

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

+ + + + +

THURSDAY

NOVEMBER 14, 2002

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 6:30 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

ZONING COMMISSION STAFF PRESENT:

SHARON SANCHEZ	Staff
ALBERTO BASTIDA	Secretary
ALAN BERGSTEIN	Corporation Counsel
ANDREW ALTMAN	Office of Planning
STEVEN COCHRAN	Office of Planning
ELLEN McCARTHY	Office of Planning

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

6:36 p.m.

MS. MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia, for Thursday, November 14th, 2002. My name is Carol Mitten.

Joining me this evening, are Vice Chairman Anthony Hood, and Commissioners Peter May, John Parsons and James Hannaham. The subject of this evening's hearing is Zoning Commission Case NO. 02-17.

This case is a request by Stonebridge Associates 5401, LLC, on behalf of 5401 Western Avenue, LLP and the Abraham and Louise Lisner Home for Aged Women, for the consolidated review and approval of a planned unit development, and related zoning map amendment, under Chapters 24 and 30 of the District of Columbia Zoning Regulations.

And the property is known as Lot 805, and a portion of Lot 7 in Square 1663. Notice of today's hearing was published in the DC Register on October 4th, 2002, and in the Washington Times on September 26th, 2002.

This hearing will be conducted in accordance with the provisions of 11 DCMR, Section 30-22, which are the Procedures for Contested Cases.

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1 Copies of today's hearing announcement are available
2 to you, and are located on the table near the door.

3 The order of procedure will be as follows:
4 We'll begin with preliminary matters, followed by the
5 presentation of the Applicant's case, the report by
6 the Office of Planning, reports of other Government
7 Agencies, report of the Advisory Neighborhood
8 Commission, parties and persons in support, parties
9 and persons in opposition, and rebuttal by the
10 Applicant.

11 The following time constraints will be
12 maintained in this hearing: The Applicant will have
13 one hour, parties will have 15 minutes, organizations
14 will have 5 minutes, individuals will have 3 minutes.

15 The Commission intends to adhere to these
16 time limits as strictly as possible, in order to hear
17 this case in a reasonable period of time. The
18 Commission reserves the right to change the time
19 limits for presentations, if necessary, and notes that
20 no time shall be ceded.

21 All persons appearing before the
22 Commission are to fill out two witness cards. These
23 cards are also located on the table near the door.
24 Upon coming forward to speak to the Commission, please
25 give both cards to the reporter who is sitting to our

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1 right.

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

8 Staff will be available throughout the
9 hearing to discuss procedural questions. So, any
10 procedural questions, direct them to Mr. Bastida or
11 Ms. Sanchez. Please turn off all beepers and cell
12 phones, so as not to disrupt these proceedings.

13 At this time, the Commission will consider
14 any preliminary matters. Mr. Bastida, do we have any
15 preliminary matters?

16 MR. BASTIDA: Yes, Madame Chairman.
17 Regarding the notice of posting, I would like the
18 Applicant to address the apparent discrepancy between
19 their posting and the community's concern, regarding
20 that matter.

21 MS. MITTEN: Has the Affidavit of Posting
22 been submitting?

23 MR. BASTIDA: Yes. It has been submitted
24 for the record.

25 MS. MITTEN: Mr. Quin, could you come

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1 forward? We have several letters in the record,
2 regarding the posting of the property, and the
3 adequacy thereof.

4 MR. QUIN: Thank you, Madame Chairman. For
5 the record, my name is Whayne Quin, with Holland &
6 Knight. Christy Shiker, of the same firm, we represent
7 the Applicant. On the posting, we have filed both the
8 affidavit, with attached photographs, and the
9 affidavit of maintenance, which I think are self-
10 explanatory.

11 They show when the signs were posted. And,
12 I think we comply with both 3014.3 and 3015.4. I will
13 have one other observation, which is, as this
14 Commission is quite aware, there are many decisions of
15 the Court of Appeals, that say even if there weren't
16 notice, but there's actual notice, that that's
17 sufficient.

18 So, I think in this case, that clearly we
19 have me the -- all the objections. I really -- Every
20 time there was a complaint about posting, the sign was
21 reposted, the site was reposted.

22 So, I don't understand why there's even a
23 question.

24 MS. MITTEN: All right, when you that every
25 time there was a complaint about posting, the site was

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1 reposted. Was there a problem with maintaining the
2 posting?

3 MR. QUIN: I think, at one point, one of
4 the signs fell down, and then was reposted. Is that
5 right, Ms. Shiker? Why don't you explain what
6 happened. I thought one sign fell down, and they
7 reposted that.

8 MS. SHIKER: Christy Shiker, with Holland
9 and Knight, for the Applicant. There was a concern
10 with the Office of Zoning issuing a revised public
11 notice for the hearing, and whether or not that
12 revised public notice was on the signs.

13 That was issued, I believe, on -- It was
14 issued on October 2nd. And by October 7th -- Excuse me,
15 October 9th, all of the signs were reposted with the
16 revised public notice, which corrected some technical
17 errors in the original notice that had gone on the DC
18 Register.

19 MS. MITTEN: All right, thank you. Anything
20 else, Mr. Bastida?

21 MR. BASTIDA: No, that was my main concern,
22 Madame Chairman.

23 MS. MITTEN: All right. Now, we have a
24 number of requests for party status. And we'll take
25 those up in advance of taking up the motions, because

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1 some of the motions come from folks that don't have
2 standing yet.

3 MR. HITCHCOCK: Madame Chair, may I raise a
4 question in connection with the last matter, the
5 notice? Corn Hitchcock, for the Friendship Heights
6 Organization.

7 MS. MITTEN: Yes.

8 MR. HITCHCOCK: I would like, for the
9 record, to point out the -- There was, in the record,
10 a statement from some of the immediate neighbors, that
11 have shown, with respect to the posting, may have been
12 up some days, or not, in connection with one of the
13 buildings, but not with the Lisner Property.

14 And I noticed Mr. Quin did not address
15 that concern. We were dealing here with two particular
16 parcels. We're dealing with two lots. We're dealing
17 with two buildings that are going up, and the
18 testimony for people who live extremely close is,
19 there may have been posting sometime on the Washington
20 Clinic site, but not on the Lisner site.

21 MS. MITTEN: All right. Mr. Quin, would you
22 like to address that point?

23 MR. QUIN: Yes, I will. If the notice
24 requirement, that I'm trying to turn to right now,
25 does not require posting on each -- It basically says

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1 the PUD is the subject property, and you post the
2 frontages of subject property, which was posted.

3 So, there was a sign on Military and a
4 sign on Western. There's also a requirement for the
5 building that exists within the subject property to be
6 posted. And you can see, in the photographs, where the
7 signs were posted on the walls.

8 So, I think Mr. Hitchcock is not correct,
9 when he says that you have to post each separate piece
10 of property that is within the same PUD.

11 MR. HITCHCOCK: I would respectfully
12 disagree, Madame Chair, members of the Commission. I
13 would cite the Commission to Section 3015.4, and
14 3015.5, which talk about planned unit developments
15 with notice by a property owner, for his or her
16 property.

17 We're dealing with two separate properties
18 here. And it keeps talking about "the property" and
19 "the subject property", and it gets to one of the
20 issues that has percolated throughout the case, which
21 is there are two properties here.

22 There are two buildings at stake here. One
23 part of the case, if I read the application correctly,
24 and one not part of the subject site, over there. So,
25 in our view, whatever the situation may be, if you

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1 have one parcel, one building, this is a different
2 situation.

3 And notice on both properties was
4 required.

5 MS. MITTEN: All right. I think what I'd
6 like to do is just ask you if you'd like to make
7 additional submissions on this point, on the
8 interpretation of the regulation. And we will take it
9 under advisement, and we'll read your additional
10 submissions on the subject.

11 MR. HITCHCOCK: Thank you, Madame Chair.

12 MR. QUIN: Thank you.

13 MS. MITTEN: Thank you. All right, now
14 moving to the request for party status. I'd like to
15 consider, as a group, we have a number of folks in an
16 organization, that are represented by Mr. Hitchcock
17 and Ms. Firster.

18 So, I'd like to consider them together, if
19 we may. The Friendship Heights Organization for
20 Responsible Development, Hazel Rebold, Martin Rojas,
21 Betsy and Stephen Kuhn, and Jackie Breitman.

22 So, we'll consider that first group on
23 request. Anyone want to weigh in on that?

24 MR. MAY: Do I understand correctly, from
25 the materials that were submitted, that this is, in

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1 essence, a request by several individuals for party
2 status, but also, a group application?

3 I mean, are we looking at four different
4 applications for party status, four different parties
5 we're looking at, or should we be considering this as
6 a single party, or a single voice speaking for these
7 parties?

8 MS. MITTEN: I don't -- I can't explain
9 why, and we have this coming up routinely, certain
10 individuals want to be recognized as individuals for
11 party status purposes, even though they're part of a
12 group.

13 I would want to make it clear, and Mr.
14 Hitchcock you can clarify this for us, if we were to
15 grant individual party status to any of the
16 individuals who are already members of the Friendship
17 Heights Organization for Responsible Development, that
18 they will not speak individually.

19 You will represent all of them.

20 MR. HITCHCOCK: We can do a unified
21 presentation. And, in answer to Commissioner Mays'
22 question, why do some individuals come in, if they're
23 also a part the organization? There may be particular
24 concerns, the individuals here live within 200 feet
25 may have specific concerns by some of the issues that

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1 are concerned -- that are within this case.

2 MS. MITTEN: But you will represent them.
3 You will do the cross-examination?

4 MR. HITCHCOCK: Yes. There will be no
5 separate cross-examination. If the individual parties
6 are allowed, along with FHORD, the Organization group.

7 MS. MITTEN: All right. Thank you. Did you
8 want to raise an objection, Mr. Quin?

9 MR. QUIN: I have no objection to the
10 parties FHORD, Rebold, Kuhn and Breitman. I'm not
11 aware that Rojas has requested party status.

12 MS. MITTEN: The request from Mr. Rojas was
13 included in a submission, in a larger submission.
14 Could you just take my word for it that he did.

15 MR. QUIN: Yes, I'd be delighted to take
16 you word for it.

17 (Laughter.)

18 MS. MITTEN: Thank you.

19 MR. HITCHCOCK: We will not extend
20 proceedings on Mr. Rojas' behalf.

21 MS. MITTEN: Well, then --

22 MR. MAY: Then I would move that we grant
23 party status to the list you named.

24 MS. MITTEN: All right.

25 MR. HOOD: I'll second that.

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1 MS. MITTEN: All right. Any discussion? All
2 those in favor, please say "aye".

3 (All say "aye")

4 MS. MITTEN: Those opposed, please say no.

5 (Silence.)

6 MS. MITTEN: So party status has been
7 granted to Friendship Heights Organization for
8 Responsible Development. Hazel Rebold, Martin Rojas,
9 Betsy and Stephen Kuhn, Jackie Breitman, as
10 represented by Mr. Hitchcock.

11 I noticed that you requested 90 minutes to
12 make your presentation. We will revisit the issue of
13 time, but you will have no more than amount of time
14 taken by the Applicant, in making their presentation.

15 MR. HITCHCOCK: Thank you, Madame Chair.

16 MS. MITTEN: And that's cumulative for all
17 parties in opposition. That's not -- I don't what --
18 how we'll dispatch with these other requests. Next is,
19 Chevy Chase Plaza Children's Center.

20 They are the -- they are a tenant, nearby,
21 and I believe they're proposed to be the operator of
22 the proposed childcare facility. Mr. Parsons?

23 MR. PARSONS: Yes, this is really a party
24 in support. But it's also a part of the Applicant's
25 case. That is, they will -- they are pleading that if

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1 we deny this, that will adversely effect their
2 expansion, and the 100 families registered on their
3 wait list.

4 And I find that very curious, to come
5 forward requesting party status, as essentially part
6 of the application. So, I don't see why this
7 particular request should be granted.

8 MS. MITTEN: Thank you. Anyone else? Mr.
9 May?

10 MR. MAY: I would tend to agree with that.
11 It's unusual, I think, to have a, in essence, a part
12 of the Applicant's case be in separate party status.

13 MS. MITTEN: Right. Would you like to put
14 it in the form of a motion, or Mr. Parsons?

15 MR. PARSONS: I would move that we
16 disapprove the request for party status, by the Chevy
17 Chase Plaza Children's Center.

18 MR. MAY: I would second that.

19 MS. MITTEN: All right. Any discussion? All
20 those in favor, please say "aye".

21 (All say "aye".)

22 MS. MITTEN: Those opposed, please say
23 "no."

24 (Silence.)

25 MS. MITTEN: So the request for party

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1 status for the Chevy Chase Plaza's Children's Center
2 is denied. Next, is the Chevy Chase Citizen's
3 Association. We have a letter dated October 28th, 2002.

4 This letter does not meet the requirements
5 for a request for party status. And, it's not clear to
6 me, that they are necessarily more inclusive, or not
7 redundant, with the citizens that are represented by
8 the Friendship Heights Organization for Responsible
9 Development.

10 (Off mic.)

11 MS. MITTEN: All those in favor, please say
12 "aye".

13 (All say "aye".)

14 MS. MITTEN: Those opposed, please say
15 "no".

16 (Silence.)

17 MS. MITTEN: The request for party status
18 for the Chevy Chase Citizens Association has been
19 denied. But we do look forward to hearing -- even if
20 we deny folks party status, we look forward to hearing
21 from them.

22 Finally, we have a request from ANC 3G,
23 that was filed one day late. They requested a waiver
24 for their request for party status to be considered.
25 Is there an objection, Mr. Quin? Would you turn to the

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1 microphone, please.

2 MR. QUIN: I do not have an objection to
3 your considering it. I do object to they status.
4 They're not within -- the closest is 400 feet. I don't
5 think that they're -- this is not within the ANC, in
6 which the building is located.

7 And, I would object to their becoming a
8 party.

9 MS. MITTEN: All right. Mr. Beach, would
10 you like to address the proximity of your ANC -- ?

11 MR. BEACH: Yes, Madame Chair --

12 MS. MITTEN: I need you to turn on your
13 microphone, and state your name for the record. Just
14 push the button in the middle.

15 MR. BEACH: Thank you.

16 MS. MITTEN: There you go.

17 MR. BEACH: Good evening, ladies and
18 gentlemen. My name is Alan Beach. I'm the
19 representative of ANC 3G. We've requested party status
20 because we are very concerned about this area, because
21 it heavily impacts upon our neighborhood.

22 We are two blocks away from the subject
23 property. We might call your attention to the fact
24 that when the Square 1661 was being considered, back
25 in the 1980's, our ANC was a party to that.

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1 And that is two blocks further away, from
2 the property, to our boundary line.

3 MS. MITTEN: Can you tell me exactly where
4 the boundary line is?

5 MR. BEACH: The boundary line is at 41st
6 Street.

7 MS. MITTEN: All right. Okay.

8 MR. BEACH: And the matter does heavily
9 impact upon many of our streets in our neighborhood.
10 So we are clearly impacted for many, many reasons. Not
11 just traffic and others. Traffic, trash, etc. So, we
12 are impacted by this one.

13 MS. MITTEN: All right.

14 MR. BEACH: As we were on the Square 1661
15 matter.

16 MS. MITTEN: All right.

17 MR. BEACH: So we feel that we should be a
18 party.

19 MS. MITTEN: Thank you, and you made an
20 adequate submission on those points, that you were
21 just starting to elaborate. And so, thank you for
22 that. Now, I'll turn to the Commission, and ask what's
23 your pleasure?

24 MR. HOOD: Madame Chair, typically I
25 believe that when we have ANC's -- that a budding, or

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1 that close by, that are effected, that typically we do
2 grant them party status. I would be in favor of
3 granting ANC 3G party status.

4 MS. MITTEN: If you -- Is that a motion?

5 MR. HOOD: Yes, that's a motion.

6 MS. MITTEN: All right. I'll second that
7 motion. Is there any further discussion, Mr. May? Any
8 further discussion? All those in favor, please say
9 "Aye".

10 (All say "Aye".)

11 MS. MITTEN: Those opposed, please say
12 "no".

13 (Silence.)

14 MS. MITTEN: The request for party status
15 for ANC 3G is granted. Now, did I miss anybody that
16 requested party status? Okay, good.

17 MR. MAY: Did we have to actually waive
18 something to give the grant --

19 MS. MITTEN: I think we sort of ineffectuated
20 that --

21 MR. MAY: Just want to make sure.

22 MS. MITTEN: Thank you for pointing that
23 out. All right. Now, we -- Before we take up the
24 motions, it pains me to have to say this, but, do to
25 an oversight, the applicant's pre-hearing submission,

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1 dated August 19th, 2002, was not provided to the
2 Commission until 6:00 p.m. this evening.

3 So we have not had a sufficient amount of
4 time to read that documentation, which has been
5 supplemented by information that we do have. And the
6 way that we would like to proceed, is that the
7 Applicant put on the case.

8 And that we hold questions and all cross-
9 examination until a subsequent night, just so that we
10 can begin the case this evening. And, we apologize for
11 the oversight, and the Commission is as distressed as
12 you are about the oversight.

13 Which I believe then moots the issue of
14 the motion to postpone, because it will not -- it will
15 actually give the parties more time to prepare cross-
16 examination, and there cases to go forward.

17 So, I consider the motion to postpone,
18 moot, given the way we're going to proceed this
19 evening.

20 MR. QUIN: May I -- I'm not sure I
21 understand what you just said.

22 MS. MITTEN: I'm sorry if I wasn't clear.

23 MR. QUIN: Well, I understand that the
24 Commission has not received the package until tonight.

25 MS. MITTEN: Yes.

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1 MR. QUIN: They did not receive. But I
2 didn't understand that there would not be cross-
3 examination from those parties that have been accepted
4 parties.

5 MS. MITTEN: We had a discussion when it
6 was clear that we didn't have this information. And
7 the manner in which the Commission would like to
8 proceed, since we typically ask questions first, is
9 that we would like to hold all of the cross-
10 examination, and any further testimony from other
11 parties in the Office of Planning, until a subsequent
12 evening.

13 Which I think we're prepared to tell
14 everyone right now what that is. So, if anyone would
15 like to leave, given that you won't be given the
16 chance to testify tonight, there's no reason to stay
17 and wait later.

18 So, it's unfortunate, but we're trying to
19 move along as best we can under the circumstances.

20 MR. QUIN: Could you let us in on the
21 secret? What's the date?

22 MS. MITTEN: Oh yes. That's the next thing
23 I'll tell you, which is December 12th. At the moment,
24 I'm at a loss as to whether -- what day of the week
25 that is. I can't remember if it's a Monday or a

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1 Thursday. Thursday?

2 So, tonight, we will have the presentation
3 by the Applicant. And then the balance of the case
4 will proceed on December 12th at 6:30 p.m., in this
5 room.

6 MR. QUIN: Could we not also proceed with
7 the Office of Planning? In the direct testimony? If, I
8 mean, it just seems to me -- to have everyone here,
9 ready to go, and only take -- we're going to try to do
10 our case -- put our case on within one hour.

11 MS. MITTEN: Right.

12 MR. QUIN: And, it would make a lot more
13 sense, it seems to me, to also have the Office of
14 Planning, same opportunity to cross-examine and
15 question later, so that we can at least get that part
16 out of the way.

17 Otherwise, we're losing that full
18 opportunity.

19 MS. MITTEN: Let me see what the pleasure
20 of the Commission is. Mr. Parsons?

21 MR. PARSONS: Well, under normal
22 circumstances of course, you would be cross-examined
23 after putting on your case by the parties.

24 MR. QUIN: Yes.

25 MR. PARSONS: We don't feel we're in a

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1 position to understand this case fully, and don't feel
2 we should proceed. I mean, one alternative is not to
3 proceed at all tonight.

4 MR. QUIN: Oh, no, I understand with
5 regards to the parties.

6 MR. PARSONS: So, no. I mean, to revise our
7 process, and say let's hear from you and the Office of
8 Planning and go home, you skip the whole cross-
9 examination of your case by the parties.

10 MR. QUIN: Well, you'd be cross-examining
11 at the next meeting.

12 MR. PARSONS: I understand. We're confused
13 enough, not to have the two reports to be cross-
14 examining on.

15 MS. MITTEN: I think there -- I mean,
16 there's a reluctance to -- We feel disadvantaged
17 enough as it is, because of our inability to be
18 completely prepared. And, that's why we are reluctant
19 to receive a lot of information that is, in part, new
20 to us.

21 So, I think, unless someone has a large
22 sentiment to proceed as Mr. Quin has suggested, we'll
23 stick with the plan.

24 MR. HOOD: Madame Chair, I think we need to
25 stick with the plan, because if I go any way, I'd

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1 rather not hear anything at all. So, I would rather
2 for us to stick with the plan.

3 MS. MITTEN: All right. Thank you. Now, we
4 have another motion from the Friendship Heights
5 Organization for Responsible Development. And that is
6 a motion to dismiss the case, in light of the fact
7 that, they contend, that it fails to satisfy the
8 requirements for approval, citing insufficient
9 amenities and insufficient detail to certain aspects
10 of the proposal.

11 I think, given that we thought that it was
12 appropriate -- I don't know that I need to hear from
13 you, Mr. Hitchcock. You made a submission on this.

14 MR. HITCHCOCK: Yes, Madame Chair. Would
15 the Commission like me to address the full motion
16 itself, or how to proceed with it?

17 MS. MITTEN: I'd like to know what you
18 think you are going to impart to us, that you didn't
19 impart to us in writing.

20 MR. HITCHCOCK: Okay. I would first of all
21 like to confirm, given the short timeframe, and that
22 we didn't get the final submission until October 25th,
23 we made a supplemental memorandum that was filed this
24 afternoon and served on parties.

25 I do have extras, which I can pass up.

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1 What it does is, identifies three additional points
2 that we found, upon closer examination, given that we
3 got the materials on October 25th and we didn't get
4 some other details until later.

5 I'm not sure if the Commissioners have
6 that, but I'm prepared to discuss that, as well as
7 points in the motion.

8 MS. MITTEN: Give us a moment, because we -
9 - received this information tonight.

10 MR. HITCHCOCK: Absolutely. I am
11 sympathetic.

12 MS. MITTEN: All right. I'd like to know
13 what's in this. Don't rehash the other -- the thing
14 that was submitted today.

15 MR. HITCHCOCK: Yes.

16 MS. MITTEN: Don't rehash the other
17 submission right now.

18 MR. HITCHCOCK: There is nothing that is in
19 the prior submission. What we are making are three
20 distinct points, which emerged from a close
21 examination of the papers. In particular, the
22 footnotes in some of the drawings.

23 Number One, the -- in calculating the
24 gross floor area, what Stonebridge did was exclude --
25 and I'm quoting "bays projecting over the property

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1 line", on Western Avenue, which we think should
2 properly be counted as part of the gross floor area.

3 And it also deducted, without any
4 explanation, 2% of the measured square-footage to
5 account for a mechanical shaft deduction.

6 MS. MITTEN: I'm going to just -- I'm going
7 to --

8 MR. HITCHCOCK: Sure.

9 MS. MITTEN: I just want to ask -- And why
10 should the case be dismissed because of that?

11 MR. HITCHCOCK: Because it leads to
12 insufficient gross floor area. It leads to too much
13 gross floor area, and too much FAR. If you go through
14 and calculate it, it comes up well over the maximum
15 permissible FAR, even with the 5% added to it.

16 The third concern that we have is with the
17 measurement of the height. The property is on,
18 essentially, a triangular lot. The measurement --
19 perhaps I could get the drawing --

20 The measurement starts on -- It uses, as
21 the curbline, Western Avenue -- I'm sorry, Military
22 Road. What it does, however, is base on the property
23 line, not merely the part of the building, the western
24 half of the building that fronts on Military.

25 The effect of this, if you look at the

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1 topographical map, is to have a height which is
2 several feet above the maximum that would be
3 permitted. We think that proper measurement,
4 consistent with the regulations, would be the frontage
5 of the building on Military Road, not the proper --

6 And the rates are not written in terms of
7 measuring at a midpoint, from the property line, but
8 the frontage, the quote "front" of the building. And
9 this would have the effect of having the height in
10 excess of what they are seeking here.

11 MS. MITTEN: Well, these are clearly points
12 in contention. And the way that you flush that out, is
13 to have a hearing.

14 MR. HITCHCOCK: Okay.

15 MS. MITTEN: Is there anything else?

16 MR. HITCHCOCK: No. We just wanted to make
17 -- rather than trying to bring it out through cross-
18 examination, we wanted to bring it out early in the
19 case --

20 MS. MITTEN: Okay.

21 MR. HITCHCOCK: Particularly if the
22 Commission had questions as well, because we think it
23 brings the Application less then. But we're certainly
24 happy to proceed in that fashion.

25 MS. MITTEN: Okay.

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1 MR. HITCHCOCK: The memorandum outlines it
2 in more detail if you have questions when we get to
3 that point.

4 MS. MITTEN: Okay. Mr. Quin, did you have a
5 response?

6 MR. QUIN: Yes, I do.

7 MS. MITTEN: Could you turn on your mic.

8 MR. QUIN: Yes, I do. You were faster than
9 my thumb could work. First answer is, it really -- we
10 can't get a building permit unless we comply with
11 zoning. And the Zoning Administrator will make sure of
12 that.

13 But, to be very specific on the three
14 points, the bay is a projection on public space, and
15 is not calculable on FAR. It is not related to the lot
16 itself. It extends over. And the bays, as you --

17 At least 50%, or more, of our buildings
18 that have come before you, both with the BZA and
19 Zoning Commission, you're allowed to go four feet,
20 with a projection of a bay, under Section 3202.10.3.3
21 of the Building Code.

22 The second issue that was raised, relates
23 to the mechanical shaft. And what, unfortunately, Mr.
24 Hitchcock, is confusing is that the -- in the
25 definition of gross floor area, you must include

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1 elevator shafts.

2 But when you have a chase that goes down,
3 and it only has one cap, those are traditionally
4 excluded. Again, the Zoning Administrator will examine
5 the plans to make that they comply.

6 And the third issue, the one of height,
7 the height was measured as -- we can put a witness on
8 if we need to, but from a legal standpoint, it's a
9 two-step process to determine how you measure height.

10 The first is to make sure that the street
11 that you front on has the necessary width to support a
12 height that you're seeking. And the second point is
13 where you define the point of measurement.

14 In this case, as in most cases, in fact
15 all cases, you extend the building lines out to the
16 street, and you pick the street that has the highest
17 elevation, center point, top of curb.

18 And that becomes the point of measurement.
19 And that was what was done in this case. So, there's
20 nothing unusual, or extraordinary, about this case.

21 MS. MITTEN: All right. Thank you. Based on
22 the fact that, you know, the points of contention --
23 first of all, they've been responded to. But then the
24 issues about insufficient amenities and so forth,
25 those are typically ones that we flesh out in the

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1 course of a hearing.

2 And I would move that we deny the motion
3 to dismiss.

4 MR. MAY: I would second that motion.

5 MS. MITTEN: Any discussion? All those in
6 favor, please say "aye".

7 (All say "aye".)

8 MS. MITTEN: Those opposed, please say
9 "no".

10 (Silence.)

11 MS. MITTEN: All right, the motion to
12 dismiss has been denied.

13 MR. QUIN: Thank you, Madame Chair.

14 MS. MITTEN: Thank you. Now, I usually
15 forget this part because I get so distracted, but will
16 all those wishing to testify this evening please rise
17 to take the oath? Ms. Sanchez?

18 MS. SANCHEZ: Please raise your right hand.
19 Do you solemnly swear or affirm that the testimony
20 that you're about to give will be the truth, the whole
21 truth, and nothing but the truth?

22 (All: I do.)

23 MS. MITTEN: Thank you. Mr. Quin, whenever
24 you're ready.

25 MR. QUIN: Thank you, Madame Chair. We had

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1 a series of expert witnesses. I just thought, as a
2 preliminary matter, we might as well deal with that
3 first.

4 MS. MITTEN: Oh, yes.

5 MR. QUIN: And those experts were
6 identified with their resumes, under Tab E of our last
7 submission, which you all apparently only got an hour
8 ago, or something like that.

9 MS. MITTEN: We had the last submission
10 more recently, and we didn't have the August
11 submission quite as recently.

12 MR. QUIN: That was -- this was in the Tab
13 E, of October 25.

14 MS. MITTEN: Right.

15 MR. QUIN: And, the experts that we are
16 submitting are Mr. Firstenberg, expert in real estate
17 development. Mr. Baranes, expert in architecture. Mr.
18 Gilliland, expert in architecture. He may or may not
19 testify, but we thought we would qualify him anyway.

20 Roger Lewis, expert in architecture and
21 urban design. Cullen Elias, expert in traffic
22 engineering. Eric Smart, expert in real estate
23 economics. And Mr. Sher, expert in urban planning.
24 And, I believe --

25 MS. MITTEN: How about Mr. Courtney?

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1 MR. QUIN: Mr. Courtney, an expert in
2 landscape architecture. He probably will not testify,
3 unless they are questions.

4 MS. MITTEN: Okay. Let me ask first. We
5 have --

6 MR. QUIN: I'm sorry. In place of Mr.
7 Courtney, tonight, Marsha Lea is here.

8 MS. MITTEN: Okay. Do we have her resume?

9 MR. QUIN: No, we can submit her as --

10 MS. MITTEN: I know she's been here before.

11 MR. QUIN: Yes. I think she's been
12 qualified before.

13 MS. MITTEN: Just as a formality, we'd like
14 to have the record complete. And, also to provide it
15 to the parties. So, I'll call first -- any objection,
16 from Mr. Hitchcock, to the list of experts that have
17 been proffered by the Applicant?

18 MR. HITCHCOCK: No, Ma'am.

19 MS. MITTEN: Okay. Mr. Beach?

20 MR. BEACH: No objections.

21 MS. MITTEN: All right. And then, who's
22 here representing ANC 3E? Do we have a representative
23 from ANC 3E? Could you come to the microphone, please?

24 MR. HITCHCOCK: Madame Chair, I understand
25 that they're having their regular meeting tonight. So,

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1 someone may be here later, but not at the moment.

2 MS. MITTEN: I see. Okay. Thank you. Any
3 objections, from the Commission, to the proffered list
4 of witnesses? All right. Then, without objection, Mr.
5 Quin, your experts are qualified.

6 MR. QUIN: Thank you. Then may we proceed?

7 MS. MITTEN: Please do.

8 MR. QUIN: I'll first do an opening
9 statement, as normal. Madame Chairman, and members of
10 the Commission, this consolidated PUD offers the
11 Zoning Commission an opportunity to help meet many
12 zoning and planning goals of the City, by providing a
13 much needed home-ownership, in the form of an
14 apartment house, virtually adjacent to a major transit
15 stop.

16 In what is frequently called Friendship
17 Heights Uptown Center. As will be evident, and I think
18 if you had read all of the information we've filed,
19 this proposal furthers not only the Zoning Enabling
20 Act, but also many of the planning guides that have
21 been adopted over the last 10-20 years.

22 Our witnesses, and our submissions already
23 filed, describe in detail the project, its context,
24 its benefits on and off site to the City. And since we
25 intend to put our presentation on within about an

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1 hour, I'm going to be very brief.

2 But I'm going to set the framework for the
3 case. This case is not complicated, in spite of all
4 the filings and the pleadings and the various
5 multitudes of positions taken. It really is quite
6 simple.

7 And I submit that there are really just
8 three factors, three subjects that make the
9 appropriateness of this PUD absolutely clear. The
10 location, the character of the surrounding
11 development, and the adopted planning goals that guide
12 zoning in the District of Columbia.

13 First, as to location. It's our belief
14 that there cannot be a better location for this
15 medium-density home-ownership housing. The site is
16 non-residential. The building that's on the site's
17 useful life is at an end.

18 Or maybe it's already ended. Therefore
19 there's no residential displacement, or no
20 displacement of anyone. And not only is this project
21 at the intersection of the City's most accessible --
22 one of the most arterial roadways, two of them
23 actually -- but it's at an uptown regional center.

24 And it's adjacent, that is within 250
25 feet, of the Four Portal Friendship Heights Metrorail

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1 and Metrobus station, which have underutilized
2 capacity, as our witnesses will show. So that was
3 number one, location.

4 Number two, the surrounding development,
5 and maybe the best thing to do, Christy, if we could -
6 - Can we borrow, from Office of Planning, their --
7 there's a larger one on the screen, but I think if we
8 use this one, this also has some identifications, as I
9 recall.

10 If you look at this surrounding
11 properties, and this will be discussed more by our
12 experts, the surrounding development form, and nearby
13 development forms a pocket for residential home-
14 ownership apartments.

15 That's appropriate. And you can see that
16 there's sort of an arc, or a radius, from the
17 intersection of Wisconsin and Western that goes up the
18 street and on both sides. And you can look at that
19 development and our site is 428 on Western Avenue.

20 To the north of our project, if you look
21 right across, you'll see a shopping center with a
22 metro building that's 143 feet high. To the west, is
23 the Hecht's department store, with a site that's also
24 approved for 143 feet in height.

25 Just south of the Hecht's store is the

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1 Chevy Chase Pavilion -- I'm sorry, Mazza Galleria. And
2 then Lord & Taylor. And then farther to the south, you
3 have the large -- on the other side of Wisconsin
4 Avenue, Chevy Chase Pavilion, which was approved by
5 the Zoning Commission at 100 feet in height, and a
6 5.175 FAR.

7 And the retail complex. And at the bottom
8 of the square, at Jennifer Street, a height of 90 feet
9 and a 5.5 FAR. Now, look carefully, because to the
10 east of our site, is the large Lisner Home Site, which
11 furnishes a step-down in terms of development height.

12 But topography, as the testimony will
13 show, goes up. So that what we have is a pocket.
14 Diagonally across the street, as you go 43rd Street, is
15 residential. But the distances that you -- that will
16 be explained to you, in terms of how the building is
17 sited, with a large landscaped area, our building is
18 really now located only along Western Avenue.

19 And you will see that from our testimony.
20 So, basically, there's a pocket. All surrounding
21 development is -- that has been developed to the
22 north, south and west and, with the buffer to the
23 east, this provides a pocket that we believe is
24 absolutely appropriate for this development. Thank
25 you.

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1 On the planning goals, the third point, as
2 an overview, the comprehensive plan has two very
3 simple items. And Mr. Sher is reminding me that I need
4 to speed up. But, you know, since you're only going to
5 hear one part of our case tonight we ought to be able
6 to take a little longer

7 MS. MITTEN: He wants to make sure he
8 doesn't have just two minutes.

9 MR. QUIN: I know, and we've told him that.
10 You know what the comprehensive plan provides, but
11 there are four parts that are really important, that
12 are subparts of it. And I'm just going to read two of
13 them, because I'm cutting this down.

14 Provide the greatest housing densities on
15 those corridors that have the best access to
16 transportation and shopping. And this one is very
17 important for you as Zoning Commissioners.

18 This is in the Land Use part, and another
19 part of the plan. Give zoning preference to projects
20 which include housing near the end -- near each of the
21 wards metro stations, metrorail stations.

22 So, I just have three other quick
23 comments. One, this Applicant took your admonitions at
24 the set-down hearing to heart, and has substantially
25 reduced this project. And, in one case, lowered it by

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1 100 units.

2 And that will be explained by our first
3 witness. So, I'm going to skip my summary of it. But
4 you'll see how it has been changed since the set-down
5 hearing. And then I think you'll find, as you go
6 through the testimony, that there's no traffic issue,
7 no massing issue, no design issue.

8 The major issue that will be raised is,
9 well there just shouldn't be a change in zoning. And
10 they base it on zoning that -- I think Mr. Parsons may
11 have been the only Commissioner around at that, that's
12 still here, at that point, when it was set for R5B,
13 under 1974 zoning.

14 Since that time, you have all sorts of
15 changes. You have a comprehensive plan that didn't
16 exist. You have changes all up and down Wisconsin
17 Avenue, right in the same neighborhood.

18 The point is, we don't have a change
19 mistake rule in the District of Columbia. We're not
20 that jurisdiction. But there are plenty of changes
21 that support what we're asking for here.

22 And the O.P. Report, we are very pleased
23 with that. I think it's the strongest report, most
24 complete report, that has ever been filed in a PUD
25 case. And, not just because it supports our cause.

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1 I don't want those smirks on your face to
2 bet that.

3 (Laughter.)

4 But, it really is the most complete report
5 I've ever seen. So, at this point, I'd like to proceed
6 with our witnesses.

7 MS. MITTEN: Go ahead.

8 MR. QUIN: Our first witness is Mr. Douglas
9 Firstenberg.

10 MR. FIRSTENBERG: Madame Chairman, members
11 of the Commission, my name is Doug Firstenberg. I'm a
12 principle with Stonebridge Associates. We're the
13 Applicant in this case. A very quick background about
14 our firm, we are a local development firm.

15 If you look at the track record of the
16 projects we've done, we have spent a lot of time
17 developing projects that are in-fill projects, located
18 near transit centers. Three in particular, are the new
19 ones building to Bethesda Metro Center in Bethesda,
20 Maryland.

21 We are the developer, on a fee basis, for
22 Chevy Chase Center, in Chevy Chase, Maryland. And we
23 were the fee developer of a project at Carlisle,
24 approximate to the King Street Metro Station in
25 Alexandria.

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1 We have spent a lot of time. It is a part
2 of our focus to do these types of projects. In terms
3 of why focused on this particular opportunity. First,
4 it's an excellent location. Ward 3, upper northwest.

5 Wonderful real estate, good location,
6 great neighborhoods, places where people want to be.
7 Second, it's proximity to metro. You've got a station
8 that has tremendous modal splits opportunities for
9 great use of the transportation system that's been put
10 in place.

11 Third, you have the current use. You have
12 a medical office building. It's a great opportunity to
13 intensify the development of that site responsibly.
14 Fourth, as Mr. Quin pointed out, the neighbors are
15 high-density to the north, to the west, to the south.

16 We have an institutional use directly to
17 the east, as well as, having to balance that type of
18 surrounding neighborhood with the fact that we have a
19 single family neighborhood, starting off to the south
20 and east of the site.

21 We looked at this site, and we think the
22 project that we are now proposing to the Commission's
23 consideration, to be one that has the ability to put
24 the word mix, in the mixed use, for the District side
25 of Friendship Heights.

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1 Let me give you a brief history of this
2 site. We've been working on it for quite a long time.
3 We came to a verbal agreement with the doctors of the
4 Washington Clinic in February of 2001, to acquire
5 their site.

6 As you can probably guess, working with a
7 group of doctors, translating a verbal agreement to a
8 written agreement took quite a period of time to get
9 18 doctors to sign one piece of paper.

10 We signed a contract with them in the
11 summer of 2001. We spent the summer studying the site.
12 We looked at the topography, the demographics of the
13 neighborhood, those kinds of issues.

14 We also looked at the current zoning of
15 the site. We didn't think it made sense to put
16 townhouses at this site. We didn't think it made sense
17 to put 50 plus or minus condos at this site.

18 We thought it would be terribly
19 inappropriate to develop this site as a medical clinic
20 building, one of which that could be almost three
21 times the size of the one that exists today.

22 We listened to the community. We got a
23 correspondence from Jill Diskin, who is the Chair of
24 AND 3E, over the summer. That told us things that the
25 community wanted to listen to. They wanted it to be a

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1 very carefully planned development.

2 They wanted it to be residential. They
3 also suggested the type of improvements and amenities
4 they wanted to see as part of the project, things
5 like: a pedestrian path that linked Military Road with
6 Western Avenue, so people could get to the shopping at
7 Chevy Chase Center and the metro, that they currently
8 used a convenient path called the parking lot at the
9 Washington Clinic.

10 They wanted adequate parking at the site.
11 They wanted the daycare center to either get an
12 outdoor play area that they'd been seeking, or they
13 wanted to expand the space for the daycare.

14 They wanted us to focus on the traffic on
15 Military Road, and how our project would ingress and
16 egress it, on Military Road. After we spent the summer
17 looking at their issues, and the technical aspects of
18 the site, we started engaging in a series of meetings,
19 starting in September of 2001.

20 The ANC put a working group together, made
21 up of citizens in the neighborhood. We met with them,
22 basically, on a monthly basis for seven months. We
23 brought different design ideas to them.

24 We took back their feedback, we made
25 changes, we tried to incorporate their thoughts. We

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1 made several presentations to the ANC. That initial
2 filing was based on all that work we made in the
3 initial filing in March of 2002, after that work.

4 That was when the process really started.
5 That's when O.P. became very actively engaged in the
6 project. We did not actively engage O.P. for the first
7 seven months. We spent our time focused on working
8 with the community, trying to understand what they
9 want.

10 But, after the initial filing, we became
11 very actively engaged with O.P., and the ANC and the
12 balance of the community. We tried to incorporate
13 additional comments over the summer.

14 In August, as you now know we filed our
15 revised plan, that you hadn't had a chance to read. At
16 that point, we went back to the ANC in early
17 September. The ANC Commissioner suggested that we
18 enter into another period of negotiation and
19 discussion to modify the plan once again.

20 There were two ANC members in particular
21 who spent time working with us, meeting with us on a
22 regular basis. And, that actually, even though the ANC
23 ultimately didn't come to an agreement on that
24 compromised plan, that became the foundations of the
25 current plan that we're going to discuss with you

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1 tonight.

2 I want to thank O.P., not only for their
3 report and support obviously, but for helping us frame
4 what we really believe is an excellent plan. We want
5 to thank the ANC for all their time, and we want to
6 thank all members of the community, people who
7 supported us, and even those who are not in current
8 support of the plan.

9 Because this plan reflects their input,
10 and we actually have a better plan for that process.
11 I'm briefly going to describe what the current plan
12 is, our team will walk you through it.

13 But the original plan that you looked at,
14 when you had a set-down hearing, was a project that
15 had a density of about 235,000 square feet, had about
16 a 4.0 FAR across the entire 58,840 square foot site,
17 and included over 200 apartment units.

18 The current plan is significantly
19 different. It represents a total of 185,000 square
20 feet. 182,000 of that is dedicated to our condominium
21 apartment building, 3,000 is dedicated to the daycare
22 center.

23 We have proffered a maximum of 125 units
24 in the building. We only show, in the current plan,
25 110, but we've asked for the flexibility for 125. The

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1 plan includes no retail. We honestly felt retail made
2 sense.

3 This looked like a great mixed-use site.
4 There was significant concern, from the community,
5 about traffic and parking associated with the retail.
6 We thought it was best to remove it -- or below-grade
7 improvements.

8 The final plan before you includes only
9 the daycare center on the Lisner property. We are not
10 asking to reach on the Lisner property. It will stay
11 in its R2 current zone. We have also pushed, as Mr.
12 Quin talked about, the bulk of the development for
13 this site, to one single bar on Western Avenue.

14 What that allows us to do, is create a
15 significant open space, passive recreation area for
16 the community and for our residents to use, of over
17 half an acre. This results because of trying to pull
18 all these things together.

19 We've got a good plan. We've tried to
20 respect the community desires. But those represent the
21 reasons that we've asked for the increase in zoning,
22 as it relates to the R5C for height, and for density.

23 Not because we need it across the 58,840
24 square feet, but because we wanted to respect the
25 desires for the split zoning of the site. We have

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1 significant parking for the site. We have offered to
2 park at a minimum of 1.1 parking spaces per unit,
3 which we feel is slightly above market.

4 But, again, in response to what the
5 community felt, it was important. Traffic. I will be
6 brief on traffic, I am no traffic expert. But, our
7 original plans reflected a comparable traffic burden
8 to the volumes that were generated by the current
9 Washington Clinic use.

10 Our current plan reduces traffic, during
11 the critical peak hours. In essence, we feel we've
12 presented a plan that many could take to a transit-
13 oriented development 250 feet from the metro station,
14 where you should maximize the development, so long as
15 you've minimized the burdens.

16 We didn't attempt to do that. We have
17 tried to do a little bit of bottom-up and top-down
18 planning to come up with a good plan. We have a
19 project that is significantly loaded, from our humble
20 opinion, with amenities, especially for a residential
21 project.

22 And, for your convenience, we have a
23 summary here, and I realize if you haven't had a
24 chance to read the already-submission, I'll still be
25 brief. You'll have a chance to read it where we detail

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1 our amenity package.

2 First and foremost, housing. Housing in
3 our opinion is an amenity in a residential zone where
4 you have opportunities to develop other things. It's
5 called for in the comp plan, Mr. Sher will talk about
6 that later.

7 Secondly, the daycare center. There is a
8 significant shortage of daycare everywhere. There is a
9 significant waiting list at the existing daycare
10 center, a not-for-profit organization.

11 We feel that is a tremendous amenity, and
12 one that was brought forward to us initially by the
13 community. Third, the community wants to improve its
14 park. We have proffered to make some of the
15 improvements that have been suggested to us.

16 Fourth, open space. As it will be shown,
17 we have significantly increased the open space, as
18 part of our development plan. We've also preserved a
19 significant row of mature trees, that the neighborhood
20 wanted preserved, included where we'll have to
21 redesign our garage slightly so we can save a very
22 old, mature tree.

23 Fifth, we've created, in this open space,
24 a green, a focal point for the community. People won't
25 have to meet, I'll meet you at the corner of Western

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1 and Wisconsin anymore, with all the traffic.

2 We've put a gazebo in the middle of our
3 open spaces, a logical place for people in the
4 community to meet. We've included the pedestrian path
5 that the neighborhood wanted to connect Military Road
6 to Western Avenue.

7 We've significantly increased the
8 landscaping, so that it will be a wonderful green
9 space. Even though we don't need to mitigate traffic,
10 in our opinion, we've included traffic enhancements,
11 and we've included a traffic management plan to help
12 reduce those burdens even further.

13 We have an extensive list of safety
14 improvements. This is not an easy place to walk
15 around. It's a place that people want to walk around.
16 We have found several areas that, working with DDOT,
17 we can improve the safety in the neighborhood.

18 As I discussed briefly, we've included
19 excess parking. This is a very difficult issue, if you
20 want to be a purest about smart growth. If you believe
21 in pure smart growth, you limit parking to limit car
22 use.

23 The neighborhood had told us, one of the
24 key concerns for them, was making sure people didn't
25 park in their neighborhoods. We're providing three

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1 times Code parking, and is what we feel at least 10%
2 more than the market would expect or require.

3 We're also including free visitor parking,
4 so that people will not be looking in the neighborhood
5 to park when they come visit people. We're have
6 proffered a construction management plan, framed on
7 the two recent projects that were developed in the
8 site, as which we understood there were no
9 construction problems with.

10 And lastly, something that came up after
11 we had told the community what our plan was going to
12 be, as far as an agreement we had with the ANC. The
13 Office of Planning approached us a week before our
14 final submission was due, and told us they thought it
15 was extraordinarily important that we include an
16 affordable housing component to this project.

17 It's not required by any code, but to be
18 honest with you, it's probably something that ought to
19 be in the District's Code. Affordable housing's a
20 critical need in the Ward. It's a critical need
21 everywhere.

22 What we thought was very important to the
23 Office of Planning though was to come up with a
24 method, a reasoned approach to how we did it. We have
25 agreed to devote 5% of the FAR-approved, in excess of

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1 Code, to be affordable housing.

2 I have a handout today, because in the
3 Office of Planning Report, they ask us to flesh out
4 the details of how this affordable housing would work.
5 So, I sat the people who made 80% of AMI would be able
6 to buy a unit, how they would trade in the future.

7 We're handing that out for your
8 consideration now. We think it's an excellent plan,
9 and the beginning of a model that could well serve the
10 District in the long run. Finally, I have three points
11 I want to make about what our plan is.

12 I do think our plan is a reasonable man's
13 version of smart growth. We haven't done everything
14 that's smart, because that's a theory, that's not
15 practice. We have been acknowledged by the Smart
16 Growth Alliance, which is a group organized by the
17 Chesapeake Bay Foundation, the Coalition for Smarter
18 Growth, the Greater Washington Board of Trade, the
19 Metropolitan Builder's Council and the Urban Land
20 Institute.

21 We have been acknowledged as a smart
22 growth project by them. Secondly, this is a transit-
23 oriented development (TOD), as being encouraged by the
24 District and the Office of Planning.

25 We think this is a textbook case of TOD.

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1 And, finally, we think this is an excellent plan. It's
2 one that balances the needs and desires of the
3 District, the community, and us as the developer.

4 We appreciate your consideration of our
5 application. I'll be happy to answer questions on
6 another night.

7 MS. MITTEN: Thank you, Mr. Firstenberg.

8 MR. QUIN: We'll proceed now to our next
9 witness, Mr. Shalom Baranes, the architect who will
10 describe the project, it's architectural features, and
11 as well as landscaping.

12 MS. MITTEN: I have a cordless microphone,
13 if you -- the button's on the bottom. You know, we're
14 going to have to go to the first plan, Plan A. Just
15 hit -- Is that better? Say "test, test", or something.

16 MR. BARANES: Test, test. Can you hear me?

17 MS. MITTEN: We can hear you, but he can't
18 hear you, and he's the important one. So, use the one
19 off the table.

20 MR. BARANES: Okay. Once again, can you
21 hear me now? Okay.

22 MS. MITTEN: So can we.

23 MR. BARANES: Good. My name is Shalom
24 Baranes. I'm with Shalom Baranes and Associates,
25 architects for the project. Mr. Quin very aptly

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1 described the site earlier as a pocket, so -- I love
2 that term. I hadn't heard it until tonight.

3 But I won't go into any detail, any
4 further detail, right now on these initial slides. The
5 site, as indicated in this diagram here -- this shows
6 the original property line, and the darker yellow
7 shows the additional 15,000 square feet that Mr.
8 Firstenberg just referred to, that we are acquiring
9 from the Lisner property.

10 And again, the Lisner building occupies
11 this entire outline that you see right here. And our
12 site comes right out to the corner here of Western and
13 Military. The projects that Mr. Firstenberg had
14 referred to, that had been approved but not yet
15 constructed, are indicated --

16 The locations are indicated here. This is
17 our site. This is the future development for Hecht's,
18 and this is the development of the Chevy Chase Center
19 and office building, with retail at the base, that has
20 also been approved and, we understand, will start
21 construction soon.

22 This is a diagram that we've developed,
23 trying to graphically indicate the heights, and
24 incorporating both the existing buildings and the
25 proposed ones. Starting right at the center here, of

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1 course you have the 143-foot metro building that's
2 been referred to.

3 Our site is over here. And, of course, as
4 the colors get lighter here, the height diminishes.
5 You can see that directly to the west here, there will
6 be a whole series of tall buildings, very close in
7 height to the 143 feet that you see in the metro
8 building.

9 Then stepping down to the Chevy Chase
10 Center, which again is about 25, approximately 20-25
11 feet taller than we are. This is our site. And
12 stepping onto the Lisner, and then of course, here we
13 have all of the -- the beginning of the single-family
14 residential neighborhood.

15 Again, just a couple of images of our
16 site. Some of the critical ones, I think, are here.
17 Here is our site looking directly to the east. The
18 143-foot metro building. Chevy Chase Pavilion.

19 And then moving in closer, this is the
20 doctors' building that we will be demolishing and
21 replacing with our new building. And then here we have
22 a view, getting further back into the neighborhood,
23 again looking towards the east.

24 A few additional views. I think this is an
25 important one, looking down Military, looking

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1 westward. Here is the building we'll be demolishing,
2 the metro building, the Lisner building. And this is
3 the open land, that you will shortly see that we are
4 extending into our site, as part of our development.

5 This is the Million Model March, it looks
6 like.

7 (Laughter.)

8 The -- we did do a whole series of
9 studies, over time. The park service actually
10 estimated 50, we estimated half a million.

11 (Laughter.)

12 The -- we studied the site pretty
13 extensively, through these ANC meetings that Mr.
14 Firstenberg referred to. And basically, all of these
15 models can be grouped into three categories.

16 The first category is indicated by these
17 four models here. And, this is where we started. Our
18 original concept was that this should be an L-shaped
19 building, incorporating creating a public -- quasi-
20 public space.

21 It was really part of our project. A
22 courtyard, residential courtyard, through which we
23 would have our main entrance into the building. But it
24 would basically be open. It would not be secure, it
25 would be open to the public.

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1 So, it would be, I think, experienced as
2 public amenity. As we worked through these meetings,
3 we started to introduce an additional setbacks, that
4 you see here. We started reducing the height, as you
5 see here.

6 Reducing the height even further with some
7 setbacks. And then finally, it appeared that we
8 weren't getting very far in our discussions. We
9 weren't getting sufficient support, so we changed and
10 moved this portion --

11 We decreased the size of it, and moved it
12 over to the other side, to the west side, as you see
13 here. We added a small leg there. The idea here again
14 was to start to open the courtyard to the
15 neighborhood, the lower scale neighborhood to the
16 east.

17 We eventually wound up completely
18 eliminating the leg. And this is where we reduced the
19 overall density. And currently have just a simple bar,
20 that lines Western Avenue, as indicated here, with no
21 leg extensions on either the east side or the west
22 side.

23 The -- that model is shown in context
24 here. And, one of the other major changes that we
25 made, as we finally arrived at the scheme, is we did

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1 shorten this bar so that it's completely contained in
2 the original Washington Clinic site.

3 It no longer extends, as it did
4 originally, into the Lisner property. That was a very
5 important feature of this, that I think was of some
6 concern to the neighbors. Instead, we are showing a
7 small building here, which will accommodate our
8 daycare center.

9 In these next two images, this one and the
10 next one, you see our building in relationship --
11 straight elevation, in relationship to the adjoining
12 buildings. And, of course, I want you to see this one
13 first.

14 143 feet here, in relationship to our 78
15 feet here. And this one is also very important, in
16 that it shows the relationship to the Chevy Chase
17 Pavilion, directly across the street to the south of
18 us.

19 That building steps up several floors,
20 first with a mansard, and then with an additional
21 office floor. And the alignment here, that I think is
22 significant, is the top of our building, our main
23 roof, aligns with the bottom of the mansard roof of
24 the Chevy Chase Pavilion.

25 Here are some additional relationships.

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1 Looking in other directions, but basically --
2 actually, the important one here that I'd like to call
3 your attention to, is our building and the Lisner
4 property.

5 You can see the grade steps up in this
6 direction. The Lisner building, while it's very wide,
7 occupies a very large footprint. It is only a three-
8 story building in the center here, but nevertheless
9 because it sits in a higher elevation.

10 I think it has the appearance of being
11 somewhat taller, in relation to our building, than one
12 might otherwise think. And again, here's a three-
13 dimensional view of all of these buildings, with the
14 Lisner Home at the bottom.

15 The proposed Chevy Chase mixed-use
16 building here, and again, the 143-foot metro building
17 there. I think it is important to note that we are,
18 again, quite a bit lower than this new building that
19 will be going up directly across the street.

20 This is the floor plan of the earlier
21 schemes we had developed. And what I want to point out
22 here, is the courtyard, which again was opened to
23 Military Road, but closed off visually from the
24 property to the east.

25 Here are a couple of views of that scheme.

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1 And, I'd like you to compare that to our current site
2 plan, where we've taken this very open area around the
3 Lisner Home, and basically just extended it right out
4 to the face of our building, across our site.

5 There are existing mature trees here,
6 they'll be kept in place. We will be adding additional
7 planting, both along the streets, as well as along the
8 eastern edge of our property. And this is the proposed
9 daycare center, tucked in there between our building
10 and the Lisner Home, with a very small surface lot.

11 And this is a public pedestrian walkway
12 across our site, over the top of our garage, that
13 allows folks to walk from Military Road across the
14 site over to Western Avenue, and the retail that's
15 incorporated there.

16 The entrance to our building is here. It
17 has access on both sides. And here, in the center of
18 our open space, we have the gazebo that Mr.
19 Firstenberg referred to earlier. This is a diagram
20 which indicates a relationship --

21 Depicts a relationship between our
22 proposed footprint that you see in yellow, and the
23 current doctors' building, along with the paved area,
24 the paved parking lot. And, the point I'd like to make
25 here, is that the amount of green space on this site

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1 will be increased significantly, as a result of our
2 construction.

3 This whole area here, as I said earlier,
4 will be a lawn type area. And again, what it is, it's
5 an extension of this hill, right across that parking
6 lot, which is currently used by the doctors.

7 The other significant points I'd like to
8 mention, have to do with surface circulation. We made
9 some -- a whole series of changes to this project, as
10 it evolved. What we currently have is access into our
11 garage, only off of Western Avenue.

12 It used to be, in the earlier schemes,
13 both off of Western and Military. The neighbors asked
14 us to get rid of any access into the site for vehicles
15 off Military Road, and we did.

16 So, we aligned that with Wisconsin Circle
17 here. I think we have a very good intersection there.
18 And then we also moved our loading, so it now occupies
19 -- It only comes off of Western Avenue, and is located
20 on the far eastern edge of our site, next to the
21 surface parking.

22 And then, of course, here again you have
23 that public pedestrian path across the site. We do
24 have a thru-lobby, the lobby used to be on the corner.
25 We moved it closer in here, which I think will be good

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1 for this edge, as well as this edge of the
2 neighborhood.

3 And, as I said, it is a thru-lobby,
4 allowing people from the metro to walk directly into
5 the building, as well as activating Military Road.
6 Here is a rendering of our building. It's our intent
7 to develop it with a residential quality.

8 Again, we step it down here at the top
9 floor. We introduce a trellis here, to basically
10 recall a very traditional treatment at the top. We do
11 have balconies in several places here, as well as
12 along the whole southern façade.

13 And on the other side, on the northern
14 side, the balconies essentially become bays, which are
15 over the property line. We are set back 15-feet from
16 the property line on the south side.

17 Also, we have incorporated our elevator
18 equipment, and the mechanical equipment, into a single
19 tower-like element, which is part of the lobby
20 entrance. Again, here's an elevational view of the
21 south side of the building.

22 And here is an elevational view of the
23 north side of the building. This is a close-up view of
24 one of the bays, which Office of Planning was
25 interested in seeing. We will be developing all of

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1 this, with a series of different red bricks.

2 And the bays, with a combination of glass
3 and metal. The colors will be a combination of these
4 three, which you see at the bottom. We will be using a
5 red family of bricks, that would give us this type of
6 effect, a blended effect, a lot of depth, a lot of
7 richness.

8 And, we will add some darker bricks, much
9 darker bricks, either a black or purplish black to
10 introduce even more depth than that. And that will be
11 used in all of the facades. The building has no rear
12 façade, they're all front facades.

13 They'll all be treated equally. And I
14 should have pointed out earlier, I'm sorry I missed it
15 in the -- we can see it here, in the model. Well,
16 let's see, it's not there. But, anyway, this curvature
17 here basically aligns with this edge right here of the
18 Pavilion.

19 So there's a very strong massing
20 relationship between our building, and the massing of
21 the buildings across the street. Thank you.

22 MS. MITTEN: Thank you.

23 MR. QUIN: Madame Chairperson, just for the
24 record, we will file -- there are some additional
25 prints and finishings that we'd like to file for the

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1 record. And we'll give copies to the parties.

2 MS. MITTEN: Yes. Very good, thank you.

3 MR. QUIN: Our next witness is Mr. Roger
4 Lewis.

5 MR. LEWIS: Thank you, members of the
6 Commission. I appreciate the opportunity to offer this
7 testimony on behalf of this project. I have looked at
8 all of the pre-hearing documents, and I have also
9 knowledge of this -- very good knowledge of this site,
10 in Friendship Heights.

11 My office was there for four years in the
12 Barlow Building. I have walked around, shopped, driven
13 through Friendship Heights for over 30 years, so I
14 know it well. The proposed development at 5401 Western
15 Avenue makes great sense.

16 For the uses and densities contemplated,
17 it's location at this northeastern threshold to
18 Friendship Heights, it is more than suitable, it is
19 highly desirable and urbanistically appropriate.

20 I think this has been covered very well
21 previously, so I'm only going to vouch for what I have
22 heard tonight, stated by the other witnesses. I think
23 that the project -- What perhaps is the most important
24 aspect of this project, is that it will meet one of
25 the most critical goals of smart growth, which is to

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1 create walkable, transit-oriented development, which
2 encourages denser, mixed-use development or re-
3 development, in areas well-served by existing
4 infrastructure.

5 And, specifically, development along
6 transit corridors. The TOD strategy is predicated on
7 achieving economic, environmental and energy
8 sustainability, by reducing future needs to build new,
9 costly and functionally inefficient infrastructure.

10 It ultimately reduces the public tax
11 burden, and relieves fiscal pressures on local
12 governments. By ensuring mobility, we're reducing
13 dependence on the private automobile, it yields a
14 safer, cleaner environment.

15 And by creating pedestrian-friendly urban
16 neighborhoods, encompassing diverse services and
17 populations, it actually improves the quality of life
18 for TOD residents, transit-oriented-development
19 residents.

20 Any less intense use of this site, in my
21 opinion, would be an unjustifiable waste of a unique
22 opportunity to fulfill smart growth, and TOD
23 aspirations. And I want to add that, in fact, after I
24 reviewed the initial proposal, I thought its design
25 and density were totally appropriate and reasonable.

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1 Although I fully understand why the
2 project has been scaled back. Architecturally, the
3 site provides a unique opportunity to create a visual
4 landmark. This gateway building promises to
5 appropriately mark the transition from the established
6 lower-density residential neighborhoods east of the
7 site, to the high-density commercial and multi-family
8 residential mode of Friendship Heights.

9 In overall form and massing, the building
10 as designed, will successfully co-exist with
11 surrounding uses and buildings, and relate well to
12 adjoining streetscapes. It's height, geometry and
13 multiple façade treatments will harmonize, and be in
14 scale with nearby structures and abutting properties.

15 Yet, happily, and I underscore this,
16 happily the building doesn't replicate the mediocre
17 commercial architecture across Military Road and
18 Western Avenue. The building does its job,
19 urbanistically, in terms of holding the street edge.

20 It seems to me that its design is right on
21 the money. Finally, vis-à-vis the design, I think
22 creating this very usable open space, facing south,
23 landscaped, an amenity for both the project residents
24 and residents of the neighboring community, is a real
25 plus for all concerned.

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1 Finally, it should be remembered that
2 zoning regulations, and zoning maps, are never static,
3 never frozen forever in time. Conditions and needs
4 change. This is why the PUD option was created.

5 By approving this PUD application, the
6 Zoning Commission will be appropriately and
7 justifiably fulfilling its mission, recognizing that
8 today Friendship Heights is no longer a peripheral,
9 suburban environment, but rather has become an
10 integral part of this nations increasingly urbane
11 capital city.

12 And a healthy, vibrant city, by
13 definition, has animated streets and sidewalks serving
14 a dense mixture of diverse residential, commercial and
15 recreational activities. Clearly, 5401 Western Avenue
16 will add to the health, vibrancy and architectural
17 character of Friendship Heights, and the City, without
18 jeopardizing the quality of life of those who live and
19 work nearby.

20 This is ultimately what smart growth is
21 about. And I strongly support this application. Thank
22 you.

23 MS. MITTEN: Thank you, Mr. Lewis.

24 MR. QUIN: Madame Chairperson, Mr. Cullen
25 Elias, traffic consultant is our next witness.

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1 MR. ELIAS: Good evening. For the record,
2 my name is Cullen Elias. I'm the Vice President of
3 O.R. George & Associates. My form, I want to talk, on
4 the traffic analysis and support of the subject PUD.

5 In addition, the form also, I also want to
6 talk is traffic mitigation study, based on discussions
7 held with residents of the adjacent Friendship Heights
8 community. As pointed out by Messrs. Quin and
9 Firstenberg, Traffic is not an issue.

10 Our studies are able to determine that the
11 road network, serving the axis needs of the
12 development site, currently operate at acceptable
13 levels of service, level of service C, and better.

14 And will continue to do so, upon build out
15 of the proposed development. And, the future
16 conditions analyzed, include a 2% annual growth rate,
17 to count for reasonable growth.

18 We also included significant commercial
19 developments located within Montgomery section of
20 Friendship Heights, as well as within the District of
21 Columbia. In terms of the projected trip generations
22 for the site, this site will represent a positive
23 change, in terms of the existing trip generation.

24 It will generate 15% less trips than what
25 the existing site generates. And it will generate 35%

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1 less trips than the development proposal. Considering
2 those factors, the future traffic conditions, when
3 analyzed, it shows that the study --

4 The area intersections will continue to
5 operate acceptably, with level of service D, and
6 better. And that level of service D, of course, only
7 at one location, and that's in the section of Western
8 Avenue and Wisconsin Avenue.

9 And, photo analysis show that the
10 optimization of that signal will mitigate the level of
11 service D, and make it a level of service C, in
12 keeping with the Ward 3 plan requirement.

13 Our studies were able to determine that
14 the access points, in terms of the access points to
15 the site, there are two access points on Western
16 Avenue, those will operate without any significant
17 operational and safety deficiencies.

18 The more than adequate parking provided
19 on-site. The proposed parking would be 3.3 times
20 greater than what's required, per the zoning
21 ordinance. Based on those considerations, my
22 conclusion that the proposed development will have a
23 positive effect on the existing projected traffic
24 conditions, in terms of trip generation and vehicle
25 impacts.

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1 The proposed development will not be
2 objectionable to the adjacent properties, in respect
3 to traffic and parking. And the -- we also note that
4 our findings are consistent with those made by VDOT,
5 in their reports of October 8th and November 13th, 2002.
6 Thank you.

7 MS. MITTEN: Thank you, Mr. Elias.

8 MR. QUIN: Our next witness is Mr. Eric
9 Smart, economic consultant.

10 MR. SMART: Good evening. I'm Eric Smart,
11 principle with Bull and Smart Associates, economic
12 consultants based in the District of Columbia. Exhibit
13 B, in your package, references our work.

14 It's a familiar model to most of you, I
15 hope. And I will just immediately summarize what it
16 represents. We've looked at three scenarios, two of
17 which are summarized in the data format in the tables.

18 The scenarios being, as it is now, the
19 scenario of matter of right, which was described
20 earlier to you, and the proposed development. The
21 exception to what's in your exhibit, is that since we
22 prepared this, the affordable housing element has been
23 added.

24 You could note that that leads to a
25 nominal reduction of 2% in the overall economic

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1 impact. Findings, you've heard it, the site in the
2 proposal ideally positioned to attracting and
3 retaining high-income residents.

4 And I want to point this out, that it's
5 especially from an economic impact standpoint. It's
6 especially this way, in the proposal, suited to
7 competing with competing suburbs. Very high net gain
8 associated with this project, on a number of fronts.

9 Two, it creates a high tax base,
10 illustrated intrinsically and through the data, both
11 on a per-unit basis and in the aggregate. Per-unit
12 basis, looking at the assumptions we've done, exceeds
13 \$14,000 per year, per unit.

14 Again, related to the high value aspects
15 of this project, in aggregate compared to the current
16 development approaching \$1.8 million per year in
17 additional, annual tax revenue.

18 And \$1 million in net gain, if you compare
19 it against the matter of right. Simply put, it's a
20 superb opportunity to leverage value and to promote
21 residential development, quality residential
22 development in the District. Thank you.

23 MS. MITTEN: Thank you, Mr. Smart.

24 MR. QUIN: Our final witness, who is going
25 to give me four minutes back, is Mr. Steven Sher.

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1 MR. SHER: Good evening, Madame
2 Chairperson, and members of the Commission. For the
3 record, my name is Steven E. Sher, the Director of
4 Zoning and Land Use Services with the law firm of
5 Holland & Knight.

6 I believe that you did get my outline,
7 because I think that was in the October 25th. I'm glad
8 I didn't put it in earlier, because you wouldn't have
9 had it. So, in any event, it's there.

10 And I'm going to focus on some points of
11 that, rather than go through every word in it. As you
12 already know where the site is, as you've heard it
13 before a couple of times, I'm not even going to talk
14 about what's -- generally where it is.

15 But as Mr. Quin stated, and since he can't
16 testify, I have to testify, the property is located at
17 the intersection of two arterial streets, in the
18 middle of an area that is predominantly commercial and
19 non-residential.

20 You've got Chevy Chase metro building, 143
21 feet, Chevy Chase shopping center, Hecht's, Mazza
22 Galleria, Chevy Chase Pavilion, which is hotel, retail
23 and office, townhouses, single-family detached
24 neighborhood to the south and east, mostly southeast.

25 And then, Lisner Home directly to the

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1 east. If you attempted to draw a line, connecting any
2 two points through the subject building. Put the
3 subject building in the middle and draw a line through
4 it.

5 You would find that our project is a step-
6 down from the higher density buildings around it, to
7 the lower-density residential buildings to the south
8 and southeast. Step-down in height, change in use, and
9 lesser-density than most of the buildings around it.

10 As you already heard, existing zoning of
11 R5B on the clinic property is a general residential
12 district. It permits an apartment house, but it also
13 permits a medical clinic, as a matter of right.

14 So, notwithstanding the fact that what's
15 out there is a relatively small medical clinic, you
16 could have, as a matter of right, a 79,000 square foot
17 medical clinic. No approvals required from anybody, it
18 would be a matter of right under the R5B.

19 Reflecting comments made by a couple of
20 earlier witnesses, the zoning on the clinic property
21 has changed a number of times since it was adopted in
22 1958. It originally was zoned R2, in 1958.

23 It was re-zoned to C3A in 1963. It was re-
24 zoned again to R5B in 1974. All reflecting changes in
25 conditions, all reflecting the conditions that the

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1 Zoning Commission evaluated at the time, in
2 determining what should be the appropriate land use
3 controls that apply to the property.

4 As you've heard stated before, we are not
5 going to change the zoning on the Lisner Home part of
6 the PUD property. So, that the R5B part, which is
7 about 43,000 square feet would be zoned R5C, under the
8 PUD.

9 The Lisner Home part of the property,
10 which is approximately 15,000 square feet, would be
11 left R2 and would not change. And the only development
12 on that part of the property is the daycare center, of
13 approximately 3,000 square feet.

14 Closer to the Western Avenue side of the
15 site, almost in the shadow of the Lisner Home. I have
16 attached to the back of the report, a series of maps
17 showing the zoning, as it existed in 1958 and 1966,
18 and then again in 1974.

19 I'd like to spend 45 seconds on the 1974
20 re-zoning. I think that's one that even pre-dates John
21 at his point, but it doesn't pre-date me,
22 unfortunately, because I was a member of the taskforce
23 that worked on that zoning for the staff of the Zoning
24 Commission.

25 And it's very clear, from reviewing those

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1 documents, that the primary and basic consideration
2 that the Zoning Commission had before it, was the
3 traffic capacity of the arterial streets.

4 And the taskforce that originally said, we
5 think that 20% modal split, projecting ahead to when
6 there would be metro system, was the right number. The
7 Zoning Commission said no, we can't accept 20% because
8 that's too big a reduction in density.

9 We're going to factor in 30%. And as a
10 result of that, came up with a capacity of the road
11 system that development in Friendship Heights could
12 generate traffic for. They distributed that density
13 around the various properties in the area, re-zoned
14 from C3A down to C2B, to C2A, to R5B.

15 That eventually came up with what they
16 thought was the capacity of the area to accept
17 development. Of course, the current scenario shows
18 that levels -- modal splits are way above the 30% that
19 was assumed.

20 They could be 50%, if you take VDOT's
21 methods of calculation on one hand, Osborne George's
22 folks said it could be 60%, or as high as 65-70%. But,
23 in any event, there is far greater transit usage than
24 was assumed by the Commission, when it down-zoned the
25 properties in 1974.

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1 Another interesting fact about the 1974
2 zoning, was that we went through a planning process to
3 develop what was then called a sectional development
4 plan. And the Zoning Commission changed the zoning in
5 1974, based on that planning analysis.

6 Subsequent to that, it initiated a
7 proceeding in the early part of 1975, Case No. 75-6,
8 to consider actually adopting the sectional
9 development plan itself. And the Commission held
10 hearings on that, went through public participation,
11 solicited comments.

12 And, after having spent a lot of time with
13 it, determined not to adopt the plan itself. On the
14 one hand, it said there are lots of parts of this plan
15 that we don't have any jurisdiction over.

16 Street closings, capital improvements,
17 that's not our ballpark, why should we adopt the plan?
18 But more importantly for what's here tonight, the
19 Commission said two other things, and I'm just going
20 to quote them quickly.

21 Now, we'll file a copy of the order for
22 the record, but Order No. 250, dated December 14th,
23 1978, Case No. 75-6. Commission said there's no
24 specific case before the zoning Commission, which the
25 proposed plan would effect.

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1 It would be inappropriate for the
2 Commission to adopt guidelines for potential future
3 zoning cases, when the complete record of specific
4 facts concerning those cases is not before the
5 Commission.

6 Commission went on to say, the proposed
7 plan would not be binding upon property owners, area
8 residents, or a future Zoning Commission, only purely
9 advisory. The Commission will not render advisory
10 opinions in advance of specific cases being presented.

11 What you have tonight, obviously, is a
12 specific case. It is a specific development, based on
13 a specific set of facts. It is further a reflection of
14 the fact that the Commission has already approved four
15 separate developments in square 1661 to the south of
16 this square.

17 Each, again, on the basis of a specific
18 set of facts presented to it. And I've outlined the
19 details of that in my outline on page 8, talking about
20 those four PUD actions, that the Zoning Commission has
21 approved.

22 Again, zoning is not static. Zoning must
23 be a reflection of current conditions, of current
24 factors, of information available to the Commission at
25 the time that that is presented.

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1 With respect to the project again, what we
2 have is an apartment building that would have an
3 overall FAR on the entire site of 3.14 FAR. If you
4 consider just the apartment building on the R5C
5 portion, that's 4.15.

6 The daycare center, on its piece, is 0.2.
7 Aggregate the whole thing, 185,000 on 58,000 square
8 feet of land, 3.14 FAR overall. What does the Zoning
9 Commission have to do, when it is presented with a
10 planned unit development?

11 Well, Section 2403 of the regulations,
12 which deals with PUDs, and tells the Commission what
13 the standards are, against which the project should be
14 judged, is what you should be looking at.

15 And that -- I have set out, on pages 11
16 and 12 of the outline, what those standards are, and
17 how we respond to those. The impact of the project
18 shall be favorable, capable of being mitigated, or
19 acceptable.

20 Well, we're replacing a clinic with an
21 apartment house and a daycare center, both of which
22 are favored uses under the comprehensive plan and City
23 policies. Traffic is going to be less than the current
24 development, far less than what a matter of right
25 clinic of 79,000 square feet would generate.

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1 The proposed height and density are
2 consistent with existing and permitted height and
3 density to the north and south. You heard Mr. Baranes
4 demonstrate, or saw him demonstrate, that the top of
5 the roof of our building is the equivalent of the
6 bottom of the mansard of the Chevy Chase Pavilion
7 building, immediately to the south, across Military
8 Road.

9 And it's far less than 143 feet, existing
10 on the Chevy Chase metro building, and less than the
11 90 feet permitted on the Chevy Chase Center property.
12 Tax base implications for the District are favorable.

13 You just heard Mr. Smart estimate \$1.8
14 million annually, to the District, in net new revenue.
15 With respect to the public benefits and project
16 amenities, Mr. Firstenberg outlined them.

17 We've handed you a piece of paper that
18 lists those. And I would like to pause one second on
19 the question of residential use, and whether
20 residential use, in and of itself, is a benefit of a
21 PUD.

22 This Commission has consistently found
23 that to be the case. And I would cite four orders of
24 the Commission, I can submit them for the record if
25 you want them. The two orders on the Kennedy-Warren

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1 apartment house, the order on the Challenger Center
2 housing in Southwest, and the Brian School application
3 on Capital Hill.

4 In each of those orders, the Commission
5 explicitly found that residential development, in and
6 of itself, was a public benefit. In addition to all of
7 the other things we're doing, I think that's the
8 number one benefit of this application.

9 On pages 12 through 19 of the outline, I
10 have analyzed the comprehensive plan in great detail,
11 been through that book from one cover to the other.
12 And, this particular project, in my estimation, is as
13 consistent with the entirety of that plan, as anything
14 is likely to be.

15 That's not just the overall goals and
16 policies. It's not just the housing element. It's not
17 just the land use element. It's not just the Ward 3
18 element. It's all of those things.

19 And I have gone through, and you will
20 probably have skimmed it already, you may want to
21 spend some time with it -- you probably don't want to
22 spend any time with it, but that's okay.

23 (Laughter.)

24 Going through those one by one, looking at
25 how this project stacks up against these goals and

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1 policies. But a couple of the most salient points.
2 This is a housing opportunity area.

3 And, if you look at the generalized land
4 use policies map, that housing opportunity symbol is
5 right on top of this piece of property. What does the
6 housing opportunity area mean? Well, the comprehensive
7 plan defines it as, places where the District wants to
8 encourage new or rehabilitated housing.

9 And there are metrorail stations outside
10 the central employment area, and so forth and so on.
11 What does the housing element say about, that is
12 relevant to this case? One of the central themes of
13 the housing element, is to stimulate a wider range of
14 housing choices and strategies, through the
15 preservation of sound, older stock and the production
16 of new units.

17 Extending affordable homeownership
18 opportunities to low and moderate income households.
19 Increasing the supply of childcare facilities.
20 Residential development opportunities encourage multi-
21 unit housing development near selected metro station.

22 Encourage the private sector to meet
23 housing needs, through the development of in-fill
24 housing. The Ward 3 element, has as a priority,
25 stimulating and facilitating a variety of commercial,

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1 retail and residential development investments,
2 appropriate to selected metrorail station areas
3 outside the central employment area.

4 Under-utilized land in the Ward, that
5 should be the focus for development of new housing,
6 have been designated in the land use element, is
7 housing opportunity areas. You want a mix of
8 populations, provide zoning flexibility for the
9 production of new housing by permitting increased
10 densities in exchange for low and moderate income or
11 elderly housing.

12 Give zoning preference to projects that
13 include housing near each of the Ward's metrorail
14 stations. Medium or high-density residential use
15 should be limited to the major arterials, well served
16 by either metrorail or metrobus.

17 We're less than 250 feet from the major
18 concentration of bus and rail facilities at Friendship
19 Heights. On page 19, item 6 and 7, urban design and
20 land use, again I think we are consistent with all of
21 those particular policies, identified there.

22 One of the things that the plan calls for,
23 is for high-density residential development adjacent
24 to residential districts must provide buffers. Well, I
25 think that's what this site plan does.

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1 Mr. Baranes described it earlier, but I
2 think you can reflect for a moment on the zoning
3 pattern along Connecticut Avenue, where you have a
4 relatively narrow strip of high-density development,
5 that fronts on Connecticut Avenue.

6 And, immediately behind that to the east
7 and west, sometimes separated only by a 15 or 10-foot
8 public alley, are much lower single-family R1 and R2
9 neighborhoods, that seem to exist compatibly and
10 without adversely effecting one or another.

11 Certainly the sales price of that housing
12 wouldn't seem to suggest there's any adverse impact by
13 the apartment buildings located next to them. I'm
14 going to just sort of skip to the end and finish with
15 about two seconds to spare.

16 My conclusions are that the project is not
17 inconsistent with the comprehensive plan. That it's
18 within the applicable height and bulk standards with
19 the regulations. That it does make mixed use in
20 Friendship Heights.

21 This is the only residential project of
22 any size, within that central area on the District
23 side in Friendship Heights. Given the comprehensive
24 plan, and other policies regarding -- damn it, I
25 didn't make it within my two minutes there.

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1 I've got ten seconds left.

2 MS. MITTEN: Well, just finish it up.

3 MR. SHER: All right. The other policies,
4 regarding development near metrorail, it is my belief
5 that the permitted height and density on this site,
6 for residential use, should be as high as can be
7 accommodated without -- because of use.

8 I believe that the PUD is the appropriate
9 means to develop the site, because it allows the
10 Commission to control what happens here, to limit wear
11 the curb cuts are, to prevent a spate of townhouses,
12 each with its own separate driveway access, impacting
13 on Military Road and Western Avenue.

14 And I believe that the project should be
15 approved. Close.

16 MS. MITTEN: Thank you. Well, the rumors
17 are true. Your testimony will expand to the time
18 allotted.

19 (Laughter.)

20 MR. SHER: Of that, there is no doubt.

21 (Laughter.)

22 MS. MITTEN: Did you want to wrap up with
23 anything, Mr. Quin?

24 MR. QUIN: No. I think at this point, since
25 we're not going to hear any more testimony, is there

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1 any specific information that the Commission would
2 like us to submit, that you heard from the testimony
3 tonight?

4 Or, if you want to think about it, and
5 when we come back you can tell us if there's any other
6 information you want. We think we've hit everything.
7 We believe, in the pleadings that we've filed and the
8 testimony, we have everything.

9 We did, as you noticed when we went
10 through our testimony, we tried to truncate certain
11 testimony that we thought -- where we had thickest
12 amount of written material already submitted.

13 MS. MITTEN: Yes. Well, let me --

14 MR. QUIN: Except for Mr. Sher.

15 MS. MITTEN: Right. Does anyone have any
16 specific requests? Mr. May?

17 MR. MAY: Sorry. The one piece that I'm
18 interested in seeing -- well, I got the big piece,
19 which was the floor picture of the building. But the
20 landscape plan -- the information that's in the
21 submission, I think is somewhat light, particularly
22 with regard to existing conditions versus what will
23 occur.

24 MR. QUIN: We can cover that. We can either
25 do that tonight -- why don't we do that -- do you want

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1 to address that tonight, any more of the landscaping,
2 or do you want to do that later?

3 Why don't we concentrate on that when we
4 come back, initially when we come back and we will --
5 in a few minutes, we can cover existing conditions and
6 proposed landscape.

7 MR. MAY: Yes, I think just minimal
8 drawings would probably hit the spot there.

9 MR. QUIN: Right. We will do that.

10 MS. MITTEN: Anyone else have any specific
11 requests?

12 MR. HANNAHAM: I was interested in a bit
13 more information on some of the amenities within the
14 building itself. Swimming pools, perhaps? Or,
15 recreation facilities? Any other exercise rooms, or
16 any other kinds of amenities that might be considered?

17 MR. QUIN: Well, why don't we hit that at
18 the same time. That will take -- because we've already
19 submitted a lengthy submission on that, we will add to
20 that and tell you what it --

21 MR. HANNAHAM: Okay. I don't think I saw
22 that in anything that's been submitted so far.

23 MR. QUIN: Right. Thank you.

24 MR. HANNAHAM: Thanks.

25 MS. MITTEN: I'd like to ask you just a

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1 quick question, which may lead to an additional
2 submission, or it will just take care of question --
3 I'm not clear about whether or not this daycare center
4 is an additional facility to what already exists in
5 Chevy Chase Pavilion, or if this is a relocation of
6 that facility?

7 MR. QUIN: It's an additional facility.

8 MS. MITTEN: Okay. Okay, great. Thank you.

9 MR. QUIN: And that will be explained by
10 the non-party witness, who is not part of our case,
11 but will testify.

12 MS. MITTEN: Right. Okay. I just didn't
13 know if it was a relocation or a real expansion.

14 MR. QUIN: No.

15 MS. MITTEN: All right.

16 MR. BASTIDA: Madame Chairman, could I --

17 MS. MITTEN: Yes, Mr. Bastida?

18 MR. BASTIDA: I think that it would be best
19 that if the Applicant were to submit the drawings
20 regarding the landscape and the amenities package,
21 prior to the hearing date on the 12th.

22 And serve it to all the parties, because
23 you know where the parties are. At the same time, you
24 can also provide information regarding the posting.
25 And we can -- we have to give the opposition the same

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1 time, so I would like to hear from them, when they
2 will be able to provide that for the Commission, so we
3 can distribute to the Commission, and they can have
4 all that information ahead of time.

5 And when that is resolved, I need to make
6 an announcement, please.

7 MR. QUIN: We can certainly submit that. I
8 think it's fairly easy for us to submit on the
9 posting. We're talking about one section of the Code,
10 and the interpretation of it.

11 MR. BASTIDA: Okay, but I would like to
12 have a time table for the three submissions from you.

13 MS. MITTEN: Why don't you suggest
14 something to them, and then they'll respond.

15 MR. BASTIDA: One week before?

16 MR. QUIN: Since Thanksgiving is next week
17 --

18 MR. BASTIDA: Correct. That's what I'm
19 trying to avoid. Do you think that the Tuesday
20 previous to Thanksgiving will be fine, or would you
21 rather have it the Monday after Thanksgiving?

22 MR. QUIN: I'd rather do it the Monday
23 after -- actually, the 5th of December would be one
24 week before the hearing, which we can hand-deliver to
25 the parties, as opposed to mail.

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1 MR. BASTIDA: Okay. That would be
2 acceptable.

3 MS. MITTEN: All right, is that all right
4 with you?

5 MR. BASTIDA: Is that acceptable to the
6 opposition, to do their filing regarding the posting
7 on the 5th of December, and serve it on all the
8 parties?

9 MR. HITCHCOCK: Yes, sir.

10 MS. MITTEN: He said yes.

11 MR. BASTIDA: Okay. Thank you.

12 MS. MITTEN: And you wanted to make an
13 announcement?

14 MR. BASTIDA: Yes, right. I would like also
15 to have those submissions on December the 5th, no later
16 than 3:00 p.m., up to 3:00 p.m.

17 MR. QUIN: I would say one thing, with
18 regard to the posting. Maybe we could -- should
19 reserve it, but I think the issue is moot at this
20 point. But maybe we'll just address that in our
21 pleadings.

22 MS. MITTEN: That's -- however you want to
23 address it, you can address it.

24 MR. QUIN: All right. Thanks, yes.

25 MR. BASTIDA: In addition, the Office of

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1 Planning has just filed a new report. I have minor
2 corrections, dated November 14th. I would like to
3 provide that report to all the parties, and I will be
4 providing to the Zoning Commissioners for their
5 review.

6 In addition, for community persons who
7 already have the Office of Planning report of November
8 4th, we have a new version. That is a brief handout
9 with additional corrections, and they are available
10 here at the desk.

11 I would like to note, for the Office of
12 Planning, that the site boundary line is the one from
13 the early application proposal. O.P. will file an
14 updated eastern boundary, which is the section that is
15 not depicted properly in the estimation, no later than
16 Friday, November the 15th.

17 In addition, there are copies of the
18 Applicant's Powerpoint presentation for those who
19 would like to have a copy. We understand that the
20 parties have been handed a copy, but have additional
21 copies, and I would like to provide that to whoever is
22 interested on having a copy of it.

23 In addition, just recap what you have
24 said, Madame Chairman, is the continuation hearing is
25 December the 12th, at 6:30 p.m.

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1 MS. MITTEN: I think that's right. I think
2 that's it. And I guess -- I don't have anything else
3 to say.

4 MR. MAY: Madame Chair? I'm sorry.

5 MS. MITTEN: Mr. May?

6 MR. MAY: I just realized something. I'm
7 looking through my materials frantically to see if
8 there's anything in here. But, we don't have any idea
9 what the daycare building looks like, at all, from
10 what's been submitted.

11 MS. MITTEN: Is that in the August
12 submission, by any chance?

13 MR. MAY: I don't think so.

14 MS. MITTEN: No?

15 MR. QUIN: No.

16 MS. MITTEN: Okay. So we'll need all the
17 description on that, elevation and materials and all
18 that good stuff.

19 MR. MAY: It looks like a rectangle.

20 MS. MITTEN: A blue rectangle, if I'm not
21 mistaken.

22 MR. BASTIDA: Madame Chairman?

23 MS. MITTEN: Oh, and we need witness cards
24 from Mr. Hitchcock and Mr. Beach, if he's still here.

25 MR. BASTIDA: Excuse me for a minute. That

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1 also will be filed on the 5th, and will be served on
2 all the parties. Thank you.

3 MS. MITTEN: And Mr. Cochran?

4 MR. COCHRAN: Thank you. I just wanted to
5 thank Mr. Bastida. I wanted to make sure that everyone
6 understood that this is not a new report, because
7 naturally we base one version of the report, but we
8 start with the previous version.

9 And there were some changes in the
10 Applicant's submission. There were simply a few
11 consistency corrections that we didn't -- that I
12 didn't catch, from one version to the next.

13 For instance, some calculations were based
14 on all the new figures. When the site was described,
15 it was off by a few feet, based -- because it was
16 still based on the earlier numbers.

17 So, this is not a new report with any new
18 conclusions, recommendations, etc. It just is
19 consistency corrections, and we put it in one package,
20 so that you wouldn't have to carry it around and flip
21 back and forth, from one to another.

22 MS. MITTEN: Thank you, Mr. Cochran.

23 MR. HITCHCOCK: Madame Chair?

24 MS. MITTEN: Yes, sir?

25 MR. HITCHCOCK: A quick question for Mr.

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1 Bastida. Is there an updated report from the District
2 Department of Transportation?

3 MS. MITTEN: We received something in our
4 package tonight. Mr. Bastida, when was that filed?

5 MR. BASTIDA: I don't remember the exact
6 date. I will check on that. But that would -- it is
7 available, it's in the file. And a copy can be
8 obtained at any time. I will -- we're looking for the
9 date, and we'll give you the date.

10 MS. MITTEN: Yes, there was something filed
11 on the 13th.

12 MR. BASTIDA: On the 13th --

13 MS. MITTEN: Of November.

14 MR. BASTIDA: And it's Exhibit 126. If
15 you'd like to have this copy, you are welcome to it.

16 MR. HITCHCOCK: Thank you. It's dated
17 November 13th, as well?

18 MR. BASTIDA: It's dated November 13th, and
19 it's Exhibit No. 126, in this case.

20 MR. HITCHCOCK: Thank you, Mr. Bastida.

21 MS. MITTEN: Any other questions? Anything
22 else, Mr. Bastida?

23 MR. BASTIDA: No, Madame Chairman. Thank
24 you.

25 MS. MITTEN: Then we'll adjourn the hearing

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1 for this evening, and I look forward to seeing you all
2 again on December 12th at 6:30 p.m.

3 (Whereupon, the foregoing matter went off
4 the record at 8:19 p.m.)

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