

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 831
CASE NO. 96-7C
(Consolidated PUD and Map Amendment at
3133 Connecticut Ave., N.W. - The Kennedy-Warren)
September 15, 1997

Pursuant to a notice, the Zoning Commission of the District of Columbia held a public hearing in four sessions on January 6, February 20, March 13, and March 24, 1997. At these hearing sessions, the Zoning Commission considered an application from the Klingle Corporation, the applicant, for consolidated approval of a planned unit development and related map amendment, pursuant to Chapter 24 and Section 102 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022 (1995).

PRELIMINARY MATTERS

1. As a preliminary matter, the Zoning Commission determined that the following organizations met the requirements of 11 DCMR 3022.3 and granted them party status: Advisory Neighborhood Commission (ANC) 3C; the Kennedy-Warren Residents Association (KWRA) and the Cathedral Park Condominium (CPC). The Zoning Commission denied party status to Andrea Newmark, a member of and owner in the Cathedral Park Condominium, because it was determined that her interests were already adequately represented by CPC and she did not meet the requirements of Subsection 3022.3
2. The Zoning Commission also addressed, as a preliminary matter, the issue of whether notice was properly served on property owners within 200 feet of the proposed PUD site as required by Paragraph 3015.3(a). Pursuant to its authority under Subsection 3015.11 of the Zoning Regulations, the Zoning Commission concluded that although some property owners may not have received mailed notice of the hearing, notice was nevertheless proper because: (a) the mailed notice was based on D.C. Department of Finance and Revenue records, which contain the official mailing addresses for tax purposes, and use of those addresses is the accepted practice of the Commission; (b) all other forms of notice were

properly given; (c) the large number of persons in attendance indicated that large numbers of area residents had received notice; (d) the hearing would extend into another session and the record would be left open, providing ample additional opportunity for testimony and comment; and (e) there is no jurisdictional prerequisite for the notice under Subsection 3015.10.

FINDINGS OF FACT

1. The application was filed on July 18, 1996, requesting consolidated approval of a planned unit development (PUD), and a related map amendment from R-5-D to R-5-E to allow for the construction of a nine-story addition to the existing Kennedy-Warren Apartment Building at 3133 Connecticut Avenue, N.W. (Square 2214, Lot 801). The addition would complete the Kennedy-Warren's south wing by closely following the original plans, which were approved in the 1930s.
2. The proposed PUD would provide 166 additional rental units to the existing Kennedy-Warren in a manner consistent with the original 1929-1930 design for the building. The Kennedy-Warren is listed as an historic landmark in the District of Columbia Inventory of Historic Sites and the National Register of Historic Places in recognition of its exceptional architectural design and its contribution to the historical development of the apartment house in Washington.
3. The proposed PUD would provide 204 fixed spaces in a below-grade parking garage, with the capability of providing an additional 96 garage spaces through attendant-assisted parking. (Testimony of Frank Saul, 3/24/97 Tr., 16-17; 19; Applicant's Post-Hearing Submission, May 16, 1997.) The proposed PUD would also provide approximately 2000 to 3000 square feet of retail space for residents of the building accessible only from the lobby.
4. The comprehensive rezoning of the city in 1958 rendered the existing Kennedy-Warren a nonconforming structure with respect to floor area ratio (FAR) and required rear yard. The PUD process and related map amendment would allow the proposed addition to achieve the same height and scale of the existing landmark building. The height of the addition would be 90 feet, consistent with the existing Kennedy-Warren. The overall FAR of the site would increase from 4.58 to 6.29.
5. The PUD site consists of 113,561 square feet of land area, a portion of which is currently occupied by the existing Kennedy-Warren Apartments. The property is situated in Ward 3 on the east side of Connecticut Avenue, N.W., between Cathedral and Klinge Avenues, N.W., and at the juncture of the Cleveland Park and Woodley Park neighborhoods. The south and east sides of the property abut a partially built public

street (Jewett Street) and adjoin the National Zoological Park; the north side of the property abuts Klingle Valley. Several large apartment buildings face the Kennedy-Warren across Connecticut Avenue to the west. The site is unusual in that it has no abutting residential uses.

6. The R-5-D District permits matter-of-right medium/high density development of general residential uses, including apartment buildings. The maximum height allowed in the R-5-D District is 90 feet, with a maximum FAR of 3.5. The maximum land area that a building may occupy is 75 percent of the total lot size.
7. The R-5-E District permits matter-of-right high density development of general residential uses, including apartment buildings, to a maximum height of 90 feet, a maximum FAR of 6.0, and a maximum lot occupancy of 75 percent.
8. Under the PUD process of the Zoning Regulations, the Zoning Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified above for height, FAR, lot occupancy, parking, and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as a special exception and would otherwise require approval by the Board of Zoning Adjustment (BZA). (11 DCMR 2402.3, 2402.5, 2405.3-2405.7.)
9. The District of Columbia Generalized Land Use Map of the Comprehensive Plan for the National Capital designates the site for high density residential land uses.
10. Frank Saul, an officer of the Klingle Corporation and the B.F. Saul Co., which manages the Kennedy-Warren, testified on behalf of the applicant. Mr. Saul stated that the Klingle Corporation has owned the Kennedy-Warren for approximately 66 years and has always intended to complete the unfinished apartment building when market conditions allowed. Because the building currently maintains an occupancy level of virtually 100 percent and there is a waiting list for many of the units, market conditions are now right to proceed with the south wing. The unique appeal of the Kennedy-Warren, which keeps its units in high demand, is its location next to the open space of Klingle Valley and the National Zoo, its proximity to two Metrorail stations, and the accessibility of the Cleveland Park and Woodley Park retail areas. The new south wing would be designed to attract the same type of tenant as the existing building, but would include modern amenities in order to compete with other new apartment buildings.
11. Mr. Saul testified that the project would benefit the city by: matching the details of the landmark building as shown on

the historic drawings for the structure; increasing real estate tax revenues by \$250,000 annually; maintaining and increasing the economic viability of the retail businesses in Cleveland Park; and keeping and drawing tax-paying residents back into the District. He further stated that the provision of parking far in excess of that required under the Zoning Regulations would not exacerbate the parking problems in the neighborhood.

12. The south wing addition would contain 194,358 square feet of gross floor area, bringing the total gross floor area of the building to 714,733 square feet. The existing building and the addition together would occupy 59 percent of the lot.
13. As originally filed, the PUD application intended to provide approximately 4000 square feet of retail space accessible from Connecticut Avenue, N.W. This provision would have required relief from Subsections 354.3 and 354.4 of the Zoning Regulations that limit retail uses in an apartment building to accessory apartment uses for tenants of the building. At the hearing, the applicant reduced this retail component to include approximately 2000 to 3000 square feet of space as an accessory to the apartment building and accessible only from the interior of the building. Consequently, relief from Subsections 354.3 and 354.4 of the Zoning Regulations was no longer required.
14. The project architects, Warren Cox and Graham Davidson of Hartman-Cox Architects, were qualified as experts in the fields of architecture and preservation architecture. The exterior design of the proposed addition is based on the original 1929-1930 plans for the Kennedy-Warren, which included a south wing that was never completed due to the onset of the Depression. The scale, massing, height, materials, color, and architectural details of the proposed PUD would be consistent with the landmark building. Like the existing Kennedy-Warren, the materials of the south wing would consist of buff-colored brick, limestone, and aluminum spandrels.
15. The proposed PUD would match the original exterior design for the south wing at the Connecticut Avenue elevation, based on the original historic drawings. The project would deviate slightly from the original design, however, at the south and east elevations to include balconies. Likewise, the footprint of the south wing would vary slightly from the original design through an increase in the depth of the building at the rear elevation. The interior configuration would also vary to accommodate larger one- and two-bedroom units that would provide modern conveniences, such as dishwashers.

16. The proposed project was described as a unique opportunity to complete a landmark building as envisioned by its original architect, Joseph Younger. (Testimony of Warren Cox and Graham Davidson, 1/6/97 Tr.) The applicant's architects testified that it is their expert opinion that the existing Kennedy-Warren would be clearly enhanced if it were completed as intended rather than left an unfinished project. They stated that, in fact, the Kennedy-Warren needs the addition to make it a more cohesive design.
17. The applicant's architects further testified that it is their expert opinion that the proposed PUD is consistent with the scale, massing and height of buildings along Connecticut Avenue in the Cleveland Park and Woodley Park neighborhoods. They stated that the Connecticut Avenue corridor is characterized by high density residential buildings that range in height from 60 to 90 feet. Many of these buildings were constructed on the property line, including Cathedral Park Condominium. They further stated that the impacts of the south wing on the views and light of the Cathedral Park Condominium were relatively negligible. There would be no shadow impacts on the property abutting the Kennedy-Warren, which consists almost entirely of open space, or on the properties on the west side of Connecticut Avenue, N.W.
18. The applicant's architects stated that the design of the south wing, consisting of three bays along Connecticut Avenue, set up a rhythm that holds the street line. It was their expert opinion that a smaller or truncated version of the proposed design would leave an extra void at the southern end of the site that would break the rhythm of the street line. They further testified that the design of the proposed addition avoided the effect of a massive wall along Connecticut Avenue through the combination of vertical shafts and recessed courts and a highly articulated facade and windows to break up the mass of the building. They stated that the recesses and footprint of the Kennedy-Warren are very similar to the Cathedral Park Condominium directly across the street from the project site.
19. The applicant's architects also testified that, because the ceremonial entrance to the National Zoological Park (Zoo) is located approximately 330 feet south of the proposed addition and separated from it by a large, wooded berm, the PUD project would have little if any visual impact on the Zoo. The architects stated that the addition would actually better define the vast open space that belongs to the Zoo and Klinge Valley by delineating the boundary between the Kennedy-Warren and those properties.
20. The southern portion of Lot 801 where the proposed addition would be located was always intended by the original developers to be occupied by the south wing. This portion of

the site still retains some of the concrete footings poured circa 1930 as evidence of this intention. The HPRB, in designating the property an historic landmark, recognized the intended purpose of this part of the land. Now planted with grass, some trees and other vegetation, the area has remained vacant for the past 66 years waiting to be developed and was not originally intended as green space.

21. Even with the loss of this vacant green space, which measures approximately 22,000 square feet, the lot occupancy for the building after construction of the south wing would be 59 percent, well below the 75 percent maximum lot occupancy permitted. The Kennedy-Warren is surrounded by open space by virtue of its adjacency to Klingle Valley and the Zoo. Along Connecticut Avenue, the nearest building to the south of the Kennedy-Warren is 740 feet away, and 380 feet to the north. Only 14 percent of the open space along this portion of Connecticut Avenue would be removed by the construction of the south wing; the majority of Connecticut Avenue along this section would continue to be characterized by open space.
22. The applicant proposes to landscape the courtyard and open area around the building in a manner consistent with the original designs based upon the historic plans and drawings that are available. The plans consist of three major landscape zones. First, the Connecticut Avenue streetscape, a 35-foot wide area from the curb to the face of the building, would be enhanced with evergreens and flowering shrubs whose colors and geometrical plantings would play off the architectural design of the Kennedy-Warren. Second, the courtyard area, approximately 18,000 square feet in size, would be improved as a garden with a central fountain and seating areas. The driveway itself would be widened to accommodate the passage of two cars. The courtyard perimeter adjacent to the face of the building would be improved with several semi-private seating areas and gardens. Finally, at the rear of the building adjacent to Klingle Valley and the Zoo, the applicant would create a tree preservation plan as requested by and in coordination with the NPS. The preservation plan would provide for aesthetic improvements, soil erosion controls, tree protection and other improvements to stabilize and enhance the areas adjacent to the parkland.
23. The lighting plan for the project would illuminate the trees and plantings at night but would not provide any lighting to the facades of the building.
24. The D.C. Historic Preservation Review Board and the Commission of Fine Arts approved the conceptual design of the proposed addition as compatible with the existing landmark building.

25. The proposed PUD does not meet the normal matter-of-right requirements of the R-5-E District as follows:
- a. Rather than a single penthouse as required under Subsection 411.3 of the Zoning Regulations, the proposed penthouse of the addition would be separated into two masses. Additionally, the corners of the penthouse would not meet the setback requirements of Paragraph 400.7(b). The relief from the roof structure requirements is necessary to comply with the request of HPRB in granting conceptual approval of the design. This relief may be granted by special exception under Section 411 and may therefore be approved by the Zoning Commission pursuant to Subsection 2405.7.
 - b. Rather than the required 30-foot rear yard, the PUD would provide a rear yard of 25 feet, which is consistent with the original historic drawings for the existing building. This may be approved by the Zoning Commission pursuant to Subsection 2405.5.
26. An average of 19 units would be located on each floor, two of which would be efficiencies. The remaining units would be large one-bedroom and two-bedroom apartments.
27. The applicant's traffic consultant, Louis J. Slade of Gorove/Slade Associates, Inc., was qualified as an expert in traffic engineering, transportation and parking. He testified that the traffic generated by the additional tenants in the building would have no adverse effect on the adjacent roadway system. His study showed that the majority of tenants in the existing building travel to and from the building by foot and taxicabs during the morning and evening peak hours, and a high percentage use of public transportation, particularly the Metrorail system. Two Metrorail stations are located within walking distance of the Kennedy-Warren. Connecticut Avenue is also served by several Metrobus routes. He projected that the majority of tenants in the new south wing would adopt similar travel patterns. He concluded that the critical volume of traffic on the roadway system would remain virtually the same. He opined that the project, if approved, would have no adverse effect on the transportation system or the neighborhood due to traffic congestion or parking.
28. Under the proposed R-5-E District, only one parking space for every four units is required for apartment buildings, or in this instance, 42 spaces for the new wing. Mr. Slade conducted a study to project the demand for additional parking generated by new tenants of the proposed south wing and to assess how much parking was adequate for the project. He determined that the best projections for parking demand in

the new wing could be extrapolated from (a) the current demand for parking in the existing parking garage; (b) the demand for existing parking according to the size and number of units rented over the past five years; and (c) the demand for new spaces based on the size and number of units in the new wing.

29. The existing Kennedy-Warren has 317 dwelling units and 230 parking spaces in the below-grade garage, of which tenants rent 199. There is no waiting list for parking. There is, however, a waiting list for reserved spaces. Mr. Slade analyzed the rental profile of the 199 parking spaces by the size of the unit and found that 0.45 parking spaces were in use for each efficiency, and up to 0.81 parking spaces were in use for each two- or three-bedroom unit. Applying these figures to the apartment mix of the new wing, Mr. Slade determined that there would be a demand for 118 spaces as a result of the PUD project. He concluded that the provision of 154 spaces as proposed under the original PUD plan or 204 spaces under the modified plans was more than sufficient to meet that demand and could adequately accommodate an increase in demand and visitor parking.
30. Mr. Slade further refined his calculations of the current parking demand by studying only tenants who had moved into the building within the last five years because in his opinion these tenants would most accurately reflect the type of tenant projected for the new wing. He found that 236 units had turned over within the last five years, and that those 236 new tenants rented 171 of the parking spaces in the garage. Based on unit size, he determined that there are 0.7 cars per efficiency unit, and 0.9 cars per two- and three-bedroom units. This reflected a total ratio of 0.72 parking spaces per unit. He noted that the proposed 204 spaces for 166 units in the new wing represents 1.23 parking spaces per unit. The refinements to his traffic analysis resulted in an increase in the total number of spaces required to meet the projected demand from 118 to 133. He again concluded that the number of spaces provided would be sufficient to meet the demand and also accommodate some visitor parking.
31. Mr. Slade reported on the census tract information. The census tract in which the Kennedy-Warren is located had an ownership rate of 0.9 cars per unit. This rate encompasses all types of residential units, including owner-occupied, rental, single-family dwellings and apartments. However, for rental units alone, which corresponds to the housing provided by the Kennedy-Warren, the car ownership rate in the census tract that includes the PUD site is 0.7 cars per unit. The provision of 0.93 parking spaces per unit for the Kennedy-Warren addition under the original plan and 1.23 spaces per unit under the revised plan exceeds the demand indicated by the census tract car ownership information.

32. Mr. Slade stated that his methodology of projecting the parking demand for the new wing on current parking demands in the existing building yields a very precise calculation because the new wing would be marketed to the same type of tenant who has moved into the Kennedy-Warren in the past five years. He testified that a field survey of existing tenants parking needs would not yield such precise information for several reasons. In particular, such surveys often have a low response rate and provide only a small statistical sampling. The small samplings would often skew the numbers so significantly, particularly when extrapolating the numbers back backwards, that they become unreliable and meaningless.
33. Mr. Slade also amplified his projected parking demand calculations through a comparison with surrounding comparable apartment buildings. He found that the parking garage at 2501 Porter Street, N.W., has a 0.81 unit to parking space ratio, with 66 vacant spaces. The Saratoga Apartment at Connecticut Avenue and Chesapeake Street, N.W., has a parking demand for 0.6 cars per unit, including the 20-person waiting list. Finally, McLean Gardens has a surplus of 150 spaces, which yields a parking demand ratio of 0.7 cars per unit. Mr. Slade concluded that these ratios are consistent with the census tract information and the projected demand for the Kennedy-Warren addition. He further concluded that the provision of 204 spaces for 166 units, at a ratio of 1.23 cars per unit, is sufficient to meet the projected parking demand in the new south wing.
34. By post-hearing submission dated May 16, 1997, and in response to issues raised by the Commission at the March 24th hearing, the applicant stated that it would require any new tenant with a car to park it in the garage as a condition of the lease.
35. Steven E. Sher, Director of Zoning Services at Wilkes, Artis, Hedrick and Lane, was qualified as an expert witness in land use and zoning matters in the District of Columbia. He testified that the proposed PUD is consistent with and fosters several of the goals and policies of the District of Columbia Comprehensive Plan, as required under Subsection 2403.4 of the Zoning Regulations. He stated that the requested R-5-E Zone District is consistent with the Generalized Land Use Map of the Comprehensive Plan, which designates the site for high density residential use, including high-rise apartment buildings as the predominant use.
36. Mr. Sher stated that the proposed PUD is consistent with four major themes of the Comprehensive Plan, as follows:

- a. Stabilizing the District's Neighborhoods: The construction of additional housing in a residential neighborhood characterized by medium and high density development stabilizes the salient features of the Cleveland Park and Woodley Park neighborhoods.
 - b. Respecting and Improving the Physical Character of the District: The PUD would respect and improve the physical character of the neighborhood through its exceptional architectural design that would significantly enhance the landmark building.
 - c. Urban Design Element: The PUD project fits within the historic character of the site and the completion of the original plan for the Kennedy-Warren. It is also appropriate in the broader context of Connecticut Avenue and the apartment buildings that line that corridor.
 - d. Historic Preservation Element: The proposed addition protects the quality of the historic landmark through a design that is compatible with the existing building and that compliments the height, proportion, mass and configuration of the historic property. It further enhances Connecticut Avenue, which is designated a special street in the Comprehensive Plan.
37. Mr. Sher also testified that the proposed PUD project is consistent with several elements of the Ward 3 Plan, which in many respects reflect the overall elements of the Comprehensive Plan. In particular, it fulfills two major Ward 3 policies and goals as follows:
- a. Housing: The Ward 3 Plan encourages increased housing in areas where there are appropriate locations. The proposed PUD project meets this objective because it is located in close proximity to two Metrorail stations and is situated in relative isolation where it would have a minimum impact on surrounding properties.
 - b. Protection of Green Space: The Ward 3 Plan specifically cites the several historic apartments whose green space should be protected where that open space is recognized to contribute to the integrity of the site or the structure. The Kennedy-Warren "lawn" was not intended as open space but rather for the completion of the south wing. The construction of the south wing would therefore not adversely affect the open space intended for the site, which would have a lot occupancy of only 59 percent upon completion. The courtyard, which is the central organizing feature of the building and contains approximately 18,000 square feet of open space, would remain.

38. Mr. Sher stated that the production of housing is a significant public benefit that the PUD process is specifically designed to encourage under Paragraph 2403.9(f) of the Zoning Regulations. He stated that the production of housing is the primary amenity of the Kennedy-Warren PUD. He further stated that the proposed project is consistent with other all-residential, high-rise PUD projects the Zoning Commission has previously approved where housing was the primary amenity.
39. Mr. Sher further testified that the project meets the standards for planned unit developments under Subsection 2403.9 of the Zoning Regulations through its provision of housing, architectural design and historic preservation measures, site planning, and transportation management elements.
40. The project offers the following benefits and amenities pursuant to Subsection 2403.9 of the Zoning Regulations:
 - a. New Apartment Units: 166 new rental apartment units added to the District's inventory in an area of the community that has always been used for high density residential.
 - b. Historic Preservation: the construction of a historically accurate addition, in keeping with the notable Art Deco design of the existing landmark building and following as closely as practicable the original plans from 1929-1930, as well as the rehabilitation and restoration of the ground floor public spaces in the existing Kennedy-Warren building, including the lobby and lobby mezzanine.
 - c. Transportation Improvements: installation in coordination with the D.C. Department of Public Works, of state-of-the-art traffic signal activation devices at the driveways of the Kennedy-Warren and the Zoo, so that signals are only activated when needed so that the time is allocated between signals to favor the one with the greater need; regrading of the portion of Jewett Street which serves as access to the Kennedy-Warren driveway, reducing its slope, and providing a crosswalk with handicap access and new signage to insure pedestrian safety; and coordination of the Devonshire Place signalized intersection with the Jewett Street and Zoo signalized intersections.
 - d. Klingle Valley: in conjunction with the National Park Service (NPS), establishment of a Klingle Valley Rehabilitation Area on the north side of the existing building.

- e. Tree Preservation Area: establishment of a Tree Preservation Area on the east side of the building in conjunction with the NPS and the Zoo.
 - f. Closure of Jewett Street: permanent closure of unbuilt Jewett Street on the east side of the subject property, with 42 feet of the 50-foot right-of-way being dedicated to the Zoo and the NPS.
 - g. Storm Water Management: a storm water management system for the south wing, which exceeds the requirements of the D.C. Code, connecting into an existing line under Connecticut Avenue.
 - h. Street Trees: 20 street trees for planting in Woodley Park, the specific location of which will be determined by the Advisory Neighborhood Commission (ANC).
 - i. Retail Space: retail space in the project limited to accessory uses for the tenants and residents of the Kennedy-Warren.
 - j. Employment and Training Opportunities: a First Source Employment Agreement with the District of Columbia Department of Employment Services and a Local Small and Disadvantaged Business Opportunity Agreement with the Department of Human Rights and Local Business Development.
 - k. Construction Management Plan: restrictions on working hours; the provision of off-site parking for workers; and a prohibition on working on any Sunday and most Saturdays.
 - l. Garage Access: maintenance of access to the existing Kennedy-Warren garage during construction of the south wing.
 - m. Revenue for the District: an increase in real estate taxes of over \$250,000 annually on the subject site due to the construction of the south wing, significant additional tax revenues for the District in the form of income, sales, use and employment taxes, and creation of in excess of 190 construction jobs.
41. By memorandum dated December 26, 1996, and through testimony at the public hearing, the District of Columbia Office of Planning (OP) recommended approval of the project. OP concluded that the project is not inconsistent with the elements of the Comprehensive Plan and the Comprehensive Plan map designation for the site. OP stated that the project offers several amenities and public benefits, including housing; architecture and historic preservation; site

planning; transportation; and revenue and jobs for the District. OP concluded that the amenities offered by the applicant are commensurable with the zoning relief requested.

42. With respect to the housing amenity, OP stated that the provision of 166 new units on property zoned for residential use should be considered a public benefit because an owner has the option to leave his property vacant and cannot be required to build housing. OP stated that one of the primary purposes of the PUD regulations was to provide incentives for housing. OP noted that developers usually only provide housing when it can pay for itself. OP stated that this site is unusual because it does not need office use to support the residential element, like the majority of other housing projects. OP testified that in its opinion this housing project would succeed because of its unique location and current market conditions.
43. OP stated that the project would have no adverse impact on the light and views of neighboring property because of the expansive open space surrounding the PUD site, including Rock Creek Park, the National Zoo, and the expanse of Connecticut Avenue, which is 130 feet in width. OP testified that a lot occupancy of 59 percent indicates that a substantial amount of open space would also remain on the subject site. OP stated that the Kennedy-Warren courtyard constitutes a major portion of the open space on the site. Recognizing that some units at Cathedral Park Condominium may lose their views of open space as a result of the PUD, OP concluded that this was an inconsequential effect of virtually all development and cannot be considered an adverse impact on the neighborhood.
44. William R. Shields, superintendent of Rock Creek Park of the National Park Service, stated that the construction of the south wing would have no visible impact on Klinge Valley. He further stated that NPS had made certain requests of the Applicant to mitigate any potential effects of the new construction and to enhance the areas between Klinge Valley and the Kennedy-Warren. He stated that NPS was satisfied with the commitments of the applicant to comply with those requests.
45. As a result of discussions with NPS, the applicant agreed to request the closure of Jewett Street, a 50-foot right-of-way running along the rear of the PUD site, the majority of which was never constructed. Forty-two feet of the right-of-way would revert to National Park Service ownership, with the remaining eight feet to be dedicated to the applicant for use as an access area to maintain its building. The applicant would provide a tree preservation zone in the area of the closed street to create a buffer between the two properties. The NPS representative further requested the applicant to protect a 52-inch tulip poplar tree, and asked the Zoning

Commission to include a provision to that effect as a condition of any approval order.

46. At the public hearing, Robin Vasa of the National Zoological Park stated that the proposed PUD project had no impact on the operations of the Zoo. Therefore, the Zoo was neutral as to its construction. Ms. Vasa further stated that the Zoo had no aesthetic objection to the proposed addition of the south wing.
47. ANC 3C submitted two resolutions passed at its January 22, 1997, and testified in opposition to the application. Its position was supplemented by a submission dated March 13, 1997. The first resolution provided qualified support for the PUD and its amenities, and requested the inclusion of 200 new spaces in the proposed south wing to accommodate the concerns of the ANC about parking impacts.
48. The ANC's first resolution also included several other conditions to be included in any Zoning Commission order, should the application be approved. These conditions include the following: an adequate number of garage spaces set aside for guests of Kennedy-Warren residents; valet parking for all ballroom events; installation of new traffic signal activation devices to coordinate traffic flow at the Zoo, Kennedy-Warren and Devonshire Place, N.W.; no ingress or egress at Connecticut Avenue, N.W. to the new wing; regrading of Jewett Street and improved pedestrian striping; rehabilitation of adjacent areas of Klinge Valley in coordination with the National Park Service; establishment of a Tree Preservation Plan; closure of Jewett Street at the applicant's expense; an adequate storm water management system; a donation of 50 trees for the greater Woodley Park and adjacent areas; restoration of the ground-floor public spaces in the existing landmark building; funds from the applicant to apply for historic designation of the interior public spaces of the existing building; limiting retail space to residents only; execution of a First Source Employment Agreement and Local Small and Disadvantaged Business Opportunity Agreement; a commitment from the owner to maintain the units for the entire building as rental for 15 years and that hotel/transient use shall be prohibited without any time limit; and a preference for 20 percent of the units to be set-aside for low- and moderate-income residents.
49. The second ANC resolution recommended that the proposed south wing be set further back from Connecticut Avenue, N.W., to maintain a greater proportion of green space and to lessen the visual and light impact on the Cathedral Park Condominium.

50. The supplemental ANC submission addressed the expert testimony of the applicant's traffic consultant and reiterated the need for at least 200 parking spaces in the new wing.
51. The Kennedy-Warren Residents Association (KWRA), a party in the proceedings, by testimony at the public hearing, supported the PUD application as a result of an agreement reached between the applicant and the KWRA regarding improvements to the existing building.
52. Jane A. Nelson, a resident of the Kennedy-Warren and an architect, supported the proposed PUD in testimony at the hearing.
53. Several neighbors, interested persons and organizations submitted letters of support of the project, including the Art Deco Society of Washington and architectural historian James Goode. The D.C. Preservation League supported the project before the D.C. Historic Preservation Review Board as consistent with the historic landmark.
54. The Cathedral Park Condominium (CPC), a party in the proceeding, by letters dated December 23, 1996, and January 2, 1997, and by testimony at the public hearing, opposed the PUD application. CPC objected to: the proposed rezoning of the site; the increase in FAR for a building that presently exceeds the density limits for the existing zone district; the inadequacy of the amenities package; the inadequacy of parking and other negative traffic effects; the size, mass and scale of the building, particularly as it relates to adjacent properties; the impediments to light and views created by the addition; the anticipated negative impact of the building on the National Zoo, the abutting historic districts, and the quality of life in the Cleveland Park and Woodley Park neighborhoods; the adverse effects of the construction phase; and the insufficiency of the proposed landscaping.
55. The CPC further testified that the PUD application was inconsistent with the PUD requirements and the Comprehensive Plan because it failed to provide adequate public benefits or amenities. The CPC stated that the Ward 3 Element of the Comprehensive Plan encourages affordable housing, not middle-income or upper middle-income residential development. Moreover, this housing development is to occur at very specific locations, which do not include the Kennedy-Warren site. The CPC also stated that the applicant misconstrued the historic preservation benefits of the project by claiming that new construction could be considered preservation of an historic landmark.

56. The CPC also claimed that tax revenue generated by the project and first source employment agreements cannot be considered benefits for a PUD because the Ward 3 Plan of the Comprehensive Plan requires them as minimum elements of a PUD.
57. The CPC further stated that the applicant's construction management plan and stipulations with the National Park Service (NPS) are construction mitigation measures, and not benefits to the public under the PUD requirements.
58. The CPC further concluded that with the exception of planting 20 trees in Woodley Park, the environmental benefits proposed by the applicant are not amenities, but are in fact mitigation measures required by the NPS.
59. The CPC's architectural and design expert, Jo Anne Murray, further testified on: the negative effects of the mass of the project; its difference in scale to the surrounding structures; the loss of the Kennedy-Warren lawn; and the lack of a significant set back at Connecticut Avenue. She presented an alternative design to the proposed PUD, which would eliminate half of the southern wing, thereby preserving the lawn and green space that buffers the property from the Zoo and adjacent historic properties.
60. The CPC's expert traffic and engineering consultant, Stephen G. Peterson, testified on the effects of the proposed PUD on Connecticut Avenue traffic, the construction sequencing and construction process, and parking problems in the neighborhood. He concurred with the findings of the applicant's traffic expert that the addition of 166 units would have a negligible effect on Connecticut Avenue traffic. With respect to construction sequencing and the construction process, the CPC's expert provided traffic counts for peak hours to be considered during the construction phase.
61. Finally, with respect to the severe parking shortage in the neighborhood and based on parking surveys conducted at the Kennedy-Warren and surrounding buildings, the CPC's traffic expert determined that the parking demand in the Kennedy-Warren vicinity was 0.98 spaces per unit. Based on that figure, he concluded that the proposed south wing would need to provide a total of 240 parking spaces in order for the PUD not to exacerbate the existing parking shortage. Mr. Petersen stated that his conclusion was consistent with the census tract figure of 0.94 as he calculated it.
62. Several individuals testified in opposition, including many residents of Cathedral Park Condominium. The Woodley Park Community Association testified in opposition on the basis of insufficient parking in the original PUD scheme, which had 154 parking spaces, and the loss of green space.

63. The Commission finds that the proposed PUD is consistent with the requirements set forth in 11 DCMR Section 2400. Approval of the PUD will provide the significant public benefit of 166 additional rental units to the constricted housing market in the District of Columbia as specifically provided for in the Zoning Regulations for PUD projects (11 DCMR 2403.9(f)). It will further enhance and assure the continued viability of an historic landmark. The design of the new wing, which will match the existing Kennedy-Warren, evidences attractive urban design. The stormwater runoff controls and the tree preservation plan proposed by the Applicant constitute environmental benefits to adjacent Klinge Valley, the National Zoo, and the city as a whole.
64. The Commission finds that the provision of 204 below-grade parking spaces, with the capability of accommodating an additional 96 cars or more through attendant-assisted parking, exceeds the projected parking demand for the south wing as calculated by the applicant's traffic expert, and will help mitigate existing parking problems in the immediate vicinity.
65. Based on the testimony of OP and the applicant's zoning and land use expert, the Zoning Commission also finds that the PUD is not inconsistent with and furthers and enhances the following policies and objectives of the Comprehensive Plan and the Ward 3 element of the Comprehensive Plan:
- a. Stabilizing the District's Neighborhoods: The construction of additional housing in a residential neighborhood characterized by medium and high density development stabilizes the salient features of the Cleveland Park and Woodley Park neighborhoods.
 - b. Respecting and Improving the Physical Character of the District: The PUD will respect and improve the physical character of the neighborhood through its architectural design that will enhance the landmark building.
 - c. Urban Design Element: The PUD project fits within the historic character of the site and the completion of the original plan for the Kennedy-Warren. It also is appropriate in the broader context of Connecticut Avenue and the apartment buildings that line that corridor.
 - d. Historic Preservation Element: The proposed addition protects the quality of the historic landmark through a design that is compatible with the existing building and that compliments the height, proportion, mass and configuration of the historic property. It further

enhances Connecticut Avenue, which is designated a special street in the Comprehensive Plan.

- e. Housing: The Ward 3 Plan encourages increased housing in areas where there are appropriate locations. The proposed PUD project meets this objective because it is located in close proximity to two Metrorail stations and is situated in relative isolation where it will have a minimum impact on surrounding properties.
 - f. Protection of Green Space: The Ward 3 Plan specifically cites the several historic apartments whose green space should be protected where that open space is recognized to contribute to the integrity of the site or the structure. The Kennedy-Warren "lawn" was not intended as open space but rather for the completion of the south wing. The construction of the south wing will not adversely affect the open space intended for the site, which will have a lot occupancy of only 59 percent upon completion. The courtyard, which is the central organizing feature of the building and contains approximately 18,000 square feet of open space, will remain.
66. In approving the increase in density as provided in 11 DCMR 2405.3, the Commission finds that the PUD on this unusual site does not conflict with the development plans and policies of the District, that the project will allow for the completion of a historic landmark building as envisioned by the original architect in 1929-1930, and meet the housing objectives of the city. In support of these findings, the Commission notes the Comprehensive Plan designation of the site as high density residential, and the numerous sections in the Comprehensive Plan which direct the encouragement of housing, particularly in close proximity to Metrorail stations, and enhancement of historic properties.
67. The Commission finds that the applicant has met its burden of proof. In order for the Commission to approve the increase in density above the PUD guidelines, the applicant had to meet its burden of demonstrating the public benefits and other meritorious aspects of the proposal. Those benefits include the high level of architectural design, the provision of housing in close proximity to two Metrorail stations, the enhancement of a historic landmark, site planning, parking well in excess of the zoning requirements and increased real estate tax revenues for the District.
68. The Commission makes the following findings in response to the issues raised by the ANC and the other parties and persons in opposition:

- a. The issue of parking has been adequately addressed by the provision of 204 fixed and 96 attendant-assisted spaces in the garage of the proposed project. The Commission finds that the applicant has been responsive to the requests of the ANC and the community on this matter.
- b. The applicant's efforts to design the new addition to match the massing, materials and details of the historic Kennedy-Warren; the rehabilitation and restoration of the interior public spaces at the ground floor of the existing historic building; the landscaping plan; the tree preservation program and Klingle Valley Rehabilitation Area; and the provision of over 300 parking spaces represent a financial expenditure for the applicant. The Zoning Commission finds that these public amenities and benefits justify the increase in FAR and associated zoning relief.
- c. With regard to the rezoning of the property, the Commission finds that this action is wholly justified on the basis of the Comprehensive Plan designation for the area, and on the basis of the unusual nature of the site, design of the existing building, the historic plans for the south wing, and the surrounding medium and high density residential land uses.
- d. The FAR increase is a function of the historic drawings for the 1929-1930 Kennedy-Warren and is wholly appropriate for the completion of the landmark building as originally intended.
- e. The height, scale, massing and density of the proposed south wing is consistent with the original design of the building and the approvals of the D.C. Historic Preservation Review Board and the Commission of Fine Arts. No setback is necessary along Connecticut Avenue because there are no light or visual impacts created by the proposal on the adjacent properties. Likewise, no reduction in the size of the building is warranted because the existing lawn is not an integral component of the historic landmark. Further, a smaller addition would result in an inferior design that would impair the integrity of the historic Kennedy-Warren as envisioned by its original architect. To the extent that the National Zoo and Klingle Valley need to be buffered from the new development, the tree preservation plan will adequately serve that purpose.
- f. The Zoning Commission finds that the applicant's expert architects, expert zoning and land use witness, landscape architect, and the testimony of the Office of Planning, present sound and credible evidence that the

PUD will not have a negative impact on the neighborhood or the District from an architectural or urban planning perspective.

- g. The Zoning Commission finds that the provision of 204 fixed spaces with the capacity for 96 attendant-assisted spaces more than adequately compensates for any potential errors in calculations associated with the parking requirements and needs for the site.
69. The Commission finds the expert testimony of applicant's traffic consultant to be persuasive and credits his findings.
70. The Zoning Commission finds the lease term requiring all new tenants of the Kennedy-Warren to park in the Kennedy-Warren complex to be a sufficient measure against adverse parking impacts to the neighborhood.
71. The Zoning Commission finds that the building and construction codes provide adequate protections for adjacent properties against any potential adverse effects caused by construction, including excavation or blasting operations for below-grade parking, and that the method of construction is not a matter appropriately addressed by the Zoning Commission.
72. The proposed action of the Zoning Commission to approve the application with conditions, was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. The NCPC by report dated July 31, 1997 found that the proposed PUD and related amendment to the Zoning Map of the District of Columbia would not adversely affect the Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The PUD process is an appropriate means of controlling development of the site in a manner consistent with the best interest of the District of Columbia.
2. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
3. Approval of this PUD and change of zoning is not inconsistent with the Comprehensive Plan, including the designation of the site for high density residential use.

4. The proposed PUD meets the minimum area requirements of Subsection 2401.1 of the Zoning Regulations.
5. Approval of this PUD is appropriate because it is generally consistent with the present character of the area.
6. The Commission takes note of the position of Advisory Neighborhood Commission 3C, and in its decision has accorded to the ANC the "great weight" consideration to which it is entitled.
7. The approval of the application will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
8. The proposed application can be approved with conditions that will ensure that development will not have an adverse effect on the surrounding area.
9. The application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the findings of fact and conclusions of law in this order, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the planned unit development and a change of zoning from R-5-D to R-5-E for Lot 801 in Square 2214, subject to the following guidelines, conditions and standards:

1. The planned unit development shall be developed in accordance with the plans prepared by Hartman-Cox Architects, dated November 8, 1996, and marked as Exhibit Nos. 21, 123 and 353 of the record, and in accordance with the landscape plans prepared by DCA Landscape Architects, marked as Exhibit No. 236 of the record, as modified by the guidelines, conditions, and standards of this order.
2. The use of the south wing addition and the existing Kennedy-Warren shall be limited to apartments and other uses permitted in the R-5-E District. The retail proposed for the ground floor of the proposed south wing shall not exceed 3000 square feet. The applicant may rearrange this retail space, including changing its location, provided that it shall be accessible from the lobby only and for use by residents of the building.
3. The overall floor area ratio (FAR) of the addition and the existing building shall not exceed 6.29.
4. The height of the building shall not exceed 90 feet.

5. A minimum of 204 fixed parking spaces shall be provided in the below-grade garage of the new south wing, and a minimum of 96 additional "stacked" spaces shall be provided through an attendant-assisted parking system as needed.
6. The applicant shall require any new tenant of the Kennedy-Warren complex, either in the new wing or the existing building, who owns or leases a motor vehicle(s) that is operated in the District of Columbia, to lease a parking space(s) in the Kennedy-Warren garage as a term of the tenant's lease. This condition of tenancy shall be highlighted to the prospective tenant upon lease execution and made a condition of tenancy.
7. Should the parking demand by Kennedy-Warren residents and/or guests exceed the supply of fixed parking spaces in the Kennedy-Warren complex, the owner shall institute attendant-assisted parking for residents and/or guests (i.e., valet service) to assure that no demand is placed on off-site or on-street parking.
8. If the Kennedy-Warren parking garage is underutilized by existing residents and their visitors, the applicant may make any excess space available to other residents of the community, if such use is agreed to by the KWRA.
9. All ballroom events must have valet parking with linkage to off-site, off-street locations, and the direct cost of parking must be paid directly by the ballroom lessor or lessees (i.e., without any direct charge to ballroom guests who use the valet service).
10. One 20-foot loading berth and one 55-foot loading berth shall be provided in accordance with the plans.
11. The applicant shall rehabilitate and restore the interior ground floor public spaces (The lobby, the lobby mezzanine, promenades and lounges) in the existing Kennedy-Warren building, in an appropriate manner as approved by the Historic Preservation Review Board.
12. The overall lot occupancy of the existing building and south wing shall not exceed 59 percent.
13. The applicant shall work with the National Park Service to achieve the following standards, measures and objectives:
 - a. The applicant shall continue to investigate the source of water discharging into Klinge Valley from the vicinity of the Kennedy-Warren. Should it be determined that the Kennedy-Warren is the source of the discharge, the applicant shall undertake appropriate

remedial measures to eliminate the discharge and mitigate its adverse effects.

- b. The stormwater for the site shall be discharged into the existing stormwater management system along Connecticut Avenue to assure that no pollutants or additional levels of storm waters are released into Klingle Valley from the existing Kennedy-Warren and its proposed addition.
- c. In coordination with the National Park Service, the applicant shall establish a Klingle Valley Rehabilitation Area along the north side of the existing Kennedy-Warren in accordance with the plans prepared by DCA Landscape Architects marked as Exhibit 236. The applicant shall undertake a comprehensive clean-up of this area and stabilize and improve the area through soil erosion control methods, plantings, and other measures as determined by the National Park Service. The applicant shall maintain the area in perpetuity.
- d. The applicant shall improve the aesthetic appearance of the Kennedy-Warren from the Rehabilitation Area through the introduction of landscaping and screening elements.
- e. In consultation with the National Park Service and the Zoo, the applicant shall create a Tree Preservation Zone in accordance with the plans prepared by DCA Landscape Architects, marked as Exhibit 236, along the east side of the Kennedy-Warren and in the Jewett Street right-of-way to ensure the protection of, and prevent damage to, any trees during construction of the building, and to perpetuate the long-term viability of this area as a buffer between the building and the federal property. The applicant is required to save and take special horticultural measures to protect the 52-inch poplar tree within this zone. The Tree Preservation Zone shall be approved by the National Park Service and shall be submitted as part of the building permit application.
- f. The applicant shall, at its own expense, institute proceedings and process an application to close Jewett Street on the east side of the property, with 42 feet of the 50-foot right-of-way dedicated to the National Park Service and Zoo accordingly. The remaining eight feet of the right-of-way shall be dedicated to the applicant for accessibility to and maintenance of the Kennedy-Warren. Upon closure of the street, the applicant shall construct a permanent fence along the newly developed boundary between the Kennedy-Warren, the Zoo and National Park Service Property.

14. In coordination with the D.C. Department of Public Works, the applicant, at its own expense, shall:
 - a. Install state-of-the-art traffic signal activation devices at the driveways of the Kennedy-Warren and the Zoo, so that signals are only activated when needed so that the time is allocated between signals to favor the one with the greater need;
 - b. Regrade the portion of Jewett Street which serves as access to the Kennedy-Warren driveway, reducing its slope, and providing a crosswalk with handicap access and new signage to insure pedestrian safety; and
 - c. Coordinate the Devonshire Place signalized intersection with the Jewett Street and Zoo signalized intersections.
15. The applicant shall provide 20 street trees for planting in the greater Woodley Park and adjacent areas, the specific location and species of which will be determined in accordance with the ANC and the Department of Public Works.
16. The applicant shall enter into a First Source Employment Agreement with the District of Columbia Department of Employment Services.
17. The applicant shall enter into a Local, Small and Disadvantaged Business Opportunity Agreement with the Department of Human Rights and Local Business Development.
18. Any new signage for the building shall meet the approval of the Commission of Fine Arts and/or the Historic Preservation Review Board.
19. All construction activity on the subject PUD site shall be in accordance with the Construction Management Plan marked as Exhibits 122 and 239.
20. The applicant shall have the necessary flexibility to make minor adjustments to the project with respect to interior partitions, apartment unit mix and parking layout. Final material selection shall be approved by the Historic Preservation Review Board.
21. The change in zoning from R-5-D to R-5-E for Lot 801 in Square 2214 shall become effective upon recordation of a covenant as required by Subsection 2409.3 of the Zoning Regulations.
22. No building permit shall be issued for this planned unit development until the applicant has recorded a covenant in the land records of the District of Columbia, between the

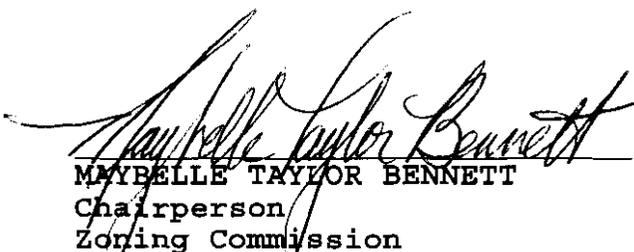
owner and the District of Columbia, that is satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). Such covenant shall bind the applicant and all successors in title to construct on and use this property in accordance with this order or amendment thereof by the Zoning Commission.

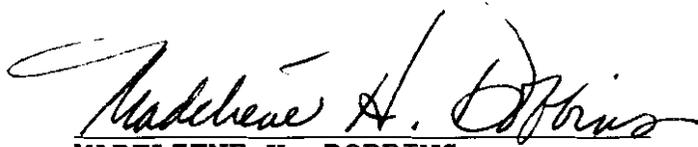
23. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the applicant has filed a certified copy of the covenant with the records of the Zoning Commission.
24. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, an application must be filed for a building permit as specified in 11 DCMR 2409.1. Construction shall begin within three years of the effective date of this order.
25. Pursuant to D.C. Code Section 1-2531 (1991), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2-38, as amended, codified at D.C. Code, Title 1, Chapter 25 (1991), and this order is conditioned upon full compliance with those provisions. Nothing in this order shall be understood to require the Zoning Division of DCRA to approve permits if the applicant fails to comply with any provision of D.C. Law 2-38, as amended.

Vote of the Zoning Commission taken at its public meeting on Monday, June 23, 1997: 4-0 (Herbert M. Franklin, Maybelle Taylor Bennett, John G. Parsons and Jerrily R. Kress to approve with Conditions).

The order was adopted by the Zoning Commission at its public meeting on September 15, 1997, by a vote of 3-0 (Herbert M. Franklin, John G. Parsons, and Maybelle Taylor Bennett, to adopt - Jerrily R. Kress, not present, not voting).

In accordance with the provisions of 11 DCMR 3028, this order shall become final and effective on publication in the D.C. Register; that is, on DEC 19 1997.


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


MADELIENE H. DOBBINS
Director
Office of Zoning