

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :

:

Professional Associates and :

the International Finance :

Corporation - Consolidated :

PUD for Square 74, Lots 49, :

832, 840 : Case No.

: 14-04

:

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Thursday,

July 31, 2014

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No.

14-04 by the District of Columbia Zoning

Commission convened at 6:33 p.m. in the Jerrily

R. Kress Memorial Hearing Room at 441 4th

Street, N.W., Washington, D.C., 20001, Anthony

J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
MARCIE COHEN, Vice Chair

MICHAEL G. TURNBULL, FAIA, Commissioner
(AOC)
PETER MAY, Commissioner (NPS)
ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic Preservation

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF
PRESENT:

ANNA CHAMBERLIN
EVELYN ISRAEL

The transcript constitutes the minutes from the Public Hearing held July 31, 2014.

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

(6:33 p.m.)

CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is the public hearing of the Zoning Commission for the District of Columbia for July 31, 2014. The time is approximately 6:30 p.m.

My name is Anthony Hood. Joining me is Vice Chair Cohen, Commissioner Miller, Commissioner May and Commissioner Turnbull. We are also joined by the Office of Zoning staff, Ms. Sharon Schellin, Office of Planning staff, Ms. Steingasser, the District Department of Transportation, Ms. Chamberlain and is the other one that we have?

MS. ISRAEL: Ms. Israel.

CHAIRMAN HOOD: Ms. Israel. Okay. This proceeding is being recorded by a court reporter and is also webcast live. Accordingly, I must ask you to refrain from disruptive noises or actions in the hearing

1 room, including display of any signs or
2 objections.

3 Notice of today's hearing was
4 published in the D.C. Register and any
5 announcements that are relevant are to my left
6 on the wall near the door. The hearing will be
7 conducted in accordance with provisions of 11
8 DCMR 3022 as follows: preliminary matters,
9 applicant's case, report of the Office of
10 Planning, report of other government agencies,
11 report of the ANC, organizations and persons in
12 support, organizations and persons in
13 opposition, rebuttal and closing by the
14 Applicant.

15 The following time constraints will
16 be maintained in this meeting. The Applicant
17 I see has asked for 40 minutes, organizations
18 five minutes, individuals three minutes. The
19 Commission intends to adhere to the time limits
20 as strictly responsible in order to case in a
21 reasonable period of time.

1 The Commission reserves the right
2 to change the time limits for presentations, if
3 necessary, and notes that no time shall be
4 sealed.

5 All persons appearing before the
6 Commission are to fill out two witness cards.
7 These cards are located to my left on the table
8 near the door. Upon coming forward to speak to
9 the Commission, please give both cards to the
10 reporter sitting to my right before taking a
11 seat at the table.

12 When presenting information to the
13 Commission, please turn on and speak into the
14 microphone first stating your name and home
15 address. When you are finished speaking,
16 please turn your microphone off so that your
17 microphone is no longer picking up sound or
18 background noise.

19 The staff will be available
20 throughout the hearing to discuss procedural
21 questions. Please turn off all beepers and

1 cell phones at this time, so not to disrupt
2 these proceedings. Would all individuals
3 wishing to testify please rise to take the oath?
4 Ms. Schellin, would you please administer the
5 oath?

6 MS. SCHELLIN: Yes. Please raise
7 your right hand. Do you solemnly swear and
8 affirm the testimony you will give this evening
9 will be the truth, the whole truth and nothing
10 but the truth? Thank you.

11 CHAIRMAN HOOD: Okay. At this
12 time, the Commission will consider any
13 preliminary matters. Does the staff have any
14 preliminary matters?

15 MS. SCHELLIN: The only thing I
16 see is they have two proffered experts and
17 they've both been previously accepted. We've
18 received the Affidavit of Maintenance, so we
19 have nothing further.

20 CHAIRMAN HOOD: Okay. I don't
21 think we need to revisit the experts because the

1 experts that I read all have been proffered as
2 experts previously. So, Mr. Avitabile, do we
3 have anything else?

4 MR. AVITABILE: That's it.

5 CHAIRMAN HOOD: Okay. So, you all
6 may begin when you're ready.

7 MR. AVITABILE: Great. Thank
8 you. We're here this evening to present a
9 consolidated PUD at the intersection of 21st
10 and K Streets, Northwest, that will permit the
11 construction of a new office building that will
12 provide the international finance corporation
13 or IFS with expansion space.

14 And we're going to just go right
15 into the presentation. And I'd ask
16 Stephen Lustgarten from Blake Real Estate to
17 make some opening remarks on behalf of the
18 applicant.

19 MR. LUSTGARTEN: Good evening. My
20 name is Stephen Lustgarten and I'm the
21 Executive Vice President of Blake Real Estate,

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1 Inc., the developer of the 2100 K Street office
2 project. We're developing this building on
3 behalf of Professional Associates, a
4 partnership affiliated with our organization.

5 Blake and its affiliated
6 partnerships have been a part of the
7 Washington, D.C. real estate community for over
8 60 years. During this time Blake has developed
9 over eight million square feet of commercial
10 office buildings, as well as shopping centers,
11 hotels and multifamily buildings.

12 In fact, back in 1963, Blake
13 developed a building at the corner of 21st and
14 K Street that will be demolished to facilitate
15 the construction of the building that we are
16 here talking about tonight.

17 Blake has been in serious
18 discussions with IFC regarding expanding their
19 building for well in excess of two years and
20 have reached an agreement whereby the IFC will
21 lease the building for an initial term of 40

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1 years with options to purchase the building.

2 The new building will be designed so
3 that the floors in the new building will
4 perfectly align with the floors in their
5 existing headquarters. This additional space
6 being acquired by IFC is a much-needed
7 expansion for them.

8 The project will be a world class
9 design by Shalom Baranes & Associates and its
10 design will be complimentary of the Michael
11 Graves designed headquarters currently
12 existing for the International Financial
13 Corporation at 2121 Pennsylvania Avenue.

14 By approving this project, the
15 Commission provides the opportunity for the
16 District to retain the IFC as a major office
17 occupant in the city by satisfying their need
18 for additional office space. As such, we look
19 forward to a favorable decision from the
20 Commission.

21 We want to thank you for your time

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1 tonight in hearing us and presenting our
2 project and, again, we look forward to a
3 favorable decision and commencing construction
4 of a pretty spectacular building. Thank you.

5 MR. BARANES: Good evening. I'm
6 Shalom Baranes. I'm here with my colleague,
7 Mark Gilliland, who is sitting behind me. Thank
8 you for the opportunity to present the project
9 this evening. It looks like I have the wrong
10 slide here. Oh, here we go. Okay.

11 So, as you can see from the slide,
12 our site stretches from Washington Circle on
13 the left-hand side all the way over to 21st
14 Street and it's basically a full city block.
15 We are combining blocks, so our new building,
16 of course, would be in addition to the existing
17 Michael Graves building.

18 The existing configuration of the
19 building on the site, on the northeast corner,
20 allows for truck traffic to circulate between
21 K Street and 21st Street, as you see here.

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1 We're going to be demolishing this corner
2 building, of course, and replacing it with a new
3 one but we do intend to keep that similar type
4 of circulation from 21st Street to K Street to
5 accommodate loading.

6 The existing IFC building currently
7 has a garage entrance on K Street, which you see
8 there with the double arrows and has another one
9 on 21st Street. We will be adding one more on
10 21st Street just north of the existing one.

11 The reason we are adding another one
12 is because the IFC will have subtenants from
13 time to time and the automobiles of these
14 subtenants need to remain outside the security
15 zone of the existing garage. So, they will be
16 allowed to enter through the new garage
17 entrance but their circulation will be limited
18 to that corner of the site.

19 The loading will enter the site off
20 of 21st Street on your right, drive up this
21 private driveway, this private alley and all

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1 the trucks will be able to back into the
2 existing loading berths that are shown at the
3 bottom of this image or, alternatively,
4 continue on to the two new loading berths we're
5 showing closer to K Street.

6 The streetscape around our addition
7 will essentially be a continuation of what
8 currently exists on Pennsylvania Avenue and
9 what you see on K Street. And some of the
10 elements of that streetscape are shown at the
11 left-hand side of the slide.

12 The ground floor of our building
13 will be occupied on the north side along K
14 Street by a new lobby for this addition with a
15 new core for the four elevators that you see
16 there. And, then, the corner will be occupied
17 by a two-story retail element. And the upper
18 level of the retail is shown in this slide in
19 the image on the right.

20 The upper level of the retail will
21 only be accessible from inside the retail on the

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1 ground floor. And, on the upper portion of the
2 slide on the right, I'll come back to this a
3 little bit later, but I just want you to take
4 note of the triangular form and the white area
5 that's starting to be expressed there in the
6 floor plan. And, then, I'll show you shortly,
7 continues up through the building.

8 So, we were very interested in
9 trying to do everything we could to animate the
10 corner of 21st and K and, as such, we created
11 a two-story very tall retail space. This, of
12 course, will be lit up much of the time in the
13 evening and I think will do a lot for that
14 corner. It's not a particularly great corner
15 right now.

16 That two-story expression
17 continues off to the right, to the west, where
18 our new addition meets the existing building
19 and, so, the office lobby, like the retail, will
20 also have a two-story expression. In the lower
21 left of the left-hand slide, you can see the

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1 two-story retail and, then, on the upper
2 floors, we are designing all of the new office
3 floors above the second floor, above the first
4 floor, actually, to be completely porous to the
5 existing IFC building.

6 So, essentially, they'll be able to
7 take their office configuration and just
8 continue it right through to the new floor
9 plates, which are completely aligned with the
10 existing floor plates. And you can see that
11 here in the plan, particularly on the
12 right-hand image.

13 So, the west wall and the south wall
14 of the addition, you know, where the IFC will
15 continue office use will essentially just have
16 a few columns in it and very little else.

17 Now, moving on to the exterior of
18 the building, there are two contextual
19 conditions which really motivated and kind of
20 underlie the design, the development of a
21 masking of our new addition, as well as the

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1 treatment of the facades.

2 The first one, of course, has to do
3 with the street geometry. We were very
4 interested in trying to capture the
5 Pennsylvania Avenue angle, the diagonal of
6 Pennsylvania Avenue. And you can see we
7 transposed it in a parallel fashion directly
8 north.

9 And you can see, in the lower
10 right-hand corner of this slide, that we
11 shifted it north to the point where our addition
12 meets the existing building and struck a line
13 across there. And I will come back to that in
14 a moment.

15 But the second contextual condition
16 that led us to design the building as we have
17 is the cadence of Michael Graves' facade. You
18 know, we looked at it pretty carefully and he
19 does have a very disciplined rhythm across all
20 of the primary elevations. You can see here,
21 it's basically an A and a B, you know, done in

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1 a very interesting way. It's more of a
2 staccato rhythm than an alternating rhythm.

3 So, he has it up on K Street, as you
4 see in the top image, and also has it on 21st
5 Street, as you see in the lower image. We took
6 those dimensions. We took up cadence and,
7 basically, used it as the organizing feature of
8 both of the primary facades of our building.
9 So, I think there will be a strong sense of
10 association between these two buildings.

11 We then developed a column pattern
12 along the perimeter of our building, along K and
13 21st. It relates to a five-foot module but it
14 specifically relates to that A/B rhythm I just
15 showed you.

16 Then, going back to the
17 Pennsylvania Avenue diagonal that we struck
18 through our site, what was really interesting
19 about that is as we struck that line, we found
20 that it basically yielded two very simple
21 geometric forms.

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1 Below the line, you see a
2 parallelogram, shown here in two different
3 colors, the white and the gray. It's a very
4 nice, simple form that can generate a very
5 simple vertical expression.

6 And, then, north of that, or above
7 the dashed line, of course, we wind up with a
8 very simple acute triangle. So, this is the
9 basis for the development of the masking that
10 we're proposing for the project.

11 We developed the facades to
12 basically enhance the differentiation, the
13 differences between those two geometric forms.
14 So, the parallelogram that you see the primary
15 face of on the left-hand side here, in the
16 middle of the block, is essentially a curtain
17 wall. It's all glass, floor to ceiling glass.
18 But we laid a veil of terra cotta screening over
19 that that you can see in these details.

20 So, these terra cotta horizontal
21 baguettes, first of all, are organized in a

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1 two-story configuration. Sorry about that.
2 Here we go. They're organized in a two-story
3 configuration. They float in front of the
4 glass.

5 And, as the sun moves around the
6 building, I think it will create very, very
7 interesting shadow patterns on the glass itself
8 and it will give this facade, this glass facade,
9 a very strong sense of depth, you know, which
10 we often don't see in glass buildings.

11 Here are three built examples of
12 terra cotta baguettes floating in front of a
13 primary facade. Of course, these are
14 organized in a horizontal fashion. Ours will
15 be organized in vertical panels.

16 Then, on the triangular form on the
17 corner, we continue the same glass curtain wall
18 on the same module around both sides, around the
19 corner. But, then, rather than continuing the
20 terra cotta veil, here we shifted to a vertical
21 glass fin expression, much lighter.

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1 But it, too, involves a glass fin
2 which projects out from the primary surface of
3 the curtain wall and will create really
4 interesting light effects throughout the day as
5 the sun moves around it and the edge of the glass
6 catches it in different ways.

7 And this is a little hard to see, but
8 these are several details of those glass fins.
9 And, then, here we have three examples of
10 different buildings where these types of glass
11 fins have been utilized in a certain wall
12 condition.

13 So, the geometry here with a
14 parallelogram and a triangle, actually offered
15 us a terrific opportunity we thought, once we
16 got into it, for solving another challenge,
17 another problem I think one sees certainly in
18 this neighborhood and sees all around town.
19 And that is the visibility of these very large
20 mechanical penthouses that we have.

21 You can see the existing penthouse

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1 on Michael Graves' building. It's fairly
2 significant and incorporates a really large
3 skylight in the center. And, then, you can see
4 the additional penthouse space that we'll be
5 needing for the building addition that we're
6 constructing.

7 These all, as you know, because you
8 know well, tend to be very, very visible as you
9 move away from the building. So, we tried to
10 use the geometry of the streets and the
11 buildings to develop a form and a corner that
12 would allow us to deal with the visibility of
13 these elements.

14 And we felt that, since this is from
15 a technical zoning standpoint really a single
16 building across the entire block, you know, the
17 expression of the vertical element in this
18 southwest corner was really not overscaled, in
19 a sense, given the size of the full project.

20 And, as you look around Washington
21 Circle at some of our neighbors, you know, there

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1 are some very nice buildings there, some less
2 nice buildings. But you can see the skyline is
3 really defined by these unadorned mechanical
4 penthouses.

5 And, then, even with the new
6 building which is slightly to the right that you
7 see in the upper portion of this slide, which
8 I think is a really beautiful building,
9 unfortunately, you know, it doesn't meet the
10 sky in a wonderful way. Again, the primary
11 element of the skyline there is just the
12 mechanical penthouse.

13 And, then, in the lower right, you
14 can see, as we step the tops of these buildings
15 back sometimes, or on the left where we give a
16 very wide avenue such as Pennsylvania Avenue,
17 these penthouses become even more visible and
18 appear to be even larger.

19 You know, we have a corner condition
20 on our site, as you see in some of these images
21 here. And, you know, it really struck me for

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1 example that, in the image in the upper left
2 where you have this ziggurat shape, you know a
3 real serious attempt to develop a nice curtain
4 wall there with a crenellated top, you would,
5 which represents a strong cornice line on the
6 building, it's all pretty much lost because the
7 backdrop is the mechanical penthouse. And it
8 kind of totally violates your understanding of
9 what's happening on that corner.

10 And there are certainly several
11 other images here where I think you see the same
12 type of problem. Even the Women's Museum on
13 the lower left-hand side there, where a
14 historical building just has a marvel top to it,
15 pretty much gets lost as you look at the
16 backdrop of penthouses.

17 And I just want to show you one more
18 example here. You know, there are places and
19 towns such as the one in the lower left-hand
20 side where an effort has been made to articulate
21 the top of the building three dimensionally,

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1 you know, to get a little more attention there,
2 get a little more detail, you know, extrapolate
3 an abstract expression of a cornice.

4 And, you know, there and, well,
5 there in particular and even with the Verizon
6 Center in the upper right where the brick skin
7 is carried up over the curtain wall, I mean
8 those gestures are lost. I think they lose
9 their impact in a pretty significant way when
10 the backdrop becomes a mechanical penthouse.
11 So, that's the challenge we were trying to
12 address by having some additional height on
13 this corner triangle.

14 And we thought that the approach of
15 just including a very small band of corner, such
16 as you often see here in Washington, like this
17 as you see on these buildings, works quite well
18 when you're standing right in front of the
19 building. But, then, as you start to move back
20 and, especially diagonally across the
21 intersection, you know, you lose the impact of

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1 these corner bays, as the penthouse becomes
2 more evident.

3 So, here I think, you know, with the
4 extension and expression of this penthouse
5 above the main roof, you know, we have a pretty
6 good shot at concealing most of the northern
7 portion of our penthouse. And we also tried to
8 sculpt it a little bit, give it a little bit more
9 of a three-dimensional expression by canting
10 the top two floors on 21st Street back to create
11 a balcony near the top of the building and,
12 then, standing on the roof.

13 You can see that, basically, all
14 we've done is we've extended the curtain wall
15 up so that it becomes a trellis. I mean that's
16 really all it is. It's just a trellis along the
17 face of the building there. And, then, the
18 penthouse, you know, which is much more
19 simple, a little bit boxier, is seen off to the
20 right here.

21 There is, I believe, a precedent for

1 what we're doing here on this building, which
2 I think is on L Street, which I understand was
3 also a PUD where, again, the entire facade of
4 the building along one side does have a similar
5 kind of trellis.

6 You know, I haven't looked at it
7 that closely but my guess is it's pretty
8 successful in concealing the penthouse, when
9 one is on the north side looking south. But,
10 obviously, not so successful in achieving that
11 from this side.

12 Now, to conclude, I just want to say
13 that, you know, we did hear your comments at the
14 sit-down hearing and we thought it was
15 important to be responsive. So, we did study
16 several alternate schemes and did submit the
17 one that you see on the right here.

18 What we did here is we canted, we
19 sloped the top of this trellis so that,
20 basically, the surface area of this
21 embellishment is reduced by half, by 50

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1 percent. I do want to say, while this is
2 certainly a scheme we can live with, I think it
3 would be okay, it is not our first choice.

4 And I think the building on the left
5 is simpler. It's a little bit stronger and I
6 think would be more ideally suited for the
7 corner of this site. So, with that, I think I'm
8 turning it over to Erwin. Thank you.

9 MR. ANDRES: Good evening,
10 Chairman Hood, members of the Commission.
11 Erwin Andres with Gorove/Slade Associates.
12 What we've done as part of our scope of this
13 project is we've worked with a team to develop
14 a circulation system that addresses the loading
15 as well as access to parking and our
16 coordination with DDOT.

17 Our site is well situated on K
18 Street, with frontage on K Street and 21 Street.
19 We're about three-tenths of a mile to the Foggy
20 Bottom Metro Station to the west and about
21 four-tenths of a mile to the Faragut West Metro

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1 Station to the East.

2 There are 20 bus lines that are in
3 and around the site, so, the site is very well
4 served by transit. In addition to that, it's
5 along the K Street streetcar line that will
6 eventually run down K Street.

7 The site plan shows the proposed
8 access and circulation serving the site. Now,
9 it's important to note that the existing
10 building and the proposed building have the
11 same access and circulation system. So, once
12 the building is demolished and rebuilt as an
13 addition, it will have similar access functions
14 because the proposed driveway located on 21st
15 Street is in the same location as the existing
16 driveway that currently serves the underground
17 garage to the existing building.

18 The private L-shaped alley that
19 runs from 21st Street to K Street currently
20 exists and currently serves both buildings.
21 So, there is an opportunity for this project to

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1 basically maintain the traffic and access
2 circulation that's currently being experienced
3 through the neighborhood.

4 With respect to transportation
5 demand management, we coordinated with DDOT and
6 have identified limiting the parking,
7 identifying TDM. Obviously, these are
8 measures that you've seen before you and we're
9 committed to implement that. And, in our
10 coordination with DDOT, they thought that it
11 would be appropriate to add two conditions.

12 One is adding a transit screen and
13 the other is to provide shower and changing
14 facilities. And the applicant does agree to
15 implement those two measures. So, with that,
16 I'm available for questions. Thank you.

17 MR. FEOLA: Thank you,
18 Mr. Chairman. Phil Feola, Goulston and
19 Storrs, for the applicant. I just want to
20 cover two things fairly quickly this evening.
21 One is just to highlight the benefits and

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1 amenities of the project. And, second, is to
2 talk about our theory on the housing linkage and
3 the fact that we don't believe that the project
4 is subject to housing linkage.

5 But, first, the benefits and
6 amenities. The applicant has worked closely
7 with ANC 2A for the past three or four months
8 to come up with things that were important to
9 the Foggy Bottom community. And I won't go
10 into great detail because the details are in our
11 July 11th filing.

12 But just to highlight a couple of
13 the issues. First, the applicant has agreed to
14 provide \$50,000 to Foggy Bottom West End
15 Village for the beginning of an implementation
16 of a medical advocacy program. The second is
17 to provide a little less than \$106,000 to
18 Cultural Tourism DC for planning, research and
19 graphic design for the north loop of the Foggy
20 Bottom Heritage Trail.

21 The Third is IFC has agreed to allow

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1 the community to utilize its state-of-the-art
2 500-seat auditorium, at least twice a month,
3 for obviously the duration of the DDD, or
4 40-some years, at no cost, to have meetings, to
5 have lectures, to have small concerts, movies,
6 whatever the community and community
7 organizations want.

8 As the application and Mr. Baranes
9 has indicated, the project will have 4,000
10 square feet of retail on the corner of 21st and
11 K and it will be developed to a legal standard.

12 So, switching to our analysis of the
13 linkage requirement, as the Commission knows,
14 the genesis of housing linkage came out of the
15 Confidential Plan Act of 1994 passed by the
16 Council. And they created a structured scheme
17 for providing housing linkage or affordable
18 housing for those projects that achieved office
19 density bonuses either due to alley closings or
20 zoning-related.

21 That legislation did carve out a

1 handful of exclusions, once of which, and I
2 quote from the ACT, "An applicant attains
3 zoning density for a development" and I won't
4 go through the whole thing, "pursuant to zoning
5 regulations set forth in the Downtown
6 Development District." That's an exclusion
7 that the Council put in the housing linkage
8 portion of the Confidential Plan Amendment Act.

9 To underscore that, we dug a little
10 deeper into the Council Committee Report and,
11 low and behold, the Committee underscored the
12 rationale for the Council's exclusion. And,
13 again, I won't read the quote that you have in
14 front of you but, because the Zoning Commission
15 has already acted in the Downtown Development
16 District, DDD, Regulations, housing linkage is
17 expressly not applicable to the DDD.

18 I highlighted in red on the slide
19 and the package the words, in red, to indicate
20 what that language says. It says,
21 "regulations," and it says, "applicable to the

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1 DDD." And I'm going to come back to that in a
2 second.

3 The Committee Report, in its
4 analysis of what was then Section 308(d)(7)(f),
5 sort of reiterates it and underlines the fact
6 that projects subject to the DDD regulations
7 are not required to comply with housing
8 linkage, as this Commission's charge is
9 implementing zoning regulations to be not
10 inconsistent with those provisions of the
11 zoning regulations.

12 In Section 2404.4C, which is on the
13 screen now, the zoning regulations state, "No
14 housing requirement pursuant to this Section
15 shall be applied to a PUD that is proposed for
16 a property located within the boundaries of the
17 downtown development overlay district," and I
18 highlighted this, "provisions of Chapter 17 of
19 this Title."

20 It does not say, within the
21 boundaries of the Downtown Development

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1 District. So, what is this provision of
2 Chapter 17 of this Title and why am I up here
3 chatting about this? This property is in a new
4 downtown receiving zone. It's defined as such
5 in Chapter 17 of the zoning regulations,
6 1709.16.

7 This application is being processed
8 under Section 1709.24. That's in the Downtown
9 Development District regulations and that
10 section permits PUDs with certain
11 restrictions, including a cap on FAR that's in
12 Chapter 17, the provision for Downtown
13 Development District.

14 And, in fact, we have to buy TDRs to
15 get to our density that we're requesting and we
16 can only do that because we're in the Downtown
17 Development District provisions of Chapter 17.
18 We can't do that if we were not.

19 Having said all that and having
20 taken a position that we are not subject to it,
21 this applicant, as Mr. Lustgarten has

1 indicated, has been in this community for a very
2 long time and feels very committed to doing the
3 right thing in the right place and recognizes
4 the importance of housing linkage and what it
5 means to people that can't afford market-rate
6 housing and is offering to make a contribution
7 of a million dollars to the Housing Production
8 Trust Fund, if this project is approved.

9 Additionally, if the Commission
10 would waive the requirement to buy TDRs under
11 Section 17.24, we would take that money,
12 approximately half a million dollars, and give
13 that to the Housing Production Trust Fund.
14 We're not looking to not make that payment. We
15 just think it does more for the benefit of the
16 policies of the city to put that money in the
17 hands of the Trust Fund, as opposed to buying
18 in from the third party that's building a
19 market-rate project north of Massachusetts
20 Avenue.

21 So, I think I'll end at that. We're

1 happy to answer questions and that ends our
2 direct presentation. Thank you,
3 Mr. Chairman.

4 CHAIRMAN HOOD: Okay. And thank
5 you all for your presentation and being
6 succinct. And I think you all did it in less
7 than about 30 minutes. Okay. Let's open it up
8 and see if we have any questions or comments up
9 here. Mr. May, we might as well go in the same
10 order.

11 COMMISSIONER MAY: Okey dokey.
12 So, first of all, on the housing linkage, I'm
13 very confused because what we've received, in
14 terms of guidance from the Office of the
15 Attorney General, seems to contradict directly
16 what you've presented. And I'm not sure how we
17 get that sorted through but I think others in
18 the Commission may want to ask you more
19 questions about that than I am prepared to do
20 at this moment.

21 Let me talk about a few things that

1 concern me about the project. First of all, I
2 think that the whole garage configuration is
3 really just bizarre because you're joining up
4 with this other building. You're going to be
5 leasing to the owner of that other building and,
6 yet, you have to create a separate parking
7 garage and build a ramp that consumes
8 three-quarters of each floor in order to get 48
9 spaces into four floors deep. It just seems
10 the most inefficient way to do parking I can
11 imagine.

12 So, what I'm wondering is I
13 understand it's because of differing security
14 requirements or the fact that there might be
15 tenants sublet. The space might be sublet at
16 some point over time. I'm wondering I mean
17 this is not the first time that a tenant with
18 secure needs has been in a building with a
19 tenant who does not have the same secure needs.
20 And it is possible to share buildings in that
21 fashion.

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1 I'm wondering, you know, what is it
2 about the parking in the existing IFC building
3 that makes it so difficult for tenants of this,
4 you know, knew building to not share? I mean
5 couldn't they go through the same screening
6 process? Couldn't their vehicles be screened
7 in some manner, pre-screened, licensed in some
8 fashion? I mean what do they have to go through
9 to get into the building?

10 MR. BARANES: I'll answer that in
11 two different ways. In our discussions with
12 them, they felt that it would impede their
13 ability to find subtenants for the space to
14 facilitate their growth or shrinkage, if they
15 put somebody through an abnormal amount of
16 security that's not usual and customary to a
17 typical office building in Washington.

18 COMMISSIONER MAY: What are those
19 requirements? What do they make you do if you
20 want to park in the IFC Building?

21 MR. BARANES: Right now, no

1 outsiders can park in the IFC Building.

2 COMMISSIONER MAY: I understand
3 that but the people who work for the IFC have
4 background checks. So, everybody would have
5 to have a background check?

6 MR. BARANES: Among other things.
7 Yes.

8 COMMISSIONER MAY: Okay. So,
9 that's the relevant piece of information that
10 I was seeking.

11 MR. BARANES: And we've done other
12 secure type facilities where there have been
13 problems with that. Secondly, at the end of
14 the lease, there is no obligation for the IFC
15 to purchase the building. And, if the building
16 is separated, the only way that you could have
17 an egress to the separated project would be
18 through a separate parking entrance.

19 COMMISSIONER MAY: All right. Now
20 I understand. It's still unfortunate. I
21 appreciate the fact that you showed us some

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1 alternate schemes for how to ramp into the
2 garage to avoid the secondary entrance or
3 reusing the existing garage entrance. But I
4 don't know that you necessarily did everything
5 exhaustively.

6 I mean right now, how wide is that
7 alley? It looks like it's at least 20 feet.
8 It's 20 plus or 20 --

9 MR. BARANES: It's right at 20.

10 COMMISSIONER MAY: Right at 20.
11 So, I mean it's not unusual to have a two-way
12 20-foot alley, right?

13 MR. BARANES: No, it's not.

14 COMMISSIONER MAY: Right. So, I'm
15 wondering, all of the schemes that you showed
16 or the two schemes that you showed for ramping
17 in showed that the alternate entrance, if you
18 did not put it on 21st Street and you came in
19 off the alley, you lose space to the turning
20 movement and, you'd, you know, extend your ramp
21 by, you know, almost doubling the length of it,

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1 right?

2 But I'm wondering why you didn't
3 look at a scheme, or maybe you did look at a
4 scheme that essentially ramps down to the
5 parking lot through what is currently, in your
6 preferred plan, shown as loading. So, you'd
7 enter off of K Street and, then, make a left into
8 the parking lot and ramp down. So, basically,
9 just flip the loading for the ramp to the
10 garage. Did you look at that because it seems
11 to me you could get the same --

12 MR. GILLIAND: This is the ramp.
13 This is Mark Gilliland from Shalom Baranes. Mr.
14 Shalom will pull up the existing ground-floor
15 plan and I'll try to lead you through the
16 rationale, the complications of moving in that
17 direction.

18 COMMISSIONER MAY: Okay.

19 MR. GILLIAND: All right.

20 COMMISSIONER MAY: Do we want to
21 turn the lights out, since it's so pale?

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1 MR. GILLIAND: I think I can just
2 probably talk over the drawing here.

3 COMMISSIONER MAY: Okay.

4 MR. GILLIAND: In terms of the
5 circulation of that private alley with the
6 moving the loading dock, if we put the parking
7 ramp where that loading dock is, we'd have to
8 pull that loading dock back over to the 21st
9 Street side of the project. And I think that,
10 when we looked at that kind of initially, was
11 having to push up into that second floor retail
12 to get the vertical clearances.

13 So, we were losing an opportunity
14 for a 4,000 square foot retail space along this
15 side with minimum 14-foot clearances. So,
16 that was a complication when we were trying to
17 find a way to provide retail, when were very
18 early on in the consultation. So, planning
19 that retail would be highly preferred along the
20 21st Street side.

21 So, that was, as I recall, one of the

1 main drivers for shifting the loading back down
2 a little deeper into the side. That private
3 alley is much higher at the curb cut on 21st
4 Street than it is on K Street. It slips down
5 by several feet. I don't remember the exact
6 dimension but we were basically able, in
7 putting the loading where it is, kind of tuck
8 it in underneath the second floor.

9 COMMISSIONER MAY: Okay. Well,
10 I'm not sure that's the right tradeoff. I mean
11 what you're doing is you're trading off getting
12 the second curb cut or, you know, having a
13 second curb cut along 21st Street versus losing
14 some portion of the retail. And I'm not
15 totally convinced that's the right tradeoff.
16 I understand the loss of retail is difficult but
17 it is a retail mezzanine, right? So, it's not
18 theoretically --

19 MR. GILLIAND: It's a majority of
20 our retail, that 4,000 square feet is up on that
21 mezzanine.

1 COMMISSIONER MAY: Yes, but it's
2 still a mezzanine, is it not?

3 MR. GILLIAND: It is a mezzanine.
4 It is.

5 COMMISSIONER MAY: Right. So, I
6 mean theoretically the mezzanine could get
7 larger into the allotted space or into the lower
8 retail? I'm not saying it's desirable. I'm
9 just saying it's possible.

10 MR. GILLIAND: Right. Yes. Our
11 lobby I would say, after having spent a bit of
12 time with the IFC and their security needs for
13 screening folks before getting to the
14 elevators, it's extremely tight as it is.

15 COMMISSIONER MAY: Because they
16 need double-height space for screening?

17 MR. GILLIAND: No. I'm speaking
18 of the ground floor plan.

19 COMMISSIONER MAY: No. I
20 understand but I'm talking about making the
21 mezzanine larger to move out over some of that

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1 and screening can occur in, you know, a
2 single-height space. I don't know.

3 I just think it needs a little bit
4 more examination because I think that, if you
5 have an opportunity to get rid of one of the curb
6 cuts along 21st Street with a reconfiguration
7 of that first floor and the loading and so on,
8 I think it's worth another look.

9 You studied one direction and it
10 doesn't appear to me that you've studied the
11 other direction very thoroughly. I mean, if we
12 knew that it was going to take 4,000 square feet
13 of retail and make it into 2,000 square feet of
14 retail, then, you know, then we'd understand
15 the tradeoff a little bit better and I just
16 don't really understand it very well.

17 MR. GILLIAND: Well, I'm saying
18 another kind of aspect of the two-story volume
19 is a ground floor. If we were to extend that
20 second floor, as it is, across, my recollection
21 is that it would be roughly a nine-foot

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1 clearance at that ground floor level and, for
2 a tall building, it felt like it wouldn't be a
3 gracious vertical space, as a primary entrance
4 into this.

5 COMMISSIONER MAY: Well, I'm
6 certainly not advocating that you would want to
7 have a nine-foot-high clearance in a lobby
8 space. But I'm not saying that it would take
9 up all of the lobby space either. So, I mean,
10 again, we don't really know how much retail you
11 would lose by shifting the loading area, you
12 know, flipping the loading area for the ramp
13 area.

14 So, I think it's worth looking at on
15 at least a diagrammatic level and I would
16 appreciate it if you could do that, just so that
17 we understand what the tradeoff is. And, if
18 you haven't studied it thoroughly before, maybe
19 you'll discover that it actually is workable.
20 But, if you discover that it's not, then proving
21 it would certainly help me.

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1 I think you can turn the lights back
2 on. So, you've shown us plans that have the
3 floors connecting all the way through on
4 essentially all floors. And, if I understand
5 correctly, that means that, when IFC is using
6 the entirety of this new building, they'll have
7 it opened up or some portion of that opened up.

8 But, at the very minimum, if it
9 winds up being sublet to someone else in this
10 completely distinct building, then you will
11 maintain a through connection only on the
12 second floor.

13 MR. GILLIAND: That's correct.

14 COMMISSIONER MAY: Okay. All
15 right. You know, I get confused on the
16 meaningful connections issue. I think we'd
17 ask for clarification on that, when it comes to
18 the zoning regulations. And I guess I would
19 like to hear the Office of Planning on how
20 meaningful this connection is or whether it
21 passes the standard, I guess, for a meaning

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1 connection.

2 Okay. So, the next issue that I
3 have is the so called embellishment and,
4 honestly, I am not convinced. I understand the
5 argument that you're trying to make that, you
6 know, we should be looking at the entirety of
7 the facade. And, if, in fact, what we are
8 looking at was a continuation of the IFC's
9 existing facade kind of to that corner and,
10 then, you have a large tower piece, I could buy
11 that.

12 But what you have here reads from
13 the exterior and will always read from the
14 exterior to everybody except maybe you and a few
15 people who have listened in on this discussion.
16 It'll read as a separate building and the
17 entirety of the facade is going all the way up
18 above the 130 foot limit.

19 And you're already starting at a
20 higher height because you're measuring the
21 building from Pennsylvania Avenue, which is

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1 seven feet higher or something like that. So,
2 you're starting at 137 and now you're adding 18
3 and a half. So, you're at 145 feet above K
4 Street. I can't go for that.

5 You know, I can see it in a tower
6 element, because that's permitted under the
7 Height Act and that's kind of where our
8 regulations descend from. I cannot see what
9 you've done here, this extension of the facade,
10 for that long length, almost the entire facade
11 alone K Street, as a tower or an embellishment.

12 Don't get me wrong, I like the
13 building. I think it's a very interesting
14 design and very clever and well done and I like
15 the treatments. You know, there are lots of
16 great things to love about the design. But
17 we're bound by the regulations.

18 You know, we don't interpret the
19 Height Act but we are bound by the regulations
20 and I do not see this as a tower or an
21 embellishment and I would like to see a

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1 different treatment that might realistically
2 comply. I mean I understand all the arguments
3 that you made but I'm just not convinced.

4 MR. GILLIAND: You know, it's
5 interesting. I understand your opposition to
6 it based on the fact that we're not compliant,
7 perhaps, with the intent of the zoning. But,
8 if you look at it strictly technically, it's a
9 single building on the entire square. And we
10 are compliant. I mean we are allowed to do
11 embellishments.

12 It's just that we have such a unique
13 combination of circumstances here, you know,
14 because technically we're a single building.
15 So, we have a tower on the corner. And that's
16 allowed. But, then, because we're an
17 embellishment --

18 COMMISSIONER MAY: I wouldn't
19 necessarily accept that. I wouldn't regard
20 this as a tower. I mean even if you were
21 designing this as a single building, arguably

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1 it's a stronger rationale. But I mean how long
2 is this extended facade along K Street? How
3 many feet is that?

4 MR. GILLIAND: One hundred and
5 thirty-five.

6 COMMISSIONER MAY: It's 135 feet
7 long. I mean a tower is a vertical element.
8 It's not a 135 feet wide unless it were, you
9 know, 500 feet tall.

10 MR. GILLIAND: I'm not sure if
11 there's something different between what we're
12 proposing here and the precedent I showed you.

13 COMMISSIONER MAY: Yes and I don't
14 like that precedent. And it doesn't even do a
15 good job of doing what you say you're trying to
16 do, which is to hide the penthouse. I mean,
17 honestly, what you've give me so far is some
18 reasons why we should not raise the height on
19 penthouses to 20 feet. And that we should keep
20 the 18.6. I don't think you really wanted to
21 do that.

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1 MR. GILLIAND: I think the other
2 way to think about it is we should allow
3 embellishments to hide it.

4 COMMISSIONER MAY: Well, I don't
5 disagree with that. I mean I don't disagree
6 with the idea that the rooftop could be more
7 interesting. But I'm not as troubled by the
8 fact that we have these penthouses. I mean
9 they are supposed to be background pieces and
10 they are supposed to fade.

11 And I think that, when you run that
12 tower up, unless you really are consciously
13 looking at the penthouses, you really notice
14 the towers and the embellishments.

15 I mean, when I'm walking down any of
16 the downtown streets where we have these tall
17 buildings, we're not really looking that far
18 into the distance and seeing the penthouses.
19 The only reason I noticed them is because, you
20 know, I have to study these things and be aware
21 of these things. Most people I don't think are

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1 going to notice them.

2 I've seen other examples that have
3 been approved on matter-of-right cases where I
4 think that the idea of embellishment has been
5 misinterpreted. And this is not a
6 matter-of-right project. So, you know, we get
7 to be the ones doing the interpreting.

8 So, in fact, this is one of the
9 things I'd like to get into more in the zoning
10 regulations, as well, to give the zoning
11 administrator better guidance on some of these
12 things.

13 I would define a tower more
14 strictly, I guess, than this. I think the idea
15 of trying to disguise the penthouse in some
16 fashion, I mean, I guess there's some merit to
17 that. But I just don't think that that's
18 really the major thing to be doing at this
19 corner. I think that this needs to stay at 130
20 feet or 137 above, you know, the entrance point.
21 And, then, a tower element would be fine.

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1 MR. GILLIAND: Yes. I guess
2 what's interesting to me is that, when you look
3 at a lot of other jurisdictions both around here
4 and across the country, there are entire
5 sections of zoning regulations that address the
6 configuration of the skyline. Rosslyn right
7 now is going through an enormous study trying
8 to, particularly with their skyline, make it
9 more interesting.

10 You know, when you look at the
11 Washington D.C. skyline, it's basically
12 unaddressed. It's kind of a leftover. It's a
13 result of a series of penthouse regulations,
14 which were not intended to define a skyline but
15 intended to define something totally
16 different.

17 And it feels to me like, you know,
18 we have a very horizontal city and we should be
19 thinking about the skyline and we should be
20 thinking about ways that are improving it not
21 as a result of some penthouse regulations that

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1 require setbacks and don't really address the
2 aesthetics at all.

3 But I feel here we have an
4 opportunity to actually address the aesthetics
5 of the skyline and so, you know, we took it.
6 And, again, strictly technically in the context
7 of such a large site, I don't think our tower
8 is exceedingly large, just from a technical
9 standpoint.

10 I agree with you that it will be seen
11 as an independent building. But,
12 nevertheless, I think it solves the problem of
13 the skyline on this corner.

14 COMMISSIONER MAY: I understand
15 the argument and I can't agree with it.

16 MR. GILLIAND: Okay.

17 COMMISSIONER MAY: And, you know,
18 the important thing about the skyline of
19 Washington should be understood in the macro
20 context. It's not about the individual
21 buildings. I mean there are things we can do

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1 with the individual buildings to improve the
2 skyline that, you know, would perhaps have more
3 to do with, you know, defining appropriate
4 embellishments.

5 I'd like to have something that
6 speaks to the use of sort of eyebrow elements
7 at the top, like the one solution that you
8 showed us on L Street or whatever it was. And,
9 also, to restrict things like cell tower
10 antennas and things like that because they just
11 kind of junk up the skyline.

12 I'm hopeful that with the changes in
13 the penthouse regulations that will be coming
14 that we will wind up with greater use of
15 rooftops and communal spaces and on penthouses
16 and that will help improve things. Certainly
17 we're seeing more activity on rooftops as it is
18 right now, within the existing regulations.

19 I just can't buy it here. It's the
20 whole building. It reads like the whole
21 building.

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1 MR. GILLIAND: Would you feel
2 differently about it if it were not an extension
3 of the glass facade but more of a horizontal
4 linear element?

5 COMMISSIONER MAY: I thought about
6 that, particularly in light of the side that you
7 had shown us, and we dealt with that on another
8 case recently. And I could see that as a
9 rooftop embellishment. But it's very hard to
10 see that work for that entire length, for 135
11 feet.

12 You know, one of the things that I
13 actually feel is kind of lost in the design, you
14 make a big point of carrying through that line
15 that's parallel to Pennsylvania Avenue and
16 making that triangular shape. And it shows up
17 in just a few places like in the lobby and in
18 some of the treatment that we see of the
19 embellishment as it is.

20 But it's actually I think kind of
21 lost. Particularly if you're just traveling

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1 down K Street, it just looks like a taller
2 building than everything else. And you don't
3 really get a sense of that triangularity, if you
4 will.

5 And, you know, if there were a
6 smaller element that was, in fact, triangular
7 in nature and you could actually see the
8 entirety of it or see the fact that it's
9 triangular from below, maybe that could work.

10 Again, I do think it has to be
11 smaller. I don't think that anything that's
12 135 feet long is going to do anything other than
13 connote a taller building, as opposed to a
14 tower.

15 MR. AVITABILE: Before we go
16 further, I do want to note that we do have a
17 model here and the model does have not only the
18 main model but also an alternate with the
19 alternate design and we also do have materials
20 as well.

21 COMMISSIONER MAY: Yes. And I

1 would appreciate your passing the material
2 board up. And I think that my concern about
3 this goes to either version of what you're
4 showing us tonight. I think sloping it down
5 isn't going to do it for me either. But I'm
6 sure other Commissioners would like to talk,
7 too. So, we'll give them a chance.

8 CHAIRMAN HOOD: Who would like to
9 go next? Commissioner Miller?

10 COMMISSIONER MILLER: Thank you,
11 Mr. Chairman and thank you for your
12 presentation. There are a lot of positive
13 elements and a lot of things to like about this
14 project. I'll get to my own concerns later.

15 But you are replacing a rather drab
16 looking building, even though it's the same
17 developer, with an exciting building. That's
18 kind of interesting that it's the same
19 developer as the one that stood here for 51
20 years I guess it is now, since that building was
21 built.

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1 And the two-story retail and lobby
2 space does do something to enliven that corner
3 and K Street, particularly at night. What kind
4 of retail would you be having there? Would it
5 be a retail that could continue into the
6 nighttime, so that, as Jack Evans used to say,
7 you know, you can shoot a cannon down K Street
8 at 8:00 p.m. or 9:00 p.m. and no one would see
9 it and no one would get hurt.

10 So, that's changing and a lot of K
11 Street stems from downtown, particularly, the
12 eastern part. But this part I think does need
13 enlivening at night. So, what kind of retail
14 are you envisioning, especially retail that
15 would go on the second floor, which has always
16 been a challenge in our city, but also would go
17 into the nighttime somewhat?

18 MR. BARANES: I think previously we
19 gave a series of examples of a two-story retail
20 space that's been done. We've actually
21 succeeded in the past in three-story retail

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1 space on a tight-configured site over in the
2 1100 block of Connecticut Avenue in the past
3 with Talbots. And we're negotiating with
4 another national retailer for a tri-level
5 store.

6 It's a complicated answer and I
7 think the answer is the marketplace is going to
8 tell us what can go there. We're very active
9 at ICSC. We got there and that's where you
10 basically shop for retailers. And we're going
11 to try and get something that's the best fit for
12 that corner. But we don't have somebody in our
13 back pocket.

14 The retail market right now is
15 competitive but we're going to go looking and
16 we've succeeded and I think we've brought some
17 exciting retail to this city in the past.

18 COMMISSIONER MILLER: Is an
19 example of some of the two-story retail, or the
20 Talbots one, how late to they stay open in the
21 evening or is that a daytime mostly use? Are

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1 there some nighttime examples I guess that you
2 are exploring or that you've done?

3 MR. BARANES: We're going a
4 bi-level one right now that's under
5 construction at 18th and M Street with Native
6 Foods that will be open probably too late, later
7 than you and I stay awake. They'll be staying
8 until midnight, 1:00 a.m. with a vegan
9 restaurant that also has beer and wine.

10 COMMISSIONER MILLER: Well, that's
11 good to hear. I think that's enlivening. We
12 want to animate. We're trying to animate that
13 corner both at the top and at the bottom and at
14 the ground floor. And I think that's a very
15 good, positive aspect of this project. I'm
16 very excited about it.

17 I also appreciate the offer of
18 housing linkage. How much housing linkage,
19 what is the dollar amount that you're offering
20 in your application?

21 MR. LUSTGARTEN: One million

1 dollars as a proffer and, if the Zoning
2 Commission would waive the requirement or grant
3 a variance from 1709.24 that requires us to buy
4 40,000 square feet of TDRs from some other
5 place, roughly, it's a half a million dollars
6 worth of TDRs, we would, instead of buying that
7 from a third party, we would contribute that.
8 So, total would be 1.5.

9 COMMISSIONER MILLER: And, if we
10 received advice from the Office of Attorney
11 General and from the Office of Planning or we
12 receive conclusions from them, advice to us
13 that the housing linkage requirement does
14 apply, in that case, it's my understanding that
15 the dollar amount requirement would be \$2
16 million, is that correct?

17 MR. LUSTGARTEN: The last figures I
18 saw from the Office of Planning the number was
19 \$2.3 million I believe.

20 MR. AVITABILE: \$2.3 million and
21 then we'd have to buy --

1 MR. LUSTGARTEN: Still buy TDRs.

2 MR. AVITABILE: -- TDRs, which
3 would be another half a million on top of that.

4 COMMISSIONER MILLER: Well, let me
5 say where I am on this. As you probably are
6 aware, I drafted the housing linkage language
7 that went in the comprehensive plan for then
8 Chairman Clark. I agree with the conclusion of
9 the Office of the Attorney General and Office
10 of Planning that the housing linkage
11 requirement does apply.

12 I think the exemption that's in the
13 plan I think it was intended to be exempted if
14 there was a housing, arts, retail or historic
15 preservation requirement that was triggered
16 because of the DDD, because you work within the
17 DDD.

18 I realize later there was this new
19 downtown receiving zone created and the whole
20 TDR Program, which helps create incentives for
21 the housing and arts and retail and historic

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1 preservation that's in the DDD.

2 But it's my own view that, whenever
3 there's additional office space, discretionary
4 office space that the Zoning Commission is
5 granting, that the housing linkage requirement
6 does apply and the exemption here does not apply
7 to this project, which is outside of the
8 boundaries of the EDD.

9 MR. LUSTGARTEN: If I may respond?

10 COMMISSIONER MILLER: Yes. Sure.
11 I appreciate your argument. I can understand
12 how a reasonable argument can be made, that
13 you've made, but I'm not agreeing with it.

14 MR. LUSTGARTEN: I understand.
15 And certainly reasonable minds can disagree and
16 I have a lot of respect for Mr. Bergstein and
17 his staff. I haven't seen the Office of
18 Attorney General's analysis. So, I can't
19 really speak to that.

20 COMMISSIONER MILLER: They did not
21 consult with me, by the way, prior to writing

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1 their own opinion.

2 MR. LUSTGARTEN: Oh, no. But one
3 point of clarification or correction, the
4 Transfer of Development Rights Section of the
5 DDD predated linkage. The entire Chapter 17
6 came four or five years before linkage was in
7 front of the Council. So, the scheme for the
8 downtown development district was in place and
9 it was zoning regulations at the time the
10 Council adopted housing linkage.

11 I, quite frankly, and I talked to
12 Alan Bergstein about this, I just think it's
13 something that nobody really put together
14 because, in our situation and the situation
15 with this property, we have to not only pay for
16 housing linkage but we have to buy TDRs. It's
17 almost like a double hit, if you will, on paying
18 for public benefits.

19 We are subsidizing. We would have
20 to subsidize arts or residential or something,
21 in NoMa or into downtown. And, then, we have

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1 to pay housing linkage. If I'm across the
2 street on the other side of Pennsylvania
3 Avenue, I just pay housing linkage for the same
4 square footage.

5 It doesn't seem to be what the
6 intent was to have a double dip under this
7 section of the regulations. I understand this
8 is the jury, so it will be your decision. But
9 it just doesn't seem equitable.

10 COMMISSIONER MILLER: Let me try to
11 understand how the TDR works and how it relates
12 to this PUD and how it relates to the underlying
13 zoning that this site is in. The sites in a
14 C3C?

15 MR. LUSTGARTEN: Correct.

16 COMMISSIONER MILLER: Which allows
17 a matter of right FAR of 6.5 and, with a PUD,
18 you can get to 8.0. And, with TDRs, you can get
19 to 10.0 as a matter of right.

20 MR. LUSTGARTEN: Yes.

21 COMMISSIONER MILLER: And to 10.5

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1 with the Zoning Commission's approval.

2 MR. LUSTGARTEN: With TDRs.

3 COMMISSIONER MILLER: With TDRs.

4 MR. LUSTGARTEN: And, under your
5 position and paying, perhaps, in linkage.

6 COMMISSIONER MILLER: Right.

7 MR. LUSTGARTEN: So, you get a .5,
8 if you will, for paying for housing linkage --

9 COMMISSIONER MILLER: Right.

10 MR. LUSTGARTEN: -- and TDRs.

11 COMMISSIONER MILLER: So, I think
12 that the linkage clearly applies to the
13 increment between 10.0 and 10.5. Did you buy
14 TDRs for the increment that went from 6.5 to 8.0
15 and all the way up to 10.5?

16 MR. LUSTGARTEN: Yes. Oh, 10.5,
17 I'm sorry. No. We would have to buy the
18 additional .5.

19 COMMISSIONER MILLER: But you've
20 bought it from 6.5 all the way up to 10.0?

21 MR. LUSTGARTEN: Right. And, in

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1 fact, the --

2 COMMISSIONER MILLER: You didn't
3 buy just from the 8.0 up to 10.0?

4 MR. LUSTGARTEN: No. No. And, in
5 fact, the IFC building was built as a matter of
6 right with TDRs up to a 10 and 130 foot in
7 height. So, on the site right now, there is a
8 matter-of-right density of 10.0. Some of it's
9 been used in the IFC building and some of it has
10 not been used in the potential associates
11 property.

12 COMMISSIONER MILLER: And, in this
13 case, what does the .5 FAR translate to, in
14 terms of square footage of office space?

15 MR. LUSTGARTEN: It's 40,000.

16 MR. AVITABILE: A little over
17 40,000 square feet. I think it's 41,000 square
18 feet. But we hear you. I understand.

19 COMMISSIONER MILLER: Okay. If
20 this is going to be a secure building like the
21 building you're becoming part of, you have to

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1 have those bollards there?

2 MR. AVITABILE: Yes, we do.

3 COMMISSIONER MILLER: Okay.

4 MR. BARANES: Yes. This is a
5 single building and yes.

6 COMMISSIONER MILLER: Okay. On
7 the rooftop thing, on the embellishment, I
8 think the alternative you presented is an
9 improvement over the original embellishment.
10 I do share the concern that Mr. May expressed
11 about the K Street 135-foot frontage of that.

12 I mean, if it went only for the
13 length that the embellishment goes on 21st
14 Street and if it had the same kind of
15 triangulation going on and openings, I think
16 you'd have a real prominent corner there.
17 You'd lose some office space, I guess, or would
18 you?

19 MR. BARANES: No, we would not. We
20 would not lose any office space.

21 COMMISSIONER MILLER: So, I think

1 if you mirrored what you did on 21st Street in
2 terms of openings and go the same length, how
3 long is the 21st Street part of the
4 embellishment?

5 MR. LUSTGARTEN: It's roughly 45
6 feet in length.

7 COMMISSIONER MILLER: Well, I'd
8 just suggest that as an alternative and it might
9 be useful to see that. Is the top of that
10 embellishment along K Street, does it have
11 glass all the way from bottom to top? So, maybe
12 if it was open as well, that might be a way to
13 deal with it. I mean you'd have to have a
14 guardrail if you're going to have people up
15 there but I would suggest that you maybe
16 consider the alternative of mirroring on K
17 Street what you've done on 21st Street for the
18 embellishment for 45 feet.

19 And I think you'd have a really nice
20 looking tower there that would compliment the
21 retail space and the lobby space at the bottom

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1 or really call attention to it. Or, as an
2 alternative to that, just with the sloping down
3 version open up that glass to the sky instead
4 of having glass all the way down. So, that
5 would be my suggestion of something I'd like to
6 see maybe a rendering of, if you all were open
7 to that idea.

8 MR. LUSTGARTEN: Okay.

9 CHAIRMAN HOOD: Commissioner
10 Turnbull?

11 COMMISSIONER TURNBULL: Thank you,
12 Mr. Chair. I want to thank you for your
13 presentation and we always appreciate
14 Mr. Baranes being here. He, I think, is one of
15 the better architects within the Washington
16 area and we always appreciate having in before
17 us. We know we're going to get a great
18 building.

19 But I would also agree with
20 Commissioner May. I think that the 135-foot
21 curtain wall going straight up really does read

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1 as just a curtain wall. Mr. Miller's got an
2 interesting idea. I think, if you're looking
3 for a tower element, that perhaps trying to do
4 the K Street on that. But I would keep it open.

5 We've had a couple of cases where
6 we've had architects going up with curtain
7 walls and they're very plain. They just read
8 as a glass wall and they don't really read. And
9 I think what we've said previously is that, if
10 this is going to read as a tower, it should read
11 as a tower. And I think it doesn't help your
12 idea with the penthouse height but I don't think
13 we have that much of an issue with the
14 penthouse.

15 But I think the option of dealing
16 with the tower as a tower is something we can
17 look at. I would also agree with Commissioner
18 May. You've heard the comments. You know
19 what we're looking for and maybe it's more of
20 an open tower or a trellis or something up
21 there. Of course, trellis is kind of a fuzzy

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1 thing too.

2 I think the other thing is the curb
3 cuts. I think Commissioner May brought up
4 something at least to look at and see if we can
5 get down to two. If it doesn't work, you need
6 to just tell us it doesn't work and maybe show
7 us that. But trying to get down to two curb
8 cuts might be something to look at, if that
9 works with the plan.

10 And, as far as the housing linkage,
11 I think that's in the good hands of Commissioner
12 Miller. I think that's his forte and I think
13 he's brought up some good points. I'm not sure
14 where we're going to end up on that.

15 But, other than that, I think it's
16 another good Baranes building that's being
17 brought forward and I think we just need a
18 little tweaking.

19 CHAIRMAN HOOD: Vice Chair Cohen?

20 VICE CHAIR COHEN: Thank you,
21 Mr. Chairman. I will keep my comments very

1 short, since they already have been addressed.
2 I do believe that housing linkage is triggered
3 by this project and I guess I agree with my
4 colleagues on the architectural detail. And
5 thank you for clarifying your submission of
6 July 11th. And I do like the building, in
7 general.

8 CHAIRMAN HOOD: I want to ask if you
9 could, for me, take the model back and I want
10 to see. I saw you switching it around. I need
11 an explanation, not a long one but a quick one
12 of what you all are trying to do.

13 And, Mr. Baranes, some of those
14 buildings that you were showing us, weren't you
15 here a couple of years ago? Were you the
16 architect on some of those buildings and now
17 you're telling us the skyline doesn't meet
18 right with it? Weren't you here for some of
19 those buildings that I saw?

20 MR. BARANES: Some of those
21 buildings absolutely were ours and I think that

1 --

2 CHAIRMAN HOOD: Okay. But now
3 you're telling me years later that the skyline
4 doesn't look well. I forgot how you used that.

5 MR. BARANES: Well, you know, we
6 couldn't get embellishments approved.

7 CHAIRMAN HOOD: Oh, okay. That's
8 what it was. I was wondering where we were
9 going there because I was sitting here
10 thinking, now, didn't I see him on that? Could
11 you just explain to me? I saw the switching of
12 pieces and going back and forth. If you could
13 turn your mic on and do that for me, it would
14 be helpful.

15 MR. BARANES: Here we have the base
16 scheme and you can see that the top of the
17 embellishment essentially is parallel to the
18 ground. So, by taking this corner here and
19 dropping it down about 15 feet or so, but
20 keeping this corner where it is, you get a
21 diagonal, right. The roof line, rather than

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1 being parallel to the ground, is now diagonal.

2 And doing that reduces the overall
3 facade by 50 percent of the embellishment. It
4 makes it half the size that it is. And that's
5 what we tried to show in this model where this
6 corner here is almost at the roof level but this
7 corner stayed up where it was in the other
8 scheme.

9 So, the area that you see here along
10 K Street, again, is half of what the other
11 scheme has. Does that explain it? Okay.

12 CHAIRMAN HOOD: I will tell you,
13 though, the embellishment at the time I didn't
14 think of that. I think Commissioner Miller's
15 onto something. And I don't want to get into
16 design because, when it comes back, I might like
17 this better than what we talked about. I try
18 to stay away from that and I think something
19 needs to be done up there.

20 And I think, on the cuff and
21 analyzing what Commissioner Miller was saying,

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1 I would agree. I would like to see that. I
2 don't know if you all plan to come back with
3 something. I think that that would look a lot
4 better than what I see here now. I'm not
5 condemning this but I think, now. I don't want
6 you to come back and say, well, you all said this
7 looks better. But I think that's a good idea
8 at least to consider.

9 MR. BARANES: We'll look at it,
10 certainly.

11 CHAIRMAN HOOD: All right. So, I
12 want to be very cautious of that.

13 MR. BARANES: Probably a sketch
14 would be helpful.

15 CHAIRMAN HOOD: I don't know but it
16 seems to me that you've satisfied all my
17 transportation questions tonight. So, you're
18 doing your homework.

19 MR. ANDRES: Right. Thank you,
20 Mr. Chairman. I appreciate it.

21 CHAIRMAN HOOD: You stole some of

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1 my thunder. Let's talk about the Foggy Bottom
2 letter. And let me ask you, who are you all
3 working with cultural on the Heritage Trail?
4 What's the person's name?

5 MR. AVITABILE: I don't remember
6 the name. That idea was brought to us by the
7 ANC. What they did is I know they've been
8 working with cultural tourism on developing the
9 trail and they actually have the five phases of
10 work. And we basically said, well, we can do
11 the first three phases for you to get it off the
12 ground.

13 CHAIRMAN HOOD: Well, I want to put
14 this out there because I think it's the same.
15 I'm actually an advisory member, so I want to
16 be very careful. I don't know anything about
17 it. That's why I'm asking who are you working
18 with. But I've been working with that for some
19 years and I'm one of the people that have input
20 when we do sites. So, I wanted to put that on
21 the record.

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1 I don't want to get too far into
2 that. I don't want to talk about that amenity.
3 I really wanted to find out or take into
4 consideration the West End Letter. Can you
5 talk about that a little bit?

6 MR. AVITABILE: Certainly. So, as
7 I think Chairman Kennedy is going to note when
8 he speaks, we actually reached out to the
9 neighborhood before we even filed to start the
10 conversation about amenities.

11 And relatively early on, we
12 attended a meeting of ANC 2A where we just
13 listened to feedback from the community and
14 what amenities people were interested in, what
15 amenities ANC was interest in and some feedback
16 on whether the ideas that were thrown out were
17 accepted by the broader community.

18 One of the issues that came up, to
19 no one's surprise, certainly not my surprise
20 and not your surprise, is this idea of funding
21 for a potential future second metro entrance to

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1 the Foggy Bottom Metro Station.

2 And what we heard at that ANC
3 meeting was that there wasn't a lot of interest
4 in the broader community for funding that. It
5 certainly is of interest to some people within
6 the Foggy Bottom West End neighborhood. But
7 there are other people that felt that it was far
8 more important to devote the amenities and
9 benefits towards, for lack of a better term,
10 shovel-ready projects, things that were ready
11 to go.

12 I spent a fair amount of time on this
13 second metro entrance issue, as I think you all
14 know. And, as we've looked into it, it is not
15 ready to go by any means. It's not in WMATA's
16 capital budget. They don't have any plans to
17 get started.

18 Until they put it in their capital
19 budget, there's no place to actually put money
20 into an escrow account and make it happen.
21 This is what we've learned through all of our

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1 research and all the projects we've had to date.

2 So, that's just not something that
3 is realistic in the context of planning and
4 development. We wouldn't be able to actually
5 see something come out of it. So, we focused
6 working with the representatives of the ANC on
7 identifying measures that the ANC felt would be
8 deliverable and responsive to the community.

9 So, that's why we focused on the
10 Heritage Trail, the retail space, the eating
11 space, which a lot of people were very
12 interested in, and, then, of course, the
13 additional funding for the Foggy Bottom West
14 End Village.

15 So, we actually attended a meeting
16 of the West End Citizen's Association and we,
17 again, heard that feedback again. And we
18 talked to them about it and, you know, they
19 understood our position and we understand their
20 position. So, that's what I'll say.

21 CHAIRMAN HOOD: Okay. And I'm

1 going to have to really come up to speed more
2 on this housing linkage. And I know
3 Commissioner Miller was the author for the
4 Council. I like to call him the author because
5 I know he had a lot to do with a lot of things
6 and on the Council. So, I'm going to come up
7 to speed on that.

8 But I'm probably going to yield that
9 one to my colleagues. You know, it's hard to
10 go against the author, Mr. Feola. I don't
11 know. Were you the author of the Downtown --

12 MR. FEOLA: I was not.

13 CHAIRMAN HOOD: Okay. All right.
14 That's all the questions I have. I yield to
15 Commissioner May?

16 COMMISSIONER MAY: Yes. I'm going
17 to follow up on the metro, since Mr. Avitabile
18 mentioned that he's now become an expert on
19 this.

20 MR. AVITABILE: I am by no means an
21 expert.

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1 COMMISSIONER MAY: So, I was
2 surprised at the number that was mentioned in
3 the letter from West End Citizens Association,
4 \$700,000?

5 MR. AVITABILE: Well, what they are
6 focused on is funding somewhat in response to
7 what they've heard, rather than just asking for
8 money. Identifying the discrete elements,
9 they believe that \$700,000 would fund the costs
10 of at least one or two elevators that would take
11 you from the street level to the mezzanine of
12 the mezzanine to the platform.

13 COMMISSIONER MAY: Yes. I think
14 it was two and, you know, they would do both of
15 those.

16 MR. AVITABILE: Right. So, that's
17 why they identified that amount. That said,
18 yes, it does fund a discrete element. But that
19 element doesn't happen unless the millions of
20 dollars are spent to dig out and create the
21 metro station. And that is just not in metro's

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1 near-term planning.

2 COMMISSIONER MAY: Right. So,
3 it's a discrete element in that it's sort of a
4 line item in the bigger project?

5 MR. AVITABILE: Correct.

6 COMMISSIONER MAY: But, if this
7 money were set aside, it's not like they would
8 start drawing up plans to do the elevator today?

9 MR. AVITABILE: That is exactly
10 correct.

11 COMMISSIONER MAY: Okay. And,
12 then, do you know the magnitude of the rest of
13 the work?

14 MR. AVITABILE: It is millions.

15 COMMISSIONER MAY: Tens of
16 millions or millions?

17 MR. AVITABILE: Tens of millions,
18 20 million or 40 million, 60 million, I don't
19 know the exact number and I don't want to get
20 myself in trouble by choosing the wrong the one.

21 COMMISSIONER MAY: Right.

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1 MR. AVITABILE: But it is a large
2 number and it's not just a couple of million
3 dollars.

4 COMMISSIONER MAY: Right. Yes,
5 because when you look at \$700,000, wow, you can
6 buy an elevator. Wow, let's go do it.

7 MR. AVITABILE: Right.

8 COMMISSIONER MAY: It seems like
9 it's not a bad investment. But the numbers
10 didn't seem right.

11 MR. AVITABILE: Right. There's a
12 far larger investment that needs to happen in
13 order to make it happen. And WMATA hasn't
14 identified it as a priority yet and the District
15 hasn't identified it as a priority.

16 COMMISSIONER MAY: And, has the
17 location actually been identified? And who
18 owns that space?

19 MR. AVITABILE: Well, a location
20 has been identified. It's the southeast
21 corner of the intersection of 22nd and I Streets

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1 and it's GW's property. This is an issue that
2 had come up early on during the campus plan and
3 GW has said, you know, set up a time with things
4 to say. They won't preclude the entrance
5 should WMATA decide to move forward in the
6 future.

7 It is one of the development sites.
8 If GW plans to move forward with the development
9 site, they'll work at that time to accommodate
10 the entrance. But it's all very theoretical at
11 this point.

12 COMMISSIONER MAY: Okay. Well, I
13 appreciate that additional information. Back
14 to the tower for just a second. You know,
15 Commissioner Miller's comments triggered some
16 other thoughts on my part. You know, reducing
17 the extent of what you have on K Street I think
18 is the critical thing and certainly something
19 that was in the 45 width range is one way to
20 accomplish that but maybe there are other ways
21 to accomplish it.

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1 Maybe, you know, what you do with
2 the corner really truly is a triangular piece
3 and, then, there's a gap and, then, there's
4 another tower element toward the western end as
5 a different way. So, you can still kind of read
6 this as a piece but, then, you can also read it
7 as two tower elements.

8 I mean there might be some things
9 that can be done. You know, just the geometry
10 of it and the Pennsylvania Avenue of it, if you
11 will, reminds me of the National Gallery and how
12 you have those triangular pieces that are
13 separate pieces. And that's kind of what it
14 conjured for me.

15 MR. BARANES: Well, I appreciate
16 your thoughts about it and we'll certainly
17 study it. Thank you.

18 CHAIRMAN HOOD: Any other
19 questions? Okay. Chairman Kennedy, do you
20 have any cross-examination? Okay. Let's go
21 to the Office of Planning. Before we do that,

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1 any objections to waive the Office of
2 Planning's report?

3 VICE CHAIR COHEN: No.

4 CHAIRMAN HOOD: Okay. No
5 objections. Ms. Steingasser?

6 MS. STEINGASSER: Chairman Hood
7 and Commissioners, the Office of Planning does
8 recommend approval of this project. We had
9 three conditions, the DDOT conditions which the
10 applicant has addressed, the fulfillment of the
11 housing linkage requirement, which the
12 Commission will decide, and, then, that the
13 applicant commit to a first source employment
14 and a CDE agreement prior to the issuance of a
15 final order.

16 The Commission had also raised the
17 issue of meaningful connection in this
18 building. And the Office of Planning finds the
19 connection of this project to be as meaning as
20 several precedents that the Commission's
21 already approved and it's also consistent with

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1 several rulings and interpretations that the
2 Zoning Administrator has made about how the
3 buildings would connect.

4 So, while it might not be your
5 primary connection between the building, it
6 definitely meets the definition of meaningful.

7 And, also, with our approval, I just
8 want it to be clear that the Office of Planning
9 has not taken a formal position on the public
10 space issue. Those will go before the Public
11 Space Committee and they'll look at those
12 security issues at that point. But we do
13 recommend approval.

14 CHAIRMAN HOOD: Thank you. Let's
15 go to Ms. Israel, DDOT?

16 MS. ISRAEL: Good evening,
17 Commissioners. I just wanted to reiterate
18 that, although DDOT ultimately, prefers
19 vehicle access from an alley and ultimately
20 mitigating or decreasing the number of curb
21 cuts in as many instances as possible, for this

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1 particular instance, DDOT finds that the
2 proposed access ultimately is appropriate
3 location due to various site constraints.

4 Nonetheless, we would be interested
5 in entertaining other possibilities, other
6 alternatives.

7 Also wanted to note that all the
8 loading easements will occur on the project
9 space, which is definitely a preferred
10 treatment with DDOT and, actually, a
11 requirement under DCMR. The action is
12 projected to not increase travel delay in the
13 area.

14 And particularly now that our
15 conditions were met, we find that between the
16 long-term bicycle parking as well as the TDM
17 measures, it will ultimately facilitate
18 multi-modal access. If you have any
19 questions?

20 CHAIRMAN HOOD: Okay. I want to
21 thank the Office of Planning, Ms. Steingasser,

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1 and the District Department of Transportation,
2 Ms. Israel. Let's see if there are any
3 questions for either one? Mr. May?

4 COMMISSIONER MAY: I just wanted to
5 confirm. In the OP report, I think you also had
6 concerns about whether the embellishment fit
7 with the regulations. Do you want to say
8 anything more to that? Do you share the
9 concerns that we've expressed?

10 MS. STEINGASSER: I don't think
11 there is anything we can add. We very much like
12 the 21st Street view and we very much like the
13 project as a whole. I don't think there's
14 anything we can add to the discussion of the
15 larger facade.

16 COMMISSIONER MAY: All right.
17 Thank you.

18 CHAIRMAN HOOD: Any other
19 questions? Okay. Does the applicant have any
20 cross of Office of Planning and DDOT?

21 MR. BARANES: No, sir.

1 CHAIRMAN HOOD: Okay.
2 Chairpersons, any cross? Okay. All right.
3 I want to thank you. Report of other
4 government agencies? Am I missing anything?
5 Okay. Let's go to the report of the ANC. I
6 don't think everybody's going to move, since
7 you're in support. Boy, when you're in
8 support, everybody gets up and offers a chair.
9 And, when there's opposition, I have to ask
10 people to move. Okay. Chairman Kennedy, you
11 may begin.

12 MR. KENNEDY: Thank you very much,
13 Chairman Hood and members of the Commission.
14 My name is Patrick Kennedy. I'm the
15 Chairperson of Advisory Neighborhood
16 Commission 2A, which represents the Foggy
17 Bottom and West End communities of Ward 2.

18 At our regularly-scheduled meeting
19 on July 16th, this Commission voted unanimously
20 six to nothing with one refusal to
21 conditionally support the application before

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1 you. And I do want to note that, as a
2 preliminary matter, the ANC report is correct
3 on our vote, the form.

4 In the first paragraph of the
5 resolution, I noted as a seven to nothing vote.
6 So, I do want to note, as a preliminary matter,
7 that that first paragraph of the resolution is
8 not accurate and should be disregarded in favor
9 of the vote noted on the ANC report.

10 In reviewing the application, the
11 Commission raised no major objections to the
12 design of the project itself. There was a
13 general recognition that the density of the
14 project was appropriate for this particular
15 location and that this building engaged the
16 location particularly well.

17 The community's major interest was
18 with respect to the amenities proposed as part
19 of the Plan Unit Development Process. The
20 applicant and the applicant's counsel reached
21 out to the community at a early stage in the

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1 process, in fact, before the application was
2 even filed, to solicit ideas for potential
3 amenities.

4 And it is the view of the ANC 2A that
5 the resulting amenities package is responsive
6 to the community's priorities. I will comment
7 now briefly on the proposed amenities that are
8 of interest to the community.

9 First of all, and this probably took
10 up the most amount of discussion, with respect
11 to the proffer of community meeting space, the
12 ANC embraced this idea as a way to reclaim some
13 of the amenities that were originally proposed
14 as part of Case Number 89-5, which was to govern
15 the development of the current International
16 Finance Corporation building on the same
17 square.

18 As part of that case, the community
19 requested that performance space be provided in
20 the IFC building to replace the Circle Theater,
21 which was being demolished on that block. The

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1 Circle Theater existed in a low-slung block of
2 commercial buildings on Pennsylvania Avenue
3 and was torn down as a result of the
4 development.

5 So, we view requesting space in the
6 new office structure as being a way of keeping
7 the heritage of that theater alive and provide
8 for necessary community meeting space.

9 Ultimately, the IFC structure was
10 built using transferrable development rights.
11 The TDR statute that was the subject of
12 discussion here, excuse me, I think was posed
13 while this case was actually pending and before
14 they started construction.

15 So, the applicant, at that time, had
16 decided to proceed using TDRs rather than under
17 the PUD that would have provided them the same
18 density. So, that would place the timing of
19 that around 1989 or 1990.

20 So, the auditorium space was
21 actually built in the building but it has not

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1 been open to external users over the course of
2 the past quarter century. So, under this
3 proposed development, ANC 2A and the applicant
4 are seeking to formally incorporate into the
5 zoning order a provision which allows for the
6 revival of this amenity.

7 As part of the proffer, the
8 applicant has agreed to make the IFC's
9 auditorium accessible for public events and
10 pick up the \$50,000 annual cost of providing
11 electricity, security, heating and air
12 conditioning as well as ventilation services
13 for these events. And I would note that that
14 is the applicant's figure there.

15 And, given that the auditorium is
16 centrally located in the neighborhood on the
17 project site and that it is accessible via an
18 entrance that is distinct from the general
19 building entrance off of K Street, we believe
20 that this amenity will work well and be well
21 utilized.

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1 With that said, we are sensitive to
2 some of the IFC's operational and security
3 needs and have, therefore, agreed to limit use
4 of the space to weekday evenings after 6:00
5 p.m., as well as weekends among a number of
6 other stipulations.

7 Additionally, the community will
8 use this space no more than twice a month and
9 will give 30 to 60 days notice in scheduling an
10 event. We also consent to bag inspections and
11 other nonintrusive security screenings.

12 For its part, the IFC has agreed to
13 give a minimum of two weeks notice to an
14 external user if it must cancel an event due to
15 a scheduling conflict with an IFC function.
16 Additionally, the IFC has agreed not to require
17 community meeting attendees to produce photo
18 identification in order to be admitted onto the
19 premises.

20 This last stipulation was
21 particularly important for securing ANC

1 support for this provision and we would request
2 that the language of the final order include all
3 of the above-mentioned stipulations as part of
4 the delineated amenity.

5 Additionally, we would like for the
6 final order to provide a mechanism for the IFC
7 and the ANC to identify an alternative amenity
8 should the IFC be unable to accommodate the
9 provisions of this agreement at some point in
10 the future due to changing threat conditions or
11 whatever else that may come up. We would
12 expect that any alternative amenity would be
13 commensurate in value with the proffer.

14 The ANC has also worked with the
15 applicant to encourage them to commit to 4,000
16 square feet of retail space on the project. At
17 the ANC's request, the applicant has dropped
18 the provision that it had originally sought to
19 request flexibility as far as its obligation to
20 lease the mezzanine space and will absolutely
21 commit to leasing that space for retail and not

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1 for office purposes.

2 At other project sites in the
3 vicinity, the ANC has requested that
4 street-facing retail be provided to the maximum
5 extent possible and that such retail be
6 nighttime active, in order to enliven the
7 neighborhood after business hours. And we
8 believe that this is consistent with that.

9 The ANC has also requested that
10 retail space be set aside for small and local
11 businesses or that a tenant improvement
12 allowance be offered to such business as part
13 of other projects nearby. But, to be clear, we
14 have not made that stipulation a condition of
15 our support in this case. But we are
16 sympathetic to the recommendations in that vein
17 that were mentioned in the Office of Planning's
18 report.

19 Among other amenities, the
20 applicant has proffered \$50,000 towards the
21 creation of a medical advocacy program for the

1 Foggy Bottom West End Village. We're very much
2 in support of this as we see first hand the great
3 work that the village does in our community and
4 we have supported them in their request for
5 funding in the past, as part of other PUDs.

6 The only thing that I would say, in
7 addition, in relation to this is we'd ask that
8 the amenity be delivered as soon as possible
9 upon approval of the PUD, so that the village
10 may undertake this important and time sensitive
11 work as soon as possible.

12 Finally, the last amenity that I'll
13 speak to is in support of the applicant's
14 proffer of \$105,881 to Cultural Tourism DC for
15 the purposes of funding the planning, research
16 and graphic design for the north loop of the
17 proposed Foggy Bottom Heritage Trail. And to
18 address your comments, Commissioner Hood, this
19 has been brought up I guess for the last two
20 years is when the planning process began for
21 this Foggy Bottom Heritage Trail.

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1 Jane Leavey is our point of contact
2 at Cultural Tourism DC. Extensive experience
3 working with these heritage trails, is one of
4 the most preeminent DC historians and has
5 worked very closely with us. The ANC has been
6 a stakeholder in that process as have the other
7 citizens' associations in the community.

8 And we've advanced to the point in
9 the process where they do have discrete
10 elements identified and a budget identified, as
11 well as sites picked out as well as a lot of the
12 research documentation to go along with the
13 signs that would be posted at those sites.

14 And, so, we view this as an
15 opportunity to jump start that and really get
16 something on the ground to literally, in some
17 cases, preserve the heritage of our
18 neighborhood as development, you know, creeps
19 in and deprives us of a lot of the things that
20 the members of our community that will live
21 there for decades have been exposed to but may

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1 be lost with their experiences.

2 So, we very much want to get this
3 done and on the record and we believe that this
4 will go a long way towards doing that. The
5 identified amount of money will fund the first
6 three phases of work and we would, again,
7 request the expeditious release of the money
8 associated with this, so that we can encourage
9 other stakeholders to come forward and make the
10 project a reality sooner rather than later.

11 So, in conclusion, we would like to
12 thank the applicant for their efforts at
13 establishing a productive working relationship
14 with the ANC in relation to this project. We
15 support the development as proposed and believe
16 that the amenities put forward will have a
17 substantial positive impact on the Foggy Bottom
18 and West End community. Thank you for your
19 consideration of our views. I'm happy to
20 answer any questions.

21 CHAIRMAN HOOD: Thank you,

1 Chairman Kennedy. Let's see. Any questions
2 up here? Vice Chair Cohen?

3 VICE CHAIR COHEN: Thank you,
4 Mr. Chairman. I'm just curious. The ANC is
5 very close to GW. And doesn't GW allow you
6 meeting spaces there?

7 MR. KENNEDY: So, yes, they do.
8 And we have utilized them. We actually had a
9 provision in our bylaws that required us to vary
10 our meeting location every month. And we
11 actually just concluded a bylaws process that
12 will eliminate that provision. So, you know,
13 I think with regard to this meeting space our
14 ANC has looked in the past for spaces that would
15 be a GW quality space.

16 Unfortunately, the issues that we
17 encounter with GW is, you know, if they have
18 classrooms that they need to use. There are,
19 you know, other functions they have even during
20 the summer when they have their orientations.
21 And I think we eliminated that provision in our

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1 bylaws so that we could find one central meeting
2 location, one room that we could go to
3 consistently. The community members would
4 know, on the third Wednesday of every month,
5 we're going to be here.

6 We're very grateful to GW for the
7 use of this space. We'll certainly take
8 advantage of that I imagine, at times going
9 forward into the future. But it is good to have
10 this option. And having been in the space
11 myself on an unrelated visit to the building
12 separate from this project, it's a quality
13 space and we'd very much appreciate the use of
14 it for ourselves or for any of the other
15 citizens' associations or performance groups.

16 CHAIRMAN HOOD: Any other
17 questions or comments? Okay. Thank you very
18 much. We appreciate you, as always, coming
19 down and taking the time and providing
20 testimony. And, also, thank you to all the
21 colleagues also. Oh, I'm sorry. I guess I

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1 should have known but I have to ask, does the
2 applicant have any cross-examination?

3 MR. AVITABILE: When I have ANC 2A
4 support, I don't say anything further.

5 CHAIRMAN HOOD: Okay. All right.
6 Okay. Thank you. Do we have any
7 organizations or persons who are here in
8 support? Any organizations or persons who are
9 here in opposition? Okay. Mr. Avitabile and
10 Mr. Feola, do you want to do the closing? We
11 may have some rebuttal and then we'll do
12 closing.

13 MR. AVITABILE: Sort of rebuttal/
14 closing/request all at once. The one thing I
15 would like the Commission to consider and I
16 clearly can count up to five at least the
17 decision on housing linkage. But the one thing
18 we would like the Commission to consider is
19 whether or no you would grant us a waiver from
20 buying TDRs?

21 If we have to pay for housing

1 linkage, it just doesn't seem equitable that we
2 also have to buy TDRs to accomplish that. So,
3 if that's where you end up going, we would
4 request that variance.

5 COMMISSIONER MILLER: Sure. And
6 may I ask what is the current cost of .49 FAR?

7 MR. AVITABILE: And I don't mean to
8 be glib. But it does fluctuate a little bit.
9 It fluctuates, obviously, on the market. It
10 fluctuates on how much you buy. If you buy
11 200,000, you can get them for less than if you
12 buy 50,000. But the prices right now are
13 between \$12 and \$16 a square foot.

14 You have to add about I'd say
15 roughly \$100,000 in transaction costs and title
16 insurance and legal fees and so forth. And
17 that doesn't matter whether it's \$10,000 or
18 \$100,000. It's about \$100,000 for that. So,
19 for this you would be looking at probably \$15,
20 \$16, \$17 a feet, you know, today.

21 COMMISSIONER MAY: What does that

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1 calculate out to be, though?

2 MR. AVITABILE: Well, it's 41,000
3 times --

4 COMMISSIONER MAY: 41,000 square
5 feet times \$16 or \$17. Got it.

6 MR. AVITABILE: And, then, some of
7 the other issues just to briefly run through,
8 we have certainly heard your comments looking
9 at the location of the garage entrance. And
10 we'll look at that. Also, obviously, the
11 embellishment is something that we will look
12 at.

13 OP mentioned in their report and in
14 their testimony whether the application would
15 be willing to commit to either first source or
16 a CBE agreement and, at this time, given the
17 other costs and particularly the high costs of
18 housing linkage, applicant's not prepared to
19 agree to those commitments.

20 As I think the Commission's aware in
21 particular with CBE, the rules have changed

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1 over the last five years. It used to be a good
2 faith effort. And, so, you could commit and do
3 your best but, if you weren't able to hit it
4 because the talent or the company's not
5 available, you tried your best and that's what
6 the proffer was.

7 They've changed the rules. So,
8 now, there are penalties and limits and, given
9 all those costs and risks, it's a much steeper
10 commitment to agree to that. So, we're not
11 prepared to agree to that at this time. And I
12 think everything else has been addressed.

13 The question about the meaningful
14 connection I think has been addressed whether
15 the connection is meaningful. We're happy to
16 address any other comments or questions the
17 Commission has as well.

18 CHAIRMAN HOOD: Okay. Any other
19 questions or comments? We may need to circle
20 back around with that CBE agreement, depending
21 upon the outcome of what this Commission

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1 decides with the housing and the TDRs. I'm
2 disturbed but I'm glad to hear that there's a
3 change. I really didn't know that because, you
4 know, the best effort just was basically what
5 it was, the best effort.

6 MR. AVITABILE: Right.

7 CHAIRMAN HOOD: And, not you, but
8 they would walk out the door and that was it.
9 So, anyway, that's this Commissioner's
10 opinion. So, maybe, dependent upon the
11 outcome, we can circle back around on that.

12 VICE CHAIR COHEN: Mr. Chairman,
13 I'd just like to say that I support your concern
14 on the CBE.

15 CHAIRMAN HOOD: Okay. Do we have
16 anything else? Do we have some dates? Okay.
17 Can we come up with some dates?

18 MS. SCHELLIN: How much time does
19 the applicant need? Do you want to shoot for
20 the first or second meeting in September?

21 MR. AVITABILE: I think we can

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1 shoot for the first meeting, because that would
2 mean we're submitting documents the beginning
3 of September. We'll just confirm that we can
4 get our revised roof design and garage details
5 done in a month. A month is enough time for us.
6 So, we would be prepared I think to submit on
7 September 2nd and, then, ANC would have an
8 opportunity to respond on the 8th. And, then,
9 we'd be here at the September 15th.

10 MS. SCHELLIN: Actually, the ANC
11 would respond by September 9th.

12 MR. AVITABILE: Okay.

13 MS. SCHELLIN: They have seven days
14 to respond. So, we'd need your submissions by
15 I'm going to have to say by noon on the 2nd,
16 because it cuts into our package time. And we
17 need the ANC's response by noon on the 9th.
18 We'd need draft findings of fact, conclusions
19 of law September 2nd and we've put this on for
20 the 15th.

21 Draft findings of fact, conclusions

1 of law by noon on the 2nd, in order to put this
2 on for the 15th. Otherwise, we need to back
3 everything up a week.

4 MR. GILLIAND: Mr. Chairman,
5 Ms. Schellin, we may ask to have the Commission
6 take this up a little later, so all of our
7 principals could be available for the decision
8 session.

9 MS. SCHELLIN: Okay. The next
10 meeting would be the 29th of September.

11 MR. GILLIAND: That would be great.

12 MS. SCHELLIN: Okay. So, then, we
13 would change the submission times to the 15th
14 at 3 o'clock p.m. and draft findings of facts
15 and conclusions of law also on the 15th, 3
16 o'clock p.m. And the ANC would have until the
17 22nd, 3 o'clock p.m. to file any response.

18 MR. GILLIAND: And that actually
19 works best for the ANC because they will have
20 a meeting then --

21 MS. SCHELLIN: By then?

1 MR. GILLIAND: After we file but
2 before they're due.

3 MS. SCHELLIN: Okay.
4 Commissioners, I didn't realize that you were
5 looking for any response from ANC or OP to what
6 they file? You weren't looking for anything?
7 That's what I thought. I just wanted to make
8 sure.

9 CHAIRMAN HOOD: No. Do they need
10 to respond to anything?

11 MS. SCHELLIN: I didn't think so
12 for anything that you guys asked for it didn't
13 seem like.

14 COMMISSIONER MAY: You know, if
15 they do come up with a different scheme for the
16 garage and the ramping --

17 MS. SCHELLIN: For the garage.

18 COMMISSIONER MAY: -- then I would
19 think that, if DDOT wants --

20 MS. SCHELLIN: If DDOT wants to?

21 COMMISSIONER MAY: -- to send us

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1 something, we would like to see it.

2 MS. SCHELLIN: Okay. So, if DDOT
3 chooses to respond, then, their response would
4 be due by 3:00 p.m. on the 22nd. And that's it.

5 CHAIRMAN HOOD: Okay. Do we have
6 anything else? Okay. This is our last
7 meeting. We get 30 days off, so enjoy the month
8 of August, colleagues. Be safe. Enjoy
9 yourselves. Stay cool and I want to thank
10 everyone for their participation tonight. And
11 this hearing is adjourned.

12 (Whereupon, the above-entitled
13 matter went off the record at 8:19 p.m.)
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16