

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

THURSDAY
OCTOBER 16, 2003

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The Public Hearing of Case No. 03-23 by the District of Columbia Zoning Commission convened at 6:30 p.m. in Suite 220, South, 441 4th Street, NW, Washington, D.C., Carol Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL MITTEN	Chairperson
ANTHONY HOOD	Vice Chairperson
JOHN PARSONS	Commissioner
PETER MAY	Commissioner

ZONING STAFF PRESENT:

SHARON SCHELLIN

COUNSEL ON BEHALF OF THE APPLICANT:

CHRISTOPHER COLLINS

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

2

6:41 p.m.

3

VICE CHAIRPERSON HOOD: This is Thursday, October 16th,

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1 2003.

2 No, I'm not Carol Mitten, but my name is Anthony J. Hood. I'm
3 the Vice Chairman. Joining me this evening are Commissioners Peter May and
4 Commissioner John Parsons. We're expected to be joined by the Chair later.

5 The subject of evening's hearing is Zoning Commission Case
6 No. 03-24. This is a request by Kaloram D.C. Group LLC for approval of a
7 consolidated Planned Unit Development and related map amendment for property
8 located at 2126 Wyoming Avenue, NW, and known as Lot 911 and Square 2528.

9 Notice of today's hearing was published in the D.C. Register on
10 August 22nd, 2003. The hearing will be conducted in accordance with the provision
11 of 11 DCMR 3022.

12 Copies of today's hearing announcement are relevant to you and
13 are located to my left in the wall bin near the door.

14 The order of procedure will be as follows:

15 Preliminary matters; petitioner's case; report of the Office of
16 Planning; report of other Government agencies, if any; report of Advisory
17 Neighborhood Commission, in which it's 2D; organizations and persons in support;
18 organizations and persons in opposition.

19 The following time constraints will be maintained in this meeting:
20 The petitioner 60 minutes; organizations five minutes; individuals three minutes.

21 The Commission intends to adhere to the time limits as strictly as
22 possible in order to hear the case in a reasonable period of time. The Commission
23 reserves the right to change the time limits for presentations, if necessary, and notes
24 that no time shall be exceeded.

25 All persons appearing before the Commission are to fill out two
26 witness cards. These cards are located to my left on the table near the door. Upon

1 coming forward to speak to the Commission, please give both cards to the reporter
2 sitting to my right.

3 The decision of the Commission in this case must be based
4 exclusively on the public record to avoid any appearance to the contrary. The
5 Commission requests that persons present not engage the members of the
6 Commission in conversation during any recess or at any time.

7 The staff will be available throughout the hearing to discuss
8 procedural questions. Please turn off all beepers and cell phones at this time so not
9 to disrupt these proceedings.

10 At this time, the Commission will consider any preliminary
11 matters. Ms. Schellin, do you have any preliminary matters?

12 MS. SCHELLIN: Just to advise that we have received the
13 affidavit of maintenance and it does meet the requirements of the regulations.

14 VICE CHAIRPERSON HOOD: Okay. Thank you.

15 All members wishing to testify please stand and take the oath.

16 (Whereupon, the witnesses were sworn.)

17 VICE CHAIRPERSON HOOD: Good evening, Mr. Collins. I want
18 to show you that my colleagues and I have read the submittals, but we would now
19 turn it over to you to present your case.

20 MR. COLLINS: Thank you, Mr. Hood and members of the
21 Commission. My name is Christopher Collins with the firm of Holland and Knight
22 and with me is Dennis Hughes from my office. To my right is Heidi Lee Feldman.
23 Ms. Feldman is a managing member of Kaloram D.C. Group, the Applicant in this
24 case. Also joining us is Steven Spurlock from Spurlock Architecture, Steven Sher,
25 the Director of Zoning and Land Use Services of Holland and Knight and Emily Eig,
26 President of EHT Traceries, Architectural Historians.

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1 This PUD is a residential project, fairly small residential project of
2 up to six units in the Sheridan-Kalorama area on Wyoming Avenue just west of
3 Connecticut Avenue.

4 This project is a result of significant input from a number of
5 different individuals and organizations, including the Office of Planning, the ANC,
6 Sheridan-Kalorama Historical Association, the HPRB and the HPRB staff. This has
7 been a very transparent process from the beginning in June of 2002, over a year
8 ago, and has been a truly collaborative effort since that time.

9 We have the support of the Office of Planning and the ANC,
10 which is given in two reports and we are unaware of any opposition to this
11 application.

12 You have the pre-hearing statement, the booklet that we
13 submitted dated July 14th. You also have a September 26th submission which
14 includes updated plans that were approved by the Historic Preservation Review
15 Board.

16 There will be three witnesses tonight: Ms. Feldman, representing
17 the Applicant; the Spurlock, the architect; and Mr. Sher, the land-use planner. Also
18 Emily Eig will be available for questions.

19 I intend to offer Mr. Spurlock, Mr. Sher and Ms. Eig as expert
20 witnesses. Their resumes are attached to the September 26th submission. Mr.
21 Spurlock has not previously been qualified as an expert before this body, but Mr.
22 Sher and Ms. Eig have been and I would go along with your pleasure at this point
23 whether to qualify them.

24 VICE CHAIRPERSON HOOD: I would rather for us to qualify --
25 if we're going to qualify them. Mr. Sher, I'm sure my colleagues, I mean, that's been
26 an ongoing deal so I believe that won't be an issue.

1 MR. COLLINS: Okay.

2 VICE CHAIRPERSON HOOD: As you mentioned Ms. Eig, okay,

3 I see.

4 Any issue with Ms. -- how do you pronounce it?

5 MR. COLLINS: Eig.

6 VICE CHAIRPERSON HOOD: Eig. Okay. Ms. Eig. Okay.

7 She'll be qualified.

8 MR. COLLINS: And Mr. Spurlock as an expert in historic

9 preservation architecture.

10 VICE CHAIRPERSON HOOD: Okay. Any objection? No

11 objection.

12 MR. COLLINS: Thank you.

13 VICE CHAIRPERSON HOOD: You may proceed. Thank you.

14 MR. COLLINS: Thank you.

15 Unless there are any questions, I would like to get right to the

16 case and call the first witness.

17 VICE CHAIRPERSON HOOD: We'll reserve all our questions

18 until the end.

19 MR. COLLINS: Thank you. Ms. Feldman, would you please

20 identify yourself for the record and proceed with your testimony.

21 MS. FELDMAN: Yes. My name is Heidi Lee Feldman. In my

22 real life I am a professor of law and pending full professor of philosophy at

23 Georgetown University Law Center.

24 I am the managing member of this small LLC which is devoted

25 exclusively to the redevelopment of the site in which the former field school resides,

26 2126 Wyoming Avenue.

1 I will try to keep my remarks very brief now. Just a little bit of
2 background on how my company came to be involved in doing this and how we
3 ended up going through the PUD process.

4 I live in Sheridan-Kalorama. My residence is about -- actually, at
5 the time that I purchased the property, I was looking at Leroy Place. Although I
6 specialize in ethics political philosophy, toward law and contract law, I am a lover of
7 architecture and visual arts. And when I moved to Washington from Michigan where
8 I began my teaching career, one of the attractions was the architecture of
9 Washington. So, I had always kept an eye on particularly the architectural
10 developments and the property developments in residential area.

11 I was aware that the field school was looking for a buyer, that
12 they had already decided to go -- did essentially commit to go to the Cafritz Mansion
13 and I inquired about the availability of the building, sort of at that point only half
14 interested. It turned out that they were having tremendous difficulty locating a buyer
15 because larger developers did not want to do a matter of right development on the
16 site.

17 That was my original game plan. We met with members of the
18 community before we hired an architect. This was during our due-diligence period.
19 Mr. Collins and one of the then ANC Commissioners, neighborhood activist now,
20 Marlys Carnon. Another neighborhood activist, Warren Henin, Phil Baker, who is
21 another person who is very active in the neighborhood. And we walked the site --
22 first sat in my living room we walked the site. I said, this is a shame. This building is
23 crumbling. If I can raise the capital, I don't need to do this for this bread and butter.
24 I don't need to max out on it, but what do you think? Then they said this would be
25 great. We would like to do this.

26 So, we raised the capital to do it on the assumption that we

1 would do a matter of right development.

2 As we got further down the road, speaking with the community,
3 particularly with the Sheridan-Kalorama Historic Association, and then with HPRB, it
4 appeared that there was no matter of right plan that would allow me to fulfill my
5 fiduciary responsibilities to my investors, in my opinion. And I thought I was going to
6 be forced to sell the property.

7 At that point, and this is a theme that I just would like to hit very
8 hard, the project really transformed into this sort of collaborative process that Chris
9 was talking about and in a way I think is something of a model for what public,
10 private cooperation should be, because members of the community went on their
11 own to talk about a number of matters with the Office of Planning and said, is there a
12 way out here because we have someone who wants to develop this for residential
13 use and we'd like to see that.

14 And the staff of the Office of Planning, particularly Ms.
15 Steingasser, sat down and really worked hard to come up with something that
16 looked reasonable, from my perspective, and would seem to meet the desires of the
17 community.

18 At that point, we identified Steven Spurlock as the best architect
19 to carry that mission out and we -- suddenly I found myself learning what a Planned
20 Unit Development is.

21 The only other comment that I would like to add is that every
22 feature of the project and every feature of the proposal has been -- and this is
23 connected to what I called my real or other life -- has been a result of working very
24 closely with -- for a small ANC, we have a lot of constituencies. And we've tried to
25 work very closely with all of them, as well as with the city in order to treat everybody
26 both fairly and very openly And it would be my hope that that becomes something

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1 of a model even for, you know, what the big boys and girls do downtown.

2 Those are my remarks.

3 MR. COLLINS: Would you like to talk a bit about the amenity or
4 benefit package?

5 MS. FELDMAN: Also, a brief word about that. I'm sure the
6 Commissioners will have their own questions about it.

7 I'm aware that the amenity package that we are proposing is
8 unconventional, because it identifies a process through which we will identify
9 specific tangible benefits. It sets up the foundation that will follow recommendations
10 that will go through an ANC process.

11 In discussion with -- this resulted primarily through talking to our
12 ANC because our ANC was looking for an amenity package they could support.
13 And they felt that since it was Sheridan-Kalorama, their position as conveyed to me
14 was, since Sheridan- Kalorama had never before had a PUD, they had had a
15 number of people say, hey, we think there might be some money associated with
16 this and I had had maybe four or five groups come to me and Sherman Permuter, in
17 particular, has put emphasis in her tenure on process and procedure. And she said,
18 isn't there some way that we can create a deliberative process where we can
19 consider all of our options on the table? And I said, well, we can try to devise that
20 and I asked my attorneys to try to create that mechanism. They advised me that
21 that mechanism was unlikely to be highly appealing to the Zoning Commission and I
22 took the position that it was worth fighting for because I understand the spirit of the
23 idea of the amenity, which is for the benefit that I get in flexibility with regard to
24 zoning, we are supposed to enhance the physical space around -- so we have
25 greater density, let's add enhancements to the neighborhood to compensate for that
26 greater density.

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1 I think that the mechanism that we're proposing will achieve that,
2 plus it will achieve a community benefit, which is an intangible benefit but one that I
3 think our ANC and most communities in D.C. really are in need of, which is that it will
4 motivate many members of the community to come forward with proposals. So that
5 instead of just getting a set of phone calls from, you know, people who happen to
6 know me or happen to have heard about this, we have a process with notice that will
7 give us a chance to sort through different people's preferences.

8 That appealed to me because it seemed to me to be fair and
9 because it seemed to me like it would actually elicit more engagement with the PUD
10 process from the community. But if it is too out of line with what the Commission is
11 willing to do, there's a long roster of people who have submitted, you know, very
12 conventional things to me and I've told them all that I was not going to enter into
13 those agreements if there was any chance that the Commission would allow us this
14 other process, because of the reasons just stated.

15 MR. COLLINS: Mr. Hood, I'd like to submit two items for the
16 record.

17 One is a summary of the public benefits and amenities just so
18 that you have it. It's a synopsis of what's appearing on pages 16 through 22 of our
19 book.

20 And, secondly, a packet of materials. The first is a revision to
21 what's attached as Tab 2 of our September submission, which is a description of the
22 proposed public benefit. And this revision is done both in red line version so you
23 can see what the changes are that were made and then a clean copy behind it. And
24 that was done as a result of the meeting we had last week with the Office of
25 Planning where we tried to work with them. We heard there was some concern
26 about the nature of this public benefit and that we tried to work with OP and the ANC

1 to revise or refine it to be as specific as we possibly can and this does have the
2 support -- these revisions have the ANC -- the Commission themselves looked at
3 this and feel that this is consistent with the original proposal. We did not straighten
4 the proposal. We simply added examples and things of that nature.

5 Also, in our September 26 submission, we did say that as part of
6 that public benefit package, we would be submitting the corporate documents to
7 establish the fund for that purpose.

8 When we heard that there was some concern about that, we did
9 not execute the documents, but I am submitting to you all those corporate
10 documents. We are prepared to go forward with the public benefit that we've
11 outlined with a public fund to be called the Patricia S. Feldman Fund in honor of the
12 mother of Ms. Feldman before you tonight.

13 So, we're prepared to do that and we can talk about that at the
14 appropriate time.

15 VICE CHAIRPERSON HOOD: Okay. That will be fine.

16 MR. COLLINS: Thank you. The second witness is Mr. Steven
17 Spurlock.

18 Mr. Spurlock, would you please identify yourself for the record
19 and proceed with your testimony?

20 MR. SPURLOCK: Good evening. My name is Steven Spurlock,
21 I'm a principal of Spurlock Architecture.

22 MR. COLLINS: Excuse me, I'm sorry.

23 While he's doing that, we have his written outline, his written
24 testimony we could submit and then he could just summarize that.

25 MR. SPURLOCK: I'll try to be as brief as I can.

26 I've been in practice for about 25 years. I'm based in the

1 neighborhood. We've done an extensive amount of work in the Sheridan-Kalorama
2 area which I've outlined a sampling of projects in my written testimony.

3 Just to give you a brief overview, the project site location is on
4 Wyoming Avenue in the block just east of Connecticut. It's on the south side.
5 Here's Connecticut Avenue. This is the property in question.

6 It's bordered on the east side by a large out of period hotel, the
7 Jurys Hotel. On the west side by a fifties-vintage duplex residential property and on
8 the south side by two large multi-family buildings. This is the Brighton. This is -- I
9 don't recall the address, but it's at the corner of California Street and Connecticut
10 Avenue.

11 The site is fairly flat. It has an initial rise-up from the street and
12 then it is a fairly flat site. Going to the back of the alley, it's slightly lower in the rear.

13 As the house was originally constructed -- the primary residence
14 or feature of the site is the mansion, which was constructed in 1907 in the Flemish
15 Revival style. It was originally constructed as a private residence and in the '30s at
16 some point in time, it was converted to use as a private school. It has remained a
17 private school until the Field School vacated it the summer of 2002. And at that
18 time, my client purchased it.

19 There's also a carriage house at the rear of the property, which
20 dates from an earlier time. I'm really not quite sure. I think it may be a late 19th
21 century structure.

22 As Dr. Feldman mentioned, we initially looked at a couple of
23 possible matter of right uses which would have sub-divided the existing mansion into
24 two units and then filled out the balance of this open space with two additional
25 townhouse units. That would have required removal of this porch and covering part
26 of historic resource and HPRB was not favorable with that approach.

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1 We also looked at several other possible as matter of right,
2 which were not really successful based on the impact to the mansion.

3 At that point in time, we approached the Office of Planning with
4 the variance idea. That was not supported and they suggested the PUD approach.

5 With the PUD in mind and the parameters of HPRB, you know,
6 our real challenge was to try to see what would really function best as a new building
7 with, you know, with the parameters of not trying to over-develop the site, to try to do
8 something that was appropriate and scaled to the neighborhood, appropriate and
9 scaled to the historic district and appropriate to the context and would allow us to
10 maintain as much visual ability to see the mansion and to see the context that it was
11 in.

12 What we ended up coming up with was basically a four
13 condominium apartment building, which is shown on the footprint here. It's a four
14 unit building. It's three stories plus basement/cellar. It is one unit per floor and I will
15 walk you through the floor plans in just a moment.

16 It's located in the open yard, which is really the only space
17 available. The Jurys Hotel has a large blank party wall which you can -- I think you
18 can see sort of in this photograph here and also in your packet. It's very unsightly
19 and I think what we're trying to do is sort of complete that part of that block and add
20 a visually interesting property to that site.

21 The building is actually -- we've raised it out of the ground based
22 on Mr. Mays' suggestion from the preliminary suggestion to get more air and light to
23 the lower floor unit. However, you know, from our perspective, it's very important,
24 and Dennis, is you would show the elevation below there. You can just leave it
25 there. It intentionally does not align with Jurys, but it is subordinate in height to
26 Jurys and as the building massing steps down with balconies and other architectural

1 elements, it tends to create a relationship with the existing mansion to the west.

2 The design is of a contemporary nature, which is in character
3 with Sheridan-Kalorama's sort of spirit of ongoing eclectic evolution. The District is
4 very well noted for that. We didn't really consider a historically derivative type of
5 style because we thought it would be a artificial and not appropriate to the quality of
6 the neighborhood and to the buildings in the neighborhood.

7 It does, however, incorporate various architectural elements like
8 the balconies, the materials are very consistent and it has the massing that's similar
9 to a larger townhouse structure.

10 We have the support of SKHA. We've worked with them very
11 carefully and we would appreciate their time and effort and we have the final
12 approval from HPRB for this design with the final sign-off delegated to staff level
13 once the construction documents are completed.

14 The building will be detailed with very high-quality materials
15 appropriate to the District and to my client's desires to bring and attract new
16 residential units to the neighborhood.

17 The primary entrance to the new building will be off Wyoming
18 Avenue with this walk here. There's also a secondary entrance to the rear where
19 there are four parking spaces located and a rear entry.

20 For the mansion, we propose to restore that structure to its
21 former glory. Our proposal is to subdivide that roughly, equally down the center into
22 two units. The unit to the west will have the existing front porch as the primary entry
23 and will retain the port co-share, which is the historic part of the structure. And the
24 east unit will have a walk along the front up to the open porch and then into one of
25 the former rooms which will be converted into an entry hall.

26 The carriage house will also be subdivided into two, two-car

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1 garage units with storage above and which will give the mansion actually four
2 parking spaces total for the two units.

3 However, we do request the option of retaining the mansion as a
4 single family residence, if a purchaser comes forward and request that.

5 As you can see, we have a rather long footprint and, Dennis, if
6 you could flip that -- this one over here -- this other board for me?

7 I will just briefly walk you through. This is the basement level.
8 There's an entry from the back. The main public rooms. It's a little bit of an unusual
9 footprint, but that's really based on historic requirements and our desire to maintain
10 as much space around the mansion as possible.

11 Each floor is arranged more or less in a similar sort of layout.
12 There's a central stair and elevator core. There's a rear entry from the parking,
13 living, dining, kitchen and then bedrooms to the front. The primary materials --
14 Dennis is you could flip this one back for me? This one here please.

15 This is an artist's rendering of the building. The primary
16 materials will be a brick -- a face brick box, which I brought samples of and we do
17 have handouts. I have to apologize. The color of the handouts, actually, would you
18 like to pass this around to look or can you see? I mean --

19 VICE CHAIRPERSON HOOD: I think we're fine for right now.

20 MR. SPURLOCK: Okay. We have a handout of this. It's a
21 Glenn Gary Brick. It's the Tuscan Series, Toledo Gray is the color that we're
22 proposing. And we're projecting bays that occur on the front side and one spot on
23 the rear, will be a natural limestone. I've brought several examples of a limestone.
24 The colors do vary a little bit because it is a natural organic material, but it will be
25 consistent with limestone trim that you see throughout the city on residential and
26 also on important buildings.

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1 The windows will be a metal window. Actually, if you would flip
2 to the board behind that, Dennis, and just move that one over for a second please.

3 The windows will be a metal window and I'm not referring to an
4 aluminum store-front sort of window, but a high-quality metal with a thin profile
5 product. And the cap will be a copper -- natural copper material which provides sort
6 of crown and an ending point for the building.

7 The existing port co-share is a driveway or historic in nature and
8 we will be maintaining those. The driveway will primarily be used for occasional use
9 by the owners, site access for maintenance and we assume for guest parking.
10 However, there will be eight parking spaces to the rear off the public alley.

11 Our written submission outlines several areas of flexibility which I
12 won't go through, but I think -- is there a handout as well for that, Dennis? Okay.
13 And there's a handout for that and those are basically the ability to respond to any
14 minor HPRB requests or D.C. Zoning -- or D.C. building code requests as the
15 drawings are completed.

16 I think that's probably just a summary.

17 MR. COLLINS: What I'd like to do now is just submit a couple of
18 items and one is the amended tabulation of development data. This is the --
19 appears at page 14 of the Applicant's pre-hearing statement. We've amended it to
20 reflect the request by Mr. May and others at the set down, that the building actually
21 rise up out of the ground a little bit to create more natural light for the lowest level.

22 We've put in some window wells and what that has done in our
23 tabulation development -- that has changed two things essentially. Number one, the
24 FAR. It's still a cellar for the most part, but at the point of measurement and also in
25 the rear it's a basement, because the point of measurement cuts right through the
26 middle of the building and that's where there's a window well so it becomes a

1 basement at that point in the story. The building height is changed somewhat and
2 the FAR has changed somewhat.

3 The FAR is now 1.31, which is .06 more than it was last time.
4 But we just wanted to update that for you.

5 We also have, although it is not a true color and despite our best
6 efforts, and I take your lead on this, Mr. Co-Chair of Vice Chair. Our photos and
7 material samples do not actually match the colors there, although this is a photo of
8 those samples. It's more of a buff color than this brick appears to be more reddish
9 as I'm holding it up in front of the commission for the record.

10 I will submit these, however, they do not give the true color.
11 What we can do is submit for you the actual name of the materials. I think Mr.
12 Spurlock did mention that the brick is Glenn Gary Tuscan Toledo Gray or we would
13 ask for some other commercially available equivalent to that and give you --

14 VICE CHAIRPERSON HOOD: Why don't we just see. You
15 obviously having a problem with the copy. Is that what you're saying?

16 MR. COLLINS: Yes. The copy and the photograph.

17 VICE CHAIRPERSON HOOD: So, we make sure that the record
18 is straight and there's no problem later on down the line, why don't we try to submit
19 that. I don't want to refer a copy to use, but why don't we try to redo the copies and
20 also submit maybe a sample or something for the record.

21 MR. COLLINS: All right. We also have several items of flexibility
22 that are just, again, a summary of what's in the booklet. This appears at page 30 of
23 the Applicant's pre-hearing statement but so that you have it in front of you, we have
24 the summary there is flexibility.

25 Well, we can give you the actual samples if you like, but I know
26 that to be folded to 11 x 17.

1 VICE CHAIRPERSON HOOD: I think pictures, I mean, if we can
2 get as close as possible in color coordination and also the name of the type of brick,
3 I think that will be fine.

4 MR. SPURLOCK: I'll make sure that's on the copy and I
5 apologize for the colors.

6 VICE CHAIRPERSON HOOD: Okay. It's no problem.

7 MR. COLLINS: I believe that's it, unless there are any questions,
8 I will go to the third and final witness, Mr. Steven Sher.

9 VICE CHAIRPERSON HOOD: He's just operating within a
10 minute, so this won't be long I'm sure.

11 MR. SHER: Good evening, Mr. Vice Chairman and members of
12 the Commission.

13 For the record, my name is Steven E. Sher, the director of
14 Zoning and Land Use Services with the law firm of Holland and Knight, 33 minutes
15 and 53 seconds. Boy, I can take my time tonight. But I'm not.

16 You will be handed momentarily the outline of testimony that I
17 would submit for the record. I think to sort of skip lightly over it as is my custom, you
18 know that the site is on the south side of Wyoming Avenue, 16,500 square feet. It
19 has a width of 100, a depth of 165 feet. The only frontage that the property has on
20 the street is on Wyoming Avenue, but it does front a ten-foot alley at the rear.

21 The existing zoning of the property is R3. It's been zoned that
22 way since 1958. What is proposed is to zone the property R5D.

23 The property immediately to the east is already zoned R5D, so
24 what we're seeking is to extend the boundary line a little bit further to the west.

25 R5D, if it were unfettered by the PUD would permit a 90-foot high
26 building and three and a half FAR, way more than what we're talking about here.

1 Obviously, the controls of the PUD in this case would restrict the development of the
2 property to what has been described to you.

3 The conversion of the existing building to either two units or
4 perhaps one unit, if one person wants to buy the whole thing, the construction of the
5 new apartment house of four units. The existing mansion is approximately 48 feet
6 high. The new building is approximately 48.32 feet high. Total FAR on the site
7 would be 1.31 existing and proposed. Eight parking spaces in the back, four in the
8 carriage house, four open spaces in the rear.

9 The proposed number of units, which would be six or potentially
10 five, is less than the theoretical density that will be permitted under the current R3
11 zoning. R3 requires a 2,000 square foot minimum lot area for a townhouse. If you
12 could create a subdivision that would comply you could, in theory, get eight single
13 family houses on a lot this size. It's not configured that way because of the historic
14 house and the way the property is shaped. But whereas the current density allows
15 eight, we're seeking five or six, the gross floor area is less than either what's allowed
16 under R5D or, in theory, what could be built under R3 today, even though R3
17 doesn't have an FAR, you take a 60 percent lot occupancy over three stories, you
18 get more bulk than what we're talking about.

19 With respect to the PUD evaluation standards of Chapter 24, the
20 impact of the project must be determined by the Commission to be favorable,
21 favorable being mitigated or acceptable.

22 What we're doing here is we're replacing a private school use
23 with residential use in constructing a small new apartment house. The proposed
24 height is less than the height of the existing buildings to the east and the south
25 across the alley.

26 It will be a transition to the single family and diplomatic uses that

1 occur as you go west along Wyoming Avenue. The proposed density as I just said
2 is less than the number of units in the book now permitted and certainly represents a
3 decrease in intensity from the prior school use.

4 We have talked a little bit about benefits and amenities that the
5 Commission is required to judge, balance and reconcile the relative value of project
6 amenities with what the Applicant is seeking from the Commission.

7 I'd like to start from the premise that what is most important
8 about this case is (a) you're getting residential use on a property that hasn't been
9 used that way in a long time, (b) you're getting the historic preservation of the
10 mansion, (c) you're getting the retention of the open space between the existing
11 building and the new building created and you can see it in the green on the site
12 plan that's on the easel to my right, your left. And then lastly you get the urban
13 design relationships created between the existing historic structure and I described
14 it as the unsympathetic 1970 era hotel to the immediate east.

15 And then lastly you get this community benefit of the \$90,000
16 fund, which has been discussed at some length already by Ms. Feldman. And what
17 that's balanced against is no increase in height over the existing matter of right, less
18 bulk than now permitted and the only areas of flexibility we're asking for is a roof
19 structure which doesn't meet the set back requirements on the east side adjacent to
20 the hotel where the hotel already has its roof structure. And the fact that we will
21 ultimately wind up having two buildings on a single lot, which if not for the PUD, we
22 would have to go to the BZA for a special except, but, again, it's not a big deal.

23 In my mind, the package of amenities is sufficient to justify the
24 Commission's approval of the PUD and I say that with or without the consideration
25 of the extra \$90,000 communities benefit. We're serious about that and Ms.
26 Feldman has explained why she's proposing to do that the way it is. But I think from

1 a zoning and land use point of view, you have ample justification based on the use,
2 the preservation, the open space and the design to approve the PUD without having
3 to worry about whether the \$90,000 give you the extra leverage to get to the
4 approval point.

5 With respect to the Comprehensive Plan, the property is in the
6 moderate density residential land use category and that is defined to include row
7 houses and garden apartments as the predominant uses and you know what we
8 have here. And on pages 10, 11, 12 and 13 of the outlines, I've gone through in
9 detail all the relevant policies of the Comprehensive Plans and I think we are not
10 inconsistent with the Comprehensive Plan. I don't think there's much of a question
11 about that.

12 So, when I get to the bottom line, I say what do you do with this
13 project? Well, it's clearly not inconsistent with the Comprehensive Plan. It's within
14 the applicable height/bulk standards of the regulations, consistent with the height
15 and density of the present zoning, even though we're asking to go to R5D, it
16 provides for small in-fill development, while converting the prior intention of
17 nonresidential use to single family residential and the additional four apartment
18 units.

19 As Ms. Feldman described earlier, there we a number of ways
20 that this could have been approached. It could have been a variance case where
21 we went to the BZA to seek certain kinds of relief, but I think in discussion with
22 everybody, the level of comfort in coming to this Commission for a PUD was the
23 best way to approach the project.

24 It's a small project. It's probably -- I don't know if it's the smallest
25 one you've ever seen, because I can think of one that probably was smaller, but
26 certainly the smallest one you've seen in a long time. When you think about

1 McCarthur, Capper/ Carrollsburg or Department of Transportation or Station Place
2 or any, you know, IMF or any of the things that you've seen lately, this one hardly
3 makes a blip on the radar screen, but it's important. It's important to this particular
4 neighborhood and this particular site. It seems to be the way for the Commission to
5 approve with conditions what we've proposed, rather than the broader development
6 allowed under R5D.

7 I think the balance of benefits and amenities against what the
8 developer is asking for in the way of incentives and flexibility clearly weigh in favor of
9 the city and I believe you should approve the application.

10 Thank you very much.

11 MR. COLLINS: That concludes our direct testimony. We're
12 certainly available at this time for questions.

13 VICE CHAIRPERSON HOOD: Okay. Thank you for the
14 presentation.

15 Let me first do this. For those who came in late, there's a sign-in
16 sheet to the left on the table by the door. You must sign up if you wish to t testify.

17 Are there any representative from the ANC? Okay. And let me
18 just do a few housekeeping and find out who is in the audience.

19 Is there anyone here in opposition? Is anyone here in
20 opposition? Anyone here wishing to testify in support? Okay. All right.

21 Commissioners, do we have any questions?

22 I would tell you that I have a few of my own and I also have
23 some for the Chair, but I'll go last. Maybe she'll get here and she can ask her own
24 questions. But we can start off, I guess, whichever one. Okay.

25 COMMISSIONER MAY: Thanks. Yes. I have a few.

26 First of all, picking up on what Mr. Sher just stated, I'm very glad

1 to see this project as a PUD, because it's much more comforting being able to
2 evaluate the totality of it in this circumstance than if it were put together as some sort
3 of variance case, which would have its own set of complications.

4 And it's also an exciting project in many ways so it's also very
5 interesting to see. It's also interesting to see how its changed a bit from the previous
6 design, not too much but I assume that a lot of that had to do with historic
7 preservation review.

8 Unfortunately, I just wrote my questions down randomly, so I'm
9 going to be bouncing around. I didn't get a chance to sort of sort it out here.

10 Let's see. The first question is probably the biggest unresolved
11 issue for me is, the relationship between the two buildings, strictly from a zoning
12 point of view and in terms of the required open spaces. If this were a single property
13 and we had the two buildings on it, and without theoretical division of those
14 properties, there is a courtyard issue that would have to be addressed, because
15 anytime you have two surfaces, you have a courtyard. Two building surfaces.

16 But the theoretical lot division addresses that, at least the way
17 I'm interpreting the case. But with the theoretical lot division, then there are side
18 yard requirements that enter into the equation and I'm wondering how, under that
19 circumstance, this meets side yard requirements for a multi-unit building in an R5D
20 district or a semi-detached or single family home in an R5D district and if there is
21 some sort of relief that's necessary in that area?

22 MR. SHER: What is contemplated in the long run is that this
23 would be a single record lot and then it would be divided into most likely a
24 condominium regime for the four units in the apartment building and that the two or
25 one unit in the mansion would be sold and be simple. We have to devise some lot
26 lines that run through things and whatever and --

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1 COMMISSIONER MAY: Around the powder room?

2 MR. SHER: It's not the typical straight line, you know, lot through
3 the back and there are some complications, particularly with the interior spaces in
4 the mansion that will require some depth description and engineering and drawing,
5 but it can be done.

6 COMMISSIONER MAY: I'll trust you on that. I'm imagining this
7 property line running around the powder room.

8 MR. SHER: Well, yes, it might, you know. There's no reason it
9 has to be a straight line. It can do what it needs to do.

10 What happens is when you look at the R5D standards, it's a 75
11 percent lot occupancy so we're okay with anything we need to do there as opposed
12 to what other zones might be.

13 The side yard requirements, again, I don't want to harp back too
14 far to Capper/Carrollsborg because we get creative when you draw lot lines and
15 things like that and, in fact, one of the theoretical outlines actually follows the east
16 wall of the mansion so it's going to go right down the wall of that lot and it's going to
17 do duit, duit, and it's going to go around the bays so there's no side yard for that
18 unit. Doesn't have to have a side hard. No side yard is required so the open space
19 is all attributed to the lot of the apartment house.

20 COMMISSIONER MAY: This is where I might differ, because if
21 it's a -- if you're going to draw a line down the middle of the property and you have
22 an R5D district and it's a semi-detached property, you have to follow the side yard
23 requirements for an R2 district, which calls for a side yard anytime you have a free-
24 standing side.

25 MR. SHER: Well, in effect, it's not a semi-detached dwelling.
26 That one happens to be a row dwelling, because it doesn't have a side yard on

1 either side. It's on the lot line on both sides.

2 COMMISSIONER MAY: Okay. Well, this is something I think
3 that the whole Commission is going to have to weigh in on. It was the subject of a
4 recent BZA case and --

5 MR. SHER: I understand that and --

6 COMMISSIONER MAY: -- we need to get some clear reading
7 on that. But I'd like to see this actually addressed in writing so we can weigh in on
8 this as a Commission.

9 MR. SHER: Okay. It's not been something that's had a lot of
10 question over time, but I know that there was a case where that came up before the
11 Board on Constitution Avenue, N.E., I believe --

12 COMMISSIONER MAY: Yes.

13 MR. SHER: -- and I read the Board's decision and it certainly if a
14 variance with what I understood the -- bad term. Forget variance. It was different
15 than what I understand the way those regs have ben consistently interpreted, but
16 that's okay.

17 What you then wind up with is the side yard on the west side is
18 okay in the side yard. You don't have a side yard on the east side of the apartment
19 house so I think that's how we meet that.

20 COMMISSIONER MAY: But then wouldn't you have to address
21 the side yard for the condo building?

22 MR. SHER: Well, that's the green space between the two units.

23
24 COMMISSIONER MAY: And we don't have any dimensions on
25 our drawings that indicate that it actually complies with the requirements. That's part
26 of the issue.

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1 MR. SHER: I think we did review that and I believe it does.

2 COMMISSIONER MAY: Okay. Well, that needs to be
3 documented as well, because --

4 MR. SHER: We sort of went through and put the scale across
5 there and concluded that it did comply, but we can dimension it.

6 COMMISSIONER MAY: Okay. We would need that, I think, or I
7 would like to see that. Okay.

8 The parking spaces on the back, it doesn't show it well there, but
9 you had another drawing that showed the four spaces on the path and right across
10 from that, there's a very close yard and I'm just wondering. Are those -- are you
11 really going to be able to turn a car into all those spaces with that narrow an alley
12 there?

13 MR. SPURLOCK: It may required a little bit of maneuvering, but
14 yes. And there are other examples of open parking spaces further up the alley. I
15 don't have the addresses with me, but --

16 COMMISSIONER MAY: Because I would just be afraid that, you
17 know, widen them so much that you wind up losing a space or something, not that
18 it's -- I mean, you already have sufficient parking, so I don't think that's really an
19 issue, but I just wanted to raise the question.

20 I'm looking at the plan right here. This is back to the property
21 line question. Sorry. I told you I was going to be jumping around.

22 I see a different property line from what's in the package that we
23 received. Is this more recent or less recent?

24 MR. SPURLOCK: It's less recent.

25 COMMISSIONER MAY: Okay. And let's see.

26 The material for the bays, which is the limestone, you seem to

1 have gone through a change in module from the original drawings to what you have
2 right now and it looks like it's a six or an eight inch height. What is it now and why is
3 it that way, because it looked more stony before. Now it looking kind of --

4 MR. SPURLOCK: That was a request by the historic association
5 in the neighborhood. We have been given latitude by HPRB to study that a little
6 further and I agree with you, we would probably like to make it a little larger in size.

7 COMMISSIONER MAY: Yes.

8 MR. SPURLOCK: And that would occur. I intent is that it would
9 look like stone.

10 COMMISSIONER MAY: Right.

11 MR. SPURLOCK: That it be detailed very crisply, not big reg
12 joints and not to look like modular block or --

13 COMMISSIONER MAY: Right. Yes.

14 MR. SPURLOCK: -- some kind of synthetic block.

15 COMMISSIONER MAY: It's that eight inch dimension, that's
16 correct and --

17 MR. SPURLOCK: And that's something that we're going to.

18 COMMISSIONER MAY: Mr. Sher has already answered some of
19 my questions without my asking them. I appreciate that.

20 How do you divide the house into units? It's not going to be a
21 condominium. It's going to be a simple separation.

22 MR. SHER: Carefully.

23 COMMISSIONER MAY: One of the areas of flexibility that you
24 requested had to do with the minor refinements to the exterior details and
25 dimensions that comply with the building code and looking at the rendering that you
26 had before and I don't really have a good sense of this, but have you looked at the

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1 issue of percentage of openings on that wall, because I'm afraid that that facade
2 could change dramatically if you're not close to what the building code require?

3 MR. SPURLOCK: In what context?

4 COMMISSIONER MAY: Well, I mean --

5 MR. SPURLOCK: In terms of energy code or --

6 COMMISSIONER MAY: No. In terms of fire. It's a structural
7 code that says that you can't have more than 20 percent openings when you're, I
8 don't know, 15 feet away and, you know, each further distance away, you are
9 allowed a greater percentage of opening on that wall that faces another building. I
10 mean, the existing building, obviously, is grand fathered with regard to that code, but
11 in terms of the new building, I don't now -- and I don't recall what the specifics of the
12 code are, but I don't think you can get a lot of opening when you're 15/20 feet away.
13 I just don't recall what it is and I was wondering if you had looked at that already?

14 MR. SHER: We have not studied that in detail. That's something
15 we certainly will do.

16 COMMISSIONER MAY: I think I'd like to see some sort of
17 calculation of that in comparison to the building code. Normally we don't stray into
18 building code issues, but if it has the -- runs the risk of being a significant change to
19 the elevations, then I think we'd want to know --

20 MR. SPURLOCK: Certainly, we'll do that.

21 COMMISSIONER MAY: -- if that's within the realm of possibility.

22 The other thing that's -- there are a couple of things in the
23 drawings et that just aren't very clear because the dimensions aren't provided. One
24 was the, you know, the distances between the buildings. The various set backs, you
25 know, rear yards, things like that. I mean, I know there's no relief requested, but
26 without getting out of scale, it's hard to know even when we're, you know, close to

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1 anything or if there is any potential issue with anything.

2 So, it wouldn't be bad having a site plan that has a few more
3 dimensions on it or having -- I'm not even sure that we have -- it's hard to recall right
4 now, but do we have a section or an elevation that gives us the building height
5 measuring point for 5D, R5D? Is that actually shown in the drawing?

6 MR. SPURLOCK: believe it is shown in the elevations in your
7 packet.

8 COMMISSIONER MAY: Okay. That is the zero point that we
9 have on the --

10 MR. SPURLOCK: Yes.

11 MR. SHER: It's shown on most of the drawings, but on the -- you
12 can look at A12, which is the rear elevation of the mansion. The one I was looking
13 for was A11, which is the Wyoming Avenue elevation, which shows the points of
14 measurement, high point of the roof, ceiling of the top story and so forth.

15 COMMISSIONER MAY: Okay. So, we -- I guess what threw me
16 on this is that I'm measuring off of 180, I guess, one can figure that out, but wait a
17 minute. This is right. 180. You got 3.17 but you tell me 48. Something.

18 MR. SHER: Okay. There are two ways -- if this is R5D, which is
19 --

20 COMMISSIONER MAY: And that's what I care about.

21 MR. SHER: -- you measure from the top of the curb to the top of
22 the roof. And the top of the curb is at 172, more or less on the two buildings, and
23 the top of the roof is 220 on the one and 220.25 and 220.92.

24 COMMISSIONER MAY: Good. Okay.

25 MR. SHER: If it's R3, you measure from the finish grade at the
26 front to the ceiling of the top story.

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1 COMMISSIONER MAY: Right.

2 MR. SHER: So, it's either 48 or 34 and 48 or 33, but if you're
3 measuring under R5D, it's 48.

4 COMMISSIONER MAY: Okay.

5 MR. SHER: Those are the dimension that were used.

6 COMMISSIONER MAY: Let me make the suggestion that it
7 makes it a lot easier to understand this when somebody actually runs one dimension
8 string that goes from the height of the building where you're measuring it from to the
9 top of the building, instead of having to decipher that, because, you know, I'll wind
10 up flipping pages trying to find the information. And I know it's there somewhere.
11 It's just finding it and if it's hard for me and I'm an architect, it's harder for -- could be
12 harder for others.

13 The -- let's see. Now, I've lost my page with all the questions.
14 Found it. Okay.

15 The last question I have goes to the amenity, the \$90,000
16 donation, and that, I'm sure you're aware, that the code when it addresses off-side
17 amenities, that there's a specific requirement that it addressed some public need or
18 public benefit and it's very difficult for the Commission to be certain of what that is
19 when, essentially, it's going to the ANC or to some corporation that's that is not --
20 basically not us.

21 And so I'm not sure that even with the good intentions and with
22 the protections that are there, that we can, in fact, be complying with our own
23 regulations when we venture down this road of having such an unspecific kind of
24 amenity.

25 And, I guess, maybe you know, this is something that can be
26 addressed in writing as well. I don't know, but I'm just concerned that we're

1 venturing into something where we don't really have the authority to do it.

2 You know the specific language that I'm referring to, Mr. Sher.
3 Right? It's 240313A. There is a clear public policy -- public policy relationship
4 between the PUD proposal and the off-site benefit.

5 MR. SHER: Right. I think one of the reasons why Mr. Collins
6 earlier submitted the proposed organizational documents for the entity is to
7 demonstrate that we have drafted the thing actually with this provision very much in
8 mind and attempted to limit the ways that those funds could be expended in
9 accordance with the regulations.

10 I understand the dilemma, I do. And, in fact, we've had
11 extensive discussions knowing the Commission's preference for wanting to see a
12 tangible project or benefit or program or something that could be assessed, if
13 somebody said I'm going to put computers in the Ross School, which a project did.
14 Everybody knows where the Ross School is. Everybody knows what a computer is.
15 You can assess whether that's something that's a positive benefit to the city and the
16 neighborhood as it relates to what's going on.

17 Again, this is a small project. It is a relatively compact area,
18 particularly, when you look at the boundaries of ANC-2D, which is much smaller
19 than many of the ANCs and as we define how we're going to use this money in the
20 area that it would be used in. It doesn't trouble me as much as it troubles you,
21 obviously, but you have to make the decision and I'm only sitting down here trying to
22 tell you what my experience with these things has been and I don't want to launch
23 into a big discussion about how we got to this point today. But if you went back and
24 -- John's the only one who might remember this -- if you went back some of the
25 PUDs that came before the Commission in, I'll say the late 1980's, everybody was
26 looking at what's the dollar value of, particularly, for commercial developments.

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1 What's the dollar value of extra FAR that an applicant is getting and how much of
2 that dollar value should the applicant be putting back into something?

3 And from that, we sort of evolved into a lot of different directions
4 and, in fact, again the Commission's own regulations, which were adopted
5 subsequent to some of those things actually use a word that kind of hoists you on
6 that. It says you have to judge, balance and reconcile the relative value of amenities
7 and benefits versus what the applicant is using. So, how do you measure value?
8 Well, value often gets measured in terms of dollars.

9 I could say an apartment house like this in place of a private
10 school has a lot of value to the neighborhood, but how do you judge the relative
11 value of that? It's not something you could put in dollar terms. So, how do you deal
12 with all that? I don't want to sound like a Supreme Court Justice, you know it when
13 you see it but, you know, what you got here is a project that offers a lot on a small
14 site; a lot of benefits, not a lot of development on a small site with an offset that
15 evolved out of discussions with the ANC in particular.

16 I know the ANC is anxious to give you their thoughts about why
17 this is the way to go.

18 As Ms. Feldman said before, one of the other ways that this
19 could happen is she could pick something. She could say, I've got \$90,000 and
20 we're going to put sidewalks on, you know, the south side of Wyoming Avenue
21 between 23rd Street and Connecticut Avenue. And you'd say, great, I know what
22 that is. But maybe that's because the first guy who came in the door got there with
23 sidewalks and there really is a better way to do it. And so what all this is about was
24 trying to figure out, is there a better way to do it that gives you the level of comfort
25 that you know that what is coming back to the city will ultimately, even if you don't
26 know exactly what it is, will ultimately be consistent with the purposes of the

1 regulations. That's my attempt anyhow.

2 MR. COLLINS: May I add something to that. I know that you
3 drafted your questions before you arrived this evening, but you may want to take a
4 look at the proposed public benefit that was submitted, the amended with the red
5 line document. It's called Proposed Public Benefits on Zoning Commission Case
6 No. 03-24. It's a red line document that was developed after we met with the Office
7 of Planning, which we attempted to be very specific to address, what I anticipate
8 your question to be, be very specific on the issue of what, you know, nailing it down,
9 putting four corners around it so everyone would understand what it is.

10 I'm not going to read it to you but you can see where we struck
11 general language and replaced it with more specific language about what these
12 public space projects would be and what other programs could be. Without
13 identifying them, we gave them fairly close parameters so that the box wasn't that
14 large that you had to fit in. You had to bring either a project or a program that fit
15 within this, either a public space project or some kind of program that would occur
16 within the ANC, but more importantly, the other language that appears there.

17 So, we have attempted and we're certainly happy to explore that
18 further and as Steve Sher mentioned, the ANC is certainly here to give their
19 thoughts on why this is important to them and hopefully their view will be entitled to
20 great weight in this regard as well.

21 COMMISSIONER MAY: Well, I attempted to speed read this, but
22 I was having such difficulty concentrating on Mr. Sher's speech at the slower speed.
23 It's very hard to follow when he's not talking at that really high speed.

24 Anyway, I think this, having read it now, it does start to address
25 it. I'm not sure if it's sufficient. We'll have to consider that further and I don't know if
26 anyone else has follow up questions on this particular issue, but actually I'm done

1 anyway so I'll just turn it over.

2 COMMISSIONER PARSONS: I did, and so I'm just going to --
3 Mr. Sher, I remember. I better watch out, because I don't want to send anybody on
4 a goose chase here -- something on the west end that sounds just like this, 10-15
5 years ago. I think we've done this before and of all the people in the city that has
6 access to those kinds of things, not only in your brain, but in your computer, am I
7 making this up? I think --

8 MR. SHER: The one I'm thinking of and I didn't, you know, you
9 said it and then it was occurring to me before. We weren't involved in the case, but
10 didn't George Washington University propose a community endowment type thing in
11 one of the PUDs they did?

12 COMMISSIONER PARSONS: That's --

13 MR. SHER: Maybe the revised AGC project?

14 COMMISSIONER PARSONS: I remembering it somewhere. We
15 went through this same discussion and I same to the conclusion that we --

16 MR. SHER: I can look that one up fairly easily tomorrow,
17 obviously, not now, but I wasn't involved in that case and I'm not -- but I just seem to
18 remember that was part of the discussion at some point. I don't remember one, you
19 know, the PUDs we did in the west end, 2200 M Street, 2401 Pennsylvania. I don't
20 remember it being any of those, but the GW was the one that sort of rings a bell in
21 my head.

22 COMMISSIONER MAY: The GW case, there was a specific
23 purpose for that fund when it was set up and it was to establish a feeding program.
24 That's the one I think you're referring to.

25 MR. COLLINS: The AGC associated --

26 MR. SHER: We had the feeding program and the INF case

1 which was also --

2 MR. COLLINS: Oh, that was the INF one.

3 MR. SHER: -- but I think in the other one --

4 COMMISSIONER MAY: Are you talking about the original AGC?

5 MR. SHER: Talking about the modified one.

6 COMMISSIONER MAY: The modified one?

7 MR. SHER: More recently before the Commission where the

8 university ultimately struck an agreement with the ANC about how to proceed with

9 that, I thought. Maybe I'm making that up, but I can --

10 COMMISSIONER MAY: I think the agreement was with Foggy

11 Bottom Association.

12 COMMISSIONER PARSONS: All this is to say, I don't have a

13 problem with the proposal that you submitted tonight, that is, the red line version as

14 you're calling it. But I know we've had this discussion before.

15 But my thinking is, it's like 15 years ago, not recently.

16 MR. SHER: We can look for that. I don't remember.

17 COMMISSIONER PARSONS: Well, it depends on how the

18 debate goes here too, but --

19 MR. SHER: When and I are the only ones who remember things

20 like that, we know we're both in trouble.

21 COMMISSIONER PARSONS: Yes. We are.

22 It's curious to me why flexibility is being asked for in a

23 penthouse. I mean, is a penthouse drawn here? It's butting up against the adjacent

24 hotel? What's the flexibility?

25 MR. SHER: Yes. It's not set back equal to its height from the

26 west lot line. East lot line, I'm sorry.

1 COMMISSIONER PARSONS: Oh, I understand that, but
2 normally flexibility is required when you may need to move it as a result of some
3 code or provision process. That's not what's being sought here?

4 MR. SHER: No. We're not asking for flexibility to change the
5 penthouse. We are asking for relief -- for the Commission to approve a penthouse
6 that doesn't meet the normal one-to-one setback. Maybe I miss stated that.

7 COMMISSIONER PARSONS: So, I would suggest that you not
8 list that as a flexibility issue.

9 MR. SHER: Okay. It's --

10 COMMISSIONER PARSONS: Like you would the color of brick.

11 MR. SHER: Right. There are two categories of things that we
12 sort of included in that whole package.

13 The two are areas where the Commission is granting relief from
14 the regulations that we would ordinarily have to go to the BZA for.

15 COMMISSIONER PARSONS: Those are the first two.

16 MR. SHER: The penthouse and the multiple buildings.

17 COMMISSIONER PARSONS: Right.

18 MR. SHER: The others are the typical range of conditions, which
19 I think are almost standard these days as to what the Commission allows --

20 COMMISSIONER PARSONS: Right.

21 MR. SHER: -- for those kinds of things.

22 COMMISSIONER PARSONS: So, I'm only suggesting that --

23 MR. SHER: Yes. We put them on the same piece of paper.

24 COMMISSIONER PARSONS: -- you pull it apart so as not to
25 confuse the elder Commissioners.

26 I understand from a staff memo that this A-10 landscape plan is

1 going to be enhanced and a plant list developed in the traditional way that we see
2 them and I guess it was Mr. Spurlock that talked about the use of this driveway, that
3 is, the one that goes into the port co-share. That's not counted for parking.

4 MR. SPURLOCK: That's correct. I mean, it could be used as -- I
5 mean, we'd like to keep the driveway because it is an historic element, the port co-
6 share is an historic element to the building.

7 COMMISSIONER PARSONS: Yes. So, what are you doing to
8 discourage the future owners and occupants from using this as a parking lot? Is
9 there a gate or something that would make it --

10 MR. SPURLOCK: We're not proposing a gate. No. That's
11 something that the community actually, you know, we initially actually didn't mention
12 that as a suggestion and the community strongly objects to that. And historically we
13 wouldn't.

14 COMMISSIONER PARSONS: It's just going to be a beautiful
15 space and it's a shame to load it up with SUVs.

16 MS. FELDMAN: Yes. I completely agree with you and the path
17 that we've taken is, here speaking just as the developer, is we in our marketing of
18 the property through Sotheby's, we do not -- we're not marketing that as space that
19 is available for parking and we intend to do fairly detailed landscaping around the
20 space and not to do sort of like and I don't think we could historically, but lay down
21 what looks down like, you know, gravel or the sort of thing that would invite people to
22 just park there.

23 And so we are trying to basically balance between leaving that
24 space on the advice of our architect and his preservation -- his advice is based on
25 his preservation credentials -- to not eliminate a historic feature. That was also
26 important to HPRB, but we don't want to market that space, a space that's available

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1 for parking so (a) we're not advertising that and (b) we do intend to landscape in
2 such a way that the people who are in the condominium -- I mean, obviously, it's in
3 their interest to have a nice view, not to be looking at a sea of SUVs. So, if you just
4 want to get right down to the substance of the matter, it's not in our interest to
5 landscape that area in a way that invites that.

6 I realize that's just a water tight answer, but it is the answer.

7 COMMISSIONER PARSONS: So does -- is the concept, the
8 idea of a gate make any sense historically or -- of course, I want the gate welded
9 shut.

10 MS. FELDMAN: Right.

11 MS. EIG: Where are you proposing this gate to be located?

12 COMMISSIONER PARSONS: At the back of the sidewalk.

13 MS. EIG: The back of the sidewalk?

14 COMMISSIONER PARSONS: Right. The entrance to the paved
15 driveway.

16 MR. SHER: Sheridan-Kalorama is the historic district for which
17 the automobile played a critical role in the development of the housing. It is the first
18 historic district -- I should say, the oldest historic district that actually also includes
19 automobiles. And we are in an interesting situation here because the driveway and
20 the port co-share and that constitutive access is, in fact, for the first time a character-
21 defining feature as opposed to what we typically face with this sort of district is that
22 we want curb cuts, we don't have an access like this. But here is something that is
23 significant.

24 There never would have been a gate there.

25 COMMISSIONER PARSONS: All right. I knew that was the
26 answer.

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1 MS. FELDMAN: Yes. I'm going to ultimately let the ANC speak
2 to this, but I'm going to make a few comments related -- I know exactly what you're
3 talking about, not so much from the experience of working with funding set up for
4 PUDs, but grant money that I have been in charge of in the academic world. And
5 throughout the design of this, the model that's been in the back of my is, how do you
6 have safeguards that insure from a public policy perspective -- I mean, your
7 perspective, that the money is spent on projects that in line with the zoning
8 regulation that you and Mr. Sher were discussing? How do you put a time limit on it
9 so that it's just floating out there and how do you motivate the people in the
10 neighborhood, not just to participate but to participate constructively so they don't
11 just end up dumping the money into the housing trust fund?

12 I believe that by having that deadline in place and by having the
13 ANC Commissioners and I'm sure that Commissioner Candon will speak to this,
14 devise a procedure through which to give notice to people. Well, I guess, this is
15 really three points.

16 One, the deadline in a way motivates people to stop bickering
17 and decide because there's a way in which, if you don't -- if you don't come up with
18 sharp proposals that the ANC can recommend, then the money goes to the trust,
19 you know, to the default mechanisms. So, I see that as an incentive to guard
20 against that.

21 The second point that I would make is I agree \$90,000 is a lot of
22 money. And we had a very, I mean, I had a very extensive discussion with my
23 business partner about why we were willing to -- one of the proposals that had come
24 to us that would have looked more conventional would have cost \$68,000 and he
25 said, well why are we doing a \$90,000 fund? And I said, well, you know, you're
26 doing roughly 10 percent of the value. The value is swishy, but this is how we went

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1 through it.

2 Since it is a lot of money, what we've done to make sure that it
3 gets spent and it gets spent on the right type of projects and it gets spent
4 responsibly is put in the two-layer mechanism.

5 One, the ANC takes proposals. They then refer those to the
6 board of the nonprofit. The reason that it would probably
7 be me, but it would be either me or my business partner, but we'll sit on that board,
8 is because we are committed to seeing the money go to neighborhood amenities
9 that abide with the spirit, not just the letter of the rule.

10 So, I guess, to sum that up, I think the ANC is motivated to elicit
11 sharp proposals and it's in my interest as a person who would be sitting on this
12 board to see those proposals funded as expeditiously as possible. I don't think
13 anyone wants to sit around and allow that money to just go to waste. And I think the
14 groups in the neighborhood don't want that to happen. So, I don't -- let me put it this
15 way. I anticipate some level of bickering, but not to the level that we end up just
16 frittering away the money.

17 VICE CHAIRPERSON HOOD: Okay. I guess your explanation
18 helped me -- gave me a better comfort level, because you do have a default
19 mechanism in place. But I would hate to see that neighborhood lose out on this
20 piece.

21 I just wanted to make sure that all that was thought through,
22 because when the rubber meets the road, and it's time to make a decision with the
23 money, I don't how things can change, but they do.

24 MS. FELDMAN: May I just add one last point, which I think, I
25 mean, it's a little hard to enhance your own credibility, but I live in the neighborhood
26 and as a Georgetown professor, it is directly against my self interest to get up to

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1 monkey business with this money.

2 And so I would take not only, under any circumstances, my
3 fiduciary responsibility to the nonprofit quite seriously, but when the rubber hits the
4 road, I have a lot at stake in making sure that the money stays in the right place.

5 VICE CHAIRPERSON HOOD: Okay. That's it. Thank you.

6 For the record, I will just -- for the record, we've been joined by
7 Chairperson Mitten. Carol Mitten.

8 If she doesn't mind, I'll finish asking my questions.

9 CHAIRPERSON MITTEN: That would be great. Thank you.

10 VICE CHAIRPERSON HOOD: And I saved yours so you can ask
11 so that was good timing.

12 The other thing, Mr. Spurlock, you mentioned about if a buyer
13 comes up and this would change that you would still see it as a single family home?
14 Was that in your testimony?

15 MR. SPURLOCK: That's correct.

16 VICE CHAIRPERSON HOOD: At what point -- if we go through
17 all the approval, at what point will that not be the case? I mean, definitely after
18 construction. I understand that. But at what point along the process, before
19 construction, will that not be the case?

20 MR. SPURLOCK: I'm not sure. You want to try that?

21 MS. FELDMAN: I think I might be the better person to answer
22 that because it goes to marketing.

23 Basically, given the timing of this process, we have the mansion
24 currently listed for sale as a single unit.

25 If we do not have a buyer -- I can carry the mansion essentially
26 as a single unit, because in a way, it would just be a shame to subdivide it. It's not

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1 really a profit issue. It's more an esthetic issue because Mr. Spurlock designed it so
2 that it can easily subdivided.

3 We have had some interest in this. If you look at the comps in
4 the District and in Kalorama, the likelihood of selling approximately a 1,200 square
5 foot mansion to a single buyer, 12,000, I'm sorry, square foot mansion to a single
6 buyer, is very small.

7 One of the reasons that we cooperated with the Kennedy Center
8 was to highlight the mansion and to, perhaps, motivate somebody to use it as a
9 residence, even though it's very large.

10 Essentially, from a financial point of view, around December we
11 would be making that decision. I mean, if we do not have interest -- so, we would
12 have basically spent the fall marketing it as a single family dwelling. And then
13 around December we would have to make the decision and probably at that point if
14 we did not have interest, we would subdivide.

15 VICE CHAIRPERSON HOOD: Let me ask you a question.

16 I notice on like A13 and I'm not going to say I'm not an architect
17 because I'm becoming one. The top of roof obviously has to be maintained because
18 of historic purposes. Am I correct?

19 MR. SPURLOCK: The roof of the mansion?

20 VICE CHAIRPERSON HOOD: Right.

21 MR. SPURLOCK: Yes.

22 VICE CHAIRPERSON HOOD: And what is that roof called?

23 MR. SPURLOCK: It's clay tile. A barrel tile --

24 VICE CHAIRPERSON HOOD: A very --

25 MR. SPURLOCK: Clay tile. Yes.

26 VICE CHAIRPERSON HOOD: is that indicative of the

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1 surrounding neighborhood? Is that the type of roofing --

2 MR. SPURLOCK: It's not -- it is somewhat prevalent in the
3 neighborhood. Yes. There's typically either slate, metal or copper traditionally or
4 the barrel tile roof is the prevalent materials in the neighborhood.

5 VICE CHAIRPERSON HOOD: And what type of roof is going to
6 be on the other part?

7 MR. SPURLOCK: On the new building it will be a flat -- copper at
8 the exposed edge, which will blend in with the copper trim on the metal roof as well
9 as other buildings in the neighborhood and it will be a flat roof, you know, on eye
10 sight.

11 VICE CHAIRPERSON HOOD: Would A11 give me my best
12 picture to look at as far as --

13 MR. SPURLOCK: Yes, sir.

14 VICE CHAIRPERSON HOOD: A11 would give me the best view
15 of that?

16 MR. SPURLOCK: Yes.

17 VICE CHAIRPERSON HOOD: Okay. I have it up here. I just
18 trying to look for the relationship.

19 Okay. With that, Madam Chair, that's all the questions, I
20 believe, I have. Thank you.

21 CHAIRPERSON MITTEN: Thank you and thank you, Mr. Hood,
22 for stepping in for me and I apologize for being late. I'm glad to be able to join you.

23 I just had a couple of questions. On A5 and I hope none of them
24 are repetitive. I see the basement of the proposed new construction and then I see
25 the basement of the existing building, but there's no uses designated.

26 MR. SPURLOCK: That has not been developed yet. And we've

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1 not -- we've focused our attention on the subdivision of the building from the first
2 floor up. So, we haven't designed the basement spaces yet.

3 CHAIRPERSON MITTEN: Well, I guess you're coming to us and
4 representing that there's going to be --

5 MR. SPURLOCK: They would primarily be used as mechanical
6 utility spaces. There may be some living space down there, if we can have -- find a
7 way to accommodate light and ventilation for those, but it would be subsidiary space
8 to the single family residents that would be in the building.

9 CHAIRPERSON MITTEN: We may want some kind of just
10 additional statement from you that narrows the potential use of that area to whatever
11 it is that you might have in mind.

12 MR. SPURLOCK: Okay.

13 CHAIRPERSON MITTEN: And then on the carriage house, is the
14 garage portion of the carriage house two stores in height but only one level or are
15 there two levels -- two full levels?

16 MR. SPURLOCK: There are two full levels.

17 CHAIRPERSON MITTEN: Okay. Then I don't quite understand
18 then why it says garage on both A5 and A6, because the upper level, unless I don't
19 understand the configuration, you're not intending that cars be parked on the second
20 level?

21 MR. SPURLOCK: No. That's intended to be storage.

22 CHAIRPERSON MITTEN: Okay. So, it's all storage.

23 MR. SPURLOCK: Yes. A7 shows that it's storage actually.

24 CHAIRPERSON MITTEN: Oh, then maybe I just --

25 MR. SPURLOCK: I think the confusion is that 5 and 6, it's the
26 same -- it's basically the same level.

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1 CHAIRPERSON MITTEN: I see.

2 MR. SPURLOCK: It's a two-story unit.

3 CHAIRPERSON MITTEN: Okay. Okay.

4 MR. SPURLOCK: It's just -- I apologize for the confusion on the
5 drawings.

6 CHAIRPERSON MITTEN: Okay. And then what is the height of
7 the basement ceiling above the grade on the existing building and on the proposed
8 building?

9 MR. SHER: Okay. Sheet A11 shows the front elevations of both
10 buildings and the first floor elevations are as indicated, the ceiling of the basement
11 below that is about a foot and a half less.

12 CHAIRPERSON MITTEN: Okay.

13 MR. SHER: Again, we're saying basement -- part of that area --
14 part of that floor is basement. Part of that floor is cellar. At the front it is a basement
15 because of where the window wells are and where the ceiling is in relation to the
16 adjacent finished grade.

17 CHAIRPERSON MITTEN: Okay.

18 MR. SHER: But parts of it are not.

19 CHAIRPERSON MITTEN: Now, I just wanted to run through a
20 few things that I think we need to see additional submissions on and maybe these
21 have been discussed. Did we talk about the landscape plan? And are we going to
22 get an additional submission on that? Okay.

23 We don't have a dimension site plan of existing conditions.
24 There's only a Sanborn plat that was put in.

25 MS. SCHELLIN: That was also asked.

26 CHAIRPERSON MITTEN: Okay.

1 MS. SCHELLIN: A site plan with dimensions.

2 CHAIRPERSON MITTEN: Yes.

3 MS. SCHELLIN: Yes.

4 CHAIRPERSON MITTEN: And for both the existing and the
5 proposed?

6 MS. SCHELLIN: I don't think it was specified, but yes.

7 CHAIRPERSON MITTEN: Are we going to have an elevation
8 that matches the materials that we have photographs of to the actual facade of the
9 building? So, we say, oh, we see where the brick is going to go. It's designated.
10 We don't have that so far.

11 MS. SCHELLIN: I'm sorry, what was that request again?

12 CHAIRPERSON MITTEN: It would show which materials would
13 be used on the facade.

14 MS. SCHELLIN: Okay.

15 CHAIRPERSON MITTEN: Now, maybe architects just
16 automatically know --

17 MR. SPURLOCK: I'd like to walk you through them if you'd like?
18 But

19 COMMISSIONER MAY: We did get an explanation of what the
20 materials were and they showed samples --

21 CHAIRPERSON MITTEN: Well, I think what we need is
22 someone who has the benefit of being here or reading the transcript can just look at
23 the drawing and know what it's supposed to look like.

24 MR. SPURLOCK: We will call out on the revised elevations, call
25 out which materials are in which locations.

26 CHAIRPERSON MITTEN: Thank you.

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1 COMMISSIONER MAY: Can I ask one of the questions that
2 popped in a little late on me was what the material as in the face of the penthouse?
3 And it looks like it's brick.

4 MR. SPURLOCK: It's brick. Yes.

5 COMMISSIONER MAY: Okay. That should be labeled as well.

6 CHAIRPERSON MITTEN: A dimension roof plan, did we talk
7 about that? We don't have a dimension roof plan. We just have a roof plan.

8 MS. FELDMAN: I take it by the notes being made by Mr.
9 Spurlock, that we'll supply that.

10 CHAIRPERSON MITTEN: Okay. And then a circulation plan that
11 just shows us the way that vehicles will access the site and if the alley is a two-way
12 alley and if the street is a two-way street and if that's a requirement --

13 MR. SPURLOCK: Okay.

14 CHAIRPERSON MITTEN: -- of the PUD. Those are all I had.

15 So, everyone got the answer to their questions? And we
16 determined, we have an ANC representative tonight? Would you like to ask any
17 questions on cross examination? Okay. Just want to make sure. Give you the
18 chance. All right. Thank you. We're ready to go to the report by the Office of
19 Planning. And we know that Mr. Mordfin is excellent at giving us those nice, tight
20 summary type reports.

21 MR. MORDFIN: Good evening, Madam Chair, and members of
22 the Commission. My name is Stephen Mordfin with the Office of Planning.

23 And this proposed site plan will locate the semi-detached
24 dwelling portion of the site on the west side of the property adjacent to an existing
25 semi-detached dwelling within the R3 District.

26 The proposed four-story apartment building is to be located

1 adjacent to the blank wall of the existing six-story hotel building to the east and
2 within the R5D District. As such, the site layout will act as a transitional use as it
3 steps down from the R5D to the R3 District on the west side of the property.

4 The renovation of the existing building and the construction of
5 the new one have been determined to be consistent with the Kalorama historic
6 district and by the Historic Presentation Review Board in September. On site
7 parking will be located at the rear of the site adjacent to and accessible from the
8 alley, eliminating the need for a curb cut across the public sidewalk at the front of the
9 property and reducing the potential for pedestrian or vehicular conflicts.

10 The Applicant proposed an amenity package of \$90,000 to be
11 disbursed by a nonprofit corporation established for that purpose as directed by the
12 ANC by October 31st, 2004, and failing that, the money would then go to the
13 Housing Trust Fund by December 31st, 2004.

14 The Office of Planning in its report has recommended that the
15 application be approved subject to the Applicant working with the ANC to determine
16 the specific dispersal of the amenity package.

17 That concludes the presentation by the Office of Planning.

18 CHAIRPERSON MITTEN: Thank you, Mr. Mordfin.

19 Questions for Mr. Mordfin? Anybody have any questions?

20 Mr. Collins, any questions? Ms. Candon, any questions? All
21 right. Good job. Thank you.

22 Oh, I do have a question for you.

23 We had this additional submission from the Applicant on the
24 proposed benefit package and in your report you had called out the fact that you
25 through that more detail was needed. Do you have a comment at this time on this
26 additional submission and whether it satisfies Office of Planning's concern?

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1 MR. MORDFIN: The Office of Planning's concerns were that the
2 more detail should be specifically what it is that the money would go to, rather than
3 leaving it open-ended. And although this does narrow it a little bit, the Office of
4 Planning still prefers that it be something more specific.

5 CHAIRPERSON MITTEN: I know that you all were talking about
6 this earlier, but you know, we do have a pretty specific requirement in the PUD
7 chapter that says that, you know, if it's an off-site amenity, it has to be tied directly,
8 so we'll have to examine that language and see if we're satisfied with it.

9 All right. Thank you.

10 Let's see, I already did that.

11 I don't know that we have any reports by any other Government
12 agencies in the record. No one is here.

13 Then, we're ready to move to the ANC report.

14 MS. CANDON: I'm happy to be here tonight.

15 CHAIRPERSON MITTEN: You need to turn on that microphone for us and
16 state your name for the record. Just push the button. There you go.

17 MS. CANDON: I'm Mary Eva Candon. I'm one of the two
18 advisory neighborhood commissioners from ANC-2D. I am the advisory
19 neighborhood commissioner for 2D2. Sandy Pearlbuter, our chairwoman, wishes
20 she could be here, but she's been very involved in this process and we are in total
21 unison of our opinion tonight.

22 But I really think the big question is, who here is for the Yankees
23 and who is for the Red Sox and how soon can we get out of here? But, having said
24 that, I want you to know that I have -- I really have enormous admiration for this
25 commission because I have been the chairwoman of a D.C. Commission before,
26 having served as chairperson of the Alcoholic Beverage control Board for s even

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1 years. So, we rarely had evening sessions, but we did it when we thought it was our
2 responsibility to the community to do so, so I have full respect for your giving up your
3 evenings to
4 be here tonight. So, thank you very much.

5 The Advisory Neighborhood Commission, 2D is totally in support
6 of this development project and in the PUD as outlined by the developers, but I must
7 say that though they have presented this idea to you, that it has been developed and
8 formulated in total coordination and cooperation with all the neighborhood groups in
9 ANC-2D and the ANC and it certainly was at the ANC's suggestion that we develop
10 a process that would allow all of the neighborhood groups to be involved in
11 determining how this great gift of \$90,000 to our area might be spent.

12 I want you to know that it is not open-ended and I know that
13 Chris Collins and Heidi Feldman have describe it very well. It's not only not open-
14 ended in that the decisions will be made and spent by 2004. What was that --
15 October. I forget the actual outside.

16 The fact is that Sandy Pearlbuter and I, we have only two
17 commissioners, have a plan that we will propose the criteria by which our
18 neighborhood organizations will submit proposals for how we might use the public
19 benefit for the public good. We were going to propose that criteria on October 20th
20 at our next ANC meeting.

21 In our November meeting, we will be accepting and hearing from
22 the proposers in our community about how this public benefit should be spent and at
23 the December meeting, we will hear again on how others, additional proposals,
24 might like to have the money spent and we will confer and we will propose our
25 recommendations at the January meeting and we will make our decision at the
26 January meeting and we will propose that we will offer that to the developers and the

1 foundation that is being set up as to how, perhaps, this money should be spent.

2 So, we are looking at a very short term process to determine the
3 specifics of our -- of the public benefit.

4 Now, let me just tell you, we have not made any decisions, but
5 the type of proposals that we know are going to be put forth, have to do with
6 developing the KC Tree Project. The city is all behind in our small ANC by perhaps
7 using some or all of this public benefit to enhance the KC Tree Project in our little
8 ANC. That would be one very viable option.

9 Another very viable option will be the redevelopment of Mitchell
10 Park, which is also something that the city is behind. Mitchell Park is a public area
11 that's been designated for the city, but in our area, and it has gone into disrepair and
12 the entire neighborhood, the entire ANC has gotten involved in improving it and
13 making it a place for adults and children to enjoy themselves and to mix in the
14 neighborhood and that would be another proposal that we would certainly entertain
15 it's a public benefit.

16 A third one would be the call box project that is also going on
17 throughout the city and we in Sheridan-Kalorama having such a historic district,
18 have a number of call boxes that we are -- whether we use this money or not, we will
19 coming together to support that effort.

20 And a fourth very public benefit is the preservation or
21 improvement of the Spanish steps, which is a very special monument-type thing. It's
22 not quite a monument, but it's so unusual. It's very special to Sheridan-Kalorama
23 and it needs to be preserved and landscaping has to be preserved, the stone,
24 etcetera.

25 What I'm saying is, what this ANC will consider in terms of
26 spending this public benefit or recommending. We're not spending. By the way, it's

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1 not our money. We're going to filter what the many neighbors and neighborhood
2 organizations would like to do and make sure that all members of the community,
3 our small community, are invested in the decision, because everybody has had an
4 opportunity to be part of the decision-making process.

5 So, I just want you to feel confident about the process. From our
6 perspective, the ANC is only recommending and if there was an uproar outside of
7 our ANC, that this was not the appropriate thing to do, we would certainly reconsider
8 it, but we feel that this is process that will make -- help all of our neighbors work
9 together as opposed to be pithing themselves against each other for good causes
10 and being annoyed that they didn't get it and someone else did.

11 So, we're trying to -- frankly, giving us great weight, what we're
12 trying to do is work with the city government and the government agencies to make
13 this process work for the community and to work for you.

14 So, I feel very positively about this process and that we are
15 responding to the regulations that you all have set up and we will adhere to them
16 too.

17 CHAIRPERSON MITTEN: Would you be willing -- you said
18 you're going to be issuing and then discussing at your next meeting the proposed
19 parameters that you will be setting for the projects that you'll be willing to
20 recommend. Would you share those with us and then we can have a better
21 understanding?

22 MS. CANDON: Absolutely. But we want to propose to the ANC
23 and get the feedback of the members of the neighbors in the ANC and then we will
24 vote on them, so we'll have them Monday night, because we will vote in the public
25 meeting.

26 CHAIRPERSON MITTEN: That would be great. Okay. The

1 record will be open at least until then --

2 MS. CANDON: Yes.

3 CHAIRPERSON MITTEN: -- if you could share those with us,
4 that would be great.

5 Anyone have questions? Mr. Parsons?

6 COMMISSIONER PARSONS: We discussed this quite a bit.

7 CHAIRPERSON MITTEN: Okay. Sorry.

8 COMMISSIONER PARSONS: Not the specifics she's come up
9 with. We were all anxious for her to come forward, but as some of your colleagues
10 are very nervous about this and one of them isn't.

11 I know that we have, as a Commission, specified something like
12 Spanish steps, something like a playground in the past. Leaving it to the Applicant
13 to somehow strike an agreement with the Department of Recreation or the National
14 Park Service or the KC Tree Foundation and struggling to do that because they
15 weren't involved in our process.

16 And that's why I am supportive of this, but I think the precedent
17 is troubling, because this ANC, a very small ANC, two commissioners, correct? Two
18 single member districts, is able to do this. I think we all know that --

19 CHAIRPERSON MITTEN: As long as they still get along with
20 each other.

21 COMMISSIONER PARSONS: Well, no, it's just a whole different
22 mix than some of the ANCs that we're more familiar with.

23 CHAIRPERSON MITTEN: Right. Right.

24 COMMISSIONER PARSONS: That everything is confrontational.
25 Everything is a mess. Seven members, fist fights. I mean, we can't do that in
26 another section of the city and that's the trouble with the decision here.

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1 CHAIRPERSON MITTEN: Uh-huh.

2 COMMISSIONER PARSONS: I think, for instance, it would be
3 my choice, in a larger ANC to restrict it to the single member district that is being
4 impacted by the project and not have it land over on the other side of the village, if
5 you will. But those are more deliberative comments, rather than questions.

6 COMMISSIONER MAY: But you're not troubled by this then?

7 COMMISSIONER PARSONS: No. I'm not.

8 COMMISSIONER MAY: Okay.

9 COMMISSIONER PARSONS: I thought I said that earlier.

10 COMMISSIONER MAY: You did, but then you expressed all
11 those reasons that made me more troubled. So --

12 COMMISSIONER PARSONS: Only the precedent of it.

13 COMMISSIONER MAY: Okay.

14 COMMISSIONER PARSONS: But I think it's very creative and
15 it's worth trying.

16 VICE CHAIRPERSON HOOD: I would agree with my colleague,
17 Mr. Parsons, and when I paid more attention and saw that each commissioner held
18 two officers and his point exactly is there's only two commissioners. And, again,
19 when I was first thinking about this concept, I was thinking, personally my ANC. And
20 I was thinking about what transpires then. But I think it's innovative. I think -- I
21 would definitely be -- well, let me leave it at that.

22 CHAIRPERSON MITTEN: Does anyone have any actual
23 questions? Okay.

24 VICE CHAIRPERSON HOOD: Madam Chair, let me just say why we
25 digressed because of the conversation that went on.

26 CHAIRPERSON MITTEN: No. I understand.

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1 VICE CHAIRPERSON HOOD: We have plenty of time.

2 CHAIRPERSON MITTEN: Yes. I thought you wanted to go see
3 a baseball game, that's all.

4 VICE CHAIRPERSON HOOD: I do, but I don't want to put that
5 on the record.

6 COMMISSIONER MAY: I am very anxious to see the Red Sox
7 whip the Yankees tonight.

8 CHAIRPERSON MITTEN: Okay, great. Mr. Collins, any
9 questions?

10 MR. COLLINS: Me too.

11 CHAIRPERSON MITTEN: All right. Thank you very much.
12 Thanks for coming down.

13 MS. CANDON: Let me just make one clarification that in case I
14 didn't. We are not limited to the four I mentioned. I gave those as examples of the
15 kind of things we are anticipating entertaining.

16 CHAIRPERSON MITTEN: Okay.

17 MS. CANDON: Thank you very much.

18 CHAIRPERSON MITTEN: Thank you.
19 Anyone like to testify in support?
20 Anyone like to testify in opposition?
21 All right, then, Mr. Collins, back to you.

22 MR. COLLINS: Thank you, Madam Chair and members of the
23 Commission.

24 Just a few comment in closing. We will submit all the items
25 requested and we'll get those in as quickly as we possibly can.

26 Mr. Parsons mentioned about the precedence of this, that this is

1 a two-member ANC. This is easily achievable with a two-member ANC, but maybe
2 not with another ANC of a larger number.

3 That I think, to the contrary, that would not -- you would not be
4 crating a precedent by doing this. You could distinguish this very carefully by
5 saying, this is such a small ANC. This could be done in this type of ANC with this
6 small group where everyone has been part of the process, unlike as was said, an
7 applicant then agrees to give money to DPW or something and then has to g out
8 from there and try to work the agreement. Here all the players are here at the table
9 tonight. So, we can achieve this.

10 And the two-step process that Ms. Feldman talked about has
11 enough safeguards, we believe, in it. We believe enough safeguards in it so that it
12 will achieve its desired results.

13 At the first instance, the ANC commissioners collect and
14 evaluate and then recommend. AT the second level, there's an ANC commissioner
15 on the board. There's a representative of the owner on the board and then there's a
16 third person who is by description in the documents that we've submitted to you
17 tonight, is required to be a disinterested person. I mean, a person that is not a
18 member of any of the organizations seeking funding.

19 And there are people out there. There are many people who are
20 involved in many aspects of the Sheridan-Kalorama. It's a very dynamic group of
21 people in our community. But, there are other people who are equally interested in
22 civic duties who are not members of any and we know of several and we're
23 confident that we can do this structure.

24 So, it would not, in my view, a precedent that could easily be
25 distinguished.

26 We talked about benefits and one of the benefits that we didn't

1 harp on and I think we should is, unlike others, this benefit that we're proposing, in
2 addition to the other things that we've submitted in writing, this benefit empowers the
3 community unlike any other benefit. Maybe that's been proposed to you before by
4 giving the \$90,000 in a way that we're going, we're empowering the community to
5 make the decisions to what they believe is best in their community as opposed to a
6 developer or someone in any other part of the city picking a project and saying I'm
7 going to give my money to the KC Trees or the call box or whatever. This is an all
8 inclusive process and has been. This is, as we said in the beginning, this has been
9 a very inclusive process since the beginning in June of 2002. There's been a lot of
10 players involved to make this what it is today.

11 So, that's a benefit that I think that should be taken into
12 consideration.

13 We are not giving money to the ANC because the ANC laws, as
14 you may know, doesn't allow us to do that. We wouldn't give it to the ANC. We're
15 not buying zoning here. There's really no distinction in my view between this
16 process for the benefit and a process by which the applicant gives money to a
17 school or a feeding program or something else in the community. We're giving it to -
18 - essentially, we're giving it to whoever the community decision makers tell us that it
19 should go to. And I think that's even one step better than the typical benefit
20 package.

21 I'm focusing on the benefit package because that seems to be
22 the issue of most concern here. I don't think there's any issue about the -- other
23 than what's been requested for us to clarify by Mr. May and others. No question
24 about the density and height, the design, things of that nature. It's a very small
25 project.

26 But I want to say one last thing and then let Ms. Feldman make

1 some comments.

2 Given the small nature of this project, we do not have the luxury
3 of time. There are bank loans, there are carrying costs. We are hopeful in a perfect
4 world, we would love to get a decision from you in your November meeting, which is
5 four weeks away. And we think that we can get things in time. But to leave the
6 record open or to leave the decision in abeyance until we identified a recipient for
7 the funds, even in the accelerated process that the ANC testified to tonight, that they
8 would identify something in January and then turn it over to the nonprofit to make its
9 deliberations. Even assuming they could make their deliberations in a month, that's
10 February before we could get a decision.

11 We hope to be actually in the ground by February. It's a small
12 project. It's not fragile economically, but it's small and decisions, you know, the
13 money -- I'm not expressing it correctly.

14 CHAIRPERSON MITTEN: I think we understand.

15 MR. COLLINS: But the point is, it's not the kind of project that
16 has the benefit of extra time for carrying costs to be incurred because of delays in
17 the process. So, if there's anyway that you would see clear to putting us on a
18 schedule that we need to be put on so we can get things back to you in time to get a
19 decision at your November meeting and then final decision in December, that would
20 help us out tremendously.

21 CHAIRPERSON MITTEN: Okay.

22 MR. COLLINS: And with that, I would like to turn it over to Ms.
23 Feldman for any final comments.

24 MS. FELDMAN: I just wanted to thank the members of the
25 Commission for devoting so much time to looking at this. Obviously, it's my first time
26 submitting a PUD proposal or being involved with a submission. And I know that Mr.

1 May and various other Commissioners, Commissioner Mitten, asked for more
2 detailed submissions.

3 If I ever do this again, I'll know and I would very much like to
4 recognize Ms. Steingasser and Mr. Mordfin publicly, as I did recognize their
5 colleague, Mr. Calcott, with the same sincerity, because this really has been (a) a
6 collaborative project and to some extent it became a more ambitious project
7 because it became a PUD. And without their guidance, and without their careful
8 attention, I think it would be back to that building being used as a school.

9 So, thank you to you and may the best team win.

10 CHAIRPERSON MITTEN: Okay. Good way to end. Okay. Mr.
11 Collins, why don't you suggest a time frame for us to work with that suits you on the
12 many levels that you need to have work?

13 MR. COLLINS: The October meeting is the 10th or the 17th?

14 CHAIRPERSON MITTEN: November?

15 MR. COLLINS: I'm sorry, November.

16 CHAIRPERSON MITTEN: It will be changed from the 17th and it
17 will probably be moved forward a few days. That's what we're talking about.

18 MR. COLLINS: For a week or for a few days?

19 CHAIRPERSON MITTEN: It's not going to be the 10th and it's not
20 going to be the 11th.

21 MR. COLLINS: Okay.

22 CHAIRPERSON MITTEN: It's going to be either the 12th, the
23 13th or the 14th.

24 MR. COLLINS: Assuming it's -- assuming it's four weeks from
25 today --

26 CHAIRPERSON MITTEN: Okay.

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1 MR. COLLINS: -- when would you like -- when would you like to
2 have the submissions from us?

3 MS. SCHELLIN: Actually, if two weeks would be enough time for
4 you guys, that would put us at October 30th and allowing, since it seems like the
5 ANC is very much in support, one week for them to respond, which would make that
6 November 6th and at the same time, if you choose to submit proposed findings of
7 fact and conclusions of law, I think that would allow us a week, even if we move that
8 meeting.

9 CHAIRPERSON MITTEN: That's right.

10 MS. SCHELLIN: That would be good.

11 MR. COLLINS: Proposed order November 6th?

12 MS. SCHELLIN: I'm sorry? Yes. Yes.

13 MR. COLLINS: Okay.

14 CHAIRPERSON MITTEN: In which you will make your very
15 compelling argument about why this is not precedent setting and so on and so forth.

16 MR. COLLINS: Yes. Absolutely.

17 CHAIRPERSON MITTEN: All right. So, we have October 30th
18 for your additional submissions and then the parameters that Ms. Candon is going to
19 get for us. Responses by the 6th along with findings of fact and conclusions of law
20 with the plan that we will get you on the schedule for the November meeting.

21 MR. COLLINS: and just so everyone is clear, the October 30
22 date is for the ANC to submit theirs as well --

23 CHAIRPERSON MITTEN: Yes.

24 MR. COLLINS: -- and then to respond?

25 CHAIRPERSON MITTEN: If they have any responses, those will
26 be -- to your additional submissions, those will be due on the 6th.

1 MR. COLLINS: Very good. Okay.

2 CHAIRPERSON MITTEN: 3:00 in the room next door.

3 VICE CHAIRPERSON HOOD: Madam Chair, can we run over
4 the list/ Is everybody clear on what's needed so we won't get to that point and then
5 we will further delayed.

6 I know Mr. May had asked for some early on, yo know, with the
7 property line pertaining to the side yard I think it was.

8 MS. SCHELLIN: I can go through the list real quick that I have.

9 CHAIRPERSON MITTEN: Okay.

10 MS. SCHELLIN: New photos of the material samples, just
11 because the ones that were submitted, the coloring was different.

12 I believe Mr. May asked that the side yard requirement be
13 addressed and that, I think, goes along with the property line maybe, Mr. Hood, that
14 you were speaking of.

15 Dimensions of the open space. There was a drawing that did not
16 give dimensions.

17 Mr. May may have to help me out on this one. I wrote down,
18 calculations showing, I thought he said, walls in comparison to the building code.
19 I'm not sure I have that correct.

20 COMMISSIONER MAY: Yes. It's a percentage of window
21 openings. Window and door openings.

22 MS. SCHELLIN: Okay. Site plan with dimension, both existing
23 and proposed. A more detailed landscape plan, a statement regarding the
24 basement use, a drawing showing materials on the facade and with the elevations, I
25 believe it was.

26 Label the materials of the penthouse. I believe, the drawing did

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1 not label the material. Dimensional roof plan, a circulation plan showing access to
2 and from and for the ANC, the types of plans being considered for the \$90,000
3 amenity or with their anticipating recommending.

4 CHAIRPERSON MITTEN: Anything else?

5 All right, then I would just encourage anybody who has any
6 questions to call staff, if there's anything we've left handing. 727-6311. And enjoy
7 the rest of your evening.

8 This hearing is adjourned. Thanks.

9 (Whereupon, the hearing was adjourned at 8:29 p.m.)

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