

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION

PUBLIC HEARING

-----X
 |
 IN THE MATTER OF: |
 | Case No. 96-7C
 APPLICATION OF THE |
 KLINGLE CORPORATION |
 |
 -----X

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

Thursday, March 13, 1997

The above-entitled matter came on for public hearing, pursuant to notice, at 6:30 p.m.

BEFORE:

MAYBELLE TAYLOR BENNETT, Chairperson

HERBERT FRANKLIN, Commissioner

JERRILY KRESS, Commissioner

JOHN PARSONS, Commissioner

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I-N-D-E-X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>REXCROSS</u>
LOUIS SLADE		10		
JO ANNE MURRAY		106		
STEPEHN PETERSEN			108	
ANDREA NEWMARK		114		

REBUTTAL TESTIMONY:

GRAHAM DAVIS	163	172/182
WARREN COX	163	172/182
LOUIS SLADE	184	
STEVEN SHER	191	

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

6:40 P.M.

CHAIRPERSON BENNETT: Good evening, ladies and gentlemen. My name is Maybelle Taylor Bennett. I'm Chairperson of the District of Columbia Zoning Commission. Joining me this evening are Commissioners Kress and Parson.

I declare this adjourned public hearing open. The case that is the subject of this hearing is Case No. 96-7C, an application of the Klingle Corporation requesting consolidated review and approval of a planned unit development and a related change of zoning from R-5-D to R-5-E for Lot 801 in Square 2214 located at 3133 Connecticut Avenue, N.W.

The PUD site consists of 113,561 square feet of land area, a portion of which is currently occupied by a historic building, the Kennedy-Warren Apartments.

The Commission opened the public hearing in this case on January 6, 1997, at which time it addressed preliminary matters and heard the testimony of the Applicant and the presentation of the Office of Planning.

The hearing was continued on February 20, 1997.

At that session, the Commission addressed preliminary matters and heard testimony of other Government agencies, and the report of the Advisory Neighborhood Commission, ANC-3C.

This evening, the order of procedure will be as

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1 follows: preliminary matters, cross-examination of the
2 Applicant on additional materials submitted, parties and
3 persons in support, and parties and persons in opposition.

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

8 Each individual appearing before the Commission
9 must complete two identification slips and give them to the
10 reporter before making a statement.

11 If these guidelines are followed, an adequate
12 record can be developed in a reasonable length of time.

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

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

24 All individuals who wish to testify and who have

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1 not been sworn previously, please rise to take the oath.

2 (Ms. Brown swears the witnesses.)

3 (Affirmative answers by the witnesses.)

4 CHAIRPERSON BENNETT: Thank you, Ms. Brown. Ms.
5 Dobbins, do we have preliminary matters?

6 MS. DOBBINS: Madam Chairman, Members of the
7 Commission, there are no preliminary matters, only that you
8 have new materials in front of you. Basically, they are
9 letters from persons within the area.

10 CHAIRPERSON BENNETT: All right, persons and
11 businesses, I would note. Okay, all right. Let's move then to
12 the cross examination of the --

13 MR. FEOLA: Madam Chair?

14 CHAIRPERSON BENNETT: -- Applicant.

15 MR. FEOLA: Madam Chair? For the record, Phil
16 Feola for the Applicant. As a preliminary matter, as an order
17 of business, I was wondering if the cross examination of the
18 Applicant's witnesses could wait for rebuttal.

19 I expect that the Opponents will cross examine
20 the rebuttal. They are the same witnesses. As opposed to
21 having a whole series of cross examination now, go through the
22 presentation of everything and come back for rebuttal and do
23 it. Can we just save the cross examination, both on the
24 materials that were submitted last time, and rebuttal at the

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1 same time, as opposed to dragging that out?

2 I would really like to end this tonight and not
3 drag it out.

4 CHAIRPERSON BENNETT: I know. Ms. Newmark?

5 MS. NEWMARK: Madam Chairperson --

6 CHAIRPERSON BENNETT: Are you on?

7 MS. NEWMARK: Am I on now?

8 CHAIRPERSON BENNETT: Yes.

9 MS. NEWMARK: Yes, we only have a very few
10 questions to ask. And we think that it would be more
11 appropriate to do it now and get it out of the way because the
12 scope of rebuttal is different than the scope of what we're
13 talking about now.

14 I only have a handful of questions that are
15 expected to --

16 CHAIRPERSON BENNETT: You always say that, Ms.
17 Newmark.

18 MS. NEWMARK: I don't always say that.

19 (Laughter.)

20 MS. NEWMARK: I usually say the opposite.

21 CHAIRPERSON BENNETT: Okay, Mr. Feola, is it all
22 right if we go ahead and do the cross-ex on the materials that
23 were submitted. I understand you'd like to --

24 MR. FEOLA: I have not substantive objection to

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1 that. Technically, it should have happened last time after we
2 presented the information. I just have seen now the
3 performance of my counter-part. And we -- none of her cross
4 examinations has ended in anything close to being a short
5 period of time.

6 And I just think it would be beneficial for all
7 of us in this room to get on with her case, and she can cross
8 examine at the end. But, it's your call.

9 CHAIRPERSON BENNETT: Okay.

10 MR. FEOLA: I mean, I don't --

11 CHAIRPERSON BENNETT: Well originally, the way
12 we set it was that we would have the cross examination shortly
13 after you had presented your materials.

14 And in the interest of collapsing things, I
15 think it might have been neater. But so that we don't spend
16 much longer talking about this, why don't you go ahead and
17 cross examine on the materials that were submitted. And let's
18 get that out of the way.

19 And if you can be concise and efficient, we
20 would all be real pleased.

21 MS. NEWMARK: Yes, I understand -- I don't know
22 if the ANC is planning to cross examine.

23 CHAIRPERSON BENNETT: Is the ANC here?

24 ANC REPRESENTATIVE: Yes, we are not.

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1 CHAIRPERSON BENNETT: Are you planning to cross-
2 ex on the additional materials?

3 ANC REPRESENTATIVE: From last -- from last
4 session?

5 CHAIRPERSON BENNETT: Right.

6 ANC REPRESENTATIVE: No.

7 CHAIRPERSON BENNETT: All right. The voice in
8 the audience, who was not speaking into the mic, said that
9 there is no intention on the part of the ANC to cross
10 examination on the additional materials submitted by the
11 Applicant.

12 CHAIRPERSON BENNETT: Okay. I understand also
13 that some additional materials were handed to the court
14 reporter and to the Commission. We didn't get copies of those.

15 CHAIRPERSON BENNETT: I don't have them in front
16 of me, so why don't you begin --

17 MS. NEWMARK: Oh, a witness list? That should
18 have been on the table.

19 CHAIRPERSON BENNETT: Yes, why don't you begin
20 now then?

21 MS. NEWMARK: My cross examination is of Mr.
22 Slade.

23 CHAIRPERSON BENNETT: Okay, but you've got to
24 speak into the --

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1 MS. NEWMARK: My cross examination is of Mr.
2 Slade, so --

3 CHAIRPERSON BENNETT: All right, could Mr. Slade
4 come forward?

5 MS. NEWMARK: And for the record, I won't be
6 cross examining the landscape architect.

7 CHAIRPERSON BENNETT: All right. Please
8 remember to identify yourselves again for the record.

9 WHEREUPON,

10 LOUIS J. SLADE
11 WAS CALLED AS A WITNESS BY THE APPLICANTS, AND HAVING BEEN
12 PREVIOUSLY SWORN, RESUMED THE WITNESS STAND, WAS EXAMINED AND
13 TESTIFIED AS FOLLOWS:

14 THE WITNESS: My name is Louis J. Slade.

15 CROSS EXAMINATION

16 BY MS. NEWMARK:

17 Q Mr. Slade, do you recall testifying that there
18 was adequate parking in the neighborhood after nine o'clock at
19 night?

20 A Yes.

21 Q Okay. What was the basis for that conclusion.

22 A The basis was my observation that after nine
23 o'clock at night, you don't see very many residents driving
24 around looking for a parking place. And of course, ultimately,

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1 everyone does get a parking place.

2 Q Well, how did you know that? Did you drive to
3 the area?

4 A We've done work in the neighborhood before and
5 done surveys and other observations, yes.

6 Q So, are you saying that you personally went and
7 looked around the area after nine o'clock?

8 A Yes.

9 Q You did? When did you do this?

10 A Related to other projects, over the last 15
11 years.

12 Q So, are you saying it might have been 15 years
13 ago?

14 A No, the most recent other project was just last
15 year.

16 Q So, you're saying that last year, you drove
17 through the neighborhood after nine o'clock and there were
18 parking spaces, lots of them?

19 A No, I didn't say "lots of them."

20 Q Okay. Would you clarify?

21 A I said that I -- I think my testimony was that -
22 - that it's my observation that everyone who lives in the
23 neighborhood who tries to park on the street is ultimately
24 accommodated on the street.

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1 We don't end up with cars that -- we don't end
2 up with a large amount of cars that cannot be accommodated at
3 the curb.

4 Q In other words, so you --

5 A If we do, where are they?

6 Q I see. So, you're assuming that because you
7 don't see cars stacked at the curb or on the street, that
8 they're parked somewhere?

9 A You don't see cars double-parked.

10 Q Yes.

11 A You do -- there's obviously occasionally parked
12 cars which are parked illegally and receive tickets.

13 Q Yes.

14 A But it's a case where the individual may choose
15 to do that rather than drive a little bit further away and walk
16 further away.

17 Q Okay.

18 A I think it's a matter of, in my terminology,
19 level of service. You know, I think you could ultimately find
20 a parking place. It's just a matter of how far you're willing
21 to walk.

22 Q Okay. So, do you have --

23 A And you, yourself, said to me that you can
24 always park on Connecticut Avenue. It's just a matter of

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1 getting up in the morning to move your car before the
2 restriction comes.

3 Q Yes. So in other words, you're saying that your
4 testimony was based on not knowing how far away a person might
5 be parking, as long as they are parked somewhere? Would that
6 be fair to say?

7 A I don't think I testified to that specifically.

8 Q No, I mean right now.

9 A What I'm saying now is that based on my
10 observations and living in Washington, Northwest Washington,
11 for 25 years and the projects we've done in the neighborhood,
12 everyone can get accommodated at a curb space who needs to be,
13 who lives in the general neighborhood.

14 Q Where do you live?

15 A In Northwest Washington.

16 Q Where?

17 A Near Chevy Chase Circle.

18 Q Oh. By the way, which particular streets, when
19 you talk about the neighborhood, are you talking about?

20 A I wasn't meaning to talk about any streets in
21 particular, just the Woodley neighborhood in general.

22 Q Do you know the names of any of the streets?

23 A Yes. Do you want me to name some streets?

24 Q Well, I do want to know which streets you're

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1 talking about.

2 A Calvert Street, Woodley Street, Connecticut
3 Avenue, 28th Street, 29th Street.

4 Q Okay. So, would it be fair to say those are the
5 streets you're talking about?

6 A I'm talking about the neighborhood in general.

7 Q Mr. Slate, you testified last time about your
8 conclusions from data gathered from other buildings, as well as
9 data gathered from Kennedy-Warren residents. Do you recall
10 that?

11 A Yes.

12 Q Did you personally gather that data?

13 A All the data was gathered under my supervision.

14 Q Who gathered it?

15 A People in my office. Do you want the names of
16 staff?

17 Q No, but was it exclusively people in your
18 office?

19 A Yes.

20 Q How was the data compiled?

21 A The information from other buildings was
22 compiled by interviewing resident managers at those buildings.
23 The information on the Kennedy-Warren Apartments was from the
24 records of the Kennedy-Warren Apartments tenants who register

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1 automobiles in the building.

2 Q Okay. Do you have any information that any
3 Kennedy-Warren residents with cars do not park in the Kennedy-
4 Warren garage?

5 A No, I don't.

6 Q Do you have any information any Kennedy-Warren
7 residents park on the street?

8 A No, I don't.

9 Q Are you familiar with -- are you familiar with
10 the Applicant's offer to install a new traffic signal
11 activation device at the Kennedy-Warren and the Zoo driveways?

12 A Yes.

13 Q Would the signal activation device be activated
14 by traffic in the Cathedral Park driveway as well?

15 MR. FEOLA: We're now getting way beyond his
16 direct testimony last time, which is what I was worried about.

17 MS. NEWMARK: This was in the Applicant's list
18 of benefits from last time, so it's within the permissible
19 scope of cross examination.

20 CHAIRPERSON BENNETT: In the list of benefits
21 for the PUD?

22 MS. NEWMARK: Right, that they submitted.

23 THE WITNESS: I'm sorry, would it -- would it be
24 activated by vehicles in the Cathedral Park driveway? No.

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1 MS. NEWMARK: I have no further questions.

2 CHAIRPERSON BENNETT: Thank you, and thank you
3 for your indulgence. Thank you, Mr. Slade. Let's move on then
4 to parties and persons in support. Is Mr. Stewart Stanmore
5 here? Stewart Stanmore?

6 (No response.)

7 CHAIRPERSON BENNETT: All right, Cathedral Park
8 Condo Association, party in opposition?

9 MS. NEWMARK: Madam Chairperson, we have several
10 people that will be testifying for us tonight. First, I would
11 like to say that Mr. Jack Hanula will not be testifying as part
12 of our presentation.

13 I believe he's going to testify separately as a
14 person later.

15 CHAIRPERSON BENNETT: Okay.

16 MS. NEWMARK: May we request that our experts
17 come up and form a panel --

18 CHAIRPERSON BENNETT: Sure.

19 MS. NEWMARK: -- the way the Applicant did and
20 that we --

21 CHAIRPERSON BENNETT: Sure.

22 MS. NEWMARK: -- present and save the questions
23 for afterwards?

24 CHAIRPERSON BENNETT: That's fine.

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1 MS. NEWMARK: Thank you.

2 (Pause.)

3 MS. NEWMARK: Madam Chairperson, would it be
4 permissible for me to stand at the podium? I'm going to be
5 using the poster-board on the direct.

6 CHAIRPERSON BENNETT: You may stand wherever you
7 wish, Ms. Newmark --

8 MS. NEWMARK: Thank you.

9 CHAIRPERSON BENNETT: -- as long as you can be
10 heard.

11 MS. NEWMARK: I'll do my best.

12 (Pause.)

13 MS. NEWMARK: Madam Chairperson and
14 distinguished members of this distinguished body -- can you
15 hear me?

16 CHAIRPERSON BENNETT: We can.

17 MS. NEWMARK: My name is Andrea Newmark, and I
18 represent the residents and property owners of Cathedral Park
19 Condominium, 3100 Connecticut Avenue, directly across the
20 street from the Kennedy-Warren.

21 Cathedral Park consists of 178 condominium
22 units. As the sole opponent of this project to be accorded
23 party status, we, Cathedral Park, also feel an obligation to
24 the rest of the neighborhood which besieged with phone calls,

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1 letters and gratitude for what we're doing.

2 I also come before you as a property owner. For
3 15 years, I have owned a first-floor garden unit in Cathedral
4 Park.

5 Now as a preliminary matter, I would like to
6 request that our proffered experts be acknowledged. They are
7 Jo Anne Murray of the architectural firm of Murray &
8 Associates, who parenthetically have the same training, in fact
9 who was in the same class as Graham Davidson, and Stephen
10 Petersen of the law firm of Street Designs, Ltd., who has
11 appeared before you in the past as an expert in transportation,
12 traffic and parking.

13 Their resumes have already been submitted,
14 although I would like to submit an updated resume for Ms.
15 Murray, if you please. And I'd be happy to go through one by
16 one if that's the Commission's wish.

17 CHAIRPERSON BENNETT: No, we have had Mr.
18 Petersen before us before, and we'll receive the updated
19 resume.

20 MS. NEWMARK: Thank you. Madam Chairperson and
21 Members of the Commission, before I get into my testimony, I
22 would like to tell you why we are here. Our community is in an
23 uproar over this project.

24 I have talked with countless residences and

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1 businesses since December, and about 95 percent of them cannot
2 understand how anybody can seriously consider walling off
3 Connecticut Avenue next to the National Zoo.

4 I tell them that was the original plan. "But
5 that was 1930," they say, "this is 1997." I tell them, "People
6 consider it to be historic." "Historic?" they say, "Our
7 business district is historic. Existing Kennedy-Warren is
8 historic. The surrounding buildings are historic. I thought
9 historic places were entitled to protection from large-scale
10 projects like this."

11 "Besides, how can something that is not even
12 built yet be historic?" "Well, it will provide housing," I
13 tell them. "Housing?" they say. "Aren't there restrictions on
14 the kind of housing people can build? Do the laws really allow
15 someone to put a huge apartment building on the Kennedy-Warren
16 lawn?"

17 "No, actually they don't," I tell them. "But
18 this would be a planned unit development, a PUD, which means
19 the developer can exceed the zoning restrictions because of the
20 benefits it will bring to the community."

21 "What benefits?" they ask. And there, I get
22 stuck. Madam Chairperson, we do not disagree that the proposed
23 building standing alone may be a nice example of Aztec Deco.
24 But the building won't stand alone. It will stand in Cleveland

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1 Woodley Park.

2 There it will nearly double the density for
3 which it is zoned, dwarf the surrounding buildings, wall off
4 the east side of Connecticut Avenue, obliterate the Kennedy-
5 Warren's lawn, destroy its natural vegetation, including mature
6 trees, exacerbate our parking problem, affect the light, air
7 and views of adjacent historic landmarks, and give the
8 neighborhood virtually nothing in return.

9 There it will be the only R-5-E in all of Ward
10 3, a ward whose most outstanding characteristic, according to
11 the comprehensive plan, is its low-density, stable, residential
12 neighborhoods.

13 Now, the Applicants testified on direct that
14 they seek only a -- that they seek only a .29 increase in the
15 FAR.

16 Sorry, this board is a little bit shaky. On
17 cross, they conceded the following: the current allowable FAR
18 is 3.5. That's because the property is zoned R-5-D, okay?

19 Now presently, the Kennedy-Warren has a FAR of
20 4.58. It is over-developed for the lot. Nothing can be built
21 on it as a matter of right.

22 What are they seeking? They are seeking to be
23 up-zoned to an R-5-E, okay? An R-5-E has a permissible FAR of
24 6.0, okay? Then they are seeking some additional density.

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1 They want to go up to a 6.29. That's what they're seeking.

2 Now, the difference between what they're seeking
3 and what they're allowed to do now is not .29. It's 2.79 --
4 2.79, not .29. Two-point-seven-nine divided by 3.5, what
5 they're allowed, gives you an 80 percent increase, an 80
6 percent increase in allowable density.

7 That is what they're seeking in this proceeding.

8 Not only will this rezoning set a dangerous
9 precedent, it will corner off Connecticut Avenue, a special
10 street characterized by trees and green space in a stark,
11 downtown fashion.

12 Virtually none of this context was considered by
13 the various bodies that the Applicant points to as supporting
14 the project. And PUD or not, these impacts directly violate
15 both the Zoning Act and the Comprehensive Plan.

16 These impacts would be particularly acute for
17 the adjacent historical landmarks: Cathedral Mansions, Woodley
18 Park Towers, and the National Zoo.

19 However, this fact was not considered by the
20 developer or by a single one of the Arts and Historic Groups
21 that endorsed the architectural design, or by the Office of
22 Planning.

23 Nor was the impact of this project on the
24 quality of life in the Cleveland/Woodley Park neighborhood, a

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1 neighborhood singled out in the Comprehensive Plan as having a
2 distinctive identity that contributes to the National Capitol
3 environment and should be preserved; a neighborhood whose
4 greatest concern, according to the plan, is the possibility of
5 unrestrained development diminishing the quality of life.

6 And the first part of our presentation will be
7 to take you on a tour of that neighborhood so that you can see
8 it through the eyes of those who live and work in it, those who
9 pass through it, and those who the District hopes to attract to
10 it.

11 In other words, through slides taken from the
12 street, not from above, and through slides that show the
13 adjacent buildings, not the tall ones up the road.

14 Second, Ms. Murray will discuss the impact of
15 the proposed design on the adjacent historic properties.

16 Third, Mr. Petersen will address its impact on
17 parking in the neighborhood. And finally, I will demonstrate
18 that the PUD application must be denied because the adverse
19 impacts of the project and the degree of relief sought far
20 outweigh its purported benefits.

21 And I will leave for the individual person
22 witnesses who have signed up to testify the anecdotal
23 testimony, which is vital to this proceeding. While we will
24 try to be brief, we are testifying on a large number of issues

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1 and for a large number of people. And we hope the Commission
2 will indulge us.

3 We've worked extremely hard in a short period of
4 time so that we could be heard here today. Now --

5 CHAIRPERSON BENNETT: Before you go on, let me
6 ask my colleagues if they've had a chance to look at Ms.
7 Murray's resume, the updated resume we were passed out today.

8 I have also had an opportunity to look at it,
9 and I'm prepared to accept her as an expert in architecture and
10 design. Are those the areas?

11 MS. NEWMARK: Yes ma'am.

12 CHAIRPERSON BENNETT: All right. All right,
13 thank you.

14 MS. NEWMARK: Thank you. We urge each of you to
15 walk by the Kennedy-Warren so that you can fully appreciate the
16 impact this project will have before making an irrevocable
17 decision.

18 But in the meantime, I'd like to direct your
19 attention to the easel. Somebody get the lights, please.

20 (Pause.)

21 MS. NEWMARK: I'm going to have to sit because I
22 can't read over there. Now what Mr. Korn is setting up over
23 there is the map of the neighborhood. It's a map of the
24 neighborhood that was attached to the Office of Planning's

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1 report.

2 But we filled in Cathedral Park on the left
3 because the Office of Planning's report, you may recall from
4 the first hearing, didn't include it. So, that's what that is
5 on the left.

6 And the reason that's up there is, as we walk
7 through the neighborhood, this will help you to see where
8 things stand in relation to each other.

9 MR. FEOLA: Madam -- Madam Chairperson?

10 CHAIRPERSON BENNETT: Yes?

11 MR. FEOLA: I'm going to renew an objection I
12 had last because as I recall, Ms. Newmark, acting as an
13 attorney, specifically stated she would only testify as with
14 respect to her unit, a very short piece.

15 I think she took a lot of latitude in her
16 opening statement testifying. But now, it appears she is not
17 using a witness to walk us through these slides. She is going
18 to testify. So, I --

19 CHAIRPERSON BENNETT: Ms. Newmark, what are you
20 --

21 MR. FEOLA: -- think she needs to make up her
22 mind whether she wants to be the lawyer in this case or the
23 witness.

24 CHAIRPERSON BENNETT: That's a fair --

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1 MS. NEWMARK: Yes, we don't have a lawyer in
2 this case, ma'am. I am presenting the testimony on behalf of -
3 -

4 MR. FEOLA: I'm sorry, are you a member of the
5 Bar?

6 MS. NEWMARK: -- Cathedral Park.

7 MR. FEOLA: Ms. Newmark?

8 MS. NEWMARK: Yes, I am.

9 MR. FEOLA: Then you're a lawyer.

10 MS. NEWMARK: Yes, but --

11 MR. FEOLA: You're obligated to follow the rules
12 of the Bar, madam.

13 MS. NEWMARK: Yes, and I do follow them. This
14 is a case which I'm doing because I live in the condominium for
15 myself. It has nothing to do with my job. I work for the
16 Department of Justice. This has nothing to do with my job.

17 MR. FEOLA: She's been acting as counsel --

18 CHAIRPERSON BENNETT: But I thought you said to
19 us --

20 MR. FEOLA: -- right from the beginning.

21 CHAIRPERSON BENNETT: -- that you represented
22 your condominium, and that you were acting as a lawyer for
23 them, and that you would then testify on behalf of yourself as
24 a condominium owner in a short testimony.

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1 But most of your representation here has been a
2 legal representation.

3 MS. NEWMARK: Well, I am the spokesperson for my
4 condominium, and no doubt that's because I have some legal
5 background. So, I'm an appropriate person to be that
6 spokesperson.

7 But it could just as easily have been Ms.
8 Fletcher or Ms. Newsome or Mr. Barnett. "A party in an
9 administrative proceeding has the right to appear in person or
10 by counsel and present his case by oral and documentary
11 evidence, to submit rebuttal evidence, and conduct such cross
12 examination as may be required," under D.C. Code Section 1-
13 1509.

14 CHAIRPERSON BENNETT: That's exactly right. But
15 excuse me, I think what Mr. Feola is concerned about is that
16 you're switching roles. I mean, you're either -- you're either
17 doing one thing or the other, as I understood it, and that
18 counsel who appear before us representing someone else do that,
19 as opposed to generally presenting direct testimony.

20 And what's happening here is a hybrid of things.

21 MS. NEWMARK: It is a hybrid, and I don't know
22 what he wants us to do about it. But it is.

23 CHAIRPERSON BENNETT: I think it would be
24 useful, at least for us and to not keep this back and forth

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1 going, is if you could act as the counsel and ask the questions
2 of your witnesses; have your witnesses who are comfortable
3 doing so, walk us through the neighborhood using your slide
4 presentation.

5 Ask your questions of your witnesses, be they
6 your expert witnesses or other witnesses who are coming from
7 the condominium. That would be very useful.

8 And then at some point you feel comfortable
9 talking about what problems this new proposal will have on your
10 particular unit, then we can get to that.

11 MS. NEWMARK: I would hope --

12 CHAIRPERSON BENNETT: Most of this -- most of
13 this testimony -- for most of these two sessions, you have been
14 acting as counsel --

15 MS. NEWMARK: Okay.

16 CHAIRPERSON BENNETT: -- for your condominium.

17 MS. NEWMARK: I have been acting as the
18 spokesperson. Now, I have to object very strongly. Mr. Feola
19 knows that for three months, we've been planning to do it this
20 way.

21 And I really see this as an attempt to deprive
22 us of the opportunity to --

23 MR. FEOLA: I'm sorry, but this has been --

24 MS. NEWMARK: -- present our case.

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1 MR. FEOLA: I objected last time to this.

2 CHAIRPERSON BENNETT: He did, that's true. Let
3 us get some assistance from our staff.

4 MS. NEWMARK: Okay, I have a suggestion. I'll
5 be the witness, and we'll have Ms. Newsome be the lawyer. How
6 would that be?

7 CHAIRPERSON BENNETT: But you see, two-thirds of
8 this proceeding has already taken place. And I guess it would
9 be more comfortable, at least for me, if you remained as the
10 spokesperson, except at such time as you wanted to testify on
11 behalf of yourself as a condo owner.

12 MS. NEWMARK: Well Ms. Bennett, I asked the --

13 CHAIRPERSON BENNETT: What is the problem with
14 doing that?

15 MS. NEWMARK: There's -- oh, I can tell you the
16 practical problem is that I'm the person that's prepared, and
17 I'm the one that knows what the presentation is. And if you do
18 this, we're not going to have a presentation. I was denied --

19 CHAIRPERSON BENNETT: There's nobody else here
20 who could walk us through these slides?

21 MS. NEWMARK: No, no. There's no one else that
22 knows the sequence --

23 MR. FEOLA: Madam Chair, in the interest of
24 getting --

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1 MS. NEWMARK: -- or anything else. I'd like to
2 -- excuse me, Mr. Feola.

3 MR. FEOLA: Well, I'm going to give you the
4 opportunity.

5 MS. NEWMARK: Excuse me, Mr. Feola.

6 MS. NEWMARK: I'm going to waive my objection if
7 I have the right to cross examine Ms. Newmark.

8 MS. NEWMARK: He does.

9 CHAIRPERSON BENNETT: No problem. And I would
10 ask that she not be allowed to cross examine my witness any
11 more for the rest of this proceeding.

12 MS. NEWMARK: Well, that we would object to, but
13 of course he can cross examine me. I'm a witness. I'm
14 testifying. I live in the building and I'm testifying. Of
15 course he can cross examine me.

16 CHAIRPERSON BENNETT: Let's proceed, please.

17 MS. NEWMARK: Thank you. The map that's -- the
18 map up there is the map that came out of the Office of
19 Planning's report and -- except that we've added -- you can see
20 there's Cathedral Park, all right?

21 So, this will give you an idea as we go through
22 the neighborhood of where we are, all right?

23 Let's begin. We begin at the National Zoo. Now
24 what we're going to do is we're going to go up -- here's the

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1 National Zoo -- we're going to go up the west side of the
2 street, and then we're going to go up the east side of the
3 street.

4 Now as the courts, historic boards, ANC and the
5 National Zoo have long recognized, our section of Connecticut
6 Avenue characterizes the entrance to the National Zoo, and the
7 entrance to the Zoo characterizes our section of Connecticut
8 Avenue.

9 That's why Congress passed the Shipstead-Luce
10 Act requiring projects like this to be referred to the
11 Commission of Fine Arts.

12 The Zoo's Connecticut Avenue entrance is visible
13 to thousands of vehicles and pedestrians daily and millions
14 annually. And our neighborhood is the residential neighborhood
15 in D.C. that people from all over the world see.

16 Now, this is the pedestrian entrance. Vehicles
17 enter further north, and we'll get to that. Okay, now we're
18 going a little further north on Connecticut and we come to the
19 Kennedy-Warren. It comes into view.

20 Now, we're standing at the Zoo's driveway. So,
21 this is the view that visitors entering the Zoo in vehicles
22 will see of the Kennedy-Warren. Those pink cards over there
23 are being held up by people who are standing at the place where
24 the Kennedy -- where the new addition's facade will come if it

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1 is built.

2 Later, I will show you exactly where the new
3 building will be. The next slide, please.

4 Okay, now we're taking this picture from across
5 the street. And here you can see that the Kennedy-Warren looks
6 like an "L" from Connecticut Avenue. And this portion of the
7 "L" over here is set back from Connecticut 158 feet.

8 Now, next to it you can see a light-pole. A
9 light-pole is 27 feet high, okay? So, that gives you some idea
10 of how far away you are from -- I'm sorry, there's the light-
11 pole going up there. So, it looks pretty tall next to the
12 building. That's because the building is set back so far, 158
13 feet.

14 On this side of the building is the lawn that
15 we're talking about where they're going to -- where they want
16 to build the addition. It's 34,000 square feet, that lawn.

17 Now, the existing Kennedy-Warren is a historic
18 landmark. And its designation specifically lists as reasons
19 for that "its majestic setting set back from Connecticut Avenue
20 just north of the Zoo entrance. It sets the building apart
21 from others and adds to the building's distinctive presence on
22 Connecticut Avenue. It is a building that illustrates
23 significant expressions of siting and landscaping."

24 By the way, the designation also refers to the

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1 existing building as "mammoth."

2 CHAIRPERSON BENNETT: Yes, I've got that.

3 MS. NEWMARK: Has that been handed out? Okay,
4 the next slide. Okay, continuing up the street, this is the
5 right side of the "L" that we saw before. And you can see,
6 here's the light-pole again, all right?

7 And this, as I said, is set back 158 feet. Now,
8 there is -- can you raise the slide up a little bit? You can't
9 -- some of it is off the chart. Just lift the projector. I
10 want to show them the driveway. If you could lift the entire
11 projector -- okay, there you go. Okay, that's what I wanted to
12 show.

13 Here, they have the circular driveway in front.
14 And you can see there's a little circle in the middle. It's
15 got some grass on it.

16 That's 5,500 square feet, and it's surrounded by
17 the driveway, which is proposed to be expanded slightly. Next
18 slide.

19 Now, here you can see -- it needs to be raised.
20 Here you can see what a tremendous difference a set-back
21 makes. This is the north wing of the building which abuts
22 Connecticut Avenue at a distance of about 30 feet from the curb
23 just like the proposed south wing would do, except that the new
24 addition would have twice as much Connecticut Avenue frontage.

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1 And you can see from the light-pole, which is
2 now about a third the size of this, that we're a lot closer.
3 The building, of course, is 90 feet high. And the light-pole
4 being 27 is about a third the size.

5 Okay, now continuing up the street, we come to
6 the bridge that goes over the Klingle Valley. And now the
7 massing that you see along the Klingle Valley here is
8 comparable to the massing proposed for the new addition along
9 Connecticut Avenue.

10 And again, you can see now the light-pole is
11 taller than the building, so it's really far back. The next
12 slide?

13 Okay, now continuing up the street past the
14 bridge, we come to 3217 and 3221 Connecticut Avenue. They're
15 typical four and five-story buildings on this part of
16 Connecticut.

17 And you can see that there are some retail
18 stores up on the next block. Then all the way in the distance,
19 you can see some buildings. These are more than five blocks
20 away. These are the buildings that the Applicant showed at the
21 January hearing as characteristic of the Kennedy-Warren's
22 neighborhood. Next slide.

23 Okay, now we're at the Village Shops. And you
24 can see they are one to two-stories high. Many of these shops

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1 have letters in the file strongly opposing this project: the
2 Brookville Supermarket, La Bon Deux, Coppi's, Town Jewelers, a
3 vacuum cleaner store.

4 All right, now let's go up the west side of
5 Connecticut Avenue. Okay, so we've just gone up here, and
6 we're starting back down here, okay?

7 Now, we start with the southern-most portion of
8 the Cathedral Mansions building that faces the Zoo. Now,
9 Cathedral Mansions consists of three buildings. The northern-
10 most is called Cathedral Park. And that's what we call home.

11 Many of you in this room may recall that a few
12 years ago, the owner of Cathedral Mansions wanted to build on
13 this lawn. And that construction, like the proposed Kennedy-
14 Warren expansion, is subject to the Shipstead-Luce Act because
15 of its location across from the Zoo.

16 Now on July 17, 1992, during the course of that
17 proceeding, Michael Robinson, the Director of the National Zoo,
18 stated that construction on that lawn would be "incompatible
19 with the quality of open space and natural environment on this
20 major approach to the Zoo, which at present echos the openness
21 and refreshing greenery of the Zoo itself and of Rock Creek
22 Park beyond."

23 Are you giving copies? And -- is somebody
24 giving copies out? Okay.

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1 And former Council Member Jim Nathanson
2 testified in that proceeding that "Filling in the lawn would
3 destroy the open space aesthetic that currently exists on that
4 part of Connecticut Avenue." And the ANC testified to the same
5 effect.

6 In fact, the Fine Art Commission disapproved
7 that proposal noting, "the loss of landscaped forecourt which
8 contributes so much to the special character of the Avenue at
9 this location."

10 In fact, the Mayor's Agent found that that lawn
11 was "vital in establishing the open space character of
12 Connecticut Avenue and construction would destroy the visual
13 connection with the Zoo."

14 Do you want to do that next slide? Okay, we're
15 at W-1. Now, we're continuing up the street and this is all
16 Cathedral Mansions.

17 Now, this picture was taken from the Zoo's
18 entrance. This is looking south on Connecticut from the Zoo's
19 entrance. This is the view that people see. You can see
20 there's a couple of retail shops. This is a five-story
21 building here. Next slide, Steve.

22 Okay now, and this is standing at the same place
23 looking north on Connecticut from the Zoo's entrance. Now,
24 this building here is Cathedral Park, which is the northern-

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1 most part of Cathedral Mansions. And it extends all the way up
2 here. Could you go back one?

3 Yes, back, right. Okay, so this is looking
4 south, and that's looking north. Now, other apartment
5 buildings on Connecticut Avenue, following the precedent set by
6 Cathedral Mansions, have helped create a series of these
7 verdant landscaped gardens and courtyards that compliment the
8 scenery of the Zoo and Rock Creek Park.

9 And this is what makes Connecticut Avenue a
10 special street under the Comprehensive Plan.

11 The original zoning law, and subsequent
12 amendments, created Connecticut Avenue this way with a special
13 alternation between either tall buildings that are set back
14 from the Avenue with spacious front lawns and low-rise
15 buildings that are closer to the street.

16 And this rhythm is considered very distinctive
17 and unusual.

18 Now, we come to the entrance to Cathedral Park.

19 Now, Cathedral Park, part of Cathedral Mansions, was designed
20 by the renowned architect, Harry Wardman and Mehran Mesrobian.

21 And it's been hailed for its siting and landscaping and design
22 which profoundly influenced other buildings in the area in the
23 20's and 30's.

24 In 1989, Cathedral Mansions was designated on

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1 the Local Register, and in 1994, on the National Register of
2 Historic Places.

3 Cathedral Mansions is also featured in James
4 Good's book Best Addresses in Washington.

5 Now continuing up, this is still Cathedral Park,
6 part of Cathedral Mansions, and there is its courtyard.
7 Wardman, himself, emphasized the visual connection between
8 Cathedral Mansions and Rock Creek Park: "It's significant as a
9 landmark because it's designed in the context of the nearby
10 park land and contributes to the unique open space character of
11 Connecticut Avenue."

12 "Since it was sited across from the Zoo, a
13 verdant setting was ensured for this apartment house." And
14 Wardman created a mirror image of that setting, placing a
15 garden in front of Cathedral Mansions.

16 In fact, in designating it a historic landmark,
17 the Historic Review Board cited "its park-like setting and
18 residential scale that compliments the character of the
19 adjacent community."

20 Okay, let's go to the next slide. Okay, now
21 we're continuing up the street. This is the north end of
22 Cathedral Park, and we are now right there. And you can see
23 that the north end of Cathedral Park is balanced against the
24 set-back of the Kennedy-Warren.

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1 Okay, next slide. Continuing up the street, we
2 come to Woodley Park Towers. That's over there. Okay, and
3 Woodley Park Towers is balanced against the north wing of the
4 Kennedy-Warren. Woodley Park Towers is six stories, so it's
5 higher than the four-story Cathedral Park. You can see this
6 balancing that goes up the street.

7 Okay, crossing over the bridge, we come to 3220,
8 which is a mirror image of 3221 across the street. We're up
9 here now.

10 This is another four-story building, four to
11 five I suppose. And you can see how the two sides of
12 Connecticut Avenue are balanced, and you can see the shorter
13 retail shops that we're about to come to in the distance.

14 Go ahead, Steve. Continuing up, we come to the
15 library. So, you've seen what our neighborhood looks like now.
16 Let's take a look at what this project will do to it.

17 All right now, this is the present view of the
18 Kennedy-Warren lawn from across the street. And the pink
19 cards, you can see the little pink cards here, the pink cards
20 show where the new addition would reach.

21 In other words, here's our 27-foot light-pole.
22 So, we have to go three times the height of the light-pole,
23 which takes us off the chart, so I'll just go as far as I can.
24 Pink card -- here we go, pink card, okay.

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1 And as I say, we're off the chart. So, all of
2 this will be gone. You'll see concrete. Next shot.

3 Now, this slide is composed of a series of
4 photos taken from the same point on the sidewalk in front of
5 Cathedral Park directly opposite the Kennedy-Warren lawn.

6 Because the area is so large, a series of photos
7 panning across the space were taken and pasted together to form
8 the panorama that you see. These photos were taken with a
9 normal lens.

10 Now, I'm about to show you what the same view
11 would be if the south wing were built. And I ask you to keep
12 your eyes on this green tower as a frame of reference.

13 This is what this case is about. The expansion
14 would consume all of the open space across from Cathedral Park
15 and north of the Zoo's entrance. And as you can see, the tower
16 of the existing wing would fall into the shadow of the new
17 wing.

18 Now, this picture was made by photographing the
19 existing north wing from the sidewalk across the street, the
20 same distance across Connecticut Avenue as the "before" picture
21 was taken.

22 So it's like the developer's slide, except that
23 he merely flipped the slide showing the mirror image of the
24 north part abutting Connecticut Avenue.

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1 The proposed plan actually calls for two mirror
2 images of the north part. And the wing was shot straight on
3 from an angle which, when pasted together, gives the proper
4 perspective, how it would look to a viewer across the street.

5 This was then placed onto a copy of the "before"
6 landscape precisely where it would appear if it were built.

7 And you can see -- well, you can't really see
8 the light-pole very well.

9 Now, we were unable to fit the entire proposed
10 project on a slide in a meaningful way. So, I'd like to show
11 you -- we have a poster which includes the north wing as well.

12 CHAIRPERSON BENNETT: Hold on. Wait until you
13 get to something that amplifies your voice.

14 MS. NEWMARK: So, we've made a poster of it so
15 you can see it with the north wing, because that's not shown
16 with this picture.

17 I don't know if everybody can see this, but I
18 think you'll be able to see it when the light comes on.
19 Where's the pull-out?

20 Now, this is -- these are the two slides we saw,
21 okay? And Bob is going to pull out a north wing. We'll leave
22 this up here when the light comes on so you can see it. There
23 it is. There we go. There's the north wing, okay?

24 By the way, it doesn't look like it's in

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1 perspective, but it is because you're standing closer to the
2 new wing. So, the north wing is further in the distance. And
3 you can -- well anyway, but we'll leave this here for
4 examination.

5 Oh yes, by the way, the developer's slide -- as
6 I said, the Applicant's slide ended here, okay, which actually,
7 as our architect will explain, wouldn't be such a bad idea.

8 Okay, let's do the same thing from the vantage
9 point from the National Zoo. Okay, this is somebody -- if you
10 were standing at the driveway of the Zoo, here's the Kennedy-
11 Warren. And I'm going to draw for you where the building would
12 be.

13 Now here we can see the light-pole very clearly,
14 27 feet. So remember, it will be three times the size of the
15 light-pole, which is off the chart. So all of this would be
16 building, okay?

17 Okay, Steve, next slide. Now, a photo was shot
18 from the sidewalk to the south of the fence approximately at
19 the Zoo driveway, its vehicular entrance. And this slide was
20 then taken of the photo, reducing its overall size so that
21 there would be room to superimpose a scaled photo of the new
22 wing.

23 And this is the view that visitors entering and
24 leaving the National Zoo will have, except of course, that we

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1 did not add balconies and whatever lounge chairs, plants,
2 bicycles will be on them.

3 Notice how close -- notice how close the
4 sidewalk is along Connecticut Avenue, how close the building is
5 to the sidewalk. And you can get a sense from this shot of the
6 massive wall that this would create along the Avenue.

7 It would irrevocably change the scenic character
8 of the neighborhood, which consists of low-scale buildings,
9 set-backs, courtyards and open spaces, by replacing a large
10 piece of parkland with a massive wall that is out of scale with
11 its neighbors.

12 It would totally block the east-facing view of
13 Cathedral Park, a historical landmark designed to provide that
14 view. And it would irreparably change the character of the
15 Zoo's northwest sector, effectively creating an urban canyon at
16 a most critical area: its entrance and immediate identity.

17 Let's get a little closer and read that slide.
18 Can everybody see that? It says, "Apartments available.
19 Inquire within."

20 Again, we have enlarged these two photos and
21 mounted them on posterboard. And again, we'll leave this up
22 here when the lights come back on. And please everybody, feel
23 free to come by and inspect it.

24 Now we have also prepared packets for you. We

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1 reduced all these slides to photos and we put them in a packet
2 so that you can look through them at your leisure.

3 And what we've done with the slide packets is
4 we've numbered the slides. The ones on the east side of the
5 street are the "E" slides, E-1 through E-8 or E-9. The ones on
6 the west side of the street are the "W" slides.

7 And each slide correlates with the number on the
8 other side, so that E-1 is directly across the street from W-1,
9 and E-2 is across from W-2. So, you can look at the slides and
10 see for yourselves how the street is balanced and where things
11 sit.

12 Is somebody handing that out? Can we have the
13 lights back on? Lights, please.

14 Now a PUD, because it goes beyond the building
15 permitted under matter of right, has stringent criteria. And
16 these criteria are binding. They cannot be circumvented
17 because of liking or disliking a particular project.

18 And it is not our burden to demonstrate that the
19 criteria are not met. Rather, the Applicant has to demonstrate
20 that they are met. And they have not even come close to doing
21 that here.

22 The criteria are: "The specific public benefits
23 the project would bring must outweigh the potential adverse
24 impacts on the community and the degree of flexibility sought."

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1 And the project must be consistent with the
2 Comprehensive Plan. It says in 2304, "The Commission shall
3 find that it is not inconsistent with the Comprehensive Plan."

4 Now, the benefits also must be superior in
5 quality and quantity "to typical development of the type
6 proposed." That's 2304.12, "typical development of the type
7 proposed," of another luxury high-rise. These must be
8 superior.

9 I will address all of these. But since the
10 Applicant has said practically nothing about adverse impacts,
11 I'm going to start there.

12 In our view, the impacts of this project are
13 completely unacceptable. They also directly violate the
14 general land use, urban design, transportation, historic
15 preservation and ward elements of the Comprehensive Plan.

16 First and foremost, this project would impose a
17 structure with one of the highest residential densities in the
18 city, a FAR of 6.29 on a community whose low density character
19 has repeatedly been singled out by the City Council for
20 protection. And it would shoe-horn that structure into a space
21 zoned for a FAR of 3.5.

22 It's no wonder that Council Member Kathy
23 Patterson is concerned about this project. It is a serious
24 matter that affects the entire city, not merely the people

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1 across the street.

2 It will set a precedent that extends far beyond
3 this application.

4 One of the most striking aspects of this case is
5 that this proposal got as far as it did, despite being in
6 contravention of practically every element of the plan,
7 particularly those involving density.

8 If there is anything that even a cursory reading
9 of the plan leaves you with, it's the notion that an over-
10 reaching goal is to retain the low density, stable residential
11 character of Ward 3.

12 And that phrase is mentioned no less than 23
13 times. I counted.

14 To say that this project, which would bring to
15 Ward 3 a residential density never before seen in the Ward and
16 possibly never in the entire City, to say that's consistent
17 with the Plan requires the Commission to pluck out one single
18 tree or one branch and ignore the whole forest.

19 In the interest of time, rather than go through
20 the plan here, we put together a response to the Applicant's
21 submission that's entitled "Consistency with Comprehensive
22 Plan." And we'll distribute that.

23 And you'll see on it that our responses are in
24 smaller type next to each of the Applicant's assertions. We

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1 did it right onto their form so it's easy to look at.

2 And we're also giving you an outline that we've
3 done that's called "Inconsistency with Comprehensive Plan."
4 And we're hoping that this will be helpful to the Commission in
5 performing its function under Section 2403.4 and the Zoning
6 Act.

7 But it's important to note -- it's important to
8 note that density limits were a key innovation in the 1958
9 Zoning Code, the code that repealed the one in effect in the
10 30's as inadequate.

11 And its proponents stress that low density
12 residential development and preservation of the District's open
13 spaces were the keys to preventing congestion and to preventing
14 the flight of District residents to the suburbs.

15 So, a major theme of the current Zoning Act, and
16 I'm talking about D.C. Code Section 5-514, a major theme is to
17 avoid congestion and over-crowding. And a major theme of the
18 Comprehensive Plan is to control development pressures to avoid
19 adversely impacting "the qualities that make neighborhoods
20 unique and desirable."

21 And the Ward element emphasizes that Ward 3's
22 most outstanding characteristic is "its low density, stable
23 residential neighborhoods."

24 Despite this unequivocal emphasis on maintaining

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1 the low density character of Ward 3, the primary zoning
2 restriction from which Applicant seeks to be excused is the
3 limitation on density.

4 And their primary justification is that they
5 want to complete a plan that was approved in 1931 before those
6 density restrictions even existed.

7 Now, those density restrictions were a highly
8 controversial part of the 1958 zoning enactment. And like de ja
9 vu, two of the more vocal parties in the debate were the
10 residents of communities including Cleveland Park, who urged
11 that density restrictions were necessary to preserve their
12 neighborhoods, and big law firms, including Wilkes, Artis,
13 representing the interest of large developers.

14 But the lawmakers agreed with the residents.
15 They adopted density limits, stating that "The District's
16 neighborhoods are the cornerstone of the District's social and
17 physical environments."

18 Yet here we are, 40 years later, having the
19 same, already decided, debate. Whatever vision people may have
20 had in that excessive grandiose era called the Roaring 20's,
21 the fact is that our part of Connecticut Avenue has become an
22 amenable mix of green space, trees, and low to moderate density
23 residences.

24 Our historical retail district, including the

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1 Uptown Theater two blocks away and the National Zoo next door,
2 has brought visitors to the neighborhood in numbers never
3 dreamed of in 1930 when it was just a suburb of Georgetown.

4 The lawns around our entrance to the Zoo have,
5 themselves, become national treasures, as was stressed in the
6 Cathedral Mansions' case discussed earlier.

7 Even the foundations that Applicant points to,
8 the foundations for the building, as though they've been
9 waiting for this moment for 70 years, they're so outdated that
10 they are unusable and have to be ripped out.

11 And these are the reasons that this Commission,
12 when it approves projects like this, puts time limits on how
13 long an Applicant can wait to begin construction.

14 What might have been an appropriate project in
15 1930 is simply not going to be appropriate today. And the
16 trend since the Kennedy-Warren was built has been to decrease,
17 not increase, density.

18 Now that the wheels are in motion though, and
19 almost exclusively because of the perception that this project
20 is the completion of a historic plan, the Applicant tells us
21 that the historic plan is not the basis on which it seeks a
22 huge deviance from the density limitations.

23 But ask yourselves whether we would even be here
24 today if this development was not based on a "original design."

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1 Would anybody in this room have entertained even for a moment
2 an 80 percent increase in density to allow a massive apartment
3 building, no matter how beautiful, to be constructed on the
4 Kennedy-Warren lawn, had it not been cast as completion of a
5 historic plan?

6 In short, whatever merit the proposal may have
7 from a historical perspective, it is this body's duty to
8 evaluate its impact on the neighborhood today, particularly
9 since the Applicant is requesting a PUD.

10 Now, you've seen the slides, and they
11 demonstrate far better than words could the devastating impact
12 this addition would have on its surroundings.

13 Okay, this is what we have here today. In the
14 process of destroying the open space and trees that frame and
15 enhance the existing building, and that set it back
16 majestically as the crown jewel we've heard it described to be,
17 this project would wall off Connecticut Avenue as if to turn
18 its back on the community.

19 In the process of destroying the open space and
20 trees that buffers the stately Kennedy-Warren from other
21 adjacent historic landmarks, including Cathedral Mansions and
22 the Zoo, it would create a building totally out of proportion
23 with those landmarks. It would dwarf them.

24 What is now a warm, inviting entrance into the

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1 Kennedy-Warren would become a gloomy pathway to a fortress; a
2 fortress that because of its location to the south, would
3 literally and figuratively leave the historic landmark that has
4 graced our Avenue for 70 years in its shadow.

5 And of course, you realize the south wing is
6 built -- when the south -- and the project would throw the
7 harmonic symmetry of Connecticut Avenue completely out of
8 kilter in a sharp and shocking fashion.

9 As community letters have described it, "It will
10 be like having the Battleship Galactica in our midst. It will
11 be a towering wall, a Death Star. It will turn our small town
12 into downtown. Connecticut Avenue will look, well, silly. It
13 will become the butt of jokes."

14 This is what the community is saying about this
15 project.

16 Now, what do the Applicants say about all this?
17 They say the project won't destroy green space. In fact, they
18 say it will preserve green space because the proposed footprint
19 uses only 59 percent of the lot, implying that the remainder
20 would be green.

21 Well, we looked at the proposed footprint, and
22 we thought how could that possibly be only 59 percent coverage?
23 So, we did some measurements.

24 Now, all right, this is the footprint that was

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1 taken from their set of drawings. This only shows the
2 existing, but I think it will serve for my purposes. Now, the
3 portion of the footprint -- if you include everything -- excuse
4 me.

5 Now okay, this is the lobby. This says "lobby
6 level floor plan" on it, okay? Now if you measure this whole
7 thing, all right, including these things that appear to be
8 spaces, but they're not spaces, okay? Those are actually
9 structures. Those are the roofs of the parking garage and
10 other structures.

11 If you measure that entire thing, it comes out
12 to 71 percent. Now if you take the terraces out of the
13 calculation, not that there's any reason to but if you do, then
14 it comes to 66 percent of the lot.

15 And it's only if you taken out the terraces and
16 the roof of the parking garage, which are two-story structures
17 on here, it's only if you take that out -- in other words, if
18 you measure like a floor plan as the fifth floor, the sixth
19 floor, that's when you come up with 59 percent.

20 And by the way, this slide -- okay, this shows
21 what those structures are. You see, this is on the Klingle
22 Valley side. Down here, it looks like it's just space, but
23 it's not. This is what it is. I mean, this is not open space.
24 It's not green space.

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1 This is structure. This has to be counted in
2 the footprint. Would you show the next slide, please?

3 And this shows what the space on the rear is.
4 This is what looks like an opening, but it's not. This is
5 filled in -- thank you, great. This is filled in -- why don't
6 you go to the last slide?

7 Okay, this is on the Klinge Valley side. And
8 you see here are the openings, but they're only opened higher
9 up, okay? Flip around to the rear.

10 Okay, now we're in the back. And the opening is
11 up here. But you see, you have to count the whole thing as
12 part of the footprint because it is part of the footprint.
13 Thank you. Thank you, Ms. Dobbins, whoever did that.

14 In any case, the argument that they're only
15 proposing to use 59 percent of the lot is disingenuous because
16 it suggests that they could use even more. But they can't use
17 any more, not without reducing the height of the building or
18 increasing the FAR by more than the 80 percent they're seeking.

19 Lot occupancy is directly related to height and
20 density. So a lower structure can use a greater percentage of
21 its lot without violating the density regulations.

22 In fact, the Kennedy-Warren's lot coverage was
23 restricted to 51 percent in 1930. And we're going to hand you
24 a copy of the 1930 Zoning Amendment, which was the precursor to

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1 the 1958 Density Law that shows exactly how that's calculated.

2 Now, these density and lot use restrictions have
3 very real implications. They are the reason, for example, that
4 Cathedral Avenue near Glover Park is such a lovely street. The
5 taller buildings are appropriately set back from the street and
6 framed by hills, lawns and trees.

7 Can you imagine an addition on the lawn of the
8 Westchester directly abutting Cathedral Avenue?

9 In any event, the loss of green space is not a
10 point that can be twisted by clever argument. The lawn that we
11 presently see on Connecticut Avenue will be gone, plain and
12 simple. Can I have a slide, please?

13 That's the lawn that we presently see, will be
14 gone, plain and simple.

15 And the views of the wild parkland will be
16 replaced by views of concrete and ornamental shrubs. Now, the
17 architect who is friends with Hartman Cox and testified as a
18 person last time is mistaken in her understanding that
19 significant green space would be retained, as are the handful
20 of others who wrote support letters on that basis.

21 Moreover, as the ANC pointed out at the last
22 hearing, this particular green space, the Kennedy-Warren lawn,
23 has been protected and its importance stressed for years by the
24 Zoo, the ANC, various historic groups, the Fine Arts

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1 Commission, and the even the Kennedy-Warren's own historic
2 designation.

3 And in 1994, after testimony in the Cathedral
4 Mansions case established as a matter of record the vital
5 importance of this lawn to the integrity of the site and the
6 Kennedy-Warren was entered into the National Register of
7 Historic Places citing its importance, the Comprehensive Plan
8 was amended to provide that this lawn be accorded "stringent
9 protection from inappropriate infill." And that's Section
10 1407.3(d) of the Comprehensive Plan.

11 Did you turn the projector back -- okay, there
12 we go. I want to show you just a couple of slides of the lawn
13 because unfortunately the ones we showed you earlier were all
14 taken in winter. So, you really can't see how beautiful it
15 looks with the trees in bloom.

16 But these are some summer slides. Okay, here's
17 another picture of it -- another picture, thank you. Okay, now
18 this is the Cathedral Mansions lawn. And I have a picture
19 following it, I believe, of the Kennedy-Warren lawn.

20 That's the one I was looking for because this
21 one gives you a sense of its expanse. It's 34,000 square feet.

22 And would you flip back, please?

23 You can see how both of these lawns serve a very
24 similar function. They buffer, and they set this back, and

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1 they enhance the entrance to the Zoo. You can hit the lights
2 again.

3 Oh and by the way -- could you go one more? By
4 the way, this lawn, which is 34,000 square feet, is the only
5 thing that could possibly be considered to be a great swath of
6 green space, as the regulation refers to it, because as I told
7 you before, that little dot of grass in the middle is 5,500
8 square feet. It's hardly what anyone would ever refer to as a
9 "great swath."

10 Now before I call our architect to testify on
11 the impact of the proposed design, I'd like to note that the
12 urban design element of the plan requires buildings to use
13 height, scale, massing and buffering to compliment the
14 immediate region.

15 This is especially true for development adjacent
16 to areas of strong architectural character, which here includes
17 both the existing Kennedy-Warren and the historic buildings
18 across the street.

19 The plan also requires that high density
20 residential development adjacent to lower density residential
21 districts provide buffers to mitigate adverse effects.

22 Yet, this proposal would do precisely the
23 opposite. Ms. Murray?

24 MS. MURRAY: Thank you, Andrea. Madam

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1 Chairperson, Members of the Commission, my name is Jo Anne
2 Murray, and I'm the President of Murray & Associates Architects
3 in Glen Echo, Maryland.

4 It is my professional opinion that the proposed
5 project contains design features which will adversely affect
6 the surrounding neighborhood.

7 However, there are alternative designs which
8 could mitigate these effects.

9 I will highlight again the major architectural
10 concerns: 1) the massive size of the project; 2) its great
11 difference in scale to the surrounding structures; 3) the loss
12 of the Kennedy-Warren lawn which buffers the mass of the
13 existing Kennedy-Warren from the National Zoo and the adjacent
14 historic buildings; and 4) the lack of the significant set-
15 back.

16 The developer proposes to construct a building
17 that is based upon, although not identical to, a 1930 design by
18 Joseph Younger.

19 It has been suggested that this is a historic
20 preservation project because it would complete a historic
21 building.

22 This suggestion is inaccurate. There is a
23 difference between preserving an existing historic building and
24 constructing a new building according to an old design. The

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1 first is preservation; the second is creation.

2 A new building, by definition, cannot be
3 considered historic. It is new. The proposed design varies
4 from the Younger design in numerous respects, some minor and
5 some major.

6 This underscores the fact that the proposed
7 project is really not a historic building, and it does offer
8 flexibility to require additional alterations to bring it into
9 harmony with the neighborhood.

10 Yes, I think I will need to have the lights off
11 for this. This slide shows the Applicant's proposal with the
12 existing building here and the addition here.

13 Note that the short-leg is set back 33 feet from
14 Connecticut Avenue. Here's the Avenue, and there's 33 feet
15 distance, while the long face that's parallel to Connecticut
16 Avenue is back here, is set back 158 from the curb.

17 As shown in the slide show, the neighborhood is
18 comprised of a combination of open green space and low and
19 medium density residential and commercial buildings. The
20 majority of these are between four and five stories high.

21 The overall effect is a scenic, park-like
22 residential neighborhood.

23 The Kennedy-Warren is by far the tallest
24 building in the neighborhood. It is nine stories high with the

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1 bulk of the building set back from Connecticut Avenue.

2 It is precisely this set-back which keeps it in
3 balance with the neighborhood and in scale with the adjacent
4 historic buildings.

5 This new building would be 175 feet long and 90
6 feet tall. In effect, this would create a massive wall along
7 one side of Connecticut Avenue, which would be a stark downtown
8 presence in a neighborhood otherwise characterized by open
9 space, smaller buildings and park-like settings.

10 The massive size of the proposed addition is
11 exacerbated by the lack of a meaningful set-back. The
12 Applicant's design places the structure as close as possible to
13 Connecticut Avenue right-of-way. In fact, it is slightly over
14 the right-of-way.

15 The proposed addition would surround the
16 courtyard and triple the amount of frontage abutting
17 Connecticut Avenue. Right now, we have this much frontage and
18 we're now going to have this much frontage.

19 In contrast, the Connecticut Avenue building
20 that's most comparable in size to the Kennedy-Warren is the
21 Broadmoor, six blocks to the north.

22 The Broadmoor is eight and a half stories above
23 the adjacent sidewalk, and is similar to the Kennedy-Warren in
24 layout and massing in that it is L-shaped.

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1 However, the leg of the abutting -- that is
2 abutting Connecticut Avenue is set back 115 feet from the curb
3 at Connecticut Avenue, while the comparable portion of the
4 Kennedy-Warren is only set back 33 feet. Steve, can I have the
5 next slide?

6 Now we're on the other side of the Zoo entrance.
7 The Zoo entrance is right there. You can see the Kennedy-
8 Warren way in the distance there.

9 In contrast are the five to eight-story
10 buildings that are several blocks to the south. These
11 buildings were constructed with a smaller floor-to-floor height
12 than both the Kennedy-Warren and the Broadmoor, and they step
13 down from eight stories to six stories to five stories, which
14 helps to keep them in scale with their surroundings.

15 Even the tallest of them has only a 90-foot long
16 frontage along Connecticut Avenue, which is substantially less
17 than the 175-foot frontage proposed by the Kennedy-Warren
18 addition.

19 Now, I think I need to have the lights on to
20 show this poster. Here is a map of the neighborhood. This was
21 taken off of the zoning application. We've colored in the
22 Cathedral Park -- Office of Planning application.

23 This is the Kennedy-Warren and the solid one is
24 the existing building. And then the one with just an outline

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1 is the proposed addition.

2 In previous testimony, the Applicant had
3 suggested that the completed building would be symmetrical.
4 The architect showed a slide that made a mirror image of the
5 entrance courtyard. He took this projection and he flipped it
6 and showed us what this side would look like.

7 This is only partially true. The courtyard
8 alone would be symmetrical if that were the access of the
9 courtyard. That would be symmetrical to that projection.

10 The two wings down here would also be
11 symmetrical about one another from their terrace that's in
12 between them. But taken in total, the entire building would
13 not be symmetrical around that courtyard. In fact, there's a
14 lot more amassed south here than there would be to the north.

15 It is my professional opinion that this lack of
16 symmetry along Connecticut Avenue would have undesirable
17 effects. Because it is so close to the street, the massive
18 size of the building is accentuated, which places an undue
19 emphasis on the new wing.

20 This leaves the existing building in the shadow
21 of the addition, literally and figuratively. I think that
22 slide and these photographs that are up here demonstrated that.

23 Ironically, this is the only portion of the
24 building which is truly historic. And we're probably going to

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1 see less than that because you can only see it from a very
2 narrow window as you pass in front of that courtyard.

3 In summary, I agree with the statement made by
4 J. Carter Brown at the September 1996 hearing before the
5 Commission of Fine Arts, that "The extra unit added," and he's
6 referring to this piece here, the projection that's furthest to
7 the south, "throws the building out of balance from the
8 Connecticut Avenue side."

9 Finally, I disagree with the Applicant's
10 suggestion that the original design was intended to be
11 symmetrical. While we cannot know what Joseph Younger's actual
12 intentions were, indications do suggest that the purpose of the
13 original design appears not to create a symmetrical building of
14 superior design, but simply to maximize lot coverage.

15 He's basically taken the trapezoidal sight and
16 filled it in with a trapezoidal building.

17 Can I have the slide, Steve? Thank you. Here
18 is a section that we took through Connecticut Avenue.
19 Cathedral Park is on the left and the Kennedy-Warren is -- the
20 addition that is being proposed is on the right.

21 Up until today, all the designs of the proposed
22 addition have been shown from an aerial view, and that tends to
23 obscure the height of the building.

24 Here when we see the cross-section, you can see

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1 Connecticut Avenue is in the middle here. The right-of-way for
2 Connecticut Avenue is 130 feet. Both buildings are basically
3 right on that right-of-way property line.

4 They both have some distance to the sidewalk,
5 and it's roughly 30 feet, and then the driving section, which
6 is six lanes in the center of that.

7 Shown on the plan -- I don't know if we can get
8 that plan back again, Bob. No, the other plan. We had it
9 rolled up, unless Steve had it. No, I think we have to get the
10 other one. Yes, that's it. Okay.

11 This is the lobby level plan? Yes. Show them
12 that plan. There are two things called "area ways" that are at
13 the front of these projections.

14 Now, those are there because the Avenue is
15 getting a little bit taller. It's rising up to the Zoo
16 entrance, which is the tallest part before it falls back down
17 again to Rock Creek.

18 And those area ways are there because the
19 finished floor level of those apartments is about six and a
20 half or seven feet below Connecticut Avenue at that point.

21 So, those are retaining walls that allow light
22 and air to get into the windows of those apartments. And they
23 actually project beyond the property line.

24 Now as I said before, their plan shows that the

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1 building wall goes two feet beyond the property line. And I
2 think that's simply because the other one did, and it's
3 probably just an error when it was originally laid out. I'm
4 not terribly concerned with that.

5 But we have another seven feet, in addition to
6 that two feet, that project into that 30 feet that's in between
7 the curb and the building wall.

8 So, we really have reduced the amount of green
9 area that we could plant shrubs or any kind of significant
10 buffer in that zone between the passer-by and the building.

11 While the Applicant proposes to plant some
12 vegetation in front of the structure, it is minimal, consisting
13 essentially of close-cropped geometrically pruned shrubbery
14 consistent with the Aztec style of the Kennedy-Warren.

15 A terrace is proposed between those two
16 projecting wings where we show the two light wells. The
17 terrace is essentially the top of the parking garage.

18 That would be a very similar look to what we
19 presented in the earlier slide. When the earlier slide showed
20 the tops of these terraces here, this terrace would be similar.

21 When you're walking along Connecticut Avenue,
22 you would look over the edge. If you could walk all the way up
23 to the wall, you would look down seven feet to a concrete
24 terrace below.

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1 And because it's essentially the roof of a
2 parking garage, they would not be putting soil on that and then
3 grass and then trees. It would essentially be like a courtyard
4 with pavers.

5 And if there were to be any trees, which are not
6 indicated on their landscape plan at this time but were
7 discussed in earlier discussions, and certainly tenants could
8 purchase their own trees, they would need to be in planter
9 boxes, which would sit on top of that.

10 And that would limit the size of the tree that
11 you could put in that courtyard.

12 So essentially, these are not really that useful
13 to the additional green area, or green space, serving as a
14 buffer.

15 The Applicant's landscape plan just shows the
16 use of three to five-foot high hedges along this area. And
17 there are a few trees framing that. And we have no problem
18 with that. It's an artistic design, and it's similar to what
19 the existing building is.

20 It's just that the size and the amount of
21 landscaping really isn't adequate to be a buffer, which is what
22 we need between a building of that size and the adjacent
23 neighborhood.

24 Finally, the trees that are planned for the

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1 front of the building, which would be along here, are
2 essentially the City trees that are all along Connecticut
3 Avenue, and they're proposed as oak trees.

4 From the perspective of someone walking down the
5 sidewalk, those trees will not be in front of the building.
6 From the perspective of someone across the street, those trees
7 will not grow tall enough to mitigate the massive size of this
8 building.

9 They would, at most, reach 30 feet in height,
10 while the addition would be 90 feet high. Moreover, oak trees,
11 which are deciduous, will not serve as a buffer during the
12 winter time.

13 In response to J. Carter Brown's request,
14 alternative designs were developed by the architects, Hartman
15 Cox. We may need to turn the lights down to be able to see
16 this plan.

17 One alternative design was proposed, and it
18 would set back the southern-most projection 20 feet from the
19 property line at Connecticut Avenue. And the way that they did
20 that was they shoved the whole section back so now it's closer
21 to the rear property line.

22 Hartman Cox told us on January sixth in a
23 meeting that this would not make a significant difference, and
24 I agree. I think that they also indicated that when they

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1 presented their letter from the zoning --

2 MS. NEWMARK: You said they testified here.

3 MS. MURRAY: They testified here, okay. A
4 second proposal was prepared by Hartman Cox which would
5 eliminate the southernmost projection entirely, thereby setting
6 a large portion of this facade back 40 feet from the property
7 line or 66 feet back from the curb.

8 Hartman Cox concluded that this was still not a
9 significant enough difference, and I agree. Apparently, so did
10 the Fine Arts Commission.

11 There are designs which could make a significant
12 difference. The most obvious one would be to simply cut off
13 half of the south wing.

14 This design would be superior for several
15 reasons. It would appropriately frame the real historic
16 building while still preserving the front lawn which buffers
17 the Kennedy-Warren from the Zoo and the adjacent historic
18 buildings.

19 It has the potential to significantly increase
20 the parking ratio since the parking garage is still under this
21 section of the building.

22 I'm not saying that this is the best alternative
23 or the only alternative. I'm just pointing out, as Mr.
24 Davidson has acknowledged, that there are alternatives.

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1 Thank you, Commissions. I'll now turn the
2 discussion back to Ms. Newmark.

3 MS. NEWMARK: Thank you, Ms. Murray. I'd like
4 to add to what Ms. Murray said that completion of the U around
5 the courtyard eliminating the southernmost portion of the new
6 wing, is what most people that I've spoken to assume this
7 project is about.

8 And it's a logical assumption, and one that the
9 Applicant has done nothing to dispel.

10 Now, a superior design is not simply a potential
11 benefit of a PUD. It's a prerequisite for a PUD. And while
12 the original plan might have had a historic value to certain
13 groups, Joseph Younger's plan has never been thought of, not
14 even in this proceeding, as superior.

15 I don't think it's possible to say it more
16 succinctly than J. Carter Brown did when he remarked at the
17 Fine Arts hearing, "I certainly believe in respecting the
18 original design. On the other hand, Younger is not Frank Lloyd
19 Wright."

20 Now, we're also concerned about the
21 environmental impact of the project, but we understand that
22 will be addressed at a later stage in the process. We did,
23 however, prepare a written response to the proposed
24 construction management plan, which we would like to enter into

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1 the record. I don't know if it's been handed out yet.

2 And the construction, as you know, is predicted
3 to take 18 months. It's a very long construction period.

4 And since Cathedral Park, which is closer to the
5 proposed construction site than most Kennedy-Warren units, had
6 no input whatsoever into the construction management plan.

7 And we request that you give careful
8 consideration to our response, and ensure that if this project
9 goes forward and if a construction liaison committee is formed,
10 that we are represented on it.

11 The difficulties presented by the current
12 parking situation in the neighborhood cannot be overstated. We
13 plan our lives according to when it is feasible to move our
14 cars. And I leave it to the personal witnesses to amplify that
15 point.

16 As the Commission recognized at the January
17 hearing, very little meaningful information was provided with
18 the application regarding parking.

19 Accordingly, under Mr. Petersen's supervision,
20 we sought and obtained the Zoo's parking studies of the
21 neighborhood. We conducted a parking survey of the Kennedy-
22 Warren tenants. We conducted a survey of tenants in
23 surrounding buildings.

24 We even hand-counted the number of parking

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1 spaces on neighborhood streets. We offered to share our survey
2 data with the applicants, who were uninterested.

3 So, we turned it over to Mr. Petersen, and he
4 will now share it with you.

5 MR. PETERSEN: Thank you, Ms. Newmark. For the
6 record, I'm Steven G. Petersen, Traffic Planning and
7 Engineering Consultant. And when Cathedral Park Condominium
8 Association came to me, they had three issues that they wanted
9 me to address.

10 One was the issue of traffic on Connecticut
11 Avenue. Another was the construction sequencing and
12 construction process. And the third was the parking issue.

13 I'll dispatch with the first two very quickly.
14 First of all, the traffic impact issue was dealt with in the
15 Applicants -- by the Applicant's consultant.

16 I agree in terms of its findings in the
17 immediate vicinity of the site, that the development of 166
18 units is not going to have an impact on traffic that you can
19 literally go out and measure.

20 The controlling points on that section of
21 Connecticut Avenue really are at Porter Street for the north
22 and Calvert Street to the south. And those intersections
23 operate at a level that I call "stable congestion," which is
24 level service D, approximately, based on a review of traffic

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1 counts which the -- my clients obtained from the District of
2 Columbia DPW.

3 They are accounts from the early 90's. And
4 those do demonstrate that those particular control points are
5 at a level of service D.

6 In terms of the construction aspects, I provided
7 them with some information as to what the traffic counts showed
8 in terms of peak hours. And I put those on page eight of my
9 testimony so that they're available to the Commission for
10 review.

11 But as developers often say, "Location,
12 location, location is the issue." For this neighborhood,
13 parking, parking, parking is the issue.

14 The testimony which you have heard last time and
15 that which you will apparently hear again tonight indicates
16 there are serious parking problems.

17 And one of the things that's causing those
18 parking problems in this neighborhood is the fact that it isn't
19 a residential neighborhood solely. It has competition from
20 things like the Zoo, from the commercial area to the north of
21 Klinger Park, from the small amount of commercial from the
22 Cathedral Park complex itself, as well as from the catering
23 operation that is operated out of the Kennedy-Warren.

24 All of these other activities surcharge the

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1 parking that would normally be available for the residents in
2 the neighborhood.

3 For example, when you dig into the actual Zoo's
4 traffic studies, they indicate from a parking perspective that
5 they only have enough parking on-site to serve two-thirds --
6 well, 64 percent of the time. The other 36 percent of the
7 time, in terms of the 365 days of the year, their parking is
8 inadequate.

9 Ten years ago, a proposal was made to put a
10 parking structure in the Zoo confines, which would have reduced
11 that to -- that surcharging of excess parking demand to only
12 about eight percent of the time instead of 36 percent of the
13 time. That isn't there. As a practical matter, counts
14 done in July of 1965 by the Zoo's traffic consultants
15 demonstrated that the demand that is thrust into the
16 neighborhood from the west side of Connecticut Avenue can
17 consume 13 to 15 percent of the street parking that's available
18 there.

19 You take away those 13 to 15 percent of the
20 street spaces that would normally be available in a residential
21 area that was not in competition with the use of the Zoo, and
22 you've taken away a significant amount of parking.

23 In terms of the -- so, that takes care of -- and
24 that's so you can argue that on weekdays, it occurs when the

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1 residents are not there. But it does superimpose an activity
2 on the weekends when they are there.

3 At night, they have competition with the
4 commercial areas to the north. The Star Wars Trilogy has had
5 an impact in terms of imposing additional parking burdens on
6 the community. The Kennedy-Warren's activities, although not
7 every night, they do impose an additional burden for a night-
8 time function.

9 The Kennedy-Warren does, in fact, valet park
10 cars in the Zoo under arrangements they've made with the Zoo.

11 But there are people who do park in the
12 neighborhood. Visitors park on the neighborhood streets. All
13 of these things impose an additional burden.

14 As Ms. Newmark said, we actually went out and we
15 counted the number of units that are in the area bound by
16 Klingle Park, Connecticut Avenue, Cathedral Avenue, and the
17 extension of Cortland Street down on Klingle Road. That area
18 contains approximately 800 and -- round it out, 850 dwelling
19 units.

20 If you add up all of the parking that is on the
21 street, plus assume that every single family unit is using its
22 garage to park a car instead of putting it on the street, you'd
23 have available about 610 parking spaces, or less than three-
24 quarters of a space per dwelling unit in that neighborhood.

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1 So, what does that neighborhood require in terms
2 of parking spaces? They canvassed the four apartment
3 structures that front on Connecticut Avenue. Now last week, we
4 had testimony that suggested -- or last hearing -- that those
5 apartment units probably use something in the order of seven-
6 tenths to three-quarters of a parking space per unit.

7 Our survey of those units -- we had an --
8 overall, there are 659 units in four buildings of 29th, 3000,
9 3100 and Woodley Park Towers.

10 We had response rates from -- it was from 11
11 percent to 36 percent of the residents of those buildings,
12 averaging 25 percent. The parking utilization of the people
13 now living there is a fraction under one space per unit, .98 to
14 be exact.

15 So, you contrast that number with the Census
16 data that was presented last time which suggests that that
17 entire Census tract has a parking, or has an automobile
18 ownership, of about .94 spaces -- .94 cars per unit.

19 Then we see that we're very much in line, or
20 that actual survey data for those apartments is in line with
21 the Census data.

22 My clients also did a survey within the Kennedy-
23 Warren itself. They got a 19 percent response rate to their
24 survey. That survey produced a parking utilization ratio of a

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1 .89 spaces per unit. That's about 25 percent higher than the
2 rate that was presented to the Commission as being applicable
3 to the new portion of the PUD.

4 But that .9, .98 for the west side of
5 Connecticut Avenue, .94 for the Census data, I think there's a
6 message here that the real parking ratio in that neighborhood
7 is between nine-tenths of a space and a space per unit.

8 We have an applicant coming forth with a PUD,
9 not for just the new portion that is proposed to be
10 constructed. But if a single piece of land -- it's a single
11 garage with a single building, it's single PUD, as part of his
12 proposal that is, in my opinion, that he should be providing
13 sufficient parking for the entire structure.

14 When you do -- you take the results of our
15 survey data for the two different situations and his -- the
16 rates that he used in his presentation to you at the last
17 hearing, the very last page of my testimony shows a table
18 taking the entire building with its 483 units, using his ratios
19 plus adding the 22 commercial spaces that his consultant
20 included in one of the tables of his earlier reports, and his
21 ratios produce a need for 386 spaces; 387 are provided: 233 in
22 the existing building plus 154 in the proposal, a surplus of
23 one.

24 That's contrasted to testimony that there's 21

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1 surplus spaces in the new portion of the building. Take the
2 ratios from the Kennedy-Warren survey itself and do the same
3 set of computations, and you end up with a deficiency of 85
4 spaces.

5 Take the ratio from the neighborhood survey on
6 the west side of Connecticut Avenue, it's very close. You end
7 up with a deficiency of 94 spaces. So, the real need for the
8 Kennedy-Warren in total, as a PUD, is something in the order of
9 85 to 95 more spaces than are proposed to be provided.

10 If you don't provide those spaces within that
11 complex, what's the impact of imposing additional parking on
12 the streets?

13 Eighty-five spaces require an additional 1,900
14 feet of curb space. Ninety-four spaces is an additional 2,100
15 feet of curb space. That's two-tenths of a mile. There isn't
16 two-tenths of a mile of curb space in that neighborhood.

17 Go back to the neighborhood as it exists today
18 with its 850 dwelling units and 600-and some parking spaces:
19 if it was to have the parking space available to serve its
20 needs, which would be roughly an additional 185 spaces within
21 the immediate area, you would be looking for three-quarters of
22 a mile of curb space or a structure or something to put the
23 cars in.

24 Now, the testimony earlier -- parking is one of

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1 those wild things that there's always enough parking space.
2 The issue is how far do you want to walk to get to it?

3 I don't think it's reasonable for the people in
4 this immediate neighborhood to do as Ms. Newmark has told me,
5 to park her car on Macomb Street in somebody else's
6 neighborhood when she can't find a parking space in her
7 immediate neighborhood.

8 And that's -- so yes, the parking demand is met.

9 I drove through that neighborhood at ten o'clock one night.
10 Every foot of curb space is occupied. I bet if you marked
11 those spaces off at 22-foot intervals, which is the normal
12 parking module that you use for parallel parking at the curb,
13 that you would reduce the number of spaces -- you would reduce
14 the number of cars that are parked there substantially.

15 But again, it goes to the theory of measuring
16 the available curb space and taking out the fire hydrants and
17 the driveways and the things that people are probably abusing
18 the parking privilege.

19 But as the Commission knows that when parking
20 becomes a burden on the streets, it gets more difficult to meet
21 emergencies in those neighborhoods, more difficult to provide
22 public services, particularly when you get snow incidents and
23 things that do happen in this town from time to time.

24 So, I think that is -- from a more technical

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1 perspective, that is what you are hearing when the community
2 says "We've got a parking problem. We've got a parking problem
3 because there aren't literally enough spaces within a
4 reasonable distance. We've got a parking problem because we
5 have competition from catering events, from the Zoo, from
6 commercial areas."

7 And this particular neighborhood seems to be
8 more impacted by that kind of competition than many other
9 residential neighborhoods in this City.

10 There's testimony there which outlines the
11 information in more detail. It shows the results of the two
12 different surveys: one of the Kennedy-Warren, one of the four
13 apartment buildings on the west side of Connecticut Avenue,
14 plus the table that I referred to showing the competitions on
15 what I believe to be the deficiencies in terms of the amount of
16 parking provided.

17 And why don't I rest there and take questions if
18 you care to.

19 CHAIRPERSON BENNETT: Thank you, Mr. Petersen.

20 MS. NEWMARK: So if the project were to go
21 forward with less than 240 new garage spaces, it would
22 adversely affect neighborhood parking. And with 240 new
23 spaces, the parking situation would be more or less neutral.

24 I know that this is 40 spaces more than ANC

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1 Commissioner Mendelson approximated, without the benefit of Mr.
2 Petersen's expertise and data.

3 But since we're talking about a PUD here, the
4 issue is not, as Applicants suggest, how much parking do other
5 buildings provide or who caused the existing situation.
6 Rather, it is whether the proposed development would adversely
7 impact the existing situation.

8 In any event, given the central role that there
9 tenant, Uptown Caterers, plays in the neighborhood parking
10 mess, the Applicant can hardly disclaim being part of the
11 problem.

12 Now, how do these serious, adverse impacts stack
13 up against the degree of flexibility sought, the 80 percent
14 increase in density, and the alleged public benefits? Not very
15 well.

16 As noted, the Applicant seeks an 80 percent
17 increase in allowable FAR, which may be the highest ever sought
18 through a residential PUD. While seeking virtually
19 unprecedented zoning relief, most of the items that the
20 Applicant calls benefits are either adverse impacts or
21 inconsistent with the plan or both.

22 In fact, apart from long overdue repairs and
23 rent reductions for current tenants, which quieted their
24 opposition to the project but does nothing PUD-worthy, it's

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1 hard to find any concrete benefit.

2 The Applicant described under the January
3 hearing as housing, historic preservation, tax revenues, good
4 for retail, and not exacerbating the parking situation. Let's
5 look at these items.

6 Housing: first, Applicants testified that they
7 feel the project would keep and draw tax-paying residents into
8 the city.

9 This is a feeling the current tax-paying
10 residents do not share, and one which Applicants have not even
11 attempted to investigate as to potential future residents.

12 Simply stated, they feel that our neighborhood,
13 which the plan itself acknowledges, has plenty of this kind of
14 housing, would draw people from the suburbs if this high-rise
15 were built.

16 We ask the Commission to consider not merely the
17 developer's feeling, but the very real factors that go into
18 people's decisions as to where to live.

19 As the community letters and testimony explain,
20 those factors include the higher crime and taxes, inferior
21 services and schools that they experience in the District.

22 As their letters and testimony explain, for many
23 living here, this desecration of our neighborhood, of the one
24 benefit that District living still holds for them, will be the

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1 final straw that pushes them out.

2 Now, we heard a lot at the January hearing about
3 housing and how it is an overriding theme of the Comprehensive
4 Plan. But housing is not an overriding theme of the plan. In
5 fact, housing is not even one of the ten major themes.

6 Stabilizing and improving our neighborhoods is,
7 though. And that is why the major theme section of the plan
8 explains in Section 102.4, "Policies on increasing housing
9 opportunities are to be combined with policies to conserve
10 functioning stable neighborhoods."

11 In fact, the plan explains, while -- one reason
12 that Ward 3 has remained a desirable place to live while other
13 wards have experienced declines in population is "the general
14 stability of the Ward's neighborhoods in spite of sometimes
15 intense pressure for redevelopment."

16 What's more, the kind of housing the plan
17 encourages is low and moderate income, also called "affordable
18 housing," and housing for the elderly. The plan is quite clear
19 that the kind of housing development for which additional
20 density may be permitted is development that incorporates
21 affordable and elderly housing, not luxury housing.

22 And there are very specific locations at which
23 the plan encourages new housing. Those locations are
24 designated "housing opportunity" or "development opportunity"

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1 areas.

2 And the Kennedy-Warren lawn is not one of them.

3 In fact, that lawn is singled out for special protection
4 against development. And it was singled out well after the
5 Metro stations to the north and south were built which, by the
6 way, are not designated as Ward 3 housing opportunity areas,
7 although the Tenleytown and Friendship Heights Metro Stations
8 are.

9 And it's easy to figure out why. As the last
10 two Metro stations before downtown, you have to fight to even
11 get standing room at Cleveland or Woodley Park during rush
12 hour.

13 So in short, the plan does not contemplate carte
14 blanche development in the name of housing. Rather, it
15 requires that housing proposals "be evaluated to avoid adverse
16 impacts on neighborhood stability, traffic, parking and
17 environmental quality." That's Section 1200.303(a).

18 Indeed, the plan expressly states in Section
19 112.4 that land use, not housing, is the controlling
20 consideration.

21 So, to say that the benefit of this proposed PUD
22 is that it provides housing is to beg the very question the
23 zoning laws and the plan were enacted to ask, which is does
24 this particular housing fit in with the neighborhood?

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1 And the answer to that question here is no.
2 Now, another suggested benefit is that the project would bring
3 to the community the completion of a plan originally conceived
4 70 years ago.

5 In the first place, other than pleasing the
6 small segment of folks with an interest in architectural
7 history, it is unclear what benefit this brings. Indeed as the
8 hundreds of letters state, those who live in the neighborhood
9 do not see this as a benefit at all.

10 Second, it misconstrues the nature of the
11 historic preservation benefit in the regulations. The historic
12 preservation benefit is aimed at maintaining the integrity of
13 existing landmarks like Cathedral Park, like the existing
14 Kennedy-Warren, not at creating new ones.

15 In fact, as pointed out in the letter being
16 passed out, or I think that's being passed out, contrary to the
17 goal of preserving historic buildings, the community will
18 actually lose a historic asset if this is approved.

19 "Elimination of the lawn that frames and
20 enhances the Kennedy-Warren in creation of a wall that did not
21 exist before will detract from the beauty of the real asset the
22 Kennedy-Warren brings to the community."

23 Now, this letter is being passed out. It's
24 written by Eleni Constantine, who was the former President of

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1 the Cleveland Park Historic Society. It was cleared with Dick
2 Jorgansen, who is the current President, and who is out of
3 town, and with Judy Sobella, who is the head of its
4 Architectural Review Committee, who previously reviewed only
5 the project's architecture, but shares our concerns about its
6 density.

7 In fact, the developer makes much of the concept
8 approvals received from various arts and historic groups. And
9 as was recognized at the January sixth hearing, some of those
10 approvals may have been necessary to get the application to
11 this point, but they have no bearing on the zoning issue.

12 And this is underscored by the groups
13 themselves. The concept approval of the Art Deco Society,
14 which is being handed out, states that its "endorsement, as an
15 artistic matter, expresses no opinion about the project's
16 appropriateness as a zoning matter."

17 And the January 3, 1997 letter to me from Sally
18 Burke of the D.C. Preservation League is to the same effect.

19 Now Ms. Burke, I might add, was unaware,
20 although she had asked -- she was unaware that the site was not
21 zoned for the density that they're seeking when she initially
22 endorsed the design, and quite upset when she found that out
23 from me in early January.

24 The Cleveland Park Historic Society, also

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1 previously unaware, went so far as to qualify its original
2 endorsement of the project after learning of the impact it
3 would have on the neighborhood.

4 I think that's being handed out as well. That,
5 I believe, is already in the file.

6 The Woodley Park Historic Society, which is
7 simply a committee of the Woodley Park Citizen's Association,
8 opposes the project completely as was stated in the testimony
9 of William Carroll.

10 Now, Applicant also claims that the project
11 would increase real estate taxes by over a quarter million
12 dollars a year, which may be true, I don't know, and that it
13 would provide jobs for D.C. residents.

14 But tax revenue and first-source employment,
15 they're obviously beneficial things, but they do not qualify as
16 public benefits or amenities in this case.

17 As Section 1409.8(c) of the plan states, "Tax
18 revenue and first-source employment are baseline requirements
19 for every Ward 3 PUD."

20 Beyond that, neither of these benefits will flow
21 to the District if the neighborhood becomes a less attractive
22 place to live, a premise that resonates throughout the
23 Comprehensive Plan. And as you can see from the letters and
24 testimony in opposition, the people that live and work in it do

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1 so because of the very qualities this building would destroy,
2 qualities the plan singles out as contributing to Ward 3 status
3 as the tax base for the rest of the City.

4 While historic groups might like to make the
5 3100 block a monument, the neighborhood and the plan prefer to
6 make it a desirable place in which to live.

7 Fourth, the Applicant opined at the January
8 hearing that the proposed project would help area retailers.
9 Not only was this speculation unsubstantiated by research, but
10 it is not shared by many area retailers, as their letters of
11 opposition demonstrate.

12 Now, those letters are in your -- are already in
13 the file, but we're going to hand -- we're handing you a packet
14 that we've put together of them, which we've highlighted to
15 make it easier to read.

16 We spoke with many of these retailers. And by
17 the way, we gave them only the facts we got straight from the
18 developer's application. And they cannot understand why,
19 having finally achieved historic District status, they must
20 again do battle with a large scale development proposal that
21 would alter the character of the neighborhood.

22 They are also upset about the impact this
23 massive addition will have on an already unsatisfactory parking
24 situation. Perhaps most significantly, they seem to agree that

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1 whatever additional business the new residents might generate
2 would not at all compensate for the adverse impacts this
3 project would have on existing business and on the
4 neighborhood.

5 Now, we think the Commission should know that
6 the Applicant has been talking to retailers too, and they've
7 been trying to get them to retract their letters by telling
8 them, among other things, that both the Zoo and the National
9 Park Service favor this project.

10 And I think that we should give the Commission
11 the flyer that says that.

12 Now I note that at the last hearing, the
13 Applicant also submitted a list of amenities and benefits which
14 add some items that we didn't have an opportunity to cross
15 examine them about, things like the Klinge Valley tree
16 preservation area, storm water management.

17 Mr. Shields from the Park Service testified that
18 these are not benefits, but mitigation measures that the Park
19 Service recommends the Applicant be required to take.

20 And as you can see even from the Applicant's
21 description in their own chart, both the tree preservation area
22 and storm water management plan are directly related to
23 minimizing construction damage, buffering the new wing, and
24 managing the storm water generated by the new wing in

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1 accordance with D.C. Code requirements.

2 Now, the Klingle Valley rehabilitation area is
3 an area that extends 50 feet beyond the building. It's this,
4 okay?

5 Now, the first 25 feet are actually Kennedy-
6 Warren property. So, we're talking about a thin, little strip,
7 25 feet of park-land, that they call the Klingle Valley
8 rehabilitation area.

9 Now, I've been told by the Park Service that the
10 debris on the soil there that requires clean-up was generated
11 by the Kennedy-Warren and that this debris may have had such an
12 effect on the soil that if not remedied as proposed, it would
13 not allow the trees in that area to produce a viable under-
14 story, or a succeeding generation of forest.

15 The proposed clean-up, according to the Park
16 Service, will simply remove the Kennedy-Warren's own debris
17 from its own land and a narrow strip of park-land and correct
18 the soil's deficiencies occasioned by that debris, and attempt
19 to screen the building from the park-land to ensure that the
20 condition does not recur.

21 So, what are we left with? What is the
22 community left with? Nothing.

23 Before summing up, I'd like to make a few
24 comments about the record in this case and about some of the

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1 other testimony we've heard in this proceeding because it's
2 important to recognize that much of it, including the purported
3 approvals of the project to date were the product of
4 misinformation or no information about the neighborhood.

5 And that is not because the community supported
6 the project, but because there was an unawareness in some cases
7 of the project itself, and in other cases, an unawareness of
8 how or when to speak up.

9 It's easy to say a project won't have an adverse
10 impact on a neighborhood when you eliminate the adversely
11 impacted neighbors from the equation. And this was
12 consistently done.

13 Imagine for a moment this proceeding ending
14 after the Applicant's presentation, and you'll have a good
15 picture of what the various bodies that previously considered
16 the project based their assessments on: slides showing the
17 buildings a quarter mile to the north and a quarter mile to the
18 south of the Kennedy-Warren, but neglecting to show the
19 buildings directly across the street; repeated references to
20 the Kennedy-Warren as "isolated" and "having virtually no
21 negative impact on the neighborhood other than the temporary
22 inconvenience of construction;" emphasis on the fact that the
23 Kennedy-Warren is a historic landmark with no mention that its
24 neighbors are too; and descriptions of the Kennedy-Warren's

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1 neighboring buildings as "six to nine stories high" when the
2 two closest buildings on Connecticut Avenue are four and five
3 stories respectively.

4 The nearest nine story building on Connecticut
5 Avenue -- well actually, it's eight and a half -- is the
6 Broadmoor, six blocks away and set back 120 feet from the
7 street.

8 Now, the Office of Planning, for one, lifted
9 many aspects of its report directly from the Applicant's
10 submission, including its statement that "The Kennedy-Warren is
11 surrounded by large apartment buildings."

12 Through no fault of his own, Mr. Colby was
13 unaware when he stated that "The project would not be out of
14 scale with existing buildings," that Cathedral Park, the
15 building directly across the street, is four stories, not
16 seven, and is zoned R-5-B, not R-5-D.

17 So, the Office of Planning recommended approval,
18 but on what basis? On the basis that "The developer seeks
19 modest zoning relief?" It seeks to increase the allowable FAR
20 from 3.5 to 6.29.

21 On the basis that "The eight-story Kennedy-
22 Warren would not be out of scale with its six and seven-story
23 neighbors?" The Kennedy-Warren is nine stories and its
24 neighbors are four.

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1 On the basis that "It won't adversely impact the
2 community?" Mr. Colby himself conceded that his office was
3 unaware of the community's concerns when the report was
4 written, and that his data came from a closed presentation by
5 the developer.

6 We don't fault Mr. Colby, who simply worked with
7 the facts he was given. But the bottom line is that the
8 recommendation submitted is inherently flawed and should be
9 accorded no weight.

10 Instead, we request that you ask Mr. Colby, who
11 I see is here tonight, to submit a supplemental report that is
12 not based on factual inaccuracies.

13 Mr. Colby was good enough to meet with us after
14 the January hearing, and honest enough to concede that our
15 presentation raises concerns about the magnitude of the project
16 that his office did not previously consider.

17 And what about the National Zoo? We love our
18 National Zoo, but we need to know how its plans in our
19 neighborhood interface with this proposed expansion.

20 Now, we know that when the Zoo opposed the
21 Cathedral Mansions project, it argued that both the Cathedral
22 Mansions and the Kennedy-Warren lawns are integral features of
23 its Connecticut Avenue entrance.

24 We know that the Zoo opposed construction of a

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1 Metro chiller plant for the same reason. We urge the
2 Commission to consider the statements the Zoo has made
3 concerning construction near its entrance, as opposed to the
4 statements it has not made in this proceeding.

5 And we urge this Commission to consider the very
6 dangerous precedent an approval of this project would create
7 for cases like Cathedral Mansions, which I note is still in
8 litigation.

9 If development on the lawn next door to the Zoo
10 is not a problem, how will future Commissions disallow
11 development on the lawn across the street?

12 In sum, far more substantial benefits than
13 housing a questionable market of affluent people or giving your
14 tenants rent reductions are needed to counter-balance the
15 impacts this gargantuan project would have on our neighborhood.

16 We suffered through a lengthy Metro construction
17 because we knew that in the end, we all stood to benefit.
18 Unfortunately, the high-rise proposed by the Applicant would
19 eventually benefit only B.F. Saul.

20 So, I'd like to leave you with two thoughts:
21 first, I implore everyone in this room to ask himself whether,
22 after the dust settles, and it will, you're going to look at
23 that immense wall next to the National Zoo and ask yourself how
24 that ever happened.

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1 When folks stop calling our neighborhood that --
2 when folks stop referring to our neighborhood as "over by the
3 Zoo" and start referring to it as "over by that big high-rise,"
4 are you going to wonder whether it was really worth it?

5 There is a tremendous risk involved in this
6 project.

7 And second, the Comprehensive Plan states in
8 Section 102.2, "Many City neighborhoods possess qualities that
9 make them unique and desirable places to live. Those qualities
10 can also lead to development pressures that threaten the very
11 qualities that make them desirable."

12 "These pressures and potential adverse impacts
13 must be controlled to ensure that the character of our
14 neighborhoods is preserved and enhanced."

15 I urge you, in closing, please preserve ours.

16 CHAIRPERSON BENNETT: Thank you, Ms. Newmark.
17 Does that take care of it for your entire presentation?
18 They're listed, however, aren't they, on the witness list, the
19 other people?

20 MS. NEWMARK: No, we don't have any other
21 witnesses. I just -- I think that there's a proffer that we
22 wanted to enter into for the record.

23 Well, at some point, it doesn't have to be now,
24 we have a proffer concerning facts that we attempted to elicit

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1 at the last hearing. It's just something for the record. He's
2 finding it. But I think that's all for our case.

3 CHAIRPERSON BENNETT: All right, thank you.
4 We're going to take a five minute break, and then come back
5 with Commission questions and cross examination.

6 (Whereupon, the proceedings went off the record
7 at 8:43 p.m. and resumed at 8:52 p.m.)

8 CHAIRPERSON BENNETT: The hearing will
9 reconvene. We are going to begin by asking my colleagues if
10 they have questions of the panel. Colleagues, questions? Mr.
11 Franklin?

12 COMMISSIONER FRANKLIN: Mr. Petersen, do you
13 have an opinion, based on your expertise and the surveys, as to
14 whether the existing residents in the Kennedy-Warren are
15 foregoing parking available in the project and parking on the
16 street?

17 MR. PETERSEN: One the questions that was asked
18 of the Kennedy-Warren residents was the location they park in.
19 We found that 72 percent of them park in what are designated
20 as reserved spaces, 20 percent of them park in what are
21 designated as unreserved spaces, and 8 percent of them park
22 either on the street or at another facility.

23 So that to the degree that you would use the
24 records of the Kennedy-Warren to determine your parking ratio,

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1 you are omitting at least eight percent. And we don't know how
2 those records reflect use of the unreserved spaces.

3 So, that's sort of an unknown quantity. But
4 those two combined can explain the difference between the ratio
5 that we determined, roughly .9 space -- utilization of .9
6 parking spaces per unit versus the Applicant's revised estimate
7 at the last hearing of .72.

8 COMMISSIONER FRANKLIN: Do you have an opinion
9 as to whether a stacked parking arrangement, which typically is
10 less expensive -- I may be wrong about that, but in office
11 buildings it has been -- would effectively accommodate more
12 parking within the same physical space?

13 MR. PETERSEN: You can accommodate more parking.
14 You would probably impose the need for valet service to move
15 the stacked cars. It is a way of accommodating visitor parking
16 on-site by virtue of the resident cars there, and valet can
17 park a visiting car in a stacked situation.

18 So, it's a way of accommodating -- it imposes an
19 inconvenience on the resident. It probably dictates that you
20 do not reserve spaces for individuals, that it's open parking,
21 and you have a valet service to accommodate the extra demand.

22 COMMISSIONER FRANKLIN: Well, I --

23 MR. PETERSEN: But those are the implications,
24 in my view, of stacked parking.

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1 COMMISSIONER FRANKLIN: I have a relative in
2 Pittsburgh who lives in a building similar to the Kennedy-
3 Warren, the same kind of era, and she parks in the stack
4 situation. And when she desires to get her car, she phones
5 down to the garage and says, "Would you please have it ready
6 for me?"

7 And typically, it's ready for her when she
8 arrives down at the garage.

9 MR. PETERSEN: Through a valet operation.

10 COMMISSIONER FRANKLIN: Yes. Well, one person.

11 MR. PETERSEN: Or a doorman or --

12 COMMISSIONER FRANKLIN: Right, one person in the
13 garage. And visitor parking is handled in the same way. Do
14 you think that such a regime could be effective in general,
15 just from an operational standpoint, leaving aside the numbers
16 for a moment?

17 MR. PETERSEN: I think it's workable. I think
18 the agreement that the tenants association has reached with the
19 developer forestalls it at this point.

20 COMMISSIONER FRANKLIN: Forestalls it?

21 MR. PETERSEN: Yes. I think their agreement,
22 just as I understand the way they presented it the last time
23 was that they weren't going to permit that.

24 COMMISSIONER FRANKLIN: I see.

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1 MR. PETERSEN: So --

2 COMMISSIONER FRANKLIN: So, it's a --

3 MR. PETERSEN: We were --

4 COMMISSIONER FRANKLIN: -- it's theoretical.

5 MR. PETERSEN: -- it's clearly an issue.

6 COMMISSIONER FRANKLIN: That's my only question,
7 Mr. Petersen. Well, one other question: in looking at the
8 letters of objection from the retail merchants, I read them up
9 admittedly rather quickly, but I came away feeling that their
10 opposition was primarily premised on the parking deficit
11 situation.

12 Having frequently tried to find parking there, I
13 know what they're talking about. Would that be your view also,
14 that that's really the source of their concern?

15 MR. PETERSEN: From time to time, I've tried to
16 go to the Uptown and have had experienced the problem of
17 parking back in the residential neighborhoods. So, my
18 impression of the neighborhood is that the merchant parking
19 demand is met in the residential neighborhoods, which again
20 imposes a competition in the same way I described it for this
21 immediate neighborhood.

22 They're conflicted -- or they're competing
23 interests in wanting to use the same curb space, and there's
24 not enough for everybody.

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1 COMMISSIONER FRANKLIN: Right.

2 MS. NEWMARK: If I may, I'm not sure that he's
3 read those letters, so I don't know if he could say that was
4 their main concern or not. Have you read those?

5 MR. PETERSEN: No, I haven't read them.

6 MS. NEWMARK: I just wanted to clarify that.

7 MR. PETERSEN: That's why I stated it in terms
8 of my own personal experience of having to -- having ended up
9 parking on the residential streets, like Macomb, when we've
10 been to that neighborhood.

11 COMMISSIONER FRANKLIN: Okay, thank you.

12 CHAIRPERSON BENNETT: Okay, Mr. Parsons,
13 questions?

14 COMMISSIONER PARSONS: No, Madam Chairman. I
15 want to do something a little unusual here. I want to
16 congratulate Ms. Newmark and her team. I've been on this
17 Commission 20 years, and I don't think I've seen a group as
18 well organized, as well researched, as well documented, as you
19 have been.

20 It's very comprehensive and concise, very
21 enlightening, and very persuasive to the point that I'm moved
22 to asked the Applicant to submit to the record a response,
23 graphically and written, to the Exhibit B contained in Ms.
24 Murray's testimony, which would take the south wing of the

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1 proposal and remove it and retain the open space there, giving
2 the symmetry to the building that she described.

3 What's unusual about that is that's the kind of
4 thing that is usually left to the end of the hearing. But I
5 feel so strongly about it, based on your testimony, I wanted to
6 say that now.

7 Whether my colleagues will agree with me that
8 that's something that wants to be entered into the record is
9 probably something that should wait until the end of the
10 hearing. But I wanted to do that. Thank you very much.

11 MS. NEWMARK: I have to thank you. Irrespective
12 of what ultimately happens, it means so much to us to know that
13 the hard work we've put into this, and I speak for a lot of
14 people sitting here, has been appreciated and acknowledged.
15 Thank you so much.

16 CHAIRPERSON BENNETT: All right. Ms. Kress, do
17 you have any questions?

18 COMMISSIONER KRESS: No.

19 CHAIRPERSON BENNETT: Okay, cross examination by
20 the Applicant?

21 MR. FEOLA: Actually, I only have a few, and I
22 mean just a few.

23 CHAIRPERSON BENNETT: All right.

24 MR. FEOLA: I have one for Ms. Murray, but I

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1 need her slide of the section she proposed on -- I don't know
2 how quickly that can come up. No, the section through
3 Connecticut Avenue.

4 WHEREUPON,

5 JO ANNE MURRAY

6 WAS CALLED AS A WITNESS BY THE ANC, AND HAVING BEEN PREVIOUSLY
7 SWORN, RESUMED THE WITNESS STAND, WAS EXAMINED AND TESTIFIED AS
8 FOLLOWS:

9 CROSS EXAMINATION

10 BY MR. FEOLA:

11 Q That's the one, yes. Can you tell me where that
12 section is drawn from on this diagram over here, please?

13 A Yes, it's drawn -- it would be drawn right there
14 between the new south wing and the edge of our building there.

15 Q And it's your contention that these wings
16 actually face each other?

17 A They're --

18 Q Not -- not looking at the magic marker, looking
19 --

20 A -- don't exactly face each other --

21 Q -- at the architecturalals.

22 A -- but they abut at one corner.

23 CHAIRPERSON BENNETT: Are you on, Ms. Murray?

24 THE WITNESS: Yes, it's on.

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1 CHAIRPERSON BENNETT: You are?

2 THE WITNESS: I'm sorry, I might not be talking
3 directly into it.

4 CHAIRPERSON BENNETT: Okay, because I couldn't
5 hear you well.

6 THE WITNESS: Yes.

7 BY MR. FEOLA:

8 Q So, that section represents essentially the
9 worst-case --

10 A Yes.

11 Q -- that the 130 foot right of way on just the
12 corner of the existing Cathedral Mansions and the proposed
13 south wing?

14 A Yes.

15 Q Okay. Thank you, that's all I have. You can
16 shut the --

17 A Well, I would just like to add that it's very
18 similar right here as well at the other end because our
19 building --

20 Q But that's not where --

21 A -- does have the courtyard in the middle.

22 Q -- is taken from.

23 A Yes.

24 Q But this is not -- you're saying that this

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1 corner --

2 CHAIRPERSON BENNETT: Mr. Feola, you've got to -

3 -

4 MR. FEOLA: Oh, I'm sorry.

5 CHAIRPERSON BENNETT: Carry it with you, okay?

6 BY MR. FEOLA:

7 Q You're suggesting that the northern-most corner

8 of the Cathedral Park property, which abuts the property line,

9 is the same distance from the Kennedy-Warren proposed addition?

10 A Well, I think that you can see for yourself it's

11 roughly the same. I mean --

12 Q It's roughly the same?

13 A -- it depends exactly where you cut it. This

14 section isn't cut in the exact place.

15 Q Well, that's why I asked where you cut it.

16 A That one is not cut quite at the exact same

17 place, but it's very similar.

18 Q Okay, that's all I have, thank you, for Ms.

19 Murray.

20 WHEREUPON,

21 STEPHEN PETERSEN

22 WAS CALLED AS A WITNESS BY THE ANC, AND HAVING BEEN PREVIOUSLY

23 SWORN, RESUMED THE WITNESS STAND, WAS EXAMINED AND TESTIFIED AS

24 FOLLOWS:

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CROSS EXAMINATION

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BY MR. FEOLA:

Q Mr. Petersen, did you do the surveys yourself?

A I supervised in the sense that I prepared the questions, suggested the questions. The tenants and the people living in the area carried them around and did all of the leg-work in terms of distributing them and collecting them.

Q Did you collate the results?

A They assisted in collating them. I saw the surveys. They literally took the data off the sheets, and then I worked with the data.

Q So, you --

A I --

Q -- did you not see the survey sheets?

A Oh yes, I saw the survey.

Q Okay. Your analysis of the Kennedy-Warren existing tenants suggests, as I just heard you answer Mr. Franklin, that 70 percent -- if I'm wrong tell me -- 70 percent park in reserved spaces in the garage, 20 percent park in unreserved spaces in the garage, and 8 percent park elsewhere.

A Correct.

Q So, that's almost 100 percent.

A That's -- that is 100 percent.

Q So what you're suggesting: 70, 20 and 8.

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1 A Look at the table specifically --

2 Q I'm sorry.

3 A -- 72 percent park in -- in response to a
4 question of where do you park --

5 Q Right.

6 A -- 72 percent park in reserved spaces in the
7 Kennedy-Warren --

8 Q Yes.

9 A -- 20 percent said they park in unreserved
10 spaces, and 2 percent in another garage or lot somewhere --

11 Q I understand.

12 A -- and 6 percent on the street.

13 Q So, none of the people you surveyed indicated
14 that they didn't have a car?

15 A Oh, we had -- I'm trying to look at my table.
16 Yes, there were respondents who had no cars, who indicated they
17 did not have a car.

18 Q So, doesn't that skew your numbers about what
19 the need might be for the building if a good percentage of the
20 people don't have cars?

21 I mean, you're obviously just surveying and
22 asking people where they park if they have a car.

23 A No.

24 Q And if we have 300 and --

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1 A No, the answer -- no, that was not the way it
2 was structured. It was structured to be -- to list how many
3 cars you have. And they could list zero, one, two, six. So,
4 it was not -- there was no -- it was not skewed in the sense
5 that only those who had cars were asked to respond. A tenant
6 could -- who had --

7 Q But if you're alleging that 100 percent of them
8 need to park somewhere, and there are 20 percent or 10 percent
9 or some number of 317 units that don't have cars, doesn't that
10 change your analysis a little bit or am I missing something?

11 MS. NEWMARK: I'm just --

12 MR. FEOLA: I'm not asking you, Ms. Newmark.

13 MS. NEWMARK: -- testifying.

14 MR. FEOLA: I'm not asking you. You had your
15 chance to testify.

16 MS. NEWMARK: I'd like to make a request. Can I
17 request, so that things don't get confused, that someone other
18 than me do the objecting during this because I can see this is
19 going to be a problem. I --

20 MR. FEOLA: That was my objection to start with.

21 MS. NEWMARK: Yes, I would suggest that Ms.
22 Newsome do that if that would be all right with the Commission
23 and I'll just shut-up.

24 MR. PARSONS: How many lawyers do we have here?

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1 CHAIRPERSON BENNETT: Well, that --

2 MR. FEOLA: All right, I don't want to belabor
3 the point, okay? Can you turn in the survey, the raw, dirt
4 survey data sheets to the Commission?

5 THE WITNESS: Yes.

6 BY MR. FEOLA:

7 Q Thank you. I think that would be helpful. We
8 don't know what they say. Do you know -- I just looked at your
9 samples of the surveys, Mr. Petersen. And I'm not a
10 statistician, but I'm seeing fairly low responses here.

11 Do you want to comment on that? I mean, you get
12 20-some percentage response: 14 percent from one building --

13 CHAIRPERSON BENNETT: Can you tell us about the
14 margin of error that you risk --

15 THE WITNESS: I didn't try to calculate the
16 margin of error. But you know from national surveys that they
17 contact 1,000 people around the United States and come up with
18 a percentage of error of plus or minus three percent.

19 But I think more to the point in this case, we
20 did a survey of four apartment buildings on the west side of
21 Connecticut Avenue, and we contrasted that with a survey of
22 residents in the Kennedy-Warren, and computed parking needs
23 based on unit size, and came up with a spread of less than ten
24 vehicles in terms of total demand.

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1 Based on the 483 units, 450 cars demand on --
2 when we looked at the Kennedy-Warren data, 459 cars when we
3 looked at the data for the units across the street. Two
4 totally independent surveys produced a result that's within two
5 percent or whatever, 10 over 450, 1-forty-fifths, two percent,
6 in a reason estimate of parking demand.

7 And then you take the Census data, which was
8 provided by the Applicant for this Census tract, which says
9 that .94 cars per dwelling -- per household, which is right in
10 the middle of two that we've got.

11 And I think we've got a pretty reasonable -- a
12 reasonable estimator that the need for parking in this area is
13 between .9 and one car per unit.

14 BY MR. FEOLA:

15 Q Are you aware, Mr. Petersen, that the Census
16 data includes quite a number of single family houses in Woodley
17 and Cleveland Park?

18 A Mr. Slade made that point at his -- in your
19 testimony. But I come back to the fact that here are survey
20 data out of two sets of apartment-type units that bracket the
21 Census number. And --

22 Q And you're comfortable that 11 percent in the
23 3000 unit building, 19 percent of response in 2900, 30 in 3100,
24 are legitimate samples?

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1 A No, that's the Kennedy-Warren lawn.

2 Q I didn't ask that question. Does it include any
3 of the existing public space that is outside of the --

4 A No.

5 Q -- Kennedy-Warren property line?

6 A No.

7 Q You talked about the public open space in front
8 of Cathedral Mansions as part of the concept there. Is that
9 public space open to public view?

10 A I didn't talk about public space. It's private
11 space. It's their lawn.

12 Q Open space, I'm sorry. I take that back. Your
13 private lawn, as opposed to Kennedy-Warren's private lawn.

14 A You're referring to Cathedral Mansions South, I
15 assume? That's the one that --

16 Q Your building.

17 A Okay. My building, Cathedral Mansions North, we
18 have an enclosed courtyard. It is not subject to the public
19 view.

20 Q So the courtyard in front that we see on this
21 diagram is actually not seen from the sidewalk on Connecticut
22 Avenue.

23 A That's right.

24 Q Is that correct?

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1 A We showed a slide and you could see the wall and
2 the trees that block it from public view. That's right.

3 Q Approximately how high is the wall?

4 A I don't know, eight feet -- eight feet. No, I
5 don't know that it's that high.

6 Q Okay, that's fair.

7 MS. MURRAY: The grades goes up about four feet,
8 and the wall is four feet.

9 CHAIRPERSON BENNETT: We can't hear you. You've
10 got to speak into -- make sure you speak into the mic.

11 MS. MURRAY: The courtyard is elevated from the
12 street at this point, and it is elevated by grass going up
13 about four feet, and then the wall is about four feet tall.
14 So, it's about eight feet from the sidewalk, yes.

15 THE WITNESS: Right. I mean, what -- what you
16 see, and we could bring the slide back if you want, is trees
17 and flowers and everything, and the framing of wall. But you
18 wouldn't see the actual courtyard on the other side of it.

19 BY MR. FEOLA:

20 Q That's in front of the wall. Is that correct?

21 A That's in front of the wall --

22 Q Okay.

23 A -- right. Exactly.

24 MS. MURRAY: Oh, so you don't --

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1 MR. FEOLA: No, I just wanted to find out if it
2 was there or not. Just one final question: did you file the
3 Freedom of Information Act Request of the Zoo?

4 THE WITNESS: I sure did.

5 MR. FEOLA: Thank you, that's all I have.

6 CHAIRPERSON BENNETT: Thank you. Is there cross
7 examination by ANC-3C?

8 COMMISSIONER FRANKLIN: I have one question.

9 CHAIRPERSON BENNETT: All right.

10 COMMISSIONER FRANKLIN: I'm sorry, the line of
11 questioning reminded me of another line that I hadn't pursued
12 before. How far from Connecticut Avenue set back is Cathedral
13 Mansions and Cathedral Park?

14 You don't show, do you, the full massing of
15 Cathedral Mansions on that chart, do you?

16 MS. NEWMARK: No. I think we have a picture of
17 that. I'm not sure if we brought it or not. It's part of --
18 yes, it would be with the historic designation. There should
19 be a picture of the entire complex.

20 COMMISSIONER FRANKLIN: Well, my impression from
21 driving by it every morning is that it's set up very close to
22 the sidewalk. Is that correct?

23 MS. NEWMARK: Oh well, the way it works is that
24 there's the North Building that you see there. That's

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1 Cathedral Park. And then there's a building in the middle that
2 is almost like --

3 COMMISSIONER FRANKLIN: It has the retail.

4 MS. NEWMARK: Yes, let me -- if I could draw
5 something, I think I could -- well, actually that's what he's
6 referring to. Let me give this a try first.

7 CHAIRPERSON BENNETT: Too much talking off of
8 the record, please.

9 MR. FEOLA: She's talking to herself.

10 CHAIRPERSON BENNETT: Well, that's all right.
11 Some of that we might need to hear. You never know.

12 (Pause.)

13 COMMISSIONER FRANKLIN: I'm sorry to have caused
14 this much --

15 MS. MURRAY: We found it. That's okay.

16 COMMISSIONER FRANKLIN: -- turmoil.

17 MS. NEWMARK: I'm not a very good artist, but I
18 think I can get the point across. You have this, and then
19 there's a mirror image of this on the south side.

20 So, the south and the north are mirror images of
21 each other. And what you saw in the slides of the Cathedral
22 Mansions' lawn that was the subject of the litigation was this,
23 except flipped over.

24 And then in the middle, there's a building that

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1 kind of goes -- oh boy, it kind of goes like this and it has
2 space in the middle. So on Connecticut Avenue, you do see a
3 wall. It's five stories high, and the first story is retail,
4 okay?

5 And then on each side of it, you see one of
6 these, right? And anyway, so this building goes like this, but
7 it's -- there's a hole in the middle. It's open in the middle.
8 The units kind of go around like that.

9 COMMISSIONER FRANKLIN: But you can't -- you're
10 not aware --

11 MS. NEWMARK: Asymmetrical.

12 COMMISSIONER FRANKLIN: -- of that from the
13 Avenue?

14 MS. NEWMARK: Oh no, not at all. No from the
15 Avenue, this is just straight. It's five stories.

16 COMMISSIONER FRANKLIN: Right.

17 MS. NEWMARK: The first story is retail and then
18 there are four stories of -- a lot offices up there.

19 COMMISSIONER FRANKLIN: Adjacent to the sidewalk
20 relatively?

21 MS. MURRAY: No, that's not the --

22 COMMISSIONER FRANKLIN: Where's the retail?

23 MS. NEWMARK: Yes, the retail is -- it's set
24 back, I don't know how far.

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1 MS. MURRAY: The retail is one story.

2 MS. NEWMARK: Oh, you know something?

3 COMMISSIONER FRANKLIN: Yes, the retail is one
4 story, as I recall --

5 MS. NEWMARK: Right.

6 COMMISSIONER FRANKLIN: -- yes.

7 MS. NEWMARK: Right, yes. I mean, it's not set
8 back a lot. I mean, it is pretty much abutting the Avenue if
9 that's what you're asking.

10 COMMISSIONER FRANKLIN: Well, it really was
11 addressed to Ms. Murray because --

12 MS. NEWMARK: Oh, sorry.

13 COMMISSIONER FRANKLIN: -- she made a comment
14 about the rhythm of Connecticut Avenue and the -- the
15 syncopation of the open space with, you know, the improvements
16 that go up closer to this --

17 MS. MURRAY: Yes.

18 COMMISSIONER FRANKLIN: -- to the sidewalk.

19 MS. MURRAY: But I think regardless of whether
20 or not the -- there is a courtyard with a wall in front of it,
21 it's still a low wall and you're still seeing trees. You're
22 not seeing the wall of a building.

23 So, you have -- what Andrea has drawn here is --
24 I can't get this to work.

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1 COMMISSIONER FRANKLIN: Well, let me just pick
2 up on that point, Ms. Murray, because you were, I think,
3 somewhat disparaging of the landscape treatment proposed on the
4 project because you said that behind the trees was basically
5 the roof of the parking garage.

6 Now, how -- and therefore, those trees that were
7 being proposed --

8 MS. MURRAY: In here?

9 COMMISSIONER FRANKLIN: -- or the landscaping --
10 yes --

11 MS. MURRAY: In this courtyard right here, yes.

12 COMMISSIONER FRANKLIN: -- was inadequate.
13 Suppose --

14 MS. MURRAY: Well right now, there's nothing
15 proposed in that terrace. It was discussed in --

16 COMMISSIONER FRANKLIN: Well, there's something
17 ahead of it, is there not, maybe a low shrub?

18 MS. MURRAY: Down in this terrace, no. Right in
19 front of the building, yes, there are low shrubs.

20 COMMISSIONER FRANKLIN: Yes, right.

21 MS. MURRAY: It's very similar to what is across
22 the street --

23 COMMISSIONER FRANKLIN: Well, that's my point.

24 MS. MURRAY: -- at Cathedral Park. But

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1 Cathedral Park has that in front of their wall, and then behind
2 the wall, they have all this green. And basically --

3 COMMISSIONER FRANKLIN: Well, what if there were
4 --

5 MS. MURRAY: -- you're seeing --

6 COMMISSIONER FRANKLIN: -- what if there were
7 trees that were higher?

8 MS. MURRAY: -- the building of Cathedral Park
9 is way back here.

10 COMMISSIONER FRANKLIN: Right. What if the
11 landscaping were of a higher vegetation and, in effect,
12 screening that area because you can't see behind it anyway?
13 Would that change your opinion? That's my question.

14 MS. MURRAY: No, because first of all, trees can
15 only grow so high, and we can't put redwoods here. We don't
16 have 90-foot tall trees to screen this building completely.
17 What really you need to have happen is you need to have a set-
18 back happen so that the effective perspective can happen that,
19 you know, the smaller tree and a building set back further.

20 And then visually, it's doing the screening for
21 you.

22 COMMISSIONER FRANKLIN: Okay, thank you.

23 CHAIRPERSON BENNETT: Further questions of the
24 panel and no further cross examination? Thank you very much.

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1 Is Ms. Elizabeth Gere here? Elizabeth Gere?

2 (No response.)

3 CHAIRPERSON BENNETT: Is Ms. Nancy Stang here?

4 MS. STANG: Madam Chairperson and Members of the
5 Commission, good evening. My name is Nancy Stang. I have been
6 a resident of Cathedral Park for the last 20 years.

7 It's a lovely neighborhood. It's lush and
8 green. And there is also a distinctive sense of neighborhood
9 here. People say "hi" on the streets. The tradespersons know
10 your name. It's really quite a nice area to live.

11 And so far, just in terms of visually, the
12 Kennedy-Warren has been relatively unobtrusive. It looks quite
13 nice the way it is.

14 For many of us, the largest problem, as has been
15 addressed previously, is parking. I have a dog, and so I walk
16 my dog in the mornings early and in the evenings late, and
17 sometimes in the early morning hours.

18 And I can tell you that there is insufficient
19 space for the current residents. Just last night, for example,
20 around 11:30, I took my dog for a walk. And what I did was
21 walk up just that half block of Devonshire, took a left on
22 Cortland, went up the west side of Cortland two blocks to 29th,
23 turned around and came back on the other side of Cortland.

24 And just out of curiosity and realizing that

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1 this was going to be -- this hearing was going to be this
2 evening, I counted the number of illegally parked cars; in
3 other words, the cars that would have gotten tickets.

4 In just that small walk, there were 15 cars that
5 were parked illegally. I'm not talking about 28th Street. I'm
6 not talking about up Devonshire. I'm talking about two blocks
7 of Cortland and just that small part of Devonshire.

8 I also walk my dog in the early morning, and I
9 have seen many tickets on cars. I think the police in the
10 neighborhood realize that it's rife for income for the City.

11 During the weekends, especially during the
12 summer, parking is very difficult on the weekends. You can go
13 out and do an errand and you come back, and because of the Zoo
14 traffic, and there are many, many Zoo people who park --
15 visitors who park in our neighborhood.

16 It's hard to find a place within a reasonable
17 distance of home.

18 In later hours, after nine, after dark, late at
19 night, I see people circling, and I see people circling for
20 many minutes looking for parking spaces.

21 It's also a problem of personal safety. You
22 don't want to have to park five blocks away, way down Cortland
23 right near Klinge, or way far away on Cathedral. It's a
24 personal safety problem.

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1 Fortunately, I have a dog, so I'm not bothered
2 by that because he can be a ferocious dog if he needs to be.

3 Another problem with the Kennedy-Warren is they
4 have special event parking. They park, on both sides of the
5 bridge with little stickers in there that say "Valet parking.
6 No parking, standing only."

7 Well to me, if a car is parked and there's no
8 one in it, it's parked. It's not standing. And there's
9 usually a rent-a-cop along someplace to make sure that others -
10 - visitors to the neighborhood don't park there where the
11 Kennedy-Warren parking is.

12 CHAIRPERSON BENNETT: I'm going to ask you to
13 wrap it up now.

14 MS. STANG: Oh, I am.

15 CHAIRPERSON BENNETT: If you will recall, we
16 asked individuals to give us about three minutes and try not to
17 be repetitive.

18 MS. STANG: Okay.

19 CHAIRPERSON BENNETT: Okay?

20 MS. STANG: I like it the way it is. It's a
21 nice neighborhood. Let's keep it that way please. Thank you.

22 CHAIRPERSON BENNETT: Thank you. Hold on, hold
23 on. Questions of Ms. Stang? Cross examination?

24 MR. FEOLA: I don't have anything, no.

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1 CHAIRPERSON BENNETT: All right.

2 MS. STANG: Thank you.

3 CHAIRPERSON BENNETT: Mr. John Mulvehill? John
4 Mulvehill?

5 (No response.)

6 CHAIRPERSON BENNETT: Ms. Catherine Payton?
7 Catherine Payton?

8 (No response?)

9 CHAIRPERSON BENNETT: Vance Garnett?

10 MS. DOBBINS: Madam Chair, we have our written
11 statement from Mr. Garnett that's been presented by a neighbor.

12 CHAIRPERSON BENNETT: All right. Bob Korn?

13 MR. KORN: Thank you.

14 CHAIRPERSON BENNETT: Good evening.

15 MR. KORN: Bob Korn, I live at 3100 Connecticut
16 Avenue. Ever since L.A. Law went off the air, I've been hoping
17 to find a Thursday night replacement.

18 (Laughter.)

19 MR. KORN: And these hearings almost fit the
20 bill.

21 CHAIRPERSON BENNETT: Don't count on it.

22 (Laughter.)

23 MR. KORN: They've been quite interesting, but
24 unfortunately not terribly entertaining. I believe that's

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1 because I know from being closely involved, that this is more
2 than about statistics and technicalities and courtroom duels.
3 It's about permanently altering a community in which hundreds
4 of people live every day and millions of people visit every
5 year.

6 It's about the people who live here now, as I do
7 with my wife and daughter, since 1987 in Cathedral Park and in
8 the neighborhood since 1983.

9 A lot of what I originally planned to say has
10 already been said, so I'd just like to talk about parking,
11 which has been talked about a lot. But I think there's another
12 point that needs to be made.

13 You've already heard how terrible the parking is
14 for the residents. For me, it is terrible, but not yet
15 untenable.

16 Of course, I don't mind walking two or three or
17 four blocks in the evenings when I get home from work, or even
18 the occasional five or six blocks when I get home very late,
19 although it's probably not very safe to do.

20 But if you add just a handful of new cars to the
21 mix, it will become unbearable. It will mean walking five or
22 six or seven blocks every night, rain, sleet or shine.

23 It's fascinating when you think about it, how
24 the neighborhood is right on the edge of the breaking point.

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1 When you drive in after 6:00 p.m., you're likely to find the
2 last one or two empty spots on the block.

3 And when they're filled, you move on to the next
4 block, and so on. For those -- fill those spots up with new
5 Kennedy-Warren residents and guests, and it will be a parking
6 nightmare every night.

7 And how can they say, like the developers seemed
8 to do here last time, that the expansion will add no new cars
9 to on-street parking?

10 I mean, that's absurd. No matter how many --
11 how big the parking garage is, no matter how many spaces there
12 are, people are still going to park on the street.

13 The oldest building in the whole neighborhood
14 will be angry as heck, especially every night when they park
15 five blocks from their homes.

16 Think about that tonight when you go home.
17 Imagine parking five blocks away. And then in the morning when
18 you're in a hurry, walk the other way and try carrying some
19 packages while you're at it. And for the full effect, wait for
20 a cold rain.

21 We all choose to live in the City, and this
22 neighborhood in particular for all the reasons people have
23 spoken about it. Build this expansion and you'll ruin it for
24 the tax-paying people that live here already, not to mention

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1 the visitors to the Zoo, of local residents and out of town
2 tourists alike.

3 If this were built, I can't help but think that
4 future Zoo administrators will look back at the Zoo's lack of
5 opposition as a ghastly error in judgement.

6 One final point, and stop me when I'm over here,
7 some may think anyone would oppose a nine-story building if it
8 were directly out their window. I'm sure you would, and I know
9 I would.

10 But I live in the back of my building facing the
11 alley. And the hundreds of other people who have written to
12 you in protest also don't directly face the proposed building.

13 They're opposed because this will destroy our
14 neighborhood. I believe if you visit the Zoo this weekend and
15 stroll down the block, you too will want to stop this thing:
16 stop it for the neighborhood and stop it for the National Zoo.

17 Thank you.

18 CHAIRPERSON BENNETT: Thank you, Mr. Korn.

19 Questions of Mr. Korn? Cross examination?

20 MR. FEOLA: I actually have one, and probably I
21 should have asked this of Ms. Newmark's witnesses, and maybe
22 you don't know, Mr. Korn. How many parking spaces does 3100
23 Connecticut Avenue have off-street?

24 MR. KORN: Thirty-one-hundred has, I think,

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1 about 18 spaces.

2 MR. FEOLA: And how many units, ball-park?

3 MR. KORN: A hundred and seventy. Of course, are you
4 suggesting that we build a parking garage there?

5 MR. FEOLA: No, I just wanted to -- I don't want
6 to hear the facts. I haven't heard that before.

7 MR. KORN: Okay.

8 CHAIRPERSON BENNETT: You said 18 --

9 MR. KORN: I think it's 18, yes.

10 CHAIRPERSON BENNETT: -- parking spaces?

11 MR. KORN: Yes.

12 CHAIRPERSON BENNETT: And 178 units?

13 MR. KORN: Yes.

14 COMMISSIONER FRANKLIN: How are they allocated?

15 MR. KORN: It's first-come, first-serve.

16 COMMISSIONER FRANKLIN: You have to wait until
17 somebody passes away? Is that what --

18 MR. KORN: I'm sorry? You can -- occasionally
19 you find one and occasionally you don't park five or six blocks
20 away.

21 COMMISSIONER FRANKLIN: How much is the charge
22 for -- are those outdoor spaces?

23 MR. KORN: They're free. They come with the --

24 COMMISSIONER FRANKLIN: They come with the

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1 apartment?

2 MR. KORN: They come with the apartment
3 basically. It's whoever gets there first.

4 COMMISSIONER FRANKLIN: Oh, so - I see.

5 MR. KORN: They're not assigned spaces, and
6 they're outdoors right in the alley.

7 COMMISSIONER FRANKLIN: I see.

8 MR. KORN: But I don't know if Mr. Feola was --
9 I mean, this is the question people ask: "Well, how come you
10 only have 20 spaces?" The building was built in 1930, and
11 that's what it is. I mean, that's what zoning is all about and
12 that's why you guys are here. Thanks.

13 CHAIRPERSON BENNETT: Thank you. Mr. Mendelson,
14 did you have questions?

15 MR. MENDELSON: No.

16 CHAIRPERSON BENNETT: Cross examination? Okay,
17 thank you, Mr. Korn. Cheryl Opacinch? Good evening.

18 MS. OPACINCH: Good evening. I'm the -- my
19 name is Cheryl Opacinch. I'm the Advisory Neighborhood
20 Commissioner for ANC-3C01, which includes the Kennedy-Warren
21 apartments that are located in Ward 3. And I also represent
22 Woodley Park which is in Ward 1.

23 Of the many concerns that have been expressed by
24 my single-member district constituents, as well as other

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1 Woodley Park residents, there's one concern that overshadows
2 all others. The resolution of this one concern will have a
3 major impact on the Woodley Park and Cleveland Park
4 neighborhoods for the near and distant future.

5 The resolution of this one concern will alter
6 the Connecticut Avenue street-scape as we now know it. The
7 resolution of this one concern will affect the neighborhood on
8 a daily, this is what it's like to live here, basis.

9 The resolution of this one concern will be the
10 key, critical element in the Zoning Commission's determination
11 of this case.

12 The question is this: will the Zoning
13 Commission grant a PUD for the proposed Kennedy-Warren
14 expansion that, as presently configured, neither adequately
15 addresses the impact on the neighborhood, nor meets the
16 District of Columbia PUD requirements?

17 If one were to single out a key, critical
18 neighborhood impact, it would have to be the lack of parking
19 for neighborhood residents.

20 This is an area of high-rise apartments,
21 virtually of them constructed without adequate parking to meet
22 today's needs. This is an area of large townhouses that have
23 been converted into apartments or used as group homes.

24 This is an area of popular attractions,

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1 including the National Zoo, a major movie house, commercial and
2 restaurant area.

3 Those who are drawn to this neighborhood are not
4 only District residents, but residents of Maryland and
5 Virginia, and the visitors from throughout this country.

6 The burden on local residents of inadequate
7 parking confronts us on a daily basis. Not only are we forced
8 to search for parking when arriving home from work or a weekend
9 doing errands, but so are the increasingly diminishing number
10 of our guests who are willing to try to find that ever-elusive
11 parking place.

12 The developers of the -- expansion argue that
13 the parking they're proposing to provide exceeds that required
14 by the District of Columbia.

15 What the developers conveniently overlook is
16 that the zoning they seek is not matter of right. Even the
17 increased zoning they seek does not permit the expansion they
18 propose.

19 Instead, they must receive both increased zoning
20 and a PUD. The District of Columbia regulations speak directly
21 to this concern. The planned unit development process is
22 designed to encourage high-quality developments that provide
23 public benefits, provided that the project offers a commendable
24 number of quality -- of public benefits, and that it protects

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1 and advances public health, safety, welfare and convenience.

2 As presently configured, the proposed PUD offers
3 as public benefits additional housing in an area where numerous
4 apartments are available for rent, and the completion of a
5 historic building, a proposed design that is not exactly as
6 originally planned.

7 And it's an addition to an existing building
8 that in its own right, as it presently exists, has already been
9 granted historical status.

10 Are the public benefits proposed by the
11 developer adequate to meet the standards of the PUD
12 regulations?

13 And has the developer taken steps to "protect
14 and advance public welfare and convenience?" In terms of
15 parking alone, the developer has not.

16 The proposed parking will not even meet the
17 needs of those who would live in the proposed south wing.

18 The proposed parking will not even meet the
19 needs of the visitors of the proposed south wing.

20 The proposed parking will not accommodate the
21 overflow from the existing Kennedy-Warren apartment dwellers.

22 The parking the developer has proposed will not
23 mitigate the effects on the neighborhood of the proposed
24 Kennedy-Warren expansion, much less advance "the public welfare

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1 and convenience."

2 If the Zoning Commission determines that the
3 proposed Kennedy-Warren expansion meets the benefits test for a
4 PUD, it must also ensure that the public welfare and
5 convenience are advanced filling one of the requirements. And
6 this is one of the requirements -- to achieve this, is greatly
7 increased parking. At least 200 spaces are essential. Thank
8 you.

9 And we also, through the ANC, have just
10 submitted some additional parking data on the apartments.

11 CHAIRPERSON BENNETT: We have that.

12 MS. OPACINCH: You have that?

13 CHAIRPERSON BENNETT: Thank you, Ms. Opacinch.

14 MS. OPACINCH: Thank you.

15 CHAIRPERSON BENNETT: Questions of Ms. Opacinch,
16 colleagues?

17 (No response.)

18 CHAIRPERSON BENNETT: No? Cross examination?

19 MR. FEOLA: No.

20 CHAIRPERSON BENNETT: All right, thank you very
21 much.

22 MS. OPACINCH: Thank you.

23 CHAIRPERSON BENNETT: Steven Berusman? Steven
24 Berusman?

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(No response.)

CHAIRPERSON BENNETT: Susie Sinclair-Smith?

Susie Sinclair-Smith?

(No response.)

CHAIRPERSON BENNETT: Allen Thrasher?

(No response.)

CHAIRPERSON BENNETT: Allen Thrasher?

(No response.)

CHAIRPERSON BENNETT: Richard Shapiro? Richard

Shapiro?

(No response.)

CHAIRPERSON BENNETT: Andrew Mack?

(No response.)

CHAIRPERSON BENNETT: Andrew Mack?

(No response.)

CHAIRPERSON BENNETT: Grace Perez-Navarro?

(No response.)

CHAIRPERSON BENNETT: Grace Perez-Navarro?

(No response.)

CHAIRPERSON BENNETT: Karen Marks? Karen Marks?

(No response.)

CHAIRPERSON BENNETT: Don M. Barcliff?

(No response.)

CHAIRPERSON BENNETT: Don Barcliff?

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1 (No response.)

2 CHAIRPERSON BENNETT: Jeanne Haught?

3 (No response.)

4 CHAIRPERSON BENNETT: Jeanne Haught?

5 (No response.)

6 CHAIRPERSON BENNETT: Larry Drell?

7 (No response.)

8 CHAIRPERSON BENNETT: Larry Drell?

9 (No response.)

10 CHAIRPERSON BENNETT: John Hanula? Good
11 evening.

12 MR. HANULA: Good evening. Distinguished
13 Commissioners and Madam Chairman, fellow citizens, my name is
14 John Hanula, and I'm a resident of the Woodley Park - Zoo area.

15 CHAIRPERSON BENNETT: Do you want to pull that
16 just a little closer to you?

17 MR. HANULA: Okay.

18 CHAIRPERSON BENNETT: Thank you.

19 MR. HANULA: You're welcome. I live at 2901
20 Connecticut Avenue, which is about one block or so from the
21 Kennedy-Warren Building. Besides being a resident of the area,
22 I'm also a landscape architect and land use planner.

23 I have 25 years experience in landscape
24 architecture and related land use issues. Seven of those years

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1 are teaching as a professor at universities. Five of those
2 years are working for the Federal Government protecting and
3 planning federal lands, much like the Zoo.

4 However, my views tonight are as a private
5 citizen. My views do not reflect the views of the Federal
6 Government at this point.

7 I live in this area because of the charm of the
8 neighborhood. I moved here because of the Zoo, the green
9 space, the open character, the charm of a neighborhood within a
10 large city.

11 I also moved here because of my son, Carl, who
12 is the back row, thinking he would like the Zoo and like the
13 neighborhood. I'm not antidevelopment at all. I think
14 development is appropriate in appropriate places.

15 I believe we do need housing in certain areas of
16 the neighborhood -- of the City. However, my opinion tonight
17 is my professional opinion, and also my personal opinion,
18 because I can't separate the two.

19 I notice that there's a large group of people
20 who are not represented, it appears to me, in this proceeding
21 except for you Commissioners. That is the millions and
22 millions of people who will visit the Zoo in the future.

23 I understand that in excess of one million
24 people per year visit the National Zoo. The National Zoo is

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1 one of the crown jewels of the National Park System of the
2 Washington Area.

3 If you consider the life of this building being
4 hypothetically a century, that means that in excess of 100
5 million people will come to visit the Zoo, expecting to see a
6 Zoo that is in reasonable balance with the natural environment
7 and a built environment, which I think exists at this time
8 today.

9 They're coming to see animals displayed in
10 habitat, that is kept and made natural by extraordinary efforts
11 and expense by the National Park Service, which works with the
12 National Zoo to keep the neighborhood as natural and the Zoo as
13 natural as possible.

14 The Zoo has its history too. The Zoo was built
15 in the late 1800's. It has a history of approximately twice
16 that of the Kennedy-Warren Building. The Zoo has had millions
17 of visitors over the years.

18 The people who come to visit the Zoo spend
19 millions of dollars every year buying meals, entertainment,
20 hotels and so forth. They bring a large stream of revenue into
21 the City.

22 The Zoo, therefore, should be considered, I
23 think, first and foremost, although the neighborhood is very
24 important.

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1 The Zoo is situated and the main entrance is on
2 Connecticut Avenue. The entrance area to the Zoo is absolutely
3 critical because it identifies the Zoo, number one, for those
4 who pass by, those who come to the Zoo to -- they want to
5 identify where the Zoo is, they're searching for it or asking
6 directions. And they see a green space, and they see this
7 natural environment, this open space, they see signs that say
8 "There's the zoo."

9 They identify it, they find an area to park, and
10 enter into the parking area, and they can continue on to the
11 Zoo for their experiences and expectations.

12 The context of the Zoo is a natural area for
13 animals within a built environment. And as I mentioned, this
14 balance is achieved right now. The balance is very, very
15 delicate, extremely delicate.

16 The Zoo has spent millions of dollars creating
17 this natural environment. Now the Kennedy-Warren Building I'm
18 concerned about. First of all --

19 CHAIRPERSON BENNETT: Mr. Hanula, you started at
20 9:34, and you're --

21 MR. HANULA: Okay, I'm almost finished.

22 CHAIRPERSON BENNETT: -- over your three
23 minutes.

24 MR. HANULA: Okay.

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1 CHAIRPERSON BENNETT: Please wrap up for me.

2 MR. HANULA: Okay. I'm very concerned about the
3 Kennedy-Warren Building because of the extremely sensitive
4 location. The building will be right at the Zoo's entrance, 60
5 feet from the vehicle entrance area to the Zoo itself.

6 As you saw in the slides over there, the
7 building would be nine stories high. It will loom above the
8 entrance to the Zoo and completely change the character of this
9 national jewel.

10 The building will essentially create a brick and
11 concrete canyon that will Manhattan-ize this whole
12 neighborhood. It will have a tremendous effect on the Zoo and
13 its character.

14 Now, I had a chance to view the landscaping
15 plan. And because of the height of the building being nine
16 stories high, the extent to which the building stems back into
17 the lot, the very, very limited space available for planting,
18 no large trees can go -- can grow at all, the fact that the Zoo
19 is out of scale with the neighborhood, which is about --
20 between four and five stories in the adjacent area, that this
21 building will have a very tremendous effect.

22 No amount of landscaping, in my opinion, can
23 effectively mitigate against the enormous size and height of
24 this building.

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1 CHAIRPERSON BENNETT: Thank you, Mr. Hanula.

2 MR. HANULA: You're welcome.

3 CHAIRPERSON BENNETT: Questions of Mr. Hanula?

4 (No response.)

5 CHAIRPERSON BENNETT: Cross examination?

6 MR. FEOLA: No ma'am.

7 CHAIRPERSON BENNETT: Cross examination?

8 MR. MENDELSON: No.

9 CHAIRPERSON BENNETT: All right. Thank you.

10 Mr. David White?

11 (No response.)

12 CHAIRPERSON BENNETT: Mr. White?

13 (No response.)

14 CHAIRPERSON BENNETT: Ms. Lisa Olson?

15 MS. OLSON: Good evening, I'm Lisa Olson. I'm a

16 resident and homeowner in Ward 3. I live in the Palisades. My

17 husband and I own our home there, and I want to make two

18 points.

19 The first is that I fear that the granting of

20 the exception in this case to the zoning density restrictions

21 will create a dangerous precedent for all of Ward 3.

22 I've seen in my neighborhood there are threats

23 right now, and we moved into the area for many of the same

24 reasons that people live in Cleveland Park: its low density,

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1 open spaces parks, the village-like atmosphere, and most
2 importantly, the sense of community, which is important in an
3 inner city where people with different incomes and needs can
4 support each other.

5 And I think this project, by increasing the
6 density to -- in disproportionate amounts, would destroy all of
7 these. And any benefit from rental income would be offset by
8 the devaluation of property and by the tendency of people to
9 avoid the area.

10 So, my first point is that I feel an exception
11 in this case might endanger the rest of Ward 3 and cause there
12 to be exceptions in many other cases.

13 The second point I want to make is one that's
14 been stated here earlier, and that is the parking problem in
15 Cleveland Park. I frequently visit the businesses in Cleveland
16 Park, the restaurants, the small stores, the theater, the Zoo,
17 and parking is a very serious problem.

18 I'm concerned that if it is exacerbated by the
19 addition of 160 additional units that don't fit into this
20 already highly concentrated area, people, including -- I can
21 speak at least for myself, that I would be inclined to avoid
22 the area. Thank you very much.

23 CHAIRPERSON BENNETT: Thank you, Ms. Olson.
24 Hold on. Questions for Ms. Olson?

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1 (No response.)

2 CHAIRPERSON BENNETT: Cross examination?

3 MR. FEOLA: No ma'am.

4 MS. OLSON: Thank you.

5 CHAIRPERSON BENNETT: Ms. Maureen Blum? Good
6 evening.

7 MS. BLUM: Hi.

8 CHAIRPERSON BENNETT: I hear you're here for Ms.
9 Mary Farrell?

10 MS. BLUM: Yes. My name is Maureen Blum. I'm
11 an ANC Commissioner in Woodley Park. And Mary couldn't be here
12 this evening, so she asked me to present her testimony for the
13 record.

14 MR. FEOLA: Madam Chair, I'm going to object to
15 this. There's no way I can cross examine Ms. Farrell. This
16 testimony can go in the record. It can stand for itself.

17 I respect Ms. Blum, but I don't think it's
18 appropriate.

19 CHAIRPERSON BENNETT: You have a point. We will
20 accept Ms. Farrell's testimony into the record, and it will
21 stand on its own. Is there anything that you wanted to say for
22 yourself?

23 MS. BLUM: That I haven't already said?

24 (Laughter.)

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1 MS. BLUM: More than once.

2 CHAIRPERSON BENNETT: Have you already testified
3 before?

4 MS. BLUM: Yes, I have.

5 CHAIRPERSON BENNETT: Okay.

6 MS. BLUM: Thank you though for your time.

7 CHAIRPERSON BENNETT: You're quite welcome.
8 Thank you. All right, I propose that does the witness list.
9 For those of you who are interested, the names of the people
10 who were not here at the last session whom we called -- thank
11 you -- were put back on the witness list for this session in
12 the event that they came back.

13 And we're trying to make sure that we had given
14 them adequate opportunity because some people were not able to
15 make each and every one of our sessions. But they have been
16 called now at least twice. And so, I'm hoping that when I
17 decide what time -- at what point we will close the record,
18 maybe they will have had the opportunity to submit something
19 for the record in writing.

20 At this point, we'll ask for the Applicant to
21 return.

22 MS. DOBBINS: You might want to ask if there's
23 anyone in the audience who --

24 CHAIRPERSON BENNETT: Well, that's a good idea.

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1 Is there anyone else in the audience whose name was not on
2 this list who wishes to testify?

3 (No response.)

4 CHAIRPERSON BENNETT: Okay. We'll ask the
5 Applicant to come back.

6 MS. DOBBINS: You have to speak into the
7 microphone. There's a witness coming up.

8 CHAIRPERSON BENNETT: All right. It is young
9 Mr. Hanula?

10 MR. HANULA III: Yes ma'am.

11 CHAIRPERSON BENNETT: All right. Please give us
12 your full name and your address for the record.

13 MR. HANULA III: John Carl Hanula, III, and I
14 live at 2901 Connecticut Avenue.

15 CHAIRPERSON BENNETT: All right.

16 MR. HANULA III: I would just like to say that I
17 go to the Zoo a lot, and I would really think what the Kennedy-
18 Warren, if they expand it, the expansion, it would really make
19 a difference and it would loom over the Zoo.

20 And I just want to say that it just wouldn't
21 look right. And I'm sure a lot of the tourists would not like
22 to come here and see this giant building looming over the Zoo.
23 And that's all I really have to say.

24 CHAIRPERSON BENNETT: Thank you. Hold on. Now

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1 wait a minute. Mr. Feola? When you come up here, you run the
2 risk of people asking you questions.

3 (Laughter.)

4 CHAIRPERSON BENNETT: Are there any questions of
5 young Mr. Hanula?

6 Well, what is your favorite part of the zoo?

7 MR. HANULA III: The Amazonia.

8 CHAIRPERSON BENNETT: Cross examination?

9 MR. FEOLA: Only a few.

10 (Laughter.)

11 CHAIRPERSON BENNETT: Cross examination by the
12 ANC?

13 MS. NEWMARK: No ma'am.

14 CHAIRPERSON BENNETT: All right. Thank you very
15 much for coming up.

16 (Applause.)

17 CHAIRPERSON BENNETT: All right now, Mr. Feola.

18 MR. FEOLA: Well, I'm Phil Feola for the record,
19 Applicant for -- attorney for the Applicant. And I'm happy to
20 say I think we're going to finish. Give my architect a second
21 to --

22 (Pause.)

23 MR. FEOLA: Madam Chair, the first part of
24 rebuttal, we're going to present Mr. Graham Davidson and Mr.

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1 Warren Cox, the architects for the project, to talk about some
2 of the things we heard.

3 MR. DAVIDSON: My name is Graham Davidson with
4 the architectural firm of Hartman Cox.

5 MR. COX: I am Warren Cox with Hartman Cox
6 Architects. I think we would like to go back through and
7 reiterate some of the points in our earlier presentation
8 because we're obviously reading the street and the situation
9 somewhat differently, you might say, than the people who have
10 testified against the project.

11 MS. NEWMARK: Excuse me, Madam Chair, for the
12 record --

13 CHAIRPERSON BENNETT: You've got to speak in the
14 mic.

15 MS. NEWMARK: For the record --

16 CHAIRPERSON BENNETT: You've got to speak into
17 the mic.

18 MS. NEWMARK: We just -- we just want to object
19 to any rebuttal that goes beyond the scope of our case because
20 if, as Mr. Sher (sic) says, they're just going to be adding to
21 their case as opposed to rebutting ours, then it would be
22 improper.

23 So, I don't know what this picture is going to -
24 - it looks like something that is going beyond the scope, but

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1 we'll wait and see. But I just want to put that out there
2 because we will object if it goes beyond.

3 MR. FEOLA: We have no intention of going beyond
4 the rebuttal.

5 MR. DAVIDSON: This is plan drawing which we
6 showed you during our initial testimony of Connecticut Avenue
7 and the neighborhood immediately surrounding the Kennedy-
8 Warren, the Kennedy-Warren that exists today in bright red, and
9 the somewhat duller red is the proposed addition.

10 We can see quite a number of things from this
11 drawing, which I believe we pointed out the first time around.

12 The first though, which is that in plan, the
13 Kennedy-Warren is extremely similar to many of the apartment
14 buildings which are along Connecticut Avenue across the street.

15 Residential buildings do -- especially
16 residential buildings built in the early to mid part of the
17 century, have a quality of cross-Ts and Xs that were done in
18 order to increase the parameter of the building. And it lends
19 a certain character to the building, as you can see in both the
20 Kennedy-Warren and the buildings across the street.

21 MR. COX: You can also see that the scale of the
22 elements of the Kennedy-Warren is almost identical with those
23 at 3100, the building at the corner facing the park, and the
24 lower portion, Cathedral Mansions, here with the same scale of

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1 courtyard and opening in between.

2 So that in the footprint, it's almost identical
3 in the way it works on the street with the other buildings
4 across the way.

5 MR. DAVIDSON: The other thing that this drawing
6 illustrates is the very large amount of open space surrounding
7 the Kennedy-Warren and this neighborhood. This has been
8 pointed out as a quality of the entire neighborhood.

9 But in fact, the open space that one senses as
10 one is up and down the Avenue is the large amount of green
11 space through Klinge Valley, through the Zoo, and immediately
12 behind the project.

13 This drawing also illustrates its central point
14 between Cleveland Park Metro and Woodley Park Metro to the
15 north and to the south, respectively.

16 We're going to take a very quick look at the
17 space between those metro stations, which is, in fact, the
18 community of this building, the Connecticut Avenue community,
19 which is part of Woodley Park.

20 Beginning down at the Woodley Park Metro
21 Station, what we're going to see is that we have numerous
22 blocks here of high density residential buildings built to the
23 building line of the street, built to the property line of the
24 street; for the most part, a continuous wall of buildings.

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1 MR. COX: As you can see with most of these
2 buildings, they're seven and eight stories high, and are
3 absolutely commensurate with the height of the Kennedy-Warren.

4 MR. DAVIDSON: This is up about a block, a block
5 and a half. Occasionally, there are punctuations of somewhat
6 lower-scaled buildings, as was pointed out. But certainly
7 here, you can see once again eight and nine-story buildings.

8 The block immediately to the south of the
9 Kennedy-Warren and immediately south of the Zoo, we still have
10 a wall of high density residential structures.

11 Across the street, we do have Cathedral
12 Mansions, which begins the type of apartment block we were
13 looking at, the sort of tooth apartment block.

14 MR. COX: Well, and I'm still counting six
15 stories in this building with the dormers on the roof. This
16 building and 3100 are the lowest buildings in the area, but
17 they're also not particularly typical of the buildings in the
18 area.

19 MR. DAVIDSON: And I believe we've seen this
20 before: the entrance to Cathedral Park immediately across the
21 street; actually not from the proposed addition to the Kennedy-
22 Warren, but from the entrance to the Zoo.

23 This piece of entrance to Cathedral Park is, in
24 fact, right on the property line as well.

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1 MR. COX: Which is right here.

2 MR. FEOLA: Mr. Davidson, could you go back to
3 that slide for a second? Is the landscape in the front of the
4 white wall behind that, is that in public space or in private
5 space?

6 MR. DAVIDSON: That is in public space. That
7 white wall is the white wall that was referred to as four feet
8 high.

9 And of course, beyond the bridge and up the
10 Avenue beyond the low-scale commercial which exists for several
11 blocks, you immediately turn back to a high-rise, dense,
12 apartment blocks which continue on up the Avenue.

13 Again, where we have the sort of smaller
14 courtyard creating vertical pieces of building.

15 We've seen this drawing before as well, the
16 early planning effect, a diagram of the Kennedy-Warren on the
17 right-hand side, and Cathedral Mansions or Cathedral Park
18 across the street to the left.

19 One of the things that this drawing shows is
20 that the piece of the building here to the north is, in fact,
21 across from the existing courtyard of the Kennedy-Warren.

22 And the effect on that piece of the building is
23 negligible since there's no new building built across from that
24 piece of the building.

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1 The same holds true, and even more so, for the
2 southern-most portion of Cathedral Park which is, as I said,
3 across from the entrance to the Zoo.

4 The effect on this building, if there is one,
5 occurs to the residents who face that night courtyard in there.

6 Of course, it is a courtyard which is totally
7 private because there is the wall which extends between the two
8 entrances to the building.

9 Our section marker here is actually slightly
10 misplaced. We actually took a section through here as well.
11 Our section does not cut through on a bias or cut through on a
12 bias here, but in fact, goes through from this piece of the
13 building, the outer-most piece, through the middle part of the
14 courtyard, the average depth of the courtyard, which we thought
15 was a very reasonable place to take it.

16 And it looks something like this. On the right-
17 hand side is the Kennedy-Warren. On the left-hand side is
18 Cathedral Park.

19 MR. COX: And you can see in the sight lines on
20 here that if this were moved back, and I think even Ms. Murray
21 agreed with that, this has essentially no effect on the sight
22 lines whatsoever. The other thing is that this
23 courtyard does have the fence, and it does have the trees in
24 here. In fact, it's heavily treed so that -- can we have the

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1 next slide, please -- so that from May through November,
2 effectively, there really isn't any view from 3100 across to
3 the Kennedy-Warren from the courtyard. This is what you have.

4 It's terrific, but it does mean that you don't
5 have a view.

6 MR. DAVIDSON: As we said a few minutes ago, the
7 actual planted space along that part of the open courtyard of
8 the Cathedral Park is -- this part is in public space. And
9 this actually is very, very similar to what the space in front
10 of the Kennedy-Warren will look like when it is completed:
11 pieces of the building which come out to the building line,
12 large stretches of building which are set back, and 35 feet of
13 street trees, sidewalk and then landscaping leading to the
14 property line.

15 In this case, the property line is actually
16 right back here. And the dimension here is identical to what
17 we have on the opposite side of the street.

18 MR. COX: Well, the point of it is in our
19 opinion, the impact of the addition of the Kennedy-Warren on
20 3100 Connecticut Avenue is wildly over-rated. We think that it
21 really -- the impact would really be in this area of the
22 courtyard. And in fact, the courtyard steps back so far and
23 there's so much planting in there, that the views and the
24 impact are actually relatively negligible.

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1 MR. DAVIDSON: We did actually take a quick look
2 at a couple of the massings that were proposed by the
3 Commissioner of Fine Arts. This of course, is the southern-
4 most wing of the building pushed all the way back to the bulk
5 of the building.

6 As I believe was alluded to by Ms. Murray in her
7 testimony, this is so unsatisfactory, if not for functional
8 reasons, then most certainly for aesthetic reasons. Because
9 what it actually does is create a big, blank, long wall that no
10 one has any interest in that wall being created back here as a
11 result of pushing the southern-most wing back.

12 Again, this building is one which is created by
13 character of cross Ts and Xs in a very articulated massing,
14 which removing the south wing denies.

15 You see the wall-like effect of that building
16 here in this photograph taken from street level. And we
17 actually have up the street from this, and I hope the architect
18 is not in the audience, an example of the difference that this
19 makes. This is the same sort of blonde brick, on Connecticut
20 Avenue, the same height building.

21 We have the side wall of a building, which is a
22 flat wall of brick. But in fact, when you take those same
23 design motifs, the same color brick, and you bring them to a --
24 and you create a series of courtyards and vertical pieces, you

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1 get what amounts to a pretty interesting facade.

2 And that is what bringing out pieces of the
3 building of the Kennedy-Warren does for the massing of the
4 building. It actually helps your feel of the building as you
5 walk along the avenue or drive along the avenue.

6 MR. COX: This is the scheme as we are proposing
7 to build it, which does have the seven -- in place. I think
8 this shows again the relationship of the addition to the
9 courtyard at 3100, and also -- and this will be picked up again
10 in the shot looking up the street.

11 The theory that this is going to absolutely
12 dwarf the Cathedral Park or 3100 building doesn't seem to be
13 quite as convincing when you see them here at the same scale in
14 this model, rather than from a rather distorted photograph. Do
15 you want to flip to the next slide?

16 There's obviously a difference in size, but this
17 is not a two-story house over here.

18 MR. DAVIDSON: Well, we have heard that, in
19 fact, this proposed addition will have an adverse effect on the
20 scale, on the size, and that the adverse effects of the
21 addition are that it will take away a lawn, which is a buffer,
22 and that it needs a set-back from the street.

23 We contend, and we believe that we showed with
24 this quick series of slides, that in fact, the Kennedy-Warren

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1 addition, as proposed, is very much in the same size and scale
2 of the neighborhood of Connecticut Avenue, up and down the
3 avenue.

4 And in fact, while there are no lawns and
5 buffers required here, and in fact, most of the buildings on
6 Connecticut Avenue don't have a lawn or a buffer -- we do have
7 one and it will be quite a nice one.

8 And while there is no set-back required from
9 Connecticut Avenue, we do have much of our building, which is,
10 in fact, set back from the avenue. And the pieces of the
11 building that come out are there, in fact, to reinforce the
12 street, which along this stretch of the avenue is something
13 that, in fact, it needs.

14 Adding the south addition will actually
15 reinforce the sense of the Zoo being an open space within
16 Connecticut Avenue. As it stands now, we have a stretch of
17 building. And then the Zoo and the open space of the Kennedy-
18 Warren and the Klinge Valley all sort of meld together in an
19 amorphous open space.

20 Yes, this is good that we have a little more
21 green and trees, but it's not good in the sense of your feeling
22 of procession as you go up the avenue and your feeling of --
23 definition of what -- what should be a good definition of the
24 open space that is the zoo, and the open space that is Klinge

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1 Valley going beneath the bridge.

2 MR. COX: The original part of the Kennedy-
3 Warren, the unfinished part, has been called "the best art deco
4 apartment house in Washington." Well since Mr. Younger
5 intended for this wing to be on here, and it fulfills the
6 design and completes the design, I guess -- if it's completed,
7 I guess it will make it twice as good.

8 But clearly, the building is unfinished. And I
9 think leaving everything aside architecturally, clearly it's
10 better if it is completed and it is not simply the L-shaped
11 wing looking like it's had its arm chopped off.

12 And these bays do pick up the rhythm of the
13 street, and they work with each other very well. Obviously,
14 the question was raised with what happens if you lop this
15 section off and leave this bay? Mr. Parsons has said he'd like
16 to look at that.

17 What happens is you have a smaller building. I
18 don't know that you have a better building, because I think the
19 rhythms here and then the break are actually more interesting
20 than simply having a symmetrical building in this case.

21 I would also submit that there is so much open
22 space running back to the Zoo and beyond that, that this wing
23 actually begins to define that space better than it would if
24 this were left off, and certainly better than it does now.

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1 I think the building clearly looks unfinished at
2 this point. Now, we obviously had an option of changing Mr.
3 Younger's design, and we did change it in certain areas to
4 adjust the apartment configuration.

5 But in looking at this, and studying other
6 alternatives, we reached the conclusion that Mr. Younger had it
7 right the first time, that he knew what he was doing, and he
8 designed this thing as a piece. And what we're trying to do is
9 put it back together as a piece.

10 And we think what you see here is much better
11 than it is right now.

12 REBUTTAL EXAMINATION

13 MR. FEOLA: Mr. Davidson, I just have a couple
14 of technical questions to clarify the record. Ms. Newmark
15 testified that the -- her calculation of lawn occupancy
16 differed from yours by some percentage points. Would you like
17 to comment on that? I believe yours was 59 percent and hers
18 was 71 percent or something like that.

19 MR. DAVIDSON: I must say I was a little
20 surprised. We are very, very careful about doing calculations.
21 Nonetheless, it is entirely possible that we did make a
22 mistake. And we, if necessary, will go back and check.

23 I am happy, however, that even if she was -- is
24 correct that our lot coverage is still below, well below, the

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1 maximum permissible by zoning.

2 MR. COX: Well the issue, of course, was, I
3 assume, how one counts these areas. These are at grade. This
4 is slightly above. But the net effect is with the courtyards,
5 even if these are up one story, to create a tremendous amount
6 of open space.

7 The actual mass of the building does read above
8 those openings. And of course, when you get back on the park
9 side, they are actually at the first level or below that. The
10 part side is a whole different situation.

11 This is what you see. And you certainly are
12 reading these voids.

13 MR. FEOLA: Ms. Newmark also suggested that the
14 open space was, I believe, 34,000 (sic) square feet. Does that
15 confirm with your calculations?

16 MR. DAVIDSON: Again, I have to go back and --

17 CHAIRPERSON BENNETT: For the lawn area.

18 MR. FEOLA: The lawn area, I'm sorry.

19 MR. DAVIDSON: My recollection is that it is
20 about a half to two-thirds of that, more like 2,400, 2,600
21 square feet of green space.

22 MR. FEOLA: Why do you think that her number was
23 that much higher?

24 MR. DAVIDSON: She may have included the area of

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1 the garage ramp, which of course takes up a full one-third of
2 that open space on our property.

3 MR. FEOLA: Finally, there had been some -- I
4 actually have two more questions. One is there's been some
5 suggestion that J. Carter Brown made comments, and that he may
6 have had it right by suggesting that this particular solution
7 wasn't correct.

8 Is that your understanding of what the
9 Commissioner of Fine Arts did with this project?

10 MR. COX: No, we submitted the alternative
11 scheme as he suggested. He looked at it and decided that this
12 was, in fact, the better scheme and approved this scheme, as
13 did HPRB.

14 MR. FEOLA: And finally, maybe you could help
15 the -- and Mr. Franklin had asked this question at the first
16 night of hearings. The question, I believe, was has the DCPL,
17 the D.C. Preservation League, changed its position with regard
18 to this project?

19 I think it might be helpful for the Commission,
20 Mr. Davidson, if you explained how the DCPL came to support
21 this project before HPRB.

22 MR. DAVIDSON: We went to DCPL's Issues
23 Committee which, as you probably know, is composed of a number
24 of people concerned about preservation, several of whom are

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1 architects, several of whom are landscape architects and
2 planners. And they throw in a lawyer too just for good measure
3 to keep people honest.

4 We presented our proposal, much as we did to you
5 several months ago, including in some depth the preservation
6 aspects of the project, the effect on the existing building.

7 And subsequent to that, we received the Issue
8 Committee's, and therefore the Executive Committee, DCPL's, as
9 far as I know, unanimous support for the building before HPRB.

10 We did go back to them on another occasion
11 subsequent to that after we visited Fine Arts, and Mr. Carter
12 Brown made his remark concerning the alternative massings for
13 the south of the building.

14 We went back to them to ask them what they
15 thought of those massings. And it was a very brief meeting,
16 and they were -- again, reaffirmed to us their support for our
17 building of the addition along Connecticut Avenue that Younger
18 had initially designed, and reaffirmed that, in fact, they did
19 not think from either a preservation standpoint or an urban
20 design standpoint, since they couldn't help themselves, that
21 pushing that south wing back was in any way better.

22 MR. FEOLA: For the record, Madam Chair, I'd
23 like to submit a letter delivered to the Saul Company from the
24 Preservation League dated January eighth. That is subsequent

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1 to the letter Ms. Newmark is referring to concerning support
2 that was done before the previous hearing that indicates that
3 support from the Preservation League.

4 I left my file at home. I'm going to have to
5 get -- make some copies.

6 If it pleases the Chair, maybe since we have the
7 architects here, if you have questions of them with the slides
8 up, it might be easier. But if you want us to bring the other
9 two guys up and then do the questions, it's up to you.

10 CHAIRPERSON BENNETT: Well, do you have
11 questions, questions of the architects while we have these
12 exhibits up?

13 COMMISSIONER FRANKLIN: Did you look at any
14 options which significantly reduce the number of units in the
15 building? We've seen these alternatives that you presented to
16 the Fine Arts Commission. Were they also -- were they all
17 really maintaining the number of units in the --

18 MR. COX: The scheme that took the pay-off did
19 reduce it.

20 COMMISSIONER FRANKLIN: Is that the only scheme
21 that you considered? Were there others?

22 MR. COX: There was scheme that moved the bay
23 back about half-way that we looked at, which we haven't shared
24 with you.

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1 COMMISSIONER FRANKLIN: Mr. Feola, will the --

2 MR. FEOLA: Yes sir?

3 COMMISSIONER FRANKLIN: -- will the Applicant --
4 will you be representing the Applicant, Mr. Saul?

5 MR. FEOLA: Yes.

6 COMMISSIONER FRANKLIN: Okay, I'll leave my
7 questions until then.

8 CHAIRPERSON BENNETT: All right, Ms. Kress?

9 COMMISSIONER KRESS: Yes, thank you. I wanted
10 to ask if you at all looked at doing an extra level of parking
11 below grade on the scheme as it exists, and what kind of
12 parking spaces net do you get out of putting that extra level
13 of parking in below grade?

14 MR. DAVIDSON: We did look at that very briefly.

15 As I believe we previously noted, the site is really -- the
16 ground is really just above a level of rock, which is about 20
17 to 30 feet below grade.

18 And that rock falls off just as the grade of the
19 site does, rapidly toward Klinge Valley.

20 We have taken our lowest level of garage down to
21 what our borings tell us is the very top of the rock. So that
22 constructing an additional level of parking will have two
23 dramatic and unfortunate effects: the first of which is, of
24 course, that someone has to pay for additional excavation which

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1 in rock is, of course, much more expensive.

2 But perhaps the more serious one is that in
3 order to remove that rock, an additional nine to ten feet of
4 rock, we would have to resort to blasting which, in this
5 residential neighborhood and next to the Zoo, we were not very
6 keen on.

7 So, we have both a cost and a livability issue
8 here in terms of adding an additional level of parking.

9 In terms of numbers, we can only have about 150
10 cars spread among three levels. We would therefore pick up a
11 net of about 50 cars.

12 COMMISSIONER KRESS: Thank you.

13 CHAIRPERSON BENNETT: All right. If there are
14 no further questions of these panelists, did you have
15 additional rebuttal?

16 MR. FEOLA: Two more, but I don't know if you
17 want to do cross examination again.

18 CHAIRPERSON BENNETT: Well, let me -- I'm
19 looking around at the staff. I was under the impression that
20 we do not do cross ex of rebuttal unless there was some new
21 information.

22 MR. FEOLA: That's correct.

23 CHAIRPERSON BENNETT: And in my judgement, and I
24 was listening very closely because generally what we are

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1 looking for in rebuttal is almost a point to point response to
2 what the opposition has.

3 And as far as I was concerned, your
4 architectural witnesses came fully within the scope of the
5 content of the opposition's testimony. So, I didn't -- I don't
6 think there is a need at this point.

7 There may be some later on, depending on what
8 your other two rebuttal witnesses have to say.

9 MS. NEWMARK: The Court of Appeals in the
10 Glenbrook Road case said that the opposition absolutely has a
11 right to cross examine rebuttal witnesses. It doesn't matter
12 that they're testifying to something that's within the scope of
13 our case.

14 That's what gives them the right to testify in
15 the first place. But we are absolutely entitled to cross
16 examine them on this.

17 We never got to cross examine on these issues,
18 on these items, before because we never had these before.

19 And that's exactly what the Court of Appeals
20 said in Glenbrook Road.

21 CHAIRPERSON BENNETT: Let me ask staff. This is
22 a question I've already asked staff in anticipation of this
23 very issue.

24 (Pause.)

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1 MS. NEWMARK: And by the way, I would only ask a
2 handful of questions.

3 (Laughter.)

4 MS. NEWMARK: You can even time-limit me.

5 MR. FEOLA: If it matters, Madam Chair, I have
6 no objection if we can get on with it so we don't spend 20
7 minutes --

8 CHAIRPERSON BENNETT: But for my own purposes,
9 this won't be the first or --

10 MR. FEOLA: I understand.

11 CHAIRPERSON BENNETT: -- the last case where
12 this happens. So, I need to know what the process is
13 appropriately.

14 (Pause.)

15 CHAIRPERSON BENNETT: We're going to go ahead
16 and permit it, Mr. Feola.

17 MR. FEOLA: Yes ma'am.

18 CHAIRPERSON BENNETT: All right, we're going to
19 permit cross ex of the rebuttal witness.

20 MS. NEWMARK: Shall I proceed now with these two
21 gentlemen and then -- okay. Okay, Mr. Davidson, you began by
22 stating that the plan for the Kennedy-Warren was very similar
23 to the plan across the street. Do you remember that?

24 MR. DAVIDSON: That's correct.

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REBUTTAL CROSS EXAMINATION

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MS. NEWMARK: Right. What is the proposed height of the Kennedy-Warren plan?

MR. DAVIDSON: Ninety feet.

MS. NEWMARK: How many stories high?

MR. DAVIDSON: Nine from grade.

MS. NEWMARK: Okay. How many stories high is Cathedral Park across the street?

MR. DAVIDSON: At least four, maybe five.

MS. NEWMARK: Okay. Now, you talked about large open spaces surrounding the Kennedy-Warren. Were you referring to the spaces behind the Kennedy-Warren?

MR. DAVIDSON: Yes, and to the north.

MS. NEWMARK: What about the spaces in front of the Kennedy-Warren?

MR. DAVIDSON: That is certainly a nice aspect of the open space along Connecticut Avenue as well. The courtyard of the Kennedy-Warren, in itself, is an enormous space. In fact, it is larger even than the courtyard in front of your own building.

MS. NEWMARK: And how much of that is green? How much of that has grass?

MR. DAVIDSON: I'm approximating 50 percent, but I haven't --

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1 MS. NEWMARK: And how many square feet would
2 that be? Would that be about 5,500 square feet?

3 MR. DAVIDSON: No, it would be much more than that
4 because you're talking about not only the piece in the middle,
5 but around the parameter. But I have not calculated those
6 numbers, and I don't know.

7 MS. NEWMARK: Now when you're calculating open
8 space, are you considering the Zoo to be open space?

9 MR. DAVIDSON: Well, of course the Zoo is open
10 space.

11 MS. NEWMARK: But isn't open space something
12 that doesn't have anything on it?

13 MR. DAVIDSON: That's correct.

14 MS. NEWMARK: Doesn't the Zoo have something on
15 it?

16 MR. DAVIDSON: Upon occasion, there are
17 buildings and lots of people.

18 MS. NEWMARK: On occasion? Aren't there cages
19 with animals?

20 MR. DAVIDSON: Yes.

21 MS. NEWMARK: Aren't there buildings and
22 sidewalks?

23 MR. DAVIDSON: Yes.

24 MS. NEWMARK: Okay. Now I'd like to direct your

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1 attention to the slide that you showed. And maybe we need to
2 turn the light down a little bit because we can't really see it
3 very well.

4 MR. DAVIDSON: I think there is a great deal of
5 difference between --

6 MS. NEWMARK: Excuse me --

7 MR. DAVIDSON: -- the street which --

8 MS. NEWMARK: -- there's not a question pending.
9 Can I continue?

10 MR. FEOLA: He's allowed to answer the previous
11 question.

12 MS. NEWMARK: I think he did, but if he wants --

13 CHAIRPERSON BENNETT: Just let him answer
14 please, Ms. Newmark.

15 MS. NEWMARK: Go ahead. Yes, I have no problem
16 with that.

17 MR. DAVIDSON: I think there is a great deal of
18 difference between a space which has continuous rows of
19 buildings on it out to the street-line built very densely and a
20 space, which like the zoo, has occasional buildings, which are
21 low, interspersed with cages and lots and lots of space, which
22 of course is necessary for the --.

23 While the building certainly has some sidewalks,
24 or perhaps too many, and road and buildings, it is nonetheless

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1 an open space, largely.

2 MS. NEWMARK: Well, we agree with you as that
3 difference between a huge building lining the street and the
4 mixture of buildings and open spaces. Now in this
5 illustration, in this slide here, I notice that the shadow
6 seems to be behind the building.

7 And I'm just wondering why that is because I
8 mean, the sun would -- this is south, right, over here?

9 MR. DAVIDSON: That's correct.

10 MS. NEWMARK: So, I'm just wondering why we're
11 seeing a shadow falling on the south from that.

12 MR. DAVIDSON: In trying to illustrate the
13 buildings in our picture, both in rendering form, which we
14 actually discussed several months ago, and in model form,
15 sometimes we need to illustrate the massing of the building by
16 lighting it from the north, which is an impossibility.

17 This is one of those cases where we -- to
18 photograph the model, to illustrate what is actually happening
19 in the form of the model from the vantage point that we wanted
20 to take the picture, the only way to show it was to move the
21 light to a position where it probably would not necessary
22 occur.

23 MR. COX: Late afternoon in the summer, it would
24 do that.

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1 MR. DAVIDSON: Well, that's true actually. Late
2 afternoon in the summer, it would do that.

3 MS. NEWMARK: I'm sorry, you're saying that
4 there's a time of year when the shadow would be coming from the
5 north on the building down there?

6 MR. DAVIDSON: Oh yes, don't forget Connecticut
7 Avenue actually goes northwest. And in the summertime, the sun
8 is -- rises in the northeast and sets in the northwest.

9 MS. NEWMARK: Okay, but that's not what you did
10 here. Here, you did it to create a certain impression. You
11 said you put an artificial light on it, right?

12 MR. DAVIDSON: Well, that's how we photograph
13 the models, yes, with artificial light.

14 MS. NEWMARK: Okay. You talked about Carter
15 Brown saying that he preferred the original plan to the two
16 set-backs you showed him. Isn't that right, you said that?

17 MR. DAVIDSON: That's correct.

18 MS. NEWMARK: Okay. Did he see the scheme that
19 Ms. Murray proposed earlier tonight?

20 MR. DAVIDSON: Not to my knowledge.

21 MS. NEWMARK: Okay. Mr. Sher (sic), you said
22 that the scale of the Kennedy-Warren --

23 MR. FEOLA: Mr. Sher is not up there.

24 MS. NEWMARK: Who is that over there?

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1 MR. FEOLA: Mr. Cox.

2 CHAIRPERSON BENNETT: Mr. Cox.

3 MS. NEWMARK: Excuse me, I'm sorry. I was in
4 the back of him. Pardon me. Mr. Cox has testified that the
5 scale of the two, the Kennedy-Warren and the Cathedral Park,
6 are identical and so is their footprint.

7 Now, the Kennedy-Warren is how many stories
8 high, Mr. Cox?

9 MR. COX: Let's go back and look at the slides
10 that I was talking about so we can deal with this in the
11 context in which I made the statement.

12 This will do. I'm telling you about the
13 footprint.

14 MS. NEWMARK: Excuse me, excuse me. My question
15 --

16 MR. COX: We were talking about the footprint
17 and what we're saying is --

18 MS. NEWMARK: That's not my question.

19 MR. COX: -- that these crosses and these bays
20 are, in fact, very, very similar in scale and size to these --
21 the 3100. They are -- this building is taller than this, but
22 the actual footprint and the openings and the courtyards and
23 the method of articulation and the scale of these in plan is
24 virtually identical.

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1 MS. NEWMARK: Okay, so you're talking about the
2 scale of the footprint then?

3 MR. COX: That's what I said.

4 MS. NEWMARK: Thank you for clarifying that. So
5 in other words, you're talking about if you were flying
6 overhead, that it would seem to be in scale looking at it from
7 above?

8 MR. COX: No, that's not what I said.

9 MS. NEWMARK: Well, would that be true? Is it
10 your view that standing on Connecticut Avenue -- is it your
11 view that standing on Connecticut Avenue, the scale of these
12 two buildings would be similar?

13 MR. COX: The size of these two buildings is
14 different.

15 MS. NEWMARK: Is it your view --

16 MR. COX: Size is different. The scale is
17 something else. The scale of the elements in plan is
18 essentially the same. The scale in height will be somewhat
19 different because this building is only about two-thirds the
20 height of this.

21 MS. NEWMARK: Is it your --

22 MR. COX: Does that answer your question?

23 MS. NEWMARK: Yes, thank you. And as a follow
24 up question, I'd like to know whether it's your opinion that

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1 standing on Connecticut Avenue, the scale of these two
2 buildings would be similar?

3 MR. COX: The size of these two buildings is not
4 similar, but I think when you're standing on Connecticut
5 Avenue, as we show in the model --

6 MS. NEWMARK: Excuse me, is this standing on
7 Connecticut Avenue?

8 MR. COX: Of course it's standing on Connecticut
9 Avenue. This is standing on Connecticut Avenue. I don't think
10 the Kennedy-Warren is over-powering this building. It's
11 clearly bigger, but I don't think it's overpowering it.

12 MS. NEWMARK: Can you tell me -- I mean, when I
13 look at this, I'm very struck by how out of scale it looks.
14 And I'm just wondering if -- where this is taken from, what
15 vantage point and how -- how your viewing this as being in-
16 scale.

17 In other words, is this being taken from on the
18 Cathedral Mansions -- in other words, what would this building
19 right here be?

20 MR. DAVIDSON: That's 3100.

21 MR. COX: That's your building. Your building -
22 - this corner of your building is down the street from the
23 addition. You're forgetting that.

24 MS. NEWMARK: No, I'm not forgetting where my

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1 building is.

2 MR. COX: This is taken of this model. This is
3 what you saw here. This is slightly in front of that.

4 MS. NEWMARK: That's true from the sky. I
5 certainly see what you're saying. Well, let me shift to a
6 different question. We're probably not going to get anywhere
7 on this one. I think we've all seen the slides of the
8 neighborhood.

9 You did state though on -- one of you stated, I
10 don't remember which one, that the Cathedral Park's front
11 entrance is directly opposite the National Zoo? Do you
12 remember saying that?

13 MR. DAVIDSON: I probably said that.

14 BY MS. NEWMARK:

15 MS. NEWMARK: I think you said that.

16 MR. DAVIDSON: It's across from the two
17 entrances, one from Kennedy-Warren and one from the Zoo.

18 MS. NEWMARK: Do you know what is located right
19 over here?

20 (No audible response.)

21 MS. NEWMARK: If I told you that that was the
22 Kennedy-Warren driveway, would you have any problem with that?
23 Would that seem accurate to you?

24 MR. DAVIDSON: I think this drawing illustrates

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1 exactly where it is.

2 MR. COX: That looks like the entrance to the
3 zoo to me.

4 MS. NEWMARK: Oh, you're talking about the --

5 MR. COX: That looks like the entrance to your
6 building to me too.

7 MS. NEWMARK: -- you're talking about the
8 vehicular entrance to the Zoo then. Is that correct?

9 MR. DAVIDSON: That's correct.

10 MS. NEWMARK: Thank you. That clarifies it. I
11 thought you meant the pedestrian. You're right, it's the
12 vehicular. I don't think I have anything else.

13 CHAIRPERSON BENNETT: You're about to lose a
14 quorum, so we're going to need to wrap this up as timely as we
15 can. We have two more rebuttal witnesses. Oh, is there a
16 cross examination for --

17 MR. MENDELSON: Yes, for the record, I'm Phil
18 Mendelson.

19 CHAIRPERSON BENNETT: Mr. Mendelson.

20 REBUTTAL CROSS EXAMINATION

21 MR. MENDELSON: I had a question for Mr.
22 Davidson because I believe he left an impression about what
23 would be involved in building an additional level of parking,
24 and I want to go into that.

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1 Is it your testimony, Mr. Davidson, that
2 blasting is absolutely definite?

3 MR. DAVIDSON: I don't -- we have not studied
4 this enough to know that it is absolutely, positively
5 definite. Obviously with enough time and money, you can scrape
6 dirt away -- I mean, scrape rock away. You do not absolutely,
7 positively have to blast.

8 But of course, that's quite a bit of additional
9 annoyance for everybody as well.

10 MR. MENDELSON: The difference in construction
11 techniques, is that the only reason why blasting wouldn't be
12 absolutely certain?

13 (No response.)

14 MR. MENDELSON: Do you know for a fact that you
15 definitely would have to -- that you would definitely encounter
16 a rock across the entire site?

17 MR. DAVIDSON: We know for a fact that we will
18 encounter rock beginning at the south end of the site and
19 extending for probably at least half of that lower level, maybe
20 more. I have not actually plotted it.

21 But I know that our lowest level of rise now
22 sits directly on where we know the rock is at the south end of
23 the site.

24 MR. MENDELSON: So, there would be some --

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1 possibly some blasting?

2 MR. DAVIDSON: You mean currently?

3 MR. MENDELSON: No, if you were to go another
4 level.

5 MR. DAVIDSON: Yes.

6 MR. MENDELSON: And was it your intention to
7 give the impression -- this is the impression I had from what I
8 heard you say -- that blasting in a residential district, in a
9 private building, never occurs?

10 MR. DAVIDSON: Oh, I think it does occur. I
11 suspect that they probably blasted quite a bit for Metro.

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

14 CHAIRPERSON BENNETT: All right. Thank you.
15 Other two rebuttal witnesses?

16 MR. FEOLA: Yes, Madam Chair, I actually spoke -
17 - we actually have three, but they're going to be a lot
18 shorter. All three will be lot shorter than these two
19 combined. Mr. Slade and Mr. Sher, why don't you come up here
20 so we can --

21 REBUTTAL EXAMINATION

22 MR. FEOLA: Mr. Slade, state your name and
23 address for the record again.

24 MR. SLADE: Louis J. Slade, 3500 Crusada Street,

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1 Northwest Washington D.c.

2 MR. FEOLA: You've heard testimony, both this
3 evening and last session, from Phil Mendelson from the ANC and
4 Steve Petersen, a traffic engineer for the 3100 party,
5 concerning -- questioning your data and your analysis with
6 parking. Would you care to comment on that, please?

7 MR. SLADE: Yes, I think there are three major
8 points to be made about it. First of all, Mr. Mendelson's very
9 well-researched work regarding the number of cars parked in a
10 variety of apartment buildings, I think in cross examination,
11 Mr. Feola showed that there is an abundance of cross-parking
12 from other buildings in some buildings.

13 So, it's very difficult to use that information
14 to draw conclusions on car ownership and car parking ratios
15 within many of those buildings, first of all.

16 The second point with regard to Mr. Mendelson's
17 work that we were in discord about had to do with 2501 Porter
18 Street. We went back to 2501 and very explicitly got a very
19 clear picture from them of how many spaces were built
20 originally, how many were currently being used for parking
21 purposes, how many were being leased by the tenants for parking
22 purposes, how many were vacant.

23 And it turns out we were wrong, but Mr.
24 Mendelson was also wrong. I think we were closer to being

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1 right. The ratio of cars parked in that garage by tenant is
2 .81. There are 60 spaces -- about 60 spaces currently vacant
3 and available for tenants to use in that building.

4 MR. FEOLA: Madam Chair, I'm going to submit
5 for the record a memo from the Resident Manager, Ken
6 Finkelstein of Saul, from 2501 Porter, that specifies what Mr.
7 Slade is talking about.

8 CHAIRPERSON BENNETT: All right.

9 MR. SLADE: Finally with regard to Mr.
10 Petersen's and Ms. Newmark's survey in the neighborhood, I
11 think there's a couple of key points here to make, and they
12 have to do with the question about the statistical validity of
13 relatively small sample surveys of small little universes of
14 apartment units in these buildings.

15 Very appropriately, the survey information was
16 compared with some bases that were out there. However, I think
17 they weren't compared carefully enough. I testified about the
18 Census information the last time I was here.

19 And we went back to the Census and found auto
20 ownership for rental units, owner-occupied units as opposed to
21 just total owner-occupied rentals. In other words, we were
22 able to select out those who were renting within these
23 districts, these Census tracts, from those who are owning.

24 And you remember we -- one of the issues was

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1 that the single family homeowners probably owned more cars.
2 And that's certainly substantially the case.

3 The ratio from the Census overall in the
4 neighborhood, when the owner-occupied units are included with
5 the rental units, was .9 cars per unit.

6 And that's what Mr. Petersen compared his survey
7 results with and compared favorably. If you look at just the
8 rental units out of ownership, it's .73 overall in the
9 neighborhood on those four Census tracts.

10 It's .67 in the Census tract that the Kennedy-
11 Warren Apartments are in. So, and that relates to the other
12 units that were also surveyed by Mr. Petersen.

13 So, he was getting a ratio up around .9. The
14 Census says that ratio should be down around .7, even below .7.

15 The other thing I was able to do very quickly
16 with the report that was handed out this evening was to just
17 look at some of the calculations. And I think you'll remember
18 these numbers because they were repeated a couple of times.

19 When the tenants, the existing tenants in the
20 317 units, in the Kennedy-Warren were asked in the sample
21 survey how many of you own -- how many cars are owned, the
22 car/ownership ratio that they derived was .92.

23 And then the next question was where do yo park
24 your car? And of those, 72 percent parked in reserved spaces,

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1 20 percent parked in unreserved spaces, and 8 percent parked
2 elsewhere.

3 If you compute how many cars would be therefore
4 parked in the building, you should take that computation from
5 that little sample that you've made and look at how many cars
6 are actually parked in the building, which we have as factual
7 data.

8 I presented that in my very first testimony when
9 we had the actual registered cars parked in the building.
10 There's 199 cars parked in the building.

11 But the survey, the tiny sample survey when you
12 extrapolate it, says there's 268 cars parked in the building.
13 We don't even have 268 spaces in the building.

14 And I think the point simply is that when you
15 take a sample like this and you get a 19 percent return, you
16 try to stratify it and see how many are parking out of that 19
17 percent return are parking in and out of the building, you get
18 very small results in each of the stratifications.

19 And then you try to extrapolate it back up to
20 the total numbers, and you get -- if you had gotten one more
21 return and it had fallen into one of these categories, it would
22 have thrown your results off in another direction.

23 But if we take their results, which say that six
24 percent of the people who have cars currently park on the

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1 street, and we accept it and we apply it to the 166 units of
2 the building, we get nine cars parked on the street -- nine
3 cars out of -- in a neighborhood that has, according to their
4 survey, 270 on-street parking spaces.

5 So, I think it's a tiny drop of impact. And
6 it's our contention that we're going to have abundant parking
7 and that those people can park in this building.

8 CHAIRPERSON BENNETT: Okay, thank you.

9 MR. SLADE: Thank you.

10 MR. FEOLA: One final question for Mr. Slade:
11 we've heard some talk about valet parking. Is it -- can you
12 give your opinion about whether valet parking would work in a
13 residential building like this?

14 MR. SLADE: I think it would work and it would
15 very well. And I want to clarify: what we're talking about is
16 attendant-assisted parking, which means that most of the cars
17 would be parked by the attendants themselves.

18 But once all those spaces were filled, if they
19 ever were, and of course we don't think they would be because
20 we think we're building more than we need, if they were ever
21 filled, then when you drive in your car and there's not a space
22 in a slot, you will then park behind another car. And you will
23 leave your keys secured with the attendant.

24 When the car that's parked behind you has to be

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1 moved out, the attendant simply moves that car out of the way.
2 This is used throughout the City in commercial and residential
3 and institutional locations.

4 And I have people welcome it because they like
5 seeing an attendant down there. And as one of you said, I
6 think it Mr. Franklin, it adds some personal service for those
7 who like it. You can call ahead and have your car ready. It's
8 a convenience.

9 CHAIRPERSON BENNETT: Go ahead Mr. Sher, and
10 then we'll have --

11 REBUTTAL EXAMINATION

12 MR. FEOLA: I just have a couple of questions
13 for Mr. Sher. Mr. Sher, you've heard testimony, both tonight
14 and from the ANC suggesting that the benefits package,
15 amenities package, proposed by this development just doesn't
16 cut it with regard to PUDs. Could you comment on that,
17 please?

18 MR. SHER: The Applicant did submit at the last
19 public hearing a list of what the various items with respect to
20 what this were and you've seen the opposition. I'm not going
21 to go back over the list.

22 I think I started my testimony out the first
23 time saying what this case is about is about housing.

24 Housing is the primary amenity. The current PUD

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1 regulations specifically identify housing as an amenity that
2 this Commission is looking for.

3 The proposed development in this PUD is very
4 much consistent with other all-residential high-rise PUDs that
5 this Commission has approved before.

6 And I'm just going to submit for the record a
7 stack of orders. I'm certainly not going to quote them chapter
8 and verse. If I just tell you about them, you'll know what
9 they are: Liken, 26th and L Streets; Ashbee, Wyoming Avenue;
10 Mayfair House, 2100 block of L Street; the Porter Street
11 Project; the Horning Project at Connecticut and Brandywine;
12 Cafritz at Connecticut and Military Road; Westbrooke, 22nd and
13 N Streets; no mixed-use projects, no combination office and
14 retail, strictly high-rise residential apartment buildings.

15 You can look at those orders, and you can see
16 that what was approved by this Commission is essentially the
17 same kind of building as what was approved here; some of them a
18 higher FAR, some of them a lower FAR. Some of them are in
19 downtown. Some of them are in Ward 3. But they're all high-
20 rise residential projects and they're essentially at the same
21 level of giving to the City, if you will, as what's proposed
22 here.

23 What the Commission found in all those cases was
24 we're getting housing. We asked people to bring us housing.

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1 That's what they brought us.

2 MR. FEOLA: With regard to the Comprehensive
3 Plan, Mr. Sher, there has been some suggestion that this
4 project is completely inconsistent with the Comprehensive Plan.

5 Could you comment on that?

6 MR. SHER: Here's the Comprehensive Plan. You
7 can read it. I can read it. We can come up with different
8 conclusions about what it says.

9 The plan itself says "Look at all the elements.
10 Balance this. Understand that there's interplay between the
11 elements." The plan itself also says, "Give the greatest
12 weight to the land use element because that's supposedly the
13 synthesis of all the other elements."

14 And the land use map, generalized land use map,
15 which unfortunately is sitting on my desk in the office and
16 didn't make its way into my bag and I was going to hold it up,
17 you know, shows this site to be high-density residential.

18 It shows much of the Connecticut Avenue corridor
19 to be high density residential. So, I don't believe that in
20 its sort of basic analysis that this project is inconsistent
21 with the Comprehensive Plan. In fact, I believe to the
22 contrary.

23 Having examined the plan in detail, having
24 presented my rationale for that, I'm not going to go back

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1 through it again. I believe this project is not inconsistent
2 with the Comprehensive Plan.

3 MR. FEOLA: Finally, there's been some
4 suggestion that this project would be a bad precedent because
5 it would be the highest density project in Ward 3, the only R-
6 5-E zoned piece, et cetera. Could you comment on that, please?

7 MR. SHER: I don't know the FAR of every
8 building in Ward 3. I don't think anybody in this room knows
9 all the FARs of every building in Ward 3. I know it's not the
10 highest FAR building in a residential building, not commercial,
11 residential building. It's not the highest in the City.

12 It may be the highest in Ward 3. But if it is,
13 isn't that what -- isn't that great? Isn't that what we want?

14 Isn't density on a major arterial where the Comprehensive Plan
15 calls for high density residential, isn't that what you really
16 want?

17 The zoning regulations allow a 90-foot height.
18 In fact, the zoning regulations allow a 90-foot height on both
19 sides of Connecticut Avenue from Woodley Road to Macomb Street,
20 R-5-D. That includes Cathedral Park.

21 The frontage on Connecticut Avenue is zoned R-5-
22 D. Here, I'll hold it up the other way so everybody can see
23 what it does. That's what the current zoning regulations
24 allow, 90-foot buildings, both sides of Connecticut Avenue.

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1 Now, I didn't take this map all the way out, all
2 the way up and down Connecticut Avenue. But substantial parts
3 of Connecticut Avenue are zoned for that kind of development.

4 Assuming that you could build a 90-foot building, then
5 you've got to deal with density. And you've heard the key
6 question here comes down to, in my mind, do we have enough
7 parking? Does this building have enough parking so that
8 whatever impacts we have do not translate out onto the
9 neighborhood streets.

10 You heard Mr. Slade. You heard Mr. Petersen.
11 I'm not the traffic expert. You've got to decide what those
12 guys convince you about whether we have enough parking or not.

13 The existing parking congestion in the
14 neighborhood is, I think most people would agree, is primary
15 not from the Kennedy-Warren. It's from the zoo and it's from
16 all those other apartment buildings that don't have parking.

17 Does our building have enough parking for its
18 residents? I think the statistics that have been presented
19 indicate that we do. But that's my opinion. You'll form your
20 own.

21 I believe that we've made the case that 166 new
22 housing units can be accommodated without it adversely
23 affecting the area, and that the benefits to this City for new
24 housing construction would be our view that you approve this

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1 case.

2 CHAIRPERSON BENNETT: Thank you. Let me just
3 say this: we've been told by security they are locking this
4 building at exactly 11:00. So whatever you do, please --

5 MR. FEOLA: We need three more minutes.

6 THE COURT REPORTER: Well, I need ten minutes to
7 get all my equipment out.

8 CHAIRPERSON BENNETT: Well now --

9 MR. FEOLA: Is 11 o'clock their new policy?

10 MS. DOBBINS: It must be. They just came up to
11 tell us they normally --

12 MR. FEOLA: Did they have guns?

13 (Laughter.)

14 CHAIRPERSON BENNETT: It's probably budget cuts.
15 Is this something that can be -- well, but Ms. Newmark needs
16 to cross ex. I hate to take this to another session.

17 MR. FEOLA: Well, why don't we -- if she can
18 cross examine what we have, we can submit Mr. Saul's in writing
19 and --

20 CHAIRPERSON BENNETT: And she can respond?

21 MR. FEOLA: -- she can respond. The only thing Mr. Saul
22 was going to do was submit a valet plan. I'll submit that for
23 the record.

24 CHAIRPERSON BENNETT: Why don't we have the

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1 cross ex now? Can that be done?

2 MS. DOBBINS: But the court reporter still may
3 not have time to get out.

4 MR. FEOLA: He might stay here then.

5 CHAIRPERSON BENNETT: No, but and we've got
6 questions -- I think we have to do another night.

7 MS. KRESS: Do we have to go to another night,
8 or is this something --

9 MS. DOBBINS: I think so. I think so.

10 MS. KRESS: Can we put this with something else
11 because hopefully, it wouldn't take that long. Is there a way
12 to --

13 MS. DOBBINS: Of course you can do that. You
14 can continue it to a night that you have another hearing and do
15 it an hour ahead of that hearing if you choose to do that.

16 CHAIRPERSON BENNETT: Or two hours ahead of that
17 hearing.

18 MR. FEOLA: Madam Chair, I mean, we really have
19 three minutes. And if it's just questions from --

20 CHAIRPERSON BENNETT: I understand, but Ms.
21 Newmark is going to take much longer than that. And this man
22 has to get out of here. He's got to take down his stuff.

23 MR. FEOLA: No, I'm just saying --

24 CHAIRPERSON BENNETT: Yes.

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1 MR. FEOLA: -- for the next session. I don't
2 think it's going to take two hours.

3 CHAIRPERSON BENNETT: Well, one never knows.
4 Listen, let's get us another date and adjourn because this is
5 physically impossible.

6 MS. DOBBINS: Probably the best date would be
7 March 24th. You have a seven o'clock hearing scheduled.

8 CHAIRPERSON BENNETT: You have a 6:45 -- meeting
9 which means we need to get here at 5:45.

10 MS. DOBBINS: I would think at least by 5:45, a
11 special meeting.

12 CHAIRPERSON BENNETT: A special public meeting.
13 That's the Union Station. Or do you want to make it 5:30
14 just in case?

15 MS. DOBBINS: Five-thirty.

16 CHAIRPERSON BENNETT: All right, 5:30, March the
17 24th.

18 MS. NEWMARK: Excuse me, Ms. Bennett?

19 MR. MENDELSON: Madam Chair, if it's at 5:30,
20 I'm just concerned because ANC-3C has its regular monthly
21 meeting that night at 8:00. So --

22 CHAIRPERSON BENNETT: Well, it will be -- we
23 have to be finished by 6:45.

24 MS. KRESS: We have to be done by 6:45.

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1 CHAIRPERSON BENNETT: With this.

2 MR. MENDELSON: Okay.

3 CHAIRPERSON BENNETT: Okay?

4 MR. MENDELSON: Then we can do that, yes.

5 CHAIRPERSON BENNETT: Because we have a special
6 meeting and then we have a hearing. Five-thirty.

7 MR. MENDELSON: Thank you.

8 CHAIRPERSON BENNETT: Five-thirty, March the
9 24th, we'll see you all back here.

10 (Whereupon, the meeting was adjourned at 10:50
11 p.m.)

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