

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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January 6, 1997

PRESENT:

JERRILY KRESS, Chairperson
MAYBELLE TAYLOR BENNETT
HERBERT M. FRANKLIN
JOHN PARSONS
COMMISSIONER CROFT

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

2 CHAIRPERSON KRESS: Good evening, ladies and
3 gentleman. I'm Jerrily Kress, Chairperson of the Zoning Commission
4 for the District of Columbia. Joining me this evening are
5 Commissioners Franklin, Bennett, Croft and Parsons.

6 I declare this public hearing open. The case that is
7 the subject of this hearing is Case Number 96-7C. Case Number 96-
8 7C is an application of the Klinge Corporation requesting consolidated
9 review and approval of a Planned Unit Development and a related
10 change of zoning from R-5-D to R-5-E for Lot 801, Square 2214
11 located at 3133 Connecticut Avenue Northwest.

12 The PUD site consists of 113,561 square feet of land
13 area, a portion of which is currently occupied by an historic building,
14 the Kennedy Warren Apartments. The Kennedy Warren Building is a
15 three phase project approved in the 1930's.

16 The instant application is to enable the Applicant to
17 proceed with phase three of the project. Notice of today's hearing was
18 published in the *D.C. Register* and in the *Washington Times* on
19 November 22, 1996.

20 This hearing will be conducted in accordance with the
21 provisions of Section 3022. The order of procedure will be as follows:

22 First, preliminary matters which will include the
23 Affidavit of Maintenance; requests for postponement; and requests for
24 party status.

25 Second will be the Applicant's case;

26 Third will be the report of the Office of Planning;

27 Fourth will be the report of other agencies;

1 Fifth, the report of the Advisory Neighborhood
2 Commission, 3C;

3 Six will be parties and persons in support;

4 And seven, parties and persons in opposition.

5 The commission will adhere to this schedule as
6 strictly as possible. Those presenting testimony should be brief and
7 non-repetitive. If you have a prepared statement, give copies to the
8 staff and orally summarize the highlights.

9 Each individual appearing before the Commission
10 must complete two identification slips and give them to the reporter
11 before making a statement. If these guidelines are followed, an
12 adequate record can be developed in a reasonable length of time.

13 The decision of the Commission in this contested
14 case must be based exclusively on the public record. To avoid any
15 appearance to the contrary, the Commission requests that parties,
16 counsel and witnesses not engage the members of the Commission in
17 conversation during any recess or at the conclusion of the hearing
18 session.

19 While the intended conversation may be entirely
20 unrelated to the case that is before the Commission, other persons
21 may not recognize that the discussion is not about the case. The staff
22 will be available to discuss potential procedural questions.

23 All individuals who wish to testify please rise to take
24 the oath.

25 (Whereupon, the witnesses were sworn.)

26 CHAIRPERSON KRESS: Thank you.

27 At this point, I'd like to ask for preliminary matters.

1 Ms. Dobbins?

2 MS. DOBBINS: Good evening, Madame Chairman,
3 members of the Commission.

4 I do have a copy of the Affidavit of Maintenance on
5 the property and it is in order. The next item, you have items and
6 documents that have been submitted since your package was sent to
7 you. You have several letters related to this case that you can look at
8 today.

9 You have a resolution from Woodley Park. You have
10 a letter from Frank Smith, Council member, Ward 1; and a submission
11 from James Good; and just other letters either in support or in
12 opposition.

13 And the other matters -- preliminary matters will relate
14 to the request for party status and the request for postponement, the
15 request for postponement being first. You have three specific
16 requests, one from the Kennedy Warren Residence Association.

17 And I'm not sure whether they're here intending to
18 withdraw that one. And Cathedral Park Condominium, Advisory
19 Neighborhood Commission 3C. And also, as a preliminary matter,
20 you need to make a change on your witness list and indicate that the
21 Kennedy Warren Residence Association is indeed requesting party
22 status, but in support of the project.

23 So the motions or request for postponement are
24 before you for action.

25 COMMISSIONER: Thank you.

26 Does the Commission have any comments regarding
27 the request for postponement?

1 As I am aware and as you've pointed out, the property
2 has been properly posted and notice, according to our requirements,
3 properly given.

4 Is that not correct, Ms. Dobbins?

5 MS. DOBBINS: That is correct.

6 The official forms and notice that are required of the
7 Commission are the 40 days notice of publication in the *D.C. Register*,
8 the posting at the Office of Zoning, and the providing of copies of the
9 Notice of Public Hearing to the Public Library system and the Advisory
10 Neighborhood Commissions who are affected.

11 Those were all done. Your other forms of notice
12 which are notice of -- no, property owners within 200 feet, persons
13 with leases, and other ANC's who are not affected are supplemental
14 notice and you are not required to give those, but the Commission
15 does give those. And you are not -- it is not a jurisdictional
16 prerequisite for the Commission to take action in this case.

17 CHAIRPERSON KRESS: All right, thank you.

18 Comments from fellow Commission members?

19 COMMISSIONER BENNETT: Madame Chair, usually
20 we like to have -- we like to think that we can hit everybody in a
21 flawless fashion, and sometimes that doesn't happen. I understand
22 that the manner in which those who are owners within 200 feet is
23 determined comes from the Department of Finance and Revenue, and
24 sometimes that list is not complete.

25 And there are reasons why some people may or may
26 not be recipients of the mailed form of notice. But since all of the
27 other forms of notice have been made and since this room is quite full,

1 it appears to me that those who wanted to participate have had the
2 opportunity to participate.

3 And because also I would not want to have to send
4 everybody home after folk came out from their homes to participate
5 this evening and because it looks that -- as though we will be talking
6 not only this evening, but perhaps on another evening if we can't get
7 to everyone, which gives folk who wanted to have a chance to further
8 convene and negotiate and so on an opportunity to do so between
9 now and the next time we come together, I would therefore
10 recommend that we move forward.

11 Sometimes when we proceed with proceedings like
12 this, it enables the discussions to move along a pace. So I would
13 recommend that we continue (inaudible).

14 CHAIRPERSON KRESS: And deny the request for
15 postponement?

16 COMMISSIONER BENNETT: That's right; that's my
17 recommendation.

18 COMMISSIONER: Madame Chair, I'd like to follow
19 on with Ms. Bennett's point. And obviously I don't think we're going to
20 get through the witness list tonight, and I wondered if we could deal
21 with a postponement date right now. Or not a postponement date, --

22 CHAIRPERSON KRESS: A carry over date.

23 COMMISSIONER: -- but a continuation date right
24 now so that people in the audience would realize what the future
25 brings. They might want to postpone their testimony until that time or
26 take other action.

27 Do we have any indication of when we might be able

1 to continue this?

2 CHAIRPERSON KRESS: I believe we've had some
3 discussion.

4 Ms. Dobbins, have you talked about a potential date?

5 MS. DOBBINS: In looking at the Zoning
6 Commission's calendar, probably the best date would be the 23rd of
7 this month.

8 CHAIRPERSON KRESS: January 23rd.

9 MS. DOBBINS: Yes.

10 CHAIRPERSON KRESS: Thursday, correct?

11 MS. DOBBINS: Thursday.

12 CHAIRPERSON KRESS: And perhaps we could start
13 that one at 6:30 instead of 7:00 if that meets everyone's approval.

14 COMMISSIONER: I'd also observe, Madame Chair,
15 that presumably the record will be kept open for a period of time.

16 CHAIRPERSON KRESS: That will come out of the
17 hearings, obviously, but I, as you, assume that there will be some
18 issues which we will want further clarification on and the record will be
19 held open which will allow some more time for input of interested
20 parties.

21 COMMISSIONER: And I wanted to ask Ms. Dobbins,
22 did you have some indication -- I was not clear what you said about
23 the Kennedy Warren --

24 MS. DOBBINS: As a preliminary matter, you could
25 probably call the representatives up. I think Ms. Browne is in the
26 audience.

27 Would you come forward to the microphone, please?

1 CHAIRPERSON KRESS: Well, should we not -- is
2 this part of dealing with the postponement, or should we deal with the
3 postponement?

4 MS. DOBBINS: It's a preliminary matter. And
5 actually, the Kennedy Warren group had requested postponement
6 also. They may want to withdraw that also.

7 CHAIRPERSON KRESS: Commissioner Parsons,
8 what was your thinking?

9 COMMISSIONER PARSONS: Well, if that's -- if she's
10 had some indication along those lines, I think that would be important
11 for us to know that.

12 CHAIRPERSON KRESS: All right.

13 MS. DOBBINS: It's my -- they've indicated to me this
14 evening that they would be parties in support. And if they are in
15 support, there's that possibility that they may want to withdraw the
16 request for postponement tonight. If that's the case, if the
17 representative would please come to the microphone.

18 CHAIRPERSON KRESS: Ms. Browne.

19 And please identify yourself. We do not have a court
20 reporter and we do need to have full identification for the taped record.
21 And the green button -- for everyone, when you're up here testifying,
22 for those of you who haven't, there is a green button and you have to
23 hold it on until it is lit before you release it to make sure you're on the
24 record.

25 MS. BROWNE: Thank you and good evening.

26 My name is Tamara Browne, and I reside at 3133
27 Connecticut Avenue, NW, Washington, D.C. And that also happens to

1 be the Kennedy Warren Apartment Building. I am here representing
2 the Executive Committee, and I'm a member and board of director of
3 the Kennedy Warren Residence Association, also referred to as
4 KWRA in some of our documents.

5 And at this time, I would like to give the Commission
6 notice that we have -- we approached Ms. Dobbins earlier this evening
7 to explain that we requested a change in party status. Previously it
8 was a party status in opposition to the proposed south wing edition
9 based on actions taken today, which I will later highlight in my formal
10 testimony.

11 We have requested to change that status to party in
12 support. And thereby, we would withdraw our request for
13 postponement.

14 CHAIRPERSON KRESS: Thank you.

15 Any questions of Ms. Browne? All right.

16 And Ms. Dobbins, did you have --

17 MS. DOBBINS: No questions.

18 CHAIRPERSON KRESS: All right.

19 It appears from the conversation that it is the consent
20 of this Board that we do not grant a postponement at this time. And
21 with everyone's approval, I will so acknowledge that we are denying
22 the request for postponement for the reasons stated.

23 With that, we'll move on to the request for party
24 status. Maybe we will start with the Kennedy Warren Residence
25 Association since we have just heard Ms. Browne.

26 What is your pleasure? It appears to me that they
27 meet all of the criteria and all they are doing is requesting a change in

1 -- from being in opposition to in support. So is everyone in agreement,
2 they are acknowledged with party status?

3 So ordered.

4 Next let's discuss the Cathedral Park Condo
5 Association. And reviewing their request, it appears to be in order.
6 And it is -- well, did any of the Commission members have any
7 comments or differing opinions regarding the Cathedral Park Condo
8 Association and their request to be -- have party status in opposition?

9 MS. DOBBINS: No, Madame Chair. Their request
10 also appears to be in order. They have outlined -- they have met all of
11 the requirements as set forth in the Notice of Public Hearing.

12 CHAIRPERSON KRESS: All right, hearing no
13 opposition, the Cathedral Park Condo Association is declared a party.

14 Third is Andrea Newmark wishing to represent
15 herself, who is also representing the Cathedral Park Condo
16 Association. What is your pleasure, and perhaps some discussion
17 regarding Andrea Newmark's request for party status?

18 COMMISSIONER: Madame Chair, it's not clear to me
19 what her standing is in terms of how different it is from the association.

20 COMMISSIONER: In addition, Madame Chair, the
21 letter submitted by Ms. Newmark did not outline all of that information
22 that we require of a person requesting party status that is set forth in
23 11 DCMR 3022.3 and it's a part of the Notice of Public Hearing. I'm
24 clear that she wants to preserve her rights.

25 What is not clear is how she might be adversely
26 affected in some way differently from those who are -- those others
27 who are also residents in the same complex. So it seems as though

1 that request is duplicative of the one that we've already said meets all
2 of the standards from Cathedral Park.

3 COMMISSIONER PARSONS: It was also
4 represented that she's an active participant with the association.
5 She's not somebody who is -- she's going to be one of the main
6 witnesses for the association, so it isn't as though she's not
7 participating. So I would concur it seems redundant and again doesn't
8 meet standards we've set forth and what's needed to be contained in
9 the request.

10 CHAIRPERSON KRESS: I agree.

11 If we are all in agreement, then I will deny the request
12 for party status for Andrea Newmark.

13 Okay, all right. With that, we'll move on to the
14 Applicant's case. If they would like to come forward.

15 MS. DOBBINS: Madame Chair, I'd ask that persons
16 bring their identification slips to staff at this location.

17 CHAIRPERSON KRESS: And also, we would like to
18 begin by dealing with the expert witnesses.

19 MR. FEOLA: Thank you, Madame Chairperson.

20 For the record, my name is Phil Feola with the law
21 firm of Wilkes, Artis, Hedrick & Lane and we're here on behalf of the
22 Applicant in the captioned matter.

23 I was going to request that we go through the expert
24 witnesses that we are intending to present tonight and see if we can
25 be done with the expert qualifications. We submitted in our
26 prehearing submission a list of those witnesses with their resumes.

27 Most of those persons have appeared and testified

1 before you as experts. I'd be happy to go through them one at a time,
2 if that's your pleasure. CHAIRPERSON KRESS: I don't

3 believe that's necessary. Since they have testified, you might, just for
4 the record, formally make the request and we will thusly acknowledge.

5 MR. FEOLA: We request that Warren Cox and
6 Graham Davidson of the architectural firm of Hartman & Cox be
7 recognized as experts in architecture and historic preservation --
8 preservation architecture, I'm sorry.

9 Lou Slade recognized as an expert in transportation
10 and traffic and parking. He's with the firm of Gross & Slade
11 Associates. Steven Shearer, urban planner with Wilkes, Artis, Hedrick
12 & Lane, an expert in zoning and land use. James Goode, expert in
13 architectural history. Carolyn Brown, expert in architectural history.

14 CHAIRPERSON KRESS: Thank you.

15 Any comment? I'm aware of all of these individuals
16 and their qualifications, and I believe most of them, if not all of them,
17 have testified here before. Any question or comment?

18 They are all acknowledged as expert witnesses.

19 MR. FEOLA: Thank you, Madame Chairperson.

20 There are a couple of -- there's one major request --
21 motion I'd like to put before the Board that you'll hear a little bit more
22 about. There have been two -- there are two submissions that we
23 would like to make this evening with leave of the Commission that
24 address concerns that were raised in the negotiations with the
25 Kennedy Warren Residence Association.

26 One of them involves a change in the plans. The
27 original application, and through the prehearing submission, the

1 proposal had retail -- about 4,000 square feet of retail provided on the
2 Connecticut Avenue frontage of the property with direct access to
3 Connecticut Avenue.

4 We are requesting withdrawing that and changing
5 those into apartment units, thus necessitating a new ground floor and
6 actually new elevations in the package of material as the things flow
7 down.

8 The second major new piece of information that came
9 out of negotiations with the Kennedy Warren Residence is a
10 construction management plan, as Ms. Browne just testified, finally
11 hammered out through today. So we'd like to submit that for the
12 record again since it is past our prehearing statement.

13 We ask leave of the Commission to do that.

14 CHAIRPERSON KRESS: And let me ask my fellow
15 Commission members, any comments, questions or problems with the
16 request before us?

17 COMMISSIONER BENNETT: No, I would only say
18 glad to hear it, glad to hear it.

19 CHAIRPERSON KRESS: Thank you.

20 Yes, you may enter those in the record.

21 MR. FEOLA: The package of drawings is thick, but
22 it's only because of the ripple effect of making the change on the
23 ground floor and the elevations and so forth.

24 And lastly, we'd like to make a proffer that came out of
25 discussions with the National Park Service late last week. And that is
26 in order to maintain a tree buffer between the Kennedy Warren
27 property line and the National Zoo and the Klinge Valley portion of the

1 Rock Creek Park, we have been asked and the Saul Company has
2 agreed to be the Applicant and prosecute a street closing for a paper
3 street that exists behind the Kennedy Warren building and runs from
4 Connecticut Avenue to Klinge.

5 It's a paper street. It's never been built. The idea
6 would be that, with the Park Service, we'd -- the Kennedy Warren
7 owners would develop a tree preservation plan that would essentially
8 assure that this property would remain in tree preservation and be a
9 buffer between these two properties.

10 The current thinking on the Park Service's behalf, and
11 I think there's a representative here to speak to it, is that the Zoo and
12 the Park Service would be the recipients of about 42 feet of this 50
13 foot right of way. The Kennedy Warren would get an eight foot strip
14 just to be able to, you know, repoint the bricks if they need to next to
15 the building.

16 So we will proffer that we will do that at the Park
17 Service's request. Obviously the street closing is in the purview of the
18 City Council. It goes through the Financial Control Board on the Hill,
19 but we will be happy to do what we can to effectuate that goal.

20 And I assume that the tree preservation plan meets
21 the Park Service's standards. It would meet this Commission's
22 standards as well.

23 Now finally we can get started.

24 CHAIRPERSON KRESS: May I ask you the amount
25 of time? I believe I read approximately an hour and a half. What is
26 your current estimation of the time?

27 MR. FEOLA: I think we can probably squeeze it to

1 about an hour and 15 minutes, maybe even closer to an hour. We'll
2 do our best to move it along.

3 CHAIRPERSON KRESS: That would be appreciated.
4 Thank you.

5 MR. FEOLA: It looks like we have a long night.

6 Well, pleased to be here on behalf of the Applicant in
7 this matter for a project that's going to add 166 rental apartments to
8 the District's inventory and complete a building -- a building plan in
9 one of the District's best known historic landmarks.

10 We think the project, and we'll demonstrate through
11 evidence today, is in complete conformance with the zoning
12 regulations and in accordance with the -- and not inconsistent with the
13 comprehensive plan. There are a couple of things that you've seen,
14 I'm sure, in the opponent's filings that we do not think are pertinent to
15 the discussion this evening.

16 And so we'd just like to point out this project's not
17 being proposed by the owners of this property because it was
18 approved 60 years ago. It's being preferred by the owners of this
19 property because we think it's good for the District of Columbia.

20 We think that it's in the interest of the District to
21 provide rental housing within walking distance of two Metro stations on
22 Connecticut Avenue. Secondly, this is not about losing
23 green space or open space. Even after this addition is constructed, if
24 it's approved and constructed, there will only be a lot occupancy of
25 59%. The zoning allows a lot occupancy of 75%.

26 So there's a lot of open space left, not even to
27 mention the surrounding area of zoo and park which creates a lot of

1 open space.

2 And finally, it has been suggested in some of the
3 filings that this building will "Manhattanize" Connecticut Avenue. And
4 without trivializing the opposition's position, we don't think that adding
5 166 units to Connecticut Avenue will create Manhattan-like conditions
6 here, nor do we think it will change the character of Cleveland Park.

7 So with that tonight, we hope to show that this project
8 is a tremendous -- of tremendous benefit to the District of Columbia.
9 And as your own regulations state, the provision of new -- and the
10 production of new housing is of significant benefit in the (inaudible)
11 process.

12 We think we can do all this and demonstrate that the
13 project will not create any adverse impact on the neighborhood or this
14 city.

15 And so with that, I'd like to introduce our first witness,
16 Mr. Frank Saul. Now a number of people stood up and raised their
17 hands on our side who are here as resource persons to answer
18 questions. I think we will only anticipate four direct -- five direct
19 witnesses.

20 Thank you.

21 Mr. Saul.

22 MR. SAUL: Good evening, Madame Chairman,
23 commissioners.

24 My name is Frank Saul and I'm an officer of the
25 Klingle Corporation, the owner of the existing Kennedy Warren and
26 the vacant land that we are here to discuss. I'm also a senior vice
27 president with the B.F. Saul Company, the managing agent for the

1 Klingle Corporation.

2 Klingle Corporation is a privately held location
3 company and a close affiliate of the B.F. Saul Company. And the
4 Kennedy Warren is Klingle's only significant asset. The Klingle
5 Corporation has owned the Kennedy Warren for approximately 66
6 years. And the B.F. Saul Company has been the owner's agent and
7 management company during this period of time.

8 I cannot envision a scenario which would cause the
9 ownership or management of this building to change. The B.F. Saul
10 Company is a 105 year old Washington, D.C. based corporation.
11 Throughout its history, it has been involved in many aspects of the
12 real estate industry.

13 Today the company and its affiliates own and manage
14 over 80 commercial properties including apartment houses, hotels,
15 office buildings and shopping centers. The Kennedy Warren is
16 considered one of the crown jewels of this portfolio.

17 Therefore, we were very pleased when in 1988
18 James Goode who, as Phil mentioned, is on our team as the
19 consulting architectural historian, chose the Kennedy Warren for the
20 cover shot of his book *Best Addresses*.

21 Then in 1990, the District registered the building in its
22 inventory of historic sites. And again, in 1994, the building was again
23 designated as a landmark building in the National Register of Historic
24 Sites.

25 In spite of its age, the Kennedy Warren is a very
26 attractive and popular apartment house. The building maintains
27 virtually 100% occupancy level and there is a waiting list for many of

1 our units. Certainly a large part of its appeal is its unique location.

2 And if I can step over here for a minute, as you can
3 see --

4 COMMISSIONER BENNETT: You need to be talking
5 into the mike as you --

6 MR. SAUL: Okay.

7 CHAIRPERSON KRESS: Hold it just a second.

8 MR. SAUL: How's that?

9 CHAIRPERSON KRESS: Is it on?

10 MR. SAUL: Yes.

11 COMMISSIONER BENNETT: Yes, I can hear it.

12 MR. SAUL: As you can see --

13 CHAIRPERSON KRESS: You can hold it if you'd like
14 or pull it up. There you go.

15 MR. SAUL: As you can see along the avenue here,
16 you have to go approximately about 300 yards to the south to get to
17 the next commercial building which is an apartment building here on
18 Connecticut Avenue. Going north, you have to cross Klinge Valley on
19 the bridge and go almost 200 yards to the next building, again an
20 apartment house and, of course, surrounded on three sides by the
21 Park Service and the Zoo.

22 We think that this is a particularly unique location.
23 And then, of course, going north, once you cross the bridge, it's only
24 one more block to the Metro station at Cleveland Park; and to the
25 south, the Woodley Park Metro station.

26 So we think that that unique location is a big part of
27 the building's success. And in fact, as you'll hear later, most of our

1 residents do use the public transportation. One of the questions we've
2 been asked very often when we've been out in the community putting
3 on our presentations is it's been 62 years since you completed the
4 north wing, why now, why the wait?

5 And while I really can't answer why it wasn't
6 undertaken earlier, I can tell you that in spite of some of the problems
7 in the District, we are very confident about the city's future. Also, with
8 the demand for the existing building very strong, we feel quite
9 confident that we can lease the modest 166 additional apartment units
10 that we are suggesting.

11 We also feel that there are a number of perspective
12 tenants that would like to move into the District but desire the
13 amenities of a modern apartment building, and there are very few of
14 those available. And those folks end up going to Bethesda or
15 Arlington.

16 So we feel that if we can provide this type of unit to
17 the marketplace in this location, we will be bringing new residents in
18 and hopefully keeping a few of those who might be on their way out.

19 Finally, I would like to add that we feel this project
20 benefits the city in several ways. First, the completion of the landmark
21 building essentially as it was originally planned, permitted and
22 approved. And I might add that this does come at an increased cost
23 to the owners.

24 Second, we estimate the addition will increase the
25 real estate taxes to the city by over a quarter of a million dollars per
26 year, not to mention the additional income taxes from the residents.

27 Third, recently several of the commercial residents,

1 tenants in the Cleveland Park commercial district, have closed their
2 doors. We feel that the additional residents in this property will
3 certainly help maintain and probably increase the economic viability of
4 the Cleveland Park commercial district.

5 Fourth, and perhaps most importantly, we feel it will
6 keep and draw tax paying residents back into the city.

7 And finally, due to our ability to provide virtually one
8 parking space for every new unit, which is in excess of the estimated
9 demand which we'll outline for you later, we feel the proposed project
10 will not exacerbate the neighborhood's parking problems.

11 I'd just like to add that starting in April of '96, we
12 undertook a fairly aggressive campaign in the community. We have
13 met with various neighborhood groups approximately 20 times.
14 Actually, in excess of 20 times. And we have also met with the
15 Kennedy Warren residents and the resident's association
16 approximately a dozen times.

17 MR. FEOLA: Madame Chair, if I might enter into the
18 record a list of those meetings that Mr. Saul just testified to.

19 CHAIRPERSON KRESS: Yes, thank you.

20 MR. SAUL: While he's doing that, in conclusion, I
21 would like to add that while I'm certainly in a biased position, I am a
22 tax paying resident of the city.

23 I, in fact, live in Cleveland Park a few blocks away,
24 and I believe that there's not another piece of private land in the
25 Connecticut Avenue corridor that is as isolated and yet, at the same
26 time, so conveniently located as this project and that has the potential
27 to provide so many benefits to the city with virtually no negative impact

1 on the neighborhood other than the temporary inconvenience of
2 construction.

3 It is the uniqueness of this project and its location that
4 brought us to submit this PUD application. And we hope that you, the
5 commissioners, will view it favorably.

6 MR. FEOLA: Madame Chairperson, if it pleases the
7 Commission, it might be expeditious if we could go through our entire
8 presentation and hold questions.

9 CHAIRPERSON KRESS: We'd prefer that as well.
10 Thank you.

11 MR. FEOLA: Thank you.

12 Our next witness we'll do in sort of a tandem, Mr.
13 Warren Cox and Mr. Graham Davidson.

14 Mr. Cox.

15 MR. COX: Madame Chairperson, Commission
16 members, I'm Warren Cox, a partner in Hartman & Cox Architects, the
17 architects for this project.

18 This is a very unusual project for us because basically
19 we are implementing a project that was designed by someone else 66
20 years ago. What we have is this remarkable national register art deco
21 landmark building on Connecticut Avenue which was uncompleted
22 due to the Depression.

23 It's considered by many the finest art deco building in
24 Washington. It's in a peculiar style known as Aztec Deco, which has
25 sort of Aztec overtones and details on it. It was the first building in
26 Washington to use aluminum as a trim, both polished and burnished
27 aluminum.

1 And it's probably the first building in the country to use
2 a forced fresh air cooling system. Air is taken in down from the Klingle
3 Street ravine on the side of the building and then, via some enormous
4 fans that are in the basement, actually blown up through the building
5 and into the units.

6 However, we are not proposing to continue that in the
7 new addition, but to provide real air conditioning. Let's take a look at
8 the scheme.

9 All right, here is the building as it stands today. What
10 you're looking at is the entrance court with the drive off of Connecticut
11 Avenue. On the left is Joseph Younger's original rendering of the
12 complete building.

13 Now, these drawings were -- this drawing and the
14 original permit were discovered in 1987, so we do have the drawings
15 of the wing which we're following relatively closely. The building was
16 originally built up to this point. And then, in 1935, 117 further rooms
17 were added in the back here.

18 The original size of the building was to be 492 units.
19 We're proposed to take it up to 483. Here is the building as it
20 presently exists. Rather clearly unfinished, it was obviously designed
21 as a building which was basically symmetrical with a tail, this southern
22 tail, holding the street line on Connecticut Avenue.

23 What we have done is basically followed Younger's
24 design and certainly the layout, the T-shaped layout, as it goes around
25 the corner. Due to the requirements of modern apartments, we've
26 actually widened the wing slightly on the back. And we have some
27 balconies on the back.

1 But in particular, the facade on Connecticut Avenue
2 follows Younger's original design. Here you see the model, and you
3 can see how we're proposing to complete it, and how close it is to the
4 original Younger design. And we are proposing to use the same
5 materials and follow the same details as were originally proposed.

6 Now this is the site plan which you saw a minute ago
7 which shows the new wing, the surrounding of green space, and
8 Connecticut Avenue. We have studied the shadows and view lines,
9 and the shadows will not actually fall on any of the properties across
10 the street.

11 As far as we can tell, there is no adverse impact in
12 terms of light and air on any of the neighboring properties. As one
13 goes up Connecticut Avenue, you find these buildings, most of which
14 are six to nine stories high, which pull up to the street line at
15 Connecticut Avenue.

16 So the addition is very much in keeping with the urban
17 prospect on Connecticut Avenue on both sides of the street. Here are
18 two more. So that what we're proposing to do is really finish out the
19 existing building. The FAR at this point is 4.58. Joseph Younger's
20 scheme was 6.23, and we're proposing 6.29.

21 So that we're basically in line with the existing
22 structures. I'm sorry, with the existing design. Now one thing I would
23 like to raise is that we do have complete approval now for the design
24 from the District's Preservation Review Board and from the Fine Arts
25 Commission.

26 There was a question raised to the Fine Arts
27 Commission by the Chairman as to whether we would look at setting

1 back this wing from Connecticut Avenue, which we did do. We filed
2 the alternatives with the Commission and recommended that we go
3 with the scheme where it followed the street line.

4 They have concurred in that, and they have given us
5 complete concept approval. And we have a letter from them to that
6 effect.

7 CHAIRPERSON KRESS: Excuse me, from the
8 Commission of Fine Arts?

9 MR. COX: Yes, from the Commission of Fine Arts,
10 thank you.

11 CHAIRPERSON KRESS: Okay, thank you.

12 MR. FEOLA: If it pleases the Chair, --

13 CHAIRPERSON KRESS: And we had something
14 different in the record, and that was --

15 MR. COX: That's right. This one is a follow up on
16 that letter.

17 CHAIRPERSON KRESS: Thank you. We think alike.

18 MR. COX: This was a design issue. And frankly, if
19 we thought -- honestly thought it was better setting it back, we would
20 have set it back. We think it's better to hold the street line.

21 Now the issue then also has been raised is how does
22 this affect light and air and shadows for the people across the street?
23 Well, we were really talking about at the most probably moving it back
24 25 or 30 feet, just this particular section.

25 And we will contend that moving that back 25 to 35
26 feet at the most would have virtually no effect on -- as opposed to
27 where its present position on the people across the street in terms of

1 light, air, shadows and so forth.

2 What I would like to do now is to turn the presentation
3 over to my partner, Graham Davidson, who will go into all the
4 technical details.

5 MR. DAVIDSON: Thank you.

6 My name is Graham Davidson with the architectural
7 firm of Hartman & Cox. I live at 3610 Wine Street, NW in the District
8 of Columbia.

9 And Warren said, these two juxtaposed paragraphs
10 give you a very good notion of how good the building actually will look
11 when it is completed and how unfinished it actually currently looks.
12 I'm used to driving up and down the avenue on a frequent basis
13 looking at the Kennedy Warren.

14 And I must confess that I always thought that it looked
15 a little odd to have the tower there with no south wing. But it never
16 struck me that in fact it really was an unfinished building.

17 But our model on the right-hand side there, which is
18 virtually the same of Joseph Younger's completed drawing, does
19 make a lot more sense out of the courtyard and the entrance and the
20 entrance tower of the Kennedy Warren which is currently built.

21 On the left you see a photograph of the interior of one
22 of the units in the building. On the right is a plan of the Kennedy
23 Warren as we are proposing to complete it. The shaded portion of the
24 plan is the existing building.

25 The piece on the right is the new south wing. We are
26 proposing a total of 19 units per floor. There will be two efficiencies
27 per floor, predominantly larger one bedrooms with several two

1 bedrooms on every floor for a total of 166 unit in the entire building.

2 There's a few other units in the building. This one, in
3 particular, is owned by a woman who has actually lived in the
4 Kennedy Warren since it was opened in 1931. One of the areas or
5 the two areas in which the building, as we proposed it, will not meet
6 our 5E zoning is with regard to the rear yard.

7 This line here and this line here mark the profile of
8 unbuilt (inaudible) Street. It comes off of Connecticut Avenue which is
9 here. It comes back here. And along here, down to Klingle Street,
10 which is Klingle Road which is over here.

11 The original building, as you can see, was built right
12 on that property line of Jewitt (phonetic) Street. We're proposing to
13 build to that property line as we abut the existing building, but then set
14 back our building as far as we possibly can.

15 Jewitt Street right away is 50 feet -- 50 feet in this
16 direction. We need a rear yard, according to the height, of 30 feet.
17 Half of Jewitt Street is 25 feet. And therefore, in this area of this
18 building only where we abut the existing building, we are technically at
19 a loss for five feet for a rear yard.

20 MR. FEOLA: Madame Chairperson, the Jewitt Street
21 right of way that Mr. Davidson pointed to is the proposed tree
22 preservation area that we are going to negotiate with the Park Service.

23 CHAIRPERSON KRESS: Which you spoke of?

24 MR. FEOLA: Yes.

25 MR. DAVIDSON: In section then, we have eight
26 floors from here, one level above grade up of typical apartment floors.
27 And we have the main level which is the lobby area which also had

1 some residential units. And below grade, we have three levels of
2 parking.

3 At the lobby level then, you can see the courtyard, the
4 entrance, the south wing which is here, Connecticut Avenue of course
5 here. The main entrance to the building will remain in the tower.
6 Even the main entrance to the south wing will remain and the main
7 entrance to the building here.

8 There will be a secondary entrance off of the
9 courtyard here for the residents of the south wing. And of course, they
10 have an elevator bank which is here to serve that south wing. We
11 have several units on this floor looking out to the park just like the
12 existing building has units looking into the park.

13 And in addition, we have, on the interior of the
14 building here, somewhere between 2,000 and 3,000 feet of retail
15 which will be placed along the corridor connecting the two wings which
16 is through here. As you go in the lobby, there is a promenade through
17 here.

18 That promenade will connect through to the
19 promenade to the south wing. And it's along that promenade which
20 that retail will be located. It will be totally internal. You will not see it
21 from the outside. And it is solely for the use of the residents, just as
22 the retail inside the building currently is.

23 We wanted to look quickly at a -- oh, here's a picture
24 of the lobby as it currently exists. It's a neat lobby, although it is not
25 precisely today as it was when it was built. But it's got a lot of great
26 detailing in it. This is some other detailing.

27 Actually, this detailing is from the ballroom. The site

1 plan -- again, here's the entrance drive and the main entrance. We
2 are going to redo all of the courtyard here. We're going to widen the
3 driveway so that actually two cars can pass.

4 Currently it's a one lane road. So if one car is
5 stopped, the other car can't get by. We're going to work the plantings
6 in this area as four trees for conversation areas, replant this area back
7 here with some ornamental trees, and put a water feature in the
8 middle of the courtyard here.

9 Along Connecticut Avenue, there is 35 feet which
10 belongs to the Connecticut Avenue right of way between the curb and
11 the building. About ten or 12 feet of that right of way is the planting
12 area next to the curb and the sidewalk leaving 24, 25 feet of green
13 space that occurs between the sidewalk and the building.

14 And that green space in here will be planted as it is
15 today actually, with hedges and ornamental trees which you see there.
16 The entrance for the parking and the loading to the complex will also
17 remain as it is today. That entrance to the parking and loading goes
18 down the built part of the Jewitt Street which is right here and
19 underneath the building over here.

20 As you get down to the bottom of the ramp, one will
21 be able to continue on into the parking garage of the existing building,
22 which is over here, or unload in the loading facility which is here for
23 both buildings, or enter the parking garage for the new south wing,
24 which is in here.

25 As I said before, we have three levels of parking for a
26 total of 154 spaces underneath the south wing. Now the zoning
27 requirement for R-5-E is 1:4, and that is one parking space per --

1 [End Tape 1, Side 1.]

2 [Begin Tape 1, Side 2.]

3 MR. DAVIDSON: So we are exceeding the zoning
4 requirement by almost a one -- by four times. Going back
5 again to the Connecticut Avenue elevation, we're going to look quickly
6 at the three or four elevations of this building beginning on the
7 Connecticut Avenue side here. The existing building actually runs
8 behind this because of the way the building wings come out.

9 And this wing here and this wing here are the only
10 pieces that are actually out at the Connecticut Avenue face. The rest
11 of the building is set back 40 feet from Connecticut Avenue. As was
12 mentioned before, the detailing materials and so on is completely
13 consistent with Joseph Younger's original drawings and with the
14 building which exists today.

15 You could also see from this drawing that we have
16 two minor penthouses symmetrically disposed on the building. One of
17 them has the elevators for the building. The other has the stair and a
18 very small cooling tower.

19 Now in plan, if we look at a roof plan, these are the
20 two cooling towers -- sorry, two penthouses. And this is one -- the
21 other area in which our building, proposed building, does not
22 specifically meet the letter of the zoning ordinance.

23 Obviously the penthouses are well set back from the
24 building face. However, the building, because it is narrow and
25 because it has return corners, this area right here and this area right
26 here, the penthouse does not meet the one to one set back
27 requirement of -- since the penthouse is 18½ feet high, which is

1 allowable.

2 The set back is on the order of 12½ to 13 feet. And
3 therefore, at those areas, the return corners, the penthouses do not
4 specifically meet that requirement of zoning.

5 In addition, I might add that zoning also requires that
6 penthouses -- there only be one penthouse on the building, and we
7 have specifically shown two separate penthouses in order to minimize
8 the impact of the penthouse on the building.

9 We do not need to connect -- we do not need all the
10 space up on top of the roof here for a large penthouse. We only need
11 two smaller penthouses. And therefore, we have shown them as
12 artfully as we can, symmetrically disposed on the building.

13 On the south elevation here, Joseph Younger's
14 elevation as he designed it comes all the way to this point where we
15 modify it slightly to incorporate some balconies along the portion of the
16 building which you cannot see from Connecticut Avenue, but which
17 does face the Zoo and the treed areas.

18 And that area is mostly this. This is the area which
19 faces east toward the Zoo. We're looking at the south wing here and
20 the existing Kennedy Warren here. And you can see that the south
21 wing is really being placed on the area of the site which is, for the
22 most part, level.

23 Whereas, as soon as you get to the existing Kennedy
24 Warren, the site does start to slope very quickly down to Klinge
25 Valley. And the courtyard elevation -- this, of course, is exactly like
26 the courtyard elevation which already exists today to make the
27 courtyard a finished and symmetrical space.

1 That is easy to do because we do have Younger's
2 drawings. We do have the completed building. And so we have a
3 great deal of documentation or can make quickly documentation
4 exactly what these details are.

5 This happens to be one of this drawings showing
6 detailing of the top of the end tower bays and some of the details at
7 the base. And here again, you can see some of the really wonderful
8 detailing of the Kennedy Warren, all of which will be incorporated in
9 the new wing.

10 But to review -- to make sure it's clear once again, the
11 two areas in which we do not specifically meet the requirements of the
12 zoning ordinance, one being at the rear yard in this area here where
13 we are not quite set back quite enough for the total amount of required
14 rear yard.

15 And of course, the building does face hundreds of
16 acres of park, so light and air is not an issue. And the fact that the
17 penthouses at the return corners do not specifically meet the one to
18 one set back.

19 So that when this south wing is constructed, it will in
20 fact look like this from across Pennsylvania -- across Connecticut
21 Avenue. This, of course, is a slide which we took half a block up the
22 street and just reversed. But it is -- this is what the building will look
23 like when you see the south wing built.

24 And you can see the effect that it will have -- imagine
25 the effect it will have on the courtyard space, which is shown in his
26 rendering also of 1931 here of the completed building. So to go back
27 to a statement that has been made a couple of times before, we see

1 this as a wonderful opportunity for the District of Columbia to try to
2 stabilize and, in fact, gain some apartment units and some populous.

3 And it's a very optimistic sign, I think, for us living in
4 the District. And I certainly think that building the addition to complete
5 this really wonderful art deco building will also be a significant addition
6 to Connecticut Avenue.

7 MR. FEOLA: Thank you.

8 Our next witness is Mr. Louis Slade.

9 MR. SLADE: Madame Chairperson, members of the
10 Commission, I am Louis Slade and I'm a principal with Gross & Slade
11 Associates. We're traffic engineers and parking consultants in the
12 District of Columbia. And I reside at 3500 Crosada Street, NW.

13 I'm pleased to be here this evening as part of this
14 team, and I have a brief presentation and I'll present some figures on
15 traffic and parking which I think further support the positive attributes
16 of this project. I don't need to tell the Commission that this kind of
17 density near Metro stations and bus stops is very attractive from the
18 traffic standpoint.

19 COMMISSIONER: Mr. Slade, is the traffic impact
20 analysis that was submitted as part of the Applicant's prehearing
21 submission, Tab F, the product of your work or done under your
22 supervision?

23 MR. SLADE: Yes, it is.

24 COMMISSIONER: Do the conclusions therein
25 represent your professional opinion?

26 MR. SLADE: Yes, it does.

27 COMMISSIONER: Thank you.

1 MR. SLADE: Just to refresh your memory on the site
2 from the traffic standpoint, I have a couple slides here of Connecticut
3 Avenue. This is looking northward on Connecticut from the front of
4 the building directly across the street.

5 The Metro station would be just on the -- sort of the
6 edge of this photo at the vanishing point about two blocks away to the
7 north. Connecticut Avenue is six lanes, four lanes in the primary
8 direction in the morning and the afternoon peak periods; two lanes in
9 the other direction with no parking.

10 And then during the off peak periods and weekends,
11 there's parking on both sides of the street. And then
12 looking southward just over the rise, you start down a hill towards the
13 Sheraton Washington Hotel, and that's where the Metro station is to
14 the south. And I was standing when I took these pictures right near a
15 bus stop. There's bus stops on both sides of the street right in front of
16 the Kennedy Warren Apartments.

17 The apartment building has three curb cuts. The first
18 two serve that circular drive. And just to walk you through real quickly,
19 it's one way entering here past the entrance, and then back out at a
20 signal at Devonshire Place.

21 That driveway only provides access for people
22 entering the building at the pedestrian entrances. And as the
23 architects testified, it will be widened slightly so that if a car's parked at
24 the curb, another vehicle can pass.

25 The other driveway is the -- is in the foreground of this
26 photo. I'm standing on the sidewalk and the driveway's right in front of
27 me. And the little retaining wall is at the far edge of that driveway.

1 And this serves the parking garage, and I'll show you a couple of
2 slides of this.

3 Directly adjacent to it, approximately 50 feet to the
4 south, is the driveway to the Zoo, the National Zoo. Both of these
5 driveways are signalized. They're operated together as a single
6 intersection with the controller giving a little bit of time to each of the
7 driveways if there's a vehicle in the driveway that actuates the signal
8 to do so.

9 Then this is the Kennedy Warren driveway heading
10 down the grade. That's a Metro rail facility -- maintenance facility.
11 And then it curves around to the left and down into the garage
12 entrance. And this is also the service entrance for trucks.

13 This driveway, which is the parking garage access
14 driveway again from that view from the sidewalk, will, along with this
15 project, have some minor modifications as well. The sidewalk crosses
16 the driveway at grade is a continuous sidewalk, and there are no
17 pedestrian heads on the traffic signal.

18 So pedestrians are somewhat confused. Here's a
19 more standard kind of a driveway. This is the Zoo driveway with the
20 crosswalk well marked and there is pedestrian heads to warn the
21 pedestrians. This is a safety concern and we think that the Kennedy
22 Warren driveway can be improved to look very similar to the Zoo
23 driveway so pedestrians are aware they're crossing a driveway that
24 has signal control.

25 In addition to that, the -- some upgrade of the signal
26 equipment will make this intersection operate more efficiently. We
27 carried out traffic surveys and studies of this driveway and the U-

1 shaped driveway by doing traffic counts and pedestrian counts.

2 And I'm going to go through those numbers briefly. I
3 want to summarize them for you before I go to those charts to say
4 that, as I said, an apartment building like this in this location has very
5 little impact from vehicular traffic standpoint.

6 It's a very low traffic generator. There are over 300
7 units that are occupied. There are 200 residents' cars parked in the
8 garage. But during the peak periods, the amount of traffic generated
9 is very low. We counted traffic and pedestrians and then we
10 estimated the traffic that would be added due to the addition by simply
11 extrapolating in accordance with the number of units and the number
12 of parking spaces.

13 And that's presented in this series of charts. And
14 rather than take the time to go through these, I have a summary chart
15 at the end, and I can use these if there are questions. This summary
16 chart shows the -- sort of the bottom line of all these numbers.

17 The blue line across the top is the existing conditions.
18 And in the morning, we're showing the major flows of traffic. There
19 are 46 total vehicles in the morning and 23 total vehicles in the
20 evening. And the second pair of columns are the pedestrians. And
21 you can see there are more pedestrians moving in and out of the
22 building during the morning and evening peaks than there are
23 automobiles.

24 It's almost double. The number of pedestrians is
25 almost double the number of vehicles. When we extrapolated using
26 those figures, we get a total of approximately 30 and 14 vehicles
27 during the a.m. and p.m. peak hours in the primary directions. The

1 total traffic inbound and outbound during those peak hours is
2 somewhat more, about 37 and 25 vehicles.

3 By comparison, during the morning peak hour,
4 Connecticut Avenue carries about 200,000 southbound vehicles. The
5 traffic signals at the Kennedy Warren interrupt the southbound and
6 northbound traffic on Connecticut Avenue briefly to accommodate
7 these movements.

8 But even with the additional traffic, the amount of time
9 necessary to accommodate the Kennedy Warren traffic at those
10 signals will not be increased. In other words, the traffic can be
11 accommodated without taking any more green time away from
12 Connecticut Avenue.

13 The driving force of traffic conditions on Connecticut
14 Avenue is the major cross streets like Cathedral and Calvert and
15 Woodley, and not small driveways like these with relatively low traffic
16 volumes.

17 Again, I think this shows that the amount of
18 pedestrians generated at a building like this at this location is going to
19 be greatly more than these of course for people walking to Metro
20 station, and the majority of people do that rather than drive.

21 We also counted traffic at the parking garage
22 entrance and exit and looked at the accumulation of vehicles in the
23 garage. This is a four day period of time. And the top of the chart is
24 about 200 vehicles, 230 vehicles, which is the capacity of the garage.

25 And you can see that capacity is reached or comes
26 close to being reached after midnight during each of the days that we
27 surveyed. And the garage begins to empty out in the morning when

1 about 60 cars leave the garage. The majority of the tenants leave
2 their cars and store their cars in the garage during the work week.

3 So out of a capacity of 230, we have about 60 vacant
4 spaces during the middle of the way when tenants have taken their
5 cars to go to work, but the remainder of the cars are in the garage.

6 This is a chart showing existing parking by existing
7 tenants within the garage. We believe that the best way to estimate
8 parking demand for the addition is to look at current parking demand
9 in the building because the building will serve a similar tenant mix in
10 the future.

11 The size of the apartments, however, will be
12 somewhat different, so we stratify this information by size of
13 apartment. So along the left side you see the size of the apartments,
14 the efficiencies up to the two and three bedrooms.

15 And then from the rental records, we determined how
16 many units in each of those categories had zero, one or two cars -- or
17 two spaces that they rented for the storage of their cars. And that's
18 what this chart summarizes. The bottom line of the chart is that there
19 are about 199 spaces rented by the existing tenants in those 317
20 apartment units.

21 When we take those same ratios of rental or spaces
22 per unit, which you see along the right side of the chart, the fractions
23 are .45 spaces per efficiency up to .81 spaces per two or three
24 bedroom, and we apply those utilization ratios to the future mix of
25 apartments, we can estimate how many parking spaces we think the
26 future tenants are going to want to rent in the garage.

27 We applied those same rates, and we came up with

1 118 spaces -- that the residents in the 166 new units will need about
2 118 spaces to satisfy their demand. And it leaves us with a net of
3 about 36 spaces which can help to satisfy other needs such as
4 tenants' visitors.

5 In conclusion, I've been enjoying working on this
6 project because of it's very low impact. The findings of our studies are
7 that the traffic impacts of the project are so low that they'll be virtually
8 imperceptible. Our estimates of level of service show no change in
9 level of service before and after the addition.

10 Also, as I've just shown, the number of parking
11 spaces that will be provided will be well in excess of the demand that
12 the new tenants should need to satisfy their needs to park their cars
13 and we'll have some access parking spaces to help serve visitors'
14 needs.

15 Thank you.

16 MR. FEOLA: Thank you.

17 Our final witness on direct is Mr. Steven Shearer.

18 MR. SHEARER: Good evening, Madame Chair and
19 members of the Commission.

20 For the record, my name is Steven E. Shearer. I'm
21 the Director of Zoning Services with the law firm of Wilkes, Artis,
22 Hedrick & Lane.

23 My purpose in appearing before the Commission this
24 evening is to address two issues. One, the consistency of the project
25 with the comprehensive plan; and two, the manner in which the
26 proposed project meets the evaluation standards of Chapter 24, the
27 PUD regulations or the zoning regulations.

1 The staff is distributing a copy of my analysis of both
2 of those points. And as is my custom, I'm going to summarize that
3 knowing that you can and will read it and I don't have to. The most
4 salient issue with respect to the generalized land use map, of course,
5 is that this property is shown for high density residential.

6 The committee report which accompanied the
7 adoption of the comprehensive plan described that high density
8 residential and density terms as in excess of 90 dwelling units per
9 acre. Well, we have more than 90 dwelling units per acre. There's no
10 upper limit on that level in the committee report.

11 But the adopted land use element describes the high
12 density residential category as including high rise apartment buildings
13 as the predominant use and then also permitting other densities of
14 apartment buildings as well.

15 In the outline and in the statement of the Applicant,
16 which both in the application and in the prehearing statement we have
17 gone through and looked at and described the major themes, the
18 major theme of this project, of course, is that it's an apartment
19 building.

20 It's not an office building. It's not a retail building. It's
21 not an industrial building. It's housing. And in all the years of which I
22 have appeared before this Commission, the one cry that continues to
23 come out all the time is bring us housing.

24 And when we bring housing, it's often bring us more
25 housing. Well, here we are with a project which is essentially an
26 apartment house in an apartment house neighborhood, 160 plus new
27 units in the building.

1 We believe that such a building addition in this
2 neighborhood is consistent with the theme of stabilizing the District's
3 neighborhood, of respecting and improving the physical character of
4 the District, and preserving the historic character of the District.

5 You heard from Cox and Mr. Davidson speak to the
6 historic character of the building and the landmark nature and the fact
7 that both HPRB and the Commission of Fine Arts have granted
8 conceptual approval to the project.

9 We've looked at the housing element of the
10 comprehensive plan which has, as a major policy, the stimulation of a
11 wide range of housing choices and strategies both through the
12 preservation of sound older stock and the production of new units.

13 In this case, we have both; the maintenance of the
14 existing units in the Kennedy Warren Building, plus the addition of 166
15 new units. On page two of the outline, I have also identified and listed
16 the other objectives and policies which relate to housing and the
17 housing element.

18 In the urban design element, there are policies and
19 objectives that relate to how to make a new building fit within the
20 context of existing neighborhoods, particularly those areas of strong
21 architectural character. We have had cases before the Commission
22 where there hadn't been much of a character to talk about.

23 In this case, there is. And as the architects have
24 described, the building fits within the historic character of both the site
25 itself and the completion of the plan that was originally prepared for
26 the Kennedy Warren, as well as the broader context of the
27 Connecticut Avenue corridor and the type of apartment buildings that

1 line that avenue up and down.

2 With respect to the historic preservation element,
3 there are goals and policies that talk about protecting the quality,
4 designing additions to be compatible, retaining the open space
5 associated with those structures, that the height/proportion mass
6 configuration and so forth be -- should complement the landmark.

7 There are policies for special streets. Connecticut
8 Avenue is designated as a special street in the comprehensive plan.
9 And we believe that the design that has been prepared and presented
10 to you this evening is consistent with all of those policies in the historic
11 preservation element.

12 I talked before about the land use map and briefly
13 about the land use element. And in the Ward 3 plan, the Ward 3 plan
14 reflects in many respects the overall elements of the comprehensive
15 plan. The format is essentially the same. It goes through economic
16 development, housing, environmental protection and so forth.

17 Many of the major themes in the Ward 3 plan are the
18 same as those set forth in the comprehensive plan as to things like
19 preserving neighborhood stability and encouraging historic
20 preservation and respecting urban design in areas of strong
21 architectural character.

22 A couple of specific policies in the Ward 3 plan.
23 Housing should be increased in areas where there are appropriate
24 locations. You've heard the location of this site described as being
25 within proximity of two Metro stops.

26 The picture that was sitting up here before shows the
27 building almost sitting by itself on the east side of Connecticut Avenue

1 surrounded by that ring of green which will be maintained so that
2 we've got a site that is appropriate for housing and where that housing
3 can be constructed without adversely affecting anything immediately
4 surrounding it.

5 There are policies which talk about protecting the
6 green space in front of these apartment buildings along Connecticut
7 Avenue and the Kennedy Warren is listed as one example. There's a
8 note that where those open spaces are recognized to contribute to the
9 integrity of the site or the structure.

10 Well, of course, Mr. Cox and Mr. Davidson have
11 shown you the original intent for this property was not to have all that
12 open space sit there forever, but to have a building which essentially
13 filled out the site.

14 And the site is a little bit narrower on the southern end
15 as opposed to the northern end, which is why the design of the
16 building, as you look at it, is -- doesn't have -- has a shorter wing on
17 the north side than it does -- excuse me, on the south side than on the
18 north side.

19 Or I shouldn't say shorter. Perhaps less deep as you
20 go back from Connecticut Avenue because the property's less deep.
21 So you've got -- looking at the model in front of us, you've got the fairly
22 deep wing on the north end and the much shallower wing on the south
23 end reflecting the almost triangular shape of the property as it narrows
24 towards Jewitt Street which bends around and connects out to
25 Connecticut Avenue.

26 Yet, the overall lot occupancy's going to be only 59%.
27 And that central court area which faces the entrance, approximately

1 18,000 square feet is going to remain and going to be that central
2 organizing feature around which the building is designed.

3 With respect to the standards of Chapter 24, the PUD
4 regulations, Section 2403.3 requires that the impact of the project be
5 favorable, capable of being mitigated or acceptable. You've heard, of
6 course, with respect to preservation that the design's been approved
7 on a conceptual basis by both Fine Arts and HPRB.

8 You've heard Mr. Slade's testimony with respect to
9 the impact on traffic and parking. The building is going to be built on a
10 relatively flat part of the site away from the steeper slopes and on the
11 side of the building away from the Klinge Valley Park.

12 The environmental consequences, of course, are
13 going to be more fully reviewed at the building permit stage. And to
14 the extent that we have to address any issues there, that will be done
15 in concert with review by the Department of Consumer and Regulatory
16 Affairs.

17 I've already addressed the comprehensive plan,
18 which is another major requirement of the PUD Process. And then
19 lastly, the Commission is required to judge, balance and reconcile the
20 relative value of project amenities and public benefits offered; the
21 degree of development incentives requested; and any potential
22 adverse effects.

23 Well, as to public benefits, we've talked about urban
24 design, the preservation of open space, site planning, effective and
25 safe vehicular/pedestrian access, historic preservation, and last in
26 order as listed in the regulations but certainly not in order of
27 importance is housing.

1 Balance that against the development incentives that
2 are requested. No increase in height. The R-5-E permits a 90 foot
3 height. The building is 90 feet high. There's a .29 increase in FAR
4 over the matter of right FAR permitted in R-5-E. That's about 4.8%.

5 So we're balancing a relatively minimal increase in
6 height over the matter of right standards versus the list of public
7 benefits that we've identified. And we conclude that the project is not
8 inconsistent with the comprehensive plan, that it meets the applicable
9 standards of the zoning regulations, and I believe that it should be
10 approved.

11 CHAIRPERSON KRESS: Thank you.

12 Further testimony?

13 MR. FEOLA: Madame Chair, that concludes our
14 direct presentation. We obviously would like some time for rebuttal if
15 necessary and a minute or two for concluding remarks at the end of
16 the hearing.

17 CHAIRPERSON KRESS: All right, thank you.

18 MR. FEOLA: And our witnesses are yours for
19 questioning.

20 CHAIRPERSON KRESS: Thank you.

21 MR. FEOLA: And how would you like to proceed?
22 Should I bring them all up here or do you want to do this --

23 CHAIRPERSON KRESS: Perhaps we can see where
24 the questions are going and make the adjustments as we go.

25 Fellow Commission members, questions?

26 Do you want to start, Commissioner Franklin?

27 COMMISSIONER FRANKLIN: Mr. Saul, as my

1 colleagues know, I've been curious about PUD applications that come
2 before us and then come before us two years later because the
3 market's not there, and come before us two years later because the
4 market's not there, etc., etc., etc.

5 What assurance do we have that if the approval is
6 granted here there is going to be actually some kind of development?

7 MR. SAUL: We are quite confident in our ability to
8 complete this project. We have two or three things that are in our
9 favor that make it easy for me to make that statement. One is we
10 have an existing building that is very popular, and that allows us to
11 gauge the demand in the market.

12 Second, the Connecticut Avenue corridor is
13 essentially fully occupied, and that gives us additional comfort that we
14 can do it. Third, because it's a landmark building, because of its
15 uniqueness, it will be a very easy project to finance. I've actually had
16 folks cold calling me because they've heard about it in the press
17 asking if they could be involved with the project.

18 So I think for all those reasons we will be able to
19 complete it within a time frame that you would find acceptable.

20 COMMISSIONER FRANKLIN: Just out of curiosity,
21 how does the market for rental differ from the market for
22 condominiums at this location?

23 MR. SAUL: To be honest with you, I am not aware of
24 the condo --

25 COMMISSIONER FRANKLIN: You didn't explore
26 that?

27 MR. SAUL: Yes, yes.

1 CHAIRPERSON KRESS: Any other questions?

2 COMMISSIONER FRANKLIN: I have no questions
3 for Mr. Saul.

4 CHAIRPERSON KRESS: I do have -- do you have
5 any questions for Mr. Saul?

6 I had one. I believe in one of the pieces of
7 information I was reading, I believe it was from the Cathedral Park
8 Condo Association, there was some question about the charges for
9 the parking and how that might impact the residents and their desire to
10 park there or whether they'd park on the streets.

11 I didn't -- I don't remember specifically reading about
12 that from the Applicant's point of view. What is your point of
13 view on that?

14 MR. SAUL: Well, we would plan to charge for the
15 parking in the building as we do in the existing building. With regards
16 to the new addition, there are two efficiencies per floor in the new
17 addition. Beyond that, they're one bedroom, one bedroom/dens, two
18 bedrooms.

19 It's my opinion that someone who moves into this
20 area and is capable of paying the rent to move into an efficiency or
21 certainly a one bedroom/two bedroom is not going to want to deal with
22 the burden of trying to park on the street. As you will probably hear
23 tonight, it's a tough neighborhood to park in.

24 So I personally do not believe that we will have any
25 residents moving into this new building that will try to park on the
26 street when it is available in the building.

27 CHAIRPERSON KRESS: What kind of a price -- I

1 mean, you're talking generically, and perhaps you don't have these
2 things set yet what the price for the units are or the price for the
3 parking. Is this going to be a reasonably priced parking?

4 MR. SAUL: Yes, we think so. At the moment, the
5 existing tenants pay \$90 a month. Saturday we were actually at a
6 meeting where we were told that that was too low, that other folks in
7 the avenue were paying more. So --

8 CHAIRPERSON KRESS: But specifically, you
9 haven't really looked into the issue, and perhaps later this is a
10 question for Mr. Slade, but you haven't really looked into the issue; it's
11 just assumptions that people will be parking in the building rather than
12 fighting on the street?

13 MR. SAUL: Well, as we can tell from our existing
14 garage, I mean, it's popular parking and it's priced at the market. So
15 we do think yes, they will be parking in the building.

16 CHAIRPERSON KRESS: Yes, if I read it correctly, a
17 great many of your units do have rental parking in the building itself.

18 MR. SAUL: Correct.

19 CHAIRPERSON KRESS: And maybe perhaps I'll ask
20 Mr. Slade that further, but that would conclude what I feel I could ask
21 you.

22 Thank you.

23 MR. SAUL: Okay.

24 CHAIRPERSON KRESS: Any other questions for Mr.
25 Saul?

26 COMMISSIONER: I have none.

27 CHAIRPERSON KRESS: Hearing none, thank you.

1 COMMISSIONER: Excuse me. I was going to ask
2 this of Mr. Slade, but maybe Mr. Saul's the right person.

3 You had distributed tonight what's called a Kennedy
4 Warren South Wing Construction Management Plan.

5 MR. SAUL: Correct.

6 COMMISSIONER: Are you responsible for that?

7 MR. SAUL: The team is, yes.

8 COMMISSIONER: Yes, yes. And item number nine
9 talks about contractor and subcontractor parking. Apparently six to
10 nine months into construction, the subcontractors and others with their
11 personal vehicles are going to be able to use that during construction.

12 MR. SAUL: Correct.

13 COMMISSIONER: But during that six to nine month
14 period, you're going to rely on carpools and Metro system. Is that --

15 MR. SAUL: Yes, that is accurate. We will --

16 COMMISSIONER: I can't imagine --

17 MR. SAUL: Yeah, let me give you the details.

18 We have -- first off, we've endeavored to --
19 conversations with the Zoo to rent spaces from the Zoo. And they
20 have indicated during their off seasons that that is something they
21 encourage. So we would be doing that. Second, in our language with
22 the general contractor, it will be required for them to carpool the
23 subcontractors into the site.

24 And then, of course, once the garage is open, they
25 will be able to use the garage to park in.

26 COMMISSIONER: So if you're starting up in the six
27 to nine month period early on in the middle of the Zoo's season, you're

1 going to have somewhat of a problem during that early period even
2 with carpools. I mean, there will have to be some vehicles to be
3 parked, correct?

4 MR. SAUL: Well, I can't control every individual, but it
5 will be part of our contract with the general contractor that they require
6 their subs to carpool in. It's not something that is unprecedented.
7 Often they'll pick a location further out and pool there and bring vans
8 down or carpool themselves down.

9 COMMISSIONER: Oh, I see. You mean the
10 contractor itself would provide a van service to a remote parking lot?

11 MR. SAUL: If necessary, yes.

12 COMMISSIONER: It's the kind of thing you do
13 downtown here, but not normally done there.

14 MR. SAUL: That's correct.

15 COMMISSIONER: But certainly you don't see any
16 spillage into the residential community of these construction vehicles?

17 MR. SAUL: We're going to do our best to limit it as
18 much as we can.

19 COMMISSIONER: All right, thank you.

20 COMMISSIONER: Excuse me. Is there some
21 arrangement with the Zoo now for parking for the ballroom?

22 MR. SAUL: I believe they do have an arrangement
23 with the Zoo, yes.

24 COMMISSIONER: Who is the "they" that you refer
25 to?

26 MR. SAUL: Uptown Caterers.

27 COMMISSIONER: Oh, I see.

1 MR. SAUL: They're a tenant of the building.

2 COMMISSIONER: They're a tenant?

3 MR. SAUL: They're a commercial tenant in the
4 Kennedy Warren.

5 COMMISSIONER: Oh, I see.

6 MR. SAUL: In the existing Kennedy Warren.

7 COMMISSIONER: And they have made some
8 arrangements with the Zoo? Because I know I've attended events at
9 the ballroom --

10 MR. SAUL: Correct, they park in the Zoo and valet --

11 COMMISSIONER: -- and they indicate that there's
12 parking at the Zoo.

13 MR. SAUL: Correct.

14 CHAIRPERSON KRESS: All right, thank you. That
15 isn't to say we might not ask another question in a few minutes.

16 Perhaps Mr. Slade could join us.

17 Mr. Davidson, I do have some questions of you. Any
18 -- have questions of the architect?

19 I wanted to get a little clarification on the retail and the
20 change in retail that has occurred. And unfortunately, the plans may
21 be hard to get to. But if you could perhaps -- the question was, where
22 the initial concept on retail and what has now changed and how you
23 view the retail different now from what it was to what it is?

24 MR. DAVIDSON: Our original proposal for the
25 building up until several weeks ago was to place retail along
26 Connecticut Avenue between the two wings, if you will, that come out
27 from the main block. And that area is this space in here between this

1 wing and this wing here.

2 There's an area of about 4,000 square feet on the
3 ground floor level. That we're proposing because we thought that
4 perhaps the neighborhood might like the amenity of some additional
5 neighborhood related convenience retail facing the street that they
6 could all use.

7 Seeing that that was not the case, we deleted this
8 retail and added three units on two levels back here so that that
9 ground floor is like all of the other floors in this area. The retail that I
10 was referring to, of course, is the internal retail --is this area in here
11 along the promenade.

12 And as I said before, is solely internal to the project
13 and for the use of the Kennedy Warren.

14 CHAIRPERSON KRESS: Thank you.

15 Any other questions for the architect?

16 Commissioner Parsons.

17 COMMISSIONER PARSONS: Well, I guess this is a
18 combination question for Mr. Feola and Mr. Davidson.

19 As I understand Mr. Davidson's testimony, the relief
20 requested here having to do with rear yard set back is that the existing
21 zoning regulations would require a 30 foot set back for a building of
22 this size. And you're saying that if you went to the middle of Jewitt
23 Street, you'd reach 25 of those feet, so you're looking for a five foot
24 relief?

25 MR. DAVIDSON: That's correct.

26 COMMISSIONER PARSONS: At the same time,
27 however, you're, as I understand it, suggesting tonight that that street

1 be closed, that you not, as is normal, get one-half of that street which
2 occurs in a street closure. But you would be donating this or
3 transferring this or allowing it to be transferred to the Zoo which results
4 in a property line for you that is eight feet off the back of the building.

5 Is that correct?

6 MR. DAVIDSON: That's correct.

7 COMMISSIONER PARSONS: So I'm trying to figure
8 out whether -- how our order should reflect something like this so that
9 the result is you've got an eight foot rear yard when we're really
10 dependent upon the City Council to do something subsequent to this.
11 Maybe Mr. Feola could help us with that in writing at a later time.

12 But it seems a little clumsy to try to structure that. So
13 what you're actually asking for, if all goes well, is how many feet
14 relief?

15 (Laughter.)

16 Now that I've thoroughly confused you, but I think --

17 MR. DAVIDSON: I think you have a very good grasp
18 of the situation, much better than we do.

19 COMMISSIONER PARSONS: All right, Mr. Feola will
20 fix that for us.

21 CHAIRPERSON KRESS: It sounds more like 22 foot
22 relief as opposed to the five foot relief.

23 MR. FEOLA: Yes, ma'am; I believe that's correct. It
24 sounds like the rear yard provisions in this situation is technicality.

25 COMMISSIONER PARSONS: And I -- you didn't say
26 this, but will you be fencing that property line ultimately in some way to
27 show where the private property and public property then is?

1 MR. DAVIDSON: I think only if it's done in
2 conjunction with the Park and the Zoo that they would like it. There
3 was some concern that the Zoo wanted a security fence, but we have
4 not had discussions with the Zoo about that.

5 COMMISSIONER PARSONS: All right, well I
6 understand they're here tonight and maybe they could answer that.

7 MR. FEOLA: Security in which direction?

8 (Laughter.)

9 COMMISSIONER PARSONS: Keep the rhinos out.
10

11 MR. DAVIDSON: Apparently that's become a big
12 problem in zoos where kids jump over the fence and get eaten by the
13 bear, and then the Zoo's liable. So there's some reason for it which
14 makes sense, I guess.

15 COMMISSIONER PARSONS: Mr. Davidson, you
16 didn't mention storm water, but it runs downhill. And Klinge Valley
17 has been a problem for some time, as you probably know. And could
18 you just generally outline where the water's going here?

19 MR. DAVIDSON: Yes, we anticipate a storm water
20 management facility on site. Our current thought is that it will be
21 placed -- we have a holding tank just off of Connecticut Avenue and
22 that our storm water would drain into a storm water sewer which is in
23 Connecticut Avenue.

24 COMMISSIONER PARSONS: And where would that
25 be discharging, into Klinge Valley ultimately or do you know where it
26 goes?

27 MR. DAVIDSON: I don't actually know where that

1 particular storm sewer goes. It runs up and down Connecticut
2 Avenue. And I guess the point is that we are not connecting to the
3 storm and sanitary sewers which are currently coming from the
4 building which do go into Klinge Valley.

5 COMMISSIONER PARSONS: Oh, good. That's
6 generally where I wanted to go.

7 The landscape plan -- excuse me, I had it here
8 somewhere. It's a color in your prior submission.

9 We've been accustomed to a little tighter commitment
10 of size of plant material. And I appreciate this is a five start project
11 and you're not going to go on the cheap side of things at all, but I think
12 it would be helpful just to keep us on the same pattern as we've had
13 for other PUD's which aren't as luxurious as this that you submit a --
14 when you want to put a shade tree in, how big do you expect that to
15 be, four inches, something like that?

16 Will the hedge be evergreen? Not the species. I
17 think we've gotten trapped before by doing that, and it's not available
18 and then you've got to come back here for an amendment. That's not
19 my intent. But rather to indicate a size.

20 Do you think you could do that?

21 MR. DAVIDSON: Yes, sir.

22 CHAIRPERSON KRESS: John, I might just add
23 something that you often mention and I agree with, is dealing with the
24 exterior lighting. I don't know how much information we really have on
25 that, and that's something that we would like a little more definitive, I
26 believe, for our review.

27 MR. DAVIDSON: We will be glad to provide you with

1 the lighting plan as well. Obviously that's not -- we haven't devoted an
2 enormous amount of time to it and we're certainly going to improve on
3 what's there, which is a little harsh. But we will also submit a lighting
4 plan to you.

5 CHAIRPERSON KRESS: Thank you.

6 I'm sorry, John; I interrupted you. Please continue.

7 COMMISSIONER PARSONS: That's all right.

8 I think that's all I have now.

9 Thank you.

10 CHAIRPERSON KRESS: All right, any other
11 questions?

12 If not, we'll move on to Mr. Slade. I had several
13 questions. Maybe I'll just begin with the questioning.

14 I was trying to get to the point that was being made in
15 a submission that we had reviewed by Cathedral Park relating to their
16 concern regarding the expense of the parking and the tenants. And I
17 was wondering, one, if you had looked into that.

18 While I was jotting down numbers, I did note that
19 there was a high percentage of the folks in the building who did have a
20 parking space in the building. I just didn't know if your studies could
21 illuminate that whole issue a little more clearly.

22 MR. SLADE: I'll put that chart up again if you'd like,
23 but let me just try to explain what we have and pulled together for this
24 issue.

25 We felt that the number of cars -- the number of
26 spaces rented by existing tenants was a good indicator of what would
27 happen in the future, but that it would depend on the size of the unit

1 because that would probably be indicative of the number of people in
2 the unit.

3 So without going into any of the confidential
4 information that B.F. Saul has on their tenants, the data was available
5 about the number of spaces rented by unit type. And of the 317
6 existing units, first of all, there is no waiting list currently for any
7 parking spaces.

8 I forgot to mention that in my testimony. And of the
9 317 units, 133 units do not rent a space in the existing garage. 169 do
10 rent one space in the existing garage. And 15 units rent two spaces in
11 the existing garage. So we have 169 with one space and then 15 with
12 two spaces, or 30 spaces.

13 169 and 30 is 199 spaces are currently rented by the
14 existing tenants in the 317 units. There are 233 spaces in the garage.
15 When we applied those factors, those rental rates -- the rate of space
16 utilization by current tenants to the future distribution, we got what we
17 think is the right number of spaces that future tenants would require,
18 which was 118.

19 And we're building 154. That's why I got this net extra
20 balance of 36 spaces in the new garage. Now obviously --

21 CHAIRPERSON KRESS: No, that makes sense
22 because you're dealing with -- on the basis of what is happening now.
23 And so I'm understanding better the logic.

24 MR. SLADE: There's variation from year to year, but
25 this buffer of 36 will go a long way to handle any variation on the
26 upside.

27 CHAIRPERSON KRESS: All right, I think I had one

1 more --

2 UNIDENTIFIED SPEAKER: I need to change the
3 tape, please.

4 CHAIRPERSON KRESS: Oh, good; gives me a
5 second. I was trying to find my other question.

6 [End Tape 1, Side 2.]

7 [Begin Tape 2, Side 1.]

8 MR. SLADE: Before I answer that, can I just interject
9 one thing?

10 I wan to make it clear we have two types of -- two
11 areas of parking. We have reserved parking spaces. And you might
12 have heard a little grumbling when we said there's no waiting list. We
13 currently do accommodate anybody who wants to park in the building.

14 There is a waiting list actually to get a reserved
15 parking slot, and there are some people who are in a temporary or
16 without a reserved spot. Just so we can keep the record clear.

17 With regard to the demographics in the -- we feel
18 fairly sure that the demographics are not going to change that
19 dramatically from the people that are coming in today to rent in the
20 existing Kennedy Warren and the new tenants.

21 We do have some tenants however that, as you
22 heard, have been in the building an awfully long time. However, that -
23 - you know, ten years ago, that might have been 15 or 20% of the
24 building. Today it is statistically a relatively insignificant amount as it
25 relates to parking.

26 So we do think that Lou's schedule which extrapolates
27 based upon unit size and makes an estimate of projected use is pretty

1 accurate. And it ends up with a cushion of 36 units, which is a pretty
2 large cushion. So we think even if we're off by a little bit, I don't think
3 we're going to be off by 20%.

4 COMMISSIONER FRANKLIN: What is your policy
5 regarding visitor parking?

6 MR. SLADE: The policy is if space is available,
7 visitors come in and park. And you can see by the graph that until
8 about midnight, there's generally space in the garage for visitors.

9 COMMISSIONER FRANKLIN: Well, if I'm a tenant
10 and I expect a visitor, I just simply call downstairs and say --

11 MR. SLADE: Yes.

12 COMMISSIONER FRANKLIN: And is there a charge
13 for that?

14 MR. SLADE: I think there's a ticket that one can get a
15 sticker that the residents can buy and put it on.

16 Dollar an hour, excuse me. They don't charge me.

17 CHAIRPERSON KRESS: No, that's fine. I've
18 completed my questions. Go ahead.

19 COMMISSIONER FRANKLIN: Mr. Slade, you said
20 that you did not think there would be any need for reduced green time,
21 as you've put it, on Connecticut Avenue. During certainly the morning
22 rush hour, it's been my observation that it's very difficult for cars
23 exiting from the Kennedy Warren to actually get a place in the stack,
24 so to speak, of cars waiting for the light at Cathedral.

25 And I was just wondering whether there is the
26 possibility of any adjustment in the signalization even at the expense
27 of people like myself who need the green time on Connecticut

1 Avenue? It seems to me that green time on Connecticut Avenue will
2 have to be reduced even minimally to accommodate any additional
3 cars.

4 That's my untutored, you know, observation.

5 MR. SLADE: It sounds, Mr. Franklin, like you drive up
6 and down Connecticut Avenue as I do. And the --

7 COMMISSIONER FRANKLIN: Usually in the left
8 lane.

9 (Laughter.)

10 MR. SLADE: The factors which really set the pace for
11 how traffic operates on Connecticut Avenue are the bigger cross
12 streets like Woodley and Cathedral and Calvert to the south; and as
13 you go north, Porter and so forth.

14 And as you know, you've got four lanes southbound in
15 the morning, and then one of the lanes is dropped at Cathedral. And
16 that, of course, causes a backup. And the amount of green time that
17 is allocated to Kennedy Warren's driveway and the Zoo driveway
18 could be increased without materially changing the amount -- limiting
19 the amount of traffic that can get downtown on Connecticut Avenue,
20 so to speak, because the real constraint is one block to the south and
21 beyond that, whatever's happening at that major cross streets.

22 My testimony about not needing to increase it is that
23 the way the signal is intended to work is that a certain -- relatively
24 small amount of time is programmed to be taken away from
25 Connecticut Avenue for the Kennedy Warren parking garage driveway
26 and the Zoo driveway.

27 COMMISSIONER FRANKLIN: And Devonshire

1 Street?

2 MR. SLADE: Yes, but that operates independently of
3 this one in a sense. I mean, they're coordinated, but -- and it's the
4 Zoo -- it's the parking garage driveway that really has much more
5 traffic than the U-shaped driveway at Devonshire.

6 And there are actuators in those two driveways, the
7 Kennedy Warren driveway and the Zoo driveway. And if a vehicle
8 trips that actuator, then it -- a certain amount of green time is
9 allocated. That actuator, if you've ever seen it, it's the old type that's
10 called a treadle actuator.

11 It's literally a piece of steel on a hinge. And there's
12 much more higher tech equipment, and that's what we would replace
13 that with. And that has already happened at the Zoo. Once that
14 equipment has been brought up to speed, then that small amount of
15 time that's allocated to these two can be shared by them.

16 So if we have traffic and the Zoo doesn't have any
17 traffic coming out, we would get more of the 15 seconds or so. If they
18 have traffic in the afternoon and we have very little coming out, they'll
19 get more of that allocated amount of time.

20 So it will be a little bit more efficient use of the time
21 that's available which should be abundant for the additional traffic we
22 would generate.

23 COMMISSIONER FRANKLIN: Thank you.

24 I have no further questions.

25 CHAIRPERSON KRESS: Any other questions for Mr.

26 Slade?

27 Hearing none, we'll move to the cross examination.

1 Oh, excuse me.

2 COMMISSIONER FRANKLIN: Mr. Shearer, but --

3 CHAIRPERSON KRESS: Oh, I'm sorry; I thought we
4 -- I didn't know we were going to --

5 COMMISSIONER FRANKLIN: It doesn't have to be
6 Mr. Shearer. It's a team thing here. Let me just throw it out.

7 We have struggled for years with the concept of
8 amenities here for PUD's. And I'm struggling with it on this project,
9 frankly. And my attention is drawn to a couple of letters that appear in
10 your submission under Tab I, and that's from the D.C. Preservation
11 League and others in which they're encouraging you to restore the
12 original building in some fashion.

13 At least the public spaces, the lobby, ballrooms and
14 things of that nature -- suggesting that as I believe they are suggesting
15 a public amenity and wondered whether you had any comment about
16 that as a possible solution to my dilemma here.

17 MR. SHEARER: As you might have noticed earlier in
18 the evening, the Kennedy Warren Residence Association switched its
19 status from opposing to supporting. And a large part of that has been
20 our commitment to supporting and upgrading the existing building.

21 So yes, we do plan to do that, and it is part of our
22 agreement with the residents.

23 COMMISSIONER FRANKLIN: So is that something
24 that you want to do as part of this project, or is this a longer term
25 initiative or what?

26 MR. SHEARER: Well, the lobby level -- we plant to
27 renovate the whole lobby level as part of this. Obviously the rest of

1 the building -- it's a big building, and it will be a long term project to go
2 through and upgrade many aspects of the systems in the existing
3 building.

4 For example, there are 3,300 windows in the existing
5 building that will need replacing over the next few years, probably over
6 a ten year time frame. So long term projects like that will hopefully
7 begin soon, but the lobby in particular is going to be upgraded as part
8 of and in conjunction with this project.

9 COMMISSIONER FRANKLIN: And how about the
10 ballroom?

11 MR. SHEARER: The ballroom is leased to a tenant
12 and they have a significant number of years left on that lease. And
13 they're required to maintain and keep it. It's actually in very good
14 condition.]

15 COMMISSIONER FRANKLIN: So the suggestion by
16 the Preservation League that you restore the ballroom you don't think
17 is necessary or desirable or --

18 MR. SHEARER: I think at this point it's probably not
19 necessary. And at the moment, it's the tenant's responsibility. We're
20 much more interested in the residential areas of the building, the lobby
21 and the common areas.

22 We're certainly not opposed to doing that, but it's not
23 part of the immediate plans.

24 COMMISSIONER FRANKLIN: Well, it would seem to
25 me that it might be well for you to document this in the context of an
26 amenity of this project that maybe just occurred this afternoon; but if
27 you could do that, I think it would be helpful.

1 MR. SHEARER: Sure, sure.

2 COMMISSIONER FRANKLIN: Thank you.

3 CHAIRPERSON KRESS: Anything else on the
4 amenities?

5 Commissioner Croft.

6 COMMISSIONER CROFT: Could you outline what
7 you plan to upgrade as part of your agreement with the tenants?

8 MR. SLADE: We are going to be again upgrading the
9 lobby, making repairs to -- additional repairs to the roof of the existing
10 building and the parking garage, adding a common area residential
11 lounge with a kitchen/bar facility, replacing the carpeting in the existing
12 building, repainting all the hallways in the existing building.

13 (Applause.)

14 Let's see. Many longer term projects that are going to
15 occur over a period of time. Some improvements to the fire life safety
16 systems, some of the fire exits in the back, putting intercom systems
17 in, additional security cameras in the garage and the laundry room
18 and the work out exercise room, improving the handicap accessibility
19 of the building, other projects like that, upgrading the laundry room,
20 etc.

21 COMMISSIONER CROFT: Is this a rent controlled
22 building?

23 MR. SHEARER: Yes, it is.

24 COMMISSIONER CROFT: Do you have to get the
25 approval of the Rent Administration for the --

26 MR. SHEARER: We have agreed for these projects
27 that we will not pass them on as a capital improvement to the tenants.

1 COMMISSIONER CROFT: I see.

2 MR. SHEARER: So we're going to do this
3 independently of that.

4 CHAIRPERSON KRESS: Any other questions of the
5 Applicant?

6 The Commission has finished its questioning. At this
7 time, we'll move to the cross examination. The ANC, the Kennedy
8 Warren Residence Association and the Cathedral Park Condo
9 Association are all parties and have a right to question the Applicant.

10 And so I would ask you to do so at this time. You are
11 to question -- you are not to give testimony at this time. You will have
12 your opportunity to testify later. This is your opportunity to question
13 the Applicant on the Applicant's submission.

14 I'll begin with the ANC. Is there anyone here
15 representing the ANC and do they wish to question the Applicant?

16 MR. MENDELSON: Madame Chair, I'm Phil
17 Mendelson. And for purposes of cross examination, I'm representing
18 ANC 3C. And I'm not sure whether my questions are for Mr. Saul or
19 for Mr. Feola or both.

20 CHAIRPERSON KRESS: Perhaps you should go
21 back to the mikes.

22 MR. MENDELSON: My first question concerns Jewitt
23 Street. And I understand that the proposal now is to close Jewitt
24 Street, is that correct?

25 MR. FEOLA: It is.

26 MR. MENDELSON: Is that discussed in the
27 prehearing statement?

1 MR. FEOLA: No. As I said at the beginning of the
2 hearing, the National Park Service made this request orally by phone
3 on Thursday, January 2nd, which was last week. And we agreed --
4 the owner agreed to spearhead that effort literally Friday, January 3rd.

5 So no, it is not in the prehearing statement. It will be,
6 however, part of a preservation plan that I assume the Commission
7 will want to see as part of this record.

8 MR. MENDELSON: The prehearing statement on
9 page six includes tabulation of development data, and there it talks
10 about the rear yard being 25 feet. On what basis was that statement
11 made?

12 I'll show you the page.

13 MR. FEOLA: Well, you probably should be asking the
14 architect because I didn't testify to this. But the rear yard for buildings
15 that are through lots can be measured from the middle of a public right
16 of way. Jewitt Street, when this was written, and still is a public right
17 of way.

18 So the rear yard for this building is measured from the
19 middle -- can be measured from the middle of unbuilt Jewitt Street.
20 And unbuilt Jewitt Street is 50 feet wide.

21 MR. MENDELSON: Even though it's a dedicate right
22 of way, the rear yard can include part of the public space?

23 MR. FEOLA: Especially -- it has to be dedicated. It
24 can be a paved area as well. I mean, the purpose of rear yards is to
25 provide light and air to people who live in that building. And at least
26 the zoning regulations don't separate whether the light and air is over
27 a paved area or over lawn, for example.

1 MR. MENDELSON: You wrote this, correct?

2 MR. FEOLA: I had a --

3 MR. MENDELSON: The prehearing statement?

4 Well, if I remember correctly, it was signed by you.

5 MR. FEOLA: Yes.

6 MR. MENDELSON: Okay, so it is appropriate for you
7 to answer how that statement was made by you.

8 MR. FEOLA: I'd be happy to answer it, but cross
9 examination is about testimony given under oath. I mean, obviously I
10 didn't --

11 MR. MENDELSON: Should Mr. Saul answer then?

12 CHAIRPERSON KRESS: I think that would be
13 appropriate for Mr. Davidson if you're not satisfied with the answer
14 that you've received so far.

15 MR. MENDELSON: I understand it. I'm satisfied. I
16 just want to make sure it comes from -- that it's appropriate in terms of
17 your admission of evidence.

18 CHAIRPERSON KRESS: Well, perhaps since Mr.
19 Davidson testified to that, it would be appropriate for him to respond to
20 that.

21 MR. DAVIDSON: If I understand the question
22 correctly, I agree with what Mr. Feola has stated, that the zoning
23 regulations specifically allow calculation of the rear yard from the
24 middle of a dedicated right of way. That right of way is currently 50
25 feet. And therefore, the calculation of 25 feet is to the middle of that
26 right of way.

27 And as I also said, our building is 90 feet high at the

1 middle of the rear of the structure which would therefore require a rear
2 yard of 30 feet. We do have a rear yard of 30 feet over -- by far the
3 majority of our building because we pulled it back from the property
4 line.

5 But there is that area next to the existing building
6 which abuts the existing building where we need to go from 25 to 30
7 feet.

8 MR. MENDELSON: Since it's your testimony that the
9 regulations permit the calculation from the middle of the right of way,
10 then it would not be necessary for purposes of this zoning action for
11 the right of way to be closed.

12 MR. DAVIDSON: That's correct. I believe they're two
13 completely separate actions.

14 MR. MENDELSON: Okay. And who would be the
15 parties to the closing in the sense of who are the abutting property
16 owners?

17 MR. DAVIDSON: The two abutting property owners
18 are the Zoo and the Klingle Corporation.

19 MR. MENDELSON: So it's only two property owners?

20 MR. DAVIDSON: That's correct.

21 I'm sorry, and the Park Service as it goes down
22 toward Klingle Road.

23 MR. MENDELSON: So there would be three?

24 And there's no agreement in writing at this point
25 regarding this?

26 MR. DAVIDSON: That's correct.

27 MR. MENDELSON: Thank you.

1 My other question concerns a clarification of some
2 questioning that Mr. Parsons initiated concerning the restoration of
3 interior spaces.

4 One of the letters that was in the prehearing
5 statement is from the Preservation League and it says, among other
6 things, "We would very much like to see restoration of the original
7 building's lobby, ballroom and other public spaces."

8 And if I remember correctly, Mr. Saul's response was
9 that they were going to upgrade the lobby. And I would like some
10 clarification of whether it's restoration or not.

11 MR. SAUL: Yeah, Mr. Goode is on our development
12 team as a consulting architectural historian, and he is actually going to
13 be helping us. And you're correct; it is a restoration more than an
14 upgrade. We are going to endeavor to the best that we can using
15 photographs and the plans that we have to, for example, refabricate
16 the original chandeliers and other ornaments that used to be in the
17 main lobby.

18 MR. MENDELSON: So it's your testimony that, as
19 part of this Planned Unit Development proposal, that the lobby will be
20 restored to the best of your ability to --

21 MR. SAUL: That is correct.

22 MR. MENDELSON: -- match plans?

23 MR. SAUL: That is correct.

24 MR. MENDELSON: And regarding the other public
25 spaces that are mentioned, the ballroom, that would not be restored?

26 MR. SAUL: At this time, that is not part of the -- show
27 a picture of the ballroom.

1 MR. MENDELSON: That would not be --

2 MR. SAUL: That is not part of the plan at this time.

3 MR. MENDELSON: And I'm not sure what other
4 public spaces the Preservation League was referring to in its letter, do
5 you, within the building?

6 MR. SAUL: I don't know.

7 MR. MENDELSON: Other meeting rooms or
8 hallways?

9 MR. SAUL: No, I don't.

10 MR. MENDELSON: And that's not something they've
11 discussed with you?

12 MR. SAUL: No.

13 MR. MENDELSON: Thank you. I have no other
14 questions.

15 UNIDENTIFIED SPEAKER: Madame Chairperson, if
16 you care to, the picture that's now sort of showing ont he screen is a
17 picture of the ballroom as it exists. If Mr. Colby will shut the light, we
18 may be able to see it better.

19 CHAIRPERSON KRESS: And the point is responding
20 to the fact that it is in fairly good condition --

21 UNIDENTIFIED SPEAKER: Yes, ma'am.

22 CHAIRPERSON KRESS: -- as compared to the
23 lobby, which is perhaps been changed or modified and can suffice for
24 a period of time until it can be restored and upgraded later?

25 UNIDENTIFIED SPEAKER: Correct.

26 Thank you.

27 CHAIRPERSON KRESS: Thank you, Mr. Mendelson.

1 Next I'd like to ask the Kennedy Warren Residents
2 Association. I have Richard Netler.

3 Do you have any cross examination for the Applicant?
4 Is he -- oh, he's not here.

5 May I ask who's here? Is Ms. Browne --

6 MS. BROWNE: We have no questions.

7 CHAIRPERSON KRESS: You have no questions?

8 Thank you.

9 The Cathedral Park Condo Association, Andrea
10 Newmark, you have cross examination?

11 MS. NEWMARK: Thank you very much.

12 CHAIRPERSON KRESS: You have to have the mike
13 or no one will hear you. I mean, they will hear you, but it will not be
14 recorded on the record.

15 MS. NEWMARK: Yes, I want --

16 CHAIRPERSON KRESS: It's not on I don't think yet,
17 is it?

18 MS. NEWMARK: On?

19 CHAIRPERSON KRESS: Now we've got you.

20 MS. NEWMARK: Thank you.

21 I think I'll just begin by going backwards in my notes
22 since I'm open to that page. And the last thing that was talked about
23 was the D.C. Preservation League. And I guess my question is for
24 either Mr. Feola or Mr. Davidson since they're the people that I'm
25 aware of that received these faxes.

26 But do you recall having a communication with -- from
27 Sally Burke in the last few days concerning the use of the D.C.

1 Preservation League's letters in this proceeding?

2 Mr. Feola or Mr. Davidson.

3 MR. FEOLA: Probably more appropriate to direct that
4 to Mr. Parsons. He asked the question.

5 CHAIRPERSON KRESS: I'm sorry, there was a
6 response dealing with the Preservation League.

7 MR. FEOLA: A response to a question Mr. Parsons
8 asked.

9 CHAIRPERSON KRESS: Then I don't understand
10 your question. You're asking if there has been receipt of a letter -- can
11 you say what it's regarding? That would help us clarify who should be
12 answering it.

13 MS. NEWMARK: Yes, it's regarding the D.C.
14 Preservation League's request that their letters of support not be used
15 in any way in the zoning proceeding, and I have copies of the letter
16 that was faxed to Hartman & Cox, the architects, and a letter from her
17 saying that she spoke to Phil Feola about that as well.

18 And I'm simply ask -- I'm trying to establish this.

19 CHAIRPERSON KRESS: And what was the basis for
20 them asking -- I'm sorry, I'm trying to get to who -- where the testimony
21 occurred on this because you're only asking questions now and you're
22 not testifying.

23 MS. NEWMARK: Right.

24 CHAIRPERSON KRESS: And if this has not been
25 testified to, then you need to testify to it when you speak. What was
26 their basis for revoking their use of their letters?

27 MS. NEWMARK: Well, my understanding -- this is

1 what she told me -- was that she was very --

2 MR. FEOLA: I'm going to object. This is very --

3 CHAIRPERSON KRESS: Please -- I'm sorry, I'm
4 fumbling here.

5 MR. FEOLA: I mean, what Ms. Burke told Ms. --

6 CHAIRPERSON KRESS: No, I was asking what the
7 letter said. I really wasn't asking for an opinion. If the letter's not clear
8 on what's going on, then we will hold it until your testimony and you
9 can refer to them and put them in the record.

10 MR. FEOLA: If I may respond very briefly. The
11 Preservation League wrote a letter in support of this project months
12 ago, and we placed it in our prehearing submission. It was due to be
13 filed 60 days prior to today. On -- what's the date of that letter?

14 MS. NEWMARK: January 3rd.

15 MR. FEOLA: Friday Ms. Burke faxed us a letter
16 asking us not to use the Preservation League's letter of support as
17 part of this presentation in support of our PUD application. Hopefully
18 the record will show we did not do that as she requested.

19 What we did though is when Mr. Parsons asked a
20 question about the letter, that had already been placed in the package
21 which we didn't know had restrictions on it when we filed it. So my
22 point is that the Applicant honored the Preservation League's request
23 not to make it a part of the zoning application presentation.

24 COMMISSIONER FRANKLIN: Is it your
25 understanding that the D.C. Preservation League no longer endorses
26 this project?

27 MR. FEOLA: I can't answer that, Mr. Franklin. We

1 presented the project twice to the Issues Committee for the
2 Preservation League. The Preservation League wrote two letters in
3 support to the Historic Preservation Review Board.

4 We have not been back to see them since then until
5 we got this letter. And I also got a phone call, as Ms. Burke indicated
6 in her letter, from her asking us not to do it, so we honored that
7 request. That's all I know. We have not been back before their Issues
8 Committee.

9 CHAIRPERSON KRESS: All right, thank you.

10 And you can then in your testimony add anything at
11 that point.

12 MS. NEWMARK: Okay, okay.

13 I believe it was Mr. Davidson that I'm directing this to
14 concerning the rear yard and whether or not it was measured using
15 the right of way on Jewitt Street. And I just wanted to clarify
16 something because in your -- you made a lot of presentations to like
17 the Cleveland Park Neighborhood Association, Cathedral Park and so
18 on, is that right?

19 MR. DAVIDSON: That's correct.

20 MS. NEWMARK: And explained that the rear and the
21 extra footage needed?

22 MR. DAVIDSON: That's correct.

23 MS. NEWMARK: And when you made those
24 presentations and you were pointing and showing how it was
25 measured, did you explain that it was being measured in the manner
26 that you've described tonight?

27 MR. DAVIDSON: I certainly intended that to be the

1 case, yes.

2 (Laughter.)

3 MS. NEWMARK: Okay.

4 Okay, the next thing, going backwards in my notes,
5 concerns the Kennedy Warren tenants' agreement with their landlord.
6 And I'd like --

7 CHAIRPERSON KRESS: Are you referring to the
8 construction management plan?

9 MS. NEWMARK: No, the memorandum of agreement
10 that they would support the -- that they would be a party in support in
11 exchange for various repairs to the building. Do you have --

12 CHAIRPERSON KRESS: That's not in the record.

13 MS. NEWMARK: Oh, I'm sorry. I didn't know that.

14 CHAIRPERSON KRESS: That can be entered if
15 somebody so wishes later.

16 MS. NEWMARK: Well, I only have a draft as of -- I
17 guess it was yesterday or something. But I'm sure someone has the
18 final. I think it --

19 CHAIRPERSON KRESS: Well, perhaps somebody
20 can testify and put it in and --

21 MS. NEWMARK: Okay.

22 CHAIRPERSON KRESS: -- let us know the status of
23 it --

24 MS. NEWMARK: Okay.

25 CHAIRPERSON KRESS: -- throughout these
26 proceedings.

27 MS. NEWMARK: Okay. Well, would it -- why don't I

1 just ask questions then about the items that Mr. Saul testified to about
2 that agreement?

3 CHAIRPERSON KRESS: If he has testified to them,
4 you may.

5 MS. NEWMARK: Yes, I remember he just said that
6 he was going to upgrade the roof, repair the roof, replace carpet, paint
7 the halls, fire systems, handicapped accessibility, is that correct?

8 That is Mr. Saul, right?

9 Do you consider repairs to the roof to be an upgrade?

10 MR. SAUL: I'm not sure what your point is.

11 MS. NEWMARK: My point is you called it an upgrade
12 and I just want to clarify whether that's something that --

13 MR. SAUL: It is part of the plan that we have agreed
14 to with the Kennedy Warren Residents Association. Parts of it are
15 upgrades, parts of it are repairs.

16 MS. NEWMARK: Which part is this?

17 MR. SAUL: I would call it a roof replacement.

18 MS. NEWMARK: Okay, is this something that they
19 had ever asked you for prior to negotiating this agreement?

20 MR. SAUL: Not that I recall. I mean, we've certainly -
21 -

22 CHAIRPERSON KRESS: You have time for
23 testimony later.

24 MR. SAUL: I was going to say it has been a problem.
25 We've replaced 60% of the roof. Since we have started talking about
26 the expansion, it has been something that we have talked about with
27 the Residents Association. Previous to that, I was not party to any

1 conversation with the Residents Association about the roof.

2 MS. NEWMARK: Well, if the residents were to claim
3 that they had made this request to whoever the appropriate person
4 was, would that be lying or -- I mean, do you have any reason to
5 believe --

6 MR. SAUL: No, no.

7 MS. NEWMARK: -- that that hasn't happened?

8 MR. SAUL: It would probably go to the property
9 manager, yes.

10 MS. NEWMARK: Okay. And the property manager --
11 it would be someone's responsibility to pass it along ultimately to you
12 or whoever's responsible to do it?

13 MR. SAUL: Yes.

14 MS. NEWMARK: Okay. And would that be the same
15 for painting the halls?

16 MR. SAUL: Sure.

17 MS. NEWMARK: And what about --

18 MR. FEOLA: I'm going to object to this. This really
19 wasn't any part of Mr. Saul's direct testimony. It was a response to
20 Mr. Croft's questioning about what was in the agreement. The
21 agreement's not in the record. The negotiations that went along with
22 the tenants' association Ms. Newmark wasn't party to.

23 And I'm not sure where this line of questioning goes
24 and whether it's going to zoning or what. So I just object for the
25 record.

26 MS. NEWMARK: Could I respond?

27 CHAIRPERSON KRESS: Just a moment.

1 I would like to suggest that this line of questioning be
2 directed towards the adverse impact and the point. I think you have a
3 point, and I'll allow you to continue with one more question here, but I
4 do think also that Mr. Feola has a point and we're not seeing the
5 relevance of this to the zoning hearing and the PUD.

6 MS. NEWMARK: If I could tie it in --

7 COMMISSIONER BENNETT: Especially -- let me
8 hone in on -- let me refine that some.

9 We're interested in, as you cross examine on behalf
10 of your own residents, what kinds of questions you might put to the
11 applicant based on their testimony regarding any adverse impact that
12 might take place on you.

13 You know what I'm saying? You and your residents
14 at 3100. That's where we're -- that's what we're looking for from you
15 both in your ability to cross examine and pull out some answers, but
16 also in your direct. So --

17 MS. NEWMARK: Does it count as an adverse impact
18 that the tenants' association changed from being an opponent to
19 supporting so they could get these repairs done which does adversely
20 impact on us?

21 COMMISSIONER FRANKLIN: Well, the repairs as
22 such don't adversely impact on you.

23 MS. NEWMARK: Right.

24 COMMISSIONER FRANKLIN: You might believe you
25 are adversely impacted if the project goes forward, but the repairs and
26 their nature don't impact on you.

27 (Inaudible comment from an unmiked location.)

1 CHAIRPERSON KRESS: You're out of order.

2 MS. NEWMARK: I think that what I was trying to do --
3 and if this is inappropriate, please tell me. But what I was trying to do
4 -- we believe that the entire project adversely impacts on us, and so
5 I'm trying to pull out some of the areas in which I think the project
6 doesn't meet the PUD requirements.

7 And they're talking about upgrades and things like
8 that. I'm sure they're going to call them amenities or benefits or
9 preserving an old building. And I'm simply trying to point out that in
10 fact what they're just doing are repairs they should have done years
11 ago and that that shouldn't be allowed to count as an amenity.

12 (Applause.)

13 COMMISSIONER BENNETT: Having said that for
14 the record --

15 CHAIRPERSON KRESS: Actually, you've testified
16 and you're not supposed to be, but I think the point has been made.

17 MS. NEWMARK: I have to mention -- by the way, I
18 believe the applause came from people I don't know so they must be
19 Kennedy Warren people, not --

20 (Applause.)

21 CHAIRPERSON KRESS: Please don't make me
22 keep calling you out of order.

23 MS. NEWMARK: I'm sorry.

24 MR. SAUL: If I might respond, the building remains
25 100% occupied. Virtually apartments turn over, they're down, they're
26 cleaned, repainted, and they are released within a month virtually
27 every time.

1 If it's that bad, people are -- it's a free society. They
2 are entitled to move out. So I would suggest that it's probably not
3 quite as bad. I think you saw some of the photos, and it's a very
4 attractive building to live in.

5 MS. NEWMARK: I certainly agree. And have you
6 done any projections or studies as to what the occupancy rate will
7 likely be once construction begins?

8 MR. SAUL: Yes, we have. We expect it to maintain a
9 high occupancy level.

10 MS. NEWMARK: Who did that study?

11 MR. SAUL: We did internally.

12 MS. NEWMARK: Is that -- could we get a copy of
13 that?

14 MR. SAUL: No.

15 CHAIRPERSON KRESS: It's internal.

16 MS. NEWMARK: Okay.

17 I have a question for Mr. Slade.

18 Mr. Slade, I believe, testified that the big cross
19 streets, Calvert Street and Cathedral Avenue and Woodley, are the
20 ones that set the pace for the area. And I just wanted to ask if he
21 included any data on those streets, those intersections, in his study?

22 MR. SLADE: No.

23 MS. NEWMARK: Okay.

24 My next question is for Mr. Davidson who was
25 discussing the Jewitt Street set back which I believe Commissioner
26 Parsons referred to as a donation to the Zoo. Do you have any idea
27 of how the Zoo expects or plans to use its share of the right of way?

1 MR. DAVIDSON: No.

2 MS. NEWMARK: Was it discussed with you?

3 MR. DAVIDSON: No.

4 MS. NEWMARK: Could I ask the rest of the team if it
5 was discussed with them?

6 CHAIRPERSON KRESS: I would just ask the owner
7 or the owner's representative, Mr. Feola.

8 MS. NEWMARK: Whoever might know.

9 MR. FEOLA: My understanding, and this is just a
10 phone conversation with Mr. David Murphy who was here, I don't
11 know if he still in, from the National Park Service, is that the entire 50
12 foot right of way would be a tree preservation area.

13 You'll have to ask him exactly what he meant by that.

14 MS. NEWMARK: I'm sorry, who said that?

15 MR. FEOLA: Mr. David Murphy from the National
16 Park Service.

17 MS. NEWMARK: David Murphy.

18 CHAIRPERSON KRESS: He will -- Ms. Newmark, he
19 will be testifying and you will also have the right to cross him.

20 MS. NEWMARK: Excellent. Okay.

21 MR. FEOLA: But I don't know the specifics, which
22 trees would be saved yet and so forth. We haven't gotten to that level.

23 MS. NEWMARK: Well, did you -- apart from Mr.
24 Murphy, did you have discussions with the Zoo about it?

25 MR. FEOLA: We had discussions with the Zoo about
26 the project. And in fact, there's a letter from the Zoo supporting the
27 project. But we did not talk about this right of way which, at the time

1 we discussed it with them, as I said, until Thursday of last week, we
2 didn't know anybody wanted that right of way.

3 We had no intention of closing -- the Applicant had no
4 intention of closing that street or applying to close that street.

5 MS. NEWMARK: Will they be here for us to cross
6 examine, somebody from the Zoo?

7 MR. FEOLA: I have no idea.

8 CHAIRPERSON KRESS: No.

9 MS. NEWMARK: They won't?

10 CHAIRPERSON KRESS: Oh, are they on the
11 witness list? I don't have --

12 MS. NEWMARK: I thought I saw that someplace.

13 CHAIRPERSON KRESS: I don't have a current
14 witness list. I don't have one.

15 (Inaudible comment from an unmiked location.)

16 COMMISSIONER BENNETT: Okay, Ms. Robin
17 Vassar is here from the Zoo and will be testifying.

18 CHAIRPERSON KRESS: Thank you.

19 MS. NEWMARK: Okay, well I'll save my questions
20 then for the Zoo people. I didn't realize somebody was here.

21 Now this -- again, I think if the Commission doesn't
22 have a problem, I'd like to just address my questions to the whole
23 team because I don't know necessarily who the right person is to
24 answer.

25 CHAIRPERSON KRESS: Well, perhaps Mr. Feola
26 could act as the moderator or --

27 MS. NEWMARK: That would be fine with me.

1 CHAIRPERSON KRESS: -- and either answer or
2 refer the right person if the question's in order.

3 MS. NEWMARK: Okay.

4 I'd rather he referred the person than answer because
5 I'd like it from the witness who has the actual knowledge.

6 MR. FEOLA: I'd prefer that too.

7 MS. NEWMARK: Okay, there was a discussion of
8 parking during the construction phase of the plan. Mr. Parsons asked
9 about the carpooling arrangement. And I wanted to know what
10 studies have been done as to how many workers we're talking about
11 here?

12 UNIDENTIFIED SPEAKER: We don't know.

13 MS. NEWMARK: So that hasn't been looked at?

14 UNIDENTIFIED SPEAKER: It has. Our construction
15 consultant was supposed to be here tonight, but they're not; and I
16 don't recall.

17 MS. NEWMARK: Okay. Will you be providing that
18 information?

19 MR. FEOLA: If the Commission cares to see that
20 information, we will provide that information.

21 CHAIRPERSON KRESS: I'm sorry, I was getting
22 some water and I didn't hear the question.

23 MR. FEOLA: The question had to do with how many
24 construction workers would be on this job I assume over, what,
25 months and what period of time.

26 MS. NEWMARK: The reason I asked it was in
27 relation to Mr. Parsons' questions concerning carpooling. We're trying

1 to determine the magnitude of cars even with carpools that are going
2 to be visiting the site on busy Connecticut Avenue in the morning.

3 CHAIRPERSON KRESS: One moment.

4 Mr. Parsons?

5 COMMISSIONER PARSONS: They expanded on
6 number nine in this submission they gave us here tonight about the
7 concept of remote parking lots and van rides and that kind of thing.
8 And the number of construction workers certainly would be a part of
9 that I would hope.

10 MR. FEOLA: Sure, be happy to.

11 CHAIRPERSON KRESS: Thank you.

12 Please continue.

13 MS. NEWMARK: Along the same line, meaning
14 parking and traffic, and this is probably for Mr. Slade, I want to ask you
15 if you got parking and traffic data from the National Zoo and if you
16 used that in your study?

17 MR. SLADE: We did not.

18 MS. NEWMARK: Did you attempt to?

19 MR. SLADE: We met with the Zoo this summer and
20 they put us in touch with their consultant. And we did attempt to
21 during the summertime but have not done so since.

22 MS. NEWMARK: You attempted to get the data?

23 MR. SLADE: Yes, and were unsuccessful.

24 MS. NEWMARK: You were unsuccessful?

25 MR. SLADE: They were not able to release it to us.

26 MS. NEWMARK: Why not?

27 MR. SLADE: The client was not ready to have them

1 release it to us -- to anyone.

2 MS. NEWMARK: So they wouldn't show it to you?

3 MR. SLADE: No.

4 MS. NEWMARK: Okay.

5 Would that data have been useful in doing your traffic
6 and parking study?

7 MR. SLADE: I don't know.

8 MS. NEWMARK: You don't know?

9 MR. SLADE: I haven't seen it.

10 MS. NEWMARK: Well, wouldn't you, as a traffic
11 consultant that's doing the study of the traffic of the Kennedy Warren
12 next to the Zoo, find the traffic and use of the Zoo's facilities useful?

13 MR. SLADE: If the Zoo was ready to announce a
14 change in the way they operated, yes; it would definitely have been
15 useful. But since they weren't ready to announce any change in the
16 way they operate --

17 MS. NEWMARK: Wouldn't you like to know how they
18 operate now, how many cars go in and out, how much visitor activity
19 there is, how their parking lots are utilized, the parking lots that you
20 say that you use -- that you rent occasionally from them where you put
21 the construction workers?

22 MR. SLADE: We know how the driveway which is
23 adjacent to the Kennedy Warren driveway is utilized during the
24 commuter peaks, and that's the information we needed to have. And
25 we did get that by our own observation and surveys.

26 MS. NEWMARK: Do you know how many of the
27 existing tenants at the Kennedy Warren presently use on street

1 parking?

2 MR. SLADE: No.

3 MS. NEWMARK: I'd like to ask the team if they have
4 that information?

5 MR. FEOLA: Nobody testified to it, so I'm not sure
6 what Ms. Newmark's getting to.

7 CHAIRPERSON KRESS: I did -- yes, you need to
8 speak on the mike.

9 It would probably be good if you wouldn't mind sitting
10 there, Mr. Feola, until this is completed.

11 MR. FEOLA: Yes, ma'am.

12 CHAIRPERSON KRESS: I did ask several questions
13 regarding that. I think the answer is the answer, what you've given.
14 I'm just saying I think it's an appropriate question and I think you've
15 answer it.

16 MR. FEOLA: To my knowledge, no one on our team
17 has that information.

18 MS. NEWMARK: Mr. Slade, would you find that
19 information useful in doing your parking assessments and projections?

20 MR. SLADE: We made an assumption that the
21 characteristics of the existing tenants and the future tenants will be
22 similar because that's the market that this addition is intended to
23 serve. And therefore, the information we obtained about current
24 usage of the garage by tenants was all that we needed to project
25 future usage of the garage by tenants.

26 MS. NEWMARK: Well, I'm confused. And maybe
27 you can clarify this for me because I thought Mr. Saul said that

1 because the rental was so high in the new building, it was going to be
2 a very different kind of tenant than the rent controlled old building.

3 MR. FEOLA: I object.

4 You're testifying and he did not say that.

5 CHAIRPERSON KRESS: You're testifying and I do
6 disagree with what you summarized.

7 MS. NEWMARK: Okay, I stand corrected.

8 But let me ask it as a question then. That was my
9 recollection. I apologize if I misstated it. But somebody on the team --
10 and I don't remember which one of you. Probably Mr. Saul.

11 I'd like to ask you, do you recall stating at the
12 Cleveland Park Neighborhood Association meeting Saturday that the
13 rental was going to be two dollars a foot and that -- for an average
14 rental of \$1,800 a month in the units in the new wing?

15 Do you remember that?

16 MR. SAUL: I did estimate that that would be an
17 average rent over a range of units, yes.

18 MS. NEWMARK: Okay. So then let me pose it as a
19 question to you, Mr. Slade. I mean, do you think that you can really
20 make an accurate projection for that kind of building, for that kind of
21 projected tenancy based on the utilization in an older building which
22 we've heard stated was rent control and where the rents are
23 considerably less?

24 MR. SLADE: I don't think anybody stated that the
25 rents are considerably less. There's a much broader range in the
26 existing --

27 MS. NEWMARK: What is the range?

1 MR. SLADE: Yeah, it ranges from \$450 a month to
2 actually \$3,500 a month per unit.

3 MS. NEWMARK: How many units would you say are
4 above, let's say, \$1,000 a month -- what portion of the building?

5 MR. SLADE: At least half. Probably more than that.

6 MS. NEWMARK: Is this data that you, Mr. Slade,
7 would find useful as an expert in this field to sort of compare the kind
8 of tenants that are in the old building and the new one and --

9 MR. FEOLA: Again, this is way past what has been
10 testified in direct. I mean, this is --

11 MS. NEWMARK: I don't think so.

12 MR. FEOLA: I mean, she's asking questions about
13 what somebody said at a Cleveland Park meeting held not in this
14 room, not on the record, and I just don't see the relevance.

15 MS. NEWMARK: I'm questioning the facts used in
16 the study.

17 MR. FEOLA: If she has information she'd like to put
18 in direct by witnesses as to what she understands happens in this
19 building, she can do that.

20 CHAIRPERSON KRESS: I would agree, Mr. Feola. I
21 think that the intersection here though is -- and correct me, Ms.
22 Newmark, if I'm incorrect. The type of tenant who is likely to drive, for
23 instance, is something that Mr. Slade did look at by unit size, I believe,
24 and I forget what other variable.

25 And what it sounds like she's getting at is can you
26 also look at income by unit cost and whether or not the type of person
27 who is able to rent at \$1,000 a month and above is more likely to

1 drive. Is that where you're going?

2 MS. NEWMARK: Well, it's that and -- and is more
3 likely to be a two car family such as a professional couple or a
4 different kind of tenant than you would have that would have one or no
5 car.

6 CHAIRPERSON KRESS: So I think it's fair, without
7 getting into, you know, what somebody said at a meeting -- I think it's
8 fair to ask if there is another variable that you would look at when
9 you're trying to gauge how -- what that garage usage is going to be
10 and whether or not you had a chance to take a look at that by cost of
11 the unit as well as per family size and the like.

12 COMMISSIONER BENNETT: If that is a variable.

13 UNIDENTIFIED SPEAKER: This might help
14 somewhat in answering that question. We did an average income
15 analysis of tenants that have moved in the building within the last ten
16 years, and the average income is about \$70,000. And we estimate
17 that that is within a range -- the exact type of tenant that we expect to
18 be leasing the new building to.

19 So that is part of the analysis that went into the
20 projections for demand in the new building.

21 COMMISSIONER BENNETT: And Mr. Slade, have
22 you had an opportunity to determine what the likelihood is of such
23 families being more predisposed to owning cars versus other families
24 and then what proportion of them will be likely to move into the new
25 wing?

26 MR. SLADE: Ms. Bennett, with regard to the study
27 we did for this project, we did not look at income as a determining

1 factor of auto ownership. It's my opinion that, while if you looked at a
2 broad range of data city wide or metropolitan area wide, income would
3 be a factor in auto ownership.

4 I don't think within the microcosm of the 200 people
5 that are going to live in this building you're going to find any correlation
6 that's statistically significant. We saw in a chart that I had on the wall
7 a little while ago that people -- one of the categories of larger
8 apartments have less cars per unit than in the smaller apartments.

9 There's simply not data to prove this hypothesis one
10 way or the other, and that's why we didn't even get into it. You know, I
11 think we're safe to say that the market is going to be similar, the
12 people are going to have similar characteristics.

13 They're coming here because it's a convenient place
14 to live where you can use Metro. They may or may not have a car
15 depending on their needs outside of their work.

16 [End Tape 2, Side 1.]

17 [Begin Tape 2, Side 2.]

18 MR. SLADE: And it's going to vary a bit. And we've
19 got 36 or more spaces, we believe, in excess of what we really need.
20 And we're four times what we need to meet zoning requirements. I
21 think what we're doing here is what you're supposed to do in a city
22 with an apartment building is to bring people near Metro and provide
23 them with parking so they don't have to park in the neighborhood.

24 If you look at the other apartment buildings in the
25 neighborhood, we're vastly in excess of what they all provide. And if
26 there's a parking problem in the neighborhood, it's not caused by the
27 Kennedy Warren Apartments.

1 COMMISSIONER BENNETT: Thank you.

2 Ms. Newmark, you got that answer, right?

3 CHAIRPERSON KRESS: Well, we're really not
4 asking questions. Is this to the exact same one? I believe what Ms.
5 Bennett was doing was rephrasing Ms. Newmark's question so she
6 could -- the answer could be given since it was objected to.

7 If it's the same thing, we could -- you may ask it.
8 Otherwise, we're not going to ask a question at this point.

9 MS. NEWMARK: I'm going to change gears now.
10 Mr. Slade will be happy to know. And I would like to ask Mr. Shearer
11 a few questions about the zoning.

12 The .29 difference in the FAR that you referred to,
13 how did you arrive at that figure?

14 MR. SHEARER: Under the R-5-E zoning, a matter of
15 right FAR is 6.0. Under the PUD plan as submitted with the slight
16 modifications that have been discussed already about removing the
17 retail and so forth, the FAR is 6.29, a difference of .29.

18 MS. NEWMARK: What is your current zoning?

19 MR. SHEARER: Current zoning is R-5-D as in dog.

20 MS. NEWMARK: D. And what is the FAR for R-5-D?

21 MR. SHEARER: 3.5.

22 MS. NEWMARK: 3.5. So you're really going from 3.5
23 to 6.27 if this is approved in terms of what your permissible FAR under
24 the zoning regulation would be?

25 MR. SHEARER: Well, we're really going -- yes.

26 MS. NEWMARK: Thank you.

27 (Laughter.)

1 MR. SHEARER: But there's more than that FAR on
2 the site now, but if you're talking about what's permitted under R-5-D,
3 it's 3.5. What is proposed is 6.29.

4 MS. NEWMARK: Right.

5 As far as the more that you referred to that's on the
6 site now, is that what the zoning regulations call a nonconforming use
7 that was already there?

8 MR. SHEARER: No, it's not.

9 MS. NEWMARK: No?

10 MR. SHEARER: It's a nonconforming structure.

11 MS. NEWMARK: Oh, a nonconforming structure.

12 Excuse me, I'm not a zoning expert.

13 But I do recall reading that. And is the rule that a
14 preexisting building -- you know, when something is rezoned, the
15 preexisting building is -- it's okay for it to be over the FAR because it
16 was already over it when they rezoned the area?

17 MR. SHEARER: Is that the rule? Yes, that's correct.

18 MS. NEWMARK: Okay. And how many times has
19 this be rezoned since the 1930's, do you know?

20 MR. SHEARER: No.

21 MS. NEWMARK: No? Was there some
22 comprehensive rezoning in 1958?

23 MR. SHEARER: The entire city was rezoned with the
24 adoption of new regulations on May 12, 1958.

25 MS. NEWMARK: And was there something in 1981,
26 do you know?

27 MR. SHEARER: I don't recall anything that applied to

1 this site in 1981, but I did not research that.

2 MS. NEWMARK: Okay. What about 1994; was that
3 when the Ward 3 plan was passed?

4 MR. SHEARER: Yes, the Comprehensive Plan
5 Amendments Act of 1994 included a Ward 3 plan.

6 MS. NEWMARK: Okay.

7 MR. SHEARER: Somewhere in there -- and this may
8 be what you're asking about in 1981. No, it was later than that. The
9 Zoning Commission adopted a new R-5 district which they designated
10 R-5-C. And what had been R-5-C became R-5-D. And what had
11 been R-5-D became R-5-E.

12 But the substantive provisions did not change as a
13 result. That was early 1990's, I believe. But it has no bearing on the
14 substance.

15 MS. NEWMARK: No, that's not what I was asking.

16 MR. SHEARER: Okay.

17 MS. NEWMARK: But thank you; it was interesting.

18 MR. SHEARER: Well, then I don't know what else.

19 MS. NEWMARK: No, I'd like to look actually at the
20 1994 master plan. You testified that -- a little bit about what historic
21 preservation is supposed to be. And you said that it was about
22 "assigning additions to be compatible" I wrote down is the quote. You
23 were talking about that as --

24 CHAIRPERSON KRESS: Designing.

25 MR. SHEARER: I think it was designing.

26 MS. NEWMARK: Designing?

27 MR. SHEARER: Yes.

1 MS. NEWMARK: Thank you.

2 CHAIRPERSON KRESS: Designing.

3 MS. NEWMARK: It didn't look like it made sense.

4 COMMISSIONER BENNETT: Designing additions --

5 MS. NEWMARK: To be compatible.

6 COMMISSIONER BENNETT: -- to be compatible.

7 MS. NEWMARK: Right.

8 Now, does that mean that you're supposed to
9 affirmatively go out and design additions, or does that mean that when
10 you design them and when they otherwise are appropriate, that they
11 should be compatible with the historic structure?

12 CHAIRPERSON KRESS: Just say yes.

13 (Laughter.)

14 MR. SHEARER: Could be either, --

15 MS. NEWMARK: Good call.

16 MR. SHEARER: -- but I suspect it probably means
17 more the latter.

18 MS. NEWMARK: Yes.

19 MR. SHEARER: I'll quote the sentence.

20 "The design of" -- this is Section 805.18,
21 comprehensive plan.

22 "The design of additions should be compatible with
23 the height, scale, materials, color, texture, and character of the historic
24 property."

25 MS. NEWMARK: Right. So it's not saying that one of
26 the things the comprehensive plan looks for is for people to add to
27 historic property?

1 MR. SHEARER: Not necessarily, no.

2 MS. NEWMARK: It's just saying that when you do,
3 right.

4 And in fact, the master plan talks about that also,
5 doesn't it, about ensuring the new development is compatible with
6 historic features, is that right?

7 MR. SHEARER: Yeah, I think so.

8 MS. NEWMARK: All right.

9 Is there anything in either the comprehensive plan or
10 the master plan that suggests that it is a desirable thing to -- that
11 adding to historic landmarks -- adding additions is one of the policies
12 favored by the plan as opposed to simply making sure that when
13 they're added, they're compatible?

14 MR. SHEARER: There are policies in the
15 comprehensive plan that do talk about adaptive reuse and additions
16 and things that would encourage the preservation of historic buildings;
17 yes, there are.

18 COMMISSIONER: The preservation of historic
19 buildings, is that what you said?

20 MR. SHEARER: Yes.

21 MS. NEWMARK: All right. Well, isn't there a different
22 between preserving an existing object and creating a new one?

23 MR. SHEARER: Yes.

24 COMMISSIONER BENNETT: Can I ask where you're
25 going?

26 MS. NEWMARK: Yes, you can.

27 I'd say the principal benefit or amenity that the

1 Applicant is claiming qualifies it for PUD status is this historic
2 preservation, the idea that they're completing the building according to
3 its original plan, and I don't believe that that's what the historic
4 preservation amenity listed in the PUD regulations means.

5 I think --

6 COMMISSIONER BENNETT: Okay, well -- and you
7 know you'll get a chance to elucidate on that in your direct, right?

8 MS. NEWMARK: That's fine. If that's the place to do
9 it, that's fine.

10 CHAIRPERSON KRESS: That's the place to do it.

11 MR. SHEARER: At the risk of prolonging the
12 discussion, that wasn't what I said the principal amenity was anyhow.

13 MS. NEWMARK: Okay.

14 Mr. Davidson, I recall you testifying that there were
15 two areas that didn't meet the current zoning requirements, the rear
16 yard and the penthouse. Is that -- are you suggesting that the FAR
17 does meet the current zoning requirements?

18 MR. DAVIDSON: It will under the PUD, yes.

19 MS. NEWMARK: What?

20 MR. DAVIDSON: It will under the PUD, yes.

21 MS. NEWMARK: No, I didn't say will; I said does
22 now.

23 MR. DAVIDSON: Well, no; of course not.

24 MS. NEWMARK: Okay.

25 MR. DAVIDSON: We didn't testify to that.

26 MS. NEWMARK: Okay.

27 Madame Chairperson, would it be appropriate to go

1 back to the last two slides that Mr. Davidson showed during his
2 presentation?

3 CHAIRPERSON KRESS: Sure.

4 MS. NEWMARK: They were -- it was --

5 CHAIRPERSON KRESS: The floor plans?

6 MS. NEWMARK: No, no; they were pictures of the
7 building.

8 CHAIRPERSON KRESS: As part of his testimony?

9 MS. NEWMARK: It was part of his testimony. I jotted
10 down that it was the last two slides.

11 Right, okay; that's exactly it.

12 Could you describe what this is? I mean, I --

13 MR. DAVIDSON: This is --

14 MS. NEWMARK: This was described as the way the
15 building would look, is that correct?

16 COMMISSIONER BENNETT: No, don't testify for
17 him.

18 MS. NEWMARK: Okay.

19 COMMISSIONER BENNETT: Let him --

20 MS. NEWMARK: Go ahead. Would you describe
21 what that is?

22 CHAIRPERSON KRESS: Repeat what that is, yes.

23 MR. DAVIDSON: This is a slide that was taken at the
24 corner of Devonshire Place and Connecticut Avenue which is just to
25 the -- on the north side of the Kennedy Warren. And that is the side of
26 the building on which the existing addition has been built next to the
27 entrance.

1 In order to give a sense of what the building would be
2 like on the south since the south wing is exactly like the north, --

3 MS. NEWMARK: Wait a minute. So --

4 MR. DAVIDSON: -- we simply reversed the slide.

5 MS. NEWMARK: Well, -- oh, you reversed the slide?

6 COMMISSIONER BENNETT: He flipped the slide to
7 make a point.

8 MS. NEWMARK: I see.

9 CHAIRPERSON KRESS: To give a feel for what it's
10 going to be like when --

11 MS. NEWMARK: Okay, okay, okay.

12 Can we look at the next picture and then maybe we'll
13 come back to this?

14 Right, okay. And what does that one represent?

15 MR. DAVIDSON: And this is Younger's drawing from
16 virtually the same vantage point as that slide might be taken in three
17 or four years.

18 MS. NEWMARK: Isn't something missing from this
19 drawing?

20 CHAIRPERSON KRESS: This is the original drawing
21 done by the original architect.

22 MS. NEWMARK: I think something is missing from
23 the original drawing done by the original architect. Here you have the
24 north wing looking just like the south wing, when in fact the south wing
25 has two of these abutments over here as opposed to just one.

26 This looks very symmetrical, but that's --

27 MR. FEOLA: It sounds an awful lot like testimony to

1 me.

2 CHAIRPERSON KRESS: Yeah, that sounds like
3 testimony. You're reading the drawing wrong. But --

4 MS. NEWMARK: I don't think so.

5 CHAIRPERSON KRESS: It's not complete. The
6 drawing isn't complete. It's a partial rendering.

7 MS. NEWMARK: Is this a partial rendering or is this
8 complete?

9 MR. DAVIDSON: Yes, it's a partial rendering.

10 MS. NEWMARK: Oh, it's a partial rendering. I'm
11 sorry. I thought he said this was the whole building.

12 MR. DAVIDSON: No.

13 MS. NEWMARK: The way it would look.

14 Fine. Just wanted to clarify that for the record.

15 CHAIRPERSON KRESS: That's good.

16 MS. NEWMARK: Okay.

17 Could we have the lights again? I'm done with the
18 slides.

19 Now I have down here that Mr. Feola said this, and I
20 know it may not be appropriate for me to examine him, so whoever
21 wants to answer this. But concerning the closing of Jewitt Street and
22 the tree buffer, I wanted to ask whether that tree buffer as you
23 described it is something that is necessary to do in order to comply
24 with Park's concerns about the impact of the project on the
25 environment or on the Park?

26 MR. FEOLA: You'll have to ask the Park Service that.
27 I don't know.

1 MS. NEWMARK: Well, I thought that you --

2 MR. FEOLA: I don't know what the Park Service's
3 concerns -- what the Park -- they made a request that the street be
4 closed and that, given their resources, they wouldn't be able to
5 prosecute that.

6 (Inaudible.)

7 MS. NEWMARK: Did they ask for the tree buffer?

8 MR. FEOLA: Yes.

9 MS. NEWMARK: Thank you.

10 I'd like to ask somebody a question about the letter
11 from the Fine Arts Commission that was submitted into evidence.

12 CHAIRPERSON KRESS: Yes, ask the question and
13 Mr. Feola will refer it.

14 MS. NEWMARK: Okay.

15 Mr. Feola, I just wanted to find out when and under
16 what circumstances that letter was obtained?

17 MR. COX: We asked the Fine Arts Commission for a
18 clarification and we received it.

19 MS. NEWMARK: You are -- I'm sorry?

20 MR. COX: I'm sorry; I'm Warren Cox, Hartman & Cox
21 Architects.

22 MS. NEWMARK: Oh, thank you.

23 And when did that occur?

24 MR. COX: We asked them for it last week.

25 MS. NEWMARK: Last week. Do you remember
26 which day?

27 MR. COX: I believe it was Friday.

1 MS. NEWMARK: And did the Commission meet and
2 make a decision before writing that letter? Was there some kind of a -
3 - was that a Commission decision or was that just one person?

4 MR. COX: It was a Commission decision, to my
5 understanding.

6 MS. NEWMARK: So they had some kind of
7 Commission consideration of this matter?

8 MR. COX: I believe it was referred to the chairman
9 and he was the person who asked the question and was therefore
10 satisfied. That's my understanding.

11 MS. NEWMARK: The chairman. But nobody was
12 notified or invited to come for the consideration?

13 MR. COX: The issue -- I think you -- what happened,
14 I think, is a misunderstanding on your part in terms of what the letter
15 from the Commission said -- the original letter.

16 In the hearing, --

17 MS. NEWMARK: Which letter are you talking about,
18 the one you submitted just now?

19 MR. COX: No, the original one. The original letter
20 from --

21 MS. NEWMARK: I don't know of any letter from the
22 Commission.

23 MR. COX: Well, you included it in your --

24 CHAIRPERSON KRESS: Presubmission package.

25 MS. NEWMARK: Not a letter. Are you referring to
26 their recommendation or their -- I'm sorry, I really don't know what he
27 means. I didn't submit any letter.

1 MR. COX: It's the transmittal letter that came after
2 our original hearing at the Fine Arts Commission in which they said
3 that they had asked us -- that the chairman had asked us to look at
4 alternative designs for the south wing.

5 He passed --

6 MS. NEWMARK: Is this what -- you're talking about
7 when he asked to look at the possible set back?

8 MR. COX: That's correct.

9 MS. NEWMARK: Okay, go ahead.

10 MR. COX: We did that. We submitted those. This
11 was put as a suggestion that we look at it. The way the letter was
12 actually worded and the interpretation of the letter and the intent of the
13 letter was that that was a suggestion that they were actually giving
14 concept approval of the design.

15 MS. NEWMARK: Right.

16 MR. COX: That it wasn't contingent upon our doing
17 that.

18 MS. NEWMARK: Right.

19 MR. COX: So we asked for a clarification of it, and
20 that's what we got.

21 MS. NEWMARK: I see.

22 MR. COX: They're clarifying that they had in fact
23 approved the design, the concept design.

24 MS. NEWMARK: Oh, okay, okay.

25 So then in other words, that doesn't -- that doesn't
26 preclude them from looking at this again at the permit stage?

27 MR. COX: I suppose that's correct.

1 MS. NEWMARK: Okay, well that was my
2 understanding too, --

3 MR. COX: We do have to --

4 MS. NEWMARK: -- that you do have to go back and -
5 -

6 MR. COX: We do have to go back, as one always
7 has to do with construction documents, to the Fine Arts Commission.
8 But it is our understanding now that the person who raised it, the
9 chairman, is satisfied that we have looked at it, that in fact keeping
10 that wing aligned with the street is the most satisfactory solution.

11 MS. NEWMARK: When you go back to them again at
12 the permit stage, would they have another hearing?

13 MR. COX: No, we will not.

14 MS. NEWMARK: They normally don't do that?

15 MR. COX: They do that -- the staff does it to check it
16 for compliance with the drawings that have been previously submitted.
17 And presumably they will be the same as the drawings we've
18 submitted. If they're changed from the drawings we've submitted,
19 then they will have to have another hearing.

20 MS. NEWMARK: Do you know why, if Chairman
21 Brown actually is the one who made the decision, why he didn't sign
22 that letter?

23 MR. COX: Because these letters are never signed by
24 the chairman.

25 MS. NEWMARK: He signed the one -- excuse me,
26 have you looked at the one that we submitted?

27 MR. COX: He signed the other one?

1 MS. NEWMARK: Yes.

2 MR. COX: No, then I don't know why he didn't sign it.

3 This is really -- I think I can -- well, wait a minute. I
4 think I can tell you why he didn't sign it. Because it's a clarification of
5 the original letter by the staff.

6 MS. NEWMARK: Actually, you're right. It says J.
7 Carter Brown, Chairman, and then someone else's signature is over it.

8 UNIDENTIFIED SPEAKER: Mr. Myers is actually
9 signing --

10 MS. NEWMARK: That's correct.

11 UNIDENTIFIED SPEAKER: -- who is a staff person
12 under Mr. (inaudible) who signed the second letter.

13 MS. NEWMARK: Right. I think what confused me is
14 that it has J. Carter Brown's name under it which the letter doesn't.

15 CHAIRPERSON KRESS: Just so you know, this
16 whole line of questioning is a little difficult because we don't have any
17 say over the Commission of Fine Arts. We don't have any say over
18 HPRB. And you are (inaudible) your submission in one way, and that
19 was saying -- well, you weren't.

20 You quoted someone who told you that we could
21 remand this back to HPRB. I mean back -- remand it back to HPRB
22 for concerns relating to Fine Arts. We are not able to do that. That is
23 not within our power. So you have wrong information on that one
24 issue.

25 So all the questioning relating to the Fine Arts, there's
26 not anything we can do about that.

27 MS. NEWMARK: Consider it dropped.

1 CHAIRPERSON KRESS: Okay, thank you.

2 MS. NEWMARK: In terms of a remand. I mean, we
3 might still pursue the design issue as --

4 CHAIRPERSON KRESS: Yes, with them at a
5 different time. That is not in our purview. If you want to make the
6 point that J. Carter Brown was making separately in your presentation
7 with your experts, that is fine. But we are not concerned with them.

8 MS. NEWMARK: That's exactly what I was --

9 CHAIRPERSON KRESS: Meaning Fine Arts and
10 HPRB and our deliberating.

11 MS. NEWMARK: Right, right. That's what I'll do.
12 Thank you.

13 UNIDENTIFIED SPEAKER: I would like to point out
14 that Mr. Brown is now happy with the solution that we presented this
15 evening.

16 MS. NEWMARK: Is what?

17 UNIDENTIFIED SPEAKER: He is happy with the
18 solution.

19 CHAIRPERSON KRESS: Didn't you give us a letter?
20 I haven't had time to read everything everyone's been handing me, but
21 I believe you entered a letter this evening saying that he did approve --

22 UNIDENTIFIED SPEAKER: Yes, that's correct.

23 CHAIRPERSON KRESS: Are you getting close to
24 wrapping up.

25 MS. NEWMARK: Yes.

26 CHAIRPERSON KRESS: Okay.

27 MS. NEWMARK: May I have the Commission's

1 indulgence to consult with my other co-owners to see if there are
2 questions they want me to ask in cross examination that I haven't
3 done?

4 CHAIRPERSON KRESS: Actually, maybe what we'll
5 do is take a five minute break and then come back and ask -- you can
6 ask your last couple of questions.

7 MS. NEWMARK: Thank you. We appreciate that.
8 (Whereupon, the foregoing matter went off the record
9 briefly.)

10 CHAIRPERSON KRESS: Anytime you're ready, Ms.
11 Newmark.

12 MS. NEWMARK: Thank you, thank you.
13 I only have a few questions. I don't think it will be
14 more than ten or 15 minutes at the most. Maybe five.

15 CHAIRPERSON KRESS: That would be wonderful.

16 MS. NEWMARK: The first question -- well, actually
17 the first question concerns parking and our directed to whoever knows
18 the answer. And that concerns the relationship between the reserved
19 slots for the tenants and the visitor parking. Isn't it true that in fact the
20 -- there are a lot of tenants that are waiting for reserved slots and so
21 they park in visitor parking and then the visitors end up parking on the
22 street?

23 Who knows the answer to that?

24 Mr. Saul perhaps?

25 MR. SLADE: Well, --

26 CHAIRPERSON KRESS: Did you hear the --

27 MR. SLADE: -- I'll take a shot at it.

1 MS. NEWMARK: It's not really a Slade question, but
2 go ahead.

3 CHAIRPERSON KRESS: It might be.

4 MR. SLADE: As one of the charts showed, it
5 depends on time of day. If the visitor parking question is relative to
6 when there's -- during a weekday or even on weekends when tenants
7 are using their cars, then there's a lot of vacant space in the garage.
8 So the answer is during those times of the day, there would not be a
9 problem accommodating visitor parking.

10 MS. NEWMARK: How do you know that?

11 MR. SLADE: Because we did surveys in the garage.

12 MS. NEWMARK: And how extensive were the
13 surveys?

14 MR. SLADE: Over a period of four days.

15 MS. NEWMARK: Four days?

16 MR. SLADE: Thursday through Sunday, inclusive.

17 MS. NEWMARK: And how did you know which cars
18 were visitors and which were tenants?

19 MR. SLADE: We didn't know, but there were 60
20 vacant spaces in the garage.

21 MS. NEWMARK: Do you have any break down as to
22 how many of the spaces that were being used were visitors or
23 tenants?

24 MR. SLADE: No.

25 MS. NEWMARK: Okay. And were any of these like
26 at, say, Friday or Saturday night when visitors are more likely to be
27 around?

1 MR. SLADE: Were any of these what?

2 MS. NEWMARK: The studies?

3 MR. SLADE: Yes.

4 MS. NEWMARK: Okay. So these were the charts
5 that you had with the up and down?

6 MR. SLADE: Yes.

7 MS. NEWMARK: Okay. Yes, I believe that was
8 attached to the application, the parking analysis?

9 MR. SLADE: Yes, it was.

10 MS. NEWMARK: Parking analysis, okay.

11 And when you say that for a portion of the day that
12 there were 60 spaces open, would you be referring to the evening
13 hours when visitors are more likely to be there that these spaces were
14 open?

15 MR. SLADE: No, no; I've said that midday.

16 MS. NEWMARK: Midday, oh.

17 MR. SLADE: You weren't specific in your question.

18 MS. NEWMARK: You're right; I wasn't.

19 Thank you for clarifying that though.

20 So in the evenings when visitors are there, the spaces
21 are full?

22 MR. SLADE: Well, it depends on the day of the week
23 and the time of the evening. In the early evening, there are vacant
24 spaces on many days of the week throughout many weeks of the
25 year. On other evenings, there may not be.

26 MS. NEWMARK: But you have data for Friday and
27 Saturday evening, so we don't have to guess, right?

1 MR. SLADE: Yes.

2 MS. NEWMARK: Okay, so could you look at that and
3 let me know?

4 MR. SLADE: Sure.

5 These were done in May of '96. And on the Friday
6 evening that we surveyed, the garage actually did not reach capacity
7 that night at all. There was always some spaces available that
8 particular evening.

9 MS. NEWMARK: And when you say -- and the
10 spaces that you're characterizing as being available, are those spaces
11 that a tenant or a visitor could park in? It's not restricted in any way,
12 or could those be reserved spaces that, let's say, only the tenant
13 assigned to the space could use?

14 MR. SLADE: I wouldn't know. I wouldn't know.

15 MS. NEWMARK: You wouldn't know.

16 Let me move on to something else.

17 I believe it was Mr. Shearer or somebody else on the
18 team that referred to tax revenue as being a benefit or an amenity --
19 tax revenue to the District. But isn't that a requirement of a PUD as
20 opposed to an amenity?

21 MR. FEOLA: I could direct that -- I guess I'm not
22 sure. Paying taxes is a requirement, yes. I'm not sure what you're
23 saying.

24 MS. NEWMARK: Well, thank you. But I was referring
25 --

26 MR. FEOLA: Building buildings is not a requirement.

27 MS. NEWMARK: I was referring to -- I was referring

1 to that it would bring tax revenue to the District that -- you say you're
2 building a project that's bringing tax revenue to the District and that's
3 an amenity, but isn't it a requirement of a PUD to bring tax revenue to
4 the District?

5 MR. FEOLA: No, I've done PUD's for nonprofits that
6 don't bring tax revenue to the District. I'm not sure what you're saying.

7 MS. NEWMARK: So you're not --

8 COMMISSIONER BENNETT: Salvation Army.

9 MS. NEWMARK: So you're not familiar then with the
10 -- well, Salvation Army's probably not a PUD. But are you
11 familiar with the provision of -- so you're not --

12 COMMISSIONER BENNETT: Salvation Army was a
13 PUD.

14 MS. NEWMARK: Was it really?

15 COMMISSIONER BENNETT: Yes, it was. Harbor
16 Lights right there on New York Avenue.

17 MS. NEWMARK: Well, --

18 COMMISSIONER BENNETT: That's right, and there
19 was another one, that's right, down on Mass. Ave.

20 MS. NEWMARK: Well, it's probably -- it's probably
21 not covered by the Ward 3 plan which apparently is where my citation
22 is to that provision, so I'll pass.

23 MR. FEOLA: I'm sorry, I thought you were referring to
24 PUD regulation. I apologize.

25 MS. NEWMARK: I was referring to the Ward 3 plan.
26 So is your answer different then?

27 MR. FEOLA: I haven't looked at the Ward 3 plan. I'll

1 let Mr. Shearer to address that.

2 MS. NEWMARK: Okay.

3 Oh, now I'm not sure how to ask this, so please help
4 me if I do it wrong. But regarding the question of how many
5 construction workers would be involved, and we were talking about
6 that for carpooling, and your application on page 47 seems to talk
7 about hundreds of construction jobs, and I'm wondering whether that
8 would be your answer to the question that we asked in terms of the
9 numbers of construction workers?

10 CHAIRPERSON KRESS: I think they said they were
11 going to give us that information --

12 MS. NEWMARK: Okay.

13 CHAIRPERSON KRESS: -- in post hearing
14 submissions.

15 MS. NEWMARK: Okay.

16 CHAIRPERSON KRESS: So you will have that
17 information.

18 MS. NEWMARK: Okay.

19 But I'd like to ask them though if they did in fact look
20 at it given that they wrote in their submission -- I think they said they
21 hadn't looked at it.

22 UNIDENTIFIED SPEAKER: Yeah, I think the answer
23 is yes; but that's a total number over the full 18 months. As jobs go,
24 you can bring the brick layers one day and the plumbers the next day.
25 So the answer to the questions that you asked before, that number is
26 not appropriate.

27 MS. NEWMARK: Okay, okay.

1 The number of hundreds is not -- you're going to get
2 back? Okay.

3 Are you -- by the way, are you contending that the
4 employment opportunities are one of the amenities or benefits for the
5 purposes of the PUD?

6 MR. FEOLA: I don't believe so.

7 MS. NEWMARK: Okay, thank you.

8 Are you contending that the open space in the front
9 courtyard is a benefit for purposes of a PUD?

10 MR. FEOLA: I'm answering cross examination
11 questions. I'm not --

12 MS. NEWMARK: Well, you can refer to someone on
13 your team.

14 MR. FEOLA: I think they testified as to the benefits
15 and you should ask questions to what they testified, not to what they
16 didn't testify to, and that's what you're asking. Also, did you not testify
17 that open space is not a public benefit? I'm not sure -- nobody said it
18 was.

19 MS. NEWMARK: Okay, thank you.

20 CHAIRPERSON KRESS: Let me just share this with
21 you so that there's -- I may shed some clarity. There is such a
22 thing as benefit, and then there's such a thing as an amenity. And
23 certainly tax revenues and jobs and so on can be classified as
24 benefits. Other things like the provision of open space that the
25 general public may enjoy -- housing itself can be considered an
26 amenity because it is so scarce and is hard to come by in this town.

27 But there are things that benefit the District of

1 Columbia. And many times, in the description of a PUD, an applicant
2 may say that these are things that we believe will benefit the District of
3 Columbia.

4 We have PUD regulations that call for there to be
5 public amenities which go over and above, as you know, what normal
6 -- any normal matter of right development might be. So the things that
7 you pointed out like the tax revenue and things I would consider a
8 benefit to the District of Columbia as opposed to a special amenity.

9 MS. NEWMARK: Yes, I think my -- I intended for my
10 question to be whether it was a benefit or amenity as opposed to a
11 requirement under the Ward 3 plan. And I was referring to the Ward 3
12 plan.

13 MR. FEOLA: Maybe, Madame Chair, we can bring
14 Mr. Shearer and he can answer the questions about the benefits.
15 Maybe that's the best way to --

16 CHAIRPERSON KRESS: Addressing the Ward 3
17 plan?

18 MR. FEOLA: Addressing what he testified to as to
19 public benefits.

20 MS. NEWMARK: Well, I wasn't really asking for a
21 reargument of their initial testimony because --

22 CHAIRPERSON KRESS: Well, then we don't need
23 that time. We have already heard the testimony, and we've -- and
24 again, when you testify on behalf -- you can make those points to us
25 and what the Ward 3 plan says.

26 MS. NEWMARK: I will.

27 I don't think I have any other questions at this time.

1 Will there be another opportunity if they bring on rebuttal testimony to
2 examine them on that testimony?

3 CHAIRPERSON KRESS: If they do rebuttal at the
4 end, they are allowed to do a final summary, then there will not be a
5 time for questioning that. But --

6 COMMISSIONER BENNETT: But if rebuttal
7 testimony includes brand new testimony, then I think that the --

8 CHAIRPERSON KRESS: Exactly.

9 COMMISSIONER BENNETT: -- parties do get a
10 chance to question about the newly admitted testimony.

11 MS. NEWMARK: Okay.

12 Oh, excuse me; I do have one other question.

13 In the pictures that you showed of the neighborhood,
14 it was pointed out to me during the break that the Cathedral Park
15 Condominium across the street wasn't in any of them. Do you know
16 why that might have been?

17 COMMISSIONER BENNETT: Because they were
18 taking pictures of the things across the street.

19 MS. NEWMARK: No, I was talking about the ones of
20 the neighborhood, of the neighborhood.

21 COMMISSIONER BENNETT: Well, that's a good
22 question.

23 (Inaudible comment from an unmiked location.)

24 MS. NEWMARK: Well, that's not a photograph. I was
25 talking about the pictures.

26 CHAIRPERSON KRESS: You mean slides or
27 photographs? What do you mean?

1 MS. NEWMARK: They were slides, they were
2 photos.

3 MR. FEOLA: If the Chair likes, we can provide
4 pictures of --

5 MS. NEWMARK: That's okay, we'll do that.

6 COMMISSIONER BENNETT: Well, maybe Cathedral
7 will have their own pictures.

8 MS. NEWMARK: We do.

9 I just want to -- I would like to clarify one thing before I
10 sit down, and that is the status of the Kennedy Warren tenants'
11 agreement with the landlord. And I'm not sure how that was left, but
12 will that be put into evidence at this point in time?

13 COMMISSIONER BENNETT: They will testify to that.

14 CHAIRPERSON KRESS: The Kennedy Warren
15 tenants association are going to be -- I assume they're going to be
16 testifying as a party and you will get to cross examine them as another
17 party.

18 MS. NEWMARK: Okay, and will the agreement be
19 put into evidence at that time?

20 COMMISSIONER BENNETT: Depends on them.

21 CHAIRPERSON KRESS: It depends on them.

22 MS. NEWMARK: Okay, all right.

23 That's all. Thank you very much for indulging me.

24 COMMISSIONER: I didn't quite understand the
25 answer to the question about why the building was not included in the
26 photographs.

27 COMMISSIONER BENNETT: They didn't take the

1 picture.

2 MR. FEOLA: It didn't seem pertinent.

3 COMMISSIONER: Well, I didn't understand the -- I
4 mean, I didn't understand -- I didn't hear your answer.

5 MR. FEOLA: What I said is if the Commission would
6 like, we can provide those for the record. We didn't include them in
7 our presentation. There's no particular reason. It's just we didn't do it.

8 COMMISSIONER: Okay.

9 MR. FEOLA: I actually have some here if you'd like.

10 COMMISSIONER: Thank you.

11 MS. NEWMARK: Thank you so much for allowing me
12 this opportunity.

13 CHAIRPERSON KRESS: With that, we were going to
14 move on to the Office of Planning and the Office of Planning's report.

15 MR. COLBY: Thank you, Madame Chairman.

16 As is usually the situation following the Applicant's
17 witnesses and questions of the Commission and cross examination,
18 the case and the level of information has moved substantially beyond
19 the information in our report, so I'll only summarize a few key points
20 from the report of the Office of Planning.

21 The proposed R-5-E zone district permits (inaudible)
22 residential development to 6.0 FAR and a height of 90 feet. The PUD
23 guidelines similarly permit a height of 90 feet and 6.0 FAR. And
24 pursuant to Section 2405.3 of the zoning regulations, the Commission
25 may authorize an increase of up to five percent in the maximum height
26 or FAR, thus allowing 6.3 FAR in the R-5-E zone district.

27 In terms of consistency with a comprehensive plan,

1 the comprehensive plan as has been testified to, the comprehensive
2 plan generalized land use map designates the site for high density
3 residential. Either R-5-D or R-5-E may be considered generally
4 consistent with the high density residential land use designation.

5 And as also has been testified to by the Applicant, the
6 Ward 3 plan policies speak to protection against inappropriate in fill
7 along Connecticut Avenue and then it becomes a judgement as to
8 what is appropriate or inappropriate in fill.

9 The PUD process does assure that the Zoning
10 Commission has conditional authority over the project including its
11 bulk and design. The Office of Planning finds the zoning relief
12 requested in this case constitutes relatively modest deviations from
13 certain zoning restrictions, and those were referred to as penthouse
14 requirements and rear yard requirements.

15 The PUD guidelines -- in terms of amenities and
16 public benefits, the PUD guidelines specifically state that the
17 production of housing is a public benefit that the PUD process is
18 designed to encourage.

19 The existence of the original drawings for the historic
20 Kennedy Warren apartments presents a special opportunity to
21 construct an addition that would enhance and preserve the
22 architectural and historical integrity of the existing building and allow
23 for the completion of an historic landmark as originally conceived.

24 In terms of the site planning, the Applicant has
25 indicated that the completion of the unfinished structure would make
26 effective use of the existing site. And the construction of the south
27 wing would properly balance the plan for the site and allow for

1 development -- orderly development of the property and contain the
2 space at the entry as originally intended.

3 Again, in terms of parking, the Applicant has indicated
4 the proposed below grade parking will exceed the zoning
5 requirements by approximately 300%, and the community -- members
6 of the community spoke to me earlier about the issue, and that has
7 come up.

8 I was going to raise it, but it has come up in terms of
9 the appropriateness of the -- of taking the existing cross section of
10 tenants and using that to project future tenants, and I think the
11 Applicant has addressed that issue.

12 The Applicant -- the community concerns have gone
13 way beyond the concerns we were aware of when our report was
14 written, and that will be -- that is part of the record and, of course, will
15 further be a part of testimony following the agency comments.

16 We, in our report, recommended -- note that the
17 existing R-5-D zone district does not permit the construction of the
18 proposed project because of the FAR requirements. The requested
19 rezoning of the site along with the proposed PUD would permit the
20 additional FAR needed and would allow for the completion of the
21 historic landmark as originally conceived.

22 The proposed project and the requested change in
23 zoning are consistent with the designation of the site as high density
24 residential on the generalized land use map of the comprehensive
25 plan. And I think I'll stop there and answer any questions
26 that I can.

27 CHAIRPERSON KRESS: Thank you.

1 Questions from my colleagues?

2 COMMISSIONER BENNETT: I do.

3 CHAIRPERSON KRESS: Commissioner Bennett.

4 COMMISSIONER BENNETT: Mr. Colby, having
5 heard the concerns of the residents as they brought the to you and
6 having heard the earlier part of this hearing, particularly the
7 questioning that went to Mr. Slade, do you -- in your judgement, do
8 you think that there needs to be any further study made based on
9 different assumptions then?

10 I mean, if in fact the south wing is going to attract --
11 and I heard what Mr. Saul said. But if folk believe that the average
12 tenant is going to be making \$70,000 plus -- I don't know what the
13 average tenant now makes.

14 But if the group that's coming in is going to differ
15 significantly from the existing tenants and therefore there is a concern
16 that the likelihood of auto ownership is going to exceed what Mr.
17 Slade suggested might take place, do you think we may do well to ask
18 for some additional study or some supplemental study that would look
19 at that based on a different demographic profile based on income?

20 Or if not income, then age or -- I was going to get to
21 cost of the unit.

22 MR. COLBY: I think that there are any number of
23 ways that one could try to approach the problem of -- none particularly
24 good or particularly persuasive, I guess, in terms of how do you
25 predict the number of cars that are likely to be housed in the garages
26 or brought by tenants who will be tenants of that building.

27 I did a number of studies a number of years ago to

1 assist Nate Gross -- did a lot of studies of all the apartment buildings
2 in and around -- south of Dupont Circle and the Foggy Bottom area.
3 And I should almost not bring this up because I don't remember
4 except that you couldn't -- you know, I think as Mr. Slade said, you
5 really couldn't predict on a basis of any study you did -- you couldn't
6 determine a pattern that held.

7 I was very surprised by the limited number of parking
8 spaces per tenant. I was very surprised by that. I mean, maybe it
9 was because I didn't know any better and should have known that.
10 But there were no patterns, which is what I was looking for.

11 And the best you could do is take an average and say
12 -- and that's largely what is the case here. The issue that will come
13 up, I think, from the tenants is whether -- again, whether the cross
14 section that was used, particularly taking into account rent controls to
15 the extent that they exist in the existing building and won't exist in the
16 new building, would create a different demand for cars.

17 And I understood from Mr. Feola, and he can -- this
18 was not part of his testimony, but he -- that the rent control portion --
19 and perhaps he could clarify this -- is -- and maybe Mr. Saul spoke to
20 this too -- that is a relatively low percentage of the building, of the
21 existing building.

22 And so that much of the -- most of the tenants are
23 basically in the same category as the new tenants. That is to say that
24 they're market rate units and that they will mirror -- largely mirror, as
25 best you can predict that, the situation for new tenants moving in.

26 CHAIRPERSON KRESS: I was just going to say I
27 think those assumptions are --

1 MR. COLBY: I don't really have a -- don't know which
2 study you would use. I understand where you're coming from and
3 you'd like to be comfortable. And you would think gee, this is -- there
4 ought to be answers. This is the sort of technical stuff that parking
5 people --

6 CHAIRPERSON KRESS: But this is exactly why we
7 do ask for expert testimony. I was going to suggest that perhaps we
8 ask of them, now that they've heard these concerns since the very
9 best it's imperfect, to ask the expert to go back with these concerns --

10 MR. COLBY: And verify in some way.

11 CHAIRPERSON KRESS: -- and see -- and relook at
12 the study and see if he feels there's any changes and basically put it
13 back into his lap having heard what we've said to take another look at
14 it. Because, as you say, and as -- to my knowledge, there are no real
15 set trends.

16 You can't say if you have this, you have that. It's not
17 that clear, I don't believe. And so I think we have to just look to the
18 experts to make --

19 MR. COLBY: To give you their judgement.

20 CHAIRPERSON KRESS: -- to give you their
21 judgement.

22 Do you agree with that?

23 MR. COLBY: I do.

24 Well, I agree you have to -- the question is, I think the
25 Commission certainly can go back once more to the experts and I
26 think particularly following testimony from other witnesses, you may
27 find that there's more of a compelling need to do that.

1 I mean, having heard Mr. Slade, I was convinced that
2 he had used as good a measure as any to predict what the future
3 demand for garage space will be. You may come to a different
4 conclusion after you've heard further testimony and could come back
5 certainly and ask Mr. Slade to try, you know, to present it one more
6 time.

7 CHAIRPERSON KRESS: Or just to formally respond.

8 COMMISSIONER BENNETT: Or just submit it for the
9 record and let the parties respond too.

10 CHAIRPERSON KRESS: Right.

11 MR. COLBY: Yes, yes, yes; that's another way.

12 COMMISSIONER BENNETT: Well, you know, I
13 certainly wouldn't want -- what I don't want is for there to be any
14 superfluous studies. Mr. Slade has a fee, I'm sure. But if that's going
15 to be a major -- a central issue, then I think it's better to look at it than
16 not to look at it.

17 CHAIRPERSON KRESS: Any other questions for Mr.
18 Colby?

19 Yes, Commissioner Parsons.

20 COMMISSIONER PARSONS: Mr. Colby, as I
21 mentioned earlier, I'm having a little trouble with the public benefits
22 and amenities. And I'm trying to determine what we could get here as
23 a matter of right and what we're getting in the PUD. And I was
24 focusing on the issue of housing.

25 I presume the only thing we could get on this site as a
26 matter of right is housing.

27 MR. COLBY: A church or some other use, but

1 essentially you're right; it would be housing.

2 COMMISSIONER PARSONS: And given --

3 MR. COLBY: If you get the housing.

4 COMMISSIONER PARSONS: Given the nature of its
5 companion building, I would presume in the historical preservation
6 community that we would probably go towards housing and might
7 even go in the direction of this building, wouldn't you think?

8 MR. COLBY: Yes.

9 COMMISSIONER PARSONS: Do you think that the
10 historic preservation community would -- maybe this is hypothetical.
11 But I'm struggling with whether anything other than this building could
12 be built as a matter of right maybe at a smaller size so as to
13 accommodate the existing zoning or get within the existing zoning.

14 But what is it from an architectural and historic
15 preservation basis that we're really getting as a result of this PUD that
16 we wouldn't get as a matter of right?

17 Now we've heard tonight that they're willing to restore
18 the lobby and do some other internal things and there's a street
19 closure coming forward and things that more often fit into what I'll call
20 public benefits and amenities that -- but to get to my point, I think the
21 only thing that we're really getting here that we wouldn't get as a
22 matter of right are the major amount of parking that's being provided,
23 four times what matter of right zoning would give us.

24 MR. COLBY: I don't think you're -- I wouldn't phrase
25 the -- I mean, as you've phrased the question, the answer you may --

26 [End Tape 2, Side 2.]

27 [Begin Tape 3, Side 1.]

1 MR. COLBY: I would phrase the question or put the
2 question as to whether the housing itself is an amenity and why. And I
3 would -- and to me, the housing is -- I mean, there are a number of
4 amenities, but the housing is the amenity that you -- although it's a
5 matter of right use, it is not something you can expect in this city as a
6 matter of right.

7 I mean, that is to say you cannot just count on it and
8 just expect it to happen. It doesn't happen. It has not happened. This
9 Commission has approved what I thought was a significant part of the
10 PUD brought to you by Conrad Kafritz some years ago.

11 That's never gone forward. It had its issues and they got work
12 -- they were worked through and compromises were reached. And as
13 I say, I think a significant project was approved. It didn't go forward
14 because the financing wasn't available because the bottom line wasn't
15 there to produce that housing.

16 And this Commission, of course, hears that all the
17 time. Developers can't do housing because it doesn't pay for itself.
18 Here's a situation where, for a variety of reasons -- one I think the
19 location; two, perhaps the cost of the land which has been -- which I'm
20 assuming, and I don't know that anybody's testified to this -- but the
21 circumstances surrounding it make this housing, we're led to believe,
22 and you asked the question, ready to go forward because the market's
23 there and the economy make it work.

24 That's very unusual, I believe, and that's been my
25 experience in the city. And so I wouldn't -- I mean, there are
26 amenities and there are amenities. I think if this -- you won't find
27 many projects such as this, and that's been my experience, that will --

1 that can go forward in this city without a substantial office driver at
2 best that a straight apartment building is -- rarely can make it.

3 And to me, that is the amenity in this or uniqueness, if
4 you don't want to call it an amenity, in this case. And call it a benefit, if
5 you will, as the PUD regulations would. It's a real benefit to the city for
6 this housing to occur provided it can occur in a way that doesn't
7 unreasonably impact on the surrounding area.

8 (Inaudible comment from an unmiked location.)

9 COMMISSIONER PARSONS: Mr. Colby, could you
10 elucidate a little bit on this rear yard requirement in the hope that we
11 can sort of sweep it aside and not get wound around the axle about it?
12 It seems to me that the rear yard requirement, when the property
13 abuts a park or a large open space, is something that we ought not to
14 get too involved with technically.

15 MR. COLBY: The Commission has to -- I mean the
16 Commission's order has to address the technicalities of that issue.

17 COMMISSIONER PARSONS: Of course.

18 MR. COLBY: But the -- practically speaking, the rear
19 yard and the light and air assured by the rear yard are relatively less
20 important or unimportant in this case because of the park land
21 abutting the project.

22 CHAIRPERSON KRESS: I believe one of the
23 questions he was asking -- and if not, I think for the record it would be
24 good to have your response. As it was described by Mr. Feola and
25 Mr. Davidson and how they calculate the rear yard set back, were they
26 correct, to your knowledge?

27 Meaning the 25 feet and that the middle of the --

1 MR. COLBY: I believe they were, but I think it would
2 be useful to get something in the record to clarify that as well. And I'd
3 be happy to provide it or you could ask the --

4 CHAIRPERSON KRESS: Why don't you provide it.

5 MR. COLBY: -- Applicant to provide that.

6 CHAIRPERSON KRESS: I am of the opinion that
7 they are correct, but I think it would be good to have something on the
8 record since that came into question.

9 MR. COLBY: Fine.

10 CHAIRPERSON KRESS: I'm sorry.

11 COMMISSIONER: You mentioned undue impact on
12 the neighborhood. I think your last statement before was you ended it
13 with the phrase undue impact on the neighborhood. Could you talk a
14 little bit about what you -- your assessment of how the construction
15 phase is going to be handled?

16 We've heard a discussion about -- I guess using the
17 Zoo to park things -- park trucks, I guess. How do you assess that?
18 How do you assess the way that it's proposed to handle the question
19 of the trucks, construction workers --

20 MR. COLBY: During construction?

21 COMMISSIONER: During construction phase on
22 traffic in the -- traffic and noise.

23 MR. COLBY: I haven't looked specifically at the traffic
24 management plan that was provided, so I can't really respond in
25 detail. I can only say that clearly there will be impacts on the existing
26 tenants with construction as there are on any construction that occurs.

27 And the best you can do is mitigate those -- do the

1 best you can to mitigate those impacts. But I really can't --

2 COMMISSIONER: What is your assessment of the
3 way that they have proposed to mitigate those? What's your
4 assessment of the way that it's being proposed to mitigate those
5 conditions?

6 MR. COLBY: Well, again, I just got the -- you're
7 referring to the construction management plan?

8 COMMISSIONER: Right, yes.

9 MR. COLBY: Yeah, I'm afraid I would be winging it on
10 that because I haven't looked at it since I got it this evening.

11 CHAIRPERSON KRESS: Perhaps we could ask the
12 Office of Planning to evaluate --

13 MR. COLBY: I'd be happy to do that.

14 CHAIRPERSON KRESS: -- and provide that
15 information to us.

16 MR. COLBY: Surely.

17 CHAIRPERSON KRESS: I think that's an excellent
18 point since they haven't had time to review it.

19 Any other questions for Office of Planning?

20 Hearing none, we'll move to cross examination. Does
21 the Applicant have any cross examination for Office of Planning?

22 MR. FEOLA: No questions.

23 CHAIRPERSON KRESS: ANC, Mr. Mendelson, do
24 you?

25 Does the Kennedy Warren Residents Association
26 have any questions?

27 And Ms. Newmark, do you have questions for the

1 Office of Planning?

2 Cathedral Park Condo Association?

3 (Inaudible comment from an unmiked location.)

4 Well, since it's Office of Planning and they're here,
5 you can either stand there or sit there, wherever you're more
6 comfortable.

7 UNIDENTIFIED SPEAKER: Your mike is not on.

8 Just hold the green button down until the light stays on.

9 MS. NEWMARK: Thank you.

10 I'm sorry, but you're Mr. Colby?

11 MR. COLBY: Yes, I am.

12 MS. NEWMARK: Did you write the Office of Planning
13 report?

14 MR. COLBY: I've been involved in the case. I did
15 not. I have been involved -- I write many reports and rewrite a number
16 of reports that come to me. I was in Hawaii at the time this report was
17 prepared, and so this is one of the few reports that I did not play a
18 major part in.

19 But I have been a part of the process -- had a number
20 of presentations and played a role in the general work up, if you will, of
21 the Office of Planning's position on this case.

22 MS. NEWMARK: Who wrote the report?

23 MR. COLBY: Mr. Carkete of our office did most of the
24 work, and I think he -- there was some collaboration with Mr. Bastita of
25 our office as well. And of course, it's signed by the director.

26 MS. NEWMARK: This may be inappropriate, but why
27 isn't Mr. Carkete here?

1 MR. COLBY: Mr. Carkete couldn't be here, nor could
2 Mr. Bastita be here. And since I am the supervisor and was very
3 knowledgeable about the case and the report, why I am here.

4 MS. NEWMARK: Okay. Who -- is that the same
5 situation for the August report? I guess it's a preliminary report.

6 MR. COLBY: No, Mr. Carkete would have written that
7 report, but I reviewed it, participated in that, and signed off on it --
8 went through me.

9 MS. NEWMARK: Okay. Now in the -- would it be all
10 right if I stood there?

11 CHAIRPERSON KRESS: Sure.

12 MS. NEWMARK: I'm more comfortable --

13 CHAIRPERSON KRESS: No, it's your choice.

14 MS. NEWMARK: Thank you.

15 CHAIRPERSON KRESS: It's absolutely your choice.

16 We thought you might be more comfortable sitting down.

17 MS. NEWMARK: Is this on?

18 CHAIRPERSON KRESS: Yes.

19 MS. NEWMARK: Thank you.

20 Okay, I wanted to ask you some questions about your
21 consideration of the impact of this PUD, proposed PUD, on the
22 community. Where in the report does it discuss that?

23 MR. COLBY: It gets to it in a very illusory way. It
24 gets to it in terms of references to site planning, to transportation, and
25 the parking issues. Again, as I pointed out when I started, that I think
26 that the testimony in this case has gone way beyond the fact that the
27 Applicant is providing 300% more parking spaces than the zoning

1 regulations require.

2 That gets at potential impacts on the community.

3 MS. NEWMARK: What impact does that get at?

4 MR. COLBY: Whether there's enough parking here
5 and whether there would be parking on the street.

6 MS. NEWMARK: I see. Have you considered the
7 impacts on Cathedral Park Condominium across the street?

8 MR. COLBY: Such as? You mean have we
9 considered it --

10 MS. NEWMARK: Well, we won't be privy to the
11 parking spaces in their garage, so I'm trying to look to the broader
12 community than the Kennedy Warren tenants.

13 MR. COLBY: But to the extent that you park on the
14 street or to the extent that -- well, first let me say that a lot of the
15 transportation issues -- or in fact, in almost all cases, transportation
16 issues we defer to the Department of Public Works.

17 MS. NEWMARK: Have you heard from them in this
18 case?

19 MR. COLBY: We have not. I have called them and
20 got into a discussion as to whether they had even logged in and
21 received our request for their comments. The comments did go to
22 them. The person who would -- who normally responds to those
23 requests is on a month leave. He won't be back for two weeks.

24 If the record is open -- is held open, why I think it's -- I
25 would make every effort to get that report from them and determine,
26 you know, what has happened. But we do not have the report and --

27 MS. NEWMARK: What about the other agencies that

1 you refer things to? I see that you have a list of four agencies that you
2 did not receive a response from. Are you expecting responses?

3 MR. COLBY: That is correct; we have still not
4 received -- that is still good information.

5 MS. NEWMARK: Well, is that something that -- if you
6 get responses from them which are somehow inconsistent with the
7 conclusions in your report, what would you -- do you change your
8 report at that point or how does that work?

9 MR. COLBY: In some cases where we feel that the
10 issues are so substantive that our recommendation would depend on
11 that, we condition our recommended approval on the basis of
12 testimony on the part of another agency. In this particular case,
13 although -- had we gotten -- we would like to have gotten particularly
14 the Public Works' input.

15 I don't think that the other -- Department of Finance
16 and Revenue, DCRA, and DHCD comments would have been
17 particularly germane. In fact, I think that's why we didn't get them in
18 this case. They probably didn't feel they were either.

19 But we should have gotten Public Works' comments.
20 The issue is clearly to the community. And in fact, in this case, other
21 than historic which, in some ways, I believe have become non-issues
22 have to do with transportation or traffic or parking and a lot of the
23 issues that have been raised tonight.

24 MS. NEWMARK: Have you considered some of the
25 other zoning issues such that do impact on the other -- other issues
26 that impact on the community such as the impact of the loss of
27 sunlight and trees and green space and the views from the building

1 across the street and the scale of the neighborhood?

2 Have you considered any of those?

3 MR. COLBY: Surely. We are -- we've considered the
4 scale, we've considered the loss of green space.

5 MS. NEWMARK: Could you show me where you
6 considered the scale?

7 MR. COLBY: Well, I hope it's under urban design.

8 MS. NEWMARK: Is this on page two where you say
9 across there are several large apartment buildings on site area on
10 page two? Is that what you're referring to?

11 MR. COLBY: Our report -- and you can read the
12 report as well as I can. But our report says essentially that the
13 proposed addition, we believe, is consistent with the existing building.

14 MS. NEWMARK: Okay, with the Kennedy Warren
15 building or with the other buildings in the neighborhood.

16 MR. COLBY: With the Kennedy Warren building, with
17 the Kennedy Warren.

18 MS. NEWMARK: Okay, did you consider whether it's
19 consistent in scale with the other buildings in the neighborhood?

20 MR. COLBY: I think when we -- I don't think it's
21 reflected in the report, and that's why I am kind of at a loss for words.
22 Clearly when we are presented the case by the Applicant and we've
23 seen -- we've had a number -- at least two that I'm aware of, that I've
24 sat in on presentations on this case per the Applicant, the issue of this
25 size and scale, loss of green space have all been issues that have --
26 that we have dealt with in reviewing the case.

27 It's clearly not --

1 MS. NEWMARK: Excuse me, let me --

2 MR. COLBY: -- reflected in this report.

3 MS. NEWMARK: So you're saying that when you met
4 -- you're talking about public meetings or meetings alone with them?

5 MR. COLBY: No, meetings -- presentations by --
6 where we have --

7 MS. NEWMARK: Were these public presentations
8 where people who had other views came and pointed out things like at
9 this presentation, or was it just --

10 MR. COLBY: No, they were not hearings.

11 MS. NEWMARK: They weren't? Okay.

12 So what you're saying then is based on what the
13 Applicant told you, you thought that it was consistent with the
14 neighborhood or with the scale of the neighborhood?

15 MR. COLBY: Yes; from my knowledge of Connecticut
16 Avenue and my visits to the site, I believe it is consistent with not only
17 the existing building, but the existing building is consistent with the
18 neighborhood.

19 MS. NEWMARK: Okay. Do you know what the
20 zoning is for the buildings across the street?

21 MR. COLBY: I don't recall.

22 MS. NEWMARK: You don't recall. Would it surprise
23 you if I said that it was R-5-B?

24 MR. COLBY: No.

25 MS. NEWMARK: That wouldn't surprise you?

26 MR. COLBY: No.

27 MS. NEWMARK: Okay. Do you know how many

1 stories high the buildings are across the street?

2 MR. COLBY: They're probably 65 feet.

3 MS. NEWMARK: Well, how many stories is that?

4 MR. COLBY: Probably six, maybe seven.

5 MS. NEWMARK: Six, maybe seven.

6 Would it surprise you if I told you that they were four?

7 MR. COLBY: No.

8 MS. NEWMARK: Okay.

9 MR. COLBY: But I think that the -- I think that you're
10 losing the point that there's a great deal of open space along
11 Connecticut Avenue and that the scale of buildings with that much
12 open space, the proximity of buildings is -- the amount of open space
13 allows buildings to be different sizes and still be reasonably
14 compatible, particularly one with 130 foot wide avenue and two with a
15 park space in the area.

16 I mean, it's the nature of Connecticut Avenue. The
17 uniqueness of Connecticut Avenue is the large buildings and open
18 space both that make Connecticut Avenue what it is. And that's true
19 in this area certainly.

20 MS. NEWMARK: But aren't they planning to take
21 away the open space when they put this new addition in?

22 MR. COLBY: To take away some open space.

23 MS. NEWMARK: Some open space? What open
24 space will be left when they build the new building?

25 MR. COLBY: The lot occupancy, as I understand it,
26 as I heard it, is like .59. If that's correct, that's a substantial amount of
27 open space.

1 MS. NEWMARK: Could I have any one of your
2 pictures of the Kennedy Warren?

3 MR. COLBY: I mean, you can see it right there.

4 MR. FEOLA: I'm not going to defend Mr. Colby, but
5 he's supposed to testify on his report, not on our pictures.

6 MS. NEWMARK: All right.

7 MR. FEOLA: Go ahead, put it up.

8 MS. NEWMARK: Thank you.

9 (Inaudible comment from an unmiked location.)

10 CHAIRPERSON KRESS: Yeah, use the model. Use
11 the model.

12 MS. NEWMARK: No, you know what; I need one that
13 shows it with the new wing.

14 Oh, okay; the model.

15 CHAIRPERSON KRESS: And you need your
16 microphone with you or one of them.

17 MS. NEWMARK: Okay.

18 Do you know, from looking at this model, where that
19 open space that we're talking about presently is? Obviously -- I'm not
20 asking you, Mr. Feola. Obviously -- you don't have to point that out to
21 him. Obviously --

22 (Laughter.)

23 MR. COLBY: I hope you're giving me enough credit
24 to know that --

25 (Inaudible comment from an unmiked location.)

26 MS. NEWMARK: Do you know where on this picture
27 the open space that we're discussing is? Do you know where it is?

1 The open space that's going to be taken away that I'm talking about,
2 do you know where it is?

3 MR. COLBY: That's a --

4 MS. NEWMARK: Which is the new part?

5 MR. COLBY: The new part is on the right where
6 there's --

7 MS. NEWMARK: This?

8 MR. COLBY: Yes.

9 MS. NEWMARK: Okay. This whole thing, right, it
10 comes -- I see it comes off. We can remove the wing and go home.

11 (Laughter.)

12 MR. COLBY: Yes, that's correct. That's essentially
13 an empty lot or a part of an empty lot.

14 MS. NEWMARK: Here, here?

15 MR. COLBY: That's correct.

16 MS. NEWMARK: Okay. Now do you know how far
17 their property goes beyond this addition here?

18 MR. COLBY: In which direction?

19 MS. NEWMARK: In any direction.

20 MR. COLBY: It is --

21 CHAIRPERSON KRESS: I think you're starting to not
22 ask questions in a manner that I like to see these hearings conducted.
23 He is a professional with the Office of Planning. He has reviewed
24 these plans. If you -- he does know where the boundaries are. Again,
25 I think you have testifying to do to say -- when you testify to say your
26 opinion on the amount of green space lost, and you can disagree with
27 the Office of Planning.

1 MR. COLBY: Ms. Kress, let me make one response
2 that I hope puts this in perspective.

3 If you look -- let me ask you a question. That may not
4 be my role to do that, but if you look at that model, you will see a great
5 deal of what I consider open space. This gets to the question that Mr.
6 Franklin asked me earlier. The building is surrounded by open space
7 still.

8 And even though --

9 MS. NEWMARK: In other words, this is open space
10 you're saying?

11 MR. COLBY: -- those buildings, those units across
12 the street have lost a view of the park, some units have lost a view of
13 the park from --

14 MS. NEWMARK: Half of them.

15 MR. COLBY: -- the buildings directly across the
16 street, and that's unfortunate. And that that is the nature of
17 development. And that speaking for the area as a whole, it is -- there
18 is a huge amount of open space because of Rock Creek Park and its
19 tributaries and Connecticut Avenue frankly.

20 So I don't -- I mean, I think that the model answers
21 your question.

22 MS. NEWMARK: Are you counting this as open
23 space here? Is that what you're saying?

24 MR. COLBY: Yes, I do.

25 MS. NEWMARK: Because that's -- isn't that the Zoo?

26 MR. COLBY: Sure.

27 MS. NEWMARK: And you're counting that as open

1 space?

2 MR. COLBY: Well, I do; yes.

3 MS. NEWMARK: Isn't open space space that doesn't
4 have anything on it?

5 MR. COLBY: It's open space because -- yes,
6 because it doesn't have structures or --

7 CHAIRPERSON KRESS: We're getting into
8 definitions here.

9 Again, when you testify, you can make your points.

10 MR. COLBY: And certainly Connecticut Avenue is
11 open space.

12 MS. NEWMARK: Actually, the point I want to ask him
13 about -- I'm sorry. You said that it was only 59% used -- that the
14 property was only being 59% used. And I was going to ask you
15 whether that's because that there's a big internal courtyard and other
16 little internal courtyards, but that the actual building itself uses --

17 MR. COLBY: Largely meets the --

18 MS. NEWMARK: -- all of the property, every square
19 inch.

20 MR. COLBY: The wings go to the property line. The
21 indentations, of course, become open space.

22 MS. NEWMARK: Right.

23 MR. COLBY: And the central court is a major --

24 MS. NEWMARK: But they're open space for the
25 Kennedy Warren. It's not really open space anymore for the
26 community over here.

27 MR. COLBY: Yeah, but that's a drop in the bucket in

1 terms of the area as a whole.

2 MS. NEWMARK: Even if there's any over there.

3 Right, no; I hear your point. I hear your point. I
4 understand your point.

5 I'd like to show you, if I may -- show him -- there is a
6 diagram that was attached to his report, and I wanted to ask him a
7 question about the diagram that's attached to the report.

8 CHAIRPERSON KRESS: All right, may I ask you
9 where you are?

10 MS. NEWMARK: Yes.

11 CHAIRPERSON KRESS: We're starting to get quite
12 late. I would -- I had hoped to get through the National Park Service
13 and the National Zoo tonight --

14 MS. NEWMARK: Okay.

15 CHAIRPERSON KRESS: -- with cross and had
16 hoped to leave by 11:00, which leaves us seven minutes. And I don't
17 want to cut short, but the person you're not -- you don't have to
18 convince him. You've got to convince us.

19 MS. NEWMARK: No, I know that.

20 CHAIRPERSON KRESS: Okay.

21 MS. NEWMARK: I know that. And I think part of the
22 thing is I know that the witness needs a chance to explain his
23 answers, --

24 CHAIRPERSON KRESS: Exactly.

25 MS. NEWMARK: -- but I think a lot of his answers are
26 going way beyond what I'm asking. And maybe we could speed
27 things along.

1 UNIDENTIFIED SPEAKER: If I could make this
2 suggestion. It seems to me that you've obviously got a point of view
3 on a perspective, and I would find it more persuasive if you put that
4 point of view across in your chief testimony directly in trying -- instead
5 of trying to elicit it from others.

6 MS. NEWMARK: I will do that.

7 I will simply ask him a couple of quick questions about
8 things that I can't say in my own testimony such as his picture. I just
9 want to ask him where on -- what this picture is supposed to be. It
10 looks like a picture of the area, but I want to know what -- oh, you've
11 got it there.

12 I think everyone has it in their copies of the report.

13 MR. COLBY: Yes, it comes out of the Sanborne map
14 series and it shows, among other things, buildings on the land in that
15 portion of the city. It gives -- if you can read it, it gives heights of
16 portions of structures. And it's not always easy to read.

17 MS. NEWMARK: So it's the immediate vicinity, the
18 buildings in the neighborhood?

19 MR. COLBY: Yes.

20 MS. NEWMARK: Okay. Where on the map is
21 Cathedral Park?

22 MR. COLBY: It would be on map 540 which is not on
23 this quadrant. It would be on the adjacent map across the street from
24 the proposed addition.

25 MS. NEWMARK: Across the street?

26 Did you -- I didn't see a map of -- that included
27 Cathedral Park. Did you include that in here?

1 COMMISSIONER CROFT: No, no; this map simply
2 shows the -- gives the Commission a quick understanding of the site.
3 And in this case, of some buildings in -- it doesn't intend to do what
4 that map does -- what the Applicant's map does, which is to show the
5 complete surrounding area.

6 MS. NEWMARK: Right. But don't you -- do you feel
7 that to do a thorough evaluation of its impact on the immediate
8 buildings, that the immediate buildings should be here and should be
9 considered and Cathedral Park is right across the street?

10 MR. COLBY: No. In a perfect world, we would
11 provide as much information as the Applicant does. And I guess I'm
12 not -- you know, I don't feel -- I don't want to get defensive about what
13 our report has included. The map was really meant to show for the
14 Commission's sake, and frankly for my director's sake when she reads
15 this and wants to know what are we talking about, that this is the site
16 and this is what we're talking about.

17 It does not represent every building. It does not mean
18 to. And yes, if it showed it all, it would be more -- it would be clearer
19 and be more complete. But that was never intended to be complete.

20 MS. NEWMARK: It wasn't?

21 MR. COLBY: No.

22 MS. NEWMARK: Okay. On page seven of your
23 report, you talk about community comments and you cite two
24 favorable comments support from various community groups including
25 the Cleveland Park Historic Society, the D.C. Preservation League,
26 the ANC.

27 If you were to learn that some of these groups have

1 since expressed concerns and were not as supportive as they were
2 when you wrote the report, would that change your views of this
3 proposal?

4 MR. COLBY: Not on the basis of what we know. I
5 mean, I've read a number of the concerns that have been presented in
6 testimony.

7 MS. NEWMARK: What concerns are you referring
8 to?

9 MR. COLBY: In the record of the community. The
10 concerns you're referring to.

11 MS. NEWMARK: Oh, oh, oh; okay.

12 But right now, I'm not talking about that. I'm talking
13 specifically about some of these leagues. For example, the Cleveland
14 Park Historic Society and the D.C. Preservation League. These are
15 things that are not in the record.

16 I'm asking if you -- not yet anyway. I'm asking if you
17 were to learn of that, would that have an effect on your view of this?

18 MR. COLBY: Not a significant impact. What it would
19 have done is that we would have modified what we said about the
20 community concerns. Again, we are presenting -- we're not the
21 Zoning Commission. We're presenting what we can to assist the
22 Zoning Commission to make a decision.

23 We are not making a decision. We're giving our best
24 recommendation on the information at hand. And I guess that's a
25 conjectural question, would I have done differently. We'd have to go
26 back through and see if we would do it differently.

27 And I think at the end of any hearing, we know so

1 much more than we knew at the beginning of the hearing, as the
2 Commission knows much more than we put in our report, that who's to
3 -- yeah, we might come out with a somewhat different
4 recommendation.

5 But that's not the position we're in. You know, we go
6 first.

7 MS. NEWMARK: I see, okay. Well, that's useful to
8 know. As a citizen, I'm glad to hear that.

9 I've come up with a really quick question. It's just
10 about the two reports. I know that there's a preliminary report and a
11 final report. And I've looked at them and they don't look very different.
12 And I'm wondering -- I'm wondering not specifically -- I don't need to
13 know any little thing, but is this usually the way the reports are, that
14 the preliminary report and the final look very, very -- almost the same?

15 MR. COLBY: They all vary. It depends on the
16 amount of additional information developed between the preliminary
17 and the final. Frankly, it depends upon the time of year. This report
18 was done during the holiday season with very few people in the office.
19 And I can't say that's the reason.

20 I wasn't there, as I've said. But that's a factor
21 frequently. And so it really depends on -- I mean, there's no pattern.
22 If more is -- if a thorough analysis is done in the preliminary report,
23 there can be very little change to it.

24 If you're saying that -- well, I won't go beyond that.

25 MS. NEWMARK: If a thorough analysis is done in the
26 first report, there's not very -- oh, I see what you're saying. Okay, I'm
27 sorry.

1 It does say in here on page five that if this application
2 is scheduled for public hearing -- I'm reading from the bottom of page
3 five just before agency referrals. If this application is scheduled for
4 public hearing, the Office of Planning will further assess whether the
5 amenities offered are commensurable with the requested zoning relief.

6 Does the later report make any further assessment in
7 that regard?

8 MR. COLBY: I'm sorry, what was your -- what were
9 you reading from?

10 MS. NEWMARK: On page five, it talks about a further
11 assessment of whether it's -- of whether the amenities -- in fact, on the
12 top of page five, it says if the Zoning Commission schedules a
13 hearing, the Office of Planning will further assess the --

14 MR. FEOLA: Ma'am, you're looking at different
15 reports. I don't mean to interrupt.

16 MS. NEWMARK: Are we?

17 MR. FEOLA: She's not looking at --

18 MS. NEWMARK: I'm looking at the August -- the
19 preliminary report.

20 MR. COLBY: Yes.

21 MS. NEWMARK: Is that what you're looking at?

22 MR. COLBY: No, I'm looking at the final.

23 MS. NEWMARK: Oh. Do you have a copy of the
24 preliminary?

25 MR. COLBY: No, but I know that's the standard
26 language.

27 MS. NEWMARK: You know what I'm talking about?

1 Was that done here?

2 MR. COLBY: Pardon?

3 MS. NEWMARK: Was that done here? Do you know
4 if that was done?

5 MR. COLBY: I can't answer that for a fact.

6 MS. NEWMARK: Okay.

7 MR. COLBY: But I'm --

8 MS. NEWMARK: That's true; you said you didn't
9 know.

10 MR. COLBY: -- fairly confident that if there were --
11 and I don't recall what the preliminary report said in terms of the
12 analysis of these, but I --

13 MS. NEWMARK: Would it surprise you if they were
14 almost verbatim the same?

15 MR. COLBY: No, it would not.

16 MS. NEWMARK: Okay.

17 MR. COLBY: I frankly believe that those amenities
18 are the amenities and have -- it has been very clear from the
19 beginning. They haven't changed.

20 MS. NEWMARK: Just so that I can understand the
21 procedure though which you did this, and that's my last question, it's
22 my understanding that you met with the B.F. Saul people on one or
23 maybe more than one occasion. Were there other people that you
24 met with in formulating your conclusions and recommendations?

25 MR. COLBY: Other people such as?

26 MS. NEWMARK: Oh, --

27 MR. COLBY: We contacted the ANC. We contacted

1 the community to find out whether -- what their --

2 MS. NEWMARK: You contacted the community?

3 MR. COLBY: -- concerns are and -- typically the
4 ANC.

5 MS. NEWMARK: So they were involved? They
6 talked -- they met with you on this?

7 MR. COLBY: No, no; they had not -- as I recall, they
8 had not -- well, typically they meet so late that it doesn't get into our
9 report. In this particular case, I don't recall. You were reading from --
10 the ANC expressed a concern and that was primarily with retail.

11 It was a very early concern obviously because that
12 was an early issue in terms of where the issues have gone.

13 MS. NEWMARK: Did it surprise you when you saw
14 the ANC's submission to the file that you looked through?

15 MR. COLBY: Yes, it did; sure.

16 MS. NEWMARK: Did that cause you any concern or
17 cause you to rethink a little bit that maybe that you ought to think more
18 about this?

19 MR. COLBY: I'm always interested. I mean, when
20 the record -- the community interest and concerns usually come in late
21 because of the way communities -- the way these things work.

22 And I think we're always interested and somewhat
23 surprised and -- but by where the community -- were there issues
24 raised that we weren't aware that were there in the beginning that no
25 one raised in the beginning.

26 MS. NEWMARK: They don't always know.

27 MR. COLBY: Yeah; no, that's fair.

1 But as I said, it's somewhat conjectural to say would
2 we do differently. In terms of what I have read in the record though, I
3 don't think that we would have recommended a significantly different
4 conclusion. We would have addressed a lot of different issues that
5 would have been raised.

6 MS. NEWMARK: Well, will you be staying here
7 through the remainder of the case? Will you hear our presentation?

8 MR. COLBY: I will.

9 MS. NEWMARK: Thank you.

10 CHAIRPERSON KRESS: Thank you.

11 Just a moment.

12 I would like to ask my fellow commissioners. It is past
13 11:00 and we had said we'd adjourned by 11:00, but we had also
14 hoped to talk to the National Park Service and the Zoo since their
15 representatives have been so kindly sitting here all evening.

16 What's your pleasure? Do you want to try to do the
17 Park and the Zoo, or should we -- no?

18 Two no go's. All right, three no go's.

19 All right, I am really sorry and I apologize to -- I
20 believe it was Mr. Murphy and Ms. Vasa. We've got to make you
21 come back again. And we will be adjourning for this evening and
22 reconvening -- Ms. Dobbins, date and time again?

23 MS. DOBBINS: January 23rd, 6:30 p.m., same
24 location.

25 CHAIRPERSON KRESS: Thank you.

26 The meeting is hereby continued.

27 (Whereupon, the proceedings were adjourned.)

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