

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING
Case No. 02-17

Thursday,
December 12, 2002

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

ZONING COMMISSION MEMBERS PRESENT:

| | |
|-------------------|------------------|
| CAROL J. MITTEN | Chairperson |
| ANTHONY J. HOOD | Vice Chairperson |
| JAMES H. HANNAHAM | Commissioner |
| PETER G. MAY | Commissioner |
| JOHN G. PARSONS | Commissioner |

ZONING COMMISSION STAFF PRESENT:

| | |
|-----------------|------------------|
| ALBERTO BASTIDA | Secretary |
| SHARON SANCHEZ | Office of Zoning |

OFFICE OF PLANNING STAFF PRESENT:

| | |
|----------------|--------------------|
| ANDREW ALTMAN | Director |
| ELLEN MCCARTHY | Deputy Director |
| STEVEN COCHRAN | Office of Planning |

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

(6:11 p.m.)

CHAIRPERSON MITTEN: Good evening, ladies, and gentlemen. Please take a seat. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, December 12, 2002.

My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood and Commissioners Peter May, James Hannaham and John Parsons.

I have one brief matter to take care of before we begin this evening's case. There was a hearing scheduled for this evening in Zoning Commission Case Number 01-28C, which is a PUD for the site at 200 K Street, Northeast.

That case has been rescheduled to Thursday, February 13, 2003, at 6:30 p.m. in this room. So anyone who was here for that, I think you're done for the evening.

But now we'll proceed to the case that I think has brought most, if not all, of you here, which is Zoning Commission Case Number 02-17, and this is the PUD at 5401 Western Avenue.

When we met last on November 14, we had proceeded as far as the presentation of the

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1 applicant's case and since that time -- First, let me
2 ask, and I should apologize for the fact that we
3 apparently, our first hearing and then the hearing
4 that we scheduled this evening is on the regular
5 meeting night for ANC-3E.

6 So Mr. DiBiase, are you representing ANC-
7 3E this evening?

8 MR. DiBIASE: My proposal was going to be
9 if I could simply make my presentation at this time.
10 It's brief. It's just written testimony that I can
11 pass up, but if I could read it and then leave and go
12 and attend my ANC meeting and I think our ANC
13 meeting's going to be fairly brief, so I might be able
14 to come back, but I might not.

15 But at least if I could make my
16 presentation. I know you all don't like to take people
17 out of order, but I just -- we did try and get the
18 meeting rescheduled, and if that's acceptable I'd like
19 to do that, and either try and come back or at least
20 come back for the rest of the meetings.

21 I don't feel comfortable designating
22 someone else to either read my testimony or cross-
23 examine witnesses. I don't expect to have very much,
24 if any, cross examination, so I don't think that's an
25 issue.

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1 I simply had a statement that I wanted to
2 deliver.

3 CHAIRPERSON MITTEN: Okay, and we may take
4 one other item out of order this evening, because I
5 understand Mr. Laden is going to come later and we
6 want to hear from him when he arrives.

7 So, Mr. Quin, is there any objection to
8 taking Mr. DiBiase out of order?

9 MR. QUIN: No objection.

10 CHAIRPERSON MITTEN: Okay, great.

11 MR. QUIN: The only qualification is --

12 CHAIRPERSON MITTEN: Could you get on the
13 mic, please?

14 MR. QUIN: I'm sorry. If there are other --
15 For the record, I'm Wayne Quin, in response to the
16 Chairman's identification of Wayne Quin. At any rate,
17 there may be another witness from the ANC representing
18 a different view that may be coming later.

19 I just want to make certain that that ANC
20 represented would also be heard at the appropriate
21 time.

22 CHAIRPERSON MITTEN: All right. What we'll
23 take out of order is the official presentation for
24 ANC-3E, and then is the person that you're referring
25 to just a commissioner on ANC-3E, Mr. Quin?

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1 MR. QUIN: Yes, but I'm -- When you say
2 "the official position," -- well, why don't we just --
3 I'll just agree that there's no problem this
4 proceeding.

5 CHAIRPERSON MITTEN: Okay, I just wanted to
6 --

7 MR. QUIN: I don't want to characterize --

8 CHAIRPERSON MITTEN: Okay.

9 MR. QUIN: -- what it is at this point.

10 CHAIRPERSON MITTEN: All right. All right.
11 Mr. Hitchcock.

12 MR. HITCHCOCK: Madame Chairman, just while
13 we're dealing with preliminary matters, the Commission
14 last time asked us to make a submission on the posting
15 issue.

16 CHAIRPERSON MITTEN: Right.

17 MR. HITCHCOCK: I wasn't sure if the
18 Commission wanted to consider that as a preliminary
19 matter tonight or take it under advisement, but I just
20 wanted to note it before we get started.

21 CHAIRPERSON MITTEN: I think we'll have to
22 take it under advisement because we were just handed
23 the information that had been submitted as we came
24 out.

25 So I think we'll continue to delay making

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1 a judgment about that. But we appreciate the
2 submissions that have been made.

3 MR. HITCHCOCK: Thank you.

4 CHAIRPERSON MITTEN: Thank you. All right,
5 any other preliminary matters? So we'll take Mr.
6 DiBiase first, and then he'll be able to go to his ANC
7 meeting, and then we will take up the cross
8 examination of the applicant's witnesses.

9 MR. DiBIASE: And thank you, Madame
10 Chairperson, for accommodating this request. I don't
11 ordinarily like to read things, but I know you all
12 like to get written statements of testimony, so I have
13 written out what I'm going to read, and I have copies
14 of it that I can pass up to the Secretary.

15 Unlike many of the other speakers before
16 you tonight, I'm not going to concentrate on FARs,
17 building heights, density or square footage. I will
18 leave most of that argument to others better suited to
19 it.

20 ANC-3E, as you know, voted to oppose this
21 project. One of the challenges we face in examining
22 this proposal and the area that I want to focus on is
23 the difficulty of voting up or down on a project that
24 started off as a very large-scale project, and at the
25 end of the day ended up being a smaller project, yet

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1 one that was still far in excess of existing zoning.

2 This presents a number of problems, both
3 for us as an ANC as well as for each of you as members
4 of the Zoning Commission. All the parties agree that
5 the original project sought a greater up-zoning than
6 is sought today, and was a larger and more dense
7 project than is before the Commission today.

8 Stonebridge, to their credit, negotiated
9 with both the neighborhood and the ANC to decrease the
10 size of the project and improved it in many ways. For
11 example, adding an affordable housing component.

12 I want to be very clear about one thing
13 throughout this process. Both Stonebridge, the ANC and
14 the neighborhood, mostly represented by Ford, have
15 been willing to and have negotiated in good faith.

16 If I had to look at this project in a
17 vacuum, I and at least three of my fellow
18 commissioners would have voted to support this
19 project.

20 But we can't do that, because we don't
21 live in a vacuum. We live in a neighborhood that has a
22 history and has homes, and not just a history in the
23 sense of "George Washington slept here", which may
24 actually be true when you consider Tenleytown, but a
25 zoning history, and the zoning history in our

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1 neighborhood has not always been a positive one.

2 At bottom, much of zoning law is about
3 expectations and boundaries. It's about expectations,
4 because people moving into a neighborhood rightly
5 determine beforehand what their neighborhood is zoned
6 for.

7 If you were to move into a house with what
8 appeared to be a beautiful park land behind it, and
9 then learned that it was permissibly zoned for a
10 smelting plant, your expectations would be set at a
11 certain level and your purchase price would reflect
12 that expectation.

13 Zoning law is also about boundaries,
14 because it sets boundaries. What's okay for one side
15 of Massachusetts Avenue may not be okay for the other.
16 What's okay for one end of Wisconsin Avenue may not be
17 appropriate at the other end.

18 So in examining any project, any body
19 passing on the project must keep in mind what are
20 people's expectations, and what are the boundaries
21 involved.

22 The biggest problem with this project is
23 that it does not allow us to deal fairly with these
24 two issues, because it forecloses consideration of
25 expectations and boundaries.

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1 Now what do I mean by that? From the very
2 beginning of this project, it was a bedrock assumption
3 of the developer that the existing R-5-B zoning was
4 inadequate for their project.

5 They started off seeking R-5-D zoning, and
6 worked their way down over many months to a project
7 requesting R-5-C zoning. This enabled them to rightly
8 say, "See? We're reasonable. We came down in size and
9 in scale."

10 Yes, they did. But when you start off with
11 a full-size Metro bus and you come down to a mini-
12 Metro bus, it's still not enough if the parking space
13 was set aside for a taxi cab.

14 This strategy, one often pursued by
15 developers, is an effective one because it takes on
16 issue off the table. What kind of project could you
17 build in an R-5-B?

18 Something about which you're not going to
19 hear tonight. Throughout our ANC debate, one argument
20 I heard from my fellow commissioners and the few
21 citizens who spoke up in favor of the project was,
22 'Well, you have to vote up or down on this project,
23 not on what someone else could have built there under
24 the existing zoning.'

25 Well, of course, that's true, but that

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1 does not mean we can't consider what could be done
2 under current zoning. To approve this project means
3 that every developer will continue to work projects
4 and neighborhoods the same way.

5 How big can we go and then work down from
6 there. Why is it illegitimate to make developers start
7 from what's existing and work their way up, if they
8 can?

9 People who live in our neighborhood,
10 indeed, every neighborhood in this wonderful city of
11 ours, expect that existing zoning will stay in place,
12 not that it's a guideline to be broken every time a
13 seemingly attractive proposal comes into play.

14 People also expect there to be boundaries.
15 The Office of Planning promises that this project will
16 be the new boundary line on the Western Avenue -
17 Military corridor, and that there will be no more up-
18 zoning in the area.

19 As I noted during our ANC debate, that
20 sounds suspiciously like my five-year-old daughter
21 after Halloween, "Please, Daddy, please just one more
22 piece of candy. I promise I won't ask again."

23 We all know what happens. Five minutes
24 later, after that piece of candy is gobbled up and
25 forgotten. How does the Office of Planning justify

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1 agreeing to assist this developer in this way and not
2 others?

3 Why wouldn't they help the group that's
4 going to be developing the WMATA bus garage or 4600
5 Wisconsin, all projects due to begin this zoning
6 process next year and all projects that may seek up-
7 zoning?

8 Why isn't the zoning that was set forth in
9 1974 enough of a boundary? A quick glance at a map of
10 the area, which I'm sure you're going to get more than
11 quick glances tonight, demonstrates that the existing
12 boundary between R-5-B land and R-2 is a reasonable
13 accommodation to increase development near Wisconsin
14 Avenue.

15 Why encroach further into the neighborhood
16 simply because a larger project looks nice? Why can't
17 we ask the developer to show us a nice R-5-B project?
18 The 1975 zoning was fought and negotiated over and is
19 now being cast aside.

20 Sure, we need more housing in the District
21 of Columbia, and guess what? An R-5-B planned unit
22 development would do just that. One thing we can't do
23 as a city is just build high-end housing in Upper
24 Northwest.

25 We need housing in parts of all the city.

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1 You have a chance with this project to shape the
2 debate that's going to continue over the next few
3 years, not just in our neighborhood, although it
4 certainly will rage loudly, but all over the city.

5 Tell a developer that, yes, we welcome
6 your projects, but don't start big and negotiate down.
7 Instead, look at what's there, what you could build
8 there and then convince us your ideal project is of
9 such exceptional merit that we should let it be the
10 size you desire.

11 One of the refrains you'll hear tonight
12 and at the following hearings is that Stonebridge did
13 negotiate with the community to arrive at a more
14 reasonable project.

15 But their stance has been like a home-
16 seller putting his \$500,000 on the market for \$1
17 million. The fact that the seller lowers the price to
18 \$750,000 is irrelevant if the worth remains \$500,000
19 or the buyer says he or she can only afford that much.

20 I would suggest that the Zoning Commission
21 do the same thing any prudent house-buyer would. Tell
22 them you're not buying and wait until they come back
23 with a more reasonable offer, one the community can
24 expect and support.

25 Thank you, and I thank you again, all of

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1 the Commissioners, for the accommodation for my
2 schedule.

3 CHAIRPERSON MITTEN: Thank you. Let's see
4 if anyone has any questions for you before you take
5 off. Any questions from the Commission? Any questions?
6 Mr. DiBiase, I wanted to ask you, I understand your
7 point about starting from the existing zoning and then
8 working up from that point, and while you don't have a
9 specifically designed project in front of you, you do
10 know certain parameters about the existing zoning and
11 the whole PUD process was established to grant certain
12 flexibility in exchange for what were perceived public
13 benefits and amenities.

14 So, given what you know about the basic
15 parameters of what could be built with the existing
16 zoning, what is it that the neighborhood would want
17 that would be of such merit that you would find the
18 project acceptable to you?

19 I assume there's things related to design
20 and --

21 MR. DiBIASE: Well, I don't think design. I
22 think really density. I mean, I've made no bones about
23 it. I think it's an attractive proposal. I've never
24 looked at it and said, "This is ugly. This is not
25 nice."

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1 It's an attractive, well-designed
2 proposal. It's just too big. It's too dense. I think
3 my friend Larry Friedman said it best at one point,
4 where he said something to the effect of, and he'll
5 correct me if I'm wrong, "Lop off one floor and you've
6 got a great project."

7 Make it smaller, make it less dense on
8 that site. Make it so that it would fit under a PUD as
9 R-5-B. I -- That's why I said that I don't have -- I
10 don't plan to have much cross examination, because I
11 don't have a lot of problems with the project, unlike,
12 to harken back to another project, the Albemarle on
13 Nebraska where I was here before, I did have a lot of
14 problems with the way that project was set up, as did
15 a lot of others.

16 At least from the ANC perspective and my
17 personal perspective, I don't have problems with
18 looking at this project and saying it's attractive, it
19 seems to work well.

20 I like the affordable housing. That's
21 something that I've harped on before, and to their
22 credit, Stonebridge did that without really being
23 asked and without really being required as far as I
24 can tell, and that's commendable, but it's still
25 simply too big, and I am very uncomfortable as I tried

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1 to make my point here with the increased zoning,
2 because it -- while you can argue, and I think the
3 Office of Planning says, "We're just going to do this
4 once."

5 It does set a precedent and it's not fair,
6 I think, when other developers come in and say, "Well,
7 how come Stonebridge? How come they got to go a little
8 bit higher and got to change the zoning? Why can't we
9 do it?"

10 It's a real, live issue in our
11 neighborhood. We've got WMATA bus garage coming
12 online. I've been speaking to them. I've been speaking
13 to the people about, I think it's 4600 Wisconsin where
14 Babe's Billiards is, which is a landmark in our
15 neighborhood.

16 CHAIRPERSON MITTEN: Okay.

17 MR. DiBIASE: For both good and for bad.
18 And so these are projects that are coming online and
19 the developers may not seek up-zoning, but from
20 talking to them I get the sense that they are going to
21 need some changes on those projects.

22 It doesn't seem as a matter of equity to
23 say, "We're going to do something for this developer
24 that we're not going to do for other developers." To
25 me, that's the biggest problem.

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1 Not the attractiveness of the project. I'm
2 willing to bet that most of the comments and the
3 things you're going to hear, while there's concerns
4 about traffic and all of that, there's going to be
5 concerns about traffic no matter what's there.

6 It's something bigger is going to be
7 there. Everybody agrees on that, and there's always
8 going to be a traffic concern. But in terms of the
9 attractiveness of this and the design element, I don't
10 have a problem with it and I guarantee you none of my
11 fellow commissioners do.

12 I'm not an expert on any of that anyway,
13 but at least in this project it's attractive. But
14 that's what makes it seductive, because you look at it
15 and you say, "This is a nice project." Yes, it is, but
16 it's not allowable under the existing zoning.

17 To me, that's a big point. Why can't we
18 say, "Yeah, we like it, but can you make it smaller so
19 it fits here? So it fits with what we've got."

20 CHAIRPERSON MITTEN: Okay. Thank you. Mr.
21 Quin, did you have any cross examination?

22 MR. QUIN: Yes. Mr. DiBiase, I want to
23 refer you to make sure I understand, there's a
24 resolution on the project -- Let me show you to make
25 sure that it's in the record.

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1 MR. DiBIASE: I know what you mean. I wrote
2 it.

3 MR. QUIN: You wrote it?

4 MR. DiBIASE: With some help.

5 MR. QUIN: Oh. And that was duly adopted by
6 the ANC?

7 MR. DiBIASE: Yes, well, let me be
8 perfectly clear. What we generally do on our ANC is we
9 often take a vote on a very admittedly vague
10 resolution and then afterwards we draft it and
11 circulate it amongst ourselves and come up with
12 something that the people in the majority, and
13 frankly, the people in the majority can agree is a
14 fair representation.

15 There was an enormous amount, more than
16 I've ever seen, of negotiation over this, but at the
17 end of the day, the three of us who voted to oppose
18 the project agreed that this was a fair and accurate
19 representation of the ANC views, and the two minority
20 members also agreed that this was a fair statement.

21 I am not, though, limited to that. We all
22 agreed that I could testify fairly based on what all
23 of our concerns were.

24 MR. QUIN: There's a "Whereas" clause in
25 there that says --

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1 CHAIRPERSON MITTEN: Can you just point us
2 to -- I want to make sure we're looking at what you
3 have in hand.

4 MR. DiBIASE: That should be the only ANC-
5 3E resolution.

6 CHAIRPERSON MITTEN: Okay, I just wanted to
7 make --

8 MR. QUIN: It's entitled, "Resolution on
9 Stonebridge Associates, 5401."

10 CHAIRPERSON MITTEN: Right. Okay, that's
11 Exhibit 160 in our -- not our tonight's supplemental
12 packet, but the pre-tonight supplemental packet.

13 MR. QUIN: Referring to page 2 of the
14 resolution, there's a "Whereas" clause that says, and
15 I'm quoting, "A majority of the commissioners think
16 that this project merits approval."

17 Can you explain to the Commission what the
18 reasons were for the majority's feeling that this
19 project merits approval?

20 MR. DiBIASE: You would probably need to
21 talk to Ms. Diskin, because the majority that she's
22 referring to is Mr. McNamara, Mr. Gordon and Ms.
23 Diskin personally feels that she -- if she was voting,
24 not as an ANC commissioner, but as a person, she would
25 have voted to approve it.

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1 But what she based her vote on was the
2 fact that the neighborhood, as represented through
3 Ford and through others was overwhelmingly against it.
4 So I think it's a fair characterization of Ms.
5 Diskin's position to say that she personally believes
6 it's a good project and would support it but for the
7 fact that she is an ANC commissioner duly elected to
8 represent the views of her constituents and in that
9 capacity she voted not to support it.

10 MR. QUIN: But my question, you were one of
11 the majority to approve this resolution, right?

12 MR. DiBIASE: Correct, but you're confusing
13 majorities, I believe. The majority to approve that
14 resolution is different than the majority she's
15 referring to that would've supported the project.

16 MR. QUIN: I understand, but nevertheless,
17 a majority think the project should be approved, and
18 you approved the resolution that stated that.
19 Therefore, as a commissioner, can you advise the
20 Zoning Commission as to what the reasons were for the
21 majority's vote, even if you didn't vote with that
22 majority?

23 MR. DiBIASE: I'm -- The majority that Ms.
24 Diskin is referring to?

25 MR. QUIN: You approved this resolution,

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1 didn't you?

2 MR. DiBIASE: Correct.

3 MR. QUIN: And you approved the language
4 that said, "A majority of the commissioners think that
5 this project merits approval."

6 MR. DiBIASE: Correct, and what that means
7 is Ms. Diskin, Mr. Gordon and Mr. McNamara believe
8 that the project should have been supported, but Ms.
9 Diskin in her capacity as a commissioner, even though
10 her personal capacity -- it's convoluted.

11 I mean, let's -- I'm not being
12 disrespectful to Ms. Diskin, but her reasoning, in my
13 view, is somewhat convoluted. She's saying she
14 personally supports it, but that as an ANC
15 commissioner, because she's representing the view of
16 her constituents, she does not support it.

17 The reason Mr. Gordon, Mr. McNamara and
18 Ms. Diskin personally support it is basically for the
19 reasons I've said. They believe it's a reasonable
20 project, and that it's appropriate for the site.

21 Ms. Diskin voted as a commissioner to
22 support the neighborhood that overwhelmingly opposed
23 it, and myself and Ms. Quinn have consistently said we
24 don't think it's appropriate for the site.

25 No one's saying it's a bad project. This

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1 is not like other things I'm sure you have before you
2 where the commissioners have complaints about the
3 project itself.

4 What we are saying is it's a great
5 project. It would be nice if they could put it on
6 something that was properly zoned for it, but this
7 plot of land, this isn't properly zoned for it.

8 MR. QUIN: I don't want to belabor the
9 point, but just -- it is a fact that a majority of the
10 commissioners think that the project merits approval.

11 MR. DiBIASE: In their personal capacity,
12 Mr. Quin. It's different --

13 MR. QUIN: It says commissioners, though.

14 CHAIRPERSON MITTEN: I think we have it.

15 MR. DiBIASE: Yes. If you don't, they do.

16 CHAIRPERSON MITTEN: Is there anything
17 else?

18 MR. DiBIASE: They vote.

19 CHAIRPERSON MITTEN: I got you. Mr.
20 Hitchcock, where did he go. Oh, there you are.

21 MR. HITCHCOCK: No questions, Madame Chair.

22 CHAIRPERSON MITTEN: All right, and is Mr.
23 -- where's Mr. Beach? Is he here tonight? Did you have
24 any -- you're not Mr. Beach. And does ANC 34G have any
25 cross examination for Mr. DiBiase? Thank you.

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1 Mr. Hood has a question now.

2 MR. HOOD: Mr. DiBiase, whose ANC area --
3 who is the commissioner for this area? Is it you?

4 MR. DiBIASE: No, Ms. Disking. I had to
5 think about it, Ms. Diskin, correct.

6 MR. HOOD: Well, it's good to hear that
7 she's -- she took -- I know exactly what she's doing,
8 so it's good to hear that we have commissioners that
9 do have meetings with and listen to their
10 constituents.

11 Thank you.

12 MR. DiBIASE: It was a difficult vote.

13 CHAIRPERSON MITTEN: Thank you, and maybe
14 we'll see you back here in a little while.

15 MR. DiBIASE: Yes. Could go on for a long
16 time, so I'm not sure if that's good incentive or not.

17 CHAIRPERSON MITTEN: Thank you. All right,
18 now we'll move to -- we decided we'll let Mr.
19 Hitchcock go first tonight on the cross examination of
20 the applicant's witnesses.

21 I'm sure Mr. Quin will help make sure that
22 the right people get up to the table to respond.

23 MR. QUIN: Maybe it would be good to bring
24 up Mr. Firstenberg and the architect. I don't know
25 whether you can organize your questions by witness or

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1 how do you want to proceed?

2 MR. HITCHCOCK: I do have them organized by
3 witness, Mr. Quin. There's one area which I'll just
4 put up front. We do have some questions on the
5 affordable housing and day care, which I guess would
6 be best directed to Mr. Firstenberg.

7 Since he was your first witness, we'll
8 start with him.

9 CHAIRPERSON MITTEN: Go ahead. Whenever
10 you're ready.

11 MR. HITCHCOCK: Okay. Thank you, Madame
12 Chair. Mr. Firstenberg, a couple of preliminary
13 questions. You testified that you didn't consider the
14 development of townhouses or a development with, say,
15 50 or so condominiums under the matter of right
16 zoning.

17 Why was that?

18 MR. FIRSTENBERG: When we first started
19 looking at the site, we looked at several things. We
20 looked at its location in terms of its proximity to
21 the major roads, its proximity to the Metro station.

22 We looked at the character of the
23 surrounding development. We looked at the TOD goals of
24 the District and concluded that there were really two
25 ways to look at the project.

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1 One was to look at if you really wanted to
2 do TOD or smart growth to its extreme, what would be
3 the highest intensity or density tolerated without
4 significant impacts to the neighborhood.

5 We concluded, based on the feedback we got
6 very preliminarily from Jill Diskin about what the
7 community wanted, that there had to be a mix of that.
8 What we came back with was an attempt to come up with
9 a plan that was realistic by incorporating the
10 community's concerns and good planning and a
11 development that we thought we could successfully
12 execute.

13 MR. HITCHCOCK: But there's no problem as
14 such, however, with developing it as a matter of
15 right. Historic preservation, geographic or anything
16 of that nature?

17 MR. FIRSTENBERG: Not that we're aware of.

18 MR. HITCHCOCK: Okay. Let me ask you this.
19 In terms of the height, there's discussion of the
20 height here being 78 feet. There are comparisons to
21 some other buildings in the area.

22 I mean, you would agree with me, though,
23 that it's higher than the hotel component of the Chevy
24 Chase Pavilion next to it, is it not?

25 MR. FIRSTENBERG: From excluding the

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1 technical zoning measurement, the top of our building
2 will be equivalent to the ceiling height of the Chevy
3 Chase Pavilion hotel component, which is, I believe,
4 16 or 18 feet below the mansard.

5 So we are at the point where the bottom of
6 the mansard roof comes into the roof line of the Chevy
7 Chase Pavilion, that is essentially equivalent --
8 correct me if I'm wrong -- that is essentially
9 equivalent to the top of our building.

10 MR. HITCHCOCK: Okay. Let's talk a little
11 about the affordable housing component, and for the
12 Commission's benefit, I'm going to be referring to the
13 three-page document that was distributed last time
14 entitled, "Summary of Affordable Housing Program."

15 Do you have a copy, Mr. Firstenberg?

16 MR. FIRSTENBERG: Yes, I do.

17 MR. HITCHCOCK: Okay. Let's -- let me go
18 through it. I have a couple of questions at the outset
19 for clarification for the record. The second
20 paragraph, dealing with unit configuration, you talk
21 about 900 to 930 salable square feet.

22 What do you mean by that?

23 MR. FIRSTENBERG: The -- When you sell an
24 apartment condominium unit, you don't include common
25 area measurements. So you are including the area that

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1 the unit owner will buy and be able to live in.

2 MR. HITCHCOCK: Okay. Now let me jump down
3 a little bit to the fourth paragraph, which talks
4 about who is going to be eligible to purchase this. My
5 first question is you talk about using 80 percent of
6 the AMI, which if I remember is average median income.

7 Is that the AMI of the District of
8 Columbia or the broader metropolitan region?

9 MR. FIRSTENBERG: The District of Columbia.

10 MR. HITCHCOCK: Okay, and that same
11 paragraph, you talk about eligible buyers are those
12 eligible for the HPAP program. Could you clarify what
13 HPAP stands for?

14 MR. FIRSTENBERG: That's a District
15 program, the Home Purchase Assistance Program.

16 MR. HITCHCOCK: Okay. Is there any program
17 that you're aware of in the District of Columbia,
18 either this HPAP program or another, where people are
19 able to purchase condominium units in a building of
20 this sort where most of the units will be selling at a
21 market rate substantially above the same units that
22 are being set aside here?

23 MR. HITCHCOCK: I have done no analysis of
24 the District. Obviously, one of the key issues in
25 talking about this with the Office of Planning was the

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1 importance of incorporating the units into the
2 building and not funding elsewhere, because they want
3 the affordable housing units in the area of the
4 development, in the building that's being developed.

5 MR. HITCHCOCK: So, to your knowledge then,
6 this is unprecedented as far as you're concerned, as
7 far as you're aware of?

8 MR. FIRSTENBERG: I can't represent if it's
9 unprecedented or not.

10 MR. HITCHCOCK: Well, to your knowledge.

11 MR. FIRSTENBERG: I know of no other
12 project that has done it this way.

13 MR. HITCHCOCK: Okay, thank you. Now I have
14 a question, turning to the fifth paragraph, where you
15 talk about the lottery of qualified families. In the
16 earlier paragraph you use the word "households".

17 What do you mean by "households" and
18 "qualified families"? Who's going to be eligible for
19 this?

20 MR. FIRSTENBERG: It'll be anybody that can
21 qualify through the District for their HPAP program
22 and then request an opportunity to buy one of the
23 units, and therefore, if there are more buyers who
24 desire to acquire a unit, we'll simply hold a lottery
25 and pull out of a hat or a bowl or roll a barrel to

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1 figure out who the people will be that will get to buy
2 the units, but the idea is to allow the broadest group
3 to be able to show their interest, be certified by the
4 District that they can qualify, and then we will pick
5 from that pool.

6 MR. HITCHCOCK: So, although you use words
7 like "households" and "qualified families", what you
8 mean is that single people would qualify; would be
9 eligible.

10 MR. FIRSTENBERG: As long as they can meet
11 the income requirements and qualify for the mortgages.
12 It's people who qualify under the District's program.

13 MR. HITCHCOCK: Or unrelated individuals
14 would be able to purchase a unit together?

15 MR. FIRSTENBERG: If that allows
16 certification under the HPAP program.

17 MR. HITCHCOCK: Okay. So a group of college
18 students or grad students, if they met the
19 qualifications, could get together and buy one of
20 these units, or win the lottery.

21 MR. FIRSTENBERG: As I said, if they can
22 qualify under the -- I do not know if they can qualify
23 under the HPA program.

24 MR. HITCHCOCK: Okay. I'm just -- I'm
25 dealing with eligibility. We don't want to violate the

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1 D.C. Human Rights Act. I just wanted to clarify the
2 eligibility.

3 Now, what sort of evidence do you plan to
4 use to certify that potential buyers do meet the
5 income threshold before they purchase?

6 MR. FIRSTENBERG: We're not planning to
7 certify them. The District is going to certify them
8 through their HPAP program. We are not doing the
9 certification.

10 We don't think that's appropriate.

11 MR. HITCHCOCK: Okay. So you -- How will
12 you know -- What is the documentation or what evidence
13 will you accept from the District?

14 MR. FIRSTENBERG: That they're qualified
15 through the District for this program.

16 MR. HITCHCOCK: That there's a piece of
17 paper that you will receive from the District
18 government saying these people are eligible?

19 MR. FIRSTENBERG: You're at a level of
20 detail that I have not --

21 MR. HITCHCOCK: Well, it's your
22 application. I mean, and you're talking about a
23 lottery of qualified families. I'm trying to find out
24 how you know they're qualified.

25 MR. FIRSTENBERG: We are going to assure

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1 that they are certified by the District's HPAP program
2 that they are qualified, and that will be a
3 requirement of their ability to buy a unit.

4 MR. HITCHCOCK: Okay, even if you don't
5 know how that will happen. Let me ask you this
6 question. What happens if somebody who met the income
7 eligibility standard at the time of the purchase gets
8 married or changes careers or does something to result
9 in them earning more than the 80 percent of AMI, even
10 as adjusted?

11 Can they hold on to the property?

12 MR. FIRSTENBERG: I believe once you're
13 certified to buy, then you're not restricted to making
14 that amount of money over the life of the program.

15 MR. HITCHCOCK: Okay, so in other words, if
16 I were a fourth year medical student, and I qualified
17 based on my income at that time, and then became a
18 well-to-do doctor subsequently I can stay in the unit.

19 MR. FIRSTENBERG: If that's consistent with
20 the District's policy of approving people that join
21 the HPAP program, I guess that's the way it will work.

22 MR. HITCHCOCK: So your answer is yes?

23 MR. FIRSTENBERG: My answer is if they will
24 qualify for the District's HPAP program, then they
25 will be permitted to buy a unit.

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1 MR. HITCHCOCK: Okay.

2 CHAIRPERSON MITTEN: Mr. Hitchcock, let me
3 just -- if there are more questions that -- There's
4 clearly an area about details of the HPAP program that
5 Mr. Firstenberg is not familiar with.

6 So if we could dispense with those
7 questions that are just going to explore his lack of
8 knowledge of the details, would spare us.

9 MR. HITCHCOCK: I appreciate that, Madame
10 Chair. I'm just trying to find out which ones he can
11 talk to and which ones not. I mean, I only have a
12 couple more on this issue and then I'm prepared to
13 move on.

14 CHAIRPERSON MITTEN: Okay.

15 MR. HITCHCOCK: My other question deals
16 with what enforcement mechanisms are you aware of or
17 plan to implement to assure that these units will be
18 owner-occupied?

19 MR. FIRSTENBERG: You're talking about the
20 affordable housing unit?

21 MR. HITCHCOCK: Yes, that's correct.

22 MR. FIRSTENBERG: I assume, but we haven't
23 worked out the details, that we will put in place
24 mechanisms that people will not be able to rent these
25 units on a for-profit basis down the road; that they

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1 will -- if they're not occupying, that they will have
2 to sell the unit back pursuant to the restrictions on
3 the sale of the units.

4 MR. HITCHCOCK: But you have given no
5 thought to the question of how you would seek to
6 enforce that and make sure --

7 MR. FIRSTENBERG: No, we have not worked
8 through the legal details with the District that we
9 would intend to work through that will ensure the
10 spirit and the concepts are enforced over time.

11 MR. HITCHCOCK: Okay, and bearing in mind
12 that you have the burden of proof in this case, do you
13 intend to present any evidence on that before the
14 record in this hearing closes?

15 MR. QUIN: Unless the Zoning Commission
16 asks for further information.

17 CHAIRPERSON MITTEN: Well, I mean, some of
18 the issues that you raise are interesting issues, and
19 I think they're issues that the Commission, if we had
20 a list, we could ask the applicant to flesh out the
21 details so that it could all be incorporated into a
22 condition.

23 MR. QUIN: I will say, Madame Chairperson
24 and members of the Commission, that we are quite aware
25 that what we've offered in our amenity package would

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1 become conditions to the PUD order, assuming that you
2 grant the case.

3 CHAIRPERSON MITTEN: Yes.

4 MR. HITCHCOCK: Just to make a proffer on
5 this point. I mean, if the goal is to achieve
6 affordable housing and if the goal is to reach an
7 income subset of the population that isn't being met,
8 it is a fair question to say will the program work to
9 meet the intended goals, or are there just holes as
10 big as Swiss cheese in the proposal, such that the
11 feasibility of it is seriously in doubt.

12 That's what I'm trying to explore with
13 some of these questions.

14 CHAIRPERSON MITTEN: Right, and perhaps
15 with the assistance of the Office of Planning we can
16 get some feedback from -- I don't know if it's, I
17 don't know which agency, DHCD or whoever, whoever
18 administers the HPAP program, to talk about how they
19 insure that the conditions are met throughout the
20 ownership term of the person who originally
21 participates.

22 So we can solicit that and that will help
23 guide us in perfecting a condition.

24 MR. HITCHCOCK: Okay, and bearing in mind
25 there is a right of cross examination, hopefully we

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1 would be able to question that person as well.

2 CHAIRPERSON MITTEN: Well, let's just see
3 how things go, okay?

4 MR. FIRSTENBERG: Madame Chair, we're very
5 happy to ensure that the spirit of this program is
6 successfully implemented on the project.

7 CHAIRPERSON MITTEN: Thank you.

8 MR. HITCHCOCK: Okay, yes --

9 CHAIRPERSON MITTEN: Let's go back to
10 questions now.

11 MR. HITCHCOCK: Sure. Okay. Bearing in mind
12 your prior statement you're not aware of any precedent
13 for a proposal like this in a condominium building of
14 this, I take it there are not any condominium
15 instruments that you would have to submit to the
16 record embodying the sort of restrictions that you
17 have in mind?

18 MR. FIRSTENBERG: No, we do not have
19 anything to submit at this time.

20 MR. HITCHCOCK: Okay. That concludes my
21 questions on the affordable housing component.

22 CHAIRPERSON MITTEN: Thank you.

23 MR. HITCHCOCK: If I may have a moment, I
24 assumed the Commission would be going first on some of
25 these questions.

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1 CHAIRPERSON MITTEN: Okay.

2 MR. HITCHCOCK: Let me ask a couple of
3 questions on the day care component of it. The
4 proposal that you have calls for market level rates
5 for day care, correct?

6 MR. FIRSTENBERG: Our proposal is to
7 provide the facility for this not-for-profit day care
8 center and we are not in the business or influencing
9 their operations other than obviously whatever
10 conditions are placed on by the Zoning Commission will
11 have to be followed by the day care center.

12 MR. HITCHCOCK: Okay. Do you know what
13 market level rates are, or is there another witness to
14 whom I should direct this question?

15 MR. FIRSTENBERG: You'll have to direct it
16 to another witness.

17 MR. HITCHCOCK: Mr. Quin, is there another
18 witness who could answer the question?

19 MR. QUIN: My understanding is that there
20 will be someone from the day care center, but I don't
21 -- that's not part of our particular case.

22 MR. HITCHCOCK: Okay. Thank you. Mr.
23 Firstenberg, in dealing with the day care issue, I was
24 wondering if you could talk about some of the
25 specifics in terms of trying to provide day care -- of

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1 how you believe this project provides an amenity for
2 the specific affected community, given some of the
3 testimony about the existing facilities on day care in
4 the neighborhood.

5 MR. FIRSTENBERG: It all starts with the
6 genesis of the idea for additional day care, as in
7 many of the projects. It was suggested by Ms. Diskin
8 as one of the amenities that would be very valuable to
9 the neighborhood, and she, in her first communication
10 to us and amongst a list of other things that the
11 community would find important, suggested either
12 outdoor recreation area for the day care as a more
13 realistic goal for something for the day care center.

14 But maybe even possibly additional
15 facility space. So as our different plans evolved, the
16 opportunities for outside space, which was part of our
17 initial plan, really didn't make sense based on some
18 of the operating conditions that the day care center
19 felt it had.

20 As we revised the plans, we have been able
21 to then provide them more space where they'll be able
22 to increase their student population. I believe they
23 have 31 or 33 children today, to 75 children in total.

24 We understand that in the original
25 approval where the day care center was an amenity in

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1 the A-rooms case, there were certain requirements that
2 they provide preference to people living and working
3 in the neighborhood.

4 We understand that is part of their
5 charter, which they can speak to what the specific
6 percentages are, and therefore it was our expectation
7 that I believe that requires at least half of the
8 children be from the community, that that would
9 certainly ensure the residential community would have
10 a significant component, but I also think this
11 community is represented by people who come to work in
12 this community, and therefore the 50/50 split seemed
13 to make some sense.

14 If the Commission feels that that ought to
15 be modified, I'm sure we could present that to the day
16 care operators and they could consider it.

17 MR. HITCHCOCK: Okay. Well, we'll come back
18 to that later. Mr. Baranes, since you're up at the
19 table, I had a couple of questions that I wanted to
20 ask you.

21 One is a variation of the question that I
22 addressed to Mr. Firstenberg a moment ago, but I'd
23 like your opinion as an architect. At the hearing last
24 month, you displayed a number of models for how this
25 particular site might be developed, and you, of

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1 course, this current proposal has gone through three
2 iterations.

3 Did you ever consider a model of what a
4 residential building might look like on this site
5 under the R-5-B zone?

6 MR. BARANES: We took a very brief look at
7 it, and determined that we could fit a number of
8 townhouses on the site.

9 MR. HITCHCOCK: Okay. So there's no
10 geographic or lot or other problems in terms of
11 sitting that there?

12 MR. BARANES: No, there are no geographic
13 problems, other than normally associated with the
14 development of townhouses on a lot. The major
15 challenge there always is all the driveways that you
16 have to cut in to allow each townhouse to have a
17 garage.

18 MR. HITCHCOCK: Okay, but there are
19 solutions to that where you could provide one driveway
20 for a common underground garage?

21 MR. BARANES: We didn't develop it to that
22 point.

23 MR. HITCHCOCK: But you could do it in
24 theory? That could be done.

25 MR. BARANES: In theory it could be done.

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1 MR. HITCHCOCK: Now let me ask you that. I
2 mean, it's true, is it not, I mean thinking back to
3 the design that you submitted back in March, although
4 it had more height and density than the current zoning
5 allows, it did have some of these stepped-down
6 elements, as you moved east on Military Road, such as
7 the lower level is one approach, the single-family
8 townhomes and the condominiums.

9 MR. BARANES: The original scheme we had
10 developed did not, but then as we worked with Jill
11 Diskin's committee, we introduced some of those
12 setbacks and step-downs.

13 MR. HITCHCOCK: Okay, so that was possible.
14 Last question, and this is one that came up. Are you
15 prepared to state tonight where the 142 parking spaces
16 are going to go?

17 MR. BARANES: Below grade.

18 MR. HITCHCOCK: All of them below grade?

19 MR. BARANES: We have some surface spaces
20 between the -- I believe eight of them between the day
21 care center and the apartment building.

22 MR. HITCHCOCK: Well, let me ask you about
23 that, because the plans that you submitted did not
24 show a count up to 142, as the Office of Planning
25 pointed out in its report.

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1 Just counting spaces.

2 MR. BARANES: Yes, I believe that what we
3 offered was a ratio of parking spaces per units and we
4 are asking for an approval on a range of units and we
5 will provide the number of spaces based on the number
6 of units that we build, per the ratio that's in our
7 submittal.

8 MR. HITCHCOCK: So the Commission shouldn't
9 focus on the diagram in terms of number of spaces.
10 That's not accurate?

11 MR. BARANES: It is accurate for the stage
12 of design that we are currently at. What normally
13 happens in a normal design process is by the time when
14 you start designing all the mechanical systems in the
15 building, which we have not done yet, and you
16 introduce shafts for fresh air, for exhaust, you
17 introduce all the other mechanical equipment that's
18 required to go in the basement, things move around.

19 But we will absolutely adhere to the
20 number of spaces that we have proposed in our
21 application.

22 MR. HITCHCOCK: Thank you. I have some
23 questions for some of the other witnesses at this
24 point. Mr. Smart, Mr. Elias and Mr. Lewis.

25 MR. QUIN: In which order?

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1 MR. HITCHCOCK: Well, we'll take them in
2 that order. And I would note for the record, Madame
3 Chair, we are -- in view of the time, the cases made,
4 we're trying to keep the cross examination limited
5 because a number of points that we want to make should
6 -- will be covered in our case in chief.

7 So the --

8 CHAIRPERSON MITTEN: We appreciate that,
9 and I'm also watching the clock. So keep going.

10 MR. HITCHCOCK: Okay. Hopefully brevity
11 will be its own reward. Mr. Smart, a couple of
12 questions on your tax assumptions and benefit issues.
13 In calculating real estate taxes, did you assume the
14 units would be owner-occupied?

15 MR. SMART: We assumed that the units would
16 be purchased as condominiums and taxed accordingly.

17 MR. HITCHCOCK: So if, in fact, the units
18 were rented out there might be a difference?

19 MR. SMART: No, it would not.

20 MR. HITCHCOCK: Because?

21 MR. SMART: Because they still own --
22 ownership, condominium ownership, and whatever the
23 individual owner does is up to the individual owner.
24 They still have to pay the taxes as a condominium.

25 MR. HITCHCOCK: So even if it's a rental

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1 property and it's not occupied by the owner, do you
2 still get owner occupancy benefits?

3 MR. SMART: You get -- the unit is taxed,
4 if you were asking regarding the real estate tax, as a
5 condominium unit.

6 MR. HITCHCOCK: So, even if it's not
7 occupied by the owner, the owner gets the owner
8 occupancy break? Or gets the --

9 CHAIRPERSON MITTEN: Did you include the
10 homestead exemption or not?

11 MR. HITCHCOCK: Yes, the homestead
12 exemption. Thank you.

13 MR. SMART: That's a question with respect
14 to the original purchaser and the purchaser that
15 continues to occupy the unit.

16 MR. HITCHCOCK: Okay, and that was my
17 question, that if the owner rents the unit to someone
18 else. Did you consider that?

19 MR. SMART: No, we did not.

20 MR. HITCHCOCK: Okay, so that could have an
21 implication in terms of the taxes.

22 MR. SMART: The implication -- There is a
23 question that was introduced here with respect to the
24 homestead exemption. That can be -- that can impact
25 the real estate tax regardless of whether it's rented

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1 or who owns it.

2 MR. HITCHCOCK: Okay, but the impact would
3 not be neutral from a tax standpoint.

4 MR. SMART: I'm sorry, which question are
5 we --

6 CHAIRPERSON MITTEN: How did you -- Did you
7 include any consideration of the homestead exemption
8 in your numbers?

9 MR. SMART: No, we did not.

10 CHAIRPERSON MITTEN: Okay.

11 MR. HITCHCOCK: Okay.

12 CHAIRPERSON MITTEN: So the analysis is
13 neutral as to whether or not it's owner occupied or
14 rented.

15 MR. HITCHCOCK: And therefore, if units
16 were not owner occupied, but occupied by renters, that
17 would have an effect on your calculations, correct?

18 MR. SMART: No. I'm saying the calculation
19 -- our calculations, we're looking at it as if it was
20 owned and not incorporating in the homestead
21 exemption.

22 MR. HITCHCOCK: I understand that, and my
23 question to you is if that premise turned out to be
24 factually incorrect and a number of the units were
25 occupied by renters, that would have an impact, would

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1 it not?

2 MR. SMART: It could, yes.

3 MR. HITCHCOCK: Well, can you explain to me
4 how it could not?

5 MR. SMART: I haven't done that evaluation.

6 MR. HITCHCOCK: So the answer to my
7 question, then, is yes, it would have an impact.

8 MR. SMART: I can't speak to whether it
9 would or not. I have not evaluated that, I'm sorry.

10 MR. HITCHCOCK: Can you offer a
11 hypothetical situation under which you might have a
12 renter occupying, yet it would not affect the taxes?

13 MR. SMART: I have to say that I'm not
14 familiar with how that calculation would apply in this
15 case.

16 MR. HITCHCOCK: Okay, so your assumptions
17 might be incorrect and subject to revision, therefore,
18 because of your lack of familiarity?

19 MR. SMART: I'm saying I'm familiar with
20 what I did, and if you want to discuss something else
21 I can try and research that.

22 MR. HITCHCOCK: All right, well let's talk
23 about something else. Did you use the tax rate set out
24 in Form D40 to compute income tax assumptions?

25 MR. SMART: We used D.C. tax rates and we

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1 did not apply them to a D40 tax form.

2 MR. HITCHCOCK: Why not?

3 MR. SMART: We conduct many of these
4 evaluations and in the process we establish average
5 tax rates to affect a band of income. This project has
6 two different types of incomes associated with the
7 types of units, and it changes over a period of time
8 depending on what other assumptions you have.

9 So, we do not exercise going through every
10 income level and subject that to a D40 analysis.

11 MR. HITCHCOCK: Okay. Did you assume, with
12 respect to each unit in terms of income and so forth,
13 one wage earner or two?

14 MR. SMART: We assumed one wage-earner.

15 MR. HITCHCOCK: One wage-earner. So the
16 assumptions might be different if there are two,
17 correct?

18 MR. SMART: That's correct.

19 MR. HITCHCOCK: Okay. Did you assume also
20 that if there were two wage-earners they'd be filing
21 jointly or separately. Would that effect your
22 calculations?

23 MR. SMART: We assume one wage-earner
24 filing as a single taxpayer.

25 MR. HITCHCOCK: And if there were two,

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1 since you didn't consider that, then you can't say
2 what the impact would be.

3 MR. SMART: That's correct.

4 MR. HITCHCOCK: Okay. A couple of questions
5 for Mr. Elias at this point.

6 MR. QUIN: May I just, for the purpose of
7 understanding the process, if I wish to ask Mr. Smart
8 a follow-up question, which I'm entitled to do, should
9 I wait for awhile, or how do you want me to handle
10 that?

11 CHAIRPERSON MITTEN: You don't have any
12 problem if he just asks it now while it's all sort of
13 on the surface for us.

14 MR. HITCHCOCK: Sure.

15 CHAIRPERSON MITTEN: Go ahead.

16 MR. QUIN: Mr. Smart, if a homestead
17 exemption is not achieved, would not the taxes be
18 higher to the District of Columbia?

19 MR. SMART: That's correct.

20 CHAIRPERSON MITTEN: Thank you.

21 MR. HITCHCOCK: Okay. Mr. Elias, I had a
22 couple of questions about your analysis. Let's start
23 with your weekend analysis, which collected traffic
24 data in August.

25 Now, that's a period when schools are not

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1 in session, a lot of people are on vacation and the
2 traffic volumes are generally lower than at other
3 times of the year.

4 Why did you do the measurement then?

5 MR. ELIAS: First of all, I need to
6 indicate to you that the weekend analysis is not
7 typically required by DDOT.

8 MR. HITCHCOCK: That wasn't my question. My
9 question is why did you do the analysis then?

10 MR. ELIAS: I respond to your question,
11 please. The weekend analysis was done as a result of
12 discussions held with members of the community. They
13 expressed concerns concerning queuing and traffic
14 congestion in certain sections of the study area over
15 the network.

16 Based on those discussions as well as some
17 suggestions received from OP, we decided to do the
18 weekend analysis. The weekend analysis, the counts
19 were done in the summer, but those counts were also
20 calibrated with all counts done during the fall.

21 They were found to be quite comparable.

22 MR. HITCHCOCK: Okay. Well, they were found
23 to be comparable when you did another comparison in
24 the fall. Where's that in the record?

25 MR. ELIAS: Those are yet to be submitted

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1 to the record.

2 MR. HITCHCOCK: Oh. So there's other
3 evidence you haven't put in to suggest that. Will we
4 be seeing that before the hearing is closed?

5 MR. ELIAS: Yes. Those counts were
6 abbreviated traffic counts. They were not the full
7 two-hour counts that are normally done.

8 MR. HITCHCOCK: Okay. Did it surprise you
9 that the fall figures looked different than during
10 August and the middle of the summer?

11 MR. ELIAS: As I said before, the counts
12 were quite comparable.

13 MR. HITCHCOCK: That wasn't my question.
14 Were you surprised that there was no difference in
15 traffic levels?

16 MR. ELIAS: No.

17 MR. HITCHCOCK: You weren't?

18 MR. ELIAS: No, I was not.

19 MR. HITCHCOCK: Could you explain why that
20 is the case, knowing that August is a slower period
21 than at other times of the year?

22 MR. ELIAS: Well, if you look at the
23 location of the study area, it's within a major
24 transportation and economic hub, represented by the
25 Friendship Heights CBD.

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1 It attracts a considerable level of trips
2 on weekends because of the many commercial retail
3 centers there. So, I think that explains the answer to
4 the question.

5 MR. HITCHCOCK: Okay. Let me ask this
6 question. Your weekend analysis also omitted
7 consideration of traffic at Wisconsin and Jennifer,
8 which is a major traffic point.

9 Why did you omit that?

10 MR. ELIAS: I need to go back again, saying
11 that this study was just done to present a picture of
12 what the weekend traffic situation will be, and so the
13 seven intersections included for the week-day -- now
14 which was the prime evaluation were not considered.

15 We looked at what we considered to be the
16 key intersections along Western Avenue, and we also
17 included one, Military Road at 43 Street, due again to
18 discussions held with the community.

19 MR. HITCHCOCK: Well, I'm going to ask the
20 question slightly differently. Why didn't you consider
21 Wisconsin and Jennifer to be an intersection worth
22 analyzing?

23 MR. ELIAS: Because we -- it was not
24 considered key intersection for the purposes of our
25 study.

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1 MR. HITCHCOCK: Okay, and you defined "key"
2 just as Wisconsin and Western?

3 MR. ELIAS: There were four intersections
4 included in the weekend analysis.

5 MR. HITCHCOCK: Okay, and the reason this
6 was not considered key is?

7 MR. ELIAS: We did several -- We undertook
8 feet observations on weekends, and we also undertook
9 mechanical, continuous counts over a four-day period
10 between Thursday on to Sunday.

11 Based on those volumes, we made a
12 determination as to what intersections we considered
13 to be key.

14 MR. HITCHCOCK: Okay. Let's switch gears
15 slightly. Your apartment trip rates for the side trips
16 were reduced 65 percent from the ITE rates based on
17 the public transportation supply in the neighborhood.

18 How did you assume that the -- how did you
19 derive that 65 percent figure?

20 MR. ELIAS: I think the 65 percent is no
21 longer, since we revised our analyses to reflect 50
22 percent transit motor space.

23 MR. HITCHCOCK: Okay, 50 percent. Why do
24 you -- could you explain why the 50 percent is deemed
25 appropriate?

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1 MR. ELIAS: I think the 50 percent was
2 deemed appropriate from two perspectives. One, it was
3 recommended by DDOT, and secondly, it was recommended
4 also by the Friendship Heights sector plan.

5 MR. HITCHCOCK: Okay, but have you done any
6 independent analysis of your own to determine if 50
7 percent is a correct reduction assumption?

8 MR. ELIAS: No, I did not.

9 MR. HITCHCOCK: Do you know what the basis
10 was for DDOT's suggestion of 50 percent?

11 MR. ELIAS: No, I do not.

12 MR. HITCHCOCK: So you don't, for your --
13 to your knowledge, this is not based on anything
14 empirical about comparable residential buildings near
15 other Metro stations?

16 MR. ELIAS: I indicated earlier, it's my
17 assumption that it was based on the Friendship Heights
18 sector plan, which included substantial traffic
19 analyses.

20 MR. HITCHCOCK: Okay. Including this
21 particular issue?

22 MR. ELIAS: That's right.

23 MR. HITCHCOCK: Okay. You also used the 65
24 percent figure in terms of the number of trips to the
25 day care center that you projected will be walkers or

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1 passers-by.

2 Could you explain why you -- how you came
3 up with that assumption?

4 MR. ELIAS: The 65 percent trip reduction
5 was based on empirical data we have access to. We have
6 done several day care centers in Prince George's
7 County, Montgomery County, as well as within the
8 District.

9 The 65 percent there represented transit
10 usage as well as walk trips. We assume that several --
11 a significant proportion of the trips attracted to the
12 day care center will come from within the proposed
13 development, the proposed residential uses.

14 So that's how we came up with the 65
15 percent, that's how it is justified.

16 MR. HITCHCOCK: Okay, so there was no
17 independent survey of this particular -- well, of
18 sites in the area, for example.

19 MR. ELIAS: No.

20 MR. HITCHCOCK: What were the nature of the
21 neighborhoods in Prince George's County and Montgomery
22 County that you looked to?

23 MR. ELIAS: Day care centers tend to be
24 located along major commuter routes. They attract what
25 is called passer-by trips. People are on their way to

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1 work, will just drop in, drop off their children to
2 the day care, and then head on to work.

3 So it's a common occurrence for locations
4 of those day care centers along major commuter routes.
5 The ones that we have studied have all been located
6 along major commuter routes, like Western Avenue.

7 As we know, Wisconsin is not too far from
8 the location.

9 MR. HITCHCOCK: But there are some major
10 arterial routes, though, in the suburbs, where it is
11 not necessarily developed with sidewalks or other
12 sorts of facilities that make for easy walking,
13 though, is that not correct?

14 MR. ELIAS: That's correct.

15 MR. HITCHCOCK: Okay, so, did you compare
16 those or not? I'm not sure I understand.

17 MR. ELIAS: For those without sidewalks, a
18 lesser percentage was used.

19 MR. HITCHCOCK: A lesser percentage was
20 used.

21 MR. ELIAS: Yes.

22 MR. HITCHCOCK: Okay. One other question
23 about the levels of service. You indicate that you
24 used the highway capacity manual for measuring --
25 there are some other methodologies that could be used.

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1 Correct?

2 MR. ELIAS: Correct.

3 MR. HITCHCOCK: Why did you use that one,
4 as opposed to Synchro or Corsum or some of the other
5 methodologies?

6 MR. ELIAS: The hiring capacity manual
7 procedures is the methodology used by DDOT.

8 MR. HITCHCOCK: Exclusively within the
9 District of Columbia?

10 MR. ELIAS: That's right.

11 MR. HITCHCOCK: Okay, so if there were a
12 better measuring system, it wouldn't be picked up?

13 MR. ELIAS: Well, it's used generally by
14 DDOT. DDOT also uses the Synchro analysis, which we
15 also did.

16 MR. HITCHCOCK: Okay, but you didn't use
17 the Synchro analysis here.

18 MR. ELIAS: Yes, we have done Synchro
19 analysis, and we have the results, which can be
20 submitted as a part of the record this evening.

21 MR. HITCHCOCK: All right, well -- Okay,
22 but what you have submitted previously, as opposed to
23 what you may show us in the future, talked only about
24 highway capacity, correct?

25 MR. ELIAS: Correct, in accordance with

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1 DDOT's requirements.

2 MR. HITCHCOCK: Madame Chair, I mean, here
3 as on another point, the witness -- the applicant's
4 witnesses have talked about new material that they are
5 submitting that we have not had a chance to review
6 prior to the deadline for the pre-hearing submission.

7 It was not included in the November
8 additional submissions and it is difficult to prepare
9 cross examination if there's material that was
10 reasonably available to the applicant prior to the
11 dates.

12 CHAIRPERSON MITTEN: Let me ask, is the
13 conclusions that you draw from both the highway
14 capacity manual information that you applied, and then
15 the Synchro analysis, are the conclusions that you
16 draw the same?

17 MR. ELIAS: Yes, ma'am.

18 CHAIRPERSON MITTEN: So this is sort of
19 supplemental information?

20 MR. ELIAS: It is a supplemental way of
21 analyzing the intersections.

22 CHAIRPERSON MITTEN: So, I mean, in that
23 sense, Mr. Quin, you seem to want to say something, so
24 I'll --

25 MR. QUIN: I just want to say that it seems

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1 very peculiar to me for someone to ask a question that
2 asks for more information and then once that
3 information is made available, to submit object to it.

4 MR. HITCHCOCK: Well, excuse me, Mr. Quin,
5 but that's not what the witness said. The witness said
6 that additional studies were performed in the past and
7 it is clear that the material was not provided, even
8 though presumably it could have been.

9 So it's not -- I did not ask for
10 additional material. I asked questions on the material
11 in the record and he has talked about material that
12 could have been provided before, that the Commission
13 and our traffic expert could have looked at, but it
14 was chosen not to be provided.

15 That's a rather different situation.

16 MR. QUIN: There's no need to submit it if
17 he's already made the same conclusion. So why would he
18 submit that information unless you ask for it?

19 MR. HITCHCOCK: Well, because we would like
20 to have an opportunity to look at it and have our
21 expert take a look at it.

22 CHAIRPERSON MITTEN: So you're willing to
23 share that information?

24 MR. QUIN: If that's what the Chair wishes
25 us to do, we can submit that information.

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1 CHAIRPERSON MITTEN: Well, we'll ask Mr.
2 Laden when he comes up whether or not he would find
3 that information helpful, since he'll be the one
4 looking at it for us, to help guide us through the
5 information, and if he thinks that it would be helpful
6 to have it submitted, then we will have it submitted
7 and everyone can take a look at it.

8 Otherwise, it's just more work for
9 everyone if he doesn't recommend that. So he can be
10 thinking about that in the meantime.

11 MR. HITCHCOCK: Okay, I appreciate that. I
12 had one question, I guess, for Mr. Lewis at this
13 moment, and then we'll be finished for this part of
14 the evening.

15 MR. QUIN: I have one other follow-up
16 question, if I may.

17 MR. HITCHCOCK: Sure.

18 MR. QUIN: For Mr. Elias, and that is, Mr.
19 Elias, when you dealt with the 65 percent deduction,
20 did you happen to do a special study with regard to
21 this particular child care center?

22 MR. ELIAS: The 65 percent reduction?

23 MR. QUIN: Yes.

24 MR. ELIAS: No.

25 MR. QUIN: Okay, thank you.

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1 MR. HITCHCOCK: Thank you, Mr. Quin. Mr.
2 Lewis, I just had one question, at least planned. You
3 testified, if I heard you correctly, that the proposed
4 development harmonizes with existing structures in the
5 neighborhood.

6 My question is were you referring solely
7 to the buildings in Square 1661 and development on the
8 Maryland side of the line, or were you referring also
9 to the townhouses and single-family homes to the east
10 and west of the site?

11 MR. LEWIS: I was referring to all of the
12 above.

13 MR. HITCHCOCK: In the aggregate?

14 MR. LEWIS: All of the above.

15 MR. HITCHCOCK: Okay. Could you explain
16 how, in your view, this project harmonizes with the
17 townhouses and single-family homes, even though this
18 is larger than existing -- the density and height are
19 greater than that allowed by the existing zoning?

20 MR. LEWIS: Putting aside the zoning
21 question, I believe that there is no reason at all,
22 with good design, why you can't juxtapose building
23 types of varying heights.

24 MR. HITCHCOCK: So you're making a design
25 point.

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1 MR. LEWIS: Yes, oh yes. This is absolutely
2 a design issue.

3 MR. HITCHCOCK: Okay, I just want to make
4 sure on that.

5 MR. LEWIS: Sure.

6 MR. HITCHCOCK: Okay. That concludes our
7 questions, Madame Chair.

8 CHAIRPERSON MITTEN: Thank you, Mr.
9 Hitchcock. Let me see if Mr. Gordon has any questions.
10 Do you have any questions for the ANC -- on behalf of
11 the ANC 34G?

12 And if you could tell Mr. Quin who to
13 bring up for your questions, he'll help you out. You
14 need to turn on your mic, and if you wouldn't mind,
15 identifying yourself for the record, since I only know
16 your last name.

17 Push it down, right in the middle. There
18 you go.

19 MR. GORDON: My name is Robert Gordon. I'm
20 the other Commissioner Gordon. I'm in ANC 3G.

21 CHAIRPERSON MITTEN: We'll get the bat
22 phone.

23 MR. GORDON: Right. I've been designated to
24 represent ANC-3G at today's hearing. ANC-3G ends, or
25 perhaps it begins at 41st Street.

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1 CHAIRPERSON MITTEN: I'm sorry, I might
2 have misled you or I might have confused you. This is
3 the time for you to cross examine the applicant's
4 witnesses, rather than to make your presentation.

5 MR. GORDON: I'd like to question Mr.
6 Elias, Mr. Lewis and Mr. Firstenberg.

7 CHAIRPERSON MITTEN: Okay. Were you just
8 making a little introduction there?

9 MR. GORDON: Yes, this is just a very brief
10 statement.

11 CHAIRPERSON MITTEN: Well, we'll have to
12 wait for your statement. This is just time for
13 questions.

14 MR. GORDON: All right, thank you. The
15 first questions are for Mr. Elias. In his statement,
16 Mr. Quin said that there's no traffic issues. You
17 agreed, on page 64 of the testimony.

18 Please reconcile the inconsistencies on
19 page four. Our studies show a level of "C" or -- and
20 on page 65, area intersections operate acceptably with
21 level of service "D".

22 Which is it, and how is this not an issue?

23 MR. ELIAS: Could you please help me? Which
24 study are you referring to?

25 MR. GORDON: This is the testimony at the

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1 public hearing on November 14. You had two different
2 notions of what the current level of traffic is.

3 MR. ELIAS: If I can recall clearly, I did
4 indicate that the study area intersections currently
5 operate at levels of service "C" and above. Then I
6 also indicate that the future situation, future
7 traffic situation including significant background
8 developments or planned on build developments, as well
9 as growth factor for through traffic onto your major
10 roadways, and including the site, we found that the
11 levels of service were pretty much the same except for
12 at Wisconsin and Western Avenue, when during the
13 morning peak hour, a level of service "D" will be
14 obtained.

15 And then I went on to indicate that the
16 applicant has proffered to provide signal optimization
17 for that location, which will raise the level of
18 service from "D" to a level of service "C" in keeping
19 with the requirements of the Ward 3 plan.

20 MR. GORDON: Thank you for bringing that
21 up. The next question was about optimization. Could
22 you explain to us what optimization means in your
23 sense, and does optimization actually mean more cars
24 per signal onto Western and Military?

25 MR. ELIAS: Optimization -- Optimization is

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1 a means of ensuring that all approaches are discharged
2 efficiently during a signal cycle. If the cycle length
3 is 110 seconds, we expect that all queues are
4 discharged efficiently through that intersection
5 during that one cycle.

6 There may be occasions when there is
7 queueing along Western Avenue, but then there is
8 excess capacity along Wisconsin. So in order to
9 optimize the signal, it's a matter of redistributing
10 green time from Wisconsin to Western Avenue, so that
11 for an overall perspective, the intersection operates
12 more efficiently.

13 MR. GORDON: Your memorandum on November 8
14 to Mr. Bah of the DOT shows commuter-generated sets of
15 capacity results that appear inconsistent. For
16 example, the HCS results show a level of service of
17 "C" and a 20 second per vehicle delay at Wisconsin and
18 Jennifer Streets, while the Synchro results show a
19 service level of "A" with a five-second delay.

20 Every other result is equally inconsistent
21 by a wide margin. How do you explain these
22 inconsistencies?

23 MR. ELIAS: Well, there are two different
24 types of analyses. The HCS analysis assumes that each
25 intersection is an isolated location, and it's not

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1 connected in any way to an adjacent signal or
2 synchronized or unsynchronized location.

3 The Synchro analysis performs -- it's an
4 analysis that assumes or takes into consideration
5 several factors, factors such as its placing between
6 intersections, queues, unmet demand.

7 It takes into consideration the
8 synchronization and coordination of signals as well.
9 The HCS analysis does not do that.

10 MR. GORDON: All right, well my question,
11 then, is if there's such an inconsistency where one
12 study shows one-quarter of the average delay as the
13 other study, how do we know that any of the data or
14 analysis that you are performing doesn't have those
15 very wide margins in their analysis?

16 MR. ELIAS: It's my understanding that,
17 even though there may be some difference in the
18 delayed values, I'm sure that the level of service are
19 pretty much the same, if not close to each other; if
20 we're talking about a level of service "B" forced to
21 the level of service "C", or a "C" forces a "D".

22 It's my understanding that both the
23 Synchro and the HCS analysis confirm that the initial
24 results that intersections currently operate
25 acceptably within the city's planning standards and

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1 will continue to do so upon build-out of the proposed
2 development.

3 MR. GORDON: I'm not going to argue the
4 point, but I just want to note that this one
5 intersection, Wisconsin and Jennifer, one shows level
6 A and one shows level C.

7 That kind of discrepancy tends to make me
8 concerned about the level and the accuracy of the
9 analysis. Did you consider in your traffic evaluation
10 the number of vehicles that will use the new Hecht's
11 site and Chevy Chase land site and the WMATA bus barn?

12 MR. ELIAS: Yes, I did.

13 MR. GORDON: And what were the results on
14 the overall patterns on Wisconsin, particularly on
15 Military Road?

16 MR. ELIAS: Those have been illustrated in
17 our study, our study dated March 21. They were
18 incorporated into the future analysis on the future
19 traffic situation.

20 MR. GORDON: Are you aware of other pending
21 traffic studies concerning traffic to and from
22 Friendship Heights?

23 MR. ELIAS: No.

24 MR. GORDON: Well, let me tell you, there
25 are planned studies by --

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1 MR. QUIN: I object. You can't make a
2 statement. If you want to ask a question, ask a
3 question.

4 MR. GORDON: All right. Are you aware of a
5 study dealing with the Western Avenue corridor study,
6 the Military-Missouri cross-town study?

7 MR. ELIAS: Yes, I am.

8 MR. GORDON: The McKinley Street traffic
9 study?

10 MR. ELIAS: Yes.

11 MR. GORDON: And the Rock Creek Park study?
12 Management plan transportation study?

13 MR. ELIAS: Yes, I am.

14 MR. GORDON: Shouldn't those be part of the
15 consideration for Friendship Heights in your planning?

16 MR. ELIAS: I don't think so. There's a
17 difference in the horizon periods. This study for the
18 subject PUD is for a four-year period. The development
19 will be built by the year 2006, which is quite
20 different from the horizons for those other studies.

21 MR. GORDON: That study -- It's my
22 understanding that --

23 CHAIRPERSON MITTEN: Are you going to be
24 making it into a question?

25 MR. GORDON: No. Yes, I will, I'll try to.

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1 Let me move on. How does your study look at or
2 indicate whether or not the proposed housing
3 development will force commuters onto side streets off
4 of Western Avenue?

5 MR. ELIAS: It does not.

6 MR. GORDON: It does not look at the issues
7 of forcing?

8 MR. ELIAS: No, it does not. It's not
9 required to do that.

10 MR. GORDON: Your testimony did not mention
11 the traffic impact of the day care center to be
12 located on the Lisner home property. Could you please
13 tell us about that?

14 MR. ELIAS: Well, it is -- all of our
15 studies included the day care center use and analyze
16 the potential impacts. That day care center will be --
17 the trips estimated for that day care center were
18 extrapolated from a survey undertaken of the Chevy
19 Chase Plaza Childrens Center, which is located just to
20 the south along 43rd Street.

21 Surveys were done of that facility, and
22 based on the data obtained, trip generation rates were
23 derived and those rates were used to extrapolate for
24 the future proposed use which is the subject of
25 tonight's hearing.

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1 In terms of access to the facility, you
2 are able to determine that a certain percentage of
3 those trips will be generated on-site by patrons from
4 the proposed residential development.

5 A certain percentage of those will include
6 walk trips, so we estimate that approximately 18
7 vehicles will be entering or accessing the day care
8 center during the morning peak hour and in the
9 afternoon peak hour.

10 To sum it all, the impact will be quite
11 minimal.

12 MR. GORDON: I pass that center every day
13 to work by foot, and I can tell you that it's not --

14 CHAIRPERSON MITTEN: We need a question.

15 MR. GORDON: Yes, I'm going to get to a
16 question -- that it's not minimal, and I wanted to
17 understand how you gathered the data. Was that by
18 observation, or was that by questioning parents or
19 questioning staff?

20 How did you get the data about the 18
21 vehicle trips per 31 students?

22 MR. ELIAS: It involved both feet
23 observations as well as interviews with parents. The
24 information on the proposed day care center entrance
25 is shown in your memorandum dated November 13.

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1 Is it simply -- are you creating a new
2 driveway into the site? How is that going to work? Is
3 there a curb-cut involved?

4 MR. ELIAS: Yes, it's my understanding that
5 the site plan calls for a new curb cut along Western
6 Avenue to serve the day care center use.

7 MR. GORDON: And you've done an analysis of
8 the impact of that center on the traffic along Western
9 Avenue?

10 MR. ELIAS: Yes, we have.

11 MR. GORDON: And can you tell me how the
12 combination of the traffic into the day care center
13 combined with the traffic in and out of the proposed
14 garage will impact Western Avenue and change -- add to
15 delays along Western?

16 MR. ELIAS: The impact will be quite
17 minimal.

18 MR. GORDON: Does "minimal" mean a few
19 seconds, or minutes, or what does that mean?

20 MR. ELIAS: It means that the existing
21 level of service will not be lowered appreciably.

22 MR. GORDON: Can you tell me how many
23 vehicles the day care lot is planned to be able to
24 accommodate?

25 MR. ELIAS: It's my understanding that the

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1 day care lot have eight spaces which facilitate drop-
2 offs. Eight surface parking spaces.

3 MR. GORDON: And how will egress from the
4 parking lot be handled? Is there a light, a stop sign,
5 along Western?

6 MR. ELIAS: There will be a stop sign on
7 the approach to Western Avenue, but there are no stop
8 signs along Western Avenue.

9 MR. GORDON: Your traffic impact assessment
10 vehicle turning movement count summaries and
11 pedestrian crossing activity, which is one of your
12 documents, Annex B, pages one through seven, refers to
13 Friendship Heights/Montgomery County.

14 Our ANC questions the relevance of these
15 tables to Washington, D.C. Are you aware that the --
16 your annex either mislabels or mishandles the traffic
17 count labeling?

18 MR. ELIAS: No, I'm not.

19 MR. GORDON: That's all for this gentleman.

20 CHAIRPERSON MITTEN: Thank you.

21 MR. GORDON: Thank you.

22 CHAIRPERSON MITTEN: Mr. Hitchcock? Can you
23 let him squeeze into a microphone there.

24 MR. HITCHCOCK: Picking up on the question
25 on the surveys, I was wondering if there might -- for

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1 the 43rd Street facility -- would it be possible to get
2 those for the record?

3 He was talking about the traffic, the
4 figure about 18 movements, that sort of thing, earlier
5 in the cross examination.

6 CHAIRPERSON MITTEN: Are those details in
7 the record yet?

8 MR. ELIAS: It's very familiar. I spoke
9 about submitting some documents into the record, but
10 the gentleman he has both documents already, so it
11 seems that they are in circulation.

12 CHAIRPERSON MITTEN: Well, but in
13 circulation and in the record are two different
14 things.

15 MR. QUIN: Madame Chairperson, I think
16 those were documents filed with DDOT at the request of
17 DDOT. I'm not sure they are in the record. If you
18 would like them, we can file them for the record.

19 CHAIRPERSON MITTEN: Well, I guess it would
20 be helpful if everyone's looking at the same
21 documentation. So let's get that in.

22 MR. QUIN: Right, I mean if that's the
23 basis of a question, I would assume that the
24 questioner would submit those, but if not, we'll
25 submit them.

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1 CHAIRPERSON MITTEN: Well, he -- Mr. Gordon
2 may not have known that what he was referring to was
3 not information that we didn't have.

4 MR. QUIN: Oh, all right. We'll submit
5 those for the record.

6 CHAIRPERSON MITTEN: Okay.

7 MR. QUIN: Thank you, Madame Chair.

8 CHAIRPERSON MITTEN: Thank you. Who would
9 you like to direct questions to?

10 MR. GORDON: Mr. Lewis. Mr. Lewis, you
11 testified that a critical goal of smart growth is to
12 create walkable, transit-oriented development. The
13 corner of Western and Wisconsin is dangerous now.

14 Specifically, what plans do you have to
15 improve the situation?

16 MR. LEWIS: I have no plans to improve the
17 situation. I'm simply here to testify about the plan
18 that has been proposed by the applicant.

19 MR. GORDON: Well, then I would like to
20 know who to direct this question to.

21 CHAIRPERSON MITTEN: Well, you can either -
22 - we'll let Mr. Quin decide or you could restate your
23 question.

24 MR. QUIN: I don't want this to become a
25 game, but it would seem to me that if you have a

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1 question that you want to direct to someone, you would
2 ask that person, rather than my fishing around and
3 finding out who wants to answer a question.

4 CHAIRPERSON MITTEN: Then I'll help out Mr.
5 Gordon. I think his point is, Mr. Lewis, you had made
6 this observation that this is a good, transit-oriented
7 development project, and Mr. Gordon has a concern that
8 for part of this is walkability and so forth.

9 Mr. Gordon has a concern that this is a
10 dangerous intersection, so what is being done to
11 facilitate walkability through this project.

12 MR. LEWIS: All right, well maybe can I can
13 answer --

14 CHAIRPERSON MITTEN: Is that a fair
15 characterization of what you --

16 MR. LEWIS: Well, what I can answer, it's
17 anecdotal, having actually spent four years with my
18 office at that intersection a few years ago.
19 Intersections like this are always anywhere
20 potentially dangerous if they're not properly
21 signalized and if they're not properly equipped with
22 signage and so forth.

23 I've walked across the intersection many,
24 many times and not felt particularly threatened. It
25 seems to me that there are probably perhaps

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1 improvements that could be made to the situation as it
2 exists today.

3 The reason I ducked the question, if you
4 will, was that I don't know what those are.

5 MR. FIRSTENBERG: Madame Chair, I can
6 answer the question, if you'd like.

7 CHAIRPERSON MITTEN: Please do, because we
8 want an answer. It doesn't --

9 MR. FIRSTENBERG: Yes, ma'am. We have
10 proposed a series of safety improvements around our
11 site to make the crossing of Military and the crossing
12 of Western Avenue more safe.

13 We are talking about improvements that
14 would create raised crosswalks that would act as a
15 traffic measure, a more obvious visual barrier for
16 where the pedestrians will be crossing.

17 I believe without referring to the plans
18 we're planning to do that at the intersection of
19 Military and Western, the intersection of 43rd Street
20 and Military and at the intersection of Wisconsin
21 Circle and Western Avenue.

22 Thank you.

23 CHAIRPERSON MITTEN: Thank you.

24 MR. GORDON: One question then. A
25 fundamental tenet of smart growth is to include the

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1 results of the traffic studies that are in train. DOT
2 planned several traffic safety studies, including
3 those discussed above.

4 In your capacity, how do you factor in the
5 results of those studies into the overall land use for
6 the proposed development?

7 MR. LEWIS: How do we factor in the traffic
8 studies?

9 MR. GORDON: The traffic studies that were
10 referred to before.

11 MR. LEWIS: Well, I have not done nor was I
12 asked to do any kind of detailed analysis of the
13 traffic studies, which is really beyond my competence,
14 not being a traffic engineer.

15 My understanding, though, of having looked
16 at the studies was that, as has been testified
17 already, was that the traffic impact will be minimal.
18 It will not be consequential or change the level of
19 service.

20 I think that the only thing I would add to
21 that is my observation that the traffic situation or
22 the traffic generated by apartment buildings, and I
23 think I stated this in my testimony, generally is not
24 problematic for a traffic network in the way that
25 traffic generated by shopping centers and commercial

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1 developments are.

2 MR. GORDON: Now, it's my understanding
3 that you're a specialist or an expert on smart growth?
4 Is that correct?

5 MR. LEWIS: I'm not sure what it means to
6 be an expert on smart growth, but I will try and
7 answer your question.

8 MR. GORDON: Well, the question once again
9 is under smart growth tenets, does it make sense to
10 take advantage of the studies that are in train or
11 about to be done in a short period of time to look at
12 a site and use that information in the design, in the
13 thinking, in the size and all of the planning around
14 that development?

15 MR. LEWIS: Yes.

16 MR. GORDON: Thank you. The rest of the
17 questions are for Mr. Firstenberg.

18 MR. FIRSTENBERG: Madame Chair, could I
19 just. One second, Mr. Gordon. If you want to refer to
20 our October 25 submission labeled page S5, my memory
21 was pretty good, but we do -- the improved
22 intersections that I talked about here are noted for
23 the crosswalks.

24 And it's listed in our summary.

25 CHAIRPERSON MITTEN: Thank you.

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1 MR. GORDON: Well, that goes to my first
2 question. Would you be -- Please be more specific
3 about the safety improvements that you reference in
4 your testimony, page 46.

5 Just say a few words about that, please.

6 MR. FIRSTENBERG: Yes, I don't have --
7 Unfortunately, you're referring to testimony that we
8 didn't reread, but as I said, we have proffered a
9 series of safety improvements in the neighborhood that
10 are a combination of, you can call them traffic
11 mitigation/safety that involve things such as traffic
12 calming measures on 43rd Street with speed bumps, some
13 signage that seems awfully logical but doesn't seem to
14 be in the neighborhood in terms of how you would
15 direct traffic, as well as these pedestrian crosswalk
16 improvements that we have suggested be made to
17 actually work both as for pedestrian safety and
18 traffic calming, as well as formalizing the link
19 between Military Road and Western Avenue through a
20 landscaped path that keeps people from walking through
21 a parking lot too, which they currently use.

22 MR. GORDON: Then, the question is that all
23 of those improvements are on the record now.

24 MR. FIRSTENBERG: They were part of the
25 record when we made our submissions.

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1 CHAIRPERSON MITTEN: Yes, in fact there was
2 a summary of all of the proposed benefits and
3 amenities that was passed out at the last hearing, and
4 if Mr. Gordon didn't get a copy of that, perhaps you
5 could provide it to him.

6 It's just a one-page summary.

7 MR. FIRSTENBERG: Ms. Shiker will get him a
8 copy of it right now.

9 CHAIRPERSON MITTEN: Thank you.

10 MR. GORDON: You mentioned a construction
11 management plan on page 47 of the testimony. Are you
12 aware, and will you acknowledge that construction
13 management plans are a community requirement and not
14 an amenity?

15 MR. FIRSTENBERG: Oh, I'm sorry. I'm
16 unaware that they are -- I'm aware that the
17 communities have requested them. We have proffered
18 that we would do one.

19 I am not aware that it is actually part of
20 any zoning regulation to provide a construction
21 management plan. We based that construction management
22 plan on the two that were the most recent ones done
23 closest to this project, as we understand, did not
24 have any construction problems at the McCaffrey
25 project with the retail on Wisconsin, as well as the

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1 Tenley project development on Hoffman.

2 I do understand it's part of a PUD. It is
3 very typical that a construction management plan is
4 proffered, and that is why we have one here.

5 MR. GORDON: Will you agree to route your
6 dirt-hauling trucks and other construction vehicles
7 away from Military Road by directing the drivers use
8 River Road to the Beltway, or some other route?

9 MR. FIRSTENBERG: We have already proffered
10 that they will not go east on Military at all.

11 MR. GORDON: You said in your testimony on
12 page 39 that we listened to the community. The
13 community indicated according to your testimony that
14 it did not want Military Road to be impacted.

15 What effect, therefore, will a Military
16 Road cut-out or indent near Western have on Military
17 Road traffic?

18 MR. FIRSTENBERG: I don't profess to be a
19 traffic expert, but I think it's very important that
20 there be a lay-by there, because there will be people
21 who will be dropped off in a taxi, there will be
22 people who will do a quick drop-off, and without the
23 ability to pull off quickly and allow those people to
24 go, and one of the requirements that DDOT in their
25 review has asked is that there will be a, I believe,

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1 no longer than five minutes sign there.

2 I think that will actually enhance safety
3 by having the lay-by.

4 MR. GORDON: How do you propose to prevent
5 trucks, delivery vehicles, that may want to use that
6 for delivering to the Pavilion from doing that, and
7 further congesting that particular spot that I was so
8 concerned about before, the intersection of Western
9 and Wisconsin?

10 MR. FIRSTENBERG: I can't police what
11 people going into the Chevy Chase Pavilion will do.
12 I'm aware they have a loading dock. I would think it
13 would be much more convenient for those people to use
14 the loading dock attached to the vertical
15 transportation of the Pavilion, but it's certainly not
16 intended to be used for that purpose.

17 MR. GORDON: Thank you. No further
18 questions.

19 CHAIRPERSON MITTEN: Thank you, Mr. Gordon.
20 Did you have any other questions that you want to
21 redirect? Now we'll see if the Commissioners have any
22 questions. Mr. May's going to start us off.

23 MR. MAY: Let's see. I think if Mr. Lewis
24 could join you at the table too, I think that would be
25 helpful. Most of my questions tend to be architecture

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1 and planning-related in this particular case.

2 I don't have a lot of questions about the
3 building itself. I mean, the building certainly seems
4 to be a handsome design and has, I think, has improved
5 progressively through the iterations that we've seen,
6 and I don't mean just because it's reduced in size,
7 but it seems like as it's gotten -- as it's moved
8 along, it seems to have become more comfortable in the
9 neighborhood.

10 But I do have questions about some of the
11 broader planning principles that are raised here by
12 the suggestions that have been made by some of the
13 carriers of the project, specifically, why not
14 townhouses?

15 And I don't mean from an economic point of
16 view or from a development point of view, but it seems
17 to me that there may be arguments why, just from a
18 planning point of view, and two opinions on this would
19 be good, townhouses wouldn't make sense on this site.

20 Now, maybe they do, and you can tell me
21 that they do make perfect sense, but I'd like to
22 understand what the logic is from an architecture and
23 planning point of view why a larger building is
24 appropriate here.

25 MR. BLACK: This is a pie-shaped property,

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1 and I have tried to lay out townhouses on other sites
2 that have similar shapes to this and it's not a good
3 fit, as you can imagine trying to fit rows of
4 townhouses on a piece of property with this acute
5 angle, basically.

6 Now, I can't tell you that we could or
7 could not fit the allowable density under the current
8 zoning, but I think I can tell you with some
9 confidence that it would probably be a challenge to
10 get those townhouses on there and to get proper
11 automobile circulation to each one of those.

12 MR. MAY: In the end, you could wind up
13 with townhouses that are not much more than alley
14 dwellings, in essence?

15 MR. BLACK: Perhaps.

16 MR. MAY: What about the suggestion that
17 there could be as many as 42 townhouses? I saw that
18 number somewhere. I mean is that, has anybody even
19 looked at it closely enough to understand whether that
20 number is feasible?

21 MR. BLACK: You know, when I heard that
22 number, we did a very quick, back-of-the-envelope
23 sketch, and I didn't see how you could put 42
24 townhouses on there unless you made them exceptionally
25 narrow.

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1 MR. MAY: What's "exceptionally narrow"?

2 MR. BLACK: Twelve feet, 13 feet.

3 (Laughter.)

4 MR. BLACK: Five feet would also be
5 exceptionally narrow.

6 MR. MAY: That's San Francisco width,
7 right? That half-lot.

8 MR. BLACK: Again, I don't want to
9 represent that I really tried hard to work that out. I
10 just didn't devote the time to it.

11 MR. MAY: Okay. That's sort of the site-
12 planning side of the question. I guess there's also
13 more of an urban planning aspect to this, and maybe
14 Mr. Lewis wants to take a shot at this one, which is -
15 - I mean, as a transition between very dense
16 development that we have across two streets from this
17 site, and as a transition to the neighborhood beyond,
18 which is radically different in character even from
19 the townhouses that have been suggested, whether in
20 large part -- is it appropriate, I guess, to be
21 thinking in terms of townhouses for this site?

22 MR. LEWIS: First, let me underscore what
23 Shalom said, since I've also designed a lot of housing
24 in my career. This is a problematic site to do
25 attached housing, row houses.

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1 In fact, it's a site that would probably
2 work best if one were to do attached housing that's
3 not conventional, party wall row housing. The second
4 point I would make, though, which has to do with my
5 own feelings about why townhouses are the wrong thing
6 for this site gets back to the transit-oriented
7 development issue. It seems to me that given its
8 location, its proximity to this transit terminal, its
9 proximity and really adjacency to buildings to its
10 west, north and south, that townhouses are the wrong
11 thing to do on that site.

12 In other words, I think if Mr. Firstenberg
13 had come to me and asked me to do townhouses, I might
14 have -- independent of the geometry -- I might have
15 questioned whether that's the right use for the site.

16 So, in a sense, I'm suggesting that in my
17 opinion zoning that would call or restrict the
18 development to townhouses is not the correct zoning,
19 which is why the PUD is an appropriate proposal here.

20 I also, as a matter of principle, believe
21 that these are the kinds of sites here in Washington
22 and in other cities where this kind of density is most
23 appropriate, and where a townhouse development is
24 least appropriate.

25 Finally, on the issue of this transition

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1 that has been discussed. I think, as has already been
2 pointed out, the design, I think very adroitly,
3 manages the -- or mediates between the higher density
4 development to the north, west and south and by
5 creating in particular this open space, this park,
6 does a very good job of mediating between the lower
7 density development to the east and southeast, and
8 this higher density development to the west.

9 So I actually think this is the right use
10 for this site at this time in this place, and I think
11 that townhouses would be the wrong use for this site.

12 MR. MAY: Okay, thank you. It has been
13 suggested, even tonight in testimony, that this
14 development would be better if we simply lost a floor.
15 Now, I understand that there are economic implications
16 for that, but are there any architectural or planning
17 implications for that?

18 We can also answer the economic ones, as
19 well.

20 MR. BLACK: Well, the economic one is
21 probably fairly easy in that, when you take a floor
22 off a building like this, you don't diminish the size
23 of the cores in any way, so the cost per square foot
24 goes up, of construction.

25 MR. MAY: When I look at the building and

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1 look how, you know, it's exactly at the limit for the
2 site, including any flexibility or the five-percent
3 flexibility, it almost feels like there's just one too
4 many floors to start with, just in terms of squeezing
5 them in.

6 Is this, in your experience for a building
7 like this, is it quite typical to just be strictly ten
8 feet and then inset that first floor just a little bit
9 to max it out, or are we really pushing the envelope
10 here?

11 MR. BLACK: No, we're not pushing the
12 envelope. Actually, for the first half of my career
13 here in Washington doing apartment buildings, we used
14 to design buildings with eight inches floor to floor.

15 So we built an eight-inch slab and then
16 had 8'0 clear to the ceiling and down. Ninety-five
17 percent of the buildings that were done during that
18 15-20 year period were all built that way.

19 So this is actually, by those standards of
20 the '70s and '80s, quite generous. But I also want to
21 say that my recommendation to our client, which was an
22 unusual situation here, was actually to go higher and
23 denser than he was comfortable doing.

24 I do feel -- We did design a taller
25 building for this site, which I to this day feel would

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1 be more appropriate than the current building we have
2 at 78 feet.

3 We are surrounded on several sides by
4 buildings, on one instance the Metro building there on
5 the corner of Western and Wisconsin is 143 feet tall,
6 and is directly across the street.

7 The building next to that, which I
8 understand is permitted and will be built, is also
9 about, I think, two or three stories in terms of
10 height.

11 That's a 90-foot building, I believe it's
12 going to be. So it's about 12 feet taller than we are.
13 I know there's been some discussion about what is the
14 real height of the Chevy Chase Pavilion.

15 There is an actual zoning height that's
16 documented, of course, but in fact, you know that
17 building has multiple cornice lines, has different
18 uses, it has different heights in different areas, but
19 generally, that is a taller building than we are, than
20 our building is.

21 You can fool around with where you
22 measure, where does the roof slope, but in fact, the
23 overall bulk and the overall height of that building
24 is a floor or two, at the minimum, larger than we are.

25 Now, of course, we do have lower buildings

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1 to the east and partially to the south, but I do feel
2 that we've located the building on the site in a way
3 that really improves or actually I would just say
4 creates an excellent condition for those lower
5 buildings, in that we are taking the park land that
6 currently surrounds the Lisner home and extending it
7 right across the southern end of our site, so that
8 both the townhouses to the south and the Lisner home
9 actually get to look out to a park, what is
10 essentially a private park, which would certainly not
11 be the case under a matter of right development.

12 And you know, that I think allows this
13 building to be taller, and that's why I think it can
14 also be taller than the 78 feet that we're proposing.

15 MR. MAY: Okay. Thank you. Can you speak a
16 little bit about the design of the penthouse as a
17 tower feature within the building. I mean you went
18 from something that actually had a fairly substantial
19 penthouse, as I recall, to what is now essentially
20 just a bar in the top of the building, is that right?

21 MR. BLACK: Yes, you know, the issue we
22 faced with penthouses in apartment buildings, is that
23 it doesn't matter what you do, they're visible,
24 because apartment buildings, unlike office buildings,
25 tend to be narrow.

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1 Most apartment buildings are in the range
2 of 65 to 80 feet in depth, you know, where as office
3 buildings are usually 120 and more. So it's easier to
4 conceal a penthouse with the required setbacks in a
5 commercial building.

6 Here, because the building is narrow, we
7 felt it was important to integrate the mechanical
8 equipment into an architectural embellishment
9 essentially, and then integrate that into the façade.

10 That creates -- breaks down the scale of
11 the building, creates a punch, creates basically an
12 exclamation point that's associated with the entrance
13 and it's associated with the western part of the
14 project, which is directly across from the taller
15 buildings.

16 MR. MAY: I think it looks a little better
17 than a mansard roof, too.

18 MR. BLACK: Good, thank you. I agree.

19 MR. MAY: The next question has to do with
20 the day care center. Is that something that you're
21 going to be designing as well, because it's sort of in
22 its infancy.

23 MR. BLACK: Yes, we --

24 (Laughter.)

25 MR. MAY: It got much smaller, right? It

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1 went from two stories to being subterranean,
2 essentially. Is that right?

3 MR. BLACK: Yes, as we studied, it occurred
4 to us that we could actually incorporate it into the
5 hillside and treat it as just another terrace for the
6 Lisner home, visually, that is.

7 That seemed to be the most appropriate way
8 to do it, and also a way that it would have the least
9 impact on anything else around it.

10 MR. MAY: Thanks. It was interesting to see
11 more, but having seen that little bit more, it just
12 makes you want to see more than that, so I'm hoping
13 that -- I'm not sure whether we will get an
14 opportunity to see much more of it before we decide on
15 this, but I would be interested in seeing how that
16 develops, because it's an interesting idea and from
17 what we see it certainly is low-impact on the site,
18 but it's -- at this point, it just looks like a few
19 retaining walls and doesn't really have a lot of
20 character to it yet, but I'm sure it will.

21 I guess I had one traffic-related
22 question, which is that -- I think I'm done with the
23 architecture and planning stuff. There was some
24 discussion in one of the letters that we received, I'm
25 sorry I can't refer to it very exactly, but it took

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1 issue with the entry scheme.

2 I think that the argument was that
3 combining the automobile entry at a certain point was
4 problematic, in that, in fact, it should be split in
5 some fashion.

6 Now having gone through all these
7 iterations, I don't recall where we stand on this now,
8 whether you have, in fact, revised the design in
9 response or whether it's still an issue in terms of
10 that traffic.

11 I think this is a letter that was written
12 by Mr. Roy that --

13 MR. FIRSTENBERG: I'm not sure about that
14 letter. We changed the design. We tried to integrate
15 the loading access and the pedestrian access into one
16 location, because we thought that might help
17 facilitate traffic at the intersection.

18 DDOT told us that was not acceptable and
19 they wanted the maximum separation between the loading
20 dock and the main ingress and egress for the cars of
21 the residence.

22 So that's why we moved it to the east,
23 which also provided the opportunity to create the
24 surface parking next to the day care center, so the
25 opportunity for the surface parking lot became

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1 available due to the requirement of DDOT to push the
2 loading dock down and therefore creation of the second
3 curb cut along Western Avenue.

4 So that was in response to DDOT's request,
5 and I believe they've issued a supplemental report
6 accepting the loading dock condition.

7 MR. MAY: Is there still an issue with the
8 volume of vehicles coming in and out from the garage
9 and where it's placed at that intersection, or is that
10 absolutely the right place to be and having all
11 turning options -- because it kind of looks like
12 you're feeding a lot out into what can be a fairly
13 busy intersection.

14 MR. ELIAS: Well, I think it's an
15 appropriate location in that split phasing will be
16 provided. If you see Western Avenue, that's running
17 east-west, and then you see Wisconsin Circle, and the
18 entrance to the garage is north-south, split phasing
19 will be provided for the north-south movements so that
20 egress from the garage will have its own exclusive
21 phasing and timing.

22 MR. MAY: Okay. I think that was it for
23 traffic. I did have a couple of questions for Mr.
24 Smart, I think, on the tax analysis. The first one was
25 clarifying on the homestead exemption and the way this

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1 works.

2 Maybe it's just there are things about it
3 that I don't understand, but the way the homestead
4 exemption works. If you own your property and you
5 occupy it, you get a discount.

6 Your assumption is that nobody's getting
7 that discount. Correct?

8 MR. SMART: That's correct, and I affirm
9 your -- my understanding is the same as yours as to
10 who's eligible for the exemption, and a rental
11 occupant is not.

12 MR. MAY: Right. So if anything, your
13 assessment of the tax, the projected income to the
14 city from the taxes is, if anything, high, because
15 chances are some owner occupants will live there and
16 will claim the deduction.

17 Not saying it's extraordinarily high. I
18 know the homestead deduction isn't that much.

19 MR. SMART: Well, I think you're aware it's
20 \$30,000, and for the benefit of this discussion I
21 looked at what that would do, and by rough estimate,
22 it appears it would lower our indicated real estate
23 tax by approximately six percent.

24 That would be the same under whatever
25 scenario you evaluate. So the delta between different

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1 levels of development would remain the same, except
2 the overall return, if everybody took the tax
3 exemption for the homestead up to \$30,000 would total
4 six percent at these market values.

5 MR. MAY: Okay. So you did that all in the
6 time from when this question was asked?

7 (Laughter.)

8 MR. SMART: The proceedings involved here.

9 MR. MAY: I'm pretty impressed. There was a
10 response, I guess, to the tax analysis, or an
11 alternate analysis of the income that was submitted to
12 the record by Ms. Simons, and had some very different
13 calculations.

14 Have you been able to review that
15 analysis?

16 MR. SMART: Which date of the submission of
17 analysis are you referencing?

18 MR. MAY: Oh, God.

19 MR. SMART: Yes, I've looked at two
20 submissions and I can comment on those.

21 MR. MAY: Okay. I would like to hear -- I
22 mean there are some very different statements or
23 projections, and without getting into a lot of the
24 specifics at this moment, I mean I can reread these,
25 but I'd like to hear your reaction to those and I'm

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1 going to ask her reaction to yours.

2 MR. SMART: If I could highlight a couple
3 then.

4 MR. MAY: If you would, please.

5 MR. SMART: For those of you who do have
6 that document, I did come prepared to comment on the
7 November 8 document that was addressed to the
8 Commission from Dr. Simon.

9 There is some representations made in
10 there, and to reference implications for the tax
11 calculations, the income tax, I indicated that we take
12 a band of average income taxes and subject those to --
13 excuse me, average income taxes and subject those to a
14 band of income.

15 There's no way to predict how everybody
16 with \$144,000 income is going to fill out their income
17 tax, so we're satisfied that that is illustrative. I
18 did note that when we went to a page that was on that
19 presentation, which said if you subject our income tax
20 and run it through the Form D40, the numbers that were
21 illustrated showed a difference of five percent from
22 our numbers.

23 It was on page four of seven according to
24 my document, where taxable income was evaluated from
25 our submission at \$9,720 was the gained in income tax

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1 receipts, and the submission indicated that if you
2 used the Form D40, it actually would be, I'm quoting,
3 \$9,254, which in round numbers I believe is
4 approximately a five-percent variance.

5 There were some other representations as
6 to dually -- if you had people, as I was asked, doing
7 two incomes, we did not do that analysis. In total,
8 though, as far as I could understand was described in
9 the narrative, I haven't seen the calculations,
10 computations, but if I understand it, it appeared that
11 if you took the aggregate, if I could put it that way,
12 the aggregate of the differentials.

13 We took, as far as I could understand, the
14 assumptions in the analysis which was critiquing ours
15 and we did the same analysis using those inputs. The
16 best we could come up with was approximately, I think
17 it was a 21 percent variance between ours and those
18 numbers.

19 My principal point I made before is that
20 the difference between respective scenarios would all
21 be impacted in the same manner. So whatever you assume
22 from -- by right, would be in our understanding of
23 this would be lower and the proposal might be
24 proportionally lower of 20 percent, even using the
25 reference document assumptions, as far as I can

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1 understand them.

2 I could go into other details, but I --
3 that's the aggregate of it.

4 MR. MAY: That's enough, thanks.

5 CHAIRPERSON MITTEN: Anyone else have
6 questions? Mr. Hood?

7 MR. HOOD: I just have a few questions. Mr.
8 Quin, I believe you said this at the last meeting in
9 reference to the comprehensive plan. I think you said,
10 either you or Mr. Firstenberg.

11 How can you prove to me that if we approve
12 this, that we are being consistent with the comp plan?
13 Other than, it says in the element that it provides
14 for a day care center and all the rest of that.

15 How can you just simply state to me or
16 show me where this is consistent with the comp plan?

17 MR. QUIN: Mr. Hood, I can go over those
18 points, but let me just give sort of an umbrella
19 answer first, and then, since I don't really give
20 testimony but for summarizing, I'd like to refer it to
21 Mr. Sher.

22 But I can tell you that what I was dealing
23 with is, first, in terms of the comprehensive plan and
24 all the planning goals, I went through about four
25 overall points: commercial regional center, housing

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1 opportunity area and one of the most important
2 transportation centers in the city.

3 Then I went through four of the points
4 that are actually written in the comprehensive plan,
5 that connects housing with transit. Where it says, for
6 example, you should provide the greatest housing
7 densities on those corridors that have the best access
8 to transportation and shopping, and give -- this is a
9 specific quote -- "give zoning preference to projects
10 which include housing near each of the wards'
11 Metrorail stations."

12 There are other provisions in the plan
13 which Mr. Sher documented much more in-depth than I
14 did. So I don't know how much farther --

15 MR. HOOD: Okay. The last part of that,
16 would I find it in the Ward 3 element of the plan?

17 MR. QUIN: Yes.

18 MR. HOOD: Okay. If you can help me do a
19 little research. If you can provide me exactly which
20 page so I can go to that comp plan and find it there.
21 You don't have to give it me right now.

22 MR. QUIN: It's in Mr. Sher's --

23 MR. HOOD: Mr. Sher, it's in your --

24 MR. SHER: On pages 12 through 19 of the
25 outline that was included in the pre-hearing

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1 submission, I went through the whole comprehensive
2 plan and specifically on pages 17, 18 and 19, the Ward
3 3 element with citations to each particular section
4 and quotes with the section indicated in parentheses
5 at the end of each quote.

6 MR. HOOD: Okay. That's all I need.

7 MR. SHER: Doesn't give you the page
8 number, but you can find it.

9 MR. HOOD: That's fine. Thank you. My next
10 question, Mr. Firstenberg. Am I pronouncing your name
11 correctly?

12 MR. FIRSTENBERG: Yes, sir.

13 MR. HOOD: One thing you mentioned -- bear
14 with me. I'm trying to go over what I wrote at the
15 last hearing. I didn't hear you expound enough on the
16 survey of homes, damage control of homes.

17 I read in the submission, but I didn't
18 hear much testimony on that. I think -- I would be
19 satisfied before I would vote, Madame Chair, either
20 way that I hear more on that.

21 I read the submissions, but it's like you
22 really don't have anything in place. You're just
23 talking about it.

24 MR. FIRSTENBERG: If you refer -- In our
25 August submission, tab L, we have the proposed

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1 elements of the construction management plan, which I
2 believe does provide the details of how we will,
3 before we start excavation, go through surveyed homes.

4 We will send in --

5 MR. HOOD: I understand that and I read
6 that part of it, but I just don't see it being
7 specific enough. Maybe that's going to come at a later
8 point in time.

9 You mention the advisory committee. How
10 you are going to accomplish getting an advisory
11 committee. I just see that as being open-ended, unless
12 you can point to me where I didn't read further
13 enough, or I didn't understand what I was reading.

14 But it was just so general.

15 MR. FIRSTENBERG: Okay. We used as a
16 template what had been used in the neighborhood
17 before. We have no problems if there are other
18 templates that are more specific to consider those to
19 ensure these concepts are achieved.

20 MR. QUIN: By template, you mean other
21 construction plans approved by this Commission and
22 PUDs?

23 MR. FIRSTENBERG: That's correct. I mean,
24 if the --

25 MR. HOOD: I think what you have there is a

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1 template. I think, Mr. Quin, you will know that we
2 have went even further than what I have seen here in
3 these submittals.

4 MR. QUIN: These were intended to be
5 precisely what we submitted before, but if we -- I'll
6 go back and re-look at those and if there are actual
7 representations that are more detailed, we can submit
8 those, because there's no intent to dilute or diminish
9 in any way what has previously been approved by this
10 Commission.

11 MR. HOOD: Right, I just think it would
12 provide for a complete record.

13 MR. QUIN: We will do that.

14 MR. HOOD: Case in point, other cases, and
15 I'll try not to refer to other cases, but the advisory
16 committee, how you go about accomplishing an advisory
17 committee. I didn't see that here.

18 MR. QUIN: We can submit a detail for that,
19 and we will do so.

20 MR. HOOD: Mr. Baranes, I think you said
21 that the first proposal that was -- the initial
22 density of the first proposal you thought was
23 sufficient for this site.

24 I think you testified to that earlier when
25 Commissioner May was asking questions. I think you

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1 said that you thought that the first building was
2 sufficient to go ahead at this site.

3 Am I correct?

4 MR. BARANES: What I was referring to was
5 earlier studies we had done for a building on the site
6 -- for a project that was larger than what you're
7 seeing here tonight, and I felt that those were
8 reasonable and responsible proposals for this site.

9 MR. HOOD: So, the initial proposal was
10 what, 235,360 square feet, I believe.

11 MR. BARANES: Yes, we were at about 90 feet
12 in height.

13 MR. HOOD: Ninety feet in height, right.

14 MR. BARANES: And I'm not sure that we ever
15 submitted those to the Commission.

16 MR. HOOD: Yes, I have it, because I
17 remember making the statement. I can tell you that I
18 am glad to see that you have definitely come away from
19 it, because the step-down here, again, I was waiting
20 on this.

21 If you didn't change it, I was going to
22 tell you it looks like me fitting into size 36 pants.

23 (Laughter.)

24 MR. HOOD: And I need a 40 or something.
25 Let me see. I don't even want to go to transportation.

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1 Not just this case, but I've been having problems with
2 the level of service.

3 Maybe I'll go back to school at a point in
4 time, because I just -- I don't even want to comment
5 on that. Let me see. Mr. Lewis, I believe. I need you
6 to explain to me what you meant when you said, just
7 like, I guess pitter-patter.

8 I'm not quoting you, a playground on a
9 runway of an airport. You said at the last hearing --
10 I wrote exactly what you said. I'll try to be as
11 accurate as possible.

12 It says, "Just like pitter-patter on the
13 playground on the runway of an airport," and I didn't
14 understand -- and this, Madame Chair, is what I don't
15 like about hearing this presentation and then coming
16 back a couple of days later, because now I have
17 basically forgot what he meant, but I wrote that down.

18 CHAIRPERSON MITTEN: I remember --

19 MR. LEWIS: Well, you don't want me because
20 I have no idea what that means either. I don't recall
21 that. Is that -- I wonder if that's a transcription
22 problem? That doesn't.

23 MR. HOOD: Oh, okay, so you're saying I
24 have a problem. I am not a transcriber.

25 MR. LEWIS: No, no, I know that.

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1 MR. HOOD: I wrote it down.

2 MR. LEWIS: I have no idea what that -- an
3 air -- if you would repeat it once more, I will try
4 and remember.

5 MR. HOOD: I don't want to repeat it too
6 much, because I know most neighborhoods don't want
7 airports in their neighborhood, but I was just
8 wondering what you meant when you said that.

9 So I will leave that. Madame Chair, I have
10 -- let me just ask about the construction jobs and the
11 12 permanent jobs. That is perceived as a benefit, Mr.
12 Quin.

13 I don't know who you would refer this to.

14 MR. FIRSTENBERG: I'll answer any questions
15 on the amenity package, sir.

16 MR. HOOD: Yes, the 12 permanent jobs. I
17 guess we're talking about trying to look for District
18 residents?

19 MR. FIRSTENBERG: Can you direct me to what
20 you're referring to?

21 MR. HOOD: Actually, I'm looking in the
22 Office of Planning report now. That was the quickest
23 way for me to find it. It says 143 temporary
24 construction jobs, which I understand.

25 MR. FIRSTENBERG: I believe those are

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1 excerpted from the economic analysis study that refers
2 to how many -- part of the job creation that we would
3 do during the construction of the project, and then
4 the long-term jobs that would be created through the
5 management of the building.

6 MR. HOOD: Okay, it would be just 12 jobs
7 permanently.

8 MR. FIRSTENBERG: When you -- The real
9 long-term jobs associated with the management of an
10 apartment building, a condominium building, that isn't
11 a huge employment center.

12 MR. HOOD: Okay. Right. Okay. That's all I
13 have for now. Thank you.

14 CHAIRPERSON MITTEN: Any questions? Mr.
15 Hannaham?

16 MR. HANNAHAM: I don't know particularly
17 who to direct these to, but I just had some thoughts.
18 I really think that the policy significance of the
19 affordable housing element is -- I think it's fairly
20 significant.

21 I mean, I don't know that much about D.C.
22 housing policy, but it seems to me as though this is a
23 little unusual. I think that it's important that it be
24 made to work so that it can set an example, perhaps,
25 and actually have a wider impact.

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1 I wonder if you were aware of that when
2 you elected to go ahead with it, seeing that.

3 MR. FIRSTENBERG: Very much so. The process
4 by which the affordable housing became a component of
5 this was in October, we had made assurances to the ANC
6 and to the community we would submit what our plans
7 would be so people would have time to review the
8 concept as well as the plans.

9 We had committed, it was by October 18, to
10 submit the size and the scope and the amenity package
11 that we were going to present. About that time, Office
12 of Planning came to us and said, we really think there
13 has to be -- you know, we really want you to consider,
14 we don't have any firm policy, we have no program
15 today that requires affordable housing.

16 Our response was, to be honest, I wish we
17 could have dealt with this a long time ago. We're kind
18 of behind the eight-ball, because at this point, we
19 had submitted a plan that we think is a good plan that
20 had sufficient amenities on its own merits.

21 Working with OP, what we came to the
22 conclusion over the next three or four days was that
23 this was good public policy; that in other
24 jurisdictions they have it; that what we wanted to do
25 was, within the constraints we already had.

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1 I mean, one of the things we had done with
2 this community, whether we have supporters or
3 opponents, is when we had told them we were doing
4 things, I think we've delivered them.

5 They may not like what we've done, and we
6 had some people feel that way and other people the
7 other way, but we couldn't change the amenity package.

8 So what we said was, let's go at this and
9 come up with a logical way, given where we are today.
10 We want it to be objective. We don't want to come up
11 with some subjective idea upon which this affordable
12 housing could be included, and hopefully create the
13 beginnings of a template for a program for the
14 District.

15 That was our idea with OP, to come up with
16 an idea that said how much area should be affordable
17 housing? Well, a logical thing was to take the area
18 over matter-of-right zoning.

19 Office of Planning was saying we need
20 some. We thought five percent in the creation of four
21 to six percent units, on top of our amenity package,
22 was a pretty sizable start.

23 We then worked with OP to create that
24 three-page template that still has lots of, I think,
25 technical questions to be answered, but I think the

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1 spirit of it embodies the idea that there's a method
2 to how you decide affordable housing.

3 There is a method by which people qualify.
4 There is a method by which, if people stay in that a
5 long time, the policemen, the firemen, I mean, the
6 people who make \$50,000 a year can buy a place and
7 live in it in the District.

8 That if they don't stay there a long time,
9 it stays in the affordable housing program. It also
10 embodies the concept that, in the end, if someone
11 stayed there a long time, they stayed there more than
12 20 years, that they ought to have some opportunity to
13 appreciate in some level of the windfall, but not all
14 of it.

15 So we've included the concept that at the
16 end, if someone stays there more than 20 years and
17 they sell it, they get a reasonable return, but half
18 of the real profit by lifting the affordable housing
19 component would go into the District Housing Trust
20 Fund.

21 So, I mean, we really did look at, in the
22 short period of time we had, other programs. I'm going
23 to blank out on the gentleman's name, but some Steve
24 or Andrew could help me, the gentleman at OP?

25 Art Rogers, who we talked to, to craft

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1 that program, because I do think it is a beginning of
2 the future of what will happen in the District. We're
3 proud to be a part of that.

4 MR. HANNAHAM: I'm liking the sound of
5 that. In the selection of the site for these potential
6 tenants, is it random? Do they come in just like
7 anybody else who's -- I mean, this pool of HPAP
8 people, it's not treated any differently from any
9 other folks coming in?

10 MR. FIRSTENBERG: It ought to be as
11 objective as possible. Anybody who can qualify, my
12 thoughts are generally we will provide a notice.

13 MR. HANNAHAM: -- particular parts of the
14 building have been set aside for these folks?

15 MR. FIRSTENBERG: Well, we're looking at,
16 one of the key issues here is how big the units ought
17 to be, because if we're doing a condominium project,
18 our units are getting bigger. That's what the market
19 wants.

20 If we try to do just like-kind size units,
21 it will dramatically decrease the number of units that
22 we could do. What we've talked about with Art and
23 Steve Cochran was involved in the discussions, is the
24 logical size would be a two-bedroom unit so that we
25 could try to achieve the maximum number of units.

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1 So we're not going to have like-kind
2 units. We haven't designed exactly the other
3 condominium units, but we wanted to design a livable,
4 affordable unit for someone to get in and try to get
5 towards the uppermost of the five or six that we're
6 hoping to achieve.

7 MR. HANNAHAM: Okay, but my point is, and
8 you've verified that all of these people will be
9 treated equally who come into this --

10 MR. FIRSTENBERG: When they come in,
11 they've got to, you know, they're going to get the
12 services that you get in the building, they get the
13 same rights to the exercise room and the party rooms.
14 They won't be treated as different.

15 MR. HANNAHAM: Could you tell me more about
16 that. What about some of these other amenities these
17 folks would be getting, as you envision it now?

18 MR. FIRSTENBERG: As we're looking at it
19 now, to be honest, the amenities of this building are
20 somewhat limited by the number of units that we're
21 going to have.

22 We're really -- we've asked for the
23 maximum of 125. The current plan, I believe, is 110,
24 the illustrative unit lay-outs. So it limits you in
25 terms of how many amenities you can provide because of

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1 the cost base that you're throwing.

2 We've obviously got the exterior passive
3 recreation areas that we think are quite attractive.
4 In terms of the inside of the building, we really
5 right now know that we're going to include three
6 amenities.

7 We're going to provide pretty close to and
8 most likely 24-hour manned concierge security service
9 for people in the building. We will have a small
10 exercise room.

11 We will have a party room, community room,
12 whatever you want to call it, but those are the three
13 basic things. We have clearly eliminated any kind of
14 swimming facility.

15 You just can't amortize the cost of that,
16 and I don't think we're going to do anything on the
17 rooftop at this point, so I don't think we've talked
18 about having any rooftop terrace because of the
19 outdoor gazebo and open space on the ground area
20 outside.

21 MR. HANNAHAM: Right. You wouldn't use the
22 outdoor space for anything, like tennis courts, later
23 on?

24 MR. FIRSTENBERG: No, sir.

25 MR. HANNAHAM: Okay. That's fine. That's

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1 all I have, Madame Chair.

2 CHAIRPERSON MITTEN: Thank you. I have to
3 say, I agree with Mr. Hannaham about the issue of
4 affordable housing. I mean, we've had a round table
5 already on this subject of inclusionary zoning, and
6 I'm glad to see you taking the lead on providing that
7 as an amenity.

8 I do want to talk about the parking, and I
9 know that the amount of parking that you've provided
10 is in response to community, but it's -- You had said,
11 when you were introducing yourself to us, Mr.
12 Firstenberg, that you focused on doing projects that
13 are transit-oriented in other places.

14 Have you been able, in some of your other
15 projects, to add components to a transportation
16 management program that maybe haven't been explored
17 yet here that have been able to give confidence to a
18 broader community that you can actually get people out
19 of their cars, or that you can attract people who are
20 already living car-free to this location?

21 MR. FIRSTENBERG: Yes, you know, other
22 projects, and we've done a lot of mixed-use projects.
23 I mean, you really have a tremendous opportunity, even
24 in suburban projects, by bringing the mixed uses
25 together to get people out of cars.

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1 Whether it's the work option or the living
2 option or the shopping/entertainment option, you know,
3 if you bring the mixed-use developments, you can get
4 people to do those three things.

5 In terms of this particular site, we
6 clearly have more than adequate market parking.

7 CHAIRPERSON MITTEN: What would you
8 estimate is the -- relative to the market, not the
9 minimums, but the market, what would you estimate is
10 the over-supply for this project?

11 MR. FIRSTENBERG: The range that we have
12 seen is, and there were several, actually, just recent
13 announcements of projects in Adams Morgan and things
14 like that.

15 You know, you really do see a range of 0.5
16 to 1 parking space per unit. I mean, that really is
17 the bracketed range. If you move a little bit farther
18 out to Bethesda, you're tending to see 1 per unit,
19 maybe a little bit more than that.

20 But, you know, just having read it this
21 morning, actually, the two new projects in Adams
22 Morgan are going to have about 0.7 parking spaces per
23 unit, the two new projects there.

24 The reason we only took credit under our
25 amenity package for the extra 0.1 percent parking is I

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1 think, based on other rulings of this Commission that
2 we've read and a pretty, you know, an acceptable range
3 of the market being at 1 per unit, that's why the
4 extra 0.10, which really allows us to have more
5 visitor parking and things like that, that's why we
6 point to that as an amenity.

7 The way we're going to try to get people
8 out of the car in this project is we're going to try
9 to implement -- we're not going to try, we're going to
10 implement the traffic management plan that we outline
11 in here.

12 I don't know how that will work in a
13 residential building. I can tell you how it works in
14 commercial projects, because we see it and we
15 understand it.

16 There aren't a whole lot of templates to
17 do this in residential buildings. I think what will
18 work here is the environment, the environment of
19 Friendship Heights that I think the people who are
20 going to buy units here are going to be the people who
21 live -- people moving out of their houses, their
22 children are gone, and the young professionals.

23 Those are people who, I think, will want
24 to live in the area, they'll work in the area, and
25 that is, I think, the way this is going to work. How

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1 the model I talked about before, when you had the
2 mixed uses.

3 The mix that's missing here in Friendship
4 Heights is some more good residential, certainly on
5 the District side as well.

6 CHAIRPERSON MITTEN: And I understand
7 everything you said, and I guess I'm trying to take a
8 slightly different view of it, which is good transit-
9 oriented development is the kind of development that
10 attracts people who don't want to drive.

11 I think that sometimes in communities,
12 clearly anyone who's concerned about parking is a
13 driver, because they want to park their car, but this
14 is a different kind of place.

15 MR. FIRSTENBERG: I understand.

16 CHAIRPERSON MITTEN: And so I would hate to
17 see you, as in some communities now that I've read
18 about, instead of having minimums they have maximums,
19 and then they redirect the investment that would
20 otherwise have been made in parking into affordable
21 housing, because people who are attracted to
22 affordable housing, it's been shown, are more likely
23 to use public transportation.

24 So I'm trying to, you know, is there some
25 way -- I don't want to see you wasting an investment

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1 in parking that could be directed elsewhere, I guess,
2 is my point.

3 MR. FIRSTENBERG: Yes, I think, we wanted
4 to take credit for it. I think our amenity package is
5 expensive. I mean, the 0.1 parking isn't a sizable
6 part of the amenity package.

7 I think what we hope will happen with our
8 project is, I think we'll have a predominance of car
9 owners. What I hope is we won't have a predominance of
10 car users, that people will have cars, but because
11 they're on top of the Metro station, the lawyer who
12 used to drive downtown is going to take the Metro
13 downtown.

14 That's why we're going to try to implement
15 some of the transportation management plan features
16 from commercial projects that help facilitate those.
17 We haven't fleshed it out, but one of the ideas is can
18 we get Flexcar to come here.

19 How does it work? It's a new concept,
20 certainly a new concept to come to a project like
21 this. Can a project of this size work with Flexcar? Or
22 can we work with office buildings in the area to make
23 Flexcar work?

24 I mean, those are things we're going to
25 try. I can't -- I don't want to over-promise what

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1 Flexcar will do. It's kind of a new concept, but
2 that's an interesting idea, and how we would then work
3 with people who are commercial users.

4 Can we be the node that Flexcar operates
5 out of and have that happen? Those are things we're
6 going to try to do to see if they can work.

7 CHAIRPERSON MITTEN: Well, my hope is that
8 you end up with a lot of extra parking spaces, because
9 unless that happens, we're never going to be able to
10 evolve into a community where people just won't even
11 be car owners, but that's a long-term goal, I suppose.

12 MR. FIRSTENBERG: It's a difficulty in
13 doing, as I said, the top-down and the bottom-up of
14 good, transit-oriented development is how do you
15 balance what the neighbors -- it's hard.

16 CHAIRPERSON MITTEN: Yes, it is.

17 MR. FIRSTENBERG: It's the right way to go.

18 CHAIRPERSON MITTEN: Thank you. Any other
19 questions anybody wants to ask? All right. Thank you.
20 I think we're ready to move on. We're going to have --
21 rather than go to the Office of Planning right now,
22 Mr. Laden is going to be up next.

23 Before you begin, Mr. Laden, I just --
24 it's 9:00 and I just want to give an assessment of
25 where I think we're going to get to this evening, and

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1 then talk about, perhaps, when our next session would
2 be, because clearly we're not going to finish tonight.

3 I imagine we'll take a fair amount of time
4 with folks asking questions of Mr. Laden. How much
5 time do you think you're going to take just to make a
6 presentation?

7 MR. LADEN: Hopefully our presentation will
8 just be a few minutes. Less than five.

9 CHAIRPERSON MITTEN: Okay, and then we'll
10 have cross examination, go to the Office of Planning
11 after that. We've already heard from one ANC and we'll
12 hear from another.

13 I would think it's possible that we could
14 get to persons in support. We clearly won't get to the
15 parties and persons in opposition this evening, so I
16 would just give you a heads up that, optimistically,
17 we'll get to parties and persons in support.

18 So, Mr. Bastida, when is our continuation
19 date?

20 MR. BASTIDA: We could continue it on
21 Monday the 16, since the hearing that we had scheduled
22 for that day, that project has been withdrawn. So we
23 can use that time slot, if you would like.

24 CHAIRPERSON MITTEN: Okay. Mr. Quin, is
25 Monday going to work for you?

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1 MR. QUIN: Yes.

2 CHAIRPERSON MITTEN: Mr. Hitchcock, will
3 Monday work for you? That's good. Everybody's being so
4 -- Mr. Gordon. Can you or Mr. Beach -- Mr. DiBiase, is
5 -- that works? Okay.

6 Any luck with the calendar, Mr. Gordon?
7 Oh, that is, okay. I'm sorry, I thought you were
8 looking at your calendar. Okay, great. Everybody can
9 come back on Monday.

10 Okay, so we'll get as far as we can till
11 about maybe 10:30 or so this evening, and then we'll
12 reconvene this hearing on Monday the 16th at 6:30 in
13 this room.

14 Just so anyone who has to leave or chooses
15 to leave, so now we're ready to hear from Mr. Laden.

16 MR. LADEN: Thank you very much Madame
17 Chair, members of the Zoning Commission. My name is
18 Ken Laden. I'm the Associate Director for
19 Transportation Policy and Planning in the District
20 Department of Transportation.

21 With me today is Colleen Smith, who is the
22 Ward 3 Transportation Planner. Sorry, it's been a long
23 day. Ms. Smith has done most of the research and work
24 regarding our testimony on this case, so I'll ask her
25 to make a brief presentation summarizing our

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1 testimony, and then we'll both be available to answer
2 questions from the Commission or anyone else who has a
3 question.

4 CHAIRPERSON MITTEN: Thank you.

5 MS. SMITH: Thank you. The District
6 Department of Transportation has addressed the impact
7 of the proposal in the following areas, trip
8 generation and level of service, project access,
9 parking and loading facilities, pedestrian and bicycle
10 access and transportation management plan.

11 DDOT has reviewed the applicant's
12 transportation report with regard to trip generation
13 and level of service calculations on the critical
14 intersections leading to and from the proposed
15 project.

16 To properly analyze the area impact of the
17 proposal on the local street system, it is necessary
18 that vehicular trips generated by known future
19 developments in the area be included in the analysis.

20 The applicant has done so by including in
21 the report the impact of the WMATA northwest bus
22 garage redevelopment, Wisconsin Place, the Geico site,
23 and the Chevy Chase center, all located in the
24 Friendship Heights CBD.

25 We note that the proposed development will

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1 replace the existing Washington Clinic facility. The
2 trips associated with the existing development were
3 estimated and subtracted from the trips generated by
4 the proposed PUD.

5 The result of the applicant's calculation
6 indicates that the net trip generated by the PUD will
7 be one trip during the a.m. peak hour and six trips
8 during the p.m. peak hour.

9 If this scenario happens, the proposal
10 will have a negligible impact on the surrounding
11 street in terms of capacity and the level of service.
12 However, the applicant trip generation rates used for
13 this development is based on 65 percent trip reduction
14 to reflect the available ample public transportation
15 supply in the area.

16 Trip rates used by the applicant are lower
17 than those DDOT normally uses for similar residential
18 developments. For this reason, DDOT applied rates
19 derived from the D.C. trip generation study performed
20 by the Council of Governments in the Friendship
21 Heights area.

22 Applying a 0.25 trips per dwelling unit,
23 and a 50 percent transit use, approximately 18
24 vehicles will be generated by the PUD during the
25 morning peak hour, and 13 trips during the evening

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1 peak hours.

2 The additional traffic generated by this
3 project will have no significant impact with regard to
4 capacity and level of service at the critical
5 intersections of Western Avenue at Wisconsin Avenue
6 and Military Road at Western Avenue.

7 The initially proposed combined loading
8 and parking garage entrance did not meet DDOT design
9 standards. The applicant has since provided DDOT with
10 an acceptable plan for parking and loading access by
11 creating one entrance-way for residents and a separate
12 entrance-way for delivery trucks.

13 Deliveries will be scheduled at non-rush
14 hour times so as not to interfere with the flow of
15 visitors to the parking lot and parents dropping off
16 their children at the day care center.

17 DDOT considers the proposed level of
18 parking supply adequate to the service, the project
19 and minimizing parking spillover into the neighborhood
20 residential area.

21 The applicant has also developed a
22 transportation management plan, the essence of which
23 consists of on-site transit and a ride-sharing
24 information program, car-sharing services and bicycle
25 racks.

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1 DDOT welcomes car-sharing and the
2 provision of bicycle parking spaces as a means to
3 encourage residents to leave their cars at home and
4 commute by bike.

5 In addition, the applicant undertook an
6 extensive traffic mitigation study to address existing
7 identified traffic operation and safety issues within
8 the Friendship Heights area.

9 DDOT will carefully analyze the findings
10 and determine the applicable traffic calming measures,
11 with input from the neighboring citizens according to
12 our traffic calming guidelines.

13 The lay-by on Military Road caused initial
14 concern with DDOT. However, under the condition that
15 the management of the day care center sends letters to
16 parents of the center informing them that the use of
17 the lay-by as a drop-off and pick-up is forbidden.

18 Under the condition, that the developer
19 place signs at the lay-by restricting its use to
20 residents for a short, five-minute pick-up. DDOT
21 accepts the use of the lay-by in the plan.

22 Thank you.

23 CHAIRPERSON MITTEN: Thank you. Questions
24 for Mr. Laden or Ms. Smith?

25 MR. HOOD: Madame Chair, I may have gotten

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1 this incorrect too, but I thought the lay-by was taken
2 off the map.

3 CHAIRPERSON MITTEN: No, it's on the
4 latest.

5 MR. HOOD: Was it ever taken off at one
6 time? Yes, I would like to know.

7 MR. FIRSTENBERG: It was never taken off
8 the plans. DDOT raised a concern with it, so you may
9 have read a correspondence from DDOT asking us --
10 raising the validity of that, and that's where the new
11 conditions came on it.

12 There was no lay-by in one of the
13 apartment plans. If you're thinking back to some of
14 the previous plans we submitted in March, and possibly
15 the August submission, I'm not sure we had the lay-by
16 --

17 I don't think we had the lay-by. I'm
18 looking at Mark. Did we have a lay-by in the March
19 submission? Okay.

20 MR. HOOD: That's okay. I may have just
21 gotten it confused. It happens once or twice.

22 MR. FIRSTENBERG: No, no, it has changed
23 through the process.

24 CHAIRPERSON MITTEN: Mr. May?

25 MR. MAY: I just had a quick question. You

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1 mentioned bicycle parking, right? Somehow, believe it
2 or not, in all this information I actually missed what
3 the count of bicycle spaces were.

4 Is there a provision for an actual number
5 somewhere?

6 MS. SMITH: I don't believe an actual
7 number has been determined at this time.

8 MR. MAY: So it's probably going to be 1.1
9 per unit?

10 (Laughter.)

11 MS. SMITH: I wouldn't want to suggest
12 that.

13 MR. MAY: You know, they don't take up much
14 space, so it's a good idea.

15 CHAIRPERSON MITTEN: Let me just ask, in
16 terms of the questions that I was asking Mr.
17 Firstenberg about parking and so forth, are there any
18 other kinds of recommendations that you could make to
19 the applicant for their transportation management plan
20 that would assist them in either attracting people to
21 this facility that were not heavy car users, or
22 enhancing their opportunities for using transit,
23 anything else that you would recommend, other than
24 what's been proffered in the transportation management
25 plan?

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1 MR. LADEN: I think what's been offered in
2 the transportation management plan is consistent with
3 what we would recommend, and I think you had it right
4 earlier, I think, in one of the statements that was
5 made is that we would expect the people who lived in
6 this neighborhood to be automobile owners, but we
7 would hope they would be minimal automobile users.

8 They would take most of their trips by
9 transit because of the readily available transit in
10 the neighborhood, but they would need some place to
11 store a car for occasional use.

12 We sort of envision that being the pattern
13 within this particular project in this particular
14 location.

15 CHAIRPERSON MITTEN: How close is the
16 residential -- the permitted parking for the zone 3 to
17 this site? How close are the signs that regulate the
18 two hours for non-resident parking?

19 MS. SMITH: I'll have to look that up. I'm
20 not sure off-hand.

21 CHAIRPERSON MITTEN: I was going to ask
22 because I'd be curious to know whether people who
23 would be residing in this project would be eligible
24 for the parking.

25 I don't know if it has to be in your

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1 immediate block or it has to be in a certain
2 proximity, but as an additional protection for folks
3 in the neighborhood, I would hope that this address
4 would be ineligible to participate in the residential
5 parking program, because that would encourage them to
6 use.

7 Is that ever done?

8 MR. LADEN: What we'll do is we'll need to
9 check and see what the requirements are in terms of
10 applicability of the resident permit program and then
11 how close the RPP zones are to this particular
12 building.

13 I'm not sure if we exclude specific
14 buildings, or whether you need to be on the block that
15 the RPP is registered for. So we'll double check on
16 that and get back to the Commission.

17 CHAIRPERSON MITTEN: That would be helpful
18 to know. You heard some of the questions that were
19 being put to Mr. Elias about the type of analysis that
20 he used, whether he was relying on the highway
21 capacity manual or the Synchrotype of analysis.

22 Can you comment on whether the department
23 has a preference, whether one is more accurate. Mr.
24 Gordon raised a concern over the results being
25 dramatically different for level of service at

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1 particular intersections that were studied.

2 Can you help us understand that better?

3 MR. LADEN: I think I'll let Colleen take a
4 shot at that, and then I'll back her up if there's any
5 need for further clarification.

6 MS. SMITH: I'm under the impression that
7 the two different models measure two different things.
8 I'm not going to say which to which, but one of them
9 is a more micro view of the traffic and the other one
10 is a more macro view.

11 MR. LADEN: I think also that when you look
12 at a situation that is complicated using different
13 approaches or different modeling systems, you may get
14 slightly different results, but I think the bottom
15 line is the nature of the neighborhood and the amount
16 of traffic that we're going to be adding to that mix
17 based upon this particular proposed land use, versus
18 the traffic that's already there generated by the
19 existing health facility that was there, a clinic that
20 was there.

21 What we're finding is that in our analysis
22 using either model, the level of new traffic being
23 generated by this particular use and the nature of the
24 traffic, the way it's spread out through the day,
25 would not cause significant problems.

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1 Again, I think these are differing
2 measuring tools that consultants or developers or city
3 governments can use in analyzing the traffic, but that
4 they generally support the same kinds of
5 recommendations and conclusions, namely that the
6 impact of this would not be that significantly
7 different than what's being generated by the current
8 use or the previous use.

9 CHAIRPERSON MITTEN: Okay. I'm going to let
10 Mr. Gordon ask you the more significant differences
11 that he had noted and you can respond to those more
12 particularly.

13 On the issue of whether or not Mr. Elias
14 needed to share with us the results of the
15 Synchroanalysis, given that he had already shared with
16 us the results of the other analysis, do you think
17 there's any benefit -- or have you reviewed already
18 the results of his other analysis?

19 MS. SMITH: Yes, that was reviewed by our
20 office.

21 CHAIRPERSON MITTEN: Okay, and so then your
22 conclusion is the same as his, which is both of those
23 support the same conclusion?

24 MS. SMITH: That's correct.

25 CHAIRPERSON MITTEN: All right. Mr. Gordon

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1 also enumerated various traffic studies. I don't know
2 if they're currently being done or they're planned to
3 be done for this area, and given that I don't even
4 know what they all are, can you --

5 I think that the general question is
6 should a project move forward before all the
7 background information is known. So can you share with
8 us the nature of some of these traffic studies that
9 are being done and should we be at all concerned about
10 moving forward prior to the completion of those
11 studies?

12 MS. SMITH: There's a transportation study
13 on Military Road and Missouri Avenue. In the scope of
14 work for that study, the issue is speeding and a big
15 citizen concern are trucks that travel east-west on
16 Military Road.

17 The second transportation study is in
18 Friendship Heights, and that will determine -- and the
19 scope of work, citizens concerns for that study deals
20 with pedestrian safety, cars speeding, among other
21 things.

22 The third one that was mentioned, McKinley
23 Avenue, that is actually a much smaller traffic
24 calming study unrelated to a transportation study. It
25 pretty much looks at what traffic calming measures

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1 could be used in this case for particular blocks.

2 The scope of work for that is only a four-
3 block radius. I don't feel that it's necessary that
4 these studies be done first. In our studies, we'll be
5 taking into account existing and future developments.

6 MR. LADEN: Just a further point of
7 clarification. The Friendship Heights traffic study
8 and the Military Road - Missouri Avenue traffic study
9 scopes of work have been pretty much completed.

10 We're awaiting final approval of federal
11 highway funding to complete those or to begin those
12 studies. So they should be starting hopefully within
13 the next month or so and should be completed by mid to
14 late spring.

15 Again, it will be looking at the overall
16 traffic conditions, not only traffic conditions but
17 also transit services, bicycle services, pedestrian
18 services in those neighborhoods, taking into account
19 all of the different develop that's anticipated on
20 both the Maryland and the District sides of Friendship
21 Heights.

22 What it will do, then, is provide the
23 District guidance as to what kinds of other
24 transportation investments we should be making, what
25 other modifications we might want to be making to make

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1 traffic work more efficiently within the area.

2 But the bottom line is I think this PUD
3 can move through the review process without awaiting
4 those final results, because what we'll be doing is
5 adding this project into that analysis in terms of
6 coming up with any further refinements or adjustments
7 that we would want to make with regard to our
8 transportation network in that area.

9 CHAIRPERSON MITTEN: Okay. Anybody else
10 have any questions? Okay, Mr. Quin? Where did he go.
11 No questions. Mr. DiBiase, any questions for Mr. Laden
12 or Ms. Smith? Mr. Gordon? Mr. Hitchcock?

13 MR. HITCHCOCK: I just have a few questions
14 and our traffic expert will be addressing these issues
15 in more detail. In looking at the material that was
16 provided by the applicant, in particular the weekend
17 analysis, did you take into account the fact that the
18 Washington Clinic is closed on weekends, and the
19 facility is available for parking for folks in the
20 neighborhood?

21 MS. SMITH: Yes, we did.

22 MR. HITCHCOCK: How does that affect your
23 analysis, given that that would not be the case if the
24 building is constructed?

25 MS. SMITH: We determined that it would not

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1 have a significant impact.

2 MR. HITCHCOCK: Could you explain why that
3 would be if you remove a number of parking spaces that
4 are currently in supply for weekend retail use, that
5 would not have a significant impact?

6 MS. SMITH: Can you repeat that, please?

7 MR. HITCHCOCK: Can we read it back?

8 CHAIRPERSON MITTEN: I'm guessing no.

9 MR. HITCHCOCK: All right, let me try it
10 again. The proposal would remove the availability of a
11 number of parking spaces on weekends at the Washington
12 Clinic site.

13 Why wouldn't that have an impact?

14 MR. LADEN: Again, I think that's just one
15 aspect of looking at the overall transportation
16 impacts of replacing the clinic uses with the proposed
17 residential development.

18 We were not looking just specifically at
19 that one element, which is the loss of short-term
20 parking that might be used by adjacent properties. We
21 were looking more at the flow of traffic into and out
22 of the property from its clinic use, which as you
23 pointed out is not used on the weekends, and the
24 residential uses that would be somewhat spread
25 throughout the day and we feel would have minimal

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1 impact.

2 You're correct in that there would be some
3 amount of loss of parking, but again, given the
4 overall volume of parking that's available throughout
5 the neighborhood I'm not sure that that would be a
6 critical problem from our point of view.

7 MR. HITCHCOCK: Just a question for
8 clarification, because I heard some mention that the 2
9 - 5 trip generation. You accepted the analysis that
10 the applicant provided and did not do independent
11 verification of the figures or analysis yourself?

12 Of the figures themselves, the data that
13 were provided, you didn't do any independent research
14 on that?

15 MS. SMITH: That's correct.

16 MR. HITCHCOCK: Okay. Let me ask you this
17 question, in terms of the modal split. Are you
18 familiar with the census-tracked data from 2000 for
19 the area where this site is located?

20 MS. SMITH: No, I'm not.

21 MR. HITCHCOCK: So if I were to tell you,
22 as the testimony is, that there's a 30 percent modal
23 split, would that affect your assessment, and the
24 somewhat higher figure, the 50 percent figure, I
25 believe it is, in your testimony?

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1 MS. SMITH: No, it would not.

2 MR. HITCHCOCK: Why? I mean, if reality
3 says 30 percent, why are you sticking with 50 percent?

4 MR. LADEN: I think part of that may be
5 based upon the nature of the development that's being
6 proposed at this location. A high-rise type of
7 structure located this close to a transit facility, I
8 think, would tend to generate a higher use of transit
9 than the existing kinds of residential development
10 within that same census track, which is a different
11 type of land use and also a further distance from the
12 Metro center.

13 MR. HITCHCOCK: Are there any census tracks
14 you can think of that do show a 50 percent modal split
15 near Metro?

16 MR. LADEN: We'd have to do some research
17 to determine what that would be, but I would think
18 areas around some of the, the Dupont Circle and some
19 of the other downtown neighborhoods may show splits
20 that are similar to that.

21 MR. HITCHCOCK: Okay, so the answer is you
22 don't know, but you would guess that to be the case?

23 MR. LADEN: And we can do some research on
24 that.

25 MR. HITCHCOCK: Okay.

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1 CHAIRPERSON MITTEN: Can I just --

2 MR. HITCHCOCK: Yes, please.

3 CHAIRPERSON MITTEN: Before I forget, ask
4 you, Mr. Hitchcock, for the benefit of the Commission,
5 to give us the boundaries -- a little map of the
6 boundaries of the census track that you're referring
7 to.

8 MR. HITCHCOCK: We will have direct
9 testimony on that, and we'll provide the material.

10 CHAIRPERSON MITTEN: Okay. Thank you.

11 MR. HITCHCOCK: The testimony on the modal
12 split that the 2-5 figure, I mean, doesn't that
13 already reflect Metro usage to some extent in the
14 area?

15 MS. SMITH: Well, that figure is based on a
16 standard ratio that's used by the Council of
17 Governments, which was why we used it.

18 MR. HITCHCOCK: Okay. Last question dealing
19 with these studies that I think came up. Might the
20 result that those studies might lead -- Might a result
21 from those studies be recommendation for widening of
22 certain streets?

23 MR. LADEN: Sorry, could you repeat the
24 question again?

25 MR. HITCHCOCK: Sure. You were discussing,

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1 I think, in response to some questions from the
2 Commission, about pending studies and whether this
3 case should go forward, and I guess the question is to
4 your knowledge, is one possibility that might come out
5 of this the possibility of widening certain streets?

6 MR. LADEN: I think that would be an
7 extremely remote possibility. What we would be looking
8 at is not that significant a reconstruction that would
9 require roadway widenings.

10 What we're looking at more is optimization
11 of the use of the existing infrastructure.

12 MR. HITCHCOCK: Okay, thank you.

13 CHAIRPERSON MITTEN: Thank you. Anyone
14 else? No? I think that's it.

15 MR. LADEN: Thank you.

16 CHAIRPERSON MITTEN: Thank you for coming
17 down. I just -- if you're going to be leaving, I just
18 wanted to review the two things you were going to
19 provide for us.

20 One is you're going to check out the
21 provisions of the residential parking permit program
22 for us and how close zoned parking is to subject
23 property, and then I believe Ms. Smith, in response to
24 Mr. Hitchcock's question, suggested that you would do
25 some additional research on the modal split and maybe

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1 where more comparable transit situations exist in
2 other census tracks.

3 MR. LADEN: Correct. Thank you.

4 CHAIRPERSON MITTEN: Great. Thanks.

5 MS. SMITH: Thanks.

6 MR. BASTIDA: Madam Chairman?

7 CHAIRPERSON MITTEN: Yes?

8 MR. BASTIDA: Would you like to give them a
9 requested timetable when they will file that?

10 CHAIRPERSON MITTEN: If you would like to
11 suggest one I'm sure they would appreciate it.

12 MR. BASTIDA: Well, I would suggest --

13 CHAIRPERSON MITTEN: I don't think we'll
14 get it by Monday.

15 MR. BASTIDA: What do you think -- How much
16 time do you think you would need to provide that to
17 the Commission?

18 MS. SMITH: We could get it to you early
19 next week. Can we say Tuesday?

20 MR. BASTIDA: Fine. Thank you.

21 CHAIRPERSON MITTEN: Now I think we're
22 ready for the report of the Office of Planning. We'll
23 take a five-minute break because they need time to set
24 up.

25 (Whereupon, the foregoing matter went off

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1 the record at 9:26 p.m. and went back on the record at
2 9:36 p.m.)

3 CHAIRPERSON MITTEN: Come to order. The
4 requisite hush has fallen over the crowd, so you can
5 begin whenever you're ready.

6 MS. McCARTHY: Madame Chair, let me just
7 indicate initially that we only received a copy of the
8 filing from Ford yesterday, actually from Mr. Quin, I
9 think it was yesterday or the day before.

10 Mr. Cochran has been out sick from Monday
11 until now, and I think that the one that had been sent
12 by Ford ended up getting sent over to him, and we
13 didn't realize it was in the office.

14 So, most of the questions and issues that
15 are raised in the report we're prepared to answer
16 tonight anyway. There may be a few that we just need
17 to check some figures and we'd be happy to have the
18 answers for that back by next Monday's hearing.

19 CHAIRPERSON MITTEN: Terrific. Thank you.

20 MR. COCHRAN: Thank you, Madame Chair. For
21 the record, my name is Steven Cochran, and I think I
22 should also correct Ms. McCarthy that not only have I
23 been sick, but I think that many people that know me
24 would assert that I will likely remain so and have
25 been for quite some time.

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1 (Laughter.)

2 CHAIRPERSON MITTEN: Well, let's just hope
3 it's not contagious.

4 MR. COCHRAN: Okay. Obviously, this is a
5 PowerPoint about this report. This is one of our
6 simplified charts. We're comparing the matter of right
7 development in the existing zoning with a PUD is in
8 italics, and then the right-hand column has the
9 requested development by the applicant.

10 We're assuming a clinic site of the R-5-B
11 portion of 43,840 square feet. The portion of the
12 Lisner property that the applicant proposes to buy is
13 15,000 square feet for a total site of 58,840 square
14 feet.

15 We're also assuming residential
16 development here. That's simply because the applicant
17 has proposed residential development. As we indicated
18 in our report, there are a number of other kinds of
19 development that could happen on the site, but we
20 thought we should compare it with similar types of
21 development.

22 The salient points. For the floor area
23 ratio, under matter of right zoning you could get a
24 1.8 FAR on the R-5-B site. That's not applicable. It's
25 a different kind of calculation for the R-2 under

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1 matter of right.

2 With a PUD it's 3.0 on the, let me just
3 say, the clinic site and the Lisner site, and 0.4 on
4 the Lisner portion. The applicant is asking for 4.15
5 FAR on the clinic site and 0.4 on the Lisner site.

6 That's an average overall, if you look at
7 both portions of the site, of 3.14. Lot occupancy is,
8 again, 60 percent and 40 percent. Fifty-three percent
9 on the R-5-C portion of the site, 20 percent on the
10 Lisner portion of the site.

11 The matter of right development is allowed
12 at 50 feet. With a PUD you can go to 60 feet. The
13 applicant is asking to go up to approximately 29 feet
14 more than matter of right, 19 feet more than a PUD
15 with the existing zoning.

16 Now, on the gross square footage and the
17 numbers of apartment units that we're showing here,
18 again, it's given in more detail in the report, but
19 we're showing 79,000 square feet of development being
20 allowed on the clinic site and five dwelling units
21 being allowed on the Lisner portion of the site.

22 A PUD with the existing zoning allows for
23 132,000 square feet of development and 6,000 square
24 feet of residential development on the Lisner portion
25 of the site.

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1 We're showing 80 apartments and five
2 houses with the matter of right zoning, 131 apartments
3 and three houses with a PUD. Now, there was some
4 question in the document that I saw this afternoon
5 about why we use different square footages for
6 assumptions for rental apartments versus condominiums.

7 It's simply because all along we've been
8 looking at 900 square feet for an apartment, and when
9 it went to condominium, we felt that the condominiums
10 would more likely than not be larger than rental
11 apartments.

12 Therefore, we bumped up the square footage
13 for the condominium assumptions, which is under the
14 proposal of 185,000 square feet of apartments.

15 Now, numbers of dwelling units there would
16 be 115 to 125. Actually, the applicant has proposed
17 that it might go as low as 110. For parking, you can
18 see that under matter of right development it's
19 basically one space for every two dwelling units.

20 For the proposal, it's anywhere from one
21 to one, to 1.1 to one, with four employee spaces and
22 seven visitor spaces. Now, those numbers may be off in
23 minor ways.

24 There have been several proposals that
25 have come through, but this is, in order of magnitude,

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1 this is what the applicant has proposed, and the
2 applicant has committed to 1.1 to one spaces as a
3 ratio.

4 The applicant has committed to the ratio,
5 not the numbers. Okay, now we're looking at a planned
6 unit development. It's not a variance. We're not
7 looking at why does the developer need to do this.

8 We're asking is this better than something
9 that could be achieved through matter of right. The
10 objectives of a planned unit development are to permit
11 flexibility of development in return for the provision
12 of superior public benefits, provided the PUD process
13 is not used to circumvent the intent and purposes of
14 the zoning regulations or result in an action
15 inconsistent with the comprehensive plan.

16 What's the flexibility being asked for?
17 From both matter of right development and from the
18 existing zoning developed as PUD? From the matter of
19 right development, it's approximately 100,000 square
20 feet of additional square footage, 37,000 additional
21 square feet of development from what would be allowed
22 with existing zoning developed as a PUD.

23 Again, at 29 feet and 19 feet for a PUD.
24 There's also -- and this is significant -- a change
25 from R-5-B to R-5-C zoning for most of the site.

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1 That's about -- it's 75 percent of the site, as I
2 recall.

3 The benefits that the public is getting in
4 return as far as the Office of Planning is concerned.
5 First and foremost, there's additional housing at a
6 site that is designated for it.

7 It's a housing opportunity area. It's a
8 transit-oriented development location, and Friendship
9 Heights is one of two regional commercial centers
10 designated in the District of Columbia, the other
11 being Georgetown.

12 A regional commercial center is second
13 only to the central business district in the order of
14 density and development importance that's given to it.
15 We are getting five to six units of area median income
16 affordable housing, at 80 percent of the area median
17 income.

18 That is an important precedent. The
19 percentage that the applicant is proposing to deliver
20 is something that we hope to use as a base from which
21 only to increase in future developments.

22 There is 3,000 square feet of additional
23 day care space being proposed, to be operated by the
24 day care provider from a nearby planned unit
25 development day care.

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1 That's additional, that's not substitution
2 for the other day care center. There are
3 transportation improvements. There are improvements to
4 the Chevy Chase park and recreation area, a track and
5 some other improvements.

6 There's a quarter-acre open space buffer
7 and tree retention. Now, there was also some question
8 about this in the document today. We feel that the
9 half-acre open space, excuse the slip there, is in
10 fact publicly accessible.

11 The difference between this open space and
12 the space that wouldn't be built on in a townhouse
13 development is that this is publicly accessibly and
14 usable, as opposed to what might be a private
15 courtyard, a backyard, whatever, in a matter of right
16 or a townhouse development that might happen on the
17 site.

18 With respect to tree retention, there are
19 at least 13 trees of six inches or greater in caliper
20 that will be retained, including a small stand of
21 sycamore trees.

22 A combination of the property being
23 purchased from the Lisner and the southwestern corner
24 of the Lisner property. Because the boundary has
25 changed in the last proposal, on what the applicant's

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1 buying from the Lisner, all of the trees will stay.

2 It's just that some of the same trees are
3 no longer in the property that the applicant is
4 purchasing. Formerly, the boundary at the south that
5 the applicant proposed to purchase was wider than it
6 is now.

7 There's also a change from an earlier
8 proposal where there was going to be excavation for a
9 parking garage under that portion of the Lisner site.
10 There's no longer going to be excavation, which allows
11 those trees to stay.

12 There's a public walkway and open space
13 access. There are additional revenues for the District
14 because of the high-end condominiums being proposed,
15 more than would be allowed with matter of right
16 development, and there are other benefits that are
17 outlined in our report.

18 Now, what kind of criteria do we use to
19 evaluate the proposal? Well, first, we ask in planning
20 terms is it consistent with the comprehensive plan? We
21 ask if it's consistent with the '74 sectional
22 development plan, which is the closest we come to a
23 small area plan.

24 Obviously it was done even before there
25 was home rule. In planning terms, we ask whether it's

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1 consistent with other policies the city has. When we
2 get down to zoning, does it meet the PUD standards and
3 tests.

4 Then finally, and very importantly, are
5 the public benefits more than with a matter of right
6 development? For planning and evaluation, the OP
7 report looked at seven elements of the comprehensive
8 plan text: land use, economic development,
9 environmental, transportation, urban design and Ward 3
10 elements.

11 In the interest of time, this PowerPoint
12 presentation goes primarily into land use. I'd be
13 happy to go into the other elements after the
14 PowerPoint is over if you would like.

15 The comprehensive plan land use map shows
16 the site as institutional. What can be allowed on this
17 site with institutional usage? Well, medical clinics
18 and hospitals, schools, dormitories, fraternities,
19 sororities, museums, or moderate-density housing.

20 The comprehensive plan land use policies
21 map also shows this as a housing opportunity area.
22 Now, a housing opportunity area is defined as an area
23 where the District expects and encourages additional
24 housing and most of the housing opportunity areas are
25 designated around appropriate Metro stops.

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1 There are not specific quantifications to
2 these policies. It is more a matter of degree than it
3 is of actual specificity. With respect to the planning
4 and evaluation again, is it consistent with the 1974
5 Friendship Heights sectional development plan?

6 This is a plan that was developed jointly
7 between Maryland and D.C. Obviously, D.C. and Maryland
8 had separate plans, but they worked on them together.
9 They were adopted by the National Capitol Planning
10 Commission, and then zoning was implemented by the
11 District's Zoning Commission.

12 An important note is that there was a ring
13 road as part of this plan that was established around
14 a defined core around the Friendship Heights Metro.
15 Now, this ring road, as you can see, wasn't built on
16 the District side.

17 Right here we've got Western Circle, which
18 is where the buses -- Wisconsin Circle, I'm sorry --
19 the buses come and pick up people, drop off for the
20 Friendship Heights Metro.

21 This would have been a continuation of the
22 ring road right behind, basically at the border
23 between the Washington Clinic property and the Lisner
24 home property.

25 It would then have continued south on 43rd

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1 Street, cut over Jennifer Street, and so on and so
2 forth up -- back up into Friendship Heights, Maryland.
3 It was actually intended on this side to take you
4 around Wisconsin Avenue via, I believe it's Park
5 Place, and then down.

6 But portions of that were not built
7 either. You can see by this ring road, though, you
8 begin to see an implicit core developed for density
9 development around the Friendship Heights Metro, which
10 has four entrances, one at each of the corners, which
11 is -- actually it's unique for all of Metro to have
12 that many entrances.

13 That ring road established the principle
14 of having separation between intense development near
15 the Metro and lesser intensity development where the
16 existing single-family homes are.

17 The site itself was recommended for medium
18 density residential. This medium density residential
19 was located between the medium density commercial and
20 the low density residential, commercial being along
21 Wisconsin here, the low density residential being back
22 here on the other side of 43rd Street.

23 And actually, it is difficult to see on
24 the screen, but there's a different dot pattern here
25 than there is here on the west side of 43rd Street.

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1 This is the medium density residential, this is the
2 low density residential.

3 In a regional commercial center, medium
4 density residential is part of a transition and the
5 buffer. We've often heard, well, where's the
6 transition here?

7 The very fact that you're going from a
8 commercial to a medium density residential to a lower
9 density residential is -- the fact that you're going
10 from the commercial to the residential to a yet lower
11 density residential is part of the buffer.

12 We view the -- especially in the context
13 of Friendship Heights -- the medium density
14 residential as of lesser intensity than the commercial
15 that's there.

16 Yes, and as Ms. McCarthy just reminded me,
17 medium density residential is R-5-C. Now there have
18 been several changes in the zone plan since then, but
19 even as late as 1979, the zoning for this site allowed
20 for residential development to 60 feet in height.

21 So, when you look at the urban design plan
22 for the 1974 sectional development plan on the
23 District side, you again see the larger buildings here
24 with the landscaping here and a buffer east and south
25 of the Washington Clinic.

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1 What might be a little confusing here is
2 what happened to Military Road? Well, Military Road
3 stopped. It was going to hook up into the proposed
4 ring road at Wisconsin Circle and then continue on
5 down here.

6 Military Road would not have had the
7 intersection at, I believe, it's oblique angle? No,
8 just the opposite, acute angle, at Western and
9 Military.

10 What's the current context? The current
11 context reflects both the D.C. comprehensive plan and
12 the '74 sectional plan. You can see, it has continued
13 to develop with much that same feel, at least down
14 through here.

15 Obviously, Maryland has continued to go up
16 with development that's just as dense as right around
17 here, although Hecht's, the former Woody's site, is
18 certainly going to be developed with about another two
19 million square feet of space.

20 But we're looking at concentrated
21 development around here. Square 1661, which is this
22 area just to the south that has, among other things,
23 the Embassy Suites and the Chevy Chase Pavilion, was
24 developed with C-3-B zoning along Wisconsin Avenue and
25 R-5-D at least in the zoning decisions along 43rd

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1 Street.

2 Now, a portion of the zoning decisions
3 also, I think there were three developments in through
4 here, at least one, possibly two as I recall specified
5 that the density of the residential development along
6 43rd Street should actually be R-5-B.

7 One I believe was designated for R-5-D but
8 not built to it. The other thing that's happened is
9 that the Metro ridership and the modal split is higher
10 than had been projected in 1974.

11 Numbers of things have changed since '74.
12 The District has approximately 200,000 fewer
13 residents, and yet more people are taking Metro than
14 had ever been projected when this site was actually
15 changed from commercial zoning to residential zoning.

16 In effect, it was down-zoned in 1974. I'm
17 sorry, that was in 1963. It was zoned again in 1974.
18 Okay. What are our other public policies that we're
19 looking at in trying to evaluate this proposal?

20 We're looking at the Rivlin Report, which
21 recommends that D.C. seek to attract 50,000 to 100,000
22 new residents in order to develop its tax base,
23 support the services that are necessary to the type of
24 population that the District has.

25 As I just noted, the population of the

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1 District is not anywhere near equivalent to the '74
2 population. We're looking at the report of the
3 transit-oriented development task force, which seeks
4 again to leverage the massive public investment that
5 the District has made in Metro, and seeks to increase
6 densities and decrease auto dependency.

7 We're also looking at the upper Wisconsin
8 corridor study that's just getting kicked off. We're
9 looking at the eastern edge of this proposed
10 development being an appropriate growth boundary.

11 We will certainly be having to work with
12 other potential growth boundaries, but we're looking
13 to take this whole area between the Maryland line and
14 Tenleytown and figure out where growth should and can
15 be accommodated, if it should at all.

16 And I certainly think that we will find
17 that there will be some areas that may be appropriate
18 for growth and there we have it again. Okay, moving
19 on. When we get down to the specifics of zoning, we
20 have to look at the quantitative tests, the standards
21 and the tests.

22 Does it meet things like the R-5-B minimum
23 lot area? It does. At over 15,000 square feet it beats
24 it. R-5-C maximum 4.0 FAR. Well, that's what they're
25 asking for, R-5-C zoning.

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1 It does if you grant that the five percent
2 sort of bump up is essential to the successful
3 functioning of FAR, that gets you to a 4.2 FAR. The
4 application is proposing a 4.15 FAR on the R-5-C
5 portion.

6 Again, I'd be happy to go into it, but
7 Office of Planning feels that the five percent is
8 essential to the successful functioning of the
9 proposal, especially if we're supposed to get the
10 affordable housing that we want.

11 We feel that this is a very, very
12 important precedent to be setting. R-5-C allows a
13 maximum height of 75 feet. The application is
14 proposing 78.75 feet. That's with, again, taking
15 advantage of the five percent discretionary bump up
16 that you made add to it.

17 Again, we feel that's essential to
18 providing the affordable housing, but also to the open
19 space and to providing an adequate buffer for the
20 community. There are different ways to look at
21 buffers, but we feel that the absence of building is
22 the best buffer you can get.

23 One parking space for every three dwelling
24 units. The applicant is proposing at least one space
25 for every dwelling unit or thereabouts. Again, zoning,

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1 the PUD amenities and the public benefits.

2 Housing in a housing opportunity area,
3 that's certainly consistent. Eighty percent area
4 median income housing, we see that as a larger public
5 benefit, not just to the neighborhood, but to the city
6 as a whole.

7 The day care center is a benefit and an
8 amenity, to the neighborhood and probably some area
9 outside of the neighborhood, but we're trying to limit
10 it to something that's more focused on the
11 neighborhood by some of the conditions we're
12 proposing.

13 The Chevy Chase recreation center
14 upgrades, that would be an amenity for the
15 neighborhood. The walkway would be an amenity for the
16 neighborhood. The open space and the trees saved. The
17 open space would be an amenity. The trees saved would
18 certainly be of benefit.

19 Whether you count those as an amenity for
20 the neighborhood, the lack of trees being cut down,
21 some would question that. OP would argue that these
22 trees would likely all be cut down under matter of
23 right development, because you would be building more
24 of the area for townhouses.

25 Transportation and safety upgrades would

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1 clearly be a public benefit. The new crosswalks being
2 proposed, the signalization changes, et cetera, are
3 the things that DDOT has looked at.

4 Parking would be an amenity. Certainly
5 it's one where the applicant has tried to respond to
6 the neighborhood. It's arguable on whether the
7 applicant would be inclined to provide quite as much
8 parking were it not for the neighborhood looking at
9 the provision of additional parking as an amenity.

10 Transportation management plan, which does
11 need to be fleshed out and specified more, would be an
12 amenity. A construction management plan is not a
13 requirement of a planned unit development.

14 It would certainly help to mitigate any
15 possible negative impacts, and we note that there are
16 concerns about not just excavation, but also blasting
17 because of some experience in the neighborhood, so
18 this would be an amenity and the additional tax
19 revenue, which the Office of Planning has not
20 quantified specifically, but which in order of
21 magnitude and just general level of scale and common
22 sense, we realize there would be more tax revenue from
23 this proposal than what would occur under matter of
24 right and we view that as a public benefit.

25 The benefits in relation to flexibility.

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1 Over and above matter of right development, the
2 applicant gets about 100,000 square feet of additional
3 square footage.

4 The public gets well over \$1 million in
5 out-of-pocket benefits. That might even be closer to
6 \$1.5 million worth of benefits that the applicant is
7 going to be constructing.

8 Now, Ellen's -- who actually is more
9 familiar with the neighborhood than I am, even though
10 I grew up only a few blocks from it, is going to go
11 into how the project addresses neighborhood concerns.

12 MS. McCARTHY: Good evening Madame Chair
13 and members of the Commission. I wanted to take a look
14 at the concerns that we have heard raised and the
15 meetings that we have had with the neighborhood and
16 the documents that we're reviewed from Ford and others
17 and just highlight briefly how we took those into
18 account and what we consider to be our response to
19 them.

20 I think one of the primary things that you
21 have seen in a lot of the documentation submitted by
22 Ford is that the applicant doesn't need a zoning
23 change; that the applicant could simply proceed with
24 matter of right development on the site.

25 I think, you know, we need to just point

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1 out for the record this is not the Board of Zoning
2 Adjustment. We are not talking about a variance. We
3 are talking about a planned unit development in which
4 one is not demonstrating the need for a variance; one
5 is coming in with a planned unit development with a
6 request for zoning flexibility and the appropriate
7 standard is are the benefits and amenities being
8 provided more than what could be accomplished with a
9 matter of right project.

10 We think the answer to that is clearly
11 yes. And we think it's very important to take into
12 account the housing opportunity area and the fact that
13 it is a regional center.

14 As Mr. Cochran indicated, it is true that
15 there's nothing in the comprehensive plan or any other
16 official documents of the city which say how much
17 additional density should be permitted in a housing
18 opportunity area.

19 We hope, through our transit-oriented
20 development activities, to establish a more official
21 policy for that. But I do think that it is only
22 logical that if a housing opportunity area meant
23 simply, gee, here would be a nice spot to put some
24 housing, just as it's presently zoned, we wouldn't
25 need to put a special symbol on a map and we wouldn't

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1 need to indicate this is a housing opportunity area.

2 There would be residential zoning on the
3 site, and it would be clear that's where we expect
4 housing to go. I think especially when that housing
5 opportunity area is done in conjunction with the
6 designation as one of two of the second most intense
7 land use categories in the city, that there's clearly
8 an indication on the part of the comprehensive plan
9 that the intensity of development and the intensity of
10 housing development should be greater in the sphere of
11 the housing opportunity area.

12 I think there's also an issue, if we are
13 talking about increased development and increased
14 density in the city, where is a more appropriate spot
15 than here in an intense regional center and within a
16 few feet of a Metro station, with a buffer the size of
17 the Lisner home and next to major arterials like
18 Western Avenue and Military Road.

19 The other thing that you see quite a bit
20 of in the documentation from Ford is the fact that
21 there is a need for a buffer for low density
22 residential, and you will see in some of the questions
23 that were submitted, or some of the objections to the
24 Office of Planning report, one of Ford's objections
25 was in many instances, we had cited what was the

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1 maximum height of large buildings in the immediate
2 vicinity, such as Chevy Chase Pavilion, without citing
3 the fact that there were lower portions of those
4 buildings which constituted a buffer.

5 But I think our overall conclusion is
6 there is no buffer greater than zero height, and so to
7 suggest that it would be better to have a 40 foot
8 section of the building in front of us, as opposed to
9 green space and trees on that portion of the site that
10 faces the lower density single-family houses across
11 Military Road, we find as a buffer that the
12 arrangement as specified or as presently in with this
13 project is a much more effective buffer than putting a
14 lower height to this building.

15 We think it's also important to note that
16 that green space will be there in perpetuity because
17 there will be a covenant with this planned unit
18 development, as there is with any planned unit
19 development.

20 It will be recorded with the land that
21 condition, if that is placed as a condition by the
22 Commission, which we certainly strongly urge the
23 Commission to do, that will be a guarantee to the
24 neighborhood that that green space will always be
25 there for the life of this planned unit development.

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1 There have been many concerns expressed
2 that the additional density on this site would result
3 in traffic. I'm not going to go over again the
4 Department of Transportation report, but I think we're
5 satisfied looking at the procedures that DDOT
6 followed, that they have assessed the impact and there
7 will be no significant traffic impact from the
8 increased density.

9 So we are left with height, and that is a
10 major concern of some of the people in the
11 neighborhood, but because that height, because piling
12 up the density on the western side of the site, which
13 is why it has greater height, allows lower density
14 green space to face the one section of the site that
15 is close to low density residential we feel mitigates
16 against any adverse impact from the height and it's
17 really important to note that it is still 31 feet
18 lower than the top of the Chevy Chase pavilion, and 54
19 feet lower than the Metro building immediately across
20 Western Avenue from this site.

21 So in terms of any visual impact, those
22 buildings will always be there whenever you are
23 looking in either of those directions. The argument
24 has been discussed about whether or not this is a
25 precedent for further development.

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1 Again, not only do we feel that we are
2 making clear in our report we would not look to
3 support additional development on the R-2 portions of
4 the Lisner home.

5 The Zoning Commission can make this very
6 clear in its order that where it sees as the
7 appropriate boundary, and in response to Mr. DiBiase's
8 comment that this is like his five-year-old, the
9 Office of Planning's recommendation to the
10 neighborhood will be, as part of the Wisconsin Avenue
11 corridor study, that the boundary between this project
12 and the Lisner home is a good place to draw that
13 boundary.

14 The neighborhood will have the ability in
15 that study to agree with that boundary, and if that is
16 the case, when the plan is adopted by the City
17 Council, it will then have the force of Council
18 adoption as a resolution to further make sure that
19 that boundary is observed in the future.

20 With regard to construction impacts, there
21 is a construction management plan, and in addition,
22 the smaller size of the project, the fact that it
23 appears that the project will be able to go with only
24 two levels of parking will mean one less floor to be
25 excavated, which means less likelihood of having to

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1 rely on blasting and more ability to simply excavate
2 the project, so less adverse impact on the immediate
3 neighbors.

4 We're also quite confident that any
5 construction contractor who knows they will be subject
6 to liability will be extremely concerned about making
7 sure that they do not cause adverse impact with regard
8 to the neighboring property.

9 In terms of the loss of trees, a major
10 objection that we had heard from the neighbors
11 originally, when there was a Tot-Lot proposed on the
12 eastern side of the project was that it was going to
13 eliminate the mature trees that were on that side of
14 the project.

15 That Tot-Lot has been eliminated, the
16 parking garage has been scaled back, the trees that
17 people were concerned about to the extent that that
18 was a valid objection at the time are not going to be
19 affected anymore by the project as it's presently
20 configured.

21 In terms of the public benefits versus the
22 requested flexibility, again you've heard Mr.
23 Cochran's comparison of that. It is hard to quantify
24 those benefits, or to say that \$1.5 million of out-of-
25 pocket expenses is the true value of the amenities

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1 that are being proposed, because there is no price on
2 high-quality land planning and other benefits which
3 are not so easily quantifiable.

4 So we think the package is easily in
5 excess of \$1.5 million in terms of its benefit to the
6 overall public and to the community. There is a
7 misunderstanding, I think, in the submission that you
8 received from Ford, which suggests that the Office of
9 Planning is inappropriately weighing the fact that the
10 project was reduced as part of its calculation of
11 benefits.

12 I believe the analogy that I think it was
13 Mr. Hitchcock made was -- or maybe it was Mr. DiBiase
14 of going from a larger bus to a smaller taxi. The
15 section I believe they're referring to in the Office
16 of Planning report is the one in which we said, look,
17 let's go back to the Office of Planning set-down
18 report.

19 At our set-down, we expressed some
20 concerns about the project. However, because the
21 project has been scaled-down in these following areas,
22 that's why the Office of Planning's concerns, as
23 expressed previously in our set-down report, we think
24 have been dealt with by the project.

25 So I won't go into these in detail, I just

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1 wanted to explain that's why we cited the fact that
2 the project had been reduced. We're not counting the
3 fact that it was once proposed as larger, and now it's
4 smaller, and therefore that should be an independent
5 benefit.

6 We are simply explaining how that answers
7 the concerns we had raised previously. So let me turn
8 to Mr. Altman, then, to summarize the basis of the
9 Office of Planning's support.

10 MR. ALTMAN: Members of the Commission, I'm
11 going to be very brief in terms of summary, because I
12 think we've had a very -- you have a very thorough
13 report before you and I think we've had a very
14 thorough presentation and Steve struggled through even
15 with his raspy voice to get through what I think was
16 an excellent job in presenting this.

17 I just want to speak to how we evaluated
18 this, because hopefully you will share in the way that
19 we have looked at this project and understood it and
20 come to the conclusion that it, in fact, is a very
21 important PUD, a very important project and in many
22 ways is a model of how you want to balance city-wide
23 needs and neighborhood context.

24 That really is what we try to do in the
25 Office of Planning. What I think the report tried to

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1 point out was how you look at what your city-wide
2 objectives are, balance that in the context of the
3 neighborhood character, understand what neighborhood
4 concerns are and try to shape a project that can
5 benefit all and have minimal, if no, impacts.

6 I think that's what we've accomplished
7 here. For us, it's not just a question of any project
8 that comes in the door that says we are going to have
9 a large number of units is automatically acceptable.

10 That is not transit-oriented development.
11 Transit-oriented development is about accomplishing
12 not only housing density and a density of development,
13 but how that density relates to and provides benefits
14 to the neighborhood to contribute to livability,
15 affordability and transit access.

16 That's what we are trying to balance and
17 as Steve Cochran pointed out, the burden on us in
18 terms of a PUD is to look at the flexibility of
19 development in return for the provision of superior
20 public benefits.

21 I just want to point out a couple of
22 things. The first is, from the city-wide context, it's
23 clear as the report states that we did look to, as
24 Commission Hood asked earlier, to the comprehensive
25 plan where we always turn to for guidance.

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1 We think that that was very clear in terms
2 of comprehensive plan language, both in the city-wide
3 as well as the ward elements, of how to promote
4 appropriate housing development at Metro stations and
5 adjacent to Metro stations, that these are the places
6 in the city that are going to grow and our goal is to
7 grow as a city, that we can accommodate growth while
8 at the same time preserving the character of
9 neighborhoods.

10 It's one of two regional centers. It's a
11 housing opportunity area, as you heard, so we think
12 that there is a very strong policy basis city-wide. In
13 addition, in terms of evolving city policy, as you
14 know the Mayor has -- we've been working on a transit-
15 oriented development task force that is looking at how
16 to support development around Metro stations as well
17 as bus corridors.

18 It's consistent with the goals that have
19 been established there. This is within 300 feet of a
20 Metro, even closer than adopted standards of a five
21 minute or ten minute walk, or 1200 feet as is in the
22 zoning regulations.

23 This really is very close to a Metro
24 station and is exactly the kind of site, given its
25 location on a major arterial, where you would want to

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1 have density in the city.

2 That, I think, gives us a good city-wide
3 context. You then have to say, how does this relate to
4 the neighborhood character and neighborhood level? As
5 you know, from when the project came in and from the
6 initial set-down report, we have worked very hard with
7 the applicant and we have worked also listening to the
8 community concerns and community issues that have been
9 raised to significantly modify the project.

10 We took guidance from the Zoning
11 Commission when we were here at the set-down report
12 that said specifically concerns -- I think both
13 Commissioner Hood and Chair Mitten expressed concerns
14 about the massing, about the height, how does this fit
15 onto this site.

16 We did take those back and have been
17 working to shape a project. I think it has
18 accomplished that. I think we have moved the massing
19 as was shown and the height to the appropriate place
20 along an arterial so that you do have the buffer to
21 the neighborhood for the project.

22 As you've seen the different models and
23 the iterations really put much more of that closer to
24 the neighborhood. You now have a significant permanent
25 set-back and buffer. You have an arterial, which is

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1 appropriate for where you want massing and where you
2 want density.

3 The height that's been proposed is still,
4 we think, the 78 feet is more than is an appropriate
5 height. It's not an excessive height. The number of
6 units is not significantly different than what you
7 could get under the RFIB PUD.

8 So if the units are the same, or roughly
9 the same, the square foot is somewhat increased, then
10 the issue is height, and we've moved the height to the
11 arterial to try to move that away from the surrounding
12 low density area and be consistent with the high
13 density area that is adjacent to it.

14 So it provides a very good buffer. I think
15 in terms of implementing the Commission's sentiment
16 around affordable housing, it's a first step toward
17 inclusionary housing and establishing a very important
18 precedent.

19 I think this is just the beginning of the
20 work we'll do. The developer has voluntarily done that
21 and as they said late in the stage because we felt
22 that it was important to include that in all areas of
23 the city as a matter of distribution of affordable
24 housing.

25 We think that's very important to this

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1 project, and adds a significant benefit. You've heard
2 the other public benefits, so I won't re-list those,
3 but I think they are an impressive package that, on
4 the one hand when you balance the flexibility
5 requested with the benefits provided, you have more
6 than a superior project.

7 Then you have the third test, which is are
8 there adverse or significant impacts that this density
9 might cause? So if I have the density, I have the
10 benefits, what about the impact? Are there any
11 negative impacts?

12 I think it's been demonstrated and we
13 heard from DDOT that those impacts are minimal, and in
14 fact, really, we believe there aren't negative impacts
15 from this development in terms of traffic and in terms
16 of urban design and in terms of other planning
17 considerations that in fact this allows you to achieve
18 a positive project without having a negative impact on
19 a neighborhood and in fact, creates a superior
20 project.

21 The final point here that I think is
22 important is about expectations. A lot of concern
23 about changing a zone and what that means for
24 expectations.

25 Does that mean any project that comes

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1 forward can have a zoning change? Does this set in
2 motion a series of speculative developments that can
3 occur?

4 What does that mean and what is the
5 implication of that? I think if anything this project
6 sets a very positive expectation, because what it says
7 is that if you're going to come in for zoning relief,
8 for a PUD, you have to go through, one, an extensive
9 process both with the Office of Planning and with the
10 community.

11 It is not just a matter of any project you
12 present will be approved. There is a significant
13 negotiation around the issue of public benefits, and
14 it sets a bar about what the expectation is.

15 So if anything, it sets I think quite a
16 hurdle that the developer has been willing to go
17 through in an extensive I think over a year process
18 with us and the community.

19 It really sends I think a very strong
20 message that, if anything, the expectation is that
21 around transit-oriented development it's not just a
22 question of trying to convince us that any number of
23 units we present to you is automatically accepted, but
24 rather, this is going to be a real balancing act.

25 There are going to have be real public

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1 benefits, real issues of design, real modifications
2 and a genuine dialogue. We may not agree at the end
3 that everyone has reached consensus, but I think even
4 the testimony tonight was very clear that they felt
5 there was a very genuine engagement of the developer
6 in this process and in trying to shape a project that
7 has been substantially modified per those concerns.

8 So in summary, I just wanted to add that I
9 think both from a city-wide level in terms of public
10 policy, from a neighborhood level in terms of balance
11 and character, in terms of setting a bar in terms of
12 expectations, this really is a model.

13 It's actually been cited by the Smart
14 Growth Alliance. We'll probably hear from them, which
15 is developers as well as environmentalists and
16 community representatives as the kind of project we
17 want to encourage.

18 I think it furthers the goals of what
19 we're working on in terms of the Mayor's TOD strategy
20 and I think it's a very important project for all of
21 us in terms of accomplishing really striking a balance
22 and I think setting a very good bar for what we want
23 to do in other areas of the city, close to Metro,
24 along arterials, in achieving these goals.

25 CHAIRPERSON MITTEN: Thank you, Mr. Altman,

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1 Ms. McCarthy, Mr. Cochran. Very thorough report. Any
2 questions for the Office of Planning? Any questions?
3 Any questions? Mr. May?

4 MR. MAY: Yes, I have a couple. Are you
5 sure you're all done? Ms. Steingasser didn't get a
6 chance to talk.

7 (Laughter.)

8 MR. ALTMAN: She's just going to answer
9 questions.

10 MR. MAY: Oh, excellent. I'll try to make
11 these very quick. You mentioned -- these are fairly
12 minor points but the tree preservation aspect and
13 specifically sycamores.

14 It reminded me that there may be some
15 issue with the health of the trees. I know the
16 sycamore trees in my neighborhood are all dying. Are
17 these trees healthy specimens?

18 Has anybody looked at that, do you know?

19 MR. COCHRAN: The city has not looked at
20 it. There was an offer on the part of the applicant to
21 hire an arborist, but at that point there was some
22 disagreement about who should actually choose the
23 arborist and it did not go farther than that.

24 We proposed mediation over the choice of
25 an arborist, but -- so, no, I can't speak to the

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1 health of the sycamores. I do have to note that some
2 of the -- there are some healthy trees in the middle
3 of the Washington Clinic parking lot, and those
4 actually are the largest trees on the site.

5 MR. MAY: Those are going to have to come
6 down?

7 MR. COCHRAN: Those would come down because
8 of the garage construction.

9 MR. MAY: Okay. I'm not sure if I'm ready
10 to ask for the tree study to be done, but it would be
11 interesting to know. We have seen information like
12 that in the past in different cases.

13 MS. MCCARTHY: Mr. May, I know that's an
14 issue that was raised in the Ford document and we
15 would -- that's the thing that we just did not have
16 time to go back and look at our aerials and go out and
17 check them, but we'd be happy to submit something
18 supplemental.

19 MR. MAY: Well, yes the cities --

20 MS. MCCARTHY: Not on the health, but on
21 how many trees are there and whether or not they'd be
22 affected.

23 MR. MAY: Well, I did that.

24 MS. MCCARTHY: Oh, okay.

25 MR. MAY: I figured that one out. Thank

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1 you. You were careful to point out that R-5-B
2 according to the map that was shown, the sector plan I
3 guess, that R-5-B is -- I'm sorry, that R-5-C is
4 medium density residential.

5 What is R-5-B by that standard? Is it the
6 same --

7 MS. McCARTHY: Moderate density
8 residential.

9 MR. MAY: R-5-B is moderate density. And
10 what is R-5-D?

11 MS. McCARTHY: R-5-D and R-5-E are high
12 density residential.

13 MR. MAY: Okay. I just wanted to make sure
14 because I don't carry all that terminology with me.
15 What was the exact history of the zoning of the site?
16 In '63 it changed, in '74 it changed again?

17 MR. COCHRAN: That much is for sure. It
18 went from commercial -- excuse me, it was down-zoned
19 from commercial in '63 and then it was up-zoned in '74
20 in anticipation of Metro.

21 That is to say, it was up-zoned from the
22 down-zoning.

23 MR. MAY: So it went from --

24 MR. COCHRAN: It went from a higher level
25 than probably is even being proposed now, prior to

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1 1963.

2 MR. MAY: Well, I remember seeing a C-3-C
3 at one point, right?

4 MR. COCHRAN: I believe that was the -- I'm
5 not sure.

6 MR. MAY: Pre -- It was a '73 map or
7 something.

8 MR. COCHRAN: I'm not going to -- I can't
9 be specific with that. I've got all the plans from the
10 '73, '74, '75 work over there if you -- and I can
11 easily give you a written response to that.

12 MR. MAY: That would, I think would be
13 helpful, because one of the things that is a concern
14 is understanding how consistent this is with the land
15 use intentions for that.

16 MR. COCHRAN: Here we go. I actually do
17 have it in here.

18 MR. MAY: Okay.

19 MR. COCHRAN: It was -- oh, let's see now.
20 Okay. The Clinic site was up-zoned from R-2 to C-3-A
21 in the early '60s, before the adoption of the regional
22 Metro system and before the demise of the freeway
23 plan.

24 The '74 re-zoning, which post dated the
25 adoption of the Metrorail plan, down-zoned the clinic

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1 site from medium bulk major business and employment to
2 medium density residential.

3 MR. MAY: Okay. Thanks. I'll reread that
4 section. I'm a little puzzled about the attempt to
5 quantify the benefits, because you put a price on it
6 and then you explained how hard it was to put a price
7 on it, but then reasserted that you put a price on it.

8 So, how did you put a price on it?

9 MR. COCHRAN: Let's see, that's on page --

10 MR. MAY: I beg your pardon, I do remember
11 now reading that in the report.

12 MR. COCHRAN: I'm sorry, I just don't see
13 what page it's on. There's actually a summary of
14 dollars. Sorry I didn't have this.

15 MR. MAY: I'm sorry I didn't remember it.

16 CHAIRPERSON MITTEN: I think it's page 27
17 at the bottom.

18 MR. COCHRAN: Thank you.

19 MR. MAY: I see it there. Five hundred
20 thousand for lost opportunity costs for the affordable
21 housing units, 300,000 for the day care center, 75,000
22 for the improvements to the park and recreation
23 center.

24 Then other changes, which would bring it
25 up and over. Okay. Thank you. Sorry. That's all I had.

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1 MR. QUIN: Madame Chairperson? I'm sorry to
2 interrupt, but I don't know what your plans are for
3 this evening, and there are three -- It has come to my
4 attention there are three people who cannot come on
5 Monday night.

6 One of them is an ANC commissioner, and
7 they can be very brief. I know the OP will of course
8 have to be back.

9 CHAIRPERSON MITTEN: Right.

10 MR. QUIN: And I was wondering if by any
11 chance you could accept those so that we can get them
12 on and off. They'll be very brief.

13 CHAIRPERSON MITTEN: Okay, let's do that.
14 Let's hold the questions, then, for Office of Planning
15 until Monday and we'll take the folks that you --

16 MR. QUIN: My understanding is that Mr.
17 Chris McNamara of ANC-3E is here and cannot be here on
18 Monday, and that Mr. Sam Black of the Smart Growth
19 Alliance and I think Cheryl Cort of the Smart Growth
20 Alliance.

21 None of those I think can come back on
22 Monday.

23 CHAIRPERSON MITTEN: Okay.

24 MR. QUIN: I think they'd be brief. I don't
25 know that they're here.

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1 CHAIRPERSON MITTEN: I think everyone's
2 here. I'll just say that Mr. McNamara will have three
3 minutes because he's speaking as an individual. One of
4 the two people from the Smart Growth Alliance can have
5 --

6 Well let's have everybody up here now
7 who's going to -- One of the two people from the Smart
8 Growth Alliance can have five and the other one can
9 have three if you both need to speak.

10 MR. QUIN: They're two different people,
11 I'm sorry. I made a mistake.

12 CHAIRPERSON MITTEN: So two, not three.

13 MR. QUIN: Right.

14 CHAIRPERSON MITTEN: Great.

15 MR. QUIN: There are three, but the two
16 that I mentioned as Smart Growth, only one is Smart
17 Growth and the other cannot be here.

18 CHAIRPERSON MITTEN: I'm -- everybody come
19 down, sit down, and two of them get five minutes, am I
20 correct? They're representing a group? Okay. There we
21 go. Why don't you go ahead and begin. You're Mr.
22 McNamara?

23 MR. McNAMARA: I am Chris McNamara from
24 ANC-3E and Madame Chair, members of the Commission,
25 thanks for having me. I am representing, although I

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1 will be followed on Monday evening by another
2 colleague of mine, the minority of the 3-2 vote from
3 that session in November.

4 I wanted to give you a little bit of the
5 context of how we arrived at that 3-2 vote, because
6 perhaps you would consider it in giving great weight
7 to the ANC's position.

8 I just came from my last ANC meeting
9 tonight after four years of being on the commission.
10 It was attended by four people in the audience, four
11 members of the community.

12 On the other hand, the November meeting,
13 at which we voted this issue, was a packed house, as
14 you would suspect. I learned over the course of the
15 four years that all politics are local and probably
16 nothing more than issues like this, issues of
17 development, demonstrate that.

18 In order to provide a little bit of
19 context, let me tell you that the ANC, our ANC-3E
20 represents about 12,000 residents, and at no meeting,
21 and I don't believe Ford does either, were there more
22 than about 50 folks at any of our sessions.

23 Those 50 folks that attended our sessions
24 were generally in very vocal opposition. However, the
25 other 11,600 folks were not present. It's difficult to

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1 assess what their position might have been.

2 CHAIRPERSON MITTEN: I'm just going to let
3 you know you have about a minute and a half left, so
4 if you could --

5 MR. McNAMARA: Okay. It was pointed out by
6 Mr. DiBiase that the negotiations took place in good
7 faith. I will point out that in September of '01 when
8 we started dealing with the developer and in October
9 of '02, we indicated to the developer that if he took
10 into account the considerations of the neighbors and
11 the ANC, that we would perhaps look more favorably on
12 the proposal.

13 We did not do that as an ANC, nor as a
14 neighborhood. The developer conceded in many
15 instances, and we, nevertheless, voted 3-2 against. I
16 would also point out that the analogy used by Mr.
17 DiBiase of his children's Halloween candy, that the
18 1974 boundaries, they were put there in 1974 and in
19 1974 we had a Pinto.

20 We no longer have a Ford Pinto for a very
21 good reason. That's going to conclude my remarks, if
22 I've got three minutes.

23 CHAIRPERSON MITTEN: Okay. Thank you, Mr.
24 McNamara. If you could just hold your seat until we
25 have the panel done, and then maybe there will be some

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1 questions.

2 MR. McNAMARA: Certainly.

3 CHAIRPERSON MITTEN: Thank you. Whoever
4 wants to go next. You need to turn on the microphone
5 there. Just push the button down on the base. There
6 you go.

7 MR. BLACK: Madame Chair and members of the
8 Commission. My name is Sam Black. I am the current
9 chair of the recognition jury of the Smart Growth
10 Alliance.

11 With the Chair's permission I have copies
12 of these remarks which I could --

13 CHAIRPERSON MITTEN: Give it to staff.

14 MR. BLACK: Thank you very much. I have a
15 few extra for members of the audience, and on the
16 table in the back there are some additional materials
17 about the Smart Growth Alliance.

18 The Smart Growth Alliance, which Mr.
19 Altman mentioned, is a partnership of environmental,
20 civic and business organizations committed to quality
21 of life in the region.

22 The Alliance partners are the Chesapeake
23 Bay Foundation, the Coalition for Smarter Growth, the
24 Greater Washington Board of Trade, the Washington
25 Builders Council, and the Urban Land Institute.

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1 The members of the Alliance have disagreed
2 on many issues in the past, I can assure you, but we
3 do agree on what smart growth means, and our
4 definitions of criteria for smart growth are
5 summarized in the red brochure that's attached to my
6 testimony and they're spelled out in detail on our
7 website.

8 The Smart Growth Alliance has appointed a
9 jury drawn from the environmental and the business and
10 the civic communities that meets quarterly to evaluate
11 development projects in the Washington region.

12 The Alliance jury has recognized the
13 Stonebridge Associates proposal for Western Avenue as
14 a smart growth project by its location in a
15 neighborhood served by transit.

16 In our judgment, the proposal is
17 appropriate for a dense mixed-use neighborhood, and
18 will contribute to that mixture of uses. It will
19 contribute to a walkable transit-oriented community.

20 We support the public green space
21 component of the project and the Smart Growth Alliance
22 criteria strongly support affordable housing in
23 residential developments.

24 I would be glad to answer any questions
25 and thank you for your time, Madame Chair, Commission.

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1 CHAIRPERSON MITTEN: Thank you, Mr. Black.
2 Thank you for bringing the brochure for us, too, so
3 now we'll know what smart growth is, too. Ms. Cort?

4 MS. CORT: Thank you. I have copies of my
5 testimony. My name is Cheryl Cort and I'm representing
6 the Washington Regional Network for Livable
7 Communities.

8 We're a non-profit organization dedicated
9 to transportation investments, land use patterns and
10 neighborhood designs and enhance existing communities
11 in the environment of the Washington, D.C. region.

12 I'm also a member -- WRN is also a member
13 of the Coalition for Smarter Growth, and these
14 comments are also being made on behalf of the
15 Coalition for Smarter Growth.

16 Our organizations are particularly
17 concerned with how to accommodate the region's growth
18 in jobs and housing, and in ways that takes advantage
19 of our transportation infrastructure and other
20 infrastructure, and protects green space around our
21 region and enhances the quality of life of the city
22 and inner suburbs.

23 We also are concerned about redevelopment
24 in urban communities so that it is inclusive and
25 provides more housing choices in walkable convenient

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1 neighborhoods near transit.

2 Given our commitment to quality, transit-
3 oriented development, WRN and the Coalition support
4 the proposed project at the Washington Clinic site. We
5 support this project because the Western Avenue
6 oriented building takes advantage of adding well-
7 designed housing approximately 300 feet from the
8 Friendship Heights Metro station and commercial
9 corridor, while respecting the scale of the
10 surrounding neighborhood.

11 We're also very supportive of the proposal
12 to add five percent of below market rate housing to
13 the project. The publicly accessibly open space of the
14 project and the over 100 new housing units will
15 contribute to the vitality of the neighborhood,
16 strengthen the tax base of the District of Columbia
17 and accommodate households that might have otherwise
18 located in locations less accessible to transit,
19 shops, employment and services.

20 By providing over 100 new homes close to
21 Metro, we believe the proposal takes sufficient
22 advantage of this valuable location. Such proximity to
23 the \$10 billion Metro system is precious and should
24 not be squandered on too little housing.

25 We cannot hope to address our air

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1 pollution and traffic congestion problems or save
2 diminishing rural resource land without projects such
3 as this. While we support this project in general, we
4 have several comments and recommendations, or just a
5 few actually, on improving it.

6 Just to be brief. First of all, we applaud
7 the five percent amount of below market rate housing,
8 but we need more of it and we need it targeted to
9 lower income groups.

10 We understand that the District of
11 Columbia has done little up to now to make developers
12 expect that they should be doing more, unlike the
13 successful programs right on the other side of the
14 border in Maryland under the rubric of the moderately
15 priced dwelling unit program.

16 We hope this is only the beginning for
17 D.C. Office of Planning's work with private developers
18 to make moderately priced housing included in new
19 development, but we don't consider five percent high
20 enough for a future requirement, and look forward to
21 working with the District government and the Zoning
22 Commission to ensure that an inclusionary housing
23 requirement really addresses our needs.

24 Second, less parking at the site is
25 certainly appropriate. We understand that the high

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1 parking ratio is largely in response to community
2 members demand. However, we urge you to reexamine the
3 trade-offs between the enormous cost of parking, where
4 a space might cost \$20,000 to build, and the
5 opportunity for example, as you have suggested Madame
6 Chairman, investment in more units of moderately
7 priced housing.

8 Third, given the reduction in site
9 imperviousness, which we applaud, and the amount of
10 new open space provided, we're disappointed that we
11 didn't hear more about innovative storm water
12 management proposals.

13 We suggest the developer incorporate state
14 of the art but commonly used techniques for storm
15 water management. In all, we welcome this proposal as
16 a contribution to smart growth for the neighborhood,
17 city and region.

18 Thank you for the opportunity to comment.

19 CHAIRPERSON MITTEN: Thank you. Now we have
20 yet another person at the table.

21 MR. BALDWIN: I wanted to see if I could
22 also comment for three minutes as an individual since
23 I can't make it back Monday night either. I'm a
24 proponent.

25 CHAIRPERSON MITTEN: A proponent.

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1 MR. BALDWIN: Right, and representing an
2 organization also in formation.

3 CHAIRPERSON MITTEN: In formation?

4 MR. BALDWIN: Right.

5 CHAIRPERSON MITTEN: I think we're going to
6 give you three minutes.

7 MR. BALDWIN: That would be fine.

8 CHAIRPERSON MITTEN: What's your name?

9 MR. BALDWIN: My name is Tad Baldwin. I
10 live at 3507 Morrison Street, Northwest, in the Chevy
11 Chase - D.C. neighborhood. I'm here tonight because I
12 strongly feel this is a very good plan for housing in
13 Ward 3, adjacent to a Metro station well designed to
14 respect the nearby single-family and townhouses as
15 well as mixed commercial uses.

16 Secondly, I'll be helping launch a Ward 3
17 smart growth advocate's group to help provide a
18 citizen viewpoint of the positive attributes of
19 quality development that is often unheard in this
20 setting, but we believe widely heard.

21 Just run down quickly a number of points
22 and just focus on a couple that haven't been talked
23 about too much yet. I believe it is a prime goal of
24 smart growth to have this kind of development.

25 It's environmentally sound, increases the

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1 tax base of the city, affordable housing is a good
2 element of it. Another point I have is upper
3 Connecticut Avenue has had a grand and long history of
4 quality multi-family buildings being adjacent to
5 single family homes without any negative effects.

6 This incompatibility is more a product of
7 traditionally trained urban planners, and embraced by
8 some citizens who always like to segregate uses. Newer
9 thinking advocates mixed use as more interesting,
10 healthy and wise in many ways.

11 Another point. Some of us long-term
12 residents would like the future option of remaining in
13 the neighborhood in quality rental and condo
14 structures.

15 We've had very little new multi-family
16 housing in this city over the past three decades that
17 I've lived here. Lastly, traffic. While the proposal
18 generates less traffic than the existing clinic,
19 traffic is heavy in Friendship Heights and will only
20 get heavier because of other job and residential
21 development in both D.C. and Maryland.

22 The only long-term remediation will be a
23 combination of functioning high density multi-use
24 nodes here and elsewhere, many of them transit-
25 oriented, telecommuting, non-rush hour auto trips and

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1 the use of mass transit.

2 This requires some major changes of
3 driving habits and even lifestyles, and are not easy,
4 but there is no magic answer. In conclusion, I'd like
5 to thank you for allowing me to have this opportunity
6 at the end of this late evening.

7 Thank you.

8 CHAIRPERSON MITTEN: Thank you, Mr.
9 Baldwin. Just -- We'll go to questions next, but I
10 need to remind Mr. Gordon, Mr. Black, Ms. Cort and Mr.
11 Baldwin that you need to fill out witness cards, two
12 witness cards apiece and give them to the reporter
13 before you leave.

14 Any questions for the panel? Any
15 questions? Mr. Quin, any questions? Mr. Hitchcock, any
16 questions? Mr. DiBiase, any questions? Mr. Gordon, any
17 questions on cross examination?

18 Okay. Now we have a hand up. Thank you all
19 for coming down, and if you have written statements
20 that you haven't turned in, turn those in, please. You
21 need to come forward if you're going to ask a
22 question.

23 State your name for the record, please.

24 MR. PETTITT: Kevin Pettitt. I live in 3G
25 technically, although I live right on the border near

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1 Reno and Military. I'm speaking in favor --

2 CHAIRPERSON MITTEN: Well, what's your --
3 Is it that you can't come back?

4 MR. PETTITT: It's I can't come back.

5 CHAIRPERSON MITTEN: Okay.

6 MR. PETTITT: And I don't even need three
7 minutes, probably, but as I stated at the ANC meeting
8 some time ago, I think this project should probably be
9 taller and should have a ground floor retail
10 components.

11 One of the -- I'm a very recent resident,
12 recent addition to the neighborhood. One of the
13 reasons I moved in was because I could walk and take
14 the Metro.

15 My wife and I have one car and don't have
16 any plans to get a second car, precisely because we
17 are near the Metro. One thing that's still -- that
18 hasn't really been mentioned, but speaks to the issue
19 of traffic generation, we have to drive to get some of
20 our things done that ought to be achievable in the
21 neighborhood.

22 For one thing, my haircut. Another thing,
23 sidewalk dining. We go to Bethesda. We typically
24 drive. There is no town square, yet another thing that
25 this project addresses wonderfully and I think people

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1 need to make a clear point of that.

2 Ice cream shops. Just little, simple
3 retail components that nevertheless incrementally
4 generate traffic trips every time somebody can't get
5 it in their own neighborhood.

6 I've heard people mention florists and
7 other uses, framing shops, I mean who knows. There's
8 all kinds of good, boutique high-value uses for a site
9 of this sort, and I would to the extent possible urge
10 the Commission to consider any way of making this
11 project flexible enough to perhaps consider a ground
12 floor retail component at some point before it becomes
13 too late.

14 Thank you.

15 CHAIRPERSON MITTEN: Thank you. Let me see
16 if the Commission has any questions for you before you
17 leave. Any questions? Anybody? Any questions? Any
18 cross? Okay, thank you.

19 Okay. I think we're ready to wrap it up
20 for tonight. We have a few things that we've asked
21 for, and let me just run those down, and Mr. Bastida,
22 you can jump in if I've missed anything.

23 I think Mr. May had asked, and we don't
24 necessarily have to have this for Monday, but I think
25 it's appropriate that we should get some slightly

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1 better drawings on the day care center and what it's
2 going to look like.

3 We already ran down what DDOT's going to
4 do for us. We had two requests for some additional
5 guidance, and I think the Office of Planning might be
6 able to help us with this.

7 Greater specificity in the affordable
8 housing program, Mr. Hitchcock was through his cross
9 examination raising some questions that I think bear a
10 response, whether or not somebody from the HPAP
11 program could come or whether you could help flesh
12 that out for us.

13 Then also greater specificity. I think Mr.
14 Hood was looking for that in the construction
15 management plan, so if you could revisit that and see
16 if there's anything that you could assist the
17 applicant in tightening up.

18 MR. COCHRAN: Did you want that by Monday?

19 CHAIRPERSON MITTEN: I don't think that's
20 necessary unless, if you were going to bring a witness
21 on the HPAP, then we'd need that by Monday.

22 MR. COCHRAN: Thank you.

23 CHAIRPERSON MITTEN: All right. Anything
24 else that I missed?

25 MR. BASTIDA: No, but Madame Chairman, I

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1 thought that also on the construction impact on the
2 surrounding area, Mr. Hood was looking for potential
3 impacts on existing buildings, the structural impacts.

4 CHAIRPERSON MITTEN: Yes. That's the kind
5 of specificity that he was looking for.

6 MR. BASTIDA: Okay, fine. I just wanted to
7 check. We set a date by which it should be filed?

8 CHAIRPERSON MITTEN: I think what we'll do
9 is we'll roll it all into whatever we decide at the
10 end of our hearing on Monday.

11 MR. BASTIDA: Thank you.

12 CHAIRPERSON MITTEN: So we'll reconvene the
13 hearing this coming Monday, December 16, in this room,
14 6:30, look forward to seeing you all then. Thank you.

15 (Whereupon, the foregoing matter was
16 concluded at 10:48 p.m.)

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