

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: :

:

Waterfront 375 M Street, LLC : Case No.

Second Stage PUD & : 02-38I

Modification of Significance :

of First-Stage PUD @ Square :

542 :

-----:

Thursday,

April 5, 2018

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No. 02-38I by the

District of Columbia Zoning Commission convened at 6:30

p.m. in the Jerrily R. Kress Memorial Hearing Room,

located at 441 4th Street, N.W., Washington, D.C., 20001,

Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- MICHAEL TURNBULL, FAIA, Commissioner (AOC)
- PETER MAY, Commissioner (NPS)
- PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

MATT JESICK
JOEL LAWSON

D.C. OAG STAFF PRESENT:

HILLARY LOVICK, ESQ.

DDOT STAFF PRESENT:

AARON ZIMMERMAN

The transcript constitutes the minutes from
the Public Hearing held on April 5, 2018.

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

6:31 p.m.

CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission for the District of Columbia. Today's date is April 5, 2018. My name is Anthony Hood. Joining me are Vice Chair Miller, Commissioner Shapiro, Commissioner May and Commissioner Turnbull.

We are also joined by the Office of Zoning Staff, Ms. Sharon Schellin, Office of Planning Staff, Mr. Jesick, District Department of Transportation, Mr. Zimmerman, and also the Office of Attorney General, Ms. Lovick. This proceeding is being recorded by a court reporter. It's also webcast live.

Accordingly, we must ask you to refrain from any disruptive noise or actions in the hearing room, including the display of any signs or objects. Notice of today's hearing was published in the D.C. Register, and copies of that announcement are available to my left, on the wall near the door. The hearing will be conducted in accordance with the provisions of 11(z) DCMR, Chapter 4, as follows: preliminary matters, Applicant's case, report of the Office of Planning, report of other government agencies, report of the ANC, organizations and persons in support, organizations and persons in opposition, rebuttal, and closing by the

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1 Applicant. The following time constraints will be maintained
2 in this meeting.

3 Applicant has up to 60 minutes -- we believe we
4 can do 30; we really want to make sure we get to questions
5 and concerns -- organizations, five minutes, individuals,
6 three minutes. The Commission intends to adhere to the time
7 limits as strictly as possible, in order to hear the case in
8 a reasonable period of time.

9 All persons wishing to testify before the
10 Commission in this evening's hearing are asked to register
11 at the kiosk to my left and fill out two witness cards.
12 These cards are located to my left on the table near the
13 door. Upon coming forward to speak to the Commission, please
14 give both cards to the reporter sitting to my right before
15 taking a seat at the table. When presenting the information
16 to the Commission, please turn on and speak into the
17 microphone, first saying your name and home address. When
18 you are finished speaking, please turn your microphone off,
19 so the microphone is no longer picking up sound or background
20 noise. The staff will be available throughout the hearing
21 to discuss procedural questions.

22 Please turn off electronic devices at this time,
23 so as not to disrupt these proceedings. Would all
24 individuals wishing to testify please rise to take the oath.
25 Ms. Schellin, would you please administer the oath?

1 MS. SCHELLIN: Yes. Please raise your right hand.
2 Do you solemnly swear or affirm the testimony you will give
3 this evening will be the truth, the whole truth, and nothing
4 but the truth?

5 (Witnesses sworn.)

6 MS. SCHELLIN: Thank you.

7 CHAIRMAN HOOD: Now, at this time, the Commission
8 will consider any preliminary matters. Does the staff have
9 any preliminary matters?

10 MS. SCHELLIN: Yes, sir, just to remind the
11 Commission that the Commission previously granted party
12 status in opposition to the Waterfront Tower, represented by
13 Hara Bouganim, so they've already been granted party status
14 by the Commission. The Applicant has some proffered expert
15 witnesses, if Ms. Shiker wants to go over those.

16 MS. SHIKER: Yes, thank you. Good evening,
17 members of the Commission. We have a variety of expert
18 witnesses, most of which have been accepted by this Board
19 before, but some are new. We have Brett Swiatocha from
20 Perkins Eastman. He is an expert in architecture.

21 He has not been accepted by this Board before, but
22 we did submit his resume for the record. Dan VanPelt has
23 been accepted by this Board many times. We have Anita
24 Morrison, an expert in real estate economics, Michael Smith,
25 an expert in retail marketing and leasing, Shane Dettman, an

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1 expert in land use and zoning.

2 He has been accepted by the Commission before.
3 Trini Rodriguez, expert in landscape architecture, she has
4 been accepted, as well. Then, in the event of any questions,
5 Ryan Brannan, an expert in civil engineering, also having
6 been accepted by this Commission before. The three new ones
7 would be Mr. Swiatocha, Ms. Morrison, and Mr. Smith.

8 CHAIRMAN HOOD: Thank you, Ms. Shiker.

9 COMMISSIONER MAY: Do we have all those resumes?
10 I must have missed one or two.

11 MS. SHIKER: They should all be --

12 COMMISSIONER MAY: They were all in the same
13 package?

14 MS. SHIKER: They were all in the same package,
15 yes.

16 PARTICIPANT: 13-B.

17 COMMISSIONER MAY: Maybe I got tired when I got
18 through Mr. Dettman's resume and couldn't keep reading. I
19 don't know. I'll look; thank you.

20 CHAIRMAN HOOD: Ms. Shiker, I need you to help me.
21 Let's do one at a time. Let's do the first one.

22 MS. SHIKER: Mr. Swiatocha is an expert in
23 architecture. He's with Perkins Eastman and is the primary
24 architect on the project.

25 PARTICIPANT: I have no concerns about him.

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1 CHAIRMAN HOOD: Any objections?

2 PARTICIPANT: No.

3 CHAIRMAN HOOD: No objections. Let's go to the
4 next one.

5 MS. SHIKER: Mr. VanPelt, which has been accepted
6 before.

7 CHAIRMAN HOOD: The ones that we --

8 MS. SHIKER: We don't need the ones -- okay, thank
9 you.

10 CHAIRMAN HOOD: The ones we've already done,
11 unless somebody wants to reconsider what we've done --

12 MS. SHIKER: Okay. Thank you. Ms. Morrison, she
13 is an expert in real estate economics. Her resume is in
14 there. She issued an expert report, and we will have her
15 available for questions today. She's with Partners for
16 Economic Solutions.

17 CHAIRMAN HOOD: We're proffering her as what, real
18 estate?

19 MS. SHIKER: Yes, real estate economics.

20 PARTICIPANT: No objection.

21 MS. SHIKER: Thank you.

22 CHAIRMAN HOOD: Any objections? Okay, no
23 objections.

24 MS. SHIKER: Okay. Thank you. The final one is
25 Mr. Michael Smith, from Street Sense. He is an expert in

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1 retail marketing and leasing. Again, we have a retail report
2 from him, and we will be offering him up for questions in
3 case there are questions about that report.

4 CHAIRMAN HOOD: You're proffering him up, again,
5 as a what?

6 MS. SHIKER: Expert in retail marketing and
7 leasing.

8 CHAIRMAN HOOD: Okay, I'm sorry. Any objections?

9 PARTICIPANT: Do we have his bio -- I mean his CV?

10 MS. SHIKER: You should. It should be in the
11 exhibit to the pre-hearing submission, 13 --

12 PARTICIPANT: We have a short bio.

13 MS. SHIKER: If not, I have him here, and he could
14 answer some questions.

15 COMMISSIONER TURNBULL: Just this half page bio?

16 MS. SHIKER: That's correct.

17 PARTICIPANT: I'm fine, Mr. Chair.

18 COMMISSIONER TURNBULL: I wish there had been a
19 little bit more in it, rather than just the little, slight
20 overview.

21 MS. SHIKER: He is here, if you'd like to ask him
22 any questions, or we'd be happy, if the Commission wanted to
23 take it under advisement, to submit an additional CV for the
24 record.

25 CHAIRMAN HOOD: Why don't we do that? Let's

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1 submit some additional -- I'm sure his resume is more than
2 a half page. Because mine's more than a half page, so I know
3 his is more than a half page. Any objections, though, with
4 the submission? Okay, we will give him that, but we'll look
5 for that to complete our record.

6 MS. SHIKER: Absolutely. Thank you.

7 CHAIRMAN HOOD: Anything else up here? Ms.
8 Schellin, do we have anything else? I think that's it.

9 MS. SCHELLIN: That's all we have for the
10 Applicant.

11 CHAIRMAN HOOD: Okay. Ms. Shiker, you all may
12 begin.

13 MS. SHIKER: Thank you. Again, good evening.
14 We're pleased to be here tonight to present an application
15 for a modification to a first-stage PUD application and a
16 second-stage PUD for the properties located at 375 and 425
17 M Street. This project has had a long history, starting back
18 in 2003, when the Zoning Commission first considered the
19 Waterfront Station. Many of you will remember what I've
20 shown on the screen here, which was the Waterfront Mall.

21 It was in the superblock down in Southwest. There
22 was a vision to create it as more of an urban center, a
23 commercial town center. That original PUD was approved in
24 2003. Then in 2007, there was a significant modification to
25 it to really enhance and create the development that we see

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1 today.

2 As you can see, this is the PUD project site. The
3 two southernmost properties, right there, are the ones that
4 we're talking about. If you'll go to the next page, you can
5 see this is the original approval that was given.

6 The four buildings, or the center, were
7 constructed as part of the first second-stage PUD. The
8 northwest building is the Elliott on 4th, and it was approved
9 just a couple of years ago. The northeast parcel will be
10 coming before the Commission in the coming months. We are
11 here to round out the bottom to create those final edges of
12 this urban center at 4th and M Street. As we have noted,
13 we're modifying this PUD in, really, one primary area, which
14 is to replace the office use on the upper floors of the
15 building with residential use.

16 Both buildings will contain street-activating
17 retail. There will be well-planned public spaces that
18 connect to the existing public spaces. The Metro plaza will
19 really finally see the vision that had been hoped for it.

20 It will include over 30,000 square feet of
21 commercial use of office, community serving office use, and
22 it will have 6,000 square foot of a community center, which
23 we're going to talk more about a very exciting addition to
24 the property.

25 While there are certainly differing views in the

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1 community as to what the use should be at this project and
2 whether the sites should be developed, we submit that the
3 proposed amount and type of retail, residential, office, and
4 community center use fully support the town center vision for
5 which Waterfront Station was identified in the planning
6 documents, and which were the primary goal of this PUD. I
7 will first point to the Southwest neighborhood plan. It
8 calls for the Waterfront Station to be a thriving town
9 center, with it being the commercial heart of the city.

10 That plan directly acknowledges that the office
11 uses would be very difficult to lease here. That plan was
12 done in 2015, after the original PUD, and it provides
13 guidance that the developer should have flexibility to go to
14 residential use because there is a strong market for
15 residential and not a strong market for office.

16 It said there's a small market for growing retail.
17 Our team took it upon themselves to do additional analysis
18 to determine if this is the correct way to go about it. The
19 first thing the Applicant did was commission a market study,
20 which is in your record at Exhibit 13-F.

21 This market study was to determine the types and
22 amounts of uses that would successfully create this town
23 center. The study found two things: 1) that residential
24 use, and not office use, is viable for the property; and that
25 2) residential use would actually better support the town

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1 center goal by activating the street with greater pedestrians
2 and with supporting the retail. With that initial study, we
3 then looked to see what type of pedestrian usage do we have
4 on the site.

5 Can we go to the next one, which actually shows
6 the ground floor? Thanks. We decided to conduct a
7 pedestrian study. Let's see what are the pedestrians that
8 we have. That is found in the record as well in our
9 supplemental pre-hearing submission.

10 The study looked to determine the times of days
11 and the days of the week to decide when is the highest and
12 lowest pedestrian usage. What it found was that pedestrians
13 were on the street most in the morning, lunch, and at 5:30
14 in the evening on weekdays.

15 The lowest pedestrian usage was found in the
16 evenings, on weekdays, and on the weekends. This is very
17 similar to what you find in office districts, not in
18 residential and retail-centered neighborhoods. This also
19 gave us the indication that we need to bring a critical mass
20 to the Waterfront Station to really fulfill the vision of the
21 town center. Finally, the Applicant engaged Street Sense,
22 which is a well-known retail consultant, to evaluate the
23 necessary elements and the use mix to determine what would
24 be necessary to create a town center.

25 That report concluded that the proposed mix of

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1 retail, residential, and office uses would support the needed
2 pedestrian traffic to create the maximum retail potential.
3 The report also recommended a variety of strategies to
4 enhance the retail climate, which have been incorporated into
5 the proposal.

6 Other steps that we have decided to do to
7 encourage the successful retail climate include establishing
8 a working group with the ANC, which we're going to talk
9 about, and having interim retail strategies. Here, with all
10 of the culmination of all of this analysis and studies,
11 residential use was clearly the winner in going forward with
12 the second-stage PUD applications.

13 The importance of this development also required
14 a significant amount of outreach with the Office of Planning,
15 with DDOT, and with the community. We are pleased to have
16 OP support, and we noted in the report, there were a variety
17 of issues and questions that were asked. We made a
18 submission this morning that addresses many of those, and to
19 the extent those aren't fully addressed, we're going to talk
20 about some of them in our presentation this evening.

21 We are also pleased to have DDOT's report in
22 support, and we believe that we have come to conclusion on
23 all of those issues. DDOT will be able to let you know, and
24 we put those in writing to the record today.

25 We are also pleased to have the ANC's support,

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1 after significant work and engagement on this project that
2 is so important to this community. Mr. Smith is going to
3 talk about the response to that.

4 I think at this point, I will turn it over for him
5 to talk to that community engagement, address our responses
6 to those conditions. I will then go to Mr. Swiatocha to walk
7 through the development. I'm going to submit Mr. Dettman's
8 testimony for the record, and Mr. VanPelt can talk very
9 briefly about some of the transportation issues. Thank you.

10 CHAIRMAN HOOD: Turn your mic on.

11 MR. D. SMITH: Sorry about that. Vice president
12 of development with Forest City, Washington, managing member
13 of the partnership developing the Waterfront Station and the
14 remaining two parcels, representing our partners, Bresler &
15 Reiner, Forest City, and Vornado, now JBG Smith.

16 Over the past several months, we've been working
17 diligently to engage the southwest community to try to create
18 what this thriving town center should consist of. The
19 overarching theme was a place for people in Southwest to come
20 together, not simply through the neighborhood retail to be
21 provided, but through a place that the community could gather
22 and actively participate in the neighborhood.

23 We heard the ANC, and out of this came the
24 community center. We met with the ANC weekly, over a
25 two-month period. What came out of those meetings is the

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1 team sponsorship of a 6,000-square-foot community center,
2 with free rent for a period of 30 years, that would be
3 prominently placed on the south side of the 375 East
4 Building, which is the first building to be built, with
5 direct ground-floor access from M Street. In order to
6 provide a space that is ready on day one, we have offered a
7 build-out allowance of \$500,000, plus another \$50,000 for
8 fixtures and furniture. Also offered to the operator will
9 be the landlord's payment of all common area maintenance, or
10 CAM charges, and real estate taxes, estimated in the
11 aggregate to be about \$90,000 annually for 30 years prior to
12 inflation.

13 The only charges that would be borne by the tenant
14 would be tenant's use of electricity, which consumption is
15 unknown by the landlord. To get the tenant up and running
16 during its first year, we have also offered an initial
17 start-up grant of \$15,000 to cover those initial costs during
18 the first year, allowing the tenant time to build up for that
19 cost in future years, as they are successfully up and
20 running.

21 Over the past several months, my team has met with
22 and discussed the proposed project with members of the ANC,
23 Tiber Island Condominium, Carrollsburg Condominium,
24 Waterfront Tower Condominium, the head of SWNA, the Southwest
25 BID & Harbour Square Condominium to understand their concerns

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1 with the proposed development and to try to address their
2 issues. With respect to Waterfront Condo Board, especially,
3 we met four separate occasions with various members of the
4 board, beginning in October, to understand their issues. The
5 direct result was a modification to our loading strategy, so
6 that the loading maneuvers are interior to the buildings,
7 with no backup maneuvering on the private drive.

8 The loading was moved approximately 50 feet to the
9 south, as to not conflict with the congested choke point at
10 the north, whether the north drive meets the east/west plaza,
11 which is directly in front of Waterfront Condo. The design
12 of the north/south private drive changed, as well, with the
13 continuation of the pattern concrete along the drive, with
14 a new sidewalk, with a planning strip against the face of our
15 building.

16 We propose to duplicate this again on the west
17 side of the west building, as well. We believe these
18 improvements will greatly enhance the pedestrian experience,
19 while addressing many of the concerns of Waterfront Tower
20 residents. A subsequent meeting was held between our traffic
21 consultant, Gorove/Slade, and Ms. Bouganim to address detail
22 concerns regarding the traffic study. When we were made
23 aware of any issues, we met to understand what they were and
24 address them as best we could. In addition to addressing the
25 issues raised by Waterfront Tower, we have also reviewed the

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1 comments set forth in the ANC's report, including its request
2 for the installation of a public space element adjacent to
3 the Metro Plaza that signifies a sense of arrival to the
4 Waterfront Station town center.

5 The Metro Plaza was constructed in accordance with
6 the approved second-stage PUD plans, but since then the
7 community has requested additional elements to increase the
8 vibrancy at the entrance of the Metro station.

9 As set forth in the community benefits agreement
10 that we made with the ANC, we have negotiated -- we're fully
11 committed to working with the ANC on the design, location,
12 and installation of an element in the public space in this
13 location, subject to coordination with the other Waterfront
14 Station property owners and approval by DDOT. Also, at the
15 request of the ANC, we are fully committed to establishing
16 an operations management plan for the overall PUD site, to
17 be coordinated with the adjacent property owners and the ANC,
18 to provide active on-site management. This commitment will
19 begin by convening two meetings within the first year,
20 following the start of construction on the east M Street
21 building, and will continue to convene annually thereafter.

22 We also agree to the ANC's request to establish
23 a construction management plan to prohibit residents of the
24 M Street buildings from obtaining residential parking permits
25 and to implement a retail strategy and implementation plan,

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1 as set forth in the community benefits agreement.

2 MR. SWIATOCHA: Good evening. Bret Swiatocha with
3 Perkins Eastman DC. As the design architects for Elliott on
4 Fourth, the most recently completed building in the
5 Waterfront Station Town Center development, we've been
6 working with Forest City in this southwest community for the
7 last seven years, so we're intimately familiar with the sites
8 prior to starting work on these two individual buildings.
9 A primary premise parameter of the design when we approached
10 these buildings was that the setbacks, height, and density
11 of the buildings were to remain as was originally approved,
12 and we were to focus on the refinements of the design and the
13 massing that would reflect the residential program, the
14 change in use of the buildings.

15 The opportunity to re-investigate the design and
16 the approach to the design for residential started first with
17 a look back at some of the testimony that had been given in
18 0238A and some of the feedback that was originally provided
19 on the massing of the office buildings.

20 We saw the approach to these buildings as an
21 opportunity to address some of the earlier grievances with
22 the massing, which had a continuous street wall the full
23 height of the building along M Street and was negatively
24 viewed by the neighbors across the street.

25 When adapting the buildings to be a residential

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1 footprint, we oriented the courtyard of the building toward
2 M Street and worked extensively with the Office of Planning
3 to figure out how we could maintain that orientation toward
4 M Street and establish a continuous street wall along M that
5 is necessary for the vibrant retail environment that we are
6 trying to establish. With the refinement of the massing, in
7 working with the community, and in particular with the party
8 in opposition, Waterfront Tower Condo, there were some
9 questions raised about the impact of the shadows from the new
10 massing.

11 We did work, over the past couple weeks, to
12 perform a shadow study. I will quickly go through that, just
13 to pick up the highlights. Looking at three primary times
14 of the year, and then over the course of the day, you will
15 see, in these highlighted shadows, that -- we did a
16 comparison of the existing conditions, which is an empty
17 site, the office massing which was previously approved, and
18 our proposed residential massing.

19 You'll see that in June, at the Summer Solstice,
20 the impact of the proposed residential building, as compared
21 to the office building, is almost identical. We'll have some
22 closer views, just to highlight that comparison. In the
23 March/September condition, again, early in the day, the
24 primary shadows are coming from the recently completed 301
25 M Street building directly south of Waterfront Tower Condos,

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1 and there are shadows from the proposed residential building
2 cast onto that property in the late afternoon, into the
3 evenings only. Again, a similar condition in December, when
4 the sun is at its lowest angle for most of the year.

5 A quick comparison of the existing condition, on
6 the left, which is the empty site, you can see the shadows
7 cast by the old EPA headquarters office building. In the
8 middle, the approved office massing, you see the shadows just
9 barely grazing the lower corner, the southwest corner of
10 Waterfront Towers, and the same condition from the proposed
11 residential massing.

12 In March/September, again, there's actually, we
13 believe, an improvement on the shadow condition, the impacts
14 of the shadows on the building, due to the setbacks of the
15 penthouse on the proposed residential massing, as opposed to
16 the massing that was shown for the office building condition.

17 Again, March/September, the impacts of the
18 residential massing, as compared to the approved massing, are
19 negligible. December 21st, similar condition. These two
20 buildings really do serve as the completion of the lower
21 portion of the Waterfront Station Town Center, and they are
22 critical to establishing the vibrancy and the density and the
23 edges to the site that are required to bring the retailers
24 to the site and create the environment that everybody desires
25 at Waterfront Station.

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1 We view these two buildings as a pair acting
2 together. While they were designed concurrently, different
3 teams were working on the projects, intentionally give the
4 buildings different character, but intentionally wanting them
5 to act together as part of this gateway condition you'll see
6 in this next slide.

7 We worked, again, with the Office of Planning
8 early in the project to refine the massing at the corners of
9 4th and M, so that the two buildings really do work together,
10 primarily at that corner, as you make your approach into the
11 Town Center development.

12 The east building, 375 M, has a primary, prominent
13 position on the Metro Plaza, and it's really going to serve
14 to activate that Metro Plaza. We see the ground floor of
15 that building, as it fronts onto the Plaza, as vibrant,
16 active, open retail space that is going to create the edge
17 there and create the environment in that plaza that everybody
18 is looking for. It's important to note that we have --
19 though not required by the approved PUD, we have held the
20 building back from the edge of the plaza to allow more open
21 space at the ground floor.

22 The most recent development in the project, as
23 Christine and David both mentioned earlier, is the inclusion
24 of the Southwest Community Center, with probably the most
25 prominent position on the façade. It has a unique identity,

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1 as compared to the building.

2 It is a distinct identity, framed by the towers
3 of the residential building on either side. It is prominent
4 and fronts onto M. The idea here is that it really gives --
5 it opens up out to the community.

6 We've created this balcony as a front porch idea,
7 so that members of the community walking by are engaging with
8 members using that community space on the upper levels. A
9 view of the building from the north. We've worked diligently
10 on the massing to tie the buildings into what exists as part
11 of the pattern language on 4th Street as the existing
12 buildings on the Town Center. You'll see that quickly,
13 again, in some of the renderings. Here's a view of that
14 really active, open plaza with the retail fronting on it.
15 It's a primary location for retail and restaurants on the
16 site.

17 Another significant development from the previous
18 submissions was the dramatic reconfiguration of the loading
19 dock on 375 M. The loading entries had previously been
20 located at the very northern edge, northeast corner of the
21 building, directly across from Waterfront Tower.

22 Working with Waterfront Tower and hearing their
23 concerns, we considerably reconfigured the loading condition.
24 We took all of the loading maneuvers, truck maneuvers off of
25 that north/south drive and moved them internal to the

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1 building, to alleviate the congestion at the northern corner
2 of the site.

3 We've also recessed the loading and garage
4 entrances to further conceal them from view, so it's not the
5 first thing that members of the community are seeing as
6 they're walking out onto this drive. We have also pulled the
7 edge of the building back to create a continuous pedestrian
8 pathway on both sides of the street, moving north, with a
9 landscape edge against the building. This is a fourth side
10 of the building. It is certainly not a service approach to
11 the building.

12 We have taken that idea to heart. David mentioned
13 earlier the idea that these north/south drives, they're being
14 treated as part of the overall development. What we've done,
15 from a landscaping perspective, is integrated the paving that
16 is existing on the site on the north side of the building and
17 wrapped that around, so these two access points on either
18 side of the development really do connect to the public
19 spaces on the north side of both the east and west buildings.

20 Here's a view of the west building. You can see
21 here the idea that the massing is refined, in order to
22 address the height of the buildings at the center of the
23 development and really tie into an idea that was started at
24 Elliott on Fourth, at the northern end, where the center of
25 the block is really captured by a more solid massing, and

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1 then the glass corners on both buildings create this
2 significant gateway condition. A view here of that more
3 solid expression of the massing and a closer view of the
4 entrance to the building, to 375. I'll quickly go through
5 these.

6 There are two levels of parking, two levels of
7 below-grade parking garage with public parking for retail,
8 office, and the community center uses. The ground floor is
9 planned around retail wrapping from M Street, up onto 4th
10 Street, to connect to the existing retail on 4th.

11 You can see, in the east building, the inclusion
12 of a roughly 2,000-square-foot community center at the ground
13 floor, which then ties into an upper-level community center,
14 similar plan layout, without the community center, on the
15 west building.

16 At the second level, we're asking for flexibility
17 on the second floor of 425 M Street for the potential future
18 inclusion of a mezzanine in the double-height space of the
19 retail that occupies the corner of the building. It's, I
20 think, a valuable opportunity for retail that might occupy
21 that space. You see here the community center, that roughly
22 4,000 square feet of space at the second floor, with a great
23 view and access to the courtyard. Here is that location of
24 that, where we're asking for the flexibility for the
25 inclusion of a future mezzanine. The third-floor plan --

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1 I'll go through these quickly.

2 Fourth-floor plan, you can see that we have a lot
3 of outdoor terrace levels and a significant number of
4 balconies, so there are, for the residents of the building,
5 tremendous opportunities to occupy the roof terraces of these
6 spaces.

7 At the rooftop, you can see that we have pushed
8 a significant amount of the residential amenity space of the
9 building up to the roof, in order to maximize the
10 opportunities for retail at the ground floor and office and
11 community space at the second floor of the east building.

12 As a result, there is very little horizontal
13 surface left. What we have been doing over the past couple
14 weeks, in response to the Office of Planning's -- actually,
15 within the last couple days -- the Office of Planning's
16 reports is exploring alternative opportunities to enhance the
17 sustainable prospects of this building and incorporate a
18 solar PV array into the building. The idea here, you can see
19 in the sketch at the top of this page, is that we can include
20 a PV array on the south-facing orientation of the building
21 within the one-to-one setback, with a goal of reducing the
22 electrical demands of the building. I think you all have
23 probably looked through the elevations. I don't need to
24 dwell on them. If you have questions, we can certainly
25 address those, and we'll move to Dan. Thank you.

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1 MR. VANPELT: Good evening, Commissioners, Dan
2 VanPelt with Gorove Slade. I've been working with Forest
3 City and the design team and coordinating with DDOT and the
4 community. I'm just going to quickly run through the
5 transportation highlights and our coordination with DDOT.
6 I think we'll skip the site context here.

7 I think we're all pretty familiar. Brett just did
8 a great job of walking you through the ground-floor plan, so
9 I think I'll just step to the comprehensive transportation
10 review. We did a CTR for this project, and it was scoped
11 with DDOT and included 14 intersections and driveways in the
12 vicinity of the site. I think it's very important to note
13 that the change in land use from office to residential has
14 a positive impact on trip generation. The proposed program
15 will generate half as many peak hour vehicular trips as the
16 office program would have generated.

17 Again, the parking and internalized loading
18 access, also the private drives and the curb cut to parking
19 on M Street, have been eliminated in this modified plan.
20 Current DDOT policies would not allow the parking access on
21 an arterial street, as it had previously been contemplated.

22 The CTR concluded that there were two
23 intersections that showed some increase in vehicular delay.
24 These could be mitigated with signal timing adjustments and
25 the transportation management plan.

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1 There have also been long-standing concerns about
2 pedestrian safety operations at 4th Street, at the Metro
3 Plaza. There's been improvements that have been proposed,
4 and I'll touch on those in just a moment. The next slide
5 summarizes the pedestrian data that we collected and Christy
6 talked about earlier, so I won't dwell on that too much, but
7 it really shows that the pedestrian traffic that we saw on
8 4th Street, when we looked at a typical Friday and a typical
9 Saturday, was pretty much what we would expect when you have
10 daytime office uses, where there's the commuter inbound in
11 the morning; there's lunchtime activity; and then there's the
12 evening, as people are commuting and leaving, but then you
13 see lower volumes on the weekend.

14 We believe that the residential uses would
15 increase the pedestrian activity on the evenings and
16 weekends. Knowing the community and ANC concerns, having
17 observed the operations of 4th Street, near the Metro Plaza,
18 on many occasions, the design team interacted with DDOT on
19 potential enhancements for this location.

20 The goal of the changes were to improve the
21 intuitiveness, the safety, and the operations of the area for
22 all the users. The plan that's shown here on the slide came
23 out of a work session with DDOT. The changes here are meant
24 to create a more typical condition that motorists and
25 pedestrians would see as more intuitive and recognize where

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1 they would interact and intersect with each other. The
2 Applicant will continue to work with DDOT and the community
3 and adjacent property owners on the final design for this
4 location. Another thing that also became apparent in
5 conversations with the community is that the private drives
6 need better traffic management, pedestrian specific
7 accommodations, and traffic calming enhancements.

8 There were specifically concerns from Waterfront
9 Tower Condominium about the choke point that occurs in front
10 of their property and The Leo today and that additional
11 traffic from this PUD, and the 301 M Street project currently
12 under construction will exacerbate operational issues.

13 We believe that the plan shown here, combined with
14 the internalized loading, the new motor court that's being
15 constructed with Bernstein's 301 M Street, and a
16 collaborative approach amongst all properties that will
17 utilize the private drive to better manage them will mitigate
18 these issues. The Applicant has agreed to continue to
19 coordinate this plan, as David said earlier, with the
20 surrounding property stakeholders, and see it implemented.
21 At this time, we believe we've addressed all of DDOT's
22 concerns and that we have their support. As Christy said
23 today, there was a response that was put in the record that
24 addressed all the outstanding issues. It also included an
25 updated TDM plan and a safety study scope for 4th and M

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1 Street.

2 I think that the materials that we have submitted
3 in the record have shown our extensive coordination with DDOT
4 and the community, and I think we've worked hard to address
5 the transportation concerns. Forest City will continue to
6 coordinate with DDOT and the community as we go forward.

7 There were a couple things in the ANC report, a
8 couple concerns about bus stops, the 74 Metro bus stop and
9 the circulator stop. Nothing that the plan does here will
10 preclude those stops, and Forest City will continue to
11 coordinate with DDOT in the future to locate those stops.

12 MS. SHIKER: Thank you very much. In conclusion,
13 I just would make three quick points. We have had a
14 significant community engagement process, and I feel like we
15 have come very, very far from where we first started in this
16 project. We appreciate the ANC's work with us. They took
17 time to meet with us every other week for a period of months.
18 We feel that we came very far with that. We've worked
19 closely with Waterfront Towers.

20 We've tried to address many of their concerns, and
21 I think we've walked through some of those. I know that they
22 still have some other concerns that they'll address this
23 evening, but we do feel like we've made progress to look
24 through those.

25 We feel like it's been a collaborative process

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1 with the different stakeholders. Finally, I'll point out
2 that the second-stage PUD fully complies with the first-stage
3 PUD FAR, density, height, and most importantly, setbacks.

4 Because this Commission took a lot of time in
5 designing the height and setbacks for this building, to make
6 sure that it appropriately fit within the Waterfront Station.
7 Finally, the modification that we are requesting is
8 consistent with the Southwest neighborhood plan and will be
9 an integral part to achieving the goals for this PUD and for
10 the planning vision of a town center for this site. With
11 that, we open it up for questions. Thank you.

12 CHAIRMAN HOOD: All right, thank you all for your
13 presentation. Let me just ask you, Ms. Shiker, you said that
14 you all complied with all the setbacks and everything with
15 the penthouse.

16 MS. SHIKER: Yes, we do. There's a 30-foot
17 setback from the property line at the ground level, and then
18 an additional 45-foot setback on the upper levels, above the
19 second floor, which was highly negotiated at the time of the
20 2007 PUD.

21 CHAIRMAN HOOD: I was more concerned about you
22 saying how the Commission took great detail in making sure
23 that our setbacks and what we went through, so I appreciate
24 that. We don't get that. We usually get something in
25 reverse. Let me open it up and ask for any comments or

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1 questions. Commissioner May?

2 COMMISSIONER MAY: In your whirlwind presentation,
3 maybe I missed it, but did you talk specifically to the
4 issues that were still open in the OP's report? Because
5 there were a handful of those, specifically the level and
6 certification increase in IZ and number of three-bedroom
7 units. Solar panels, I heard what you had to say about that,
8 but I have several questions about that, and then balconies.

9 MS. SHIKER: In our submission today, we walked
10 through each of those issues in detail. We had spoken with
11 the Office of Planning earlier, who indicated they were
12 taking our responses under advisement. I'm happy to walk
13 through our responses if you'd like for me to.

14 COMMISSIONER MAY: That would be helpful. It
15 doesn't really help us very much to get a submission on the
16 day of.

17 MS. SHIKER: Absolutely. With respect to the
18 inclusionary zoning, this project was a PUD. It does comply
19 with the minimum amounts required, and it offers five
20 dedicated three-bedroom units, which is what we have
21 considered the benefit or the amenity that comes with it,
22 comes with the new amenities and benefits.

23 I will point out that the overall PUD was approved
24 prior to IZ implementation. At that time, the Applicant
25 offered affordable housing as an amenity, and it offered

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1 approximately 160,000 square feet of affordable housing
2 throughout the PUD, to be placed in certain locations and to
3 be delivered within certain times. That amenity was offered
4 in addition to a variety of other amenities.

5 One of the primary amenities of this PUD being 4th
6 Street and the re-opening of that and the creation of the
7 town center. At the time, they balanced the amenities and
8 benefits against the development incentives and they said
9 that it matched or that it balanced, that it worked.

10 In this application, we are not asking for any
11 additional development incentives or flexibility. Therefore,
12 we are clearly required to comply with IZ. As I said, we are
13 offering the five three-bedroom units, which had come out of
14 meetings and discussions with the ANC as being a very
15 important priority to them.

16 What we heard from the community, however, was
17 that the community center was a primary, primary priority for
18 this community. So we've worked very hard to add that to the
19 amenities and benefits of this project at great expense and
20 time. We believe that with the additional benefit of the 5
21 three-bedroom units, and with the overall PUD, we add in our
22 IZ the effective rate of affordable housing for this project
23 is approximately 15 percent.

24 When you look at the PUD overall, we believe that
25 is an appropriate amount, given the balancing test and given

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1 the competing priorities for the project. At this point, we
2 haven't changed our original proffer. We just went into more
3 detail about why we believe that what we've provided is
4 sufficient.

5 COMMISSIONER MAY: I'm sorry; I'm a little
6 confused. The 160,000 square feet that was part of the
7 original proffer has already been delivered?

8 MS. SHIKER: No, 80,000 has been delivered, and
9 80,000 will be delivered in the northeast building. 80,000
10 was split between the east and west towers.

11 COMMISSIONER MAY: What you're providing here, the
12 extra 8 percent of these two buildings, is above and beyond
13 that 160?

14 MS. SHIKER: That is correct. It is not counted
15 toward that original benefit.

16 COMMISSIONER MAY: That's how you get all the way
17 up to 15 percent.

18 MS. SHIKER: The effective rate of approximately
19 -- I think it's 14.78, but it's approximately in that number.

20 COMMISSIONER MAY: I understand that argument.
21 I'll let that be digested for the moment. Some of the other
22 points?

23 MS. SHIKER: Sure, of course. For LEED, in this
24 case, the original PUD talked about sustainable design
25 elements being LEED certified, or silver, at that time, which

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1 was quite a bit lower. In this case, the project is aiming
2 to design to a LEED silver certification, under Version 4.
3 This is what, about a year and a half ago, would have been
4 considered gold. It's now silver. That's where we have
5 landed.

6 Again, given that this is a modification and the
7 balancing test is always done in the first-stage PUD, we
8 haven't proffered this as an amenity, but we have committed
9 that it will be designed to a LEED silver certification, with
10 the potential additional of solar panels, or we even
11 discussed, in our recent submission -- I'm going to say it
12 wrong -- solar hot water. We are evaluating that as well.
13 We've had so much focus on our community center that we
14 didn't have a chance to fully vet this, which is why we're
15 proposing them tonight, and then would ask to be able to
16 supplement the record, depending if the Commission liked the
17 solar panels.

18 But with that addition, we would get some
19 additional points, putting up further in the sustainable
20 design. Again, we are compliant with the first-stage
21 requirements to design to certain sustainable levels. We are
22 exceeding those, but we're not offering it as an amenity.

23 COMMISSIONER MAY: For the original Stage 1 that
24 was approved 15 years ago --

25 MS. SHIKER: But we're exceeding that.

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1 COMMISSIONER MAY: -- during my first time on the
2 Zoning Commission -- yes, exceeding.

3 MS. SHIKER: But we are trying to incorporate
4 solar panel.

5 COMMISSIONER MAY: We'll come back to that. What
6 about the question of actual certification?

7 MS. SHIKER: The reason why the zoning regulations
8 were changed to say that it would be Design 2 is that you
9 typically can't get certification until about a year-year and
10 a half after you deliver your building, so the Zoning
11 Administrator's Office has found it very difficult to confirm
12 that you've gotten certification if it doesn't happen until
13 after C of O.

14 COMMISSIONER MAY: I understand, but that's a
15 wordsmithing thing. You can state that you're going to aim
16 for this number of points, so that you can get to LEED Gold,
17 and that's the target, and you'll have to still go through
18 certification. We understand that. It's always possible
19 might miss. You can always put in language that would
20 address that sort of situation.

21 MS. SHIKER: The intent is to be certified.

22 COMMISSIONER MAY: Okay. Thank you.

23 MS. SHIKER: Yes, thank you.

24 COMMISSIONER MAY: If you're proffering that you
25 are going to attempt certification, that's the question we're

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1 trying to get answered.

2 MS. SHIKER: Yes, we are attempting to get
3 certification.

4 COMMISSIONER MAY: All right, that's good. I have
5 no doubt that Perkins Eastman, who's done all of those LEED
6 gold school buildings and stuff, ought to be able to get
7 there, right?

8 PARTICIPANT: We hope so.

9 COMMISSIONER MAY: On the solar panel question,
10 I see the diagram. Where are those going to be, and am I
11 going to see them?

12 MS. SHIKER: They will be set back one to one.
13 I'm going to ask Brett to pull that picture up.

14 COMMISSIONER MAY: I see better than one to one.

15 MS. SHIKER: They're going to be on the setback
16 line one to one. Where we're having an issue is that given
17 the fact that the -- there's no private habitable space up
18 there. It is just all amenity space.

19 COMMISSIONER MAY: I think that's a good thing.

20 MS. SHIKER: It does meet all of the setback
21 requirements. With that amenity space, you put the
22 mechanical equipment on top. As such, you have less space
23 to get it in within the 20 feet because you have open air
24 sections. We have about 450 square feet where we could put
25 solar panels, but that only got us to .1 percent of the

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1 building's energy usage, which we didn't think was great, so
2 we've been trying to brainstorm different ways to do it.
3 Brad, if you'd like to talk briefly about that.

4 MR. SWIATOCHA: The 450 square feet that Christy
5 was referring to is over on the east building.

6 COMMISSIONER MAY: We're mostly going to be
7 focused on what it looks like.

8 MR. SWIATOCHA: Right. So, the intent, as we're
9 looking at this, is trying to creatively brainstorm locations
10 for the solar panels. The first approach was to actually
11 construct the mechanical screen wall out of the solar panel
12 on the south orientations of the screening. If you can see
13 my mouse up here, along this roughly 180-foot length of the
14 penthouse, and then along this roughly 20-foot length here
15 --

16 COMMISSIONER MAY: We don't see your mouse.

17 MR. SWIATOCHA: Sorry; I don't know -- just the
18 south facing screen walls. I don't know how to make the
19 mouse show up.

20 COMMISSIONER MAY: I think we can figure that out,
21 so south-facing sections of the screen walls.

22 MR. SWIATOCHA: Correct. When we looked at the
23 study of making the screen wall itself out of the solar
24 panels, we're only allowed to slope those screen walls at 20
25 percent off of vertical, which takes you to about 72 degrees.

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1 Having the panels oriented that vertical results
2 in a tremendous efficiency drop in the panels. The second
3 or alternate approach that we've been looking at is actually
4 pulling the array outside of the footprint of the mechanical
5 screen walls, so that it is angled at that 45 degrees, which
6 is much closer to optimal for the angle. And being able to
7 get a panel in there, our early estimates are showing about
8 a 21-kilowatt array, which gets us very close to 1 percent
9 of the total electrical demand on the building.

10 We see it as an opportunity to use found space on
11 the roof. We do recognize that there will be some visual
12 impact. And what we're also trying to balance is the idea
13 that we want to maintain the green roof below that, so there
14 are certain offset requirements that those panels do need to
15 stay above that surface. So it's a balancing of trying to
16 find the best opportunity for solar and maintain green roof.

17 COMMISSIONER MAY: So what is the mechanical
18 system?

19 MR. SWIATOCHA: The current plan is for a VRF
20 system.

21 COMMISSIONER MAY: What are we seeing in these
22 gray blobs that are there within the mechanical?

23 MR. SWIATOCHA: You're seeing all the VRF
24 condenser units, the condenser --

25 (Simultaneous speaking.)

1 COMMISSIONER MAY: Are they individual by unit?

2 MR. SWIATOCHA: It's not individual by unit. I
3 am not a mechanical engineer, but it's roughly 12, I think,
4 units to a condenser. Then the larger rectangles that you're
5 seeing are the dedicated outside air units. Those are the
6 very large units.

7 COMMISSIONER MAY: The VRF units are actually
8 pretty small, aren't they?

9 MR. SWIATOCHA: They are getting more compact, but
10 with recent projects and those units up on dunnage, they do
11 take up approximately the full height of a seven to eight
12 foot enclosed mechanical space. Their footprint does result
13 in -- because of the number of units, does result in a large
14 occupied mechanical space.

15 COMMISSIONER MAY: I'd look at that question, too,
16 to see if there's some way to work it in within the enclosed
17 mechanical space, potentially even -- since there were
18 sections of non-accessible green roof, I guess that's what
19 you were looking at before, but it seems like there might be
20 -- maybe there's space there. I don't know.

21 I think that the -- I have a real question about
22 the sketch that you were showing, just because I don't think
23 we want to have pyramidal tops on buildings as part of the
24 mechanical systems. Maybe it'll look okay, but I fear the
25 outcome of this, that this is going to wind up becoming

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1 standard practice and we'll see many of these things.
2 They're going to look like the faux mansard rooves of the
3 1970s that we're still cursed with. If you could just do
4 some sort of drawing that shows that, I think that would help
5 if, in fact, you think that's going to be a viable solution.
6 Maybe in further examination it won't be.

7 MS. SHIKER: Shall I continue now?

8 COMMISSIONER MAY: Yes, we can go quickly through
9 the other OP issues.

10 MS. SHIKER: I'll go quickly. There were specific
11 questions about the depth of the mullions, and we did provide
12 additional documents today showing what the depth of those
13 mullions are. Office of Planning asked us to commit to an
14 interim retail strategy. We put together language, and we
15 submitted that. I also referenced that in my opening
16 statement.

17 COMMISSIONER MAY: What is that language?

18 MS. SHIKER: It is basically that we would commit
19 to a combination of a campaign for vacant storefronts and for
20 popup retail tenancies for portions of the building, to the
21 extent that things weren't being able to be leased in the
22 first year. We put together some ideas, asked for some
23 flexibility to put arts, design, and creation type popup uses
24 in there if we aren't able to lease the retail immediately.
25 Then with respect to the balconies, when we originally

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1 submitted the plans, we were about 18-19 percent balconies.
2 Since then, the design team evaluated the building and we are
3 now at 35 percent of the residential units in the East M
4 Street building.

5 There's about, specifically, 100 units. Then we
6 have 36 percent of the residential units in the West M Street
7 building, which is a sizable increase, almost a double from
8 where we originally were. We believe that this percentage
9 of balconies is appropriate, especially when given the amount
10 of public terrace and amenities space that's outdoors.

11 This building has the benefit of having different
12 levels, and there's quite a few different terraces that
13 people can access. With that doubling of the balconies since
14 the original filing and these publicly accessible amenity
15 terrace to the residential units, we felt that that was a
16 sufficient number. Then we provided some updates that we
17 would make sure that the -- the last question that OP had was
18 making sure that in the east building, the bike storage room
19 would connect to the lobby. We have made sure that we can
20 do that, and we have updated plans on that.

21 COMMISSIONER MAY: I just have one other question,
22 which is that we have the materials buckets that you gave us,
23 as opposed to a board. What I don't understand is what's
24 what. We have three different colors of brick on one of the
25 buildings, and we have one color of brick on the other. Do

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1 you want to explain some of that?

2 MR. SWIATOCHA: I can maybe pull up an elevation
3 and I can talk through some of the -- if we start with 375,
4 it's actually a very simple material palette. The primary
5 building is -- there are two of the redder, purplish brick.
6 The intent there is that it would actually be a blend of
7 those two bricks for the primary tower.

8 We do have a blend, but the panel is considerably
9 large, so we did not bring that with us. Then the third
10 brick is the brick that's being introduced as the base of the
11 community center, so the retail that is below the community
12 center would be that separate brick, to really give that
13 centralized portion of the building a distinct look, gives
14 it, as a darker brick, a kind of anchor to the ground for the
15 floating glass structure above. That same brick would also
16 be repeated on the pavilion-type structure that is the
17 two-story piece on the eastern side of the building. Four
18 twenty-five is also a very simple material palette, with only
19 one brick being used for the base of the building, the idea
20 of this stronger masonry base at the retail, supporting a
21 lighter expression of these glass fiber reinforced concrete
22 panels above, on the towers above.

23 We're showing, as kind of an offset opportunity
24 to warm up the building and the number of balconies, the
25 introduction of a wood-like material as a liner to those

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1 balconies, on the interior of those, that will be seen from
2 the ground, and then the use of the two different metal
3 colors, primary mullion and metal panel materials, with the
4 corner being the darker metal -- I believe that's Number One
5 -- and then the in-fill within the overall tower frame being
6 the lighter metal panel.

7 COMMISSIONER MAY: Okay, thank you. I just have
8 one comment on this, which is that I would be very cautious
9 about using the lighter-colored cementitious panels,
10 particularly when you have significant balconies, and there's
11 a lot of in and out with the glass because of the tendency
12 for dirt to collect and to get washed off, and then get
13 washed down the building. Then you have a streaky white
14 building. There are ways to detail it to make it look good,
15 but when you're dealing with something that's so flat and
16 modern in its treatment, a very nice building could look
17 great in year one and look terrible in year five.

18 MR. SWIATOCHA: We'll take that into
19 consideration.

20 COMMISSIONER MAY: Last question I have is about
21 the bike storage. Did I see bike storage all the way down
22 to the second garage level?

23 MR. SWIATOCHA: We did not have the intent of
24 showing bike storage at the lower garage, only the first
25 level and in the loading dock, at grade.

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1 COMMISSIONER MAY: Okay, great. Thank you.

2 CHAIRMAN HOOD: Okay, Commissioner Shapiro?

3 COMMISSIONER SHAPIRO: Thank you, Mr. Chair, just
4 a few points in addition to Commissioner's May question. One
5 is the public space element that you talked about, where are
6 you looking to do that?

7 MS. SHIKER: Can you please bring up the Metro
8 Plaza?

9 COMMISSIONER SHAPIRO: I was sensitive to the
10 ANC's, I guess, slightly snarky comment that the first
11 version of this was nowhere near adequate, so I'm curious
12 about what the intentions are this time.

13 MS. SHIKER: The original approval included some
14 very low jettted fountains, seating, and trees. We've learned
15 that's not what people want, even though that was what was
16 approved many years ago. David, why don't you talk a little
17 bit about you all's discussion?

18 MR. D. SMITH: Our discussion pretty much -- we
19 heard the concern that -- the three fountains, not three
20 hoses, not being adequate for a destination of this size.
21 We are, in conjunction with the other owners, meeting with
22 the ANC to understand and identify what that can become.
23 Because we've all got to participate in this. Somewhere in
24 the plaza area, we're not sure where, but something to
25 signify a sense of arrival. We're not sure what level that

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1 is, if it's in the ground, what that is. With DDOT's
2 approval, working with the ANC and the other owners, we would
3 identify that design and come up with that in short order.

4 MS. SHIKER: We basically, in our community
5 benefits agreement, which was submitted on March 16th, we
6 committed to the ANC to work with them, and then while the
7 east building, which is the first building to be constructed,
8 is under construction, we would have that public space
9 element be under construction.

10 If it had to go back to the Zoning Commission
11 because it somehow changed, was outside the scope of what the
12 Zoning Commission has approved, then we would come back for
13 a modification, probably, of consequence, for the Commission
14 to review that, or if it was in public space, we would go
15 through the DDOT approval to get that.

16 COMMISSIONER SHAPIRO: I appreciate that. The
17 process that you describe sounds very healthy. Part of the
18 difficulty for me sometimes with this is I don't know how to
19 measure what kind of benefit it is because there's typically
20 not a dollar amount connected to it. It's hard to say, at
21 this point. You have measured some of the other -- I
22 appreciate the specificity with which you described the
23 benefit that the community center is, \$500,000 for build out,
24 \$50,000 for the FF&E, \$90,000 for the CAM and real estate
25 taxes.

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1 We'll probably have some issues with the
2 utilities. I know the ANC does. I'm curious why that, of
3 all things, would be the sticking point because it seems like
4 a much smaller dollar amount, but what do you imagine you're
5 going to be investing in, as a collective, around this public
6 space element?

7 MR. D. SMITH: At this point, I can't say. We've
8 got to work with our neighboring owners. It's a collective
9 investment, and we are -- I can't give you an answer on that
10 right now, but we are --

11 COMMISSIONER SHAPIRO: You could take the Warren
12 Buffet approach, which is if you throw out what you're
13 willing to commit, you might get the other philanthropic
14 interests to also commit something similar, but I would
15 appreciate you taking the lead on this because it's obviously
16 going to have a special impact on you.

17 MR. D. SMITH: Sure, and we will, but at this
18 point, today, I can't say what that is. We will lead that.

19 COMMISSIONER SHAPIRO: Okay, thank you. While
20 we're on it, I know it's going to come up with the ANC, but
21 what's the issue with the utilities? Of all the things that
22 you're offering, I just can't imagine it's that much money.

23 MR. D. SMITH: When we started the process, just
24 the back and forth, the negotiating, we offered a certain
25 amount for ten years, rent free, fixed rent, and the

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1 community center paying their CAM and taxes.

2 When that went back and forth, they'd have no way
3 to do that, we've always -- maybe it was miscommunication,
4 but we don't know what that operation is, how they're going
5 to use it, what they're going to use it for, as far as
6 electric use. That is something that is pretty much variable
7 with each tenant. Office leases, typical leases, that is
8 borne by the occupant, non-profit or whoever that is because
9 we just don't know. We're not in that business. One of the
10 things we did was to give \$15,000 for that first year, to
11 help defray that cost, believing that a successful operation
12 would be able to, in subsequent years, provide that. We
13 don't know what that is. The total amount is pretty hefty,
14 including the loss of rent on the main space.

15 COMMISSIONER SHAPIRO: I really appreciate the
16 commitment. I think the ANC does, too. It just feels like
17 there should be a way to -- you're going to have deeper
18 pockets than they will. It just feels like there should be
19 a way to address this, even if it's a fixed amount that you
20 proffer. I don't know how to do it, but it just feels like
21 it's a minor thing to be such a big sticking point.

22 MR. D. SMITH: We'll look into it.

23 COMMISSIONER SHAPIRO: Thank you. I don't have
24 any other questions for now, Mr. Chair.

25 CHAIRMAN HOOD: All right, thank you.

1 Commissioner Turnbull.

2 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I
3 don't want to leave Mr. VanPelt out here. Mr. VanPelt, just
4 for the record, looking at all the comments that Department
5 of Transportation made, is there anything you're not doing?

6 MR. VANPELT: I think we've had pretty extensive
7 dialogue with DDOT on this project over many months, and I
8 think quite a bit over the last couple weeks, since the staff
9 report came out. I think we have addressed all of DDOT's
10 concerns. There are some things that will need further
11 study, and those have been identified.

12 COMMISSIONER TURNBULL: I was just going back over
13 their report on Page 20 and 21. They have a few things they
14 wanted you to go back -- it sounds like you may have already
15 done that, but I just wanted to be sure.

16 MR. VANPELT: Commissioner Turnbull, I believe
17 we've addressed all of their concerns, and I think we
18 articulated that in our response, and then the materials that
19 were submitted along with that response.

20 COMMISSIONER TURNBULL: Okay, thank you. Mr.
21 Smith, I'm glad you brought up the garden hose comment. It
22 was expressly, finely written in the ANC report. I thought
23 that was -- I don't know what they saw or what sketch you
24 showed them, but it apparently wasn't that -- it didn't make
25 a big impact on them. That's going to be one of the issues

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1 you're going to be working on with them. On the community
2 center, I realize -- I can understand your point of view
3 about the electrical and the rate.

4 The other question they had was about the picking
5 of an operations manager. There was a question of their
6 input on the manager who's going to be running this. I'm
7 just trying to -- I'm not sure what that was, if you could
8 explain a little bit about that.

9 MR. D. SMITH: Sure. In our discussions, we've
10 been -- from the beginning, when the concept first arose, we
11 were asking who's going to run the community center. As an
12 owner, we want to make sure that is working, that is
13 operational early on, and that is consistently run in a
14 well-done manner.

15 We don't doubt that they will endeavor to get that
16 operated. We just don't know who it is. As an owner, we
17 want the building to do well. That's a big part of it, with
18 a frontage right on M Street. We just want it to be
19 successful. We were just saying mutual -- I believe mutual
20 approval of that entity.

21 COMMISSIONER TURNBULL: So they will have input
22 no matter what?

23 MR. D. SMITH: Yes.

24 COMMISSIONER TURNBULL: Especially on review of
25 operation practices and what they're doing to maintain it,

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1 just so that -- we talk about electrical rates. The
2 operations manager is going to be the one who's really going
3 to be following all that and making sure that things are
4 turned off or on running appropriately. I would think they
5 would want to review some of that on an annual basis or a
6 semi-annual basis, I would think.

7 MR. D. SMITH: Sure. We had no intent of being
8 dominant in selecting that person. We're expecting them to
9 come to us, and that was what the discussion was about, with
10 an operator. We just want to make sure that it's a viable
11 operator and we go forward, but we have no intent of stifling
12 that.

13 MS. SHIKER: I think the comment in the ANC report
14 was that they wanted to have sole discretion. The owner and
15 Applicant have just asked that they be part of the
16 decision-making process.

17 COMMISSIONER TURNBULL: Okay. I understand that,
18 then. Getting back to the IZ and your -- I still think we'd
19 like to see a larger IZ entity, rather than the -- I
20 understand where you're coming from on that. We always like
21 to see more. Regarding the balconies, you've got 36 percent
22 of the number of units have balconies.

23 Do you know offhand -- and maybe you can't answer
24 -- how many of those IZ units -- do the IZ units have
25 balconies? I looked at the plans. I see some IZ units have

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1 balconies. Is the proportion of IZ units with balconies
2 proportioned to the market rate units with balconies?

3 MS. SHIKER: The IZ location plan that's in the
4 record at Exhibit 13-H, I think it is, was based on the plan
5 prior to incorporation and the community center. We had
6 indicated in a most recent submission that we'd be updating
7 that plan. We can look at that.

8 I don't know if we have the answer for you right
9 now, but we can look at that question as we're doing the
10 location plan and be able to respond to that in a post
11 hearing submission. As I noted earlier, we came really close
12 to the deadline working with the ANC to finalize this, so
13 some things just didn't completed as early as we would have
14 hoped.

15 COMMISSIONER TURNBULL: If you could, in that,
16 too, the strategy on how you're placing IZ units, the mix
17 around the building. Obviously, some views are better than
18 others. Hopefully, you're giving a fair selection as you go
19 around the buildings.

20 MS. SHIKER: We will submit that for the record
21 for your review.

22 COMMISSIONER TURNBULL: Okay, thank you. The
23 penthouse, looking at the penthouse, what's hard to tell --
24 there's really no larger scale. I didn't see very
25 large-scale plans. I saw some fairly small-scale plans,

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1 unless you submitted something.

2 MS. SHIKER: In the original application, we had
3 very detailed plans showing the heights of each wall, the
4 setbacks, and we had sections through. Those were in the --
5 they were in this most recent submission, on March 16th, as
6 well. If you look at Pages 51 and 52 -- no, this isn't it.
7 This is the one that has the color coding to show you the
8 heights of the plans, and then there are blown-up sections,
9 as well. But we have reviewed to confirm that no relief is
10 required for the penthouse.

11 COMMISSIONER TURNBULL: What plans are you talking
12 about?

13 MS. SHIKER: The supplemental pre-hearing
14 submission plans filed on March 16th, in the record.

15 COMMISSIONER TURNBULL: I'm looking at your big
16 volume from March 19th.

17 MR. SWIATOCHA: Maybe Page 105 and 106. In the
18 current submission, it's Page 101 and 102 has the enlarged
19 sections.

20 MS. SHIKER: 105 and 106, too.

21 MR. SWIATOCHA: Sheets 105 and 106 show the
22 sections.

23 COMMISSIONER TURNBULL: A plan, is there a blowup
24 of a plan, swimming pool? Is there a fireplace? Are there
25 grills or tables? Is there awnings?

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1 MR. SWIATOCHA: If you look on Page L --

2 COMMISSIONER TURNBULL: Did I miss that?

3 MR. SWIATOCHA: -- L-6 and L-7, L-6 and L-8,
4 actually, it's the landscape plans, shows the definition of
5 the occupied spaces, the outdoor occupied spaces at the
6 penthouse level. There is a pool on each building.

7 COMMISSIONER TURNBULL: Is there a fire pit? Is
8 there grills? Are you showing anything up there?

9 MR. SWIATOCHA: Yes, there are a number of
10 grilling locations being shown at the upper level, and I
11 believe only at the upper roof level.

12 COMMISSIONER TURNBULL: I guess what would be good
13 --

14 MS. SHIKER: We could ask Trini Rodriguez to come
15 up and --

16 COMMISSIONER TURNBULL: I guess I would like to
17 see a better plan of those, and I'd like to know about the
18 lighting, up lighting/down lighting for that. Since you're
19 going for LEED-certified solar, I'd like to make sure that
20 -- know what kind of lighting is going to be up there.

21 MR. SWIATOCHA: Sure. We can certainly submit
22 additional documentation on that. The intent is primarily
23 down lighting, so when dark skies approach.

24 COMMISSIONER TURNBULL: We all want people to use
25 the roof. That's going to be -- that's a very valuable

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1 space. But at the same time, the impact of neighbors across
2 the street and what that does, so I think if we could get a
3 little bit better description or see some drawings that might
4 describe it a little bit better, that would be good, and the
5 hours of operation, I guess, of the rooftop.

6 MS. RODRIGUEZ: Just quickly, good evening, for
7 the record, Trini Rodriguez with the firm of Parker
8 Rodriguez. The plan you have in front of you on the screen
9 actually shows the courtyards, the rooftop terraces and the
10 courtyards. You can see there is a level second courtyard
11 that is sunken, so that one is interior.

12 We have a fourth-level courtyard, which is in the
13 center of the building, and then there is two upper-level
14 terraces, which are on the rooftop. One to the left is a
15 small rooftop, which has -- you see the gray area with
16 grills, and then small sitting areas on the sides. All of
17 that has, also, some green inserted. The idea for the
18 illumination of all of these rooftop terraces is actually
19 very soft lighting. We don't really want to have these --

20 COMMISSIONER TURNBULL: That's what I was hoping,
21 but I wonder if you could show me something that --

22 MS. SHIKER: We can provide better detailed plans
23 for you.

24 COMMISSIONER TURNBULL: For the record. Okay.
25 Hours of operation, you go to 10:00 p.m., you go to midnight?

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1 MR. D. SMITH: Sorry about that. Right now, it'll
2 probably be around 11:00.

3 COMMISSIONER TURNBULL: You'll allow music --

4 MR. D. SMITH: Yes, but --

5 COMMISSIONER TURNBULL: -- a flat screen TV up
6 there?

7 MR. D. SMITH: As far as music goes, it's
8 controlled by the manager, so we're not allowing boom boxes
9 and that to blast music out. As far as the other --

10 COMMISSIONER TURNBULL: Flat screens on the walls
11 that can be seen from the street?

12 MR. D. SMITH: No. That stuff will be inside the
13 club room.

14 COMMISSIONER TURNBULL: I saw the community room,
15 so I was assuming you would do that, but I just wanted to be
16 sure. The only other thing I had is in Exhibit No. 13. It
17 was Page 27, your flexibility on materials. I think you made
18 a change in some of the language you've used in the past.

19 You've got refinements to the buildings. You
20 crossed out exterior materials. I think you need to talk
21 with OAG a bit more about going back and refining that
22 because I think once you've shown us materials, we don't want
23 changes in materials after the fact. I think we need to just
24 tighten up that language on that.

25 MS. SHIKER: Okay. We can do that, and we can

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1 submit that for review.

2 COMMISSIONER TURNBULL: All right, thank you. Mr.
3 Chair, that's all I have.

4 CHAIRMAN HOOD: Thank you. Vice Chair.

5 VICE CHAIR MILLER: Thank you, Mr. Chairman, and
6 thank you for your presentation this evening and for all of
7 your efforts to be responsive to comments by the Zoning
8 Commission, the Office of Planning, DDOT, ANC, and others in
9 the community. My colleagues have covered a lot of ground,
10 so I'll try to be brief. On the inclusionary zoning, you're
11 providing -- I appreciate that you increased -- I think you
12 increased, from set down, the number of three-bedroom units
13 from four to five.

14 MS. SHIKER: That's correct.

15 VICE CHAIR MILLER: I don't think you even have
16 any market-rate three-bedroom units. It's just the IZ units.
17 The five are amongst the estimated 48 units that Office of
18 Planning estimates would be occupied by the 39,000 square
19 feet of inclusionary zoning units.

20 I would concur with my colleagues and with OP and
21 with DHCD, who suggested that you consider adding yet another
22 three-bedroom unit, in order to get beyond the minimum 8
23 percent set aside and to just -- to continue your good model
24 of providing family sized units. I think that would be very
25 beneficial for the project. On the LEED silver issue, I

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1 realize this goes way back, but we're now -- as you know, we
2 really push applicants to go to LEED gold, and we see LEED
3 silver as an everyday minimum thing. Maybe that's not fair
4 to a 15-year-old project, but you've come back in for a
5 modification, so you come back in with the new mindset and
6 where we are now with our standards.

7 Have you met with DOE? I appreciate the solar,
8 which I think will help -- you said will increase the points,
9 but you don't think it'll get you to the gold level. Have
10 you met with DOE to see what they -- if they had any ideas
11 of how you might be able to incorporate --

12 MR. SWIATOCHA: To the first question about
13 whether the solar will get us to the gold level, at this
14 point, we don't think the points to be gained from the size
15 of the array will get us to gold. We did meet with DOE early
16 on, but have not met with DOE recently on specific
17 recommendations and measures to get toward gold.

18 VICE CHAIR MILLER: You might want to because I
19 think they often have some fairly cost-efficient suggestions
20 that don't increase the cost greatly, but that might get you
21 the points that would be significant. I would encourage you
22 to have that more recent meeting and report back to us if
23 there are any suggestions that you're able to incorporate.
24 I, too, would echo the comments that the Applicant should
25 consider covering the utility costs of that community center.

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1 It's a great amenity.

2 It's what the community wanted, ANC wanted, and
3 it's 30 years of free space. Free space would be free space,
4 free. It can't be that much for this kind of project,
5 overall. Of course, we're all adding things on to it that
6 we want you to do, so I realize that, as well.

7 I do like the materials, the color of the bricks.
8 I always like wood and that you've got, inside, one of the
9 building's balconies. I think that does warm it up. I do
10 love balconies on your residential buildings. The terraces,
11 I think that's great. Thirty-five percent is not
12 insignificant.

13 To the extent you can do more, even though there
14 is all that outdoor and rooftop space, there's a lot of open
15 space that's being eliminated in Southwest because of all the
16 development. It's pretty development, but people see where
17 this is being built. They've seen it, traditionally, as open
18 space, so to the extent you can create as much outdoor space
19 for the individual living units -- I just think they're
20 always much more marketable. I wouldn't live in a high rise
21 without having a balcony, no matter how many terraces and
22 rooftop and courtyards there were, but that's me.

23 I didn't get a chance to look at the interim
24 retail strategy, which I think you provided today -- I'll
25 look at that -- while the space is leasing up and making sure

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1 that it's active and that they're the same kind of uses that
2 had been on that open space, farmers' market or whatever's
3 been there these past several years.

4 I realize you're going to develop a retail
5 strategy, but do you have a vision of what -- I think it's
6 almost 40,000 square feet of retail between the two
7 buildings. Is that correct? Do I have it right?

8 MS. SHIKER: That's correct.

9 VICE CHAIR MILLER: I realize there's a lot of
10 exciting retail at the Wharf, a lot of exciting retail at the
11 Yards, not so much exciting retail yet at -- what do we call
12 this?

13 MS. SHIKER: Waterfront Station.

14 VICE CHAIR MILLER: Waterfront Station. I want
15 to say Waterside Mall. What is the vision for the retail?
16 I realize you're going to develop a strategy with the
17 community.

18 MS. SHIKER: We're going to work with the
19 community as to what the current needs and desires are at the
20 time we start the leasing, but we also did engage Street
21 Sense. I could ask Mr. Smith to walk up and talk through --
22 he, based on his experience, prepared a summary of what are
23 those types of retail uses that are the right combination to
24 create a place that maximizes the retail client and creates
25 that town center. Mr. Smith.

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1 VICE CHAIR MILLER: Maybe just briefly.

2 MS. SHIKER: If you could just give a couple of
3 sentences. Thanks.

4 MR. M. SMITH: Good evening. The goal here is to
5 create an authentic neighborhood-oriented town center. A
6 successful, grocery-anchored neighborhood center is anywhere
7 from 40 to 50 percent anchor, the anchor being the existing
8 grocery store, 20 to 30 percent food and beverage, 20 to 30
9 percent neighborhood goods and services. That mix yields a
10 product that resonates with the local consumer. The
11 objective here was to satisfy the needs of the immediately
12 surrounding community -- that is the primary customer, the
13 on-site and nearby residents, on-site and nearby office
14 workers -- and to create something that is authentically
15 neighborhood oriented.

16 I would argue that what's happening to the east
17 end capital riverfront is -- it doesn't satisfy some of those
18 neighborhood qualities that we aspire to have here, nor does
19 the wharf, which is predominantly food and beverage in
20 orientation.

21 MS. SHIKER: I would add that strategy is
22 consistent with the original approval, in which there was a
23 condition put on this PUD for neighborhood-serving retail.
24 That has always been the goal for this retail. Condition 13
25 of the Major Approval Order 0238A gives you all kinds of

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1 examples of things, and then Mr. Smith has just narrowed it
2 down as what is that right balance of these types of
3 neighborhood-serving retail uses.

4 VICE CHAIR MILLER: Thank you very much. That's
5 it, Mr. Chairman, for now, thank you.

6 CHAIRMAN HOOD: Thank you. You had a question,
7 then I'll follow.

8 COMMISSIONER SHAPIRO: Very, very quick question.
9 Did I see that there were two dog runs at two different
10 floors, one above each other? I just hadn't seen that
11 before. I was curious.

12 MR. SWIATOCHA: That may be a naming error or a
13 titling error. I think what happened, we have only a single
14 dog run on each building, and single levels. When we
15 reconfigured the loading docks --

16 COMMISSIONER SHAPIRO: That makes more sense. I
17 was going to say kill one of the dog runs and do the
18 electricity. Thank you.

19 CHAIRMAN HOOD: Mr. VanPelt, I heard this question
20 the other day from one of the BZA members to someone in the
21 public, so I'm going to start using that question myself.
22 When you did your analysis, did you use the book, or did you
23 go out there and see, actually, what's going on in that area?

24 MR. VANPELT: We always do on-site observations.
25 That's part of what our engineers do. We use the book. We

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1 refine our assumptions based on what we see in the field.
2 That's just part of our overall methodology. We don't work
3 on any -- fortunately, we've done a lot of work in this
4 neighborhood, so we're very familiar with it already, very
5 familiar.

6 But I think we also go back out, as we're doing
7 our analysis, and we look at the results that we're getting
8 as we do our baseline and look at existing conditions, does
9 that make sense in our models, and validate it that way, yes.

10 CHAIRMAN HOOD: Some of the mitigation factors
11 that you had in the surrounding area -- and I'm not just
12 talking about M Street -- let me talk about M Street for a
13 minute. I had the opportunity to work at Waterside Mall for
14 years. I left with the EPA.

15 Let me just ask you, what is traffic like on M
16 Street? I know how it used to be. Has it improved any? I'm
17 asking, actually, because I don't really go over there
18 because there was a whole lot of traffic when I was there,
19 so now I've stopped coming. What is traffic like? With the
20 mitigation that you all have proposed, some of the mitigation
21 factors, how is that going to improve the flow on M Street?
22 Because that's a lot of cut-through traffic.

23 MR. VANPELT: Right. I think that there is more
24 traffic associated with the Wharf, and then there's more
25 development that is yet to come. We've looked at that and

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1 taken that into account in our future projections. I think
2 there have been some increases in the volume, certainly,
3 along that corridor.

4 I think one of the benefits of residential here
5 is that we are talking about -- as opposed to office, what
6 I talked about in the presentation is what was previously
7 approved would have generated a lot more traffic than what
8 is now approved with residential. That's a big benefit.

9 I think we always have a tendency to overestimate.
10 Even on residential, we have a tendency to overestimate the
11 number of vehicular trips that are usually generated. These
12 are residential sites right on top of a Metro station, so I
13 think that there's a lot of benefit. There's other transit
14 amenities in the neighborhood. Even with that, the
15 mitigations that we identified in the report are really
16 things that are just signal timing tweaks. That is enough
17 to really adjust any impact that the delay associated with
18 this project would have. On top of that, we've offered a TDM
19 plan, and DDOT has said we want that to be even more robust,
20 and we worked with them on that.

21 CHAIRMAN HOOD: In your analysis, you mentioned
22 signal timing. In your analysis, does it also include what's
23 going on on South Capitol Street? I know you make that
24 right, it kind of backs up on M Street. As far as your
25 analysis -- I'm not holding you to this because I know we've

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1 got stadium traffic and some other things going on, too, as
2 well. We're soon going to have the soccer stadium. Is all
3 that included in your analysis?

4 MR. VANPELT: Our study area for this project
5 didn't go all the way down to South Capitol Street. I think
6 what we do, when we go through the scoping process with DDOT,
7 the purpose of an impact study is not necessarily to try to
8 solve all of the transportation concerns and look at the
9 entire larger neighborhood and all of Southwest. It's to
10 look at what do we think the impacts of this project are
11 going to be, and how do we mitigate those. We go through our
12 scoping process, we look at what do we think the sphere of
13 influence will be, if you will, in terms of number of
14 intersections that are likely to be impacted.

15 We look at that, and we look at how the traffic
16 then dissipates as it gets on the network. Then we go out
17 to what we think is the limit that really helps us look at
18 the impacts and try to figure out how those impacts might be
19 mitigated. Any traffic that's coming down from South Capitol
20 Street or going down in M Street corridor from South Capitol
21 Street, that's in our counts as it comes into the study area
22 that we looked at.

23 CHAIRMAN HOOD: I realized, after I asked you
24 that, that question's probably going to be better served for
25 DDOT. Let me also ask you about -- I guess this is you --

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1 whoever, Ms. Shiker. I noticed, when I was reading -- I just
2 didn't understand it. I think there are two showers in one
3 building and eight lockers in one building, and there's two
4 showers in another building and twenty lockers in another
5 building. I don't understand the rationale to that. What
6 is two and eight, two and twenty?

7 MR. VANPELT: The requirements for showers and
8 lockers in the building are based on the non-commercial --
9 non-residential uses of the building. There's a threshold
10 of 25,000 square feet. The east building, which does have
11 the community center, the office, and the retail, crosses
12 that threshold. There are requirements for the showers.
13 Then the lockers at a percentage of the long-term bike spaces
14 that are required.

15 CHAIRMAN HOOD: That's in the east building,
16 right?

17 MR. VANPELT: That's in the east building. In the
18 west building, the non-residential space is below the
19 threshold to require showers or lockers, but Forest City has
20 offered to add those elements to the building as an amenity
21 to the retail spaces. It will help support, I think, the use
22 of bicycle networks to get to the retail for those employees.
23 All those lockers and showers in the east building are above
24 and beyond what is required for the zoning regulations.

25 CHAIRMAN HOOD: I'm going to ask this question.

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1 I was going to ask this question when you all first came to
2 me years ago, but I have a new question to ask. Who, from
3 the neighborhood, is on your development team?

4 MR. D. SMITH: There are no -- we live in the
5 neighborhood, but in Southeast, down at the Yards, but not
6 one specifically from Southwest is on the development team.

7 CHAIRMAN HOOD: You tried to answer that question.
8 I'm going to ask it again. Who, on your development team,
9 is from the neighborhood?

10 MR. D. SMITH: Nobody is --

11 (Simultaneous speaking.)

12 CHAIRMAN HOOD: That's all -- nobody. If I had
13 been asking that when we first heard that, maybe by now we
14 would have had somebody. That's my normal, standard
15 question. If I'm here in ten years, when you all come back
16 for modification or something, I will ask the same question.
17 Ms. Shiker, help me understand about the first source. Is
18 that still relevant? Help me understand about that and CBE.

19 MS. SHIKER: Yes, Chairman Hood. There was a
20 commitment in the original PUD to commit to First Source and
21 CBE. That commitment has been upheld with every building in
22 this development, and it is proffered for these two
23 buildings. I believe that we provided both drafts of those
24 agreements with our application, as well as a track record
25 for Forest City in complying with that in our prehearing

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1 submission.

2 CHAIRMAN HOOD: My last conversation with the City
3 was that was no longer being done, so I want to make sure,
4 can we look into that? Can you all verify that? Because
5 with this development, things have changed. This has been
6 going on for a while. I believe there's something else going
7 on with First Source. A lot of other developers have been
8 coming down and proffering something else, their own thing.

9 I would ask you to look into that. That's one of
10 the things that I want to see. Make sure that it's still
11 relevant -- I know what you've done in the past, but going
12 forward. If not, you need to come back with a proposal so
13 we can still do it. I don't want to discount it, but some
14 developers have been coming up with their own First Source
15 and their own CBE, so let's see what we can do.

16 MR. D. SMITH: Can I just make a quick statement?

17 CHAIRMAN HOOD: Sure.

18 MR. D. SMITH: We have, on staff, a guy by the
19 name of Andre Banks, who works with all the Ellis DBE and the
20 First Source office to make sure we are compliant, regular
21 meetings on each project that we have, make sure that we are
22 above the compliance levels. We have that ingrained in what
23 we deliver. I think on Elliott on Fourth, we were well above
24 35 percent.

25 MS. SHIKER: Chairman Hood, I understand your

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1 question because the First Source office has said that for
2 new PUDs coming forward, they will not allow First Source
3 agreements to go forward, so that's why you've been seeing
4 different types of employment and workforce training
5 programs.

6 I've had that in other PUD cases. Because this
7 PUD has that commitment and has the agreements ongoing, we
8 will double-check, but it's been our experience that we've
9 been able to continue under that program, but we'll confirm
10 and let you know.

11 CHAIRMAN HOOD: Since it's been going on for a
12 while, you're probably already in the pipeline. It's
13 grandfathered in, and they're doing that. Let's just make
14 sure.

15 MS. SHIKER: We will confirm and let you know.

16 CHAIRMAN HOOD: Also, I saw your track record, but
17 let's make sure that we're really looking out for the pool.
18 What I've always said is that we need to make sure we work
19 with the ANC, so we can make sure that the pool of folks who
20 live in the neighborhood are the ones who will be getting
21 those jobs, not the Philadelphia tags.

22 Nothing against Philadelphia because they're
23 winning everything right now, but we want to make sure that
24 we are looking out for District residents. My colleague
25 wants to -- I've got another question, but my colleague's

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1 chomping at the bit to get that mic, so I'm going to yield
2 to him. He's got something -- he must be in line with what
3 I'm saying. Go ahead.

4 COMMISSIONER SHAPIRO: It's not totally in line
5 with what you're saying, Mr. Chair, so if you want to
6 continue upon your train, it's --

7 CHAIRMAN HOOD: No, go ahead.

8 COMMISSIONER SHAPIRO: You triggered something
9 about what you were saying about the neighborhood-serving
10 retail and the percentage that's required. It's a difficult
11 thing to do, and some of it is about the rents that you can
12 charge, compared to other things. You mentioned that you
13 were looking for some flexibility to create -- at the
14 mezzanine level, to allow for some two-story retail. Is this
15 in the east building?

16 MS. SHIKER: This is at the corner of the west
17 building. It is a two-story open space that, when the
18 changes were made to incorporate the community center and
19 locate the community-serving office in the east building, the
20 west building had some revisions that happened.

21 Before, it used to be second-floor office.
22 Instead, they decided to make it as a two-story retail
23 corner, in order to match those dimensions on either side of
24 the gateway into 4th Street from M Street. When we were
25 looking at it, we thought what a great place to maybe have

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1 some mezzanine retail up there, but we haven't shown it on
2 our plans. That is what we were requesting, the flexibility
3 to incorporate a slight mezzanine up there, if you want to
4 show the location.

5 COMMISSIONER SHAPIRO: The concerns I would have
6 about it is that lends itself to some more kind of
7 destination retail. It's going to drive more traffic. What
8 flexibility we're providing, what's the impact of providing
9 that flexibility?

10 MR. SWIATOCHA: Just quickly, looking at the
11 elevations here, you can see, at the --

12 COMMISSIONER SHAPIRO: I don't think you're on.

13 MR. SWIATOCHA: Sorry. If you look at the right
14 lower side of the elevation, that's where that two-story
15 component of the retail is, previously occupied by office at
16 that upper level. We have always -- Forest City has
17 envisioned the -- I'll close out quickly to jump to the plan.
18 The spaces on 4th Street, on both the west side of the street
19 and the Metro Plaza have been identified as the kind of prime
20 location for the food and beverage service that Mr. Smith
21 talked about earlier, really, as an opportunity to activate
22 the ground floor in that space. I think the vision is that
23 if there were a restaurant in that corner space, at the
24 ground floor, that would have outdoor seating, it's an
25 opportunity for a restaurant to either take advantage of it

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1 as a taller volume of space or supplement that with
2 additional seating.

3 COMMISSIONER SHAPIRO: In terms of the
4 transportation study, that, I would imagine, would have an
5 impact.

6 MR. VANPELT: Yes, I think the transportation
7 study assumes a mix of retail. It's hard to tell, when we
8 do a transportation study, what exact type of retail or
9 restaurant's going to be there.

10 COMMISSIONER SHAPIRO: Yes, but restaurants drive
11 significantly more traffic than neighborhood-serving --

12 (Simultaneous speaking.)

13 MR. VANPELT: They can, but what we do is we use
14 -- I don't want to say generic, but it's a bit of a generic
15 land use code that has some of that mix of restaurant in it.
16 If it was all restaurant, it would certainly make a
17 difference, but with what we're talking about with a mix of
18 retail that assumes some restaurant, it still should be in
19 the order of magnitude similar.

20 COMMISSIONER SHAPIRO: Okay, thank you.

21 CHAIRMAN HOOD: I will also echo, as well, with
22 the 30 year free. I was thinking 99 years, but I'll stick
23 with the 30. I want you to really consider that in making
24 things free for that ANC. This ANC -- I'm not just -- I'll
25 say that with anybody who's developing this area. This ANC

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1 has put a lot of time in for the work that they have been
2 doing.

3 They put more work in than people that get paid,
4 and they have a lot of projects that's going because this
5 Commission has seen them. I really encourage you -- I don't
6 want you to think I'm just picking on you all.

7 I'm going to pick on everybody who comes down here
8 in this area to try to make sure that we do our due diligence
9 as developers and residents of this city to make sure that
10 area gets the things they requested. I think 30 years is
11 being very modest, actually, what they requested. Even the
12 electricity issue, I'm saying 99 years, but you all have
13 negotiated 30. I would ask that you all continue to work out
14 some of those differences as you go with the ANC. It's just
15 fair. Any other questions?

16 Does the ANC have any cross-examination? Come on
17 forward. You weren't sworn in? We're going to swear you in.
18 I believe you, but we're going to swear you in. Ms.
19 Schellin, could you swear Mr. Litsky in?

20 MS. SCHELLIN: Yes. Please raise your right hand.
21 Do you solemnly swear or affirm --

22 CHAIRMAN HOOD: Hold on. Anybody else that hasn't
23 been sworn in that's going to testify? If you can stand at
24 the time. Do we have a student class in here? We do? I did
25 this last week. Was it this week I did that? I want to know

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1 what school they're from, but we'll get to them, so be ready.

2 MS. SCHELLIN: Please raise your right hand. Do
3 you solemnly swear or affirm the testimony you'll give this
4 evening will be the truth, the whole truth, and nothing but
5 the truth?

6 (Witnesses sworn.)

7 MS. SCHELLIN: Thank you.

8 CHAIRMAN HOOD: We always get nervous when we see
9 people just always taking good notes. We never know what's
10 going to happen next. Okay, Mr. Litsky.

11 MR. LITSKY: Thank you, Mr. Chairman, for the
12 opportunity. I do have a number of questions to the
13 Applicant and to some of the folks who are at table with
14 them. The DDOT report cites that ZR-16 requires showers and
15 lockers, and they aren't currently shown properly on the plan
16 that are set. Are you planning on providing them? I know
17 there was just a question about that.

18 MS. SHIKER: We worked with DDOT on the actual
19 number of showers and lockers that were required. It was
20 determined that there are no showers and lockers required in
21 the west building, but we are providing some, and we are
22 exceeding the showers and lockers that are required in the
23 west building. They were not shown on the plans, but they
24 will be.

25 MR. LITSKY: Thanks. I know the question was

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1 asked, and I didn't follow the answer, so I had to ask it
2 myself.

3 MS. SHIKER: They're required in the east
4 building, sorry; I misspoke.

5 MR. LITSKY: Okay, swell. Has DDOT proposed a
6 plan for the WMATA vault to be finalized before this thing
7 is approved? We've got -- so the commissioners understand,
8 we have a great big hunk of equipment on M Street. Part of
9 the reason why I was delayed today is because traffic is tied
10 up beyond all belief after the baseball game and because it's
11 cherry blossoms and because it's Thursday.

12 We've got a large piece of equipment that needs
13 to be gotten off of the roadway. I want to know if you have
14 worked with DDOT or DMPED or anybody to move that out and
15 incorporate it into the project, so we don't have that
16 blocking up traffic?

17 MR. D. SMITH: We have spoken with them, not
18 recently, but early on, and we will continue to work with
19 them more diligently to incorporate them and get that off the
20 road because that is -- we agree that is a problem and is a
21 concern. We will be working with them over the next year or
22 two to get that thing out of there.

23 MR. LITSKY: So that's part of what it is that
24 I'll testify to, but I'm glad that you're going to be working
25 with them. On the Circulator and 74 bus stops, have you

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1 addressed this already with DDOT, how these bus stops are
2 going to work while construction is underway?

3 We've got the Circulator that's going to happen
4 in Southwest in July, and we've got the 74 bus that is
5 already over there. We don't want to have to have a
6 situation where the 74 bus, which does not currently -- in
7 front of what will be the 475 building -- have a bus shelter,
8 although there had been a bus shelter across the street.

9 I want to make sure that the way the sidewalk is
10 set up -- have you incorporated it so that we're not going
11 to be required not to have a bus shelter there? That's a
12 problem for us, a big problem.

13 MR. VANPELT: I think we did talk to DDOT about
14 those two bus stops, or I guess how to handle the two bus
15 routes. I think the response we heard from DDOT is that we
16 would continue to coordinate with them to make sure that
17 they're accommodated, but we're not doing anything to
18 preclude the bus stop from being accommodated.

19 MR. D. SMITH: I think part of Andy's question is
20 during construction, how is that going to --

21 MR. LITSKY: During construction, yes, I would
22 assume you'll --

23 (Simultaneous speaking.)

24 MR. LITSKY: -- amenities. I just don't want to
25 have -- I think that the concern was that there might, at

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1 some point, be -- it might be having bus stops in front of
2 retail might be a disinhibiting factor, and that at that
3 point, you'd say we don't want them in front of a pizza
4 place, or we don't want them in front of a bank.

5 MR. D. SMITH: We've agreed to work to include
6 those.

7 MR. LITSKY: Great, because that is a transit hub.
8 We're right on top of the Metro. I do have a question, as
9 well, about retail in the west building. Again, I think it
10 was asked before about the two-story retail. There's going
11 to be retail beyond the retail that wraps around on that
12 corner that's two story. There's retail then going further
13 over west, correct?

14 MR. SWIATOCHA: Yes, correct.

15 MR. LITSKY: Thank you. Also --

16 MR. SWIATOCHA: Sorry, at the ground floor.

17 MR. LITSKY: At the ground floor, yes. That's
18 what I meant. The proposed plan eliminates the setback on
19 the south facades on the upper portions of the buildings, or
20 it seems to, the way I read them. Does the proposed setback
21 -- what's the proposed setback on the upper floors?

22 MR. SWIATOCHA: Can you clarify what you're --

23 MS. SHIKER: The setback on the ground floor,
24 which was agreed to in the first-stage PUD, which was to
25 maintain the sidewalk width, is maintained. There was never

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1 discussion in the first-stage PUD that, at a certain point,
2 you couldn't come back out to the property line. What he's
3 asking is at what -- how far does that cantilever above --
4 does it reach the property line, or is it behind the property
5 line?

6 MR. SWIATOCHA: On the west building, 425, that
7 setback is maintained up to the second floor, then at the
8 second floor, the building comes out to the property line.
9 At the ground floor, the building is set back approximately
10 three feet, based on that 18.75-foot setback from the curb
11 line on M Street.

12 MR. LITSKY: So the cantilever is what, then?

13 MR. SWIATOCHA: Three feet. On the east building,
14 that setback is actually -- is maintained, at the east side
15 of the building -- let me see if I can find a better image
16 for you. The setback is maintained for 75 percent of the
17 residential tower that fronts onto M Street. It's only at
18 the corner of M and 4th where the bay -- that glass bay does
19 extend to and, as a bay, beyond the property line.

20 MR. LITSKY: Thank you for clarifying that. On
21 the Gorove/Slade report, it states that the Applicant will
22 obtain and evaluate detailed crash data from DDOT for the
23 intersection of 4th and M Street Southwest.

24 The crash data will be reviewed to determine the
25 patterns at the intersection and if there are geometric or

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1 operational adjustments that may benefit the intersection.
2 This plan, this analysis is going to be done after zoning
3 approves? What happens if we have to make adjustments based
4 upon the results of any study that happens with taking a look
5 at the intersection of 4th and M?

6 MR. VANPELT: I think we've looked at it. I think
7 that if there's any changes that can be done within -- the
8 study will look at if there's any changes that can be done
9 within the existing curb line. If there is anything that
10 would need to be done to adjust the intersection, there is
11 a curb extension on the west-hand side that, I think, is the
12 only thing that probably would be in play, potentially.

13 That's not something that the development plans
14 really have an impact on that, whether that curb extension
15 stays or it goes. Those are the two alternatives that we
16 know we're looking at in a safety study is one, look at what
17 we can do within the existing curb to curb, and then what is
18 the potential if we adjust that curb extension on the west
19 side.

20 MR. LITSKY: One of the things that we have had
21 under discussion at the ANC and in the community for quite
22 some time, pro and con, is extending left turns going toward
23 the baseball stadium, that is heading south down 4th Street
24 and making a left heading eastward. This is something,
25 apparently, that you will want to include in your proposal.

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1 In doing so -- and we've had discussions with you on this --
2 do you feel, Gorove/Slade, that we're going to have to add
3 a third lane heading south to ensure that we don't have a
4 continuous backup waiting for people to make left-hand turns?

5 MR. VANPELT: I think that's something that we are
6 going to further evaluate, and I think we expect the ANC to
7 be part of that as we evaluate what is the appropriate way
8 to -- DDOT has said, in the staff report, they want to see
9 that left-hand turn re-established. We think, from a
10 capacity standpoint, we can certainly do that.

11 Maybe we'll do that within the existing
12 configuration, but then we do need to carefully look further
13 at the queuing. Will there be any queuing issues back to our
14 intersection with the private drives? We'll further evaluate
15 that, and we expect that the ANC and the community will be
16 part of that scoping, as we go forward with the scoping and
17 establish the parameters for the study and what we'll be
18 looking at.

19 MR. LITSKY: How long do you anticipate the study
20 is going to take?

21 MR. VANPELT: A study like this is probably
22 something that -- we certainly want to have the community
23 dialog, and also engage with DDOT, as we set up the scope and
24 set up the alternatives that we're going to evaluate. I
25 think that this is a study that probably can be done within

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1 a couple months. I think the question is the timing for when
2 we would initiate the study, but this is a study that's
3 probably a two, to maybe three-month effort, just terms of
4 --

5 MR. LITSKY: This has been a project that's been
6 underway for quite some time. This is a goal, apparently,
7 that the Applicant has had, also, for quite some time. You
8 at Gorove/Slade had prepared this going back how many months,
9 prepared your traffic analysis? You had been the consultant
10 for them on transportation and traffic going back how long?

11 MR. VANPELT: Yes, we've been working with the
12 Applicant for quite some time. The analysis that we did in
13 the report shows that we could put the left turn back in from
14 a capacity standpoint, without widening the cartway, and
15 we're showing that we could achieve acceptable operations.
16 I think one of the main things that we heard was safety
17 concerns.

18 MR. LITSKY: From whom?

19 MR. VANPELT: We heard safety concerns from the
20 community. I think that one of the things that we're a bit
21 limited, in terms of the crash data that we're able to get
22 easily from DDOT, we do look at that in our studies, but to
23 do the type of safety study we're talking about now, what we
24 want to do is do a deeper dive and work with DDOT to get
25 better crash data, better crash reports, so we can analyze

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1 that and understand -- get a better understanding of what's
2 actually happening at that intersection, from a safety
3 standpoint.

4 MR. LITSKY: Are you aware that -- I'll just give
5 you anecdotal information now -- that during the time that
6 private street had been open and that intersection had been
7 recalibrated with times and lights and everything else, that
8 we've had three pedestrian hits at that intersection and one
9 person killed? Are you aware of that?

10 MR. VANPELT: I've heard about that, yes.

11 MR. LITSKY: Okay. I just want to make sure
12 that's included. Again, we're talking about safety. I just
13 want to make sure that -- it does seem to me that since these
14 ideas had been brought up before, that since you had worked
15 as a consultant for the Applicant for a long time, that this
16 safety data should have been analyzed already.

17 We should not have to wait until after the Zoning
18 Commission acts on this to make sure that we're dealing with
19 a safe intersection with what you guys plan to build. What
20 we don't want to do, and perhaps you can satisfy the concern,
21 is to have those two buildings approved, and then realize
22 we've got to widen the street. We have to reconfigure the
23 sidewalk. We're not going to be able to do the ground-floor
24 retail and having people eating hotdogs on the corner because
25 we've got to do something else, but, well, zoning's already

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1 done it. So, how do you work with that?

2 MR. VANPELT: I think that we've looked at it, and
3 I think we actually have had this conversation with DDOT.
4 I think we have a sufficient right of way within what the
5 project will be doing that we could implement an additional
6 lane if that is what is necessary.

7 MR. LITSKY: So you advise that the Commission
8 could act on this without having undergone the safety --

9 MR. VANPELT: I think that there's existing
10 conditions -- there's existing issues at this intersection
11 today, regardless of what this project -- whether this
12 project goes forward or does not go forward. While there
13 will be some additional traffic that's added to the network
14 with these projects, there's an existing need, existing
15 concerns that are there.

16 I don't see how this project is -- it's an
17 existing issue. What we have now is a benefit, with this
18 project and the study that has been proffered, to really put
19 the spotlight on it, figure out how we address this existing
20 issue, and --

21 MR. LITSKY: Existing safety issue.

22 MR. VANPELT: Existing safety, and now the
23 introduction of the left turn, so those two things at the
24 intersection.

25 MR. LITSKY: Exactly. We have an existing issue,

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1 and now we are exacerbating that existing issue with the
2 implementation of a left turn. What kind of analysis did you
3 do, in your traffic report, that would indicate how the
4 calibration of the traffic lights would need to be
5 reconfigured, based upon putting a left turn at that corner?

6 MR. VANPELT: I think what we did is we looked at
7 it from a capacity standpoint. We looked at how we put the
8 additional phasing in there. Did we split phase it?

9 PARTICIPANT: No, we did not. That's one of the
10 things that we're going to look at.

11 CHAIRMAN HOOD: Excuse me. You all can talk, or
12 she can come to the mic, or however you want to do it, but
13 we've got to make sure it's on the record.

14 MR. VANPELT: What we did is we re-introduced that
15 left-hand turn. One of the things that we -- what we'll
16 likely need to do is potentially split phase. That means
17 that each side, the north and south, may have to go at
18 separate times, to allow the future left-hand turn to be
19 added to that intersection. When we did the analysis, we
20 looked at it a couple different ways to determine that there
21 is the capacity in the intersection to allow that left-hand
22 turn to come back.

23 MR. LITSKY: Are you aware how many hours DDOT has
24 spent at that corner trying to adjust the traffic lights to
25 enable safe pedestrian passage north and south across M

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1 Street?

2 MR. VANPELT: I am not aware of all the time DDOT
3 has spent, no.

4 MR. LITSKY: I think we can get you that
5 information. Are you aware that there is somebody at DDOT
6 that deals with nothing but the calibration of traffic
7 lights?

8 MR. VANPELT: Yes. I think you can talk to DDOT,
9 but I believe DDOT has interacted with that person.

10 MR. LITSKY: So you feel that by putting the
11 left-hand turn back in, not only do you expect that it's
12 going to be safe, but you anticipate that it's not going to
13 impact the timing of the ability of people to get back and
14 forth across M Street?

15 MR. VANPELT: I did not say that I think it's
16 going to be safe. I think what I -- I don't want you to
17 misinterpret. I think that there's capacity, that it can be
18 done. Actually, our report looked at it either keeping it
19 as it is, or introducing that left-hand turn. DDOT is the
20 one who's insisting that the left-hand turn be looked at and
21 that we should re-introduce that left-hand turn.

22 That is why we proffered the study to look at that
23 further, to really look at the viability of introducing that
24 left-hand turn, and then what other -- what safety
25 considerations do we need to further take into consideration.

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1 What other sort of signing, marking, geometric adjustments
2 might be needed, both for the safety and for the left-hand
3 turn.

4 MR. LITSKY: When we re-opened that 4th Street
5 going through -- because there was Waterside Mall, and it was
6 a clot in the middle of the neighborhood. When 4th Street
7 was re-opened, we established a legal crossing from the west
8 side of 4th Street across M. It is my understanding that
9 were we to add a left-hand turn, we would have to eliminate
10 that crossing, which means that 5,000 people are going to
11 have to then zig-zag their way across the street. Do you
12 believe that would be so, as well?

13 MR. VANPELT: It's a possibility, but that is one
14 of the things that we're going to have to study further and
15 understand exactly what is the right way to treat this. It's
16 not something that Gorove/Slade is going to do alone. That
17 is something that is going to require close coordination, as
18 we study this, with DDOT, and also with the community.

19 MR. LITSKY: So then it's more important for your
20 project to get a left-hand turn for vehicles than to allow
21 safe pedestrian passage across the street?

22 MR. VANPELT: No, that's not what I'm saying.

23 MR. LITSKY: Just want to check. I'll take that
24 back. I do have a question about pedestrian passage,
25 additionally. I do know that you had only -- you only really

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1 want to deal with the immediate confines of what's happening
2 right next to the project when you're doing your
3 transportation analysis. Are you aware of the number of
4 pedestrians that we anticipate are going to be heading south
5 across that street on their way to the soccer stadium when
6 it opens in July?

7 MR. VANPELT: Yes. I think that's part of the
8 reason why we wanted to make sure that the pedestrian
9 accommodations are there and are adequate to be able to
10 accommodate those sorts of traffic loads, yes.

11 MR. LITSKY: But that hasn't been analyzed so far?

12 MR. VANPELT: We did not look at an event day
13 condition in our analysis. I think that's -- what we look
14 at are typical weekday conditions when we do an impact study.

15 MR. LITSKY: Those are the only questions I have
16 for you. I do have a couple of more questions, however. No,
17 that's it. Thank you.

18 CHAIRMAN HOOD: Thank you. What's the name of the
19 party in opposition?

20 PARTICIPANT: Waterfront Tower.

21 CHAIRMAN HOOD: Waterfront Tower. I started to
22 say Waterfront Tower. Waterfront Tower, you have any
23 cross-examination? I'm sorry; I had your name written
24 somewhere up here. Ms. Bouganim, yes. Commissioner Shapiro
25 must have moved my paperwork. I'm good at blaming everybody.

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1 Do you have any cross-examination of anything that you've
2 heard, any questions like you heard Commissioner Litsky just
3 ask, any questions. Come identify yourself.

4 MS. BOUGANIM: I'll just --

5 CHAIRMAN HOOD: Sure. Identify yourself, and you
6 can ask your -- have a seat. Make yourself comfortable.
7 Identify yourself, and you can ask your questions.

8 MS. BOUGANIM: My name is Hara Bouganim. I'm the
9 vice president of the condo right now. The one question I
10 had for everyone was I received all the materials and went
11 very carefully over the new PUD. It was done in great haste.

12 When I went over it, some drawings reflected
13 agreements that we had had, some didn't. For instance, there
14 was an overhang which was omitted on the east side of the
15 building. It was gone in one drawing, and it was there in
16 something else. There were other similar things. It's no
17 use going over all of them. Are we stuck with these drawings
18 the way they are? Because they're contradictory.

19 CHAIRMAN HOOD: Okay, some of that you can testify
20 to. The rest of it, you can ask --

21 MS. SHIKER: I'm sorry; I didn't hear. If she'd
22 like to ask the architect a question if there's a specific
23 change to a plan page, we'll be happy to answer. Certainly,
24 our intent was to keep our agreements, but if there's
25 specific confusion on certain pages, I think a question would

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1 be appropriate.

2 CHAIRMAN HOOD: Ms. Bouganim, right? I'm
3 practicing your name, too, on the slick side. Anyway, Ms.
4 Bouganim, I think your question is that the -- it seems like
5 the drawings had changed. Is that it?

6 MS. BOUGANIM: There were changes made, and they
7 tried to update them all, but some got updated and some
8 didn't.

9 CHAIRMAN HOOD: That's your question; how come all
10 of them weren't updated?

11 MR. SWIATOCHA: I'm not aware of any that have not
12 been updated. If there are some that weren't, it was not
13 intentional. If you --

14 MS. BOUGANIM: It means that we can't understand
15 what is truly happening if we don't have consistent picture
16 in the PUD. Will the PUD be modified, the drawings be
17 modified, or the agreements with us be listed, so that we
18 have agreement on both sides?

19 CHAIRMAN HOOD: Let's talk about your thing.
20 Maybe if you can identify -- I don't know how far we'll get
21 tonight.

22 MS. BOUGANIM: I can't do it tonight. It would
23 take half an hour.

24 CHAIRMAN HOOD: I'm not asking you to do it
25 tonight. That way, we can make sure that you have a true

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1 representation of what's actually being represented there.
2 Any other cross-examine questions?

3 MS. BOUGANIM: I don't have other questions, but
4 Dr. Marriott, I think, does.

5 CHAIRMAN HOOD: Typically, what we do --
6 hopefully, Ms. Shiker, you don't have a problem because I
7 think this may be the first time. Is this your first time?

8 (No audible response.)

9 CHAIRMAN HOOD: Typically, one person asks the
10 questions.

11 MS. BOUGANIM: I didn't know that. He has
12 questions.

13 CHAIRMAN HOOD: I know. I'll tell you -- I'm
14 going to put this on record -- I've gotten in trouble before
15 because I have different people in the opposition party come
16 up, but I'm asking Ms. Shiker, am I going to get in trouble?

17 MS. SHIKER: Let's listen to the questions. In
18 the fullness of information, we're trying to get information
19 out there. We're happy to answer some questions, depending
20 on the scope.

21 CHAIRMAN HOOD: Ms. Bouganim, if you can stay at
22 the table, since you're the noted the person that's
23 representing -- whoever else is coming up now, you two are
24 going to be the only two that's going to ask questions in
25 this case, so figure out who --

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1 MS. BOUGANIM: Our presentation, though, is --

2 CHAIRMAN HOOD: The presentation's different.
3 This is just cross-examination.

4 MS. GOODING: Hello, thank you. I'm Leigha
5 Gooding, the president of Waterfront Tower. I have a lot of
6 questions here. I'll keep them minimal. I'll prioritize
7 here. First, will you include Waterfront Tower in all area
8 management plans and planning moving forward?

9 MR. D. SMITH: With respect to those -- with the
10 signage and things of that nature, especially on the
11 north/south drive in the plaza, we will definitely have you
12 with the planning group, with the ANC, and any relevant
13 transportation/traffic issues with respect to that, yes.
14 Other issues are within the body of the Waterfront Station
15 property owners, but where it does involve Waterfront Tower,
16 yes.

17 MS. GOODING: I would just specify on the private
18 lane, from north to south and east to west, as well, we'd
19 like to know if you would be willing to continue to meet with
20 us as you refine all the details in the PUD moving forward
21 and anything that changes after today? We want to make sure
22 that we don't have to hunt you down again.

23 MR. D. SMITH: Once we hear that there is an
24 issue, we will work with you to resolve those issues and meet
25 with you.

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1 (Simultaneous speaking.)

2 MS. SHIKER: I will also say, as a party to the
3 case, you will receive correspondence to your designated
4 representative for anything that happens with the PUD and the
5 Zoning Commission.

6 MS. GOODING: We just want to continue
7 conversation, as well, and not just these documents, but
8 thank you. The orientation to M Street changes. The new U
9 shape that's facing M Street and some of the other changes
10 between your first PUD and your second PUD, can you explain
11 the difference in how you involved Waterfront Tower versus
12 Tiber Island versus Carrollsburg versus any other community
13 groups or impacted parties?

14 MR. D. SMITH: Back in 2007, when we were working
15 on the Stage 1 PUD for the whole site, we were informed that
16 there were issues with providing view corridors with Tiber
17 Island. At that point, we met with them and discussed those
18 issues.

19 Looking at the overall issues and working with the
20 Zoning Commission and the ANC, we moved the massing of the
21 tower above the second floor on the east side of those
22 buildings in by an additional 45 feet from the 35 -- there's
23 a 30-foot setback that allows for the alley or private drive.
24 We've set it back, after those discussions, another 45 feet
25 and addressed those issues at that time. At that time,

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1 Waterfront Towers was not a condominium. When we heard that
2 there was an issue, we met with the party and resolved those
3 issues.

4 MS. GOODING: You said this was during 2010?

5 MR. D. SMITH: No, I did not.

6 MS. GOODING: I'm sorry. I wanted to ask you to
7 repeat the year.

8 MR. D. SMITH: I said 2007. That happened between
9 2006-2007.

10 MS. GOODING: So there was no attempt to reach out
11 to Waterfront Tower once they did exist? Because that was
12 over 11 years ago. There was a lot of time between now and
13 then.

14 MS. SHIKER: I'll say objection. That's a
15 statement, not a question. I will also point out that
16 there's clearly been notice provided, in accordance with all
17 of the regulations, starting in October of 2016, so I do
18 think there has been notice of what we've been doing, and
19 there has been outreach, in terms of what's required in the
20 zoning regulations.

21 MS. GOODING: Sure. I recognize maybe what's
22 required, the letters came, which I haven't seen, to this
23 day, but I'll keep to my question. I'm sorry. I'm trying
24 to separate the testimony from the questions. Will there be
25 -- it was really unclear to me, looking at the plans -- and

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1 I know we talked about this a bit at the last ANC meeting,
2 but will there be any change to the current location of the
3 curb on the west side of your eastern private drive?

4 Is that clear? Do you want to pull up a picture?
5 Actually, I can point to it on this picture. That curb that
6 is sticking out from the little line of greenery underneath
7 those windows, is that the same location of the curb today,
8 or is that going to move?

9 MR. D. SMITH: We will look at the exact location
10 of the curb and let you know where the new curb will be, in
11 reference to where it is today.

12 MS. GOODING: Okay, because the other part of my
13 question is we're trying to identify if you shrunk the size
14 of this road that we're very, very concerned with. It's
15 already highly congested. We understand that we've had some
16 conversations about adding sidewalks and stuff, but has that
17 road also shrunk?

18 MR. SWIATOCHA: We have not shrunk the setback of
19 the building from the property line.

20 MS. GOODING: I'm sorry; I'm trying to ask a
21 different question. I'm talking about the setback not from
22 the property line. I know your property line is on the
23 property where Bernstein is currently performing construction
24 activities. I know that's where your property line is. I'm
25 talking about the curb that is right outside of those windows

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1 right there.

2 If that is still in the same place, then I know
3 that our street has not gotten more narrow. But if that
4 moves, which I thought you told me it was going to possibly
5 move 18 inches a few weeks ago, so I was hoping you would
6 reconsider. That's where I'm going with this. Did you
7 reconsider moving that 18 inches, or was it not moved 18
8 inches? There might have been some confusion.

9 MR. D. SMITH: I don't recall the 18 inches and
10 from which point you're talking about. We have to look at
11 that, and we'll tell you where we are with the size of the
12 road and from where it's setback.

13 MS. GOODING: Okay, do you know the width of the
14 final road?

15 MR. SWIATOCHA: Yes.

16 MS. GOODING: I'm sorry; what is the width of the
17 final road, I guess, is my question?

18 MR. SWIATOCHA: The cartway is 22 feet curb to
19 curb.

20 MS. GOODING: Okay, because today it's measured
21 23 feet, curb to curb. Could that possibly be a mistake?
22 Is it going to stay the same, at 23, or definitely going down
23 to 22?

24 MR. D. SMITH: I'm not sure if the position of the
25 curb on the east side, relative to the final buildout of 301,

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1 is in the correct position.

2 MS. GOODING: But it's not going to move because
3 they're done. So you're saying the final should be 22.
4 Right now, it's 23, so we'll have to learn more about that.
5 As well, the distance from wall to wall, from 375 to 301 M,
6 do you know that dimension?

7 MR. SWIATOCHA: Not at the moment.

8 MS. GOODING: Is that a dimension that you could
9 provide to me?

10 MR. SWIATOCHA: Yes.

11 MS. GOODING: Okay, thank you.

12 MS. SHIKER: We know the dimension from our
13 property line to our building.

14 MS. GOODING: Do you know the dimension from your
15 property line to the building that's built up against your
16 property line? Is the 301 M building on your property line,
17 or is there an offset there?

18 MR. SWIATOCHA: There is an offset.

19 MS. GOODING: There is an offset, so it's going
20 to be more. I won't ask all of these. The pedestrian study,
21 I was wondering how you considered three large residential
22 buildings that are currently under construction and opening
23 within the next few months, that are all located within one
24 block, as well as the Elliott, which I know you have
25 developed and designed yourself, that recently opened up this

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1 year.

2 How did you include -- you mentioned a lot about
3 -- the foot traffic was the highest during times when
4 business -- people coming here to work were going to be
5 walking around, but we have three buildings opening up within
6 a block, and then the fourth on Elliott that just opened up.
7 It's going to bring a lot more residential foot traffic in.
8 I'm interested to know how that was included in your study.

9 MR. VANPELT: Our study looked at existing
10 patterns. It looked at existing pedestrian traffic out
11 there. The point is just to show what happens with office
12 use, as opposed to what we would anticipate would happen with
13 residential use.

14 MS. GOODING: It was that study that does not
15 consider the current status of the Waterfront Tower
16 neighborhood right there. Was that a driving factor in your
17 decision to convert from office to residential, or were there
18 other driving factors that were more important?

19 MR. D. SMITH: That was a consideration, but the
20 driving factors were that we've been trying to lease the
21 space for the last ten years. We have a study that was done
22 on the office market. We have also been trying, ourselves,
23 to lease those two buildings as office, have not been able
24 to, knowing that there's been, chronically, high vacancy in
25 Southwest and the District, as a whole. There's places for

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1 folks to go, for businesses to go, at a cheaper cost than it
2 would be trying to get a new building to be built. That,
3 I think, was a little support in our decision to say that
4 what we're doing with residential traffic would be in excess
5 of what would be done in the evenings and on the weekends
6 with office buildings.

7 MS. GOODING: Okay. I'll add this one last
8 question. We have expressed concern, once we got a copy of
9 the PUD and started looking in it and started our
10 conversations in the past few months -- expressed some
11 concerns over the inaccuracies of the images used in your PUD
12 that actually don't emphasize the reality of our situation
13 as a land-locked building completely, with only one
14 ingress/egress on your private drive. It makes it appear as
15 though --

16 MS. SHIKER: Objection. Do you have a question?

17 MS. GOODING: Yes. My question is --

18 CHAIRMAN HOOD: Actually, I understand -- I
19 actually want to hear this question, but let's try to get to
20 the question.

21 MS. GOODING: Okay. I was wondering if you could
22 explain why you didn't change it after we pointed out the
23 inaccuracies and our concerns about it?

24 MR. SWIATOCHA: I'm not sure specifically what
25 exhibit you are referring to, but we did, for the most recent

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1 submission, revise all of the plan diagrams to show the
2 actual configuration of the motor court and the access to
3 Waterfront Towers.

4 MS. GOODING: It's Page 2, if you want to try to
5 pull it up.

6 CHAIRMAN HOOD: Let's put Page 2 up, try to see
7 if we can get this answered.

8 MR. SWIATOCHA: Of the supplemental prehearing
9 submission?

10 MS. GOODING: Of the PUD that --

11 CHAIRMAN HOOD: Was it the prehearing?

12 MS. GOODING: I'm sorry; I'm not sure if I
13 understand the difference. The prehearing? Yes, that's the
14 document. There's a couple different versions of it. That
15 one, you can't see the area as well that I'm pointing out.
16 Is it appropriate for me to come over and point to the image,
17 as long as I'm on the microphone?

18 CHAIRMAN HOOD: Just show them what page you're
19 talking about, and then you come back to the microphone.
20 That's sufficient.

21 MS. GOODING: Thank you.

22 CHAIRMAN HOOD: You want to be on the mic.

23 MS. GOODING: Thank you. Sorry, the areas that
24 I'm concerned about, that are misleading, are specifically
25 these roads right here that DDOT did not approve, as well as

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1 --

2 CHAIRMAN HOOD: Here's another thing. We need to
3 try to find out how to use that mouse because we need to see
4 that. Showing her is fine, but --

5 MS. SHIKER: I can actually answer this question.
6 This is a picture from the 2007 approved PUD. It is not a
7 proposed picture, so it cannot be corrected. It was what was
8 anticipated for the development in 2007. The PUD that
9 allowed additional development and closed off the existing
10 parking area in front of Waterfront Tower was approved by the
11 Zoning Commission in 2014.

12 It's Case 12-14, I believe, is the case number.
13 Therefore, this picture is simply an approved page from the
14 first-stage PUD and it can't be updated because it was what
15 was approved. Then it's covered up in this section because
16 it is not necessarily what actually was approved by the
17 Zoning Commission four or five years later for the Waterfront
18 Tower redevelopment.

19 MS. GOODING: That wasn't the response we got when
20 we initially brought up our concern because it portrays a
21 situation at Waterfront Tower that's not true. I don't even
22 know if we'd be at this table if that were all true,
23 actually. We didn't want the Commission to have that
24 perception, which is why we brought it up.

25 CHAIRMAN HOOD: Okay. Just explain that when you

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1 get ready to do your presentation.

2 MS. GOODING: Okay, thank you.

3 CHAIRMAN HOOD: What's your name, again?

4 MS. GOODING: I'm Leigha Gooding.

5 CHAIRMAN HOOD: Okay, President Gooding. Are you
6 going to be part of the presentation?

7 MS. GOODING: Yes, as well.

8 CHAIRMAN HOOD: Do you have any more questions?

9 MS. GOODING: No, I will end it there. Thank you
10 for the time.

11 CHAIRMAN HOOD: Okay, thank you all.

12 COMMISSIONER TURNBULL: Mr. Chair, before Ms.
13 Gooding leaves, I wonder, can you pull up Civil Drawing C-8?

14 MR. SWIATOCHA: Yes, in one second. Give me one
15 moment to open the pre-hearing submission.

16 COMMISSIONER TURNBULL: It's going to be hard to
17 see, unless you can blow it up a bit. The road that's next
18 to the harbor, it shows a measurement of 31'7" at the top,
19 just above the drive. The arrows show 31'7". Then down
20 below, it shows a sidewalk at 6'6", and then it shows 22 feet
21 for the drive, but it goes from curb to curb, which would
22 make it 38'6", but there's a little parkway over on the one
23 side. I wonder if you guys can -- you might need to redo
24 that drawing and clarify dimensions on there.

25 MS. SHIKER: I know that there is a portion of the

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1 Waterfront Tower, it's called the Town Center East PUD,
2 extends on to the private property of Waterfront Station, so
3 that might be tricking up what the numbers are, but Ryan
4 Brannan, our civil engineer, is here, so I'm going to let him
5 answer the question.

6 MR. BRANNAN: Good evening. For the record, Ryan
7 Brannan, from Bowman Consulting DC, civil engineer for the
8 project. The dimensions are -- the 31.7 is the dimension
9 from the property line to the façade. The 22 feet is the
10 dimension of the cartway, and the 6 and a half feet is the
11 dimension of the sidewalk that is closest to the building.
12 The leftover, the remainder, is the portion of the sidewalk
13 adjacent to the site that is encroaching on the property.

14 COMMISSIONER TURNBULL: Okay. My only question
15 is 31.7 is from property line to the wall or whatever. But
16 if I add the string down below, I've got 38.6 -- I mean 28.6.
17 I would think we just might need better, clearer dimensioning
18 of exactly what's included. I think that might answer some
19 of her questions. Maybe you need to blow it up and just show
20 some of these --

21 MR. BRANNAN: That remainder is the sidewalk that
22 is --

23 COMMISSIONER TURNBULL: That's the sidewalk?

24 MR. BRANNAN: Yes, it's two and change.

25 COMMISSIONER TURNBULL: You could maybe explain

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1 -- I think that might answer some of her questions and just
2 clarify some of the issues that are out there.

3 MS. SHIKER: We can provide a blow-up of that and
4 have all three of the strings of numbers, which equals the
5 31.7.

6 COMMISSIONER TURNBULL: I think she's confused by
7 some of the dimensions. I think looking at this, I can
8 understand what he's saying, but I think it would make sense
9 if you could maybe add a few more dimensions in there and
10 open up that string a bit.

11 MR. BRANNAN: Absolutely, we can add the third
12 dimension for that existing sidewalk portion.

13 COMMISSIONER TURNBULL: I'm just trying to make
14 it clear to everybody what's going on.

15 CHAIRMAN HOOD: Okay, any further questions from
16 your party?

17 MS. GOODING: Can I ask one more?

18 CHAIRMAN HOOD: Sure.

19 MS. GOODING: I'm wondering does your building
20 impact our rooftop sunlight potential? Because we're
21 concerned that it may have some impact on our ability to
22 pursue solar panels, like you guys are interested in
23 pursuing. We already know the impact from the 301 M
24 building, but it looked like, from my limited understanding
25 of how to interpret a sunlight study, that there might be

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1 additional impact, that we may no longer be able to pursue
2 solar panels.

3 MR. SWIATOCHA: I'll try to --

4 COMMISSIONER SHAPIRO: Can you bring up -- looking
5 at the shadow study to provide the answer to that?

6 MR. SWIATOCHA: One moment, please. The shadow
7 study that was performed in response to concerns about the
8 impacts of shadows does not show any impact on the roof in
9 the summer months, any impact on the roof in March/September.

10 There is a shadow cast from the massing on the
11 south edge of the roof in March/September, later in the day,
12 but that shadow impact is equivalent to the shadow impact
13 that would have come from the approved massing of the office
14 building.

15 MS. GOODING: Okay. The community center, the
16 question about that; how is this community center better or
17 not duplicative with the public spaces that do or will exist
18 in all of our churches, our library, our recreation center,
19 and the Southeast Community Center, which are all within one
20 mile? We're trying to understand what unique value this
21 brings to us that we don't already have in other places.

22 MR. D. SMITH: In working with the ANC, we
23 learned/understood this is a top priority for them. We did
24 talk about it in our initial discussions about spaces around
25 in the library and churches and whatnot, but spaces large

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1 enough to be able to satisfy their needs -- at the time they
2 needed those uses, it was a concern where they were in charge
3 and able to have those events in those spaces at the
4 community's discretion and not be beholden to one center or
5 use of space in a lot of different areas within the
6 community. But we were also told that there are none that
7 are large enough to meet their needs on a consistent basis.

8 MS. GOODING: Just a clarifying question. You
9 said that they're larger than the existing places. I think
10 I understand. But they're not large enough -- question. Are
11 they large enough or able to accommodate the types of
12 activities that our community has loudly expressed that we
13 really appreciate and enjoy, such as the marketplaces and the
14 music outside and the DJs and the event activities, like the
15 Friday night market that we all -- have made such a great,
16 vibrant town center that's about to disappear?

17 MR. D. SMITH: Those spaces with the community
18 center are internal spaces. Just as a note, the spaces on
19 the outside that you were discussing were done in conjunction
20 with the ANC to activate the spaces outside during the times
21 that the buildings that were proposed, at one point, were not
22 delivered.

23 Just so that those would not be empty lots and
24 empty pieces of grass, we activated those spaces, bringing
25 the farmers' market onto our site, bringing the Southwest

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1 Nights. But we worked to do that. The idea and the intent
2 is that working with community groups, that can be done on
3 other public spaces, at Metro Plaza, Private Drive, the duck
4 pond, other parks, parks that are proximate to the project,
5 the two pocket parks on the north side of the project. But
6 there are other public spaces for those events. This was an
7 interim use.

8 MS. GOODING: Thank you, by the way, for that
9 interim use. We all have really enjoyed it.

10 MR. D. SMITH: You're welcome.

11 MS. GOODING: My last one's very simple. Why not
12 extend the use of those nice red pavers that you have in the
13 north -- the east to west side of the private lane to the
14 north and south side of the private lane once construction
15 is over? They look really nice, and I'm wondering why not
16 extend that exact pattern for consistency?

17 MR. SWIATOCHA: We have shown, in the current
18 landscape plans, extending the diagonal paving, which is
19 actually a stained concrete paving, wrapping that around onto
20 those north/south drives which access the plazas on the north
21 side.

22 MS. GOODING: Yes, sorry, you had a great picture
23 that showed it. They're different. What page is this, Hara?
24 Page L-2A, if you have that. They're just completely
25 different. They don't look as nice as the other ones, so

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1 there's this breakup of the consistency of the private drive
2 that looks different.

3 MS. RODRIGUEZ: Trini Rodriguez again. The
4 intention is to extend the pattern. We had left the red only
5 because the red is actually the one that wears out more and
6 it's more maintenance issue, but there is not a problem.
7 It's the same pattern; we just had the different grays.

8 It was sort of like a gradient, going from the
9 red, which was the area that was more pedestrian and was
10 intended to be on the east/west, and then on the two
11 north/south, we had just the two grays. I think you can see,
12 in the graphic here, if you can point to that, it's the same
13 pattern with the grays. I don't think there's a problem on
14 introducing the red, if that was a desire.

15 MR. D. SMITH: We will look into it.

16 MS. GOODING: Okay, thanks, we appreciate the
17 consistency and consistent treatment of the face of
18 Waterfront Tower, as with the face of other developer-owned
19 buildings, such as the Leo, so thank you.

20 CHAIRMAN HOOD: Okay, thank you very much. Let's
21 take a few minutes and let's try to figure this out. We have
22 quite a bit. Let me just see, a show of hands, all those who
23 came tonight to testify. You can raise your hand. It's not
24 really that many. What I want to try to do, colleagues, with
25 everyone's help, is to go to the Office of Planning, the

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1 District Department of Transportation, and the ANC report.

2 We'll probably cut it at that because here's
3 what's happening. I think Metro closes now at 11:15. I try
4 not to go too late, anyway. We're probably going to have to
5 look at another date. I have two prospective dates. I could
6 try to finish it, but every time I try that, it doesn't work.
7 We have two dates, May 10th and May 21st. Everybody fine
8 with either one of those dates up here?

9 PARTICIPANT: What's the date?

10 CHAIRMAN HOOD: The dates are May 10th -- let's
11 try the 10th. We'll get it over with.

12 PARTICIPANT: I want to get it over with tonight.

13 CHAIRMAN HOOD: Yes, that would be nice, but I
14 don't think so -- or May 21st. I don't want to spend an hour
15 on this because then we'll really be back on the 10th and the
16 21st. That's fine with everybody up here. Let me ask the
17 Applicant and the ANC and the party in opposition. We're
18 shooting for May 10th first. Let's try that.

19 MS. GOODING: Can I consult with our expert
20 witness before --

21 CHAIRMAN HOOD: Oh, I'm sorry --

22 MS. GOODING: I'm sorry; I'll go --

23 CHAIRMAN HOOD: Okay. What's going to happen is
24 we might even get to the ANC tonight. So yes, he can come
25 up, and let's see if we can accommodate your schedule, since

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1 you're a paid expert.

2 MR. MARRIOTT: Good evening. I'm Dan Marriott.
3 I'm the consultant advising Waterfront Tower. I guess my
4 question is -- because we were prepared, tonight, to make our
5 presentation to get our ideas across and hopefully get our
6 thoughts and concerns in front of the Commission about things
7 going forward. We pushed to be available for this time. I
8 can be available next month. I'm actually teaching in
9 Pennsylvania right now, so I had to travel back tonight for
10 this meeting.

11 I want to ensure that if we delay this, is that
12 going to cause us any delay in terms of what we were hoping
13 to initiate a dialogue to look at some potential
14 opportunities for this process or begin moving forward
15 another month worth of development that we're going to be
16 further behind after already entering this process late?

17 CHAIRMAN HOOD: If I could tell you that -- all
18 I'm trying to do is get back in here May 10th. I'm trying
19 to finish the hearing. I can't predict the future. I never
20 know what's going to happen. I don't like doing it because
21 like right now, I would like to finish tonight, as my
22 colleagues and I have just talked about. But if I do that
23 and we go to 1:00 or 2:00 in the morning, that's not being
24 fair to folks who have to get home by public transportation
25 or however they get home. Instead of us doing this, let's

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1 go with May 10th, and let's see how far we can get it. If
2 I can at least get through the ANC and cross-examination, it
3 depends on the questions that are being asked.

4 I can't predict how many questions somebody's
5 going to cross-examine. I can't predict how many questions
6 we're going to cross-examine DDOT or the Office of Planning.
7 I may be going for a stretch even talking about getting to
8 the ANC, so May 10th.

9 MS. GOODING: Is there an opportunity for remote
10 presentation?

11 PARTICIPANT: No.

12 CHAIRMAN HOOD: Tonight?

13 MS. GOODING: I mean on May 10th.

14 MR. MARRIOTT: I'll be here.

15 CHAIRMAN HOOD: No, we have a process that we have
16 to follow. We have a process we have to follow. You can
17 talk to staff if there's some question and uncertainty.
18 Let's try to see if we can get it because if not, we'll be
19 doing ANC on May 10th, then we might have to have a third
20 night. We good? I'm sorry you have to come back from
21 Pennsylvania. Where am I? Let's go to the Office of
22 Planning and DDOT.

23 MR. JESICK: Thank you, Mr. Chairman and members
24 of the Commission. The Office of Planning is supportive of
25 this application. However, in our report, we did list some

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1 items that we felt the Applicant could continue to study or
2 examine, and we've continued our discussion with the
3 Applicant about those items.

4 We appreciate them looking at them again. Some
5 of them, I think, the Commission has discussed this evening,
6 one being IZ. I won't dwell on that. We also were
7 interested in more details about the façade details,
8 specifically the depths of the window reveals and mullions.

9 The Applicant has begun to provide more
10 information on that, and they've indicated to me they're
11 going to continue to look at that and to provide even more
12 detailed drawings, as well as look at if there are
13 opportunities for increasing the depths of the mullions in
14 the windows to ensure adequate texture and visual interest
15 in the façade of the building. The other issue is the
16 balconies. We really appreciate the Applicant adding more
17 balconies since the time of setdown. We would like them to
18 continue to study to see if there are additional
19 opportunities. As the Commission said, they do make units
20 more livable, so that's important for residents. Even with
21 the public spaces available in the building, we feel that
22 private open space is important, as well. Thank you.

23 MR. ZIMMERMAN: Good evening. Thank you Chairman
24 Hood and Commissioners. For the record, my name is Aaron
25 Zimmerman with the District Department of Transportation.

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1 We have worked closely and extensively with the Applicant
2 over the last year on the design of the two sites and private
3 drives, the design of the public space surrounding the sites,
4 to study and mitigate the PUD's impacts on the transportation
5 network, to improve connectivity, and to develop an
6 appropriate and robust transportation development -- pardon
7 me, transportation demand management plan.

8 DDOT is pleased with the evolution of the project
9 as we've gone through this PUD process and is supportive of
10 the project in its present form. As discussed in Mr.
11 VanPelt's presentation earlier, the Applicant has addressed
12 all of our comments in the DDOT March 26, 2018 staff report
13 and has agreed to all of the conditions requested by DDOT.
14 These include the implementation of the TDM plan and
15 conducting a pedestrian safety study that will evaluate the
16 potential for allowing the return of southbound left turns
17 at the intersection of 4th and M.

18 With these conditions agreed to, as documented in
19 the Applicant's April 4, 2018 Response to OP and DDOT Reports
20 Memorandum that has been uploaded to the record, DDOT has no
21 objection to the approval of the first-stage modification and
22 second-stage PUD applications. Thank you.

23 CHAIRMAN HOOD: Okay, thank you Mr. Jesick and Mr.
24 Zimmerman. Commissioners, any questions or comments, either
25 Office of Planning or DDOT? Not seeing any, does the

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1 Applicant have any cross of either one?

2 MS. SHIKER: We do not.

3 CHAIRMAN HOOD: Okay, does the ANC have any cross
4 of either one?

5 MR. LITSKY: To DDOT, your report states that the
6 Applicant's CTR study used sound methodology; however,
7 neglected to include a proposed motor court on the east 375
8 side private road, as well as inaccurate representations of
9 driveways north of Waterfront Towers. It also inaccurately
10 calculated the number of vehicles at the road, even before
11 construction.

12 In meetings with Waterfront Towers, the Applicant
13 and Gorove/Slade all agreed that CTR was incomplete. What
14 actions are you requiring of the Applicant to mitigate these
15 mistakes?

16 MR. ZIMMERMAN: I don't know that I agree with
17 your assessment there that there was any major issues with
18 the CTR. I'm not sure what you're referring to with the
19 Stage 1 PUD and the roads. They did not assume -- I do know
20 that there are a couple -- I believe there are a couple roads
21 that were shown on that, that Ms. Shiker showed earlier, that
22 don't currently connect through, but as part of this project,
23 we did not assume any traffic would use those roads that
24 never wound up coming through the site.

25 MR. LITSKY: I'll have additional on that later

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1 on, perhaps, or we can wind up having that done through
2 another party. Also to DDOT, advocating for a change in the
3 signalization of 4th and M without requiring the Applicant
4 to provide a detailed plan on how DDOT plans to move traffic
5 south of M Street with the addition of the new Audi Field is
6 very difficult for us to absorb. My question to you is do
7 you not feel that doing a safety report prior to allowing
8 this PUD to move forward would be putting, literally, the
9 cart before the horse?

10 MR. ZIMMERMAN: No, I don't believe so. They've
11 studied the impacts of the traffic and the impacts of the
12 pedestrian network based on this development. Any changes
13 that need to happen to the signal or to the roadway is all
14 within the public right of way and that's stuff that DDOT can
15 handle outside of this process. I don't see anything that's
16 specifically related to this project that would potentially
17 impact safety at the intersections, if that's what you're
18 referring to.

19 MR. LITSKY: Yes, I'm actually talking about the
20 left turn. That's something that they want, and that's
21 something that you seem to embrace, that you want, also. My
22 question to you is how are you embracing that without having
23 a proper safety plan in place and a safety study prior to
24 embracing it? It hasn't been done.

25 MR. ZIMMERMAN: That's the entire point of doing

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1 the pedestrian safety study. We want to make sure that
2 there's analysis, that there's an evaluation of the potential
3 to impact pedestrian safety at this intersection.

4 There's no decision that's been made by DDOT to
5 reinstitute that left turn or to make any revisions to the
6 intersection. We're requesting, and the Applicant has
7 generously agreed to provide, in their public amenities
8 package, a study that will help DDOT in aiding our decision
9 on what to do with that intersection in the future.

10 MR. LITSKY: The Applicant, I believe, in their
11 testimony -- I may be completely incorrect. I'd have to look
12 at the record once it's typed up -- had stated that the
13 reason that they were providing that was something that you
14 had actually asked for.

15 MR. ZIMMERMAN: That is correct. We requested
16 that the Applicant, as part of the CTR -- the first time this
17 came up, we asked them, during the CTR, to do a capacity
18 analysis, just at a high level, what do you think would
19 happen? Is this even a decent idea worth pursuing? We took
20 a look at their analysis. We did see that there were some
21 improvements to intersections, to the traffic flow,
22 particularly over at 3rd and M.

23 Now, having seen their analysis, we wanted them
24 to go and do a deeper dive into exactly what the impacts
25 would be to the pedestrian crosswalks, for example, that you

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1 expressed concern about. Before any changes happen in the
2 transportation network, we just want to make sure that
3 everything has been evaluated. That's really the genesis of
4 that study.

5 MR. LITSKY: It is. We've been looking for a
6 safety study on that intersection going back at least six
7 years, when we had the death, and then two people hit over
8 there. That's something that DDOT never did before.

9 Now we've had to wait for this to be part of a
10 process the developer is giving our city to provide safety
11 information to our public. Frankly, I think that stinks.
12 I would urge -- or do you not think that it would behoove the
13 Department of Transportation to do safety studies when
14 they're required, not simply when they can be paid for by
15 somebody else?

16 MR. ZIMMERMAN: Frankly, what we're doing it as
17 part of this application because we wanted to make sure that
18 there was a path forward for getting input from the ANC.
19 This is a concern we've been hearing for years, going back
20 to when the left turn was removed. We don't want to just go
21 out and re-establish the left turn.

22 We don't want to go out and make major changes to
23 the signal without this study. We thank the Applicant for
24 -- at our suggestion, they agreed to do this study, and we
25 thank them for that. After that study has been completed,

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1 we'll be happy to make a decision and evaluate everybody's
2 input on that process, including the ANC, including yours.

3 MR. LITSKY: But is it true that DDOT would not
4 have put forward this study had it not been paid for by
5 somebody else?

6 MR. ZIMMERMAN: I can't speak to that. We do --

7 MR. LITSKY: I'll ask --

8 MR. ZIMMERMAN: We do studies all over the city
9 all the time. There may have been hesitancy to look at this
10 intersection because it was our understanding that the ANC
11 had been pushing all the years to remove the left-turn
12 movement and to keep the left-turn movement out of there.

13 As part of this, we wanted to make sure that the
14 ANC had a major component and a major role in this decision.
15 We didn't want to keep anybody in the dark. We didn't want
16 to go off, do a study on our own without any input from the
17 ANC or the community.

18 We just wanted to be open and transparent about
19 it. That's why this study is coming out of this application.
20 Also, it's immediately adjacent to this project, so it seems
21 like a good timing for doing this.

22 MR. LITSKY: But you're not picking up the tab;
23 they are, right?

24 MR. ZIMMERMAN: Yes.

25 MR. LITSKY: That's a problem, not that you're

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1 paying for it, but that we have to depend upon outside forces
2 to pay for stuff that our city ought to be doing. That's a
3 big problem. But the Applicant had stated before that they
4 were in the process of figuring out what to do with WMATA
5 that blocks traffic on an entire lane of M Street. What's
6 DDOT doing about this, and what is your suggested solution
7 to removing that obstacle that's been there for more than
8 three years?

9 MR. ZIMMERMAN: That's something that we're
10 continuing to work through with them, and we're going to keep
11 working through, through the public space permitting process,
12 to see if there is a place on-site that it can be moved. No
13 decisions have been made by DDOT, the Applicant. There's no
14 agreement of any kind, at this point in time. That's
15 something we're going to keep evaluating as we go through the
16 public space permitting process.

17 MR. LITSKY: Do you feel that this project ought
18 to go through without an opportunity to place that WMATA
19 vault within the project, itself, to get it off of M Street?

20 MR. ZIMMERMAN: We're going to keep working with
21 the Applicant on that. I'm not going to give you a
22 definitive answer on that tonight.

23 MR. LITSKY: So it is DDOT's belief that it is
24 possible that you would allow this obstacle to block an
25 entire lane of traffic on M Street in front of where this

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1 project is being built?

2 MR. ZIMMERMAN: We're going to keep coordinating
3 with the Applicant and WMATA on a path forward for that.
4 That's our answer.

5 MR. LITSKY: Unfortunate. I don't think I have
6 another question for DDOT. To OP -- again, I got this just
7 before I came up. You had responses, and DDOT gave responses
8 today, so I may not have picked them all up and absorbed
9 them.

10 I believe I had heard that -- or read that OP had
11 suggested that in order to activate retail on the property
12 that was lax in getting activated, itself, that you proposed
13 that you would work with them to establish a situation where
14 they would be able to put popups there. Am I incorrect in
15 that, or was that something that the Applicant had come up
16 with?

17 MR. JESICK: We were looking to the Applicant to
18 come up with an interim retail strategy. I think they've
19 begun to look at that, looking at maybe arts and crafts type
20 uses that could temporarily fill spaces that aren't
21 immediately leased. In their submission today, which I know
22 you probably haven't had a chance to look at, they've put
23 forth some language. I don't know if it'd be in a form of
24 a condition of the approval, or just in the order somewhere,
25 that would begin to address that, so we can continue to work

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1 with them on that language.

2 MR. LITSKY: Okay, I appreciate that. I
3 appreciate that. Thank you. Those are my only questions,
4 thank you.

5 CHAIRMAN HOOD: Commissioner Litsky, where is the
6 vault?

7 MR. LITSKY: Where is the vault?

8 CHAIRMAN HOOD: Yes, where is it?

9 MR. LITSKY: The vault is on M Street. If you're
10 looking at M Street, north side of M Street, directly in
11 front of 375.

12 CHAIRMAN HOOD: We want to know exactly where it
13 is.

14 COMMISSIONER MAY: Is it just in the tree space
15 along M Street?

16 PARTICIPANT: It's in the street.

17 COMMISSIONER MAY: It's in the street, itself?

18 MR. LITSKY: In the street, itself, isn't it?

19 PARTICIPANT: Yes.

20 MR. LITSKY: Yes, in the street, itself. It's
21 been there for three years.

22 CHAIRMAN HOOD: Oh, okay. I've been gone. No
23 wonder I hadn't noticed. I think we're trying to -- he's
24 going to bring it up and show us.

25 MR. LITSKY: Again, part of the reason why I

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1 didn't make it in here to get sworn in earlier is because the
2 traffic from the baseball stadium heading west, we're blocked
3 on an entire lane of traffic over there, heading toward the
4 wharf. It blocked it all the way up, and there was no way
5 to get through on 4th Street. It was insanity. It's got to
6 be moved.

7 MR. SWIATOCHA: If you can see my cursor now, it
8 is right where that cursor is located.

9 CHAIRMAN HOOD: Move it again. Okay. Is that
10 temporary? It's been there for three years?

11 MR. LITSKY: I don't know; I'm asking DDOT. It's
12 in public space. Seems to me that they ought to have an
13 answer.

14 CHAIRMAN HOOD: Is that where the CV --

15 MR. LITSKY: No.

16 CHAIRMAN HOOD: It's not?

17 MR. LITSKY: No, it is --

18 MR. D. SMITH: Where the CVS was in the trailer
19 you're talking about?

20 CHAIRMAN HOOD: Right, where the CVS --

21 MR. LITSKY: But on the street.

22 CHAIRMAN HOOD: Was that due to that?

23 COMMISSIONER MAY: I'm sorry; it's not -- you keep
24 saying vault. It's not a vault in the ground. It's a
25 generator in the street.

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1 MR. LITSKY: Yes.

2 COMMISSIONER MAY: Okay. Google sees it, right?

3 MR. LITSKY: Yes, it does.

4 COMMISSIONER MAY: So it's been there a while.

5 MR. LITSKY: Three years, at least, with no input
6 from WMATA, no input from DDOT. Now we're doing a major
7 construction over there. We want it moved. It has to move.

8 CHAIRMAN HOOD: Okay, any other questions? Does
9 Water Towers have any questions of Office of Planning and
10 DDOT? Come forward.

11 MS. GOODING: Thank you. It's for the Office of
12 Planning. As you know, we've been historically landmarked
13 as Town Center East. I'd like to understand how you
14 considered our historical landmark status in the approval of
15 this plan as being proposed? I guess that's my question.
16 How has it been considered? It's hard to imagine that this
17 would be done without considering any of that, so I'd like
18 to understand how.

19 MR. JESICK: The massing of the building was
20 established in 2007, so other than carving out the middle for
21 the residential use, the massing hasn't really changed. We
22 felt that the massing was still consistent with the
23 first-stage PUD that was approved and, in fact, improved,
24 perhaps, from an M Street standpoint. We didn't look at it
25 specifically in regards to any surrounding historic

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1 structures. There are a number of historic landmarks in the
2 neighborhood, but we felt that this was consistent with the
3 previous approval that the Zoning Commission granted ten
4 years ago or so.

5 MS. GOODING: Previous approval aside, there has
6 been -- I guess the question is has there been enough time
7 to actually consider the historical significance and landmark
8 status of this building and this plan?

9 MR. JESICK: Yes.

10 MS. GOODING: Okay, thank you.

11 CHAIRMAN HOOD: Okay, let's go to the ANC.

12 MR. LITSKY: Good evening, Commissioners. My name
13 is Andy Litsky, and I'm vice chairman of ANC 6D. I'm a
14 40-year resident and a founding member of Tiber Island
15 Cooperative Homes, which is located directly across the
16 street from the 425 building that we're discussing this
17 evening. Both of the residential complexes, Tiber Island and
18 Tiber Island Condos, are in my single-member district. I
19 also was the lead negotiator for our ANC on the original
20 Waterfront PUD and have testified numerous times before this
21 Commission on various iterations of this particular project.
22 I'm coming to you to deliver testimony on behalf of my ANC,
23 in which I've served for 18 years. With me is Commissioner
24 Roger Moffatt, who represents the 375 side of that 4th Street
25 property, 4th and M Street property.

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1 In any case, I'm here to reiterate that a
2 regularly scheduled meeting, properly noticed on March 19th,
3 with a quorum present, our ANC voted 5-0-0 for a motion of
4 conditional support in this case.

5 This is a case that we've had before us going back
6 almost as long as I've been on the ANC. The question had
7 been why did you allow the garden hoses? This was our first
8 trip to the rodeo.

9 We've learned a lot since we first had this case
10 in front of us, from every single development that's happened
11 south of the mall, on both sides of M Street, both sides of
12 South Capitol Street, but this was the first PUD that we
13 actually dealt with. In evaluating the Applicant's requested
14 modification in significance, the ANC had given substantial
15 consideration to the Southwest small area plan that we fought
16 to ensure would finally take place. We also are cognizant
17 of the plan statements regarding the commercial office market
18 in Southwest.

19 So even though we had expressed significant
20 concern regarding our desire not to even have a setback on
21 this project, I think it had been -- we learned during
22 discussions with the Applicant, and we learned looking at the
23 materials that they had put forward, that it was better to
24 have a residential property there than to have the commercial
25 structure that would otherwise arise.

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1 If you take a look at what is allowed on that
2 property, basically, what we would have -- first of all, I
3 want to make sure that the neighborhood understands that
4 regardless of what's decided of specifically what can be
5 built on those properties, those properties are going to be
6 built upon.

7 Unfortunately, there has been a significant amount
8 of unfortunate and inaccurate information that's been put
9 forward in our community that if this is not dealt with, this
10 space will remain open for the foreseeable future. Not
11 likely; not going to happen. This was a decision to build
12 on these properties that was made more than ten years ago.
13 I would hope that as other people testify, it will be made
14 clear to them that something is going to be built on these
15 properties.

16 I appreciate the fact that the community and Ms.
17 Gooding and the Commissioners have appreciated the fact that
18 during the interim period of time, the ANC had made sure,
19 with the assent of the Zoning Commission, that these sites
20 were activated. These were to be activated sites only until
21 such time as building was going to be happening on those
22 sites, and we're close to that right now.

23 In this context, the ANC negotiated a community
24 benefits agreement with the Applicant that aims to advance
25 development of a thriving town center along 4th Street and

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1 allows for the incorporation of residential uses into these
2 parcels, rather than simply to have what we had previously
3 stated, K Street on M Street, which is exactly what would
4 have been built had we not had residential there as being
5 presently configured. The community center. As detailed in
6 the Applicant's submission, the Applicant committed to lease
7 and build out 6,000 square feet of two-story space for a
8 neighborhood-serving community center, at cost, for a period
9 of no less than 30 years.

10 The ANC believes that the creation of a Southwest
11 community center is indispensable to the wellbeing of our
12 Southwest community and is a critical component that led to
13 our support of this project. We asked for it. We recognize
14 that this is something that's absolutely critical.

15 We have a neighborhood that's burgeoning, that's
16 bursting at the seams. The number of people that will be
17 moving into the neighborhood will be double what we had when
18 this project first came online. Double.

19 We had 12,000 in Southwest before; we're going to
20 have 24,000 within the next five years. To answer Ms.
21 Gooding's question, the churches can't accommodate. The
22 library can't accommodate. We tried to hold the library up
23 for a third story, so we would have more open space. Still,
24 it wouldn't be our space; it would be the city's space. So
25 we decided that even though the individual condominiums and

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1 some of the larger apartment houses have lovely space inside,
2 and they've got fire pits and places upstairs, there is no
3 one place where the entire Southwest community can gather.

4 When we broke through that clot at Waterside Mall,
5 we joined both the north side of Southwest and the south side
6 of Southwest for the first time in 50 years. The first time
7 that we've had opportunities, really, to mingle, outside of
8 the Safeway and the CVS, has been when folks have had an
9 opportunity to go to the Friday night markets and go to the
10 Saturday markets and go to the kinds of things that we
11 established to help grow the community and knit the community
12 together.

13 We're a community that's redeveloping. We're not
14 a community that has had, for a long period of time, an
15 opportunity to have a Girl Scout troop, for instance. We had
16 a Girl Scout troop. It stopped being a Girl Scout troop when
17 nobody could find space for them to meet, not a church, not
18 the police station, not the rec center. We need to have
19 those kinds of spaces that can provide our community, writ
20 large, with opportunities for space and activities. I grew
21 up in New York City. I used the 92nd Street Y. My parents
22 then moved to Long Island, and they had a community center,
23 several community centers in their community, that enabled
24 seniors and young people and kids in high school to be able
25 to do afterschool learning, to be able to do what we used to

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1 call adult ed kinds of things, places to learn how to play
2 bridge, places to congregate.

3 That's what we don't have in our community. There
4 are other communities, Chevy Chase being one example,
5 Anacostia being another example, with the -- what's the name
6 of the big --

7 (Off-microphone comment.)

8 MR. LITSKY: Yes, exactly, with THEARC. We didn't
9 get that. With all of the building that's happening south
10 of the expressway, we got nothing for the community. We had
11 bits and pieces, but we had nothing for the community. We
12 didn't wind up with a community center, and that's why we
13 asked for this space, so we're very pleased that this space
14 is being -- that the Applicant has seen fit to provide the
15 space for us. We hope that will answer questions from the
16 community about what we envision this space being used for.
17 We believe that the Southwest Community Center's programs,
18 combined with improved community-serving retail, a commercial
19 mix that caters to community services, will further
20 contribute to the pedestrian activation of the Waterfront
21 Station and position Waterfront Station to become a vibrant
22 center for our community.

23 The Commissioners should note, in our report, that
24 the ANC also attached a letter of support for the Southwest
25 Community Center by our Southwest Civic Association, which

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1 has served as our civil association for 50 years. They are
2 full stead in favor of ensuring that this process moves
3 forward.

4 On the traffic planning activation management of
5 the PUD site, as detailed in the CBA, the Applicant agreed
6 to a substantially improved traffic plan and active
7 management of the PUD site. The ANC believes that improved
8 signage plan will address many of the problems that we have
9 encountered on that site, and that we envision will be
10 exacerbated by these two buildings. One of the other people
11 that had sat as a member of the negotiating committee was
12 Marjorie Lightman, who was a former commissioner in our ANC,
13 and who represented the area where the 425 building would be.

14 She lives directly adjacent to that in the Mill
15 Creek building, so she was very familiar with that. Having
16 her participation was really integral to ensuring that we
17 could develop a proper transportation plan for this larger
18 site, especially as the private roads related to both the
19 Mill Creek property and the Waterfront Towers property.

20 The promise of active site management, which has,
21 frankly, been heretofore seriously lacking by the Applicant,
22 as the lead partner in this management of the superblock,
23 will significantly enhance pedestrian safety and incorporate
24 appropriate vehicular traffic and improve the area overall.

25 One of the problems that we had for this, and one

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1 of the reasons why we were slightly snarky in the manner in
2 which we had delivered our report, was because over the
3 course of ten years, we had great problems with this
4 Applicant. This Applicant came before us. They told us they
5 were going to give us a wonderful town center. No sooner had
6 they built the two office spaces that house, now, several
7 district agencies, they flipped the property. Done.

8 They maintained the Elliott. They maintained
9 these two parcels. Yet, there was no further management of
10 those properties and the promised kinds of amenities that we
11 had been promised when we said that this was going to be
12 moving forward some years ago.

13 We really have asked them for active site
14 management. They promised to have an active site management
15 process. We would expect that that's something that the
16 Zoning Commission will want to ensure is put in the final
17 zoning order. We appreciate thought given by the Applicant
18 to pedestrian plans on 4th Street, especially as people exit
19 the Metro station.

20 That is an area that has been a consistent
21 problem. That is an area that the partners of this
22 superblock have chosen not to address, lo, these many years.
23 It has taken this site, and Forest City on this site, to
24 address this finally. We've got many thousands of additional
25 pedestrians that are going to be using that Metro plaza

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1 because of the wharf and because of the 21,000-seat stadium
2 that's going to be opening in July, at the soccer stadium.

3 The Waterfront station is only one of two subway
4 stations, Metro stations that will serve that soccer stadium.
5 We anticipate there's going to be a considerable number of
6 new pedestrians who are going to be using that Waterfront
7 station.

8 We hope that in the safety analyses that are going
9 to be done by the Applicant and DDOT and Gorove/Slade, that
10 they will take that into consideration. The additional
11 pedestrian movement across M Street is definitely something
12 that has to be looked at.

13 It may not pertain directly to this project, but
14 it certainly pertains to the overall public safety aspects
15 of how that 4th Street intersection is going to be managed.
16 On the retail strategy and implementation, the ANC believes
17 that the execution of a compelling retail strategy is
18 absolutely essential to creation of a thriving town center.
19 Mr. Chairman, you stated earlier that you were worked at EPA
20 back in the heyday, well, if we can call it a heyday, when
21 Waterside Mall was existing. I'll just call it existing.
22 We had more than 25 local merchants over there. We had a
23 bank. We had two banks, at one point. We had a number of
24 restaurants.

25 We had a number of fast foods. We had a

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1 full-service liquor store, at that time, the best in the
2 entire city, at Harry's. It was before there were things as
3 Marvelous Market. Harry's had it all under one roof. We had
4 a video store, not that they exist anymore.

5 We had a watch repair. We had a separate florist,
6 and we had a separate card store. We had a bookstore. We
7 had a Bible store. We had a Dock in the Box. We had a pizza
8 -- what's the pizza delivery place? We had one of those.
9 We had a Radio Shack. We had a High's.

10 All of this served the Southwest community. We
11 were promised, when this street went through, we were going
12 to get community-serving retail coming back. You know what
13 we got? We fought like hell to keep the Safeway, fought with
14 the Applicant to keep the Safeway, which we did. It's a
15 large Safeway, and it functions very well. We kept the CVS,
16 which had a long-term lease, so CVS stuck around. We
17 replaced an existing dry cleaner. We've got a Subway.
18 Nobody in the neighborhood uses it. People who work in the
19 office buildings do.

20 We have an Indian restaurant, and we have another
21 restaurant, and we have a hamburger joint. That's what we've
22 got. It was only recently, when we added real
23 community-serving retail, if you'll call it retail, when they
24 leased space to a dental office on 4th Street.

25 Aside from that, none of the kinds of services

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1 that you were able to have, Mr. Chairman, when you were
2 working there does this community have now. We've got
3 nothing. So what we are expecting of the Applicant is that
4 they're going to actually implement a very vigorous -- using
5 their consultants, using their ability as a big board company
6 -- to bring retail expertise to this one little area.

7 That's what we need them to do. That's something
8 that we absolutely demand is going to be done, and with real
9 retail, not putting a Verizon store there. That's not
10 retail. That's not community-serving retail. That's what
11 the developers love to put in these things because it gives
12 them long-term ability to lease the space. We want to make
13 sure that the space is leased to businesses that are actually
14 going to serve the community. We should expect nothing less.

15 They're a big board company with major nationwide
16 projects. We expect the Applicant will, by virtue of this
17 PUD, now legally, formally commit to implementing a strategy
18 and regularly meet with the ANC to discuss retail strategy
19 and the implementation plan.

20 Southwest can no longer accept Forest City's ugly
21 stepchild way of approaching Southwest when it lavishes
22 attention on the yards. This is a company that built
23 Brooklyn. They own the Nets, for crying out loud.
24 Certainly, you can bring some local retail to Southwest.

25 That's what we need to have happen. That's what

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1 we need you to make sure you tell them will have happen. As
2 such, the ANC is very encouraged by OP's, I believe, support
3 of a plan that will require the Applicant, more or less, to
4 use it or lose it. Maybe that's something that they offered;
5 I'm not sure. It seems to me that no longer can we afford
6 to have empty storefronts in the heart of our neighborhood.
7 We've had them for too long. It seems to me that somehow,
8 in this process, if a store is not being leased, turn it
9 over. Turn it over.

10 As we did with the empty space that was on those
11 two lots for a period of time, until such time as it's
12 leased, it ought to be turned over to pop-up retail. We
13 ought to be able to work with the BID, now that we have a
14 Southwest BID that's actually pretty damn good, to be able
15 to work with them and other agencies in the government to
16 make sure that we're activating space to provide services to
17 the residents of Southwest, not just wait to hold out for the
18 expensive rents that these things are probably going to cost.

19 We also had Jenny's, which was our local Chinese
20 restaurant. The only Chinese restaurant in Southwest. It's
21 been in Southwest for 50 years. Let me tell you what
22 happened with Jenny's. Jenny's had to move out of Waterside
23 Mall because it was being knocked down, and they were given
24 space at the Old Channel Inn and promised that they would be
25 allowed space at the new wharf. They were, but perhaps they

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1 weren't as smart as they should have been. They didn't cut
2 their deal ahead of time; they took it on word.

3 So when they were provided with the opportunity
4 to have that space, this merchant that had provided services
5 to Southwest and is greatly beloved by many of us was no
6 longer able to afford and outfit space on the waterfront.
7 They didn't cut their deal ahead of time.

8 I want to make sure that if we have local
9 merchants, we can actually fit them into the center of our
10 community. I do know that the Applicant was good enough to
11 meet with Jenny's to see if perhaps they would be able to
12 find space in the Elliott, but again, this is new building
13 space.

14 They've got to pay for it somehow, and merchants
15 are being charged a significant amount of money to enter into
16 these spaces. Part of the concern that we have is that
17 unlike H Street and a number of places that have been built
18 out, you can kind of have -- let's have a restaurant on H
19 Street. You used to be able to do that. You can't do that
20 down here. You have to put in a lot of money to be able to
21 do it. It's going to be incumbent upon the Applicant and
22 their retail consultant and OP, working with the community
23 to really hustle to ensure that we're getting the kinds of
24 retail in Southwest that we used to have because it ain't
25 there now.

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1 What was promised ten years ago has not
2 materialized. So now we're giving them two more buildings,
3 which they will be able to be renting. They're going to be
4 cash cows. Let's not kid ourselves. The Elliott is a real
5 cash cow because I don't think there's any affordable housing
6 in that. Let's make sure that what we get is what they've
7 promised.

8 The improvements to the public realm. Regarding
9 the public space plan, the ANC is pleased that even though
10 this case does not include the public space around the
11 Waterfront Metro station, that the Applicant agreed to work
12 with the other owners of Waterfront Station to enhance the
13 Waterfront Metro Plaza, by adding elements that create a
14 sense of vibrancy to a thriving waterfront neighborhood. The
15 elements could include public art, incorporate way finding
16 features, and certainly enhance the existing features of the
17 Waterfront Metro Plaza. You want to know why we wound up
18 with what we have now, which we affectionately call the
19 garden hoses? It's because we asked for -- you guys are
20 calling it Waterfront Station, have a water feature.

21 They said don't worry about it; we're going to do
22 that. We were charmed. Deborah is very charming. Mitchell
23 Shear is very charming. This was our first time at the
24 rodeo, so we bought into it. That's why we have to make sure
25 that when we get this approved, we are getting something

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1 approved that we understand is going to be built.

2 We don't do it on say-so, and we don't it on yes,
3 we're going to do it. We're going to see what's going to be
4 done and ensure that it's going to be done before this thing
5 is approved. Otherwise, we'll get garden hoses. I don't
6 want any more garden hoses.

7 It's inappropriate for the entrance to Southwest
8 and the city's waterfront neighborhood. When the city
9 emerges at the waterfront, they emerge at Waterfront Metro.
10 That's this Metro. That's where these guys are building
11 their projects. We'd like to make sure that we wind up
12 having an appropriate thing there, other than what we've got.
13 On the building massing, the ANC appreciates that the
14 residential building design really requires lower FAR and
15 lessens the density, moving the development more in line with
16 the open space concept in much of the design in Southwest.

17 The ANC believes that the residential massing is
18 much more appealing than the massing that would have been
19 used for the commercial buildings, as I stated before.
20 Accordingly, the newest design will have a significant
21 positive visual impact on the communities of Tiber Island and
22 Carrollsburg, which are both the major communities on either
23 side of 4th Street, across M.

24 The ANC also believes that these benefits, when
25 coupled with plans for enhanced ground-floor

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1 community-serving retail and second-floor commercial space
2 on the east building, will do much to create a thriving town
3 center, which we have long advocated. Thus, the ANC believes
4 that the Applicant's plan has addressed the ANC's concerns
5 for activation, traffic control, and input requirements
6 related to a change from an approved commercial development
7 to one whose major content is residential. It's going to be
8 up to the Zoning Commission, however, to make sure that they
9 provide what it is that they've promised.

10 The ANC, however, as happy as we were with this
11 reconfiguration and this major change, was not yet happy
12 enough to embrace this entirely. So what we did at our March
13 16th meeting was to give only conditional approval to this
14 project because there are still several things that are
15 outstanding.

16 Let me go over these things now. We strongly urge
17 the Commission to withhold voting on this PUD until such time
18 as the items that we're going to be talking about are
19 resolved in writing. Otherwise, we'll be taking it on a wing
20 and a prayer, and that's how we wound up with the garden
21 hoses.

22 On the community center, on selection and
23 operations, upon further review, the ANC 6D believes that the
24 ANC should have full authority, not shared with the
25 Applicant, to select the operator of the community center and

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1 expects the CBA to be amended accordingly. The ANC also
2 believes that the Applicant reneged on a commitment made
3 during negotiations when the Applicant clearly agreed that
4 the community center would be free for 30 years. Free is
5 free.

6 It was stated by a number of the Commissioners
7 this evening; free is free. The idea that we're being held
8 up for electric costs, that we may be held up for HVAC costs,
9 it's a pittance. It's unfortunate. We certainly hope that's
10 going to be ameliorated.

11 The Applicant's claim, made during subsequent
12 negotiation sessions, that requirement for paying utilities
13 imposed on this cease, may be well appreciated in the context
14 of promoting energy conservation which, by the way, they
15 ought to be commended for.

16 Because as I understand it, you just won an energy
17 conservation award, and that Forest City corporate will be
18 awarded a major energy award by Department of Energy -- no,
19 by the EPA, on April 20th, so congratulations. We're as
20 energy conscious as they are. Also, because they're doing
21 it, it would be nice if they wound up going to LEED Gold.
22 Perhaps the administrator of EPA, if he's still the
23 administrator, will embrace them and feel happier, on the
24 20th, when he presents that award. However, the backtracking
25 on the costs for the center is really a concern for us.

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1 It seems to me if you're providing something to
2 the community, and it's provided as an amenity, it's free.
3 As a matter of fact, not only is it free, and that's what was
4 asserted us in the initial discussions, but when the
5 presentation was made -- and we've got the recording of it.

6 When the presentation was made by the Applicant
7 to the ANC, prior to the vote, at a public meeting of the
8 community, where the community was able to answer questions,
9 it was provided as something that was free, and it was never
10 provided with these additional amendments as part of it.
11 Nonetheless, we would like the final letter to reflect the
12 community center will be free because free is free. When you
13 provide something, you provide it with no strings.

14 Public space improvement elements. In advance of
15 any zoning approval, the ANC wants to see precisely what
16 elements the Applicant will be installing in the public space
17 in the Metro Plaza. Again, we need to have a sense of
18 arrival at our city's waterfront. You're emerging from the
19 waterfront, you ought to see more than a little bit of pishy
20 garden hoses because that's what we've got.

21 Honestly, show up. When they're working, that's
22 what we've got. What they delivered was what they delivered,
23 and it's because we didn't insist that they provide us with
24 the drawings of what was going to appear there.

25 We would like those things to be provided in

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1 advance. Enhanced traffic site plan for 4th and M Street.
2 Currently, the juncture of 4th and M, as I think I had said
3 before, is really one of the most difficult corners in
4 Southwest.

5 DDOT continues to struggle with the crossing
6 patterns at that intersection, and that complexity will be
7 further complicated by the arrival of two major buildings on
8 each of those corners. The left-turn lane. It seems to me
9 we're getting different stories about who wanted what and
10 who's getting paid for what, but it's quite clear that both
11 DDOT and the Applicant want a left-turn lane turn over from
12 -- heading south on 4th Street, heading east on M. While the
13 Gorove/Slade plan ostensibly speaks to a typical use of the
14 street as it usually does, they've only analyzed what exists
15 now.

16 I'm very concerned about the fact that the safety
17 plan has not happened yet. I'm very concerned that a safety
18 plan might then require, in order to have a left turn, a
19 reconfiguration of the existing streetscape on 4th Street,
20 and that in order to do so, if the Zoning Commission approves
21 something that doesn't allow it to be amended, that we would
22 be putting the cart before the horse.

23 The ANC is especially concerned that DDOT, without
24 conducting its own study, stated in their own report in this
25 project that DDOT is depending upon the Applicant to pay for

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1 this. As I think we have found in other places, there are
2 certain things that our city ought to be doing. It seems to
3 me the city, DDOT, absent an applicant, ought to be paying
4 to ensure that our streets are safe. We ought not to have
5 to wait for a developer to come and provide, as a proffer to
6 the city, to pay for the cost of a safety plan of a major
7 intersection in the most heavily developing area in the
8 entire city. That's outrageous, so that's bad on DDOT.
9 Carry it through.

10 That's not the way we ought to be doing business.
11 If there was a safety problem initially, if DDOT wanted this
12 thing to be done, they should have done it on their own dime
13 and made sure that we no longer have people who are killed
14 and people who are hit at that intersection.

15 It ought to be done in advance of a decision on
16 this project. On the Metro bus stops, we appreciate the fact
17 that after long last, we're getting a re-introduction of the
18 Southwest Circulator.

19 We hope that DDOT and the Applicant will be
20 working together to ensure that Circulator will be stopping
21 at 4th and M during construction. We're going to have to
22 find space for it. As well, we're going to have to find
23 space for the 74 bus. As well, we want to make sure that 74
24 bus is going to be able to have a bus shelter. DDOT is in
25 charge of managing the contract for the advertising on those

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1 bus shelters. Seems to me they ought to tell them that they
2 can place a bus shelter back where a bus shelter was
3 eliminated, so that they could make a different turn across
4 the street.

5 Logistics and operations. ANC 6D has a number of
6 logistical and operational concerns that need to be addressed
7 more completely on a construction management plan. We don't
8 have one now. This is not construction that's going to be
9 happening over at the wharf, where nobody was living.

10 This is happening smack in the middle of our
11 community, smack in the middle. It's the very heart of our
12 community. It's on top of a Metro station. It's across from
13 the Safeway. This is at the heart of our community. The
14 fact that we don't have, currently, a construction management
15 plan concerns me.

16 We ought to have one, at this point. I'm happy
17 that they have stated, the Applicant, that they will provide
18 a written commitment to develop one, but it would be nice to
19 know that we've got one in advance, and that we have the
20 ability to enforce certain things that need to be in a plan
21 of that nature, especially given the place where it's going
22 to happen. On the RPP restrictions, we're glad that the
23 Applicant has agreed to those restrictions.

24 On the interior loading deliveries, the ANC wants
25 the Applicant to provide language ensuring that all

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1 deliveries, including trash, FedEx, UPS, and retail
2 deliveries will occur within the loading dock bays in both
3 of their buildings. I'm not sure that they've currently done
4 that.

5 On a detail plan for program of the open space,
6 the ANC would really like to have greater detail on how the
7 public realm and plaza areas will be programmed and
8 maintained upon the completion of the construction.

9 Finally, the ANC would like to note, as
10 recommended in the Southwest small area plan, that 4th Street
11 parcels are currently programmed by the Applicant at the
12 insistence of this Zoning Commission and at the insistence
13 of the ANC, and it's done along with the Southwest BID.
14 That's why we had the farmers' market, initially. That's why
15 we had those gathering spaces. That's why we had the pop-up
16 events. That's why we've had the D.C. state fair. That's
17 why we're going to have -- I believe we're going to have --
18 we're having an arts festival down there, as well. But these
19 were always temporary uses.

20 Were those spaces able to remain vacant
21 forevermore, we'd do a dance, but that's not going to happen.
22 Those spaces are going to be built upon. We recognize that.
23 Most everybody in the community recognizes that.

24 What we want to do is we want to make sure that
25 the popularity of these spaces and the fact that bringing

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1 together people from all over Southwest will be able to be
2 continued in other places in our community. As such, we are
3 encouraging the BID, we are encouraging our councilmember,
4 we are encouraging the mayor and DMPED and DPR to program
5 those spaces where we currently have open space.

6 Further, as has been pointed out by the Applicant,
7 and as we've pointed out in our report and in our testimony
8 tonight, there is open space on that superblock on the north
9 end of that block. We've got two churches, one of which is
10 currently in the process -- long process -- of undergoing
11 redevelopment. We've got the Westminster Presbyterian site
12 and the Christ Methodist churches, we have carve-out spaces
13 over there, which are actually bigger than just the
14 carve-outs that exist. We've got park space that's available
15 there.

16 We're looking to the Zoning Commission and to OP
17 and to DMPED, who's not here tonight, to ensure that space
18 will be preserved as open public space, so that we will be
19 able to maintain the kind of open public gathering space for
20 our community on the north part of that lot that we know
21 we're going to lose on the south part of that lot.

22 We are confirming our commitment to
23 supporting/enhancing the Southwest duck pond and advocating
24 for significant improvements to Landsburg Park and the
25 Randall Recreation Center which, six years ago, by the way,

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1 the ANC helped to save.

2 Otherwise, it would have been taken under control
3 by a charter school, and we would have no use of it,
4 whatsoever. In conclusion, I have said more than once that
5 we've had the opportunity to address this commission about
6 my concern that with all of the effort that we put into PUD's
7 in this community, and in the city, that really, there is no
8 -- nothing that any community can do if an applicant doesn't
9 come across with their promised plans. What are you going
10 to do, take away their building?

11 It's already built. We have an opportunity now
12 to ensure that this Applicant that has shown us what they can
13 do over ten years, to make sure that they deliver this time
14 for the Southwest community. That's what I urge you to do.

15 Please make sure that the concerns that we yet
16 have outstanding will be addressed, and please make sure that
17 they are addressed in writing, so we know precisely what
18 we're going to be getting when this project is completed.
19 Thank you for the opportunity to testify.

20 CHAIRMAN HOOD: Thank you. Commissioner Moffat.

21 MR. MOFFAT: Well mine will be slightly shorter,
22 as you see in front of you. First, let me apologize for some
23 of these typos in here that I'll try to catch and correct.
24 Good evening, Chairman Hood and all the other Commissioners
25 of the Zoning Commission of the District of Columbia, and

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1 good evening to the fellow citizens of the District of
2 Columbia. My name is Roger Moffat, and I serve as
3 commissioner for Single-Member District 6D05, where the 375
4 M Street Southwest portion of this project is situated.

5 I am here tonight to speak on behalf of my
6 constituents in SMD 6D05. As stated on the ANC report, 6D
7 voted 5-0-0 for conditional support of the Zoning Case 0238I,
8 so the majority of the proposal is acceptable. In fact, some
9 parts are great.

10 We will have a community center to activate the
11 area and provide services and meeting places for the
12 community. We will have lower density than was previously
13 approved, along with a partial setback from the residence
14 across the street, thereby falling more in line with the open
15 design of Southwest.

16 We will have loading and unloading taking place
17 inside the buildings, rather than using the private street,
18 which will have less noise and fumes. Unfortunately, along
19 with the good are a lot of concerns. Let me say at the
20 outset that we believe many of the conditions and
21 reservations could have been fixed prior to appearing before
22 you had we been -- had we not been on such a tight schedule
23 of almost weekly meetings, at the behest of the Applicant,
24 to enable accommodating this hearing date.

25 We did ask them to ask for a postponement early,

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1 but they were not having it. I would like to speak to one
2 of the issues of the Applicant's answers to the OP, the
3 Applicant's response to the OP's comment asking Applicant to
4 provide more three-bedroom units.

5 Applicant's response was that -- part of the
6 response was that this provision of larger units is also
7 consistent with the request from the ANC, ANC 6D. I believe
8 this Commission already knows our stance on this issue, as
9 we have consistently asked for more units and more
10 two-bedroom, low-income, workforce and market, because all
11 families with two or more children need a place to live in
12 D.C.

13 Our request for more units was greater for two
14 bedrooms, as even included in an open letter to prospective
15 developers on Buzzard Point. So it may be partially
16 consistent with our request; however, it's not fully
17 consistent with our request because it does not serve all
18 markets, only the low income, in this case. One of the major
19 concerns of the ANC 6D, when considering whether to embrace
20 a move from all commercial to primarily residential was, and
21 remains, activation, especially during the day.

22 We believe that the addition of a community center
23 that is fully used will add to the activation during both day
24 and evening. It will still be a difficult pull, but we
25 believe the need and the desire for the center will enhance

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1 activation through greater use.

2 We still have major concerns with the activation
3 by retail. As we look at what the community has requested,
4 compared to what has been supplied, the results are abysmal
5 where the Applicant is concerned.

6 One contributing factor is the fact that Forest
7 City's design of their buildings, which they sold, along with
8 any culpability for providing retail in them, was their
9 inability to allow fewer than 1,200 square feet to be leased.
10 We need community-serving retail, not large box store type
11 retail. Most times, these small businesses don't need and
12 cannot afford 1,200 square feet of space. One example is a
13 local post office that may have to move was looking for 900
14 square feet, and they could not be accommodated. Just
15 imagine the activation created by a U.S. Post Office.

16 We have spoken to the Applicant and asked that
17 this be a major consideration in design, but I don't believe
18 there is a written commitment to make sure that mom and pop
19 demand size can be accommodated.

20 Another concern is making sure that the building
21 residents are not eligible for residential parking permit.
22 The Applicant has agreed to this, but we don't want to slip
23 through the cracks. Thank you for your time and for allowing
24 me to present testimony this evening.

25 CHAIRMAN HOOD: Okay. I want to thank you both

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1 for your very thorough, very in-depth analysis of your hard
2 work that you all have done. I'm going to ask a couple of
3 quick questions. Commissioner Litsky, I know some years ago,
4 there was a lady, I think her name was Reverend Hamilton.
5 Actually, I had mentioned it in other hearings across the
6 city. Whatever happened to that group that was looking at
7 all the PUDs and all the development down there, trying to
8 put everything together? Whatever happened? Is that group
9 still in existence?

10 MR. LITSKY: The CBCC?

11 CHAIRMAN HOOD: Yes, it was something --

12 MR. LITSKY: You remember that?

13 CHAIRMAN HOOD: Right.

14 MR. LITSKY: Yes, it still exists. As a matter
15 of fact, Ken LaCruise is in the audience. He's the chairman
16 of CBCC. He's sitting back here with Commissioner Fast, or
17 at least he was. Yes, it still exists, and they still
18 participate.

19 One of the things that we hope to do is work with
20 CBCC and work with SWANA to be able to set up this community
21 center. Because when we had first set it up, we envisioned
22 that CBCC would be going out to the neighborhood to make the
23 determination about what was necessary. We would bring home
24 the bacon, and they'd cook it.

25 CHAIRMAN HOOD: The name of it was coordinating

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1 council or something.

2 MR. LITSKY: Yes, it's the Community Benefits
3 Coordinating Council. To one extent or another, they've
4 participated on things at the wharf, and we're hoping to get
5 them more involved when it comes, especially, to this
6 community center, not running it, but helping to choose an
7 entity that will run it. So yes, they still exist. Ms.
8 Hamilton is not in charge of that anymore.

9 CHAIRMAN HOOD: I noticed we had a letter. I just
10 thought -- maybe I had a different vision. I thought that
11 with all of the development, we were putting all the
12 amenities together. Maybe I got it wrong. I thought that's
13 how it initially started off to coordinate some of that.

14 MR. LITSKY: Well, it was, and it didn't quite
15 turn out that way. One of the things we did do, however,
16 just so you understand, is we wanted to make sure that the
17 developers had an opportunity, should they want to, to make
18 contributions. Since you can't make a contribution to the
19 ANC -- that's not done -- we wanted to have kind of a
20 community chest set up. Two years ago, we established the
21 Southwest Community Foundation that would enable developers
22 to be able to provide cash contributions that could then be
23 turned over, having been reviewed by the community group, to
24 local community entities. We have a number of entities that
25 are functioning in that realm.

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1 CHAIRMAN HOOD: I had mentioned to a lot of other
2 communities to look at that as the model because I thought
3 that was working, but it works some.

4 MR. LITSKY: It's a model. It works some. When
5 it works, it can work, but it's got to work.

6 CHAIRMAN HOOD: This was early in some of that
7 development down there, before we even got started with
8 things. I was just wondering.

9 MR. LITSKY: Yes, they were to take care of
10 workforce housing and do other -- and they were to do the
11 kinds of things that we're speaking about now.

12 CHAIRMAN HOOD: I think that both of the
13 submissions by the commissioners are very detailed. I'm
14 going to ask that the Applicant respond. One of the things
15 that I have in my notes is that I want to make sure that some
16 of the things that he's mentioned, it needs to be
17 memorialized in writing. Because what happens is if we don't
18 get it in writing, it doesn't happen. I'm just putting that
19 out there because that's one of the things I'm going to
20 insist upon and ask for as we continue to move along. We
21 don't have to respond tonight to specific events.

22 You all need to work -- what I will also ask is
23 that you all collaborate, continue to have those
24 conversations. I guess you all wanted to come down here and
25 see us. Some of the things that I heard from Commissioner

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1 Moffat is everything was under the gun, but we're going to
2 obviously give you all some more time to try to close some
3 of the gaps and put some of that in writing, so there's some
4 assurances to the community. I'd like to see that. Let me
5 open it up. Commissioner Turnbull.

6 COMMISSIONER TURNBULL: No, I have, really, no
7 questions. I want to thank both commissioners from the ANC
8 6. This is great. It was very thorough, and I think we
9 appreciate your comments. I think we addressed some of those
10 comments in what we were talking about earlier, but I think
11 the Applicant -- as you said, Mr. Chair, I think the
12 Applicant's got to go back and go through it, read it, mark
13 it, note it, and comment back on all the comments that have
14 been made tonight. I really don't have anything. I think
15 it was very well done.

16 CHAIRMAN HOOD: Let me just say any submission,
17 don't make it a dissertation. I don't want to see sound
18 bites. Let's get to the point. Let's make sure it's
19 memorialized correctly, whatever you all come up with. Let's
20 not have us have to look for -- we have a lot to read and
21 look for, and we miss things, so let's get right to the
22 point. Any other comments up here? Vice chair.

23 VICE CHAIR MILLER: No, Mr. Chairman. I see no
24 reason why many of those points would be incorporated in the
25 draft conditions, the typical draft conditions that we have

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1 in zoning orders prior to the issuance of either the building
2 permit or the C of O and whatever's appropriate timing for
3 some of these things. I would expect that would be happening
4 in this case, as well.

5 CHAIRMAN HOOD: Let me acknowledge Mr. Lawson has
6 been here. I forgot earlier that I was supposed to do that.
7 Mr. Lawson has been here for hours. Let the record reflect
8 that. Any other comments? Let's go to cross-examination.
9 Does the Applicant have any cross?

10 MS. SHIKER: We don't have any cross-examination
11 of the ANC.

12 CHAIRMAN HOOD: Okay, Water Towers, do you have
13 any cross? Okay. I made an announcement earlier; we're
14 going to have to stick with it. We probably could have went
15 another hour, but I never know. We're going to convene back
16 again May 10th. Let me get that right. I don't want to get
17 that wrong -- May 10th, at 6:30, and we will begin with
18 persons in support.

19 MS. SCHELLIN: Yes, we didn't have any signed up,
20 but yes.

21 CHAIRMAN HOOD: We don't have any persons in
22 support, then we'll go to the party in opposition, and then
23 we'll go to persons in opposition. Then we'll go to persons
24 and parties undeclared, and then we will have rebuttal and
25 closing. There will be some time between May 10th. I know

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1 you all have been meeting every week. I'm not going to ask
2 you to continue to meet, but I know there's some further
3 discussions that you all continue to have, and some dialog.
4 Anything else, Ms. Schellin? Commissioners, anything else?
5 Anybody? We're all on the same page, May 10th at 6:30. With
6 that, we will reconvene on May 10th. Thank you. Good night.

7 (Whereupon, the above-entitled matter went off the
8 record at 10:03 p.m.)

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This is to certify that the foregoing transcript

In the matter of: Waterfront 375 M St, LLC

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Date: 04-05-18

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