That doesn't  
11 get reduced to writing in minutes or anything  
12 that you can --

13 MR. ZEMBIK: I think we have  
14 email traffic on it but that's all that I  
15 have. I don't have that it's printed out  
16 anyplace, no.

17 COMMISSIONER MILLER: Okay. All  
18 right. Thank you Mr. Chairman.

19 CHAIRMAN HOOD: Did you get to  
20 that conclusion because of this letter?

21 MR. ZEMBIK: No, I don't think  
22 that that's --

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1                   CHAIRMAN HOOD: So the letter was  
2 written that enabled to do exactly what Ms.  
3 Prince said, was able to get people to start  
4 talking a little more.

5                   MR. ZEMBIK: Yes.

6                   CHAIRMAN HOOD: And this is the  
7 conclusion that the board or Waterfront Tower  
8 Condominium came up with. Now what you  
9 submitted as being a proponent, and I'm  
10 trying to understand it. I know this may  
11 sound redundant, as being a proponent even  
12 though that wasn't the first intent, but now  
13 you are a proponent and by no force?

14                   MR. ZEMBIK: That's correct. We  
15 are not being coerced.

16                   CHAIRMAN HOOD: Okay. But I can  
17 just say this. This letter here to the  
18 developer is very unacceptable. This city  
19 doesn't operate like that and I'm sure the  
20 mayor wouldn't appreciate it. I know the  
21 council wouldn't, and I sure don't and I'm  
22 sure my colleagues don't.

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1           This letter here is, it's a  
2 different way. This Commission here is savvy  
3 enough to deal with a land use case. If  
4 somebody wants to come down in opposition  
5 they have a right to move. They have a right  
6 that if they don't like it and you own it  
7 they have a right to move.

8           But do not try to stifle them in  
9 this city. This city, that's what Office of  
10 Planning staffed up, so people can have a  
11 place at the table. I don't know how you do  
12 wherever else you are, but we don't do  
13 business like that in the District of  
14 Columbia.

15           People have a right to come down  
16 here and object, support, be in between, be  
17 all over the place. They have a right to  
18 speak. And to stifle them and scare people  
19 is unacceptable. Very unacceptable.

20           Okay, Commissioner Turnbull?

21           MR. TURNBULL: This is shameless.

22           I don't think in any PUD in the number of

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1 years I've never seen anything like this.  
2 And this goes against the due process of this  
3 republic, and I am disgusted by this. I  
4 cannot believe anybody actually came before  
5 this Zoning Commission, Ms. Prince, with this  
6 out there and you saying it's not a gag rule.  
7 This is disgusting.

8 CHAIRMAN HOOD: Ms. Prince, not  
9 right now. We'll get to cross examination.

10 MR. TURNBULL: This is  
11 disgusting. How dare you come before this  
12 Zoning Commission in the District of Columbia  
13 in this nation and with this, standing behind  
14 for the people in this area just is  
15 shameless. Utterly shameless.

16 I'd be willing to turn this over  
17 to the Office of Attorney General. I don't  
18 know what we do with this. This is  
19 disgusting.

20 CHAIRMAN HOOD: Mr. Turnbull, I  
21 would ask you to be willing not to even vote  
22 on it. I don't know at this point. At this

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1 point. But I'm not going to react to it. I  
2 think it's unacceptable. I do need to talk  
3 to OAG, because I think this is totally  
4 unacceptable.

5 It might not be within our  
6 jurisdiction, but Anthony Hood can sure  
7 enough step away from this case, and I don't  
8 mind doing it. Okay.

9 MR. TURNBULL: I'll be right  
10 behind you.

11 CHAIRMAN HOOD: Okay, so you  
12 don't have a quorum. Okay, next. Anybody  
13 else? Okay, enough said on that. Where are  
14 we?

15 MR. LA FIANDRA: Do you have any  
16 other questions for us?

17 CHAIRMAN HOOD: Okay, thank you.  
18 Cross examination, Ms. Prince.

19 MS. PRINCE: Mr. La Fiandra, I  
20 just wanted to clarify for the record, there  
21 was a second letter that was sent that tried  
22 to undo the very ill reaction that was

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1 received as a result of the first letter.

2 MR. LA FIANDRA: There was.

3 MS. PRINCE: And at the ANC  
4 meeting did the applicant get told very  
5 clearly that that letter was unacceptable and  
6 that they needed to issue a second letter,  
7 and a second letter was in fact issued, is  
8 that correct?

9 MR. LA FIANDRA: Yes, and that  
10 was not at the ANC meeting.

11 MS. PRINCE: Oh, I'm sorry. May  
12 I ask you, you come and made that comment,  
13 the ANC said that letter was unacceptable,  
14 correct?

15 MR. ZEMBIK: They did, yes.

16 MS. PRINCE: Right. That was the  
17 ANC's reaction to it. And then a second  
18 letter was in fact issued, is that correct?

19 MR. ZEMBIK: Yes, the second  
20 letter was issued, and as I said it did not  
21 address actual opposition to their  
22 development. It only addressed whether we

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1 were going to be sued for working with them.

2 MS. PRINCE: As a result of the  
3 second letter were there any further  
4 discussions or concerns expressed by either  
5 of you as to whether the air was cleared and  
6 we were now able to have a productive working  
7 dialogue?

8 MR. LA FIANDRA: We moved forward  
9 to have a working dialogue.

10 MS. PRINCE: Thank you.

11 CHAIRMAN HOOD: Okay, I'd like to  
12 see that letter, the second letter. And also  
13 --

14 MS. PRINCE: We will submit that  
15 for the record.

16 CHAIRMAN HOOD: -- I would like -  
17 -

18 MR. LA FIANDRA: Sir, I've looked  
19 through my file. I don't have it with me.

20 CHAIRMAN HOOD: No, if you don't  
21 have it, Ms. Prince will get it to us. And  
22 also, I think for this Commission's, receive

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1 this type of letter, and I'm not sure where  
2 my colleagues are. We can decide that. It  
3 depends on how we move forward, if we even  
4 move forward because of this threat.

5 I would like to see the applicant  
6 submit an apology. And maybe this letter  
7 does that. But he needs to submit an apology  
8 not just to us, because I'm insulted, but  
9 also to the people who live in that area.

10 They have an option to come down  
11 here. They can come down here and be a  
12 proponent or opponent, and they also have  
13 option to move. But they should not be  
14 stifled and threatened by this first letter.

15 I'm going to tell you, I'm very, I'm not in  
16 the street. I'm very upset about this  
17 letter.

18 MR. TURNBULL: The rights  
19 guaranteed by our Constitution.

20 MS. PRINCE: I believe the  
21 purpose of the second letter was to clear the  
22 air. We got very clear instructions

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1 particularly from Mr. Litsky of the ANC that  
2 regardless of what the condo docs said,  
3 regardless of what anybody was or wasn't  
4 aware of, he found it offensive and we needed  
5 to address it in the second letter.

6 There was a second letter sent  
7 out by that same law firm. After that letter  
8 went out we didn't receive any indication  
9 that people felt their rights were stifled.  
10 In fact, people came down and opposed at the  
11 conceptual design approval meeting at the  
12 HPRB.

13 Had we felt that second letter  
14 was not enough we would have done whatever it  
15 was that was enough. We had the impression  
16 it was enough. Apparently --

17 CHAIRMAN HOOD: We will look at  
18 the second letter. If it's not enough --

19 MS. PRINCE: If we need a third  
20 letter there will be a third letter.

21 CHAIRMAN HOOD: I haven't just  
22 had an opportunity to see the first letter.

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1 I'm not going to be reactive even though I  
2 have been to a certain point, but I can tell  
3 you right now, this would upset a whole of  
4 people. And I see why the ANC  
5 took their first position. This is our first  
6 time seeing this and I don't blame people for  
7 being upset because that doesn't happen in  
8 the District of Columbia. I don't know what  
9 kind of business you all do but it doesn't  
10 happen here. People have a right.

11 Let me get you educated. Office  
12 of Planning was staffed up to give people a  
13 place at the table so they can come down here  
14 and viewpoints. I'm sure that this  
15 administration would not appreciate this kind  
16 of letter.

17 Okay, enough said. All right,  
18 any other questions? Do you have any cross  
19 examination?

20 MS. PRINCE: I do not.

21 CHAIRMAN HOOD: Okay. Does the  
22 ANC have any cross? Okay. And does

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1 Carrollsburg, A Condominium have any cross?

2 And you are?

3 (Off microphone comments)

4 CHAIRMAN HOOD: I'm actually  
5 looking on here to get your name.

6 MS. MILLER: Gail Fast, our  
7 president, is unable to attend. My name is  
8 Cindi Miller. I am the treasurer of  
9 Carrollsburg, A Condominium. I am also in  
10 attendance with David Derosa who is our vice  
11 president.

12 CHAIRMAN HOOD: Okay, your vice  
13 president is here?

14 MS. MILLER: He is.

15 CHAIRMAN HOOD: Do you give --  
16 I'm sorry, your name again?

17 MS. MILLER: Cindi Miller.

18 CHAIRMAN HOOD: -- Ms. Miller  
19 authorization to represent you all?

20 (Off microphone comments)

21 CHAIRMAN HOOD: Okay, thank you.

22 Okay, Ms. Miller, you may proceed.

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1 MS. MILLER: Sir, concerning the,  
2 and I address this, if I could, the board  
3 president of Waterfront Towers. In this  
4 letter on Page 3 it specifically says that  
5 the developers will hold each individual  
6 owner responsible as well.

7 Do you know if each individual  
8 owner received the first and the second  
9 letter?

10 MR. ZEMBIK: They did not  
11 directly from this law firm. But we then  
12 disseminated it to the building to make sure  
13 that people would be aware that they would be  
14 sued.

15 MS. MILLER: Also, the second  
16 question was you said that there was a vote  
17 prior to and which precipitated this letter,  
18 was there another formal vote of support to  
19 this PUD after the second letter by the  
20 board?

21 MR. ZEMBIK: I'm not sure I  
22 understand.

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1 MS. MILLER: You said that there  
2 was a discussion that led you to engage the  
3 attorney after the, and then this letter  
4 came, if I understood correctly. Again we  
5 heard one of your board members say that she  
6 was concerned about being a proponent because  
7 of this letter.

8 Was there another formal, on-the-  
9 record vote that could be referenced in your  
10 board of directors meeting, I would assume  
11 you have meeting minutes, that would say that  
12 after consideration of both this letter and  
13 the second supposed letter that you are still  
14 in support of this PUD?

15 MR. ZEMBIK: So the first letter  
16 came before there was a decision on the  
17 record to support or not support the PUD. So  
18 there's not a before and after recorded vote.

19 MS. MILLER: Okay, I guess maybe  
20 I'm not, hopefully the Commission is  
21 understanding my question. I'm not sure if  
22 you are. Is on the record of your

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1 association, a vote after the second letter  
2 whichever it is, say in the last three  
3 months, that formally supports this PUD, in  
4 your minutes? Yes?

5 MR. ZEMBIK: There's the email  
6 traffic that we referenced earlier, yes.

7 MS. MILLER: Okay.

8 MR. ZEMBIK: An email vote, yes.

9 MS. MILLER: Okay, thank you. No  
10 further questions, thank you.

11 CHAIRMAN HOOD: So an email vote,  
12 does everybody just, requires all to say --

13 MR. ZEMBIK: Exactly. Because it  
14 was based on conditional things that we were  
15 working on until the last minute today.

16 MS. MILLER: Thank you. No  
17 further questions, thank you.

18 CHAIRMAN HOOD: Thank you. Let  
19 me ask you, nobody's forcing your hand to say  
20 any of this, right?

21 MR. ZEMBIK: No.

22 CHAIRMAN HOOD: Okay, that's all

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1 I wanted. Okay, I think we got everybody.  
2 Okay, thank you all very much. We appreciate  
3 it. Going to do my best on this list. We're  
4 going to go to the folks who are here in  
5 support of this project.

6 Now, you know, this has been  
7 mixed up. I don't know if you're in support  
8 or not, or you're being threatened. I don't  
9 know now. But I'm going to go by what it  
10 says here. If you're not, you may remain in  
11 your seat and you can come up, I'll call it  
12 in between or unsure or whatever.

13 Okay, Mr. Moffatt, you already  
14 spoke. Ms. Bouganim, Klouj. Okay, we've  
15 already heard from Ms. Boykin. Mr. Walters  
16 is with the applicant's group.

17 MS. PRINCE: Chairman, I want to  
18 be very, very sensitive to the rights of  
19 residents to express themselves, and I think  
20 you need to hear directly from the owner, and  
21 I think these residents need to hear directly  
22 from the owner that they had understood that

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1 people understood that there was a second  
2 letter.

3 And I think it might be helpful  
4 just to put it in the record to have Marc  
5 Duber come before you and just explain where  
6 he thought he had left things off so you can  
7 hear affirmatively from him that there is no  
8 risk of stating any opinion about the project  
9 in this public forum.

10 CHAIRMAN HOOD: So are you  
11 suggesting we do that now, that may be better  
12 and that may help?

13 MS. PRINCE: Yes.

14 CHAIRMAN HOOD: I would agree.

15 MS. PRINCE: Because then no one  
16 will feel that they were, you know,  
17 constrained in any way.

18 CHAIRMAN HOOD: Okay.

19 MS. PRINCE: I think it's  
20 important.

21 CHAIRMAN HOOD: You can hold your  
22 seats. Let's hear from the owner, and

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1 everybody listen very attentively and then  
2 we're going to follow it. We're still going  
3 to get that second letter for the record.

4 MS. PRINCE: Yes.

5 CHAIRMAN HOOD: Okay. You can  
6 come forward.

7 MR. DUBER: Thank you Mr.  
8 Chairman. Again, my name is Marc Duber and I  
9 want to just clarify and state a few things  
10 about this letter.

11 Way back in 2004 when we did this  
12 deal with the tenants' association, part of  
13 the way we were able to give them the  
14 affordable housing opportunity that they  
15 received was to know that we could ultimately  
16 develop the ground. That was made very clear  
17 to them.

18 And to my left happens to be  
19 sitting Afifa Klouj who was then president of  
20 the tenants' association who we made the deal  
21 with. At the time the public offering  
22 statement was done we requested that they put

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1 language in the public offering statement to  
2 make sure that all future buyers understood  
3 that the project would be developed.

4 In conjunction with that, in our  
5 sales office there was a board that showed  
6 new buildings to come, and in fact they were  
7 bigger buildings and they showed a middle  
8 building also.

9 At the time when opposition  
10 started, I could discuss with our attorneys  
11 Steven Schram of Shapiro, Lifschitz & Schram  
12 that this was all going on. This letter was  
13 sent without my knowledge, from him, as you  
14 notice it's not on our letterhead. It wasn't  
15 sent by us.

16 When it was received and we  
17 recognized the tenor and tone of the letter,  
18 we were as upset as some of you are here  
19 tonight. We then met with the board, which  
20 we had an open relationship with, and said we  
21 would do a secondary letter.

22 Unfortunately, as we thought this

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1 was a closed issue we don't have that  
2 secondary letter here with us today. After  
3 the secondary letter was sent, we still  
4 remained very open to discuss this issue if  
5 need be. And in fact after that we had  
6 multiple meetings with the condo owners, with  
7 their board of directors, with their attorney  
8 and with our attorney.

9           Never at any point in time was  
10 this letter brought up. So we assumed that  
11 the matter was closed and they felt like they  
12 had full opportunity to speak anything that  
13 they wanted to, that they understood it was a  
14 reciting what was contained in the public  
15 offering statement that was given to 123  
16 individual owners.

17           No one can amend a public  
18 offering statement except a board of  
19 directors. That was the whole purpose of  
20 this. We couldn't agree with you more that  
21 it's an overstretch. But what I want to  
22 really clarify for today and happy to answer

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1 any questions is I want anyone to feel free,  
2 and I will say on the record no one will be  
3 sued for any testimony they had.

4 By no means is this negotiation  
5 or any of these discussions been with a  
6 strong arm because of this issue. It was  
7 merely means as a way to inform them what the  
8 public offering document signed.

9 As you may or may not be aware,  
10 in the District of Columbia everyone receives  
11 a public offering statement, they have 15  
12 days to review it. They have 15 days to  
13 rescind their offer and this language was in  
14 here.

15 An overstretch and I apologize  
16 for that, but again I want you to understand  
17 that from our point of view this was a closed  
18 issue because we've never been told  
19 differently, and in fact went to various  
20 meetings with legal counsel both on our side  
21 and the tenants' and were never asked to do  
22 any more than the secondary letter that you

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1 will see.

2 So I'm not quite sure how you do  
3 this for the record, but I would be by no  
4 means -- we've been involved in this city  
5 since 1933, we don't do business that way. I  
6 want anyone further testimony, if that's  
7 okay, to certainly be free and understand  
8 that they by no means will be sued for  
9 anything that they say. So I appreciate you  
10 giving me the time to say this.

11 CHAIRMAN HOOD: Thank you very  
12 much. I appreciate your comments. I'm still  
13 looking for the second letter though.

14 MR. DUBER: Absolutely.

15 CHAIRMAN HOOD: But I appreciate  
16 your comments. Any questions, first? No  
17 questions? Okay, thank you. Okay --

18 VICE CHAIR COHEN: Just a  
19 comment. I would never, ever allow an  
20 attorney to send out a letter without me  
21 knowing.

22 CHAIRMAN HOOD: Do they still

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1 work for you?

2 MR. DUBER: Pardon me?

3 CHAIRMAN HOOD: Does he still  
4 work for you?

5 MR. DUBER: Yes.

6 CHAIRMAN HOOD: Scharfstein?  
7 Okay. I'm sorry to mess up on names.  
8 Woodruff? Paek? Now Ms. Paek, are you in  
9 support or in opposition?

10 (Off microphone comments)

11 CHAIRMAN HOOD: Okay, come  
12 forward. Yes, so I can tell after hearing,  
13 so come forward. Hindi? I don't know. I'm  
14 not sure whether you're in support or  
15 opposition. You didn't mark it.

16 Last name -- Michael? Hindi, I'm  
17 sorry. Forgive me. Maybe I'll go to my eye  
18 doctor and get some additional glasses.  
19 Sorry, Mr. Hindi. Are you in support or  
20 opposition?

21 MR. HINDI: Now.

22 CHAIRMAN HOOD: Okay, come on up

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1 and have a seat. Is there anyone else who's  
2 here who would like to testify in support?  
3 Come on up. Anyone else?

4 Okay, what we're going to do,  
5 we're going to start with Mr. Hindi to my --  
6 you going to sit down? We'll start with Mr.  
7 Hindi to my left, your right, and we're going  
8 to come right on down and everybody gets  
9 three minutes.

10 Anybody representing an  
11 organization? Not from what I see, so  
12 everybody gets three minutes. Okay, Mr.  
13 Hindi.

14 MR. HINDI: Hello, my name is  
15 Michael Hindi. I'm the vice president of the  
16 board. That's okay. I really just want to  
17 make sure that we're clear on a few of the  
18 facts, and I think I'm talking about facts  
19 here, and that's it.

20 That letter that was issued came  
21 out, I think only 24 hours after we had the  
22 board meeting or we were discussing whether

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1 we should do historical preservation or not,  
2 whether we should pursue.

3 And it was seen very much as a  
4 confrontational, we're going to show you  
5 we've got the muscle, don't you dare do this.

6 That's the way it was interpreted. We went  
7 and got an attorney.

8 Our attorney advised us that, if  
9 I remember accurately, I'm trying hard, this  
10 is probably not something that could stand  
11 up. On the other hand you might have to go  
12 through a lot of legal expense, et cetera,  
13 and a lot of trouble. It's just better for  
14 you to not oppose. That was the advice of  
15 our attorney. There was a second  
16 letter that came and the second letter said,  
17 you know, we want to work with you. I forgot  
18 the phrasing, but basically that's what it  
19 said. But we were advised by our attorney  
20 that it did not rescind the threat.

21 So we still had to move forward  
22 with the idea of not opposing. On the other

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1 hand, there was an opportunity to speak and  
2 it would be wise for us to speak with the  
3 developer. So we did.

4 Those discussions were not as  
5 frequent as portrayed to you. I'm sorry,  
6 that is just not fair. It is not accurate.  
7 I think we met four or five times at the  
8 most, not 15.

9 The tenor between us was not, I  
10 mean it was good on occasion but there's  
11 always the subcurrent of the threat of the  
12 letter, of previous issues between us and the  
13 developer. And I wouldn't say it was a free-  
14 flowing open kind of communication.

15 That being said, they did make a  
16 lot of changes to the design, and these are  
17 things that I definitely want to express  
18 appreciation for including the removal of  
19 that middle building. And there's a lot of  
20 things that they're continuing to work on,  
21 and that's a good thing.

22 What hasn't been expressed is

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1 that the real, biggest concern was the size  
2 of the building. If the Pei Towers are  
3 important why are we boxing them up and  
4 covering them up? Why are we just cutting  
5 them off from M Street, cutting them off from  
6 view? We see them as important to the  
7 neighborhood, and we were advised all around,  
8 from ANC, our attorney, everywhere else,  
9 there's nothing we can do about the height so  
10 just deal with that and start talking about  
11 some of the other issues, which is what we  
12 did.

13 Those are the facts as I remember  
14 them. I hope they're accurate. Thank you  
15 for that opportunity.

16 CHAIRMAN HOOD: Okay, thank you.

17 Ms. Paek?

18 MS. PAEK: I would like to change  
19 what's on my witness card. After --

20 CHAIRMAN HOOD: First thing, you  
21 know, I knew your name. I might have  
22 pronounced it wrong but --

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1 MS. PAEK: Oh. My name is Olivia  
2 Paek. I am a resident and board member of  
3 Waterfront Towers. I became a board member  
4 since the turnover to 75 percent unit owners.

5 And I would like to change my position to  
6 opponent, because I was scared and I know a  
7 lot of the residents that are here with me  
8 are also scared.

9 We never got an actual letter.  
10 Because I've dealt with Bernstein, I don't  
11 have any confidence that they're going to not  
12 do what they threatened to do. I've had many  
13 issues with my renovation. I've gone through  
14 hoops and tried to get them to look at the  
15 things that were wrong. Instead, it's just  
16 one thing after another passed on.

17 I went to the, what is that?  
18 There's a governing body to go talk to them  
19 about my problems with the developer and that  
20 didn't seem to work out. And it's  
21 frustrating because I'm just one small  
22 individual with a limited money income and

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1 I'm not a big, bad developer who's going to  
2 come and say that they're communicating with  
3 us when they're not, say that they're being  
4 friendly and helpful and concerned with us.

5 But when I look at it, the bottom  
6 line is they're filling their pockets and at  
7 the expense of the community. The community  
8 doesn't want a building that's boxing in what  
9 we just historically preserved, because they  
10 were not onboard to historically preserve it.

11 As soon as that became an agenda  
12 on the board -- because I am a huge I.M. Pei  
13 architecture fan, and that was the reason why  
14 I purchased into where I bought. And as soon  
15 as that became an agenda item that letter  
16 came and I was scared.

17 I do not want to be sued. I  
18 don't have the funds to legally represent  
19 myself to go against a developer who can  
20 actually take everything that I own. That's  
21 my first property. It's very scary.

22 So I am humbly asking the

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1 Commission to please listen to the community.  
2 We have the Southwest area plan that's going  
3 on. Please do not make a decision until we  
4 look at everything and understand what the  
5 community actually wants in this  
6 neighborhood. I just have many concerns.  
7 And I have a letter that I would like to turn  
8 in that actually discusses the needs that I  
9 feel that the community would like.

10 CHAIRMAN HOOD: Thank you. Next?

11 MS. PATTERSON: Good evening  
12 Commissioners. My name is Tanya Patterson  
13 and I'm a local real estate agent and I'm a  
14 proponent.

15 In 2008 into 2009 and 2010, I was  
16 hired as a sales manager for a real estate  
17 broker who was tasked with selling the  
18 condominiums at Waterfront Tower as an agent  
19 for the seller. In my role as a licensed  
20 agent, disclosures are often a big part of  
21 the selling process.

22 Every prospect and purchaser

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1 received the same sales pitch and overview of  
2 the project. In the sales office there were  
3 displays of the future plans and other  
4 materials for prospects to review.

5 In addition, the condominium  
6 documents provided to each purchaser outlined  
7 every detail about Waterfront Tower and the  
8 plan of additional buildings to be built in  
9 years to come. Specifically, I told them  
10 about the buildings in the parking lots as  
11 well as the potential of a smaller building  
12 in the courtyard.

13 The Southwest real estate market  
14 is healthy, vibrant and poised for growth as  
15 it was then and still is even more so now.  
16 As a matter of fact, the medium sales price  
17 in Southwest has increased 43 percent since  
18 last year.

19 New development in Southwest  
20 means growth, stability and increased market  
21 values, as people want to live near Metro,  
22 shops, entertainment, restaurants, and an

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1 overall sense of community.

2 The great news is that the  
3 Southwest vision that I was selling then as  
4 now come into fruition with many other  
5 ventures still on the horizon such as the \$3  
6 billion Southwest waterfront makeover. It's  
7 a great time for Southwest overall, and  
8 future residential opportunities brings a  
9 rising bonus to the rising market values.

10 I support this project before you  
11 tonight because I speak from experience,  
12 saying that they paved the road for an  
13 increase of property values in the overall  
14 area. Thank you.

15 CHAIRMAN HOOD: Thank you. And  
16 originally you were an opponent.

17 MS. PATTERSON: Well, I just  
18 checked the wrong thing. I'm sorry. I  
19 apologize.

20 CHAIRMAN HOOD: Oh, okay. No  
21 problem. Okay, next?

22 MS. KLOUJ: Mr. Chairman, members

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1 of the Commission, my name is Afifa Klouj,  
2 and I am a condo owner at Waterfront Towers.

3 I was also the president of the former Town  
4 Center Tenants' Association that led the  
5 effort to rehabilitate the buildings at 1001  
6 and 1101 3rd Street, S.W., this property.

7 My former association and I  
8 formed an agreement with the developer, the  
9 Bernstein Company to acquire the property,  
10 including the land, and convert to condos.  
11 We had an agreement on pricing, structure,  
12 financing and scope of renovation. As a  
13 result we are now proud Southwest homeowners.

14  
15 My association members and I have  
16 registered our vote with the DCRA back in  
17 2007 to convert the existing two buildings to  
18 condos. Our vote also included the  
19 establishment of the new condo buildings for  
20 which this PUD is in front of your Commission  
21 tonight.

22 Even though we had periods of

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1 heated negotiations with the developer, we  
2 were able to forge an agreement that was  
3 satisfactory to all parties. We had  
4 requested several modifications to plans and  
5 agreements, and in my experience the  
6 developer was responsive and delivered on all  
7 promises.

8 In our development agreement it  
9 was predetermined that three new buildings  
10 would be part of Phase 2. There would be  
11 larger buildings in the parking lots as well  
12 as a five-story building in the courtyard.

13 I am very pleased that they have  
14 removed the courtyard building from the plans  
15 and that the new buildings in the parking  
16 lots will be smaller and farther away from  
17 the existing buildings than was supposed to  
18 be. It is nice to see that the  
19 developer has listened and responded to the  
20 homeowners' concerns and modified the project  
21 to address these concerns. I like the  
22 proposed design, and I appreciate that it

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1 respects the I.M. Pei design of the existing  
2 buildings.

3 I support this PUD for the  
4 establishment of new condos, not rentals. As  
5 condos, this project will contribute to  
6 increased security for the area and bring new  
7 energy and liveliness to the neighborhood. I  
8 believe that these new condos would only  
9 result in an increased value to our property  
10 based on comparables and that the new owners  
11 will be a great addition to our community.  
12 Thank you very much.

13 CHAIRMAN HOOD: Thank you. Next?  
14 And I think I'm getting mixed up. I may have  
15 called you as a proponent and you were  
16 opponent?

17 MS. BOUGANIM: Opponent, yes.

18 CHAIRMAN HOOD: Yes. Can you do  
19 me a favor? Well, we might as well just keep  
20 going now. That time it was my fault.

21 MS. BOUGANIM: Want me to keep  
22 going?

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1                   CHAIRMAN HOOD:     No, the other  
2 ones I've been confused.     No, you can go  
3 ahead. We'll just go ahead.

4                   MS. BOUGANIM:    Okay. You have in  
5 front of you a map, and I'll be referring to  
6 that. My name is Hara Ann Bouganim. I'm  
7 owner of a condo in Waterfront Tower and a  
8 member of the condo's architectural control  
9 committee, along with Leitena Opasola who's  
10 sitting back there.

11                   I added a few comments based on  
12 what's been going on tonight. The meeting  
13 that happened just before that letter went  
14 out is when I made a presentation, having  
15 done some research, in favor of landmarking,  
16 with the key point that it would give us a  
17 seat at the table. So this is all kind of  
18 ironic.

19                   Also, Mr. Duber, who said that  
20 they supported the historic designation,  
21 surprised us all. Because at the hearing he  
22 simply said, we do not oppose it. They did

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1 not spend one cent or one inch of effort on  
2 getting it designated. It was all done by  
3 Waterfront Tower and the SWNA, and a  
4 consultant we hired.

5 Okay, now two areas were  
6 discussed in my written testimony which is  
7 attached to the back of there, so that's for  
8 later reading. But Town Center East twin  
9 towers and the surrounding space bounded by K  
10 and M Streets was recently approved  
11 unanimously, as you know, by both ANC 6D and  
12 HPRB as an historic landmark which they have  
13 forwarded for National Register status.

14 A masterpiece designed by world  
15 famous architect I.M. Pei, it is a national  
16 treasure. It is also a valuable resource for  
17 Southwest. In spite of major improvements  
18 negotiated by the HP office with the  
19 developer, primarily, the August 23rd revised  
20 PUD still does not feature the site.  
21 Waterfront Tower will not be visible from M  
22 Street which its entrance faces, and it will

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1 only be accessible from 3rd Street, its  
2 address, by a pedestrian gate.

3 Our other concern as M Street  
4 develops is safe traffic flow. So if you  
5 look at your map, and this is right out of  
6 the PUD, heavy foot traffic. And I'm going  
7 to go through what all the problems are here.

8 Heavy foot traffic and some cars will be  
9 turning east off of 4th Street between the  
10 Metro and Safeway on a one-way alley that  
11 turns south in front of Sky House, and it  
12 becomes two-way to accommodate, first, car  
13 traffic to and from the existing surface  
14 parking lot.

15 Vehicles dropping off and picking  
16 up people at Waterfront Tower and at the new  
17 M Street tower in a small loop between the  
18 two buildings. Entering and exiting owners'  
19 cars and delivery vehicles for the two  
20 buildings through their underground parking.

21 Pedestrians leaving the three buildings  
22 toward M Street.

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1           CHAIRMAN HOOD:    Can you give us  
2 your proposal? We do have your testimony.

3           MS. BOUGANIM:     Okay. I went  
4 through more details of how that went. But  
5 do not approve the PUD today. Allow time to  
6 explore smart growth solutions and reach  
7 consensus. For the condo owners who have  
8 committed to preserve Town Center East, for  
9 the citizens of Southwest, for future  
10 generations make this a model of best  
11 practices --

12          CHAIRMAN HOOD:    Okay.

13          MS. BOUGANIM:     -- as M Street  
14 development and the small area plan --

15          CHAIRMAN HOOD:    Thank you.

16          MS. BOUGANIM:     -- remake  
17 Southwest. Thank you.

18          CHAIRMAN HOOD:    Thank you. Our  
19 next?

20          MR. WOODRUFF:     Good evening  
21 Commissioners. My name is Gregory Woodruff,  
22 and I'm a Carrollsburg resident. I'm a

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1 registered architect here in the District of  
2 Columbia. My views are my own and as a  
3 resident of the community.

4 I support the development of the  
5 parking lots because currently it's not the  
6 best use of the land, and to add it into the  
7 city will bring more services to the  
8 community. Because a Metro stop is less than  
9 a block away, the property's current use as a  
10 parking lot is not the most appropriate use  
11 for the land. Property within walking  
12 distance to a Metro stop should be more  
13 dense, especially when it's this close to the  
14 city center.

15 When I bought my condo there  
16 weren't as many services as I would like, but  
17 I saw the vacant lots around the Town Center  
18 and the Metro stop and I was aware of the  
19 development. Those plans were there, so that  
20 made my choice a little bit easier. I was  
21 more confident in my choice of the Southwest.

22 I believe protecting the examples

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1 of period design, the Pei buildings, is an  
2 important goal. I don't believe in  
3 protecting elements of a design that are no  
4 longer used.

5           Though the new buildings can be,  
6 they'll modify the setting of the existing  
7 buildings, the scale of the development is  
8 appropriate for a Metro-oriented, urban  
9 neighborhood. Though the historic buildings  
10 do bring value to the community, more  
11 restaurants and other businesses bring value  
12 as well.

13           I believe in this case that  
14 historic resource can be enhanced and  
15 simultaneously increase density which will  
16 increase the value of the neighborhood. And  
17 that's all I have. Thank you for your time.

18           CHAIRMAN HOOD: Thank you. Next?

19           MR. SCHARFSTEIN: Good evening  
20 members of the Commission. My name is Ilan  
21 Scharfstein. I live at 1425 4th Street,  
22 S.W., which is approximately three blocks

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1 from the project site. I've been a resident  
2 of Southwest for over four years.

3 I was attracted to invest in  
4 Southwest by the transformation of Waterside  
5 Mall and other languishing properties there  
6 into exciting new spaces, and decided to move  
7 to Southwest after the new Safeway there  
8 opened. I'm very familiar with the project  
9 site and see it and walk by it almost daily.

10 I've reviewed the proposed  
11 project and I support its approval. Like  
12 Forest City did at Waterside Mall, the  
13 Bernstein Companies completed an extensive  
14 renovation to the south tower.

15 I believe that the proposed  
16 project will enhance the site by continuing  
17 its revival through the rehabilitating the  
18 north tower, replacing the two unsightly  
19 surface parking lots with two attractive new  
20 buildings, and reviving the landscape with  
21 new plantings.

22 One of the aspects that I enjoy

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1 about Southwest is the planning of  
2 architectural features that distinguish it  
3 from the rest of the District of Columbia  
4 while still providing the advantages of city  
5 living. Among other features, Southwest is  
6 defined by the site planning -- that wasn't  
7 my time.

8 (Off microphone comments)

9 MR. SCHARFSTEIN: That's three  
10 minutes?

11 CHAIRMAN HOOD: Time flies  
12 sometimes. Just give us your closing.

13 MR. SCHARFSTEIN: Well, in  
14 closing then I would say life in this city is  
15 about change and the changes in Southwest  
16 have been positive and exciting. As a  
17 Southwest resident, though, I would say  
18 there's more work to be done.

19 Adding more residences and retail  
20 space, removing surface parking lots and  
21 helping to establish a street wall along the  
22 north side of M Street, S.W., are all in mind

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1 and can be positive developments.  
2 Accordingly, I request the Commission to  
3 approve the project.

4 CHAIRMAN HOOD: Okay, thank you.  
5 Is there any questions at this time?

6 MR. TURNBULL: I would like to  
7 thank the two people who are in opposition,  
8 or the three people, for not being afraid to  
9 show up and testify. Thank you.

10 CHAIRMAN HOOD: I will echo --  
11 hold on a second. There might be some cross  
12 examination. Nothing is easy. I would agree  
13 with Commissioner Turnbull. This is the  
14 first time I've ever seen this in my tenure  
15 here on the Commission. I've seen a lot but  
16 I've never seen this.

17 And I can tell you that this one  
18 condition, and I'm sure I can speak for my  
19 colleagues or I'm sure they would agree with  
20 me to some degree, that's not tolerated with  
21 us. Anybody should be able to come down here  
22 and speak, shouldn't be afraid.

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1           There are other options, and  
2           suing somebody or threatening them with this  
3           letter, and I know Mr. Duber came up and what  
4           he said, but I'll be interested to see the  
5           other letter and go from there.

6           CHAIRMAN HOOD: And Ms. Klouj?

7           MS. KLOUJ: Klouj.

8           CHAIRMAN HOOD: Klouj?

9           MS. KLOUJ: Yes.

10          CHAIRMAN HOOD: Ms. Klouj, now  
11          you were the president at the time?

12          MS. KLOUJ: Of the tenants'  
13          association, yes. We went through TOPA.

14          CHAIRMAN HOOD: You went through  
15          all this, you knew all this was going to  
16          happen, you were on the board at the time.

17          MS. KLOUJ: Absolutely.

18          CHAIRMAN HOOD: Or in agreeance  
19          with everything that's going on here.

20          MS. KLOUJ: Yes.

21          CHAIRMAN HOOD: You supported it  
22          then.

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1 MS. KLOUJ: Well, with  
2 modifications. So our agreement went through  
3 several stages of changes including the new  
4 developments. And yes, we did agree, and we  
5 voted also on it.

6 CHAIRMAN HOOD: And probably the  
7 board has changed significantly since then?

8 MS. KLOUJ: We don't have the  
9 association anymore.

10 CHAIRMAN HOOD: Okay.

11 MS. KLOUJ: It's defunct, since  
12 now we own.

13 CHAIRMAN HOOD: Okay.

14 MS. KLOUJ: Yes, we were the  
15 tenants' association and that's done.

16 CHAIRMAN HOOD: I got you.

17 (Simultaneous speaking)

18 MALE PARTICIPANT: Just about  
19 three-quarters of the owners are new.

20 CHAIRMAN HOOD: And that's just  
21 it. This started, I think they bought it in  
22 2004. Ms. Paek, how long have you been --

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1 MS. PAEK: I was one of the first  
2 people that bought off the market value. I  
3 moved in December. Actually, we closed in  
4 December but I moved in January of 2010.

5 CHAIRMAN HOOD: Has everybody  
6 moved in after about 2006 with the exception  
7 of Ms. Klouj? Everybody else after 2006?  
8 Okay, all right. All right, thank you all.  
9 I'm going to see if there's any cross. Does  
10 the applicant have any cross? Does the ANC  
11 have any cross? Does Carrollsburg, A, have  
12 any cross?

13 FEMALE PARTICIPANT: No.

14 CHAIRMAN HOOD: And Waterfront,  
15 do you have any cross?

16 MALE PARTICIPANT: No.

17 CHAIRMAN HOOD: Okay, thank you  
18 very much. We appreciated the testimony. I  
19 got that kind of mixed up. Is there anyone  
20 else here who's in support? Okay, is there  
21 anyone here who's in opposition? And you can  
22 come forward. I'm not going to call your

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1 name, just come forward.

2 Oh wait a minute, hold on. I'm  
3 sorry. The party in opposition needs to come  
4 forward. I'm getting confused who's doing  
5 what. The party in opposition, if you can  
6 come forward first, just the party, and the  
7 all the people who are on your, do you have a  
8 panel?

9 MR. DEROSA: Just the two of us.

10 CHAIRMAN HOOD: Okay. So we're  
11 going to take a party and then a person.

12 FEMALE PARTICIPANT: I'm a  
13 resident and I'm in opposition.

14 CHAIRMAN HOOD: Yes. Well, we're  
15 going to have persons in support. Are you a  
16 part of the party?

17 FEMALE PARTICIPANT: No, I'm not.

18 CHAIRMAN HOOD: Okay, well, we're  
19 going to get the persons in opposition  
20 shortly. Okay.

21 MR. DEROSA: Good evening. My  
22 name is David Derosa. I'm the vice president

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1 of Carrollsburg, A Condominium. We're the  
2 property directly across from where the new  
3 building would be.

4 We oppose the project because it  
5 does not reflect the mid-century and late  
6 modern design elements of Southwest.  
7 Principally, the vertical high rise buildings  
8 are on the interior of the properties, and  
9 the horizontal low rise buildings encircle  
10 properties. This design is unique to D.C.  
11 and unique to the U.S.

12 This design is apparent with  
13 Tiber Island, Carrollsburg, Harbour Square,  
14 River Park and Riverside. Also the design  
15 fails to take into consideration Southwest  
16 park landscapes of Dan Kiley, the greatest  
17 landscape architect of the 20th century.  
18 What was presented here tonight for park-like  
19 is simply trees on an alleyway.

20 Simply put, the building is too  
21 large and too tall and should be the same  
22 height as the Pei buildings. The new

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1 buildings should enhance the Pei buildings as  
2 the architecture of Bing Thom enhances and  
3 preserves Arena Stage.

4 MS. MILLER: In addition, we'd  
5 like to say that while we admire the green  
6 space that's been represented in the  
7 diagrams, we believe that shorter buildings  
8 in keeping in alignment with the current  
9 architecture of the neighborhood would  
10 accomplish the same green space with shorter  
11 profiles to the surrounding buildings.

12 CHAIRMAN HOOD: Actually, Ms.  
13 Hanousek, they are a party in opposition,  
14 whereas the party in support shares with the  
15 applicant, they actually have about, there  
16 was six minutes, they have about 54 minutes.

17 Do you need 54 minutes? I just  
18 want to ask you.

19 MR. DEROSA: No, we do not.

20 MS. MILLER: We do not.

21 CHAIRMAN HOOD: Okay. I just  
22 didn't want you to be rushing because you saw

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1 three minutes.

2 MS. MILLER: Thank you.  
3 Additionally, in the PowerPoint presentation  
4 that was presented earlier, we commend their  
5 presentation of the landscaping that's  
6 between the buildings that they presented in  
7 their diagrams.

8 However, each of those landscape  
9 presentations are for walkways between  
10 buildings that were noted in the pictures  
11 were of either lower by their own diagrams,  
12 were of lower buildings than what they're  
13 presenting between the Pei buildings and  
14 their current architecture, they were in  
15 different neighborhood landscapes, they  
16 referenced something that was like in mid-  
17 D.C., which is not the Southwest  
18 neighborhood, and they also represented just  
19 wider spaces, open spaces between the  
20 building than it is diagrammed. So we don't  
21 thing that they adequately represent the  
22 diagram and the landscape that will come from

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1 the development of this.

2 So as a community, Carrollsburg,  
3 A Condominium, we are opposed to the project  
4 as it's currently presented in front, and  
5 would ask the Commission to reconsider.  
6 Thank you.

7 MR. DEROSA: That's it.

8 CHAIRMAN HOOD: That's it? Okay.  
9 Any questions, Commissioners? Vice Chair?

10 VICE CHAIR COHEN: Yes. You had  
11 mentioned Dan Kiley. Could you repeat that  
12 again?

13 MR. DEROSA: Yes, ma'am. So  
14 Carrollsburg, A Condominium, Tiber Island and  
15 Harbour Square all are built on, well, Dan  
16 Kiley was the architect for them. Not a lot  
17 of people know this. He also did the  
18 Banneker Memorial in D.C. And so we all have  
19 very, very park-like settings that were built  
20 on. We're on parks, period.

21 When the architect was  
22 referencing the park-like setting, I think

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1 they were trying to hint at that but in  
2 reality we have very wide open spaces in all  
3 these properties. And that's why Southwest  
4 is so special is because in the center of  
5 these properties you have these areas where,  
6 Mr. Moffatt was saying, where people  
7 congregate, where people move through the  
8 properties.

9 At one time, when it was  
10 originally designed, because of the parks  
11 throughout Southwest and the parks on the  
12 property, you could freely move amongst all  
13 these properties. Over the years fences have  
14 gone up on some because of various problems  
15 in the neighborhoods, but it's one of the  
16 principal elements.

17 And while we agree with build,  
18 build, build, and we agree with building tall  
19 buildings, we think that we have to respect  
20 some of these elements to maintain the  
21 uniqueness of Southwest.

22 VICE CHAIR COHEN: Thank you.

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1                   CHAIRMAN   HOOD:           Any    other  
2    questions up here?

3                   MR.   TURNBULL:    No, I just forgot  
4    all about that Kiley.  No, I know this worked  
5    very well and I just forgot all about the  
6    amount of it, what's in Southwest.  I thank  
7    you for bringing that to attention.

8                   CHAIRMAN   HOOD:           Okay, anything  
9    else?    Any cross examination?    Does the  
10   Waterfront Tower Condominium have any cross?

11    All right, thank you all very much.  We  
12    appreciate your testimony.

13                   Okay, Ms. Prince, if you want to  
14    come back.    Let me see, persons in  
15    opposition, I'm sorry.    I'm sorry, Ms.  
16    Prince.  Persons who are in opposition, is  
17    there anyone else?    Okay, you come on up.  
18    Actually I had called everybody.  I don't  
19    know how I got mixed up.

20                   MS.   ESTRADA:    Good evening.

21                   CHAIRMAN   HOOD:           I actually didn't  
22    get mixed up.  I'm just saying that to be

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1       sarcastic.  You may begin.

2                   MS. ESTRADA:  I'm a resident of  
3       the Waterfront Tower but I did not purchase  
4       my unit directly from Bernstein.  I purchased  
5       from a seller that did not disclose the  
6       situation, so I am suing that person.  But I  
7       cannot be sued by Bernstein because I did not  
8       have an agreement with them.  And so I am  
9       talking from that perspective.

10                   In the PUD that is before you, as  
11       I understand it, is to simplify some of the  
12       D.C. code building restrictions, specifically  
13       among them that which restricts a building  
14       height to no more than 20 feet taller than  
15       the width of the street that it faces, and in  
16       the case of a corner lot to be narrower of  
17       the two adjacent streets.

18                   Then my question to you is  
19       whether the consideration of the PUD approval  
20       for this new construction is not merited in  
21       view of the recent landmark designation of  
22       the I.M. Pei building.  A landmark which this

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1 new proposed construction will obliterate by  
2 its unavoidable proximity of only 60 feet  
3 away. Taller buildings have a  
4 negative effect on the city's quality of  
5 light and tree cover, and this is not  
6 remedied by a carefully planned landscaping  
7 immediate to the building but it affects the  
8 surrounding neighborhood. Presently  
9 there is an abundance of residential  
10 complexes within the waterfront area that  
11 have obtained or are in the process of  
12 obtaining historic preservation status --  
13 Potomac Place, Tiber Island, Harbour Square,  
14 Capitol Park Towers. It is necessary to have  
15 space, light and green spaces to offset and  
16 showcase architectural design.

17 One may argue for further  
18 plantings of greenery on the existing front  
19 parking lots of the I.M. Pei buildings, but  
20 not for erecting a wall that will obscure  
21 those buildings and will eat away the  
22 shrinking open spaces in Southwest. The

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1 abundance of parks and open spaces is what  
2 distinguishes Washington from other places,  
3 and it is the quality of light and tree cover  
4 that makes this a more livable city.

5 In a commentary by Kaid Benfield,  
6 published by the Natural Resources Defense  
7 Council staff blog, he argues for keeping  
8 building height restrictions in the area  
9 covered by the city's original plan created  
10 by Pierre L'Enfant, bordered roughly by Rock  
11 Creek, the Potomac River, and the Anacostia  
12 River.

13 And this writer warns that one of  
14 the places sometimes cited as a candidate for  
15 taller buildings is the Southwest, the  
16 Washington waterfront. However, if they are  
17 allowed there, some of the beautiful city  
18 views as we know them from, let's say, the  
19 Mount Vernon bike trail could be severely  
20 compromised.

21 And I would like to indicate that  
22 I have actually gone several times by one of

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1 the examples of the proximity of 40 feet  
2 between buildings that were shown, which is  
3 located right on Indiana Avenue and 7th  
4 Street.

5 And if you walk, and just walking  
6 from getting out of the courthouse on Indiana  
7 Avenue and walking toward 7th Street, and if  
8 you walk past those buildings, there is only  
9 enough space to have a couple of benches  
10 between them.

11 The only thing that makes it more  
12 walkable is the fact that there's a loggia or  
13 a arcade on the buildings on either side.  
14 And it's dark in there, which is refreshing  
15 when you are in a city in the summer, and  
16 it's pleasant, but it's not a livable area.

17 In the buildings --

18 CHAIRMAN HOOD: Give us your  
19 closing comments.

20 MS. ESTRADA: Both buildings,  
21 they --

22 CHAIRMAN HOOD: Stay on the

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1 microphone.

2 MS. ESTRADA: Both buildings  
3 facing each other are office buildings. They  
4 are not residential properties.

5 CHAIRMAN HOOD: Okay, thank you  
6 very much. Hold your seat. We might have  
7 some questions. Next?

8 MR. DAOUD: So my name is Raffi  
9 Daoud. I live at Waterfront Tower and I'm  
10 also on the board. I'll keep my testimony  
11 short. And I actually spoke to the Historic  
12 Preservation Review Board on behalf of the  
13 condo association on September 26th, and will  
14 just relay some of my statements from that  
15 and my observations of the discussion.

16 So basically I'm not opposed to  
17 development, but I think it could be done in  
18 a more reasonable manner and that I think the  
19 architecture is something that is unique and  
20 shouldn't be hidden away.

21 I expressed this to the HPRB, and  
22 also that I think there was an opportunity to

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1 do something a little bit more unique, like  
2 as one of the people said, like the Bing Thom  
3 building and Arena Stage. I think that was  
4 very creative and interesting and respectful.

5 And I think that there is an opportunity to  
6 do that here, but I don't feel like that was  
7 adequately explored.

8 I would like to see a little bit  
9 more creativity and thought put into the  
10 building, and this was something that some  
11 people on the HPRB said was that some of them  
12 expressed that they wished the building were  
13 shorter. And I definitely, I feel that  
14 myself. So that's all I have to say.

15 CHAIRMAN HOOD: Okay, thank you.

16 Any comments Commissioners? Okay, not  
17 seeing any up here, Ms. Prince, do you have  
18 any cross?

19 MS. PRINCE: No cross.

20 CHAIRMAN HOOD: Does Waterfront  
21 have any cross?

22 MALE PARTICIPANT: No.

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1 CHAIRMAN HOOD: Okay, and does  
2 Carrollsburg, A Condominium have any cross?

3 FEMALE PARTICIPANT: Okay, thank  
4 you all very much. We appreciate you coming  
5 in and your testimony. Anyone else in  
6 opposition? Okay.

7 All right, let's go to rebuttal  
8 and closing, if you have any rebuttal or  
9 closing.

10 MS. PRINCE: No rebuttal. I'm  
11 just in kind of as in closing, and thanks for  
12 your time this evening. It's been a long  
13 night. The first thing I want to say is, the  
14 developer acknowledged that the letter was a  
15 mistake, and there was a second letter which  
16 we will enter into the record. I was hoping  
17 I could read a piece of it to you tonight  
18 because I have it on an iPhone.

19 But basically the second letter  
20 said we understand the first letter was  
21 inflammatory and upset everybody and we've  
22 got to set the record straight and we need to

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1 hear from you. And we're not taking action  
2 against people, we want an open dialogue.

3 We thought, apparently  
4 incorrectly, but we thought that people felt  
5 a free atmosphere of communication after the  
6 second letter because that is in fact what  
7 resulted. The landmark application was  
8 filed. We had conceptual design approval at  
9 HPRB. We had comments on all aspects of the  
10 building that have been discussed tonight.

11 And what did we do? We removed  
12 an entire building, the entire center  
13 building. We changed the balcony design. We  
14 made multiple, multiple changes that were  
15 detailed in great detail by working with the  
16 Waterfront Tower, both after the second  
17 letter.

18 If anyone had pulled me aside or  
19 pulled aside the developer and said that  
20 second letter didn't do it, I still feel like  
21 my rights are being infringed upon, I feel  
22 like I can't speak, we would have addressed

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1 it. But instead we were engaged in a  
2 dialogue.

3 So while we deeply regret the  
4 first letter, we thought the second letter  
5 undid it. If it didn't then we're at fault,  
6 but let's focus on the project, the project  
7 that we have before you.

8 This is a Matter of Right level  
9 of density. We want the additional height so  
10 that we can have a smaller footprint and  
11 greater setbacks from the existing buildings.

12 We're complying with inclusionary zoning.  
13 As I said, we made multiple changes to  
14 address community concerns. We heard  
15 comments about the letter was delivered right  
16 before the landmark. The property's a  
17 landmark. The property is a landmark and  
18 we're absolutely honoring that.

19 We have conceptual design  
20 approval from the HPRB. The list of meetings  
21 that we attended is attached to my waiver  
22 request. It's in the record. People spoke

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1 up at the meetings. We heard lots of  
2 comments at the meeting, positive and  
3 negative. We heard lots of comments at the  
4 meetings. I just didn't feel that people's  
5 comments were constrained. I'm glad they've  
6 come forward again tonight. I want  
7 to remind you that there is a PUD approved by  
8 this Commission in 2007 that's quite similar  
9 to this PUD, except this PUD is a little  
10 shorter and a little less dense and has a lot  
11 more affordable units. That's the Fairfield  
12 PUD. That's the companion site to these two  
13 Pei Towers. We really kept a close eye on  
14 that PUD in making sure that we were honoring  
15 and respecting one another because they are  
16 companion projects. And I think  
17 that's why Maurice went to great lengths to  
18 show you how our PUD is slightly different  
19 but really quite similar in the whole design  
20 concept and as I said, a little shorter.

21 So in summary, I believe it's a  
22 very good project with a tremendous amount of

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1 open space on the site. We're moving a lot  
2 of paved area. You know, are we going to  
3 have buildings where there are now parking  
4 lots? Yes. Is that a good thing? I  
5 believe, yes. I believe it's better for the  
6 quality of Southwest. I believe that the  
7 open space promotes many of the most  
8 important features of Southwest.

9 I think we discussed at length a  
10 very detailed series of conditions with the  
11 ANC that's in the record. Those were  
12 discussed, you know, at a public meeting,  
13 well attended public meeting. We agreed to  
14 every single one of those conditions. We  
15 made some further design changes after the  
16 ANC meeting that affected the balconies, and  
17 the only additional conditions that we need  
18 for this PUD involved flexibility to address  
19 the final HPRB comments because we are a  
20 landmark and they have the final word.

21 And there was one another, oh,  
22 the phasing plan. Once the first tower was

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1 built, we would like to be able to file a  
2 building permit for the second tower. We  
3 wanted a five-year term from the issuance of  
4 the C of O for the first tower to allow true  
5 phasing. And you've all been so  
6 patient and I really don't want to test your  
7 patience, but I could read an excerpt from  
8 the second letter to you tonight or just  
9 submit it for the record, whatever you'd  
10 like.

11 CHAIRMAN HOOD: I'd just like to  
12 hear it.

13 MS. PRINCE: I'll read the whole  
14 letter. It's not that long. "To Whom It May  
15 Concern," and I'm not familiar with exactly  
16 how it was distributed. "As you are aware,  
17 this firm represents the developer," --  
18 that's not my firm, that's another firm --  
19 "the Bernstein Companies, developer of the  
20 Waterfront Tower Condominium.

21 "It's our understanding that our  
22 letter dated April 19, 2013, to the board of

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1 directors of the Waterfront Tower Condominium  
2 Association was viewed as offensive,  
3 threatening, counterproductive, and not  
4 conducive to ongoing communications between  
5 the developer and the unit owners'  
6 association.

7 "Please rest assured that was not  
8 the intent of the developer, and the tone of  
9 our firm's letter was unintentionally  
10 aggressive and for that we sincerely  
11 apologize. The developer's intent in its  
12 instructions to our firm was to inform the  
13 unit owners of their obligations under the  
14 public offering statement.

15 "As you are aware, the developer  
16 has maintained an open line of communication  
17 with the unit owners with regard to the  
18 subject project, and we assure you that the  
19 developer will continue to be available to  
20 consult with you on the project and welcome  
21 your input as well as a continuing dialogue  
22 with the unit owners' association.

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1            "In this regard the developer has  
2 no intention of filing a lawsuit against the  
3 unit owners, the unit owners' association or  
4 the board of directors for communications  
5 with the developer on the project, and the  
6 developer looks forward to working with you  
7 and gaining full support of what promises to  
8 be a wonderful enhancement to the  
9 neighborhood.

10            "Once again we apologize for any  
11 miscommunication including this resulting  
12 from our April 19th letter. Steve Schram."

13            CHAIRMAN HOOD: We can make sure  
14 we get that for the record.

15            MS. PRINCE: That will go in the  
16 record. And like I said, if we had been told  
17 this wasn't enough we would have done a third  
18 letter because a third letter clearly was  
19 required but we didn't know that. So thank  
20 you for your time. We really appreciate your  
21 consideration tonight.

22            CHAIRMAN HOOD: Okay. Now you

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1 all didn't write that while we were fussing  
2 at you, did you?

3 (Off microphone comments)

4 CHAIRMAN HOOD: Okay, all right.  
5 I just wanted to make sure.

6 COMMISSIONER MILLER: What is the  
7 date of the letter?

8 MS. PRINCE: May 15th. May 15th.

9 CHAIRMAN HOOD: Okay. All right,  
10 yes, just file that for, I think --

11 MS. PRINCE: We'll submit that  
12 for the record.

13 CHAIRMAN HOOD: I'm actually glad  
14 to hear that. Because that first one really  
15 did what it did to everybody else, so we had  
16 the same reaction.

17 MS. PRINCE: Well, it says  
18 everything you said about the first one.

19 CHAIRMAN HOOD: Okay. A party  
20 will be able to respond, but let's see what  
21 we need first. But that's the letter that we  
22 asked for and she read it to us and she's

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1 going to submit it to us. Anything after  
2 that is not relevant to what we need.

3 (Off microphone comments)

4 CHAIRMAN HOOD: To that letter?

5 MR. LA FIANDRA: Yes, sir.

6 CHAIRMAN HOOD: The time for you  
7 to respond to that letter was long before it  
8 got to us, okay. The time to respond to that  
9 letter was long before it got to us. Let me  
10 ask this. You've got me curious now. What,  
11 you didn't get it or --

12 MR. LA FIANDRA: No.

13 CHAIRMAN HOOD: Come forward.  
14 Commissioners, typically this is out of  
15 order, but since I let her read it, and this  
16 may have been rebuttal, but I guess I'm going  
17 to have to allow it. But address it to me  
18 not to her.

19 COMMISSIONER MILLER: You have to  
20 be on the mic.

21 MR. LA FIANDRA: Yes, sir. We  
22 don't have the letter, and do I have an

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1 opportunity to ask her questions about the  
2 letter?

3 CHAIRMAN HOOD: Well, she read  
4 the letter so --

5 MR. TURNBULL: Are we ready for  
6 cross and closing?

7 CHAIRMAN HOOD: We don't cross  
8 that --

9 MR. TURNBULL: That's right.

10 MS. PRINCE: I wouldn't object to  
11 that just in the interest of having no  
12 objection in the record.

13 CHAIRMAN HOOD: All right, thank  
14 you for making it easy for me. But let me  
15 ask this.

16 MS. PRINCE: But I'm probably  
17 substantively not in the best position to  
18 address it, so I might need to --

19 CHAIRMAN HOOD: So let's see what  
20 questions you have.

21 MR. LA FIANDRA: I mean, my  
22 question is, I regret that we've gone down

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1 this road at this point because now the  
2 letter is in the record. And it occurs to  
3 me, I mean just from having sat back there, I  
4 did read the letter when it first came out,  
5 okay.

6 And I appreciate --

7 CHAIRMAN HOOD: First letter or  
8 second letter? Because let me just remind  
9 you.

10 MR. LA FIANDRA: Yes, sir.

11 CHAIRMAN HOOD: When we were  
12 asking you questions about the first letter  
13 you had no answers, so obviously you didn't  
14 see the first letter but you see the second  
15 letter.

16 MR. LA FIANDRA: Sir, I did. I  
17 read both letters when they first came out,  
18 and I was trying to not characterize or  
19 mischaracterize the first letter for you  
20 because I just didn't have it right before  
21 me. That's the only reason I was hesitating  
22 to answer your questions. When the letter

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1 was placed before me I would have answered  
2 any question that you asked.

3 CHAIRMAN HOOD: Okay, okay. What  
4 question do you have?

5 MR. LA FIANDRA: So my question  
6 for Ms. Prince is simply, if she has it, I  
7 mean, it says that the developer would not  
8 sue, for what? What does it say that the  
9 developer would not sue for? It doesn't say  
10 that the developer would not sue for opposing  
11 something, it just says the developer would  
12 not sue, for what?

13 MS. PRINCE: It says, "That in  
14 this regard the developer has no intention of  
15 filing a lawsuit against the unit owners, the  
16 unit owners' association or the board of  
17 directors for communications with the  
18 developer on the project, and the developer  
19 looks forward to working with you and gaining  
20 your full support of what promises to be a  
21 wonderful enhancement to the neighborhood."

22 MR. LA FIANDRA: So the developer

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1 made a point of writing a letter that said  
2 they will sue you if you oppose the project.

3 And then they write an apology and they say,  
4 we're sorry for offending you and we won't  
5 sue you if you speak with us about the  
6 project. That supposedly, that's  
7 an apology? That's supposedly some type of  
8 retraction of the offending statement? I  
9 mean I wasn't even going to bring this up and  
10 this is --

11 CHAIRMAN HOOD: Well, let me just  
12 say this to you to help you. This might help  
13 us move along tonight. I actually picked  
14 that point up, but I need to get it in the  
15 record and I need to have them both, for me  
16 to look at both of them.

17 If you notice what we said  
18 earlier, we may need something else for the  
19 record. We mentioned that to Ms. Prince  
20 earlier. We may have them go write another  
21 apology letter. I don't know yet. But I  
22 think for this record to be clear, I'm not

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1 sure that my colleagues, you know, they may  
2 disagree.

3 But we've got to get in the front  
4 of this first. We're not going to make any  
5 decisions tonight. We will make a decision,  
6 but that is better than what I heard in the  
7 first letter. And she said she would do  
8 another third one. If you want some  
9 specificity we'll do that.

10 But it's up to my colleagues up  
11 here, okay. Do you have any other questions?

12 MR. LA FIANDRA: No, thank you.

13 CHAIRMAN HOOD: Thank you.

14 VICE CHAIR COHEN: Mr. Chairman,  
15 I would just like to say that I think between  
16 the second letter and what the developer said  
17 tonight, rest assured I don't believe that  
18 there's going to be any litigation against  
19 people for their position in opposition, at  
20 least that's what I have gathered. So you  
21 can all sleep well tonight. On record, the  
22 developer said you will not be sued for being

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1       opposed to the project.

2                   CHAIRMAN HOOD:     Okay, any other  
3       comments?   Commissioner Turnbull?

4                   MR.   TURNBULL:     You know, Mr.  
5       Chair, in the spirit of what you often  
6       recommend for the applicants to reach out to  
7       the neighborhood and to the residents, I  
8       think there's some fence-mending still to be  
9       done.   And that's up to them whether they  
10      write a third letter.

11                   But I think in the spirit of  
12      trying to mend this broken fence it's up to  
13      them, but to me, if I was in your position I  
14      would be thinking about doing that. I think  
15      obviously there's still, when the second  
16      letter came out it still made a lot of people  
17      uncertain.   And I think you heard the one  
18      person testify that they went and talked to  
19      another attorney and the attorney said, they  
20      didn't actually say that they wouldn't sue  
21      you.

22                   So I think again back to what you

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1 always do about building fences and reaching  
2 out to the community, I think this applicant  
3 has some work to do.

4 CHAIRMAN HOOD: Yes, and I would  
5 agree. I really disagree with Mr. La  
6 Fiandra, the counsel of Waterfront Tower. I  
7 just wanted to have both of them in front of  
8 me. He actually made a good point, but I  
9 think we may ask for that for the record  
10 because around here in this town, sometime  
11 when things change, people change,  
12 commissioners change, lawyers change, stuff  
13 gets lost, but the file's always here. So we  
14 may ask for one that says specifically some  
15 specificity as was mentioned.

16 MS. PRINCE: You don't have to  
17 ask, we're doing it. We're doing a third  
18 letter. We have to mend this fence. I don't  
19 want the record left where it is. We are  
20 doing a third letter.

21 CHAIRMAN HOOD: That would be  
22 good. All right, anything else, Ms. Prince?

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1 MS. PRINCE: Not from me.

2 CHAIRMAN HOOD: Okay. Well,  
3 thank you for being very amenable to that. I  
4 really appreciate it. Commissioners, any  
5 other comments? Commissioner Miller?

6 COMMISSIONER MILLER: I just want  
7 to thank the applicant and Ms. Prince for the  
8 statements you've made tonight to try to mend  
9 the fence and the further additional  
10 statements that you're doing.

11 I think it was obviously a very  
12 aggressive overstretch, as the developer  
13 said, of the assertion of their rights, of  
14 the rights and obligations that were spelled  
15 out in a contract that parties signed, and  
16 part of that was to make sure that this Phase  
17 2 development happened. And it was the Phase  
18 2 development which helped underwrite some of  
19 the low market costs of that original  
20 Waterfront Tower building.

21 So, you know, there are a lot of  
22 balancing that's going on here. Obviously

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1 they regret doing that letter and they're  
2 going to supplement the record to that effect  
3 as well.

4 CHAIRMAN HOOD: Okay,  
5 Commissioners, we -- I'm sorry. Commissioner  
6 Turnbull?

7 MR. TURNBULL: Yes, Mr. Chair.  
8 The only other thing I have, it just came up  
9 and we didn't get into it in the process of  
10 the project, but the Carrollsburg people  
11 brought up about the Kiley landscape design  
12 in the area.

13 And I guess I would like the  
14 applicant to respond, or Ms. Boykin, either  
15 for the applicant, respond to the Kiley  
16 landscape design in the neighborhood in the  
17 Southwest and what characteristic about it  
18 and what this landscape plan that is now  
19 proposed melds in with that and what are the  
20 positive points that are the things that need  
21 to be tweaked.

22 MS. PRINCE: Ms. Boykin's here so

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1 she'll address that tonight, unless you want  
2 it, did you want that in a post hearing  
3 submission or did you want that tonight?

4 MR. TURNBULL: She can send  
5 something later. Everybody's been here long  
6 enough. She can submit it for the record, or  
7 unless my colleagues want to hear it.

8 COMMISSIONER MILLER: No, I think  
9 we can go through all the things that we  
10 needed to get in order to move forward.

11 CHAIRMAN HOOD: And that was the  
12 next statement. Ms. Hanousek, did you take a  
13 list? If not, I have a list.

14 MS. HANOUSEK: Yes.

15 CHAIRMAN HOOD: Okay. Okay, let  
16 me get it started. Ms. Prince, Commissioner  
17 Miller, he asked for, I don't know if he  
18 asked it this way but I'm going to ask for  
19 it, before and after views --

20 (Off microphone comments)

21 COMMISSIONER MILLER: Yes. No, I  
22 was interested in seeing and it might be on

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1 the renderings that we've got, but it doesn't  
2 have the labeling of Waterfront Tower and  
3 Carrollsburg Tower. What it looks like, what  
4 are they seeing now and what are they going  
5 to be seeing once this development, that's  
6 what I asked for.

7 CHAIRMAN HOOD: And if we have  
8 it, because I actually want to see it also,  
9 but we need to order it first. But if we do  
10 have it if you can point us to where it is.  
11 I don't think we do, but if not you're going  
12 to have to show us.

13 MS. PRINCE: We do not, so we'll  
14 submit it.

15 CHAIRMAN HOOD: Okay.

16 (Off microphone comments)

17 MS. HANOUSEK: Okay, after a  
18 view of the new buildings from the existing  
19 buildings from Commissioner Miller is  
20 resolution of amenities and timing for the  
21 order from Turnbull. Is that still --

22 MR. TURNBULL: Yes, I think we

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1 need it definitely clarified.

2 MS. HANOUSEK: Then there's  
3 specify hours of gates being open, Turnbull.

4 MR. TURNBULL: Yes, I think we  
5 wanted something in the record that would  
6 clarify. I think OP also wanted that.

7 MS. PRINCE: Daytime. Daytime  
8 hours was in the OP report and we agreed to  
9 that.

10 MR. TURNBULL: Yes, whatever that  
11 means.

12 MS. HANOUSEK: Specify, is what  
13 he said. Then there's clarify bioretention  
14 on site, Turnbull. Is that still --

15 MR. TURNBULL: Yes, I'd like to  
16 hear their thoughts on it, or see their  
17 thoughts on paper.

18 MS. HANOUSEK: Then ask the  
19 applicant to reduce the size of the  
20 penthouse, perhaps remove the windows so they  
21 can push in the ends and also concerned with  
22 the light color. That's Turnbull, and Cohen

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1 concurs.

2 VICE CHAIR COHEN: I agree. And  
3 I'm sure they agree with those too.

4 MS. HANOUSEK: Okay, and then  
5 consider ways to make it apparent that the  
6 gate's open and the area is open to the  
7 public during the day, Cohen. And I'm not  
8 sure about this one, Commissioner Cohen. Ask  
9 whether the LDDA deeper subsidy is still part  
10 of the project, Cohen. I wasn't completely  
11 clear by the response.

12 VICE CHAIR COHEN: Nor was I, but  
13 I'm going to assume that it's still valid and  
14 will be at approval.

15 MS. HANOUSEK: Then there was  
16 encourage the applicant to install the  
17 transit screen in the building. That was  
18 Turnbull. And then there's the second letter  
19 that was sent by the lawyer, and that's Hood.

20 And then --

21 CHAIRMAN HOOD: Which we now know  
22 we're getting a third letter.

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1 MS. HANOUSEK: Okay, I'll add  
2 that. Then, recommended mending the fences  
3 over the letter, Turnbull and Hood agreed.  
4 And then the last item is something that  
5 addresses how the project landscape plan fits  
6 in with the Kiley landscape plan.

7 CHAIRMAN HOOD: Okay, didn't  
8 Office of Planning have a phase list, or was  
9 that addressed? Didn't you all had a phase  
10 list?

11 MR. GOLDSTEIN: Yes, our report  
12 had a suggestion for phasing that may not be  
13 consistent with the applicant's  
14 recommendation, so probably --

15 CHAIRMAN HOOD: So whether or not  
16 they would accept your proposal.

17 MR. GOLDSTEIN: Yes, I think that  
18 should be clarified.

19 CHAIRMAN HOOD: That was the only  
20 outstanding thing that the Office of Planning  
21 had.

22 MR. GOLDSTEIN: The other one was

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1 about the trigger for the benefits and  
2 amenities, whether it be for the first  
3 building permit or a certificate of  
4 occupancy, if there may be a clarification or  
5 a disagreement on that.

6 MS. PRINCE: No disagreement.

7 CHAIRMAN HOOD: Okay. Anything  
8 else? Ms. Prince, are we all set?

9 MS. PRINCE: We're all set.

10 CHAIRMAN HOOD: Okay.

11 MS. PRINCE: Just need dates.

12 CHAIRMAN HOOD: Yes, need dates?

13 MS. HANOUSEK: Yes, if we can get  
14 everything submitted by October 21st and then  
15 there will be responses and a draft order by  
16 October 28th, and then the next meeting,  
17 November 18th, the project would go before  
18 the Commission for proposed action.

19 CHAIRMAN HOOD: So would be able  
20 to take this in November? Okay, the 18th.  
21 Okay, Ms. Hanousek, thank you. November  
22 18th, is the proposed date.

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1 MS. PRINCE: Thank you.

2 CHAIRMAN HOOD: All right. Thank  
3 you all very much. Okay, so I want to thank  
4 you all for your participation tonight, and  
5 this hearing is adjourned.

6 (Whereupon, the foregoing matter  
7 went off the record at 10:43 p.m.)

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