

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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OFFICE OF ZONING

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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

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

CHAIRPERSON KRESS: Good evening, ladies and gentleman.

I'm Jerrily Kress, Chairperson of the Zoning Commission for the District of Columbia. Joining me this evening are Commissioners Franklin, Bennett, Croft and Parsons.

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

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

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

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

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

Second will be the Applicant's case;

Third will be the report of the Office of Planning;

Fourth will be the report of other agencies;

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

Six will be parties and persons in support;

And seven, parties and persons in opposition.

The commission will adhere to this schedule as strictly as

1 possible. Those presenting testimony should be brief and non-repetitive. If you  
2 have a prepared statement, give copies to the staff and orally summarize the  
3 highlights.

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

8 The decision of the Commission in this contested case must be  
9 based exclusively on the public record. To avoid any appearance to the contrary,  
10 the Commission requests that parties, counsel and witnesses not engage the  
11 members of the Commission in conversation during any recess or at the conclusion  
12 of the hearing session.

13 While the intended conversation may be entirely unrelated to the  
14 case that is before the Commission, other persons may not recognize that the  
15 discussion is not about the case. The staff will be available to discuss potential  
16 procedural questions.

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

18 (Whereupon, the witnesses were sworn.)

19 CHAIRPERSON KRESS: Thank you.

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

21 Ms. Dobbins?

22 MS. DOBBINS: Good evening, Madame Chairman, members of  
23 the Commission.

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

28 You have a resolution from Woodley Park. You have a letter

1 from Frank Smith, Council member, Ward 1; and a submission from James Good;  
2 and just other letters either in support or in opposition.

3 And the other matters -- preliminary matters will relate to the  
4 request for party status and the request for postponement, the request for  
5 postponement being first. You have three specific requests, one from the Kennedy  
6 Warren Residence Association.

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

12 So the motions or request for postponement are before you for  
13 action.

14 COMMISSIONER: Thank you.

15 Does the Commission have any comments regarding the request  
16 for postponement?

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

19 Is that not correct, Ms. Dobbins?

20 MS. DOBBINS: That is correct.

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

25 Those were all done. Your other forms of notice which are  
26 notice of -- no, property owners within 200 feet, persons with leases, and other  
27 ANC's who are not affected are supplemental notice and you are not required to give  
28 those, but the Commission does give those. And you are not -- it is not a

1 jurisdictional prerequisite for the Commission to take action in this case.

2 CHAIRPERSON KRESS: All right, thank you.

3 Comments from fellow Commission members?

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

9 And there are reasons why some people may or may not be  
10 recipients of the mailed form of notice. But since all of the other forms of notice  
11 have been made and since this room is quite full, it appears to me that those who  
12 wanted to participate have had the opportunity to participate.

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

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

23 CHAIRPERSON KRESS: And deny the request for  
24 postponement?

25 COMMISSIONER BENNETT: That's right; that's my  
26 recommendation.

27 COMMISSIONER: Madame Chair, I'd like to follow on with Ms.  
28 Bennett's point. And obviously I don't think we're going to get through the witness

1 list tonight, and I wondered if we could deal with a postponement date right now. Or  
2 not a postponement date, --

3 CHAIRPERSON KRESS: A carry over date.

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

7 Do we have any indication of when we might be able to continue  
8 this?

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

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

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

13 CHAIRPERSON KRESS: January 23rd.

14 MS. DOBBINS: Yes.

15 CHAIRPERSON KRESS: Thursday, correct?

16 MS. DOBBINS: Thursday.

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

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

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

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

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

1                   Would you come forward to the microphone, please?

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

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

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

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

11                  CHAIRPERSON KRESS: All right.

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

16                  CHAIRPERSON KRESS: Ms. Browne.

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

22                  MS. BROWNE: Thank you and good evening.

23                  My name is Tamara Browne, and I reside at 3133 Connecticut  
24                  Avenue, NW, Washington, D.C. And that also happens to be the Kennedy Warren  
25                  Apartment Building. I am here representing the Executive Committee, and I'm a  
26                  member and board of director of the Kennedy Warren Residence Association, also  
27                  referred to as KWRA in some of our documents.

28                  And at this time, I would like to give the Commission notice that

1 we have -- we approached Ms. Dobbins earlier this evening to explain that we  
2 requested a change in party status. Previously it was a party status in opposition to  
3 the proposed south wing edition based on actions taken today, which I will later  
4 highlight in my formal testimony.

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

7 CHAIRPERSON KRESS: Thank you.

8 Any questions of Ms. Browne? All right. And Ms.  
9 Dobbins, did you have --

10 MS. DOBBINS: No questions.

11 CHAIRPERSON KRESS: All right.

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

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

19 What is your pleasure? It appears to me that they meet all of the  
20 criteria and all they are doing is requesting a change in -- from being in opposition to  
21 in support. So is everyone in agreement, they are acknowledged with party status?

22 So ordered.

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

28 MS. DOBBINS: No, Madame Chair. Their request also appears

1 to be in order. They have outlined -- they have met all of the requirements as set  
2 forth in the Notice of Public Hearing.

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

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

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

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

15 What is not clear is how she might be adversely affected in some  
16 way differently from those who are -- those others who are also residents in the  
17 same complex. So it seems as though that request is duplicative of the one that  
18 we've already said meets all of the standards from Cathedral Park.

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

24 CHAIRPERSON KRESS: I agree.

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

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

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

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

5 MR. FEOLA: Thank you, Madame Chairperson.

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

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

13 Most of those persons have appeared and testified before you as  
14 experts. I'd be happy to go through them one at a time, if that's your pleasure.

15 CHAIRPERSON KRESS: I don't believe that's necessary. Since they  
16 have testified, you might, just for the record, formally make the request and we will  
17 thusly acknowledge.

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

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

26 CHAIRPERSON KRESS: Thank you.

27 Any comment? I'm aware of all of these individuals and their  
28 qualifications, and I believe most of them, if not all of them, have testified here

1 before. Any question or comment?

2 They are all acknowledged as expert witnesses.

3 MR. FEOLA: Thank you, Madame Chairperson.

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

9 One of them involves a change in the plans. The original  
10 application, and through the prehearing submission, the proposal had retail -- about  
11 4,000 square feet of retail provided on the Connecticut Avenue frontage of the  
12 property with direct access to Connecticut Avenue.

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

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

20 We ask leave of the Commission to do that.

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

23 COMMISSIONER BENNETT: No, I would only say glad to hear  
24 it, glad to hear it.

25 CHAIRPERSON KRESS: Thank you.

26 Yes, you may enter those in the record.

27 MR. FEOLA: The package of drawings is thick, but it's only  
28 because of the ripple effect of making the change on the ground floor and the

1 elevations and so forth.

2 And lastly, we'd like to make a proffer that came out of  
3 discussions with the National Park Service late last week. And that is in order to  
4 maintain a tree buffer between the Kennedy Warren property line and the National  
5 Zoo and the Klinge Valley portion of the Rock Creek Park, we have been asked and  
6 the Saul Company has agreed to be the Applicant and prosecute a street closing for  
7 a paper street that exists behind the Kennedy Warren building and runs from  
8 Connecticut Avenue to Klinge.

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

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

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

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

24 Now finally we can get started.

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

28 MR. FEOLA: I think we can probably squeeze it to about an

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

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

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

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

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

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

19 We think that it's in the interest of the District to provide rental  
20 housing within walking distance of two Metro stations on Connecticut Avenue.

21 Secondly, this is not about losing green space or open space. Even after  
22 this addition is constructed, if it's approved and constructed, there will only be a lot  
23 occupancy of 59%. The zoning allows a lot occupancy of 75%.

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

26 And finally, it has been suggested in some of the filings that this  
27 building will "Manhattanize" Connecticut Avenue. And without trivializing the  
28 opposition's position, we don't think that adding 166 units to Connecticut Avenue will

1 create Manhattan-like conditions here, nor do we think it will change the character of  
2 Cleveland Park.

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

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

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

13 Thank you.

14 Mr. Saul.

15 MR. SAUL: Good evening, Madame Chairman, commissioners.

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

20 Klingle Corporation is a privately held location company and a  
21 close affiliate of the B.F. Saul Company. And the Kennedy Warren is Klingle's only  
22 significant asset. The Klingle Corporation has owned the Kennedy Warren for  
23 approximately 66 years. And the B.F. Saul Company has been the owner's agent  
24 and management company during this period of time.

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

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

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

8 Then in 1990, the District registered the building in its inventory  
9 of historic sites. And again, in 1994, the building was again designated as a  
10 landmark building in the National Register of Historic Sites.

11 In spite of its age, the Kennedy Warren is a very attractive and  
12 popular apartment house. The building maintains virtually 100% occupancy level  
13 and there is a waiting list for many of our units. Certainly a large part of its appeal is  
14 its unique location.

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

16 COMMISSIONER BENNETT: You need to be talking into the  
17 mike as you --

18 MR. SAUL: Okay.

19 CHAIRPERSON KRESS: Hold it just a second.

20 MR. SAUL: How's that?

21 CHAIRPERSON KRESS: Is it on?

22 MR. SAUL: Yes.

23 COMMISSIONER BENNETT: Yes, I can hear it.

24 MR. SAUL: As you can see --

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

27 MR. SAUL: As you can see along the avenue here, you have to  
28 go approximately about 300 yards to the south to get to the next commercial building

1 which is an apartment building here on Connecticut Avenue. Going north, you have  
2 to cross Klinge Valley on the bridge and go almost 200 yards to the next building,  
3 again an apartment house and, of course, surrounded on three sides by the Park  
4 Service and the Zoo.

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

8 So we think that that unique location is a big part of the building's  
9 success. And in fact, as you'll hear later, most of our residents do use the public  
10 transportation. One of the questions we've been asked very often when we've been  
11 out in the community putting on our presentations is it's been 62 years since you  
12 completed the north wing, why now, why the wait?

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

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

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

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

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

4                   Third, recently several of the commercial residents, tenants in  
5 the Cleveland Park commercial district, have closed their doors. We feel that the  
6 additional residents in this property will certainly help maintain and probably  
7 increase the economic viability of the Cleveland Park commercial district.

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

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

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

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

21                  CHAIRPERSON KRESS: Yes, thank you.

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

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

1 construction.

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

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

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

9 MR. FEOLA: Thank you.

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

12 Mr. Cox.

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

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

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

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

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

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

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

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

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

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

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

26 As far as we can tell, there is no adverse impact in terms of light  
27 and air on any of the neighboring properties. As one goes up Connecticut Avenue,  
28 you find these buildings, most of which are six to nine stories high, which pull up to

1 the street line at Connecticut Avenue.

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

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

10 There was a question raised to the Fine Arts Commission by the  
11 Chairman as to whether we would look at setting back this wing from Connecticut  
12 Avenue, which we did do. We filed the alternatives with the Commission and  
13 recommended that we go with the scheme where it followed the street line.

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

16 CHAIRPERSON KRESS: Excuse me, from the Commission of  
17 Fine Arts?

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

19 CHAIRPERSON KRESS: Okay, thank you.

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

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

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

24 CHAIRPERSON KRESS: Thank you. We think alike.

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

28 Now the issue then also has been raised is how does this affect

1 light and air and shadows for the people across the street? Well, we were really  
2 talking about at the most probably moving it back 25 or 30 feet, just this particular  
3 section.

4 And we will contend that moving that back 25 to 35 feet at the  
5 most would have virtually no effect on -- as opposed to where its present position on  
6 the people across the street in terms of light, air, shadows and so forth.

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

9 MR. DAVIDSON: Thank you.

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

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

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

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

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

26 The piece on the right is the new south wing. We are proposing  
27 a total of 19 units per floor. There will be two efficiencies per floor, predominantly  
28 larger one bedrooms with several two bedrooms on every floor for a total of 166 unit

1 in the entire building.

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

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

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

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

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

21 CHAIRPERSON KRESS: Which you spoke of?

22 MR. FEOLA: Yes.

23 MR. DAVIDSON: In section then, we have eight floors from  
24 here, one level above grade up of typical apartment floors. And we have the main  
25 level which is the lobby area which also had some residential units. And below  
26 grade, we have three levels of parking.

27 At the lobby level then, you can see the courtyard, the entrance,  
28 the south wing which is here, Connecticut Avenue of course here. The main

1 entrance to the building will remain in the tower. Even the main entrance to the  
2 south wing will remain and the main entrance to the building here.

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

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

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

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

19 Actually, this detailing is from the ballroom. The site plan --  
20 again, here's the entrance drive and the main entrance. We are going to redo all of  
21 the courtyard here. We're going to widen the driveway so that actually two cars can  
22 pass.

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

27 Along Connecticut Avenue, there is 35 feet which belongs to the  
28 Connecticut Avenue right of way between the curb and the building. About ten or 12

1 feet of that right of way is the planting area next to the curb and the sidewalk leaving  
2 24, 25 feet of green space that occurs between the sidewalk and the building.

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

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

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

15 [End Tape 1, Side 1.]

16 [Begin Tape 1, Side 2.]

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

22 And this wing here and this wing here are the only pieces that  
23 are actually out at the Connecticut Avenue face. The rest of the building is set back  
24 40 feet from Connecticut Avenue. As was mentioned before, the detailing materials  
25 and so on is completely consistent with Joseph Younger's original drawings and with  
26 the building which exists today.

27 You could also see from this drawing that we have two minor  
28 penthouses symmetrically disposed on the building. One of them has the elevators

1 for the building. The other has the stair and a very small cooling tower.

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

6 Obviously the penthouses are well set back from the building  
7 face. However, the building, because it is narrow and because it has return corners,  
8 this area right here and this area right here, the penthouse does not meet the one to  
9 one set back requirement of -- since the penthouse is 18½ feet high, which is  
10 allowable.

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

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

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

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

26 And that area is mostly this. This is the area which faces east  
27 toward the Zoo. We're looking at the south wing here and the existing Kennedy  
28 Warren here. And you can see that the south wing is really being placed on the

1 area of the site which is, for the most part, level.

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

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

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

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

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

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

24                   And you can see the effect that it will have -- imagine the effect it  
25 will have on the courtyard space, which is shown in his rendering also of 1931 here  
26 of the completed building. So to go back to a statement that has been made a  
27 couple of times before, we see this as a wonderful opportunity for the District of  
28 Columbia to try to stabilize and, in fact, gain some apartment units and some

1 populous.

2 And it's a very optimistic sign, I think, for us living in the District.

3 And I certainly think that building the addition to complete this really wonderful art  
4 deco building will also be a significant addition to Connecticut Avenue.

5 MR. FEOLA: Thank you.

6 Our next witness is Mr. Louis Slade.

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

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

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

19 MR. SLADE: Yes, it is.

20 COMMISSIONER: Do the conclusions therein represent your  
21 professional opinion?

22 MR. SLADE: Yes, it does.

23 COMMISSIONER: Thank you.

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

27 The Metro station would be just on the -- sort of the edge of this  
28 photo at the vanishing point about two blocks away to the north. Connecticut

1 Avenue is six lanes, four lanes in the primary direction in the morning and the  
2 afternoon peak periods; two lanes in the other direction with no parking.

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

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

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

15 The other driveway is the -- is in the foreground of this photo.  
16 I'm standing on the sidewalk and the driveway's right in front of me. And the little  
17 retaining wall is at the far edge of that driveway. And this serves the parking garage,  
18 and I'll show you a couple of slides of this.

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

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

28 This driveway, which is the parking garage access driveway

1 again from that view from the sidewalk, will, along with this project, have some minor  
2 modifications as well. The sidewalk crosses the driveway at grade is a continuous  
3 sidewalk, and there are no pedestrian heads on the traffic signal.

4 So pedestrians are somewhat confused. Here's a more  
5 standard kind of a driveway. This is the Zoo driveway with the crosswalk well  
6 marked and there is pedestrian heads to warn the pedestrians. This is a safety  
7 concern and we think that the Kennedy Warren driveway can be improved to look  
8 very similar to the Zoo driveway so pedestrians are aware they're crossing a  
9 driveway that has signal control.

10 In addition to that, the -- some upgrade of the signal equipment  
11 will make this intersection operate more efficiently. We carried out traffic surveys  
12 and studies of this driveway and the U-shaped driveway by doing traffic counts and  
13 pedestrian counts.

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

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

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

28 The blue line across the top is the existing conditions. And in the

1 morning, we're showing the major flows of traffic. There are 46 total vehicles in the  
2 morning and 23 total vehicles in the evening. And the second pair of columns are  
3 the pedestrians. And you can see there are more pedestrians moving in and out of  
4 the building during the morning and evening peaks than there are automobiles.

5 It's almost double. The number of pedestrians is almost double  
6 the number of vehicles. When we extrapolated using those figures, we get a total of  
7 approximately 30 and 14 vehicles during the a.m. and p.m. peak hours in the  
8 primary directions. The total traffic inbound and outbound during those peak hours  
9 is somewhat more, about 37 and 25 vehicles.

10 By comparison, during the morning peak hour, Connecticut  
11 Avenue carries about 200,000 southbound vehicles. The traffic signals at the  
12 Kennedy Warren interrupt the southbound and northbound traffic on Connecticut  
13 Avenue briefly to accommodate these movements.

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

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

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

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

1                   And you can see that capacity is reached or comes close to  
2                   being reached after midnight during each of the days that we surveyed. And the  
3                   garage begins to empty out in the morning when about 60 cars leave the garage.  
4                   The majority of the tenants leave their cars and store their cars in the garage during  
5                   the work week.

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

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

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

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

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

26                  We applied those same rates, and we came up with 118 spaces  
27                  -- that the residents in the 166 new units will need about 118 spaces to satisfy their  
28                  demand. And it leaves us with a net of about 36 spaces which can help to satisfy

1 other needs such as tenants' visitors.

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

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

10 Thank you.

11 MR. FEOLA: Thank you.

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

13 MR. SHEARER: Good evening, Madame Chair and members of  
14 the Commission.

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

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

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

26 The committee report which accompanied the adoption of the  
27 comprehensive plan described that high density residential and density terms as in  
28 excess of 90 dwelling units per acre. Well, we have more than 90 dwelling units per

1 acre. There's no upper limit on that level in the committee report.

2 But the adopted land use element describes the high density  
3 residential category as including high rise apartment buildings as the predominant  
4 use and then also permitting other densities of apartment buildings as well.

5 In the outline and in the statement of the Applicant, which both in  
6 the application and in the prehearing statement we have gone through and looked at  
7 and described the major themes, the major theme of this project, of course, is that  
8 it's an apartment building.

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

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

16 We believe that such a building addition in this neighborhood is  
17 consistent with the theme of stabilizing the District's neighborhood, of respecting and  
18 improving the physical character of the District, and preserving the historic character  
19 of the District.

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

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

27 In this case, we have both; the maintenance of the existing units  
28 in the Kennedy Warren Building, plus the addition of 166 new units. On page two of

1 the outline, I have also identified and listed the other objectives and policies which  
2 relate to housing and the housing element.

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

8 In this case, there is. And as the architects have described, the  
9 building fits within the historic character of both the site itself and the completion of  
10 the plan that was originally prepared for the Kennedy Warren, as well as the broader  
11 context of the Connecticut Avenue corridor and the type of apartment buildings that  
12 line that avenue up and down.

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

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

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

27 Many of the major themes in the Ward 3 plan are the same as  
28 those set forth in the comprehensive plan as to things like preserving neighborhood

1 stability and encouraging historic preservation and respecting urban design in areas  
2 of strong architectural character.

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

6 The picture that was sitting up here before shows the building  
7 almost sitting by itself on the east side of Connecticut Avenue surrounded by that  
8 ring of green which will be maintained so that we've got a site that is appropriate for  
9 housing and where that housing can be constructed without adversely affecting  
10 anything immediately surrounding it.

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

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

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

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

28 Yet, the overall lot occupancy's going to be only 59%. And that

1 central court area which faces the entrance, approximately 18,000 square feet is  
2 going to remain and going to be that central organizing feature around which the  
3 building is designed.

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

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

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

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

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

26 Balance that against the development incentives that are  
27 requested. No increase in height. The R-5-E permits a 90 foot height. The building  
28 is 90 feet high. There's a .29 increase in FAR over the matter of right FAR permitted

1 in R-5-E. That's about 4.8%.

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

7 CHAIRPERSON KRESS: Thank you.

8 Further testimony?

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

12 CHAIRPERSON KRESS: All right, thank you.

13 MR. FEOLA: And our witnesses are yours for questioning.

14 CHAIRPERSON KRESS: Thank you.

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

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

19 Fellow Commission members, questions?

20 Do you want to start, Commissioner Franklin?

21 COMMISSIONER FRANKLIN: Mr. Saul, as my colleagues  
22 know, I've been curious about PUD applications that come before us and then come  
23 before us two years later because the market's not there, and come before us two  
24 years later because the market's not there, etc., etc., etc.

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

27 MR. SAUL: We are quite confident in our ability to complete this  
28 project. We have two or three things that are in our favor that make it easy for me to

1 make that statement. One is we have an existing building that is very popular, and  
2 that allows us to gauge the demand in the market.

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

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

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

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

13 --

14 COMMISSIONER FRANKLIN: You didn't explore that?

15 MR. SAUL: Yes, yes.

16 CHAIRPERSON KRESS: Any other questions?

17 COMMISSIONER FRANKLIN: I have no questions for Mr. Saul.

18 CHAIRPERSON KRESS: I do have -- do you have any  
19 questions for Mr. Saul?

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

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

26 MR. SAUL: Well, we would plan to charge for the parking in the  
27 building as we do in the existing building. With regards to the new addition, there  
28 are two efficiencies per floor in the new addition. Beyond that, they're one bedroom,

1 one bedroom/dens, two bedrooms.

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

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

9 CHAIRPERSON KRESS: What kind of a price -- I mean, you're  
10 talking generically, and perhaps you don't have these things set yet what the price  
11 for the units are or the price for the parking. Is this going to be a reasonably priced  
12 parking?

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

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

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

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

25 MR. SAUL: Correct.

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

28 Thank you.

1 MR. SAUL: Okay.

2 CHAIRPERSON KRESS: Any other questions for Mr. Saul?

3 COMMISSIONER: I have none.

4 CHAIRPERSON KRESS: Hearing none, thank you.

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

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

9 MR. SAUL: Correct.

10 COMMISSIONER: Are you responsible for that?

11 MR. SAUL: The team is, yes.

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

16 MR. SAUL: Correct.

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

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

20 COMMISSIONER: I can't imagine --

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

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

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

1 COMMISSIONER: So if you're starting up in the six to nine  
2 month period early on in the middle of the Zoo's season, you're going to have  
3 somewhat of a problem during that early period even with carpools. I mean, there  
4 will have to be some vehicles to be parked, correct?

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

9 COMMISSIONER: Oh, I see. You mean the contractor itself  
10 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 downtown here,  
13 but not normally done there.

14 MR. SAUL: That's correct.

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

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

19 COMMISSIONER: All right, thank you.

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

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

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

25 MR. SAUL: Uptown Caterers.

26 COMMISSIONER: Oh, I see.

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

28 COMMISSIONER: They're a tenant?

1 MR. SAUL: They're a commercial tenant in the Kennedy  
2 Warren.

3 COMMISSIONER: Oh, I see.

4 MR. SAUL: In the existing Kennedy Warren.

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

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

8 COMMISSIONER: -- and they indicate that there's parking at  
9 the Zoo.

10 MR. SAUL: Correct.

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

13 Perhaps Mr. Slade could join us.

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

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

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

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

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

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

7                   CHAIRPERSON KRESS: Thank you.

8                   Any other questions for the architect?

9                   Commissioner Parsons.

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

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

17                  MR. DAVIDSON: That's correct.

18                  COMMISSIONER PARSONS: At the same time, however,  
19                  you're, as I understand it, suggesting tonight that that street be closed, that you not,  
20                  as is normal, get one-half of that street which occurs in a street closure. But you  
21                  would be donating this or transferring this or allowing it to be transferred to the Zoo  
22                  which results in a property line for you that is eight feet off the back of the building.

23                  Is that correct?

24                  MR. DAVIDSON: That's correct.

25                  COMMISSIONER PARSONS: So I'm trying to figure out  
26                  whether -- how our order should reflect something like this so that the result is  
27                  you've got an eight foot rear yard when we're really dependent upon the City Council  
28                  to do something subsequent to this. Maybe Mr. Feola could help us with that in

1 writing at a later time.

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

4 (Laughter.)

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

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

8 COMMISSIONER PARSONS: All right, Mr. Feola will fix that for  
9 us.

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

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

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

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

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

22 MR. FEOLA: Security in which direction?

23 (Laughter.)

24 COMMISSIONER PARSONS: Keep the rhinos out.

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

28 COMMISSIONER PARSONS: Mr. Davidson, you didn't mention

1 storm water, but it runs downhill. And Klinge Valley has been a problem for some  
2 time, as you probably know. And could you just generally outline where the water's  
3 going here?

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

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

10 MR. DAVIDSON: I don't actually know where that particular  
11 storm sewer goes. It runs up and down Connecticut Avenue. And I guess the point  
12 is that we are not connecting to the storm and sanitary sewers which are currently  
13 coming from the building which do go into Klinge Valley.

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

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

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

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

28 Do you think you could do that?

1 MR. DAVIDSON: Yes, sir.

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

6 MR. DAVIDSON: We will be glad to provide you with the lighting  
7 plan as well. Obviously that's not -- we haven't devoted an enormous amount of  
8 time to it and we're certainly going to improve on what's there, which is a little harsh.  
9 But we will also submit a lighting plan to you.

10 CHAIRPERSON KRESS: Thank you.

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

12 COMMISSIONER PARSONS: That's all right.

13 I think that's all I have now.

14 Thank you.

15 CHAIRPERSON KRESS: All right, any other questions?

16 If not, we'll move on to Mr. Slade. I had several questions.

17 Maybe I'll just begin with the questioning.

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

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

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

28 We felt that the number of cars -- the number of spaces rented

1 by existing tenants was a good indicator of what would happen in the future, but that  
2 it would depend on the size of the unit because that would probably be indicative of  
3 the number of people in the unit.

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

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

12 169 and 30 is 199 spaces are currently rented by the existing  
13 tenants in the 317 units. There are 233 spaces in the garage. When we applied  
14 those factors, those rental rates -- the rate of space utilization by current tenants to  
15 the future distribution, we got what we think is the right number of spaces that future  
16 tenants would require, which was 118.

17 And we're building 154. That's why I got this net extra balance of  
18 36 spaces in the new garage. Now obviously --

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

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

24 CHAIRPERSON KRESS: All right, I think I had one more --

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

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

28 [End Tape 1, Side 2.]

1 [Begin Tape 2, Side 1.]

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

3 I wan to make it clear we have two types of -- two areas of  
4 parking. We have reserved parking spaces. And you might have heard a little  
5 grumbling when we said there's no waiting list. We currently do accommodate  
6 anybody who wants to park in the building. There is a waiting list  
7 actually to get a reserved parking slot, and there are some people who are in a  
8 temporary or without a reserved spot. Just so we can keep the record clear.

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

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

16 So we do think that Lou's schedule which extrapolates based  
17 upon unit size and makes an estimate of projected use is pretty accurate. And it  
18 ends up with a cushion of 36 units, which is a pretty large cushion. So we think  
19 even if we're off by a little bit, I don't think we're going to be off by 20%.

20 COMMISSIONER FRANKLIN: What is your policy regarding  
21 visitor parking?

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

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

27 MR. SLADE: Yes.

28 COMMISSIONER FRANKLIN: And is there a charge for that?

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

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

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

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

11 And I was just wondering whether there is the possibility of any  
12 adjustment in the signalization even at the expense of people like myself who need  
13 the green time on Connecticut Avenue? It seems to me that green time on  
14 Connecticut Avenue will have to be reduced even minimally to accommodate any  
15 additional cars.

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

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

19 COMMISSIONER FRANKLIN: Usually in the left lane.

20 (Laughter.)

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

24 And as you know, you've got four lanes southbound in the  
25 morning, and then one of the lanes is dropped at Cathedral. And that, of course,  
26 causes a backup. And the amount of green time that is allocated to Kennedy  
27 Warren's driveway and the Zoo driveway could be increased without materially  
28 changing the amount -- limiting the amount of traffic that can get downtown on

1 Connecticut Avenue, so to speak, because the real constraint is one block to the  
2 south and beyond that, whatever's happening at that major cross streets.

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

7 COMMISSIONER FRANKLIN: And Devonshire Street?

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

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

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

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

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

25 COMMISSIONER FRANKLIN: Thank you.

26 I have no further questions.

27 CHAIRPERSON KRESS: Any other questions for Mr. Slade?

28 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 -- I didn't  
4 know we were going to --

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

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

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

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

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

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

24 MR. SHEARER: Well, the lobby level -- we plan to renovate the  
25 whole lobby level as part of this. Obviously the rest of the building -- it's a big  
26 building, and it will be a long term project to go through and upgrade many aspects  
27 of the systems in the existing building.

28 For example, there are 3,300 windows in the existing building

1 that will need replacing over the next few years, probably over a ten year time frame.  
2 So long term projects like that will hopefully begin soon, but the lobby in particular is  
3 going to be upgraded as part of and in conjunction with this project.

4 COMMISSIONER FRANKLIN: And how about the ballroom?

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

8 COMMISSIONER FRANKLIN: So the suggestion by the  
9 Preservation League that you restore the ballroom you don't think is necessary or  
10 desirable or --

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

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

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

20 MR. SHEARER: Sure, sure.

21 COMMISSIONER FRANKLIN: Thank you.

22 CHAIRPERSON KRESS: Anything else on the amenities?

23 Commissioner Croft.

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

26 MR. SLADE: We are going to be again upgrading the lobby,  
27 making repairs to -- additional repairs to the roof of the existing building and the  
28 parking garage, adding a common area residential lounge with a kitchen/bar facility,

1 replacing the carpeting in the existing building, repainting all the hallways in the  
2 existing building.

3 (Applause.)

4 Let's see. Many longer term projects that are going to occur  
5 over a period of time. Some improvements to the fire life safety systems, some of  
6 the fire exits in the back, putting intercom systems in, additional security cameras in  
7 the garage and the laundry room and the work out exercise room, improving the  
8 handicap accessibility of the building, other projects like that, upgrading the laundry  
9 room, etc.

10 COMMISSIONER CROFT: Is this a rent controlled building?

11 MR. SHEARER: Yes, it is.

12 COMMISSIONER CROFT: Do you have to get the approval of  
13 the Rent Administration for the --

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

16 COMMISSIONER CROFT: I see.

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

18 CHAIRPERSON KRESS: Any other questions of the Applicant?

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

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

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

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

4 CHAIRPERSON KRESS: Perhaps you should go back to the  
5 mikes.

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

8 MR. FEOLA: It is.

9 MR. MENDELSON: Is that discussed in the prehearing  
10 statement?

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

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

18 MR. MENDELSON: The prehearing statement on page six  
19 includes tabulation of development data, and there it talks about the rear yard being  
20 25 feet. On what basis was that statement made?

21 I'll show you the page.

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

26 So the rear yard for this building is measured from the middle --  
27 can be measured from the middle of unbuilt Jewitt Street. And unbuilt Jewitt Street  
28 is 50 feet wide.

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

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

7 MR. MENDELSON: You wrote this, correct?

8 MR. FEOLA: I had a --

9 MR. MENDELSON: The prehearing statement?

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

11 MR. FEOLA: Yes.

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

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

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

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

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

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

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

1                   And as I also said, our building is 90 feet high at the middle of  
2                   the rear of the structure which would therefore require a rear yard of 30 feet. We do  
3                   have a rear yard of 30 feet over -- by far the majority of our building because we  
4                   pulled it back from the property line.

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

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

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

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

14                  MR. DAVIDSON: The two abutting property owners are the Zoo  
15                  and the Klingle Corporation.

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

17                  MR. DAVIDSON: That's correct.

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

20                  MR. MENDELSON: So there would be three?

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

22                  MR. DAVIDSON: That's correct.

23                  MR. MENDELSON: Thank you.

24                  My other question concerns a clarification of some questioning  
25                  that Mr. Parsons initiated concerning the restoration of interior spaces.

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



1 MR. SAUL: No.

2 MR. MENDELSON: Thank you. I have no other questions.

3 UNIDENTIFIED SPEAKER: Madame Chairperson, if you care  
4 to, the picture that's now sort of showing on the screen is a picture of the ballroom  
5 as it exists. If Mr. Colby will shut the light, we may be able to see it better.

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

8 UNIDENTIFIED SPEAKER: Yes, ma'am.

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

12 UNIDENTIFIED SPEAKER: Correct.

13 Thank you.

14 CHAIRPERSON KRESS: Thank you, Mr. Mendelson.

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

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

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

20 MS. BROWNE: We have no questions.

21 CHAIRPERSON KRESS: You have no questions?

22 Thank you.

23 The Cathedral Park Condo Association, Andrea Newmark, you  
24 have cross examination?

25 MS. NEWMARK: Thank you very much.

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

28 MS. NEWMARK: Yes, I want --

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

2 MS. NEWMARK: On?

3 CHAIRPERSON KRESS: Now we've got you.

4 MS. NEWMARK: Thank you.

5 I think I'll just begin by going backwards in my notes since I'm

6 open to that page. And the last thing that was talked about was the D.C.

7 Preservation League. And I guess my question is for either Mr. Feola or Mr.

8 Davidson since they're the people that I'm aware of that received these faxes.

9 But do you recall having a communication with -- from Sally

10 Burke in the last few days concerning the use of the D.C. Preservation League's

11 letters in this proceeding?

12 Mr. Feola or Mr. Davidson.

13 MR. FEOLA: Probably more appropriate to direct that to Mr.

14 Parsons. He asked the question.

15 CHAIRPERSON KRESS: I'm sorry, there was a response

16 dealing with the Preservation League.

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

18 CHAIRPERSON KRESS: Then I don't understand your

19 question. You're asking if there has been receipt of a letter -- can you say what it's

20 regarding? That would help us clarify who should be answering it.

21 MS. NEWMARK: Yes, it's regarding the D.C. Preservation

22 League's request that their letters of support not be used in any way in the zoning

23 proceeding, and I have copies of the letter that was faxed to Hartman & Cox, the

24 architects, and a letter from her saying that she spoke to Phil Feola about that as

25 well.

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

27 CHAIRPERSON KRESS: And what was the basis for them

28 asking -- I'm sorry, I'm trying to get to who -- where the testimony occurred on this

1 because you're only asking questions now and you're not testifying.

2 MS. NEWMARK: Right.

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

6 MS. NEWMARK: Well, my understanding -- this is what she told  
7 me -- was that she was very --

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

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

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

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

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

19 MS. NEWMARK: January 3rd.

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

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

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

3 MR. FEOLA: I can't answer that, Mr. Franklin. We presented  
4 the project twice to the Issues Committee for the Preservation League. The  
5 Preservation League wrote two letters in support to the Historic Preservation Review  
6 Board.

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

11 CHAIRPERSON KRESS: All right, thank you.

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

13 MS. NEWMARK: Okay, okay.

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

19 MR. DAVIDSON: That's correct.

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

22 MR. DAVIDSON: That's correct.

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

26 MR. DAVIDSON: I certainly intended that to be the case, yes.

27 (Laughter.)

28 MS. NEWMARK: Okay.

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

3                                   CHAIRPERSON KRESS: Are you referring to the construction  
4 management plan?

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

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

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

10                                  CHAIRPERSON KRESS: That can be entered if somebody so  
11 wishes later.

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

14                                  CHAIRPERSON KRESS: Well, perhaps somebody can testify  
15 and put it in and --

16                                  MS. NEWMARK: Okay.

17                                  CHAIRPERSON KRESS: -- let us know the status of it --

18                                  MS. NEWMARK: Okay.

19                                  CHAIRPERSON KRESS: -- throughout these proceedings.

20                                  MS. NEWMARK: Okay. Well, would it -- why don't I just ask  
21 questions then about the items that Mr. Saul testified to about that agreement?

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

23

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

27                                  That is Mr. Saul, right?

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

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

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

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

7 MS. NEWMARK: Which part is this?

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

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

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

12 CHAIRPERSON KRESS: You have time for testimony later.

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

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

21 MR. SAUL: No, no.

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

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

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

27 MR. SAUL: Yes.

28 MS. NEWMARK: Okay. And would that be the same for

1 painting the halls?

2 MR. SAUL: Sure.

3 MS. NEWMARK: And what about --

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

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

11 MS. NEWMARK: Could I respond?

12 CHAIRPERSON KRESS: Just a moment.

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

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

18 COMMISSIONER BENNETT: Especially -- let me hone in on --  
19 let me refine that some.

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

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

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

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

3 MS. NEWMARK: Right.

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

7 (Inaudible comment from an unmiked location.)

8 CHAIRPERSON KRESS: You're out of order.

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

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

18 (Applause.)

19 COMMISSIONER BENNETT: Having said that for the record --

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

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

25 (Applause.)

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

28 MS. NEWMARK: I'm sorry.

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

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

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

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

12 MS. NEWMARK: Who did that study?

13 MR. SAUL: We did internally.

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

15 MR. SAUL: No.

16 CHAIRPERSON KRESS: It's internal.

17 MS. NEWMARK: Okay.

18 I have a question for Mr. Slade.

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

23 MR. SLADE: No.

24 MS. NEWMARK: Okay.

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

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

8 MS. NEWMARK: Whoever might know.

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

16 MS. NEWMARK: David Murphy.

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

19 MS. NEWMARK: Excellent. Okay.

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

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

24 MR. FEOLA: We had discussions with the Zoo about the  
25 project. And in fact, there's a letter from the Zoo supporting the project. But we did  
26 not talk about this right of way which, at the time we discussed it with them, as I  
27 said, until Thursday of last week, we didn't know anybody wanted that right of way.

28 We had no intention of closing -- the Applicant had no intention

1 of closing that street or applying to close that street.

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

4 MR. FEOLA: I have no idea.

5 CHAIRPERSON KRESS: No.

6 MS. NEWMARK: They won't?

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

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

10 CHAIRPERSON KRESS: I don't have a current witness list. I  
11 don't have one.

12 (Inaudible comment from an unmiked location.)

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

15 CHAIRPERSON KRESS: Thank you.

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

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

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

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

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

26 MS. NEWMARK: Okay.

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

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

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

6 UNIDENTIFIED SPEAKER: We don't know.

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

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

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

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

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

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

18 MS. NEWMARK: The reason I asked it was in relation to Mr.  
19 Parsons' questions concerning carpooling. We're trying to determine the magnitude  
20 of cars even with carpools that are going to be visiting the site on busy Connecticut  
21 Avenue in the morning.

22 CHAIRPERSON KRESS: One moment.

23 Mr. Parsons?

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

28 MR. FEOLA: Sure, be happy to.

1 CHAIRPERSON KRESS: Thank you.

2 Please continue.

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

6 MR. SLADE: We did not.

7 MS. NEWMARK: Did you attempt to?

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

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

12 MR. SLADE: Yes, and were unsuccessful.

13 MS. NEWMARK: You were unsuccessful?

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

15 MS. NEWMARK: Why not?

16 MR. SLADE: The client was not ready to have them release it to  
17 us -- to anyone.

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

19 MR. SLADE: No.

20 MS. NEWMARK: Okay.

21 Would that data have been useful in doing your traffic and  
22 parking study?

23 MR. SLADE: I don't know.

24 MS. NEWMARK: You don't know?

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

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

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

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

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

12 MS. NEWMARK: Do you know how many of the existing tenants  
13 at the Kennedy Warren presently use on street parking?

14 MR. SLADE: No.

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

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

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

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

23 MR. FEOLA: Yes, ma'am.

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

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

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

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

8 MS. NEWMARK: Well, I'm confused. And maybe you can  
9 clarify this for me because I thought Mr. Saul said that because the rental was so  
10 high in the new building, it was going to be a very different kind of tenant than the  
11 rent controlled old building.

12 MR. FEOLA: I object.

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

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

16 MS. NEWMARK: Okay, I stand corrected.

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

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

24 Do you remember that?

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

27 MS. NEWMARK: Okay. So then let me pose it as a question to  
28 you, Mr. Slade. I mean, do you think that you can really make an accurate

1 projection for that kind of building, for that kind of projected tenancy based on the  
2 utilization in an older building which we've heard stated was rent control and where  
3 the rents are considerably less?

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

6 MS. NEWMARK: What is the range?

7 MR. SLADE: Yeah, it ranges from \$450 a month to actually  
8 \$3,500 a month per unit.

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

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

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

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

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

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

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

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

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

28 And what it sounds like she's getting at is can you also look at

1 income by unit cost and whether or not the type of person who is able to rent at  
2 \$1,000 a month and above is more likely to drive. Is that where  
3 you're going?

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

7 CHAIRPERSON KRESS: So I think it's fair, without getting into,  
8 you know, what somebody said at a meeting -- I think it's fair to ask if there is  
9 another variable that you would look at when you're trying to gauge how -- what that  
10 garage usage is going to be and whether or not you had a chance to take a look at  
11 that by cost of 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 somewhat in  
14 answering that question. We did an average income analysis of tenants that have  
15 moved in the building within the last ten years, and the average income is about  
16 \$70,000. And we estimate that that is within a range -- the exact type of tenant that  
17 we expect to be leasing the new building to.

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

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

24 MR. SLADE: Ms. Bennett, with regard to the study we did for  
25 this project, we did not look at income as a determining factor of auto ownership. It's  
26 my opinion that, while if you looked at a broad range of data city wide or  
27 metropolitan area wide, income would be a factor in auto ownership.

28 I don't think within the microcosm of the 200 people that are

1 going to live in this building you're going to find any correlation that's statistically  
2 significant. We saw in a chart that I had on the wall a little while ago that people --  
3 one of the categories of larger apartments have less cars per unit than in the smaller  
4 apartments.

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

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

12 [End Tape 2, Side 1.]

13 [Begin Tape 2, Side 2.]

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

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

22 COMMISSIONER BENNETT: Thank you.

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

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

28 If it's the same thing, we could -- you may ask it. Otherwise,

1 we're not going to ask a question at this point.

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

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

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

11 MS. NEWMARK: What is your current zoning?

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

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

14 MR. SHEARER: 3.5.

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

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

19 MS. NEWMARK: Thank you.

20 (Laughter.)

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

24 MS. NEWMARK: Right.

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

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

28 MS. NEWMARK: No?

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

2 MS. NEWMARK: Oh, a nonconforming structure. Excuse me,  
3 I'm not a zoning expert.

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

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

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

11 MR. SHEARER: No.

12 MS. NEWMARK: No? Was there some comprehensive  
13 rezoning in 1958?

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

16 MS. NEWMARK: And was there something in 1981, do you  
17 know?

18 MR. SHEARER: I don't recall anything that applied to this site in  
19 1981, but I did not research that.

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

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

24 MS. NEWMARK: Okay.

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

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

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

4                   MR. SHEARER: Okay.

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

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

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

11                  CHAIRPERSON KRESS: Designing.

12                  MR. SHEARER: I think it was designing.

13                  MS. NEWMARK: Designing?

14                  MR. SHEARER: Yes.

15                  MS. NEWMARK: Thank you.

16                  CHAIRPERSON KRESS: Designing.

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

18                  COMMISSIONER BENNETT: Designing additions --

19                  MS. NEWMARK: To be compatible.

20                  COMMISSIONER BENNETT: -- to be compatible.

21                  MS. NEWMARK: Right.

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

25                  CHAIRPERSON KRESS: Just say yes.

26                  (Laughter.)

27                  MR. SHEARER: Could be either, --

28                  MS. NEWMARK: Good call.

1 MR. SHEARER: -- but I suspect it probably means more the  
2 latter.

3 MS. NEWMARK: Yes.

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

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

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

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

10 MR. SHEARER: Not necessarily, no.

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

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

15 MR. SHEARER: Yeah, I think so.

16 MS. NEWMARK: All right.

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

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

24 COMMISSIONER: The preservation of historic buildings, is that  
25 what you said?

26 MR. SHEARER: Yes.

27 MS. NEWMARK: All right. Well, isn't there a difference between  
28 preserving an existing object and creating a new one?

1 MR. SHEARER: Yes.

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

3 MS. NEWMARK: Yes, you can.

4 I'd say the principal benefit or amenity that the Applicant is  
5 claiming qualifies it for PUD status is this historic preservation, the idea that they're  
6 completing the building according to its original plan, and I don't believe that that's  
7 what the historic preservation amenity listed in the PUD regulations means.

8 I think --

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

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

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

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

16 MS. NEWMARK: Okay.

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

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

22 MS. NEWMARK: What?

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

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

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

26 MS. NEWMARK: Okay.

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

28 MS. NEWMARK: Okay.

1                   Madame Chairperson, would it be appropriate to go back to the  
2 last two slides that Mr. Davidson showed during his 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 building.

7                   CHAIRPERSON KRESS: As part of his testimony?

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

10                  Right, okay; that's exactly it.

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

12                  MR. DAVIDSON: This is --

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

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

16                  MS. NEWMARK: Okay.

17                  COMMISSIONER BENNETT: Let him --

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

19                  CHAIRPERSON KRESS: Repeat what that is, yes.

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

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

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

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

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

1 COMMISSIONER BENNETT: He flipped the slide to make a  
2 point.

3 MS. NEWMARK: I see.

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

6 MS. NEWMARK: Okay, okay, okay.  
7 Can we look at the next picture and then maybe we'll come back  
8 to this?

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

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

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

13 CHAIRPERSON KRESS: This is the original drawing done by  
14 the original architect.

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

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

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

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

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

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

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

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

28 MS. NEWMARK: Oh, it's a partial rendering. I'm sorry. I

1 thought he said this was the whole building.

2 MR. DAVIDSON: No.

3 MS. NEWMARK: The way it would look.

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

5 CHAIRPERSON KRESS: That's good.

6 MS. NEWMARK: Okay.

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

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

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

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

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

20 (Inaudible.)

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

22 MR. FEOLA: Yes.

23 MS. NEWMARK: Thank you.

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

26 CHAIRPERSON KRESS: Yes, ask the question and Mr. Feola  
27 will refer it.

28 MS. NEWMARK: Okay.

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

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

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

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

7                               MS. NEWMARK: Oh, thank you.

8                               And when did that occur?

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

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

11                              MR. COX: I believe it was Friday.

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

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

16                              MS. NEWMARK: So they had some kind of Commission  
17 consideration of this matter?

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

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

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

26                              In the hearing, --

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

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

2 MS. NEWMARK: I don't know of any letter from the

3 Commission.

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

5 CHAIRPERSON KRESS: Presubmission package.

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

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

12 He passed --

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

15 MR. COX: That's correct.

16 MS. NEWMARK: Okay, go ahead.

17 MR. COX: We did that. We submitted those. This was put as a  
18 suggestion that we look at it. The way the letter was actually worded and the  
19 interpretation of the letter and the intent of the letter was that that was a suggestion  
20 that they were actually giving concept approval of the design.

21 MS. NEWMARK: Right.

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

23 MS. NEWMARK: Right.

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

26 MS. NEWMARK: I see.

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

1 MS. NEWMARK: Oh, okay, okay.

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

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

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

6 MR. COX: We do have to --

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

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

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

15 MR. COX: No, we will not.

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

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

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

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

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

27 MR. COX: He signed the other one?

28 MS. NEWMARK: Yes.

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

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

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

6 UNIDENTIFIED SPEAKER: Mr. Myers is actually signing --

7 MS. NEWMARK: That's correct.

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

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

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

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

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

22 MS. NEWMARK: Consider it dropped.

23 CHAIRPERSON KRESS: Okay, thank you.

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

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

1 concerned with them.

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

3 CHAIRPERSON KRESS: Meaning Fine Arts and HPRB and our  
4 deliberating.

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

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

8 MS. NEWMARK: Is what?

9 UNIDENTIFIED SPEAKER: He is happy with the solution.

10 CHAIRPERSON KRESS: Didn't you give us a letter? I haven't  
11 had time to read everything everyone's been handing me, but I believe you entered  
12 a letter this evening saying that he did approve --

13 UNIDENTIFIED SPEAKER: Yes, that's correct.

14 CHAIRPERSON KRESS: Are you getting close to wrapping up.

15 MS. NEWMARK: Yes.

16 CHAIRPERSON KRESS: Okay.

17 MS. NEWMARK: May I have the Commission's indulgence to  
18 consult with my other co-owners to see if there are questions they want me to ask in  
19 cross examination that I haven't done?

20 CHAIRPERSON KRESS: Actually, maybe what we'll do is take  
21 a five minute break and then come back and ask -- you can ask your last couple of  
22 questions.

23 MS. NEWMARK: Thank you. We appreciate that.

24 (Whereupon, the foregoing matter went off the record briefly.)

25 CHAIRPERSON KRESS: Anytime you're ready, Ms. Newmark.

26 MS. NEWMARK: Thank you, thank you.

27 I only have a few questions. I don't think it will be more than ten  
28 or 15 minutes at the most. Maybe five.

1 CHAIRPERSON KRESS: That would be wonderful.

2 MS. NEWMARK: The first question -- well, actually the first  
3 question concerns parking and our directed to whoever knows the answer. And that  
4 concerns the relationship between the reserved slots for the tenants and the visitor  
5 parking. Isn't it true that in fact the -- there are a lot of tenants that are waiting for  
6 reserved slots and so they park in visitor parking and then the visitors end up  
7 parking on the street?

8 Who knows the answer to that?

9 Mr. Saul perhaps?

10 MR. SLADE: Well, --

11 CHAIRPERSON KRESS: Did you hear the --

12 MR. SLADE: -- I'll take a shot at it.

13 MS. NEWMARK: It's not really a Slade question, but go ahead.

14 CHAIRPERSON KRESS: It might be.

15 MR. SLADE: As one of the charts showed, it depends on time of  
16 day. If the visitor parking question is relative to when there's -- during a weekday or  
17 even on weekends when tenants are using their cars, then there's a lot of vacant  
18 space in the garage. So the answer is during those times of the day, there would  
19 not be a problem accommodating visitor parking.

20 MS. NEWMARK: How do you know that?

21 MR. SLADE: Because we did surveys in the garage.

22 MS. NEWMARK: And how extensive were the surveys?

23 MR. SLADE: Over a period of four days.

24 MS. NEWMARK: Four days?

25 MR. SLADE: Thursday through Sunday, inclusive.

26 MS. NEWMARK: And how did you know which cars were  
27 visitors and which were tenants?

28 MR. SLADE: We didn't know, but there were 60 vacant spaces

1 in the garage.

2 MS. NEWMARK: Do you have any break down as to how many  
3 of the spaces that were being used were visitors or tenants?

4 MR. SLADE: No.

5 MS. NEWMARK: Okay. And were any of these like at, say,  
6 Friday or Saturday night when visitors are more likely to be around?

7 MR. SLADE: Were any of these what?

8 MS. NEWMARK: The studies?

9 MR. SLADE: Yes.

10 MS. NEWMARK: Okay. So these were the charts that you had  
11 with the up and down?

12 MR. SLADE: Yes.

13 MS. NEWMARK: Okay. Yes, I believe that was attached to the  
14 application, the parking analysis?

15 MR. SLADE: Yes, it was.

16 MS. NEWMARK: Parking analysis, okay.

17 And when you say that for a portion of the day that there were 60  
18 spaces open, would you be referring to the evening hours when visitors are more  
19 likely to be there that these spaces were open?

20 MR. SLADE: No, no; I've said that midday.

21 MS. NEWMARK: Midday, oh.

22 MR. SLADE: You weren't specific in your question.

23 MS. NEWMARK: You're right; I wasn't.

24 Thank you for clarifying that though.

25 So in the evenings when visitors are there, the spaces are full?

26 MR. SLADE: Well, it depends on the day of the week and the  
27 time of the evening. In the early evening, there are vacant spaces on many days of  
28 the week throughout many weeks of the year. On other evenings, there may not be.

1 MS. NEWMARK: But you have data for Friday and Saturday  
2 evening, so we don't have to guess, right?

3 MR. SLADE: Yes.

4 MS. NEWMARK: Okay, so could you look at that and let me  
5 know?

6 MR. SLADE: Sure.

7 These were done in May of '96. And on the Friday evening that  
8 we surveyed, the garage actually did not reach capacity that night at all. There was  
9 always some spaces available that particular evening.

10 MS. NEWMARK: And when you say -- and the spaces that  
11 you're characterizing as being available, are those spaces that a tenant or a visitor  
12 could park in? It's not restricted in any way, or could those be reserved spaces that,  
13 let's say, only the tenant 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 team that  
18 referred to tax revenue as being a benefit or an amenity -- tax revenue to the  
19 District. But isn't that a requirement of a PUD as opposed to an amenity?

20 MR. FEOLA: I could direct that -- I guess I'm not sure. Paying  
21 taxes is a requirement, yes. I'm not sure what you're saying.

22 MS. NEWMARK: Well, thank you. But I was referring --

23 MR. FEOLA: Building buildings is not a requirement.

24 MS. NEWMARK: I was referring to -- I was referring to that it  
25 would bring tax revenue to the District that -- you say you're building a project that's  
26 bringing tax revenue to the District and that's an amenity, but isn't it a requirement of  
27 a PUD to bring tax revenue to the District?

28 MR. FEOLA: No, I've done PUD's for nonprofits that don't bring

1 tax revenue to the District. I'm not sure what you're saying.

2 MS. NEWMARK: So you're not --

3 COMMISSIONER BENNETT: Salvation Army.

4 MS. NEWMARK: So you're not familiar then with the -- well,  
5 Salvation Army's probably not a PUD. But are you familiar with the  
6 provision of -- so you're not --

7 COMMISSIONER BENNETT: Salvation Army was a PUD.

8 MS. NEWMARK: Was it really?

9 COMMISSIONER BENNETT: Yes, it was. Harbor Lights right  
10 there on New York Avenue.

11 MS. NEWMARK: Well, --

12 COMMISSIONER BENNETT: That's right, and there was  
13 another one, that's right, down on Mass. Ave.

14 MS. NEWMARK: Well, it's probably -- it's probably not covered  
15 by the Ward 3 plan which apparently is where my citation is to that provision, so I'll  
16 pass.

17 MR. FEOLA: I'm sorry, I thought you were referring to PUD  
18 regulation. I apologize.

19 MS. NEWMARK: I was referring to the Ward 3 plan.

20 So is your answer different then?

21 MR. FEOLA: I haven't looked at the Ward 3 plan. I'll let Mr.  
22 Shearer to address that.

23 MS. NEWMARK: Okay.

24 Oh, now I'm not sure how to ask this, so please help me if I do it  
25 wrong. But regarding the question of how many construction workers would be  
26 involved, and we were talking about that for carpooling, and your application on  
27 page 47 seems to talk about hundreds of construction jobs, and I'm wondering  
28 whether that would be your answer to the question that we asked in terms of the

1 numbers of construction workers?

2 CHAIRPERSON KRESS: I think they said they were going to  
3 give us that information --

4 MS. NEWMARK: Okay.

5 CHAIRPERSON KRESS: -- in post hearing submissions.

6 MS. NEWMARK: Okay.

7 CHAIRPERSON KRESS: So you will have that information.

8 MS. NEWMARK: Okay.

9 But I'd like to ask them though if they did in fact look at it given  
10 that they wrote in their submission -- I think they said they hadn't looked at it.

11 UNIDENTIFIED SPEAKER: Yeah, I think the answer is yes; but  
12 that's a total number over the full 18 months. As jobs go, you can bring the brick  
13 layers one day and the plumbers the next day. So the answer to the questions that  
14 you asked before, that number is not appropriate.

15 MS. NEWMARK: Okay, okay.

16 The number of hundreds is not -- you're going to get back?

17 Okay.

18 Are you -- by the way, are you contending that the employment  
19 opportunities are one of the amenities or benefits for the purposes of the PUD?

20 MR. FEOLA: I don't believe so.

21 MS. NEWMARK: Okay, thank you.

22 Are you contending that the open space in the front courtyard is  
23 a benefit for purposes of a PUD?

24 MR. FEOLA: I'm answering cross examination questions. I'm  
25 not --

26 MS. NEWMARK: Well, you can refer to someone on your team.

27 MR. FEOLA: I think they testified as to the benefits and you  
28 should ask questions to what they testified, not to what they didn't testify to, and

1 that's what you're asking. Also, did you not testify that open space is not a public  
2 benefit? I'm not sure -- nobody said it was.

3 MS. NEWMARK: Okay, thank you.

4 CHAIRPERSON KRESS: Let me just share this with you so that  
5 there's -- I may shed some clarity. There is such a thing as benefit, and then  
6 there's such a thing as an amenity. And certainly tax revenues and jobs and so on  
7 can be classified as benefits. Other things like the provision of open space that the  
8 general public may enjoy -- housing itself can be considered an amenity because it  
9 is so scarce and is hard to come by in this town.

10 But there are things that benefit the District of Columbia. And  
11 many times, in the description of a PUD, an applicant may say that these are things  
12 that we believe will benefit the District of Columbia.

13 We have PUD regulations that call for there to be public  
14 amenities which go over and above, as you know, what normal -- any normal matter  
15 of right development might be. So the things that you pointed out like the tax  
16 revenue and things I would consider a benefit to the District of Columbia as opposed  
17 to a special amenity.

18 MS. NEWMARK: Yes, I think my -- I intended for my question to  
19 be whether it was a benefit or amenity as opposed to a requirement under the Ward  
20 3 plan. And I was referring to the Ward 3 plan.

21 MR. FEOLA: Maybe, Madame Chair, we can bring Mr. Shearer  
22 and he can answer the questions about the benefits. Maybe that's the best way to --

23 CHAIRPERSON KRESS: Addressing the Ward 3 plan?

24 MR. FEOLA: Addressing what he testified to as to public  
25 benefits.

26 MS. NEWMARK: Well, I wasn't really asking for a reargument of  
27 their initial testimony because --

28 CHAIRPERSON KRESS: Well, then we don't need that time.

1 We have already heard the testimony, and we've -- and again, when you testify on  
2 behalf -- you can make those points to us and what the Ward 3 plan says.

3 MS. NEWMARK: I will.

4 I don't think I have any other questions at this time. Will there be  
5 another opportunity if they bring on rebuttal testimony to examine them on that  
6 testimony?

7 CHAIRPERSON KRESS: If they do rebuttal at the end, they are  
8 allowed to do a final summary, then there will not be a time for questioning that. But  
9 --

10 COMMISSIONER BENNETT: But if rebuttal testimony includes  
11 brand new testimony, then I think that the --

12 CHAIRPERSON KRESS: Exactly.

13 COMMISSIONER BENNETT: -- parties do get a chance to  
14 question about the newly admitted testimony.

15 MS. NEWMARK: Okay.

16 Oh, excuse me; I do have one other question.

17 In the pictures that you showed of the neighborhood, it was  
18 pointed out to me during the break that the Cathedral Park Condominium across the  
19 street wasn't in any of them. Do you know why that might have been?

20 COMMISSIONER BENNETT: Because they were taking  
21 pictures of the things across the street.

22 MS. NEWMARK: No, I was talking about the ones of the  
23 neighborhood, of the neighborhood.

24 COMMISSIONER BENNETT: Well, that's a good question.

25 (Inaudible comment from an unmiked location.)

26 MS. NEWMARK: Well, that's not a photograph. I was talking  
27 about the pictures.

28 CHAIRPERSON KRESS: You mean slides or photographs?

1 What do you mean?

2 MS. NEWMARK: They were slides, they were photos.

3 MR. FEOLA: If the Chair likes, we can provide pictures of --

4 MS. NEWMARK: That's okay, we'll do that.

5 COMMISSIONER BENNETT: Well, maybe Cathedral will have  
6 their own pictures.

7 MS. NEWMARK: We do.

8 I just want to -- I would like to clarify one thing before I sit down,  
9 and that is the status of the Kennedy Warren tenants' agreement with the landlord.  
10 And I'm not sure how that was left, but will that be put into evidence at this point in  
11 time?

12 COMMISSIONER BENNETT: They will testify to that.

13 CHAIRPERSON KRESS: The Kennedy Warren tenants  
14 association are going to be -- I assume they're going to be testifying as a party and  
15 you will get to cross examine them as another party.

16 MS. NEWMARK: Okay, and will the agreement be put into  
17 evidence at that time?

18 COMMISSIONER BENNETT: Depends on them.

19 CHAIRPERSON KRESS: It depends on them.

20 MS. NEWMARK: Okay, all right.

21 That's all. Thank you very much for indulging me.

22 COMMISSIONER: I didn't quite understand the answer to the  
23 question about why the building was not included in the photographs.

24 COMMISSIONER BENNETT: They didn't take the picture.

25 MR. FEOLA: It didn't seem pertinent.

26 COMMISSIONER: Well, I didn't understand the -- I mean, I  
27 didn't understand -- I didn't hear your answer.

28 MR. FEOLA: What I said is if the Commission would like, we

1 can provide those for the record. We didn't include them in our presentation.

2 There's no particular reason. It's just we didn't do it.

3 COMMISSIONER: Okay.

4 MR. FEOLA: I actually have some here if you'd like.

5 COMMISSIONER: Thank you.

6 MS. NEWMARK: Thank you so much for allowing me this  
7 opportunity.

8 CHAIRPERSON KRESS: With that, we were going to move on  
9 to the Office of Planning and the Office of Planning's report.

10 MR. COLBY: Thank you, Madame Chairman.

11 As is usually the situation following the Applicant's witnesses and  
12 questions of the Commission and cross examination, the case and the level of  
13 information has moved substantially beyond the information in our report, so I'll only  
14 summarize a few key points from the report of the Office of Planning.

15 The proposed R-5-E zone district permits (inaudible) residential  
16 development to 6.0 FAR and a height of 90 feet. The PUD guidelines similarly  
17 permit a height of 90 feet and 6.0 FAR. And pursuant to Section 2405.3 of the  
18 zoning regulations, the Commission may authorize an increase of up to five percent  
19 in the maximum height or FAR, thus allowing 6.3 FAR in the R-5-E zone district.

20 In terms of consistency with a comprehensive plan, the  
21 comprehensive plan as has been testified to, the comprehensive plan generalized  
22 land use map designates the site for high density residential. Either R-5-D or R-5-E  
23 may be considered generally consistent with the high density residential land use  
24 designation.

25 And as also has been testified to by the Applicant, the Ward 3  
26 plan policies speak to protection against inappropriate in fill along Connecticut  
27 Avenue and then it becomes a judgement as to what is appropriate or inappropriate  
28 in fill.

1                   The PUD process does assure that the Zoning Commission has  
2 conditional authority over the project including its bulk and design. The Office of  
3 Planning finds the zoning relief requested in this case constitutes relatively modest  
4 deviations from certain zoning restrictions, and those were referred to as penthouse  
5 requirements and rear yard requirements.

6                   The PUD guidelines -- in terms of amenities and public benefits,  
7 the PUD guidelines specifically state that the production of housing is a public  
8 benefit that the PUD process is designed to encourage.

9                   The existence of the original drawings for the historic Kennedy  
10 Warren apartments presents a special opportunity to construct an addition that  
11 would enhance and preserve the architectural and historical integrity of the existing  
12 building and allow for the completion of an historic landmark as originally conceived.

13                   In terms of the site planning, the Applicant has indicated that the  
14 completion of the unfinished structure would make effective use of the existing site.  
15 And the construction of the south wing would properly balance the plan for the site  
16 and allow for development -- orderly development of the property and contain the  
17 space at the entry as originally intended.

18                   Again, in terms of parking, the Applicant has indicated the  
19 proposed below grade parking will exceed the zoning requirements by  
20 approximately 300%, and the community -- members of the community spoke to me  
21 earlier about the issue, and that has come up.

22                   I was going to raise it, but it has come up in terms of the  
23 appropriateness of the -- of taking the existing cross section of tenants and using  
24 that to project future tenants, and I think the Applicant has addressed that issue.

25                   The Applicant -- the community concerns have gone way beyond  
26 the concerns we were aware of when our report was written, and that will be -- that  
27 is part of the record and, of course, will further be a part of testimony following the  
28 agency comments.

1                   We, in our report, recommended -- note that the existing R-5-D  
2                   zone district does not permit the construction of the proposed project because of the  
3                   FAR requirements. The requested rezoning of the site along with the proposed PUD  
4                   would permit the additional FAR needed and would allow for the completion of the  
5                   historic landmark as originally conceived.

6                   The proposed project and the requested change in zoning are  
7                   consistent with the designation of the site as high density residential on the  
8                   generalized land use map of the comprehensive plan.                   And I think I'll stop  
9                   there and answer any questions that I can.

10                   CHAIRPERSON KRESS: Thank you.

11                   Questions from my colleagues?

12                   COMMISSIONER BENNETT: I do.

13                   CHAIRPERSON KRESS: Commissioner Bennett.

14                   COMMISSIONER BENNETT: Mr. Colby, having heard the  
15                   concerns of the residents as they brought the to you and having heard the earlier  
16                   part of this hearing, particularly the questioning that went to Mr. Slade, do you -- in  
17                   your judgement, do you think that there needs to be any further study made based  
18                   on different assumptions then?

19                   I mean, in fact the south wing is going to attract -- and I heard  
20                   what Mr. Saul said. But if folk believe that the average tenant is going to be making  
21                   \$70,000 plus -- I don't know what the average tenant now makes.

22                   But if the group that's coming in is going to differ significantly  
23                   from the existing tenants and therefore there is a concern that the likelihood of auto  
24                   ownership is going to exceed what Mr. Slade suggested might take place, do you  
25                   think we may do well to ask for some additional study or some supplemental study  
26                   that would look at that based on a different demographic profile based on income?

27                   Or if not income, then age or -- I was going to get to cost of the  
28                   unit.

1 MR. COLBY: I think that there are any number of ways that one  
2 could try to approach the problem of -- none particularly good or particularly  
3 persuasive, I guess, in terms of how do you predict the number of cars that are likely  
4 to be housed in the garages or brought by tenants who will be tenants of that  
5 building.

6 I did a number of studies a number of years ago to assist Nate  
7 Gross -- did a lot of studies of all the apartment buildings in and around -- south of  
8 Dupont Circle and the Foggy Bottom area. And I should almost not bring this up  
9 because I don't remember except that you couldn't -- you know, I think as Mr. Slade  
10 said, you really couldn't predict on a basis of any study you did -- you couldn't  
11 determine a pattern that held.

12 I was very surprised by the limited number of parking spaces per  
13 tenant. I was very surprised by that. I mean, maybe it was because I didn't know  
14 any better and should have known that. But there were no patterns, which is what I  
15 was looking for.

16 And the best you could do is take an average and say -- and  
17 that's largely what is the case here. The issue that will come up, I think, from the  
18 tenants is whether -- again, whether the cross section that was used, particularly  
19 taking into account rent controls to the extent that they exist in the existing building  
20 and won't exist in the new building, would create a different demand for cars.

21 And I understood from Mr. Feola, and he can -- this was not part  
22 of his testimony, but he -- that the rent control portion -- and perhaps he could clarify  
23 this -- is -- and maybe Mr. Saul spoke to this too -- that is a relatively low percentage  
24 of the building, of the existing building.

25 And so that much of the -- most of the tenants are basically in  
26 the same category as the new tenants. That is to say that they're market rate units  
27 and that they will mirror -- largely mirror, as best you can predict that, the situation  
28 for new tenants moving in.

1 CHAIRPERSON KRESS: I was just going to say I think those  
2 assumptions are --

3 MR. COLBY: I don't really have a -- don't know which study you  
4 would use. I understand where you're coming from and you'd like to be comfortable.  
5 And you would think gee, this is -- there ought to be answers. This is the sort of  
6 technical stuff that parking people --

7 CHAIRPERSON KRESS: But this is exactly why we do ask for  
8 expert testimony. I was going to suggest that perhaps we ask of them, now that  
9 they've heard these concerns since the very best it's imperfect, to ask the expert to  
10 go back with these concerns --

11 MR. COLBY: And verify in some way.

12 CHAIRPERSON KRESS: -- and see -- and relook at the study  
13 and see if he feels there's any changes and basically put it back into his lap having  
14 heard what we've said to take another look at it. Because, as you say, and as -- to  
15 my knowledge, there are no real set trends.

16 You can't say if you have this, you have that. It's not that clear, I  
17 don't believe. And so I think we have to just look to the experts to make --

18 MR. COLBY: To give you their judgement.

19 CHAIRPERSON KRESS: -- to give you their judgement.

20 Do you agree with that?

21 MR. COLBY: I do.

22 Well, I agree you have to -- the question is, I think the  
23 Commission certainly can go back once more to the experts and I think particularly  
24 following testimony from other witnesses, you may find that there's more of a  
25 compelling need to do that.

26 I mean, having heard Mr. Slade, I was convinced that he had  
27 used as good a measure as any to predict what the future demand for garage space  
28 will be. You may come to a different conclusion after you've heard further testimony

1 and could come back certainly and ask Mr. Slade to try, you know, to present it one  
2 more time.

3 CHAIRPERSON KRESS: Or just to formally respond.

4 COMMISSIONER BENNETT: Or just submit it for the record  
5 and let the parties respond too.

6 CHAIRPERSON KRESS: Right.

7 MR. COLBY: Yes, yes, yes; that's another way.

8 COMMISSIONER BENNETT: Well, you know, I certainly  
9 wouldn't want -- what I don't want is for there to be any superfluous studies. Mr.  
10 Slade has a fee, I'm sure. But if that's going to be a major -- a central issue, then I  
11 think it's better to look at it than not to look at it.

12 CHAIRPERSON KRESS: Any other questions for Mr. Colby?

13 Yes, Commissioner Parsons.

14 COMMISSIONER PARSONS: Mr. Colby, as I mentioned earlier,  
15 I'm having a little trouble with the public benefits and amenities. And I'm trying to  
16 determine what we could get here as a matter of right and what we're getting in the  
17 PUD. And I was focusing on the issue of housing.

18 I presume the only thing we could get on this site as a matter of  
19 right is housing.

20 MR. COLBY: A church or some other use, but essentially you're  
21 right; it would be housing.

22 COMMISSIONER PARSONS: And given --

23 MR. COLBY: If you get the housing.

24 COMMISSIONER PARSONS: Given the nature of its  
25 companion building, I would presume in the historical preservation community that  
26 we would probably go towards housing and might even go in the direction of this  
27 building, wouldn't you think?

28 MR. COLBY: Yes.

1 COMMISSIONER PARSONS: Do you think that the historic  
2 preservation community would -- maybe this is hypothetical. But I'm struggling with  
3 whether anything other than this building could be built as a matter of right maybe at  
4 a smaller size so as to accommodate the existing zoning or get within the existing  
5 zoning.

6 But what is it from an architectural and historic preservation  
7 basis that we're really getting as a result of this PUD that we wouldn't get as a  
8 matter of right?

9 Now we've heard tonight that they're willing to restore the lobby  
10 and do some other internal things and there's a street closure coming forward and  
11 things that more often fit into what I'll call public benefits and amenities that -- but to  
12 get to my point, I think the only thing that we're really getting here that we wouldn't  
13 get as a matter of right are the major amount of parking that's being provided, four  
14 times what matter of right zoning would give us.

15 MR. COLBY: I don't think you're -- I wouldn't phrase the -- I  
16 mean, as you've phrased the question, the answer you may --

17 [End Tape 2, Side 2.]

18 [Begin Tape 3, Side 1.]

19 MR. COLBY: I would phrase the question or put the question as  
20 to whether the housing itself is an amenity and why. And I would -- and to me, the  
21 housing is -- I mean, there are a number of amenities, but the housing is the amenity  
22 that you -- although it's a matter of right use, it is not something you can expect in  
23 this city as a matter of right.

24 I mean, that is to say you cannot just count on it and just expect  
25 it to happen. It doesn't happen. It has not happened. This Commission has  
26 approved what I thought was a significant part of the PUD brought to you by Conrad  
27 Kafritz some years ago. That's never gone forward. It had its issues  
28 and they got work -- they were worked through and compromises were reached.

1 And as I say, I think a significant project was approved. It didn't go forward because  
2 the financing wasn't available because the bottom line wasn't there to produce that  
3 housing.

4 And this Commission, of course, hears that all the time.  
5 Developers can't do housing because it doesn't pay for itself. Here's a situation  
6 where, for a variety of reasons -- one I think the location; two, perhaps the cost of  
7 the land which has been -- which I'm assuming, and I don't know that anybody's  
8 testified to this -- but the circumstances surrounding it make this housing, we're led  
9 to believe, and you asked the question, ready to go forward because the market's  
10 there and the economy make it work.

11 That's very unusual, I believe, and that's been my experience in  
12 the city. And so I wouldn't -- I mean, there are amenities and there are amenities. I  
13 think if this -- you won't find many projects such as this, and that's been my  
14 experience, that will -- that can go forward in this city without a substantial office  
15 driver at best that a straight apartment building is -- rarely can make it.

16 And to me, that is the amenity in this or uniqueness, if you don't  
17 want to call it an amenity, in this case. And call it a benefit, if you will, as the PUD  
18 regulations would. It's a real benefit to the city for this housing to occur provided it  
19 can occur in a way that doesn't unreasonably impact on the surrounding area.

20 (Inaudible comment from an unmiked location.)

21 COMMISSIONER PARSONS: Mr. Colby, could you elucidate a  
22 little bit on this rear yard requirement in the hope that we can sort of sweep it aside  
23 and not get wound around the axle about it? It seems to me that the rear yard  
24 requirement, when the property abuts a park or a large open space, is something  
25 that we ought not to get too involved with technically.

26 MR. COLBY: The Commission has to -- I mean the  
27 Commission's order has to address the technicalities of that issue.

28 COMMISSIONER PARSONS: Of course.

1 MR. COLBY: But the -- practically speaking, the rear yard and  
2 the light and air assured by the rear yard are relatively less important or unimportant  
3 in this case because of the park land abutting the project.

4 CHAIRPERSON KRESS: I believe one of the questions he was  
5 asking -- and if not, I think for the record it would be good to have your response. As  
6 it was described by Mr. Feola and Mr. Davidson and how they calculate the rear  
7 yard set back, were they correct, to your knowledge?

8 Meaning the 25 feet and that the middle of the --

9 MR. COLBY: I believe they were, but I think it would be useful to  
10 get something in the record to clarify that as well. And I'd be happy to provide it or  
11 you could ask the --

12 CHAIRPERSON KRESS: Why don't you provide it.

13 MR. COLBY: -- Applicant to provide that.

14 CHAIRPERSON KRESS: I am of the opinion that they are  
15 correct, but I think it would be good to have something on the record since that came  
16 into question.

17 MR. COLBY: Fine.

18 CHAIRPERSON KRESS: I'm sorry.

19 COMMISSIONER: You mentioned undue impact on the  
20 neighborhood. I think your last statement before was you ended it with the phrase  
21 undue impact on the neighborhood. Could you talk a little bit about what you -- your  
22 assessment of how the construction phase is going to be handled?

23 We've heard a discussion about -- I guess using the Zoo to park  
24 things -- park trucks, I guess. How do you assess that? How do you assess the  
25 way that it's proposed to handle the question of the trucks, construction workers --

26 MR. COLBY: During construction?

27 COMMISSIONER: During construction phase on traffic in the --  
28 traffic and noise.

1 MR. COLBY: I haven't looked specifically at the traffic  
2 management plan that was provided, so I can't really respond in detail. I can only  
3 say that clearly there will be impacts on the existing tenants with construction as  
4 there are on any construction that occurs.

5 And the best you can do is mitigate those -- do the best you can  
6 to mitigate those impacts. But I really can't --

7 COMMISSIONER: What is your assessment of the way that  
8 they have proposed to mitigate those? What's your assessment of the way that it's  
9 being proposed to mitigate those conditions?

10 MR. COLBY: Well, again, I just got the -- you're referring to the  
11 construction management plan?

12 COMMISSIONER: Right, yes.

13 MR. COLBY: Yeah, I'm afraid I would be winging it on that  
14 because I haven't looked at it since I got it this evening.

15 CHAIRPERSON KRESS: Perhaps we could ask the Office of  
16 Planning to evaluate --

17 MR. COLBY: I'd be happy to do that.

18 CHAIRPERSON KRESS: -- and provide that information to us.

19 MR. COLBY: Surely.

20 CHAIRPERSON KRESS: I think that's an excellent point since  
21 they haven't had time to review it.

22 Any other questions for Office of Planning?

23 Hearing none, we'll move to cross examination. Does the  
24 Applicant have any cross examination for Office of Planning?

25 MR. FEOLA: No questions.

26 CHAIRPERSON KRESS: ANC, Mr. Mendelson, do you?

27 Does the Kennedy Warren Residents Association have any  
28 questions?



1 MS. NEWMARK: Okay. Who -- is that the same situation for the  
2 August report? I guess it's a preliminary report.

3 MR. COLBY: No, Mr. Carkete would have written that report, but  
4 I reviewed it, participated in that, and signed off on it -- went through me.

5 MS. NEWMARK: Okay. Now in the -- would it be all right if I  
6 stood there?

7 CHAIRPERSON KRESS: Sure.

8 MS. NEWMARK: I'm more comfortable --

9 CHAIRPERSON KRESS: No, it's your choice.

10 MS. NEWMARK: Thank you.

11 CHAIRPERSON KRESS: It's absolutely your choice. We  
12 thought you might be more comfortable sitting down.

13 MS. NEWMARK: Is this on?

14 CHAIRPERSON KRESS: Yes.

15 MS. NEWMARK: Thank you.

16 Okay, I wanted to ask you some questions about your  
17 consideration of the impact of this PUD, proposed PUD, on the community. Where  
18 in the report does it discuss that?

19 MR. COLBY: It gets to it in a very illusory way. It gets to it in  
20 terms of references to site planning, to transportation, and the parking issues.  
21 Again, as I pointed out when I started, that I think that the testimony in this case has  
22 gone way beyond the fact that the Applicant is providing 300% more parking spaces  
23 than the zoning regulations require.

24 That gets at potential impacts on the community.

25 MS. NEWMARK: What impact does that get at?

26 MR. COLBY: Whether there's enough parking here and whether  
27 there would be parking on the street.

28 MS. NEWMARK: I see. Have you considered the impacts on

1 Cathedral Park Condominium across the street?

2 MR. COLBY: Such as? You mean have we considered it --

3 MS. NEWMARK: Well, we won't be privy to the parking spaces  
4 in their garage, so I'm trying to look to the broader community than the Kennedy  
5 Warren tenants.

6 MR. COLBY: But to the extent that you park on the street or to  
7 the extent that -- well, first let me say that a lot of the transportation issues -- or in  
8 fact, in almost all cases, transportation issues we defer to the Department of Public  
9 Works.

10 MS. NEWMARK: Have you heard from them in this case?

11 MR. COLBY: We have not. I have called them and got into a  
12 discussion as to whether they had even logged in and received our request for their  
13 comments. The comments did go to them. The person who would -- who normally  
14 responds to those requests is on a month leave. He won't be back for two weeks.

15 If the record is open -- is held open, why I think it's -- I would  
16 make every effort to get that report from them and determine, you know, what has  
17 happened. But we do not have the report and --

18 MS. NEWMARK: What about the other agencies that you refer  
19 things to? I see that you have a list of four agencies that you did not receive a  
20 response from. Are you expecting responses?

21 MR. COLBY: That is correct; we have still not received -- that is  
22 still good information.

23 MS. NEWMARK: Well, is that something that -- if you get  
24 responses from them which are somehow inconsistent with the conclusions in your  
25 report, what would you -- do you change your report at that point or how does that  
26 work?

27 MR. COLBY: In some cases where we feel that the issues are  
28 so substantive that our recommendation would depend on that, we condition our

1 recommended approval on the basis of testimony on the part of another agency. In  
2 this particular case, although -- had we gotten -- we would like to have gotten  
3 particularly the Public Works' input.

4 I don't think that the other -- Department of Finance and  
5 Revenue, DCRA, and DHCD comments would have been particularly germane. In  
6 fact, I think that's why we didn't get them in this case. They probably didn't feel they  
7 were either.

8 But we should have gotten Public Works' comments. The issue  
9 is clearly to the community. And in fact, in this case, other than historic which, in  
10 some ways, I believe have become non-issues have to do with transportation or  
11 traffic or parking and a lot of the issues that have been raised tonight.

12 MS. NEWMARK: Have you considered some of the other zoning  
13 issues such that do impact on the other -- other issues that impact on the community  
14 such as the impact of the loss of sunlight and trees and green space and the views  
15 from the building across the street and the scale of the neighborhood?

16 Have you considered any of those?

17 MR. COLBY: Surely. We are -- we've considered the scale,  
18 we've considered the loss of green space.

19 MS. NEWMARK: Could you show me where you considered the  
20 scale?

21 MR. COLBY: Well, I hope it's under urban design.

22 MS. NEWMARK: Is this on page two where you say across  
23 there are several large apartment buildings on site area on page two? Is that what  
24 you're referring to?

25 MR. COLBY: Our report -- and you can read the report as well  
26 as I can. But our report says essentially that the proposed addition, we believe, is  
27 consistent with the existing building.

28 MS. NEWMARK: Okay, with the Kennedy Warren building or

1 with the other buildings in the neighborhood.

2 MR. COLBY: With the Kennedy Warren building, with the  
3 Kennedy Warren.

4 MS. NEWMARK: Okay, did you consider whether it's consistent  
5 in scale with the other buildings in the neighborhood?

6 MR. COLBY: I think when we -- I don't think it's reflected in the  
7 report, and that's why I am kind of at a loss for words. Clearly when we are  
8 presented the case by the Applicant and we've seen -- we've had a number -- at  
9 least two that I'm aware of, that I've sat in on presentations on this case per the  
10 Applicant, the issue of this size and scale, loss of green space have all been issues  
11 that have -- that we have dealt with in reviewing the case.

12 It's clearly not --

13 MS. NEWMARK: Excuse me, let me --

14 MR. COLBY: -- reflected in this report.

15 MS. NEWMARK: So you're saying that when you met -- you're  
16 talking about public meetings or meetings alone with them?

17 MR. COLBY: No, meetings -- presentations by -- where we have  
18 --

19 MS. NEWMARK: Were these public presentations where people  
20 who had other views came and pointed out things like at this presentation, or was it  
21 just --

22 MR. COLBY: No, they were not hearings.

23 MS. NEWMARK: They weren't? Okay.

24 So what you're saying then is based on what the Applicant told  
25 you, you thought that it was consistent with the neighborhood or with the scale of the  
26 neighborhood?

27 MR. COLBY: Yes; from my knowledge of Connecticut Avenue  
28 and my visits to the site, I believe it is consistent with not only the existing building,

1 but the existing building is consistent with the neighborhood.

2 MS. NEWMARK: Okay. Do you know what the zoning is for the  
3 buildings across the street?

4 MR. COLBY: I don't recall.

5 MS. NEWMARK: You don't recall. Would it surprise you if I said  
6 that it was R-5-B?

7 MR. COLBY: No.

8 MS. NEWMARK: That wouldn't surprise you?

9 MR. COLBY: No.

10 MS. NEWMARK: Okay. Do you know how many stories high  
11 the buildings are across the street?

12 MR. COLBY: They're probably 65 feet.

13 MS. NEWMARK: Well, how many stories is that?

14 MR. COLBY: Probably six, maybe seven.

15 MS. NEWMARK: Six, maybe seven.

16 Would it surprise you if I told you that they were four?

17 MR. COLBY: No.

18 MS. NEWMARK: Okay.

19 MR. COLBY: But I think that the -- I think that you're losing the  
20 point that there's a great deal of open space along Connecticut Avenue and that the  
21 scale of buildings with that much open space, the proximity of buildings is -- the  
22 amount of open space allows buildings to be different sizes and still be reasonably  
23 compatible, particularly one with 130 foot wide avenue and two with a park space in  
24 the area.

25 I mean, it's the nature of Connecticut Avenue. The uniqueness  
26 of Connecticut Avenue is the large buildings and open space both that make  
27 Connecticut Avenue what it is. And that's true in this area certainly.

28 MS. NEWMARK: But aren't they planning to take away the open

1 space when they put this new addition in?

2 MR. COLBY: To take away some open space.

3 MS. NEWMARK: Some open space? What open space will be  
4 left when they build the new building?

5 MR. COLBY: The lot occupancy, as I understand it, as I heard it,  
6 is like .59. If that's correct, that's a substantial amount of open space.

7 MS. NEWMARK: Could I have any one of your pictures of the  
8 Kennedy Warren?

9 MR. COLBY: I mean, you can see it right there.

10 MR. FEOLA: I'm not going to defend Mr. Colby, but he's  
11 supposed to testify on his report, not on our pictures.

12 MS. NEWMARK: All right.

13 MR. FEOLA: Go ahead, put it up.

14 MS. NEWMARK: Thank you.

15 (Inaudible comment from an unmiked location.)

16 CHAIRPERSON KRESS: Yeah, use the model. Use the model.

17 MS. NEWMARK: No, you know what; I need one that shows it  
18 with the new wing.

19 Oh, okay; the model.

20 CHAIRPERSON KRESS: And you need your microphone with  
21 you or one of them.

22 MS. NEWMARK: Okay.

23 Do you know, from looking at this model, where that open space  
24 that we're talking about presently is? Obviously -- I'm not asking you, Mr. Feola.  
25 Obviously -- you don't have to point that out to him. Obviously --

26 (Laughter.)

27 MR. COLBY: I hope you're giving me enough credit to know that

28 --

1 (Inaudible comment from an unmiked location.)

2 MS. NEWMARK: Do you know where on this picture the open  
3 space that we're discussing is? Do you know where it is? The open space that's  
4 going to be taken away that I'm talking about, do you know where it is?

5 MR. COLBY: That's a --

6 MS. NEWMARK: Which is the new part?

7 MR. COLBY: The new part is on the right where there's --

8 MS. NEWMARK: This?

9 MR. COLBY: Yes.

10 MS. NEWMARK: Okay. This whole thing, right, it comes -- I see  
11 it comes off. We can remove the wing and go home.

12 (Laughter.)

13 MR. COLBY: Yes, that's correct. That's essentially an empty lot  
14 or a part of an empty lot.

15 MS. NEWMARK: Here, here?

16 MR. COLBY: That's correct.

17 MS. NEWMARK: Okay. Now do you know how far their  
18 property goes beyond this addition here?

19 MR. COLBY: In which direction?

20 MS. NEWMARK: In any direction.

21 MR. COLBY: It is --

22 CHAIRPERSON KRESS: I think you're starting to not ask  
23 questions in a manner that I like to see these hearings conducted. He is a  
24 professional with the Office of Planning. He has reviewed these plans. If you -- he  
25 does know where the boundaries are. Again, I think you have testifying to do to say  
26 -- when you testify to say your opinion on the amount of green space lost, and you  
27 can disagree with the Office of Planning.

28 MR. COLBY: Ms. Kress, let me make one response that I hope

1 puts this in perspective.

2 If you look -- let me ask you a question. That may not be my role  
3 to do that, but if you look at that model, you will see a great deal of what I consider  
4 open space. This gets to the question that Mr. Franklin asked me earlier. The  
5 building is surrounded by open space still.

6 And even though --

7 MS. NEWMARK: In other words, this is open space you're  
8 saying?

9 MR. COLBY: -- those buildings, those units across the street  
10 have lost a view of the park, some units have lost a view of the park from --

11 MS. NEWMARK: Half of them.

12 MR. COLBY: -- the buildings directly across the street, and  
13 that's unfortunate. And that that is the nature of development. And that speaking for  
14 the area as a whole, it is -- there is a huge amount of open space because of Rock  
15 Creek Park and its tributaries and Connecticut Avenue frankly.

16 So I don't -- I mean, I think that the model answers your  
17 question.

18 MS. NEWMARK: Are you counting this as open space here? Is  
19 that what you're saying?

20 MR. COLBY: Yes, I do.

21 MS. NEWMARK: Because that's -- isn't that the Zoo?

22 MR. COLBY: Sure.

23 MS. NEWMARK: And you're counting that as open space?

24 MR. COLBY: Well, I do; yes.

25 MS. NEWMARK: Isn't open space space that doesn't have  
26 anything on it?

27 MR. COLBY: It's open space because -- yes, because it doesn't  
28 have structures or --

1 CHAIRPERSON KRESS: We're getting into definitions here.

2 Again, when you testify, you can make your points.

3 MR. COLBY: And certainly Connecticut Avenue is open space.

4 MS. NEWMARK: Actually, the point I want to ask him about --  
5 I'm sorry. You said that it was only 59% used -- that the property was only being  
6 59% used. And I was going to ask you whether that's because that there's a big  
7 internal courtyard and other little internal courtyards, but that the actual building itself  
8 uses --

9 MR. COLBY: Largely meets the --

10 MS. NEWMARK: -- all of the property, every square inch.

11 MR. COLBY: The wings go to the property line. The  
12 indentations, of course, become open space.

13 MS. NEWMARK: Right.

14 MR. COLBY: And the central court is a major --

15 MS. NEWMARK: But they're open space for the Kennedy  
16 Warren. It's not really open space anymore for the community over here.

17 MR. COLBY: Yeah, but that's a drop in the bucket in terms of  
18 the area as a whole.

19 MS. NEWMARK: Even if there's any over there.

20 Right, no; I hear your point. I hear your point. I understand your  
21 point.

22 I'd like to show you, if I may -- show him -- there is a diagram  
23 that was attached to his report, and I wanted to ask him a question about the  
24 diagram that's attached to the report.

25 CHAIRPERSON KRESS: All right, may I ask you where you  
26 are?

27 MS. NEWMARK: Yes.

28 CHAIRPERSON KRESS: We're starting to get quite late. I

1 would -- I had hoped to get through the National Park Service and the National Zoo  
2 tonight --

3 MS. NEWMARK: Okay.

4 CHAIRPERSON KRESS: -- with cross and had hoped to leave  
5 by 11:00, which leaves us seven minutes. And I don't want to cut short, but the  
6 person you're not -- you don't have to convince him. You've got to convince us.

7 MS. NEWMARK: No, I know that.

8 CHAIRPERSON KRESS: Okay.

9 MS. NEWMARK: I know that. And I think part of the thing is I  
10 know that the witness needs a chance to explain his answers, --

11 CHAIRPERSON KRESS: Exactly.

12 MS. NEWMARK: -- but I think a lot of his answers are going way  
13 beyond what I'm asking. And maybe we could speed things along.

14 UNIDENTIFIED SPEAKER: If I could make this suggestion. It  
15 seems to me that you've obviously got a point of view on a perspective, and I would  
16 find it more persuasive if you put that point of view across in your chief testimony  
17 directly in trying -- instead of trying to elicit it from others.

18 MS. NEWMARK: I will do that.

19 I will simply ask him a couple of quick questions about things that  
20 I can't say in my own testimony such as his picture. I just want to ask him where on  
21 -- what this picture is supposed to be. It looks like a picture of the area, but I want to  
22 know what -- oh, you've got it there.

23 I think everyone has it in their copies of the report.

24 MR. COLBY: Yes, it comes out of the Sanborne map series and  
25 it shows, among other things, buildings on the land in that portion of the city. It gives  
26 -- if you can read it, it gives heights of portions of structures. And it's not always  
27 easy to read.

28 MS. NEWMARK: So it's the immediate vicinity, the buildings in

1 the neighborhood?

2 MR. COLBY: Yes.

3 MS. NEWMARK: Okay. Where on the map is Cathedral Park?

4 MR. COLBY: It would be on map 540 which is not on this  
5 quadrant. It would be on the adjacent map across the street from the proposed  
6 addition.

7 MS. NEWMARK: Across the street?

8 Did you -- I didn't see a map of -- that included Cathedral Park.  
9 Did you include that in here?

10 COMMISSIONER CROFT: No, no; this map simply shows the --  
11 gives the Commission a quick understanding of the site. And in this case, of some  
12 buildings in -- it doesn't intend to do what that map does -- what the Applicant's map  
13 does, which is to show the complete surrounding area.

14 MS. NEWMARK: Right. But don't you -- do you feel that to do a  
15 thorough evaluation of its impact on the immediate buildings, that the immediate  
16 buildings should be here and should be considered and Cathedral Park is right  
17 across the street?

18 MR. COLBY: No. In a perfect world, we would provide as much  
19 information as the Applicant does. And I guess I'm not -- you know, I don't feel -- I  
20 don't want to get defensive about what our report has included. The map was really  
21 meant to show for the Commission's sake, and frankly for my director's sake when  
22 she reads this and wants to know what are we talking about, that this is the site and  
23 this is what we're talking about.

24 It does not represent every building. It does not mean to. And  
25 yes, if it showed it all, it would be more -- it would be clearer and be more complete.  
26 But that was never intended to be complete.

27 MS. NEWMARK: It wasn't?

28 MR. COLBY: No.

1 MS. NEWMARK: Okay. On page seven of your report, you talk  
2 about community comments and you cite two favorable comments support from  
3 various community groups including the Cleveland Park Historic Society, the D.C.  
4 Preservation League, the ANC.

5 If you were to learn that some of these groups have since  
6 expressed concerns and were not as supportive as they were when you wrote the  
7 report, would that change your views of this proposal?

8 MR. COLBY: Not on the basis of what we know. I mean, I've  
9 read a number of the concerns that have been presented in testimony.

10 MS. NEWMARK: What concerns are you referring to?

11 MR. COLBY: In the record of the community. The concerns  
12 you're referring to.

13 MS. NEWMARK: Oh, oh, oh; okay.

14 But right now, I'm not talking about that. I'm talking specifically  
15 about some of these leagues. For example, the Cleveland Park Historic Society and  
16 the D.C. Preservation League. These are things that are not in the record.

17 I'm asking if you -- not yet anyway. I'm asking if you were to  
18 learn of that, would that have an effect on your view of this?

19 MR. COLBY: Not a significant impact. What it would have done  
20 is that we would have modified what we said about the community concerns. Again,  
21 we are presenting -- we're not the Zoning Commission. We're presenting what we  
22 can to assist the 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 conjectural  
25 question, would I have done differently. We'd have to go back through and see if we  
26 would do it differently.

27 And I think at the end of any hearing, we know so much more  
28 than we knew at the beginning of the hearing, as the Commission knows much more

1 than we put in our report, that who's to -- yeah, we might come out with a somewhat  
2 different recommendation.

3 But that's not the position we're in. You know, we go first.

4 MS. NEWMARK: I see, okay. Well, that's useful to know. As a  
5 citizen, I'm glad to hear that.

6 I've come up with a really quick question. It's just about the two  
7 reports. I know that there's a preliminary report and a final report. And I've looked  
8 at them and they don't look very different. And I'm wondering -- I'm wondering not  
9 specifically -- I don't need to know any little thing, but is this usually the way the  
10 reports are, that the preliminary report and the final look very, very -- almost the  
11 same?

12 MR. COLBY: They all vary. It depends on the amount of  
13 additional information developed between the preliminary and the final. Frankly, it  
14 depends upon the time of year. This report was done during the holiday season with  
15 very few people in the office. And I can't say that's the reason.

16 I wasn't there, as I've said. But that's a factor frequently. And so  
17 it really depends on -- I mean, there's no pattern. If more is -- if a thorough analysis  
18 is done in the preliminary report, there can be very little change to it.

19 If you're saying that -- well, I won't go beyond that.

20 MS. NEWMARK: If a thorough analysis is done in the first  
21 report, there's not very -- oh, I see what you're saying. Okay, I'm sorry.

22 It does say in here on page five that if this application is  
23 scheduled for public hearing -- I'm reading from the bottom of page five just before  
24 agency referrals. If this application is scheduled for public hearing, the Office of  
25 Planning will further assess whether the amenities offered are commensurable with  
26 the requested zoning relief.

27 Does the later report make any further assessment in that  
28 regard?

1 MR. COLBY: I'm sorry, what was your -- what were you reading  
2 from?

3 MS. NEWMARK: On page five, it talks about a further  
4 assessment of whether it's -- of whether the amenities -- in fact, on the top of page  
5 five, it says if the Zoning Commission schedules a hearing, the Office of Planning  
6 will further assess the --

7 MR. FEOLA: Ma'am, you're looking at different reports. I don't  
8 mean to interrupt.

9 MS. NEWMARK: Are we?

10 MR. FEOLA: She's not looking at --

11 MS. NEWMARK: I'm looking at the August -- the preliminary  
12 report.

13 MR. COLBY: Yes.

14 MS. NEWMARK: Is that what you're looking at?

15 MR. COLBY: No, I'm looking at the final.

16 MS. NEWMARK: Oh. Do you have a copy of the preliminary?

17 MR. COLBY: No, but I know that's the standard language.

18 MS. NEWMARK: You know what I'm talking about?

19 Was that done here?

20 MR. COLBY: Pardon?

21 MS. NEWMARK: Was that done here? Do you know if that was  
22 done?

23 MR. COLBY: I can't answer that for a fact.

24 MS. NEWMARK: Okay.

25 MR. COLBY: But I'm --

26 MS. NEWMARK: That's true; you said you didn't know.

27 MR. COLBY: -- fairly confident that if there were -- and I don't  
28 recall what the preliminary report said in terms of the analysis of these, but I --

1 MS. NEWMARK: Would it surprise you if they were almost  
2 verbatim the same?

3 MR. COLBY: No, it would not.

4 MS. NEWMARK: Okay.

5 MR. COLBY: I frankly believe that those amenities are the  
6 amenities and have -- it has been very clear from the beginning. They haven't  
7 changed.

8 MS. NEWMARK: Just so that I can understand the procedure  
9 though which you did this, and that's my last question, it's my understanding that you  
10 met with the B.F. Saul people on one or maybe more than one occasion. Were  
11 there other people that you met with in formulating your conclusions and  
12 recommendations?

13 MR. COLBY: Other people such as?

14 MS. NEWMARK: Oh, --

15 MR. COLBY: We contacted the ANC. We contacted the  
16 community to find out whether -- what their --

17 MS. NEWMARK: You contacted the community?

18 MR. COLBY: -- concerns are and -- typically the ANC.

19 MS. NEWMARK: So they were involved? They talked -- they  
20 met with you on this?

21 MR. COLBY: No, no; they had not -- as I recall, they had not --  
22 well, typically they meet so late that it doesn't get into our report. In this particular  
23 case, I don't recall. You were reading from -- the ANC expressed a concern and that  
24 was primarily with retail.

25 It was a very early concern obviously because that was an early  
26 issue in terms of where the issues have gone.

27 MS. NEWMARK: Did it surprise you when you saw the ANC's  
28 submission to the file that you looked through?

1 MR. COLBY: Yes, it did; sure.

2 MS. NEWMARK: Did that cause you any concern or cause you  
3 to rethink a little bit that maybe that you ought to think more about this?

4 MR. COLBY: I'm always interested. I mean, when the record --  
5 the community interest and concerns usually come in late because of the way  
6 communities -- the way these things work.

7 And I think we're always interested and somewhat surprised and  
8 -- but by where the community -- were there issues raised that we weren't aware that  
9 were there in the beginning that no one raised in the beginning.

10 MS. NEWMARK: They don't always know.

11 MR. COLBY: Yeah; no, that's fair.

12 But as I said, it's somewhat conjectural to say would we do  
13 differently. In terms of what I have read in the record though, I don't think that we  
14 would have recommended a significantly different conclusion. We would have  
15 addressed a lot of different issues that would have been raised.

16 MS. NEWMARK: Well, will you be staying here through the  
17 remainder of the case? Will you hear our presentation?

18 MR. COLBY: I will.

19 MS. NEWMARK: Thank you.

20 CHAIRPERSON KRESS: Thank you.

21 Just a moment.

22 I would like to ask my fellow commissioners. It is past 11:00 and  
23 we had said we'd adjourned by 11:00, but we had also hoped to talk to the National  
24 Park Service and the Zoo since their representatives have been so kindly sitting  
25 here all evening.

26 What's your pleasure? Do you want to try to do the Park and the  
27 Zoo, or should we -- no?

28 Two no go's. All right, three no go's.

1 All right, I am really sorry and I apologize to -- I believe it was Mr.  
2 Murphy and Ms. Vasa. We've got to make you come back again. And we will be  
3 adjourning for this evening and reconvening -- Ms. Dobbins, date and time again?

4 MS. DOBBINS: January 23rd, 6:30 p.m., same location.

5 CHAIRPERSON KRESS: Thank you.

6 The meeting is hereby continued.

7 (Whereupon, the proceedings were adjourned.)

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