

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

MONDAY

DECEMBER 16, 2002

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 6:33 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

ZONING COMMISSION STAFF PRESENT:

ALBERTO BASTIDA	Secretary
SHARON SANCHEZ	Office of Zoning

OFFICE OF PLANNING STAFF PRESENT

ANDREW ALTMAN	Director
ELLEN McCARTHY	Deputy Director
STEVEN COCHRAN	Office of Planning

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P R O C E E D I N G S

6:33 P.M.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday -- Monday, sorry -- Monday, December 16th, 2002.

My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood, Commissioners Peter May and John Parsons, and we're expecting Mr. Hannaham shortly.

I'd like to announce first that the case that had been scheduled for hearing this evening, which was Zoning Commission Case No. 02-21, which was a text amendment for -- that would allow community-based residential facilities by special exception in the CM zones was withdrawn by the applicant.

So anyone here for that, that case has been withdrawn. And tonight, we will be concluding the hearing in Zoning Commission Case No. 02-17, which is a request by Stonebridge Associates, 5401, LLC, on behalf of 5401 Western Avenue, LLP and the Abraham and Louise Lisner Home for the Aged -- for Aged Women, for a Planned Unit Development at 5401 Western Avenue, Northwest.

And I believe where we left off, if there

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1 are no preliminary matters -- did you have anything
2 Mr. Bastida?

3 SECRETARY BASTIDA: Madam Chairman, the
4 staff has no preliminary matters. Thank you.

5 CHAIRPERSON MITTEN: All right. And I
6 would ask you to turn off all beepers and cell phones
7 at this time. I believe we left off at Mr.
8 Hitchcock's cross-examination of the Office of
9 Planning. Is that your recollection?

10 MR. HITCHCOCK: The Board had --

11 CHAIRPERSON MITTEN: I need you to turn on
12 a mike.

13 MR. HITCHCOCK: The Board had started
14 questioning of the Office of Planning. We're happy to
15 defer if the Board has other questions.

16 CHAIRPERSON MITTEN: Oh, okay. I thought
17 we had --

18 MR. HITCHCOCK: The Commission, rather.

19 CHAIRPERSON MITTEN: -- finished with
20 that. Do any of the Commissioners have any questions
21 for OP? Any questions?

22 COMMISSIONER MAY: I could -- I asked my
23 questions already.

24 CHAIRPERSON MITTEN: Oh, you did. Okay.
25 Okay. Well, then, maybe if we hadn't finished, Mr.

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1 Quin, did you get a chance to cross-examine Office of
2 Planning?

3 MR. QUIN: I did get a chance, but I do
4 not want to ask questions.

5 CHAIRPERSON MITTEN: Okay. Just give me
6 one second. Let me run through the folks from the
7 ANC. Who's here representing the ANCs this evening,
8 anyone? Anyone here for the ANCs? Okay. Well, then,
9 it's your turn.

10 MR. HITCHCOCK: Is Mr. Cochran returning?
11 Mr. Cochran stepped out. I wasn't sure if he was
12 returning.

13 CHAIRPERSON MITTEN: Oh.

14 (Pause)

15 CHAIRPERSON MITTEN: I think we're ready
16 now.

17 MR. HITCHCOCK: Thank you, Madam Chair. I
18 had several questions in connection with the
19 presentation that was made last week and I would just
20 state as a preparatory matter, we submitted our own
21 detailed analysis of the OP Report and we'll cover a
22 lot of the ground in our prepared statement.

23 But I did have some questions about some
24 of the specifics. Let me begin, first of all, with
25 the housing and the daycare amenities which were

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1 discussed briefly last time. The Office of Planning
2 in supporting the five percent figure, I was curious
3 if you could explain why five percent as opposed to
4 some other percentage.

5 MR. COCHRAN: Five percent -- there's no
6 magic to the five percent figure. If we had started
7 earlier in the process we may well have gone with a
8 different figure. Five percent seemed a reasonable
9 figure at the point in time where we suggested this to
10 the developer.

11 MR. HITCHCOCK: Was five percent based
12 upon any kind of neutral standard that you're aware
13 of, or any particular ordinance in another
14 jurisdiction?

15 MR. COCHRAN: No.

16 MR. HITCHCOCK: And you're aware that in
17 counties such as Montgomery County that have the
18 moderately priced dwelling unit types of regulations,
19 there's a higher percentage than five percent?

20 MR. COCHRAN: Yes, we'd hope to work
21 towards that.

22 MR. HITCHCOCK: And do you know what that
23 percentage would be here?

24 MR. COCHRAN: I believe it's 15 percent.
25 Twelve percent? Sorry.

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1 MR. HITCHCOCK: Yes, 12.5, I believe. Let
2 me ask another question in connection with that. I
3 have some questions about the three-page summary about
4 affordable housing that was provided for the record
5 that Mr. Firstenberg discussed.

6 Do you have a copy of that and are you
7 familiar with the document in question?

8 MR. COCHRAN: Excuse me, Mr. Hitchcock.
9 My version may have a few slight order differences
10 from yours. So if I'm off, please let me know.

11 MR. HITCHCOCK: Okay. And if you have
12 something different, I will be interested in hearing
13 it, too. Mr. Firstenberg testified -- and I wanted to
14 see if this was your understanding, as well -- that
15 the program to be followed here will follow the
16 outline of the HPAP program, as referred to in page --
17 paragraph 4. Is that your understanding?

18 MR. COCHRAN: That's generally true.
19 There would be some slight differences from HPAP.

20 MR. HITCHCOCK: There would be some slight
21 differences, but I didn't hear Mr. Firstenberg testify
22 to any differences.

23 MR. QUIN: Madam Chairperson, may I just
24 object for the record? The question should go to the
25 Office of Planning and their testimony, not to Mr.

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1 Firstenberg, Mr. Firstenberg's testimony or his
2 conclusions. That was already over at this point.

3 MR. HITCHCOCK: I'm trying to lay a
4 foundation, since affordable housing is something that
5 was discussed at length, to see if there is an
6 understanding of what the testimony is. Stonebridge
7 bears the burden of proof here.

8 The testimony was extremely thin beyond
9 this three-pager. I'm trying to understand if the
10 Office of Planning in supporting this understands, has
11 the same understanding that Mr. Firstenberg had.

12 CHAIRPERSON MITTEN: Perhaps you could
13 just ask what the differences are between what's being
14 proposed and the HPAP Program.

15 MR. HITCHCOCK: Well, I had a number of
16 questions, first, and hopefully we will get to it.
17 First of all, Mr. Cochran, you -- the document states
18 on page 3 that the 80 percent of AMI is a figure of
19 54,400.

20 MR. COCHRAN: That's correct.

21 MR. HITCHCOCK: Do you know the source of
22 that figure?

23 MR. COCHRAN: That was the brochure --
24 let's see. Those were the HUD figures for 2001, I
25 believe.

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1 MR. HITCHCOCK: For 2001 for whom?

2 MR. COCHRAN: For 80 percent AMI for the
3 Washington metropolitan area for a family of three.

4 MR. HITCHCOCK: Okay. Why are you using
5 Washington metropolitan area, as opposed to District
6 of Columbia for determining the threshold?

7 MR. COCHRAN: HUD uses AMI. HPAP uses the
8 HUD figures with a slight adjustment.

9 MR. HITCHCOCK: HUD use -- what is that
10 adjustment?

11 MR. COCHRAN: I don't know what the
12 adjustment formula is that HPAP uses, but between the
13 Thursday and Monday we've continued the work with the
14 applicant on this, and we were -- are actually going
15 with figures that are based much more closely on
16 HPAP's formula than going with 80 percent of the AMI,
17 so that we avoid that confusion.

18 MR. HITCHCOCK: Well, let me see if I
19 understand. I mean, is the 54,400 figure still
20 viable?

21 MR. COCHRAN: That 54,000 figure is not
22 the figure that would eventually be used.

23 MR. HITCHCOCK: It is not. And will we
24 know before the record closes and we have a chance to
25 cross-examine somebody about it, what that number is?

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1 MR. COCHRAN: I can't determine when the
2 record's going to close, but it's certainly our
3 intention that you would know that figure.

4 MR. HITCHCOCK: Madam Chair, may I lodge
5 an objection here? We're having -- this is a critical
6 point in terms of understanding the scope of this
7 particular proposal, to know who is eligible and who
8 isn't.

9 And we're now being told that we're not
10 going to find out; maybe we will and maybe we won't.
11 I mean, we --

12 MR. COCHRAN: The general -- excuse me,
13 Mr. Hitchcock. The general concept is that it be 80
14 percent of the AMI.

15 MR. HITCHCOCK: I understand the general
16 concept --

17 MR. COCHRAN: That figure was based --

18 CHAIRPERSON MITTEN: Wait. Wait. Wait.

19 MR. COCHRAN: That was --

20 CHAIRPERSON MITTEN: Let's take turns.

21 MR. COCHRAN: Okay. That figure was based
22 on the HPAP -- on the figures that were used by HPAP
23 at the date that we had available to us. Between now
24 and the time that, if this is approved, Mr.
25 Firstenberg builds the building, undoubtedly, 80

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1 percent of the AMI will rise.

2 MR. HITCHCOCK: Okay. But you're talking
3 about a cost of living adjustment. Is that what
4 you're discussing?

5 MR. COCHRAN: I'm talking about whatever
6 adjustment the combination of HUD and HPAP use.

7 MR. HITCHCOCK: Okay. But for current --
8 for purposes today, the 54,400 should be viewed as a
9 viable figure, correct?

10 MR. COCHRAN: Approximately.

11 MR. HITCHCOCK: Approximately. What would
12 the approximation be otherwise? Why not 54, four?

13 MR. COCHRAN: Because the figure that is
14 actually used in the HPAP brochure is 50 -- 59, six.

15 MR. HITCHCOCK: Fifty-nine, six.

16 MR. COCHRAN: Yes.

17 MR. HITCHCOCK: I'm -- let's -- let me ask
18 you a question about that, and I'm not sure if the
19 HPAP brochure is part of the record or not. If so, I
20 have copies that can be handed up.

21 CHAIRPERSON MITTEN: We don't have those
22 in the record.

23 MR. HITCHCOCK: All right. Let me pass
24 these up and I will state for the record, since Mr.
25 Cochran is familiar with the document, this is a two-

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1 page summary that one can find on the website of the
2 Department of Housing and Community Development,
3 entitled, Home Purchase Assistance Program.

4 And I believe Mr. Cochran is referring on
5 the -- to the chart that appears on the second page.

6 MR. COCHRAN: That's correct.

7 MR. HITCHCOCK: Okay. Now, the proposal
8 that the applicant has put in does not, however,
9 graduate the income thresholds to the number of persons
10 in the household, does it.

11 MR. COCHRAN: In fact, the proposal that
12 the applicant most recently provided to DCOP, which I
13 imagine that the applicant would intend to file for
14 the record at some point, refers to households as
15 being those defined as lower income eligible under the
16 District's HPAP Program.

17 These are defined as first-time home
18 buyers qualifying as lower income, based upon the
19 current year median family income levels for the
20 Washington, D.C., area, from the U.S. Department of
21 Housing and Urban Development, as adjusted by the
22 Department of Housing and Community Development.

23 MR. HITCHCOCK: Okay. So this is a
24 document that no one has seen other than you. Is that
25 correct?

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1 MR. COCHRAN: I believe that Art Rogers in
2 my office has also seen it.

3 MR. HITCHCOCK: Okay. But none of the
4 parties had an opportunity to see this document, which
5 was not presented during the applicant's case in
6 chief?

7 MR. COCHRAN: No, sir.

8 MS. MCCARTHY: But I think, unless I am
9 wrong in my hearing, that was exactly the level that
10 the applicant talked about and that we assumed in our
11 report, that you -- HUD does every year a -- publishes
12 the average median income.

13 DHCD adjusts that because HUD's average
14 median income is for the metropolitan area, and
15 whatever that is at the point in time in which the
16 project opens, will be the figure that we abide by

17 MR. HITCHCOCK: Right. Well, I hope you
18 would agree with me, Ms. McCarthy, that if one were to
19 focus only on what the applicant told the parties and
20 the Commission it was going to do, there is no
21 gradation for the number of persons in household, and
22 the only number was 54,400, whether one was single,
23 two people, multiple people, up to eight people. Is
24 that correct?

25 MS. MCCARTHY: I -- the applicant

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1 probably, as we were, was relying on the fact that
2 it's a -- we work with the average median income and
3 the HUD numbers all the time and we know that they're
4 based on the gradation of household incomes -- I mean
5 a household's size.

6 That's one reason why people use the HUD
7 AMI numbers, because they are based on numbers of
8 family unit.

9 MR. HITCHCOCK: But this was not a point
10 that was made explicitly last time, correct?

11 MS. McCARTHY: It may not have been. I
12 don't think --

13 MR. COCHRAN: It may not have been.

14 MS. McCARTHY: I don't think it was --

15 MR. HITCHCOCK: You can make that
16 assumption, but -- about what they meant, but it was
17 not made clear. One only saw 54,400.

18 MR. COCHRAN: If I might, Mr. Hitchcock.

19 MS. McCARTHY: I think what was made clear
20 was that they were going to follow the HUD AMI
21 numbers, which do -- which are based on gradations of
22 household size.

23 MR. HITCHCOCK: Okay.

24 MS. McCARTHY: So that 54 I thought was an
25 illustrative number.

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1 MR. HITCHCOCK: Okay. Well, let me ask
2 another question in dealing with the --

3 MR. COCHRAN: Depending upon --

4 MR. HITCHCOCK: -- HPAP Program and some
5 of the differences with it. The description of the
6 HPAP Program indicates that, entirely apart from the
7 income levels, that the HPAP Program is not like the
8 sort of program that's being proposed here, is it, in
9 the sense that you have market rate housing, which is
10 sold to people at a third of the market rate?

11 MR. COCHRAN: Mr. Hitchcock, we're not
12 trying to say that this is an HPAP Program. That's
13 what I was trying to get to earlier on, was that there
14 are some differences. For instance, HPAP is
15 restricted to people who have lived in the District of
16 Columbia for at least one year.

17 One of the things that the program that
18 we're recommending for the applicant is that there not
19 be that restriction. Therefore, the definition is
20 defined as lower income eligible under HPAP, that fine
21 distinction allowing people to actually move into the
22 District, which is one of the objectives that we had
23 spoken to.

24 MR. HITCHCOCK: Well, let me ask you this
25 question: are there any programs you're aware of in

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1 the District of Columbia where this type of lottery
2 that there's being proposed occurs where one can
3 purchase condo units in a building at one-third the
4 market rate?

5 MR. COCHRAN: I'm sorry. I was --

6 MR. HITCHCOCK: Okay. Is there any
7 program you're aware of in the District of Columbia
8 where people are able to purchase condominiums at
9 roughly a third the market rate, as is being proposed
10 here?

11 MR. COCHRAN: I'm not aware of that, but
12 there may well be.

13 MR. HITCHCOCK: There may be, but there's
14 -- from your standpoint this is a novel --

15 MR. COCHRAN: Not from my standpoint;
16 simply from my knowledge.

17 MR. HITCHCOCK: >From your knowledge.
18 Thank you. Okay. Now, let me ask you this question,
19 and these are issues that you probably discussed
20 privately, as well, that I raised with Mr. Firstenberg
21 about it.

22 As I understand the proposal and the
23 record, there are no limitations if someone who wins
24 the lottery and move-ins, has a change in career,
25 income level, marital status or something of that. Is

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1 that correct?

2 MR. COCHRAN: That's correct.

3 MR. HITCHCOCK: So in other words,
4 somebody, a fourth year med student who buys at the
5 subsidized or the discount rate could hold onto it
6 even after becoming a doctor?

7 MR. COCHRAN: That's correct.

8 MR. HITCHCOCK: And someone who got
9 married and saw their income could continue to hold
10 onto it for as long as the 20 years, even though the
11 incomes have doubled?

12 MR. COCHRAN: That's correct.

13 MR. HITCHCOCK: And a paralegal going to
14 law school at night could do that as well, correct?

15 CHAIRPERSON MITTEN: I think we got the
16 idea.

17 MR. HITCHCOCK: Okay. I guess the
18 question is: isn't it possible, therefore -- well,
19 one other question on the -- and it's possible, is it
20 not, that someone who purchased one of these units at
21 about \$1,052 a month in mortgage could rent it out at
22 substantially more money?

23 MR. COCHRAN: No. The restriction is that
24 they have to live there.

25 MR. HITCHCOCK: And how is that

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1 restriction to be enforced?

2 MR. COCHRAN: That would be in the deed --
3 that would be in the covenant of sale.

4 MR. HITCHCOCK: And who will enforce it
5 and how will it be enforced?

6 MR. COCHRAN: I don't know.

7 MR. HITCHCOCK: Okay, because the mortgage
8 is not necessarily going to notice, are they?

9 MR. COCHRAN: I'm not a mortgage company.

10 MR. HITCHCOCK: Okay. Well, but if I
11 purchase a unit, take out a mortgage and write the
12 check to the mortgage company every month, but don't
13 live there and get a rent check from the tenant, how
14 will anyone know?

15 MR. COCHRAN: I can only speculate on that
16 at this point, and I would be happy to try --

17 MR. HITCHCOCK: Okay. Well, I wouldn't
18 ask you to speculate --

19 MR. COCHRAN: -- to address this --

20 MR. HITCHCOCK: -- if there's -- if you
21 don't know --

22 MR. COCHRAN: -- in additional discussions
23 with the applicant. MR. HITCHCOCK: -- I'm asking
24 you what --

25 MS. MCCARTHY: You'd think --

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1 CHAIRPERSON MITTEN: We cannot have
2 multiple talking at the same time, so.

3 MR. HITCHCOCK: Okay.

4 MS. McCARTHY: I think, Mr. Hitchcock, for
5 that to be considered really a serious objection this
6 has -- the HPAP Program and other programs like it
7 that provide for affordable housing have been going on
8 in the District for a long period of time, home
9 ownership assistance.

10 MR. HITCHCOCK: Okay.

11 MS. McCARTHY: If there is evidence of
12 widespread fraud, of people gaining those houses and
13 then turning around and renting them out, we're
14 certainly not aware of that. And if you have evidence
15 of that it would be very important for us to find out.

16 MR. HITCHCOCK: Well, let me follow up on
17 that because Mr. Cochran conceded a moment ago that
18 there is no program like this where you -- under HPAP
19 or elsewhere -- where you take market rate and sell it
20 to people for a third the market rate.

21 MR. COCHRAN: Correction, Mr. Hitchcock.
22 I said that to my knowledge.

23 MR. HITCHCOCK: Right, to your knowledge,
24 there is no such program.

25 MS. McCARTHY: But there are several

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1 programs that the District operates of which HPAP is
2 the primary one that do provide home ownership
3 assistance to low income people; therefore, in effect,
4 lowering their purchase price.

5 MR. HITCHCOCK: For purchases. Okay. Are
6 any of them of the magnitude that we are talking about
7 here where there is -- the market rate is, you know,
8 one-third -- I'm sorry -- where the sale price is
9 roughly one-third of the market rate?

10 MS. MCCARTHY: This Commission has heard
11 cases over the last two years of Hope 6 projects,
12 several Hope 6 projects across the river, on the east
13 side of the river, and we're working on another Hope 6
14 project now, all of which have a mixture of market
15 rate and affordable units.

16 MR. HITCHCOCK: And what is the
17 differential between the market rate in identically
18 sized units that are sold through these programs?

19 MS. MCCARTHY: I think that's varied
20 depending on the project and the type.

21 MR. HITCHCOCK: Is it --

22 MS. MCCARTHY: They all have very
23 different kinds of units.

24 MR. HITCHCOCK: Have any of them been as
25 much as the two-thirds gap we're talking about here?

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1 MS. McCARTHY: I really don't know --

2 MR. HITCHCOCK: Okay.

3 MS. McCARTHY: -- off the top of my head.

4 MR. HITCHCOCK: So to your knowledge,
5 there is none with a gap here, as Mr. Cochran
6 testified a moment ago?

7 MS. McCARTHY: No.

8 MR. HITCHCOCK: Okay.

9 MS. McCARTHY: Not that -- to my
10 knowledge, I don't know if there are any.

11 MR. COCHRAN: Yes, right.

12 MR. HITCHCOCK: Okay. Well, you said
13 there was not a serious objection and yet, it is
14 possible that somebody who's paying \$1,000 a month
15 mortgage could turn around and rent for 3,000, and
16 that was the hypothesis that I was suggesting.

17 MS. McCARTHY: Well, I'm assuming, for one
18 thing, that the condominium association will have the
19 typical kinds of restrictions that condos have on the
20 percentage of units that can be rented out, which will
21 be a break on that -- a halt on that to begin with.

22 And beyond that I don't know of what
23 additional measures the -- I mean, the covenant is
24 there to be enforced.

25 MR. COCHRAN: Yes. Mr. Hitchcock, since

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1 you've pursued the question so much, I would speculate
2 now.

3 MR. HITCHCOCK: I'm asking what -- before,
4 you wanted to limit yourself to what you know, and I
5 think the Commissioner's interested in facts, not
6 speculation.

7 MR. COCHRAN: I think Ms. McCarthy has
8 spoken well to the likelihood that the condominium
9 regime rules could include some sort of enforcement
10 mechanism. There is also the possibility of peer
11 pressure and the possibility of people turning other
12 people in, if there are violations.

13 MR. HITCHCOCK: Okay. Do you have a
14 sample of what rules you have in mind?

15 MR. COCHRAN: No, I don't have that
16 sample.

17 MR. HITCHCOCK: Okay. All right, then.
18 Do you know to what extent, what percentage of
19 condominium association buildings in the District of
20 Columbia have such limitations?

21 MR. QUIN: Mr. -- Madam Chairperson, I'd
22 like to interpose an objection. I don't know where
23 Mr. Hitchcock is going with this. It sounds like
24 we're just going to continue and continue on the same
25 issue, when in fact, what you directed us to do last

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1 time was to restudy this and come back with a program,
2 which we intend to do, and Mr. Hitchcock will have
3 ample time to respond to whatever we file and when we
4 file it.

5 MR. HITCHCOCK: Right.

6 MR. QUIN: And we are sure that the
7 Commission will give him that opportunity.

8 CHAIRPERSON MITTEN: Right.

9 MR. HITCHCOCK: If I may respond to that.
10 The -- where I am trying to go with this question --
11 it's not -- the issue is not whether affordable
12 housing is good or bad as an amenity in itself. The
13 question is whether this particular proposal has
14 enough substance to it that one can have confidence
15 that the benefits will in fact be achieved.

16 Now, when all we get is a three-page
17 document that we're now told contains information that
18 is not complete and when Mr. Cochran decides to
19 speculate on the basis of information of what may
20 happen, if the Commissioner's going to allow
21 speculation onto the record as what condominium
22 associations might or might not do, I'm entitled, I
23 submit, to ask him a question in terms of what his
24 knowledge is and what the likelihood is of this.

25 CHAIRPERSON MITTEN: Well --

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1 MR. HITCHCOCK: I mean, I'm willing to
2 strike his speculation from the record, but if he's
3 opening the door then it's certainly worth pursuing to
4 find out, are these units, if they're set aside,
5 really going to be provided to the target audience, or
6 is this just sort of a feel good amenity that within a
7 couple of years will not be in fact enjoyed by the
8 targeted beneficiaries.

9 CHAIRPERSON MITTEN: I understand your
10 point, and I think that this Commission has become
11 increasingly concerned about conditions that are
12 enforceable, and we'll see what the applicant proposes
13 by way of greater clarity of the program, and we would
14 like you to raise the issues in your response --

15 MR. HITCHCOCK: Okay.

16 CHAIRPERSON MITTEN: -- if you believe
17 that in fact the condition's not enforceable. But I
18 think this is kind of a long way of doing that. And
19 If you could either finish up or move on to another
20 subject now.

21 MR. HITCHCOCK: Okay.

22 CHAIRPERSON MITTEN: I think you can
23 accomplish the same thing through the exchange between
24 seeing the applicant's new proposal and your response
25 to that.

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1 MR. HITCHCOCK: And will there be an
2 opportunity to cross-examine the new proposal?

3 CHAIRPERSON MITTEN: I don't believe so,
4 not if we close the hearing out tonight.

5 MR. HITCHCOCK: All right. Then I would
6 like to note an objection for the record, if material
7 is coming in we have an -- documents are sponsored by
8 witnesses and we would like to ask questions.

9 This is a very thin proposal with a lot
10 of the key details left out, and with due respect to
11 Mr. Quin, my clients just don't have much confidence
12 that we'll get anything further in terms of substance
13 that answers all the questions.

14 CHAIRPERSON MITTEN: Well, and I mean, you
15 raised some good questions --

16 MR. HITCHCOCK: And that's what cross-
17 examination's for.

18 CHAIRPERSON MITTEN: -- about who's going
19 to monitor this program over a 20-year period. Those
20 are good questions. I think we've heard about as much
21 as we can from the Office of Planning on the subject.

22 MR. HITCHCOCK: Okay. I appreciate that
23 and I will move on.

24 A question with respect to the daycare
25 component. I was wondering if, just as a foundation,

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1 if you could walk us through what made you decide that
2 the market rate daycare amenity was something worth
3 adding to the mix here.

4 MR. COCHRAN: I'm sorry. I don't
5 understand your question. We didn't add it.

6 MR. HITCHCOCK: I believe the testimony
7 was that the daycare was a proposal that the Office of
8 Planning suggested, the added addition to housing.

9 MR. COCHRAN: I don't recall --

10 MR. HITCHCOCK: Isn't that your --

11 MR. COCHRAN: -- having testified like
12 that.

13 CHAIRPERSON MITTEN: I believe the source
14 of that, if I could just --

15 MR. HITCHCOCK: Okay.

16 CHAIRPERSON MITTEN: -- refresh your
17 memory is that it came from the ANC. The suggestion
18 came from the ANC.

19 MR. HITCHCOCK: Oh, okay. That simplifies
20 that. Let me ask a couple of other questions in terms
21 of the development issues, and then we'll get into the
22 rest in our testimony. I was struck in your
23 presentation where you acknowledge that the
24 residential components of the Square 1661 PUDs --

25 MR. QUIN: Is this a question?

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1 MR. HITCHCOCK: Yes, it is.

2 MR. QUIN: Doesn't sound like it.

3 MR. HITCHCOCK: I'm laying a foundation,
4 Mr. Quin. Are consistent with the height of -- and
5 the other limitations of R-5-B. Why shouldn't,
6 therefore, the R-5-B zone be named here to maintain
7 that kind of transition?

8 MR. COCHRAN: It so happens that all of
9 them wound up being built at least to the height of R-
10 5-B, but the Zoning Commission's decision and the ANC-
11 3's recommendation, at least for one of those three
12 PUDs, was for R-5-D.

13 The important thing here is what the ANC
14 had previously recommended for, and what the -- more
15 importantly, what the Zoning Commission decision was.
16 I can't speak to anymore than that.

17 MR. HITCHCOCK: We shouldn't look to the
18 reality in terms of how the buildings actually exist
19 and the effect of other buildings on the community?

20 MR. COCHRAN: I think, more importantly,
21 what -- if we're before the Zoning Commission, the
22 Zoning Commission decision is the most important
23 thing.

24 MR. HITCHCOCK: Let me ask a related
25 question dealing with the Chevy Chase Pavilion. Your

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1 testimony indicated that it was 100 feet tall, but
2 didn't focus on the fact that the hotel component is
3 70 feet, which is in fact less than the 78 feet here.

4 Doesn't that also argue for more of a
5 transition than you're supporting in this case?

6 MR. COCHRAN: I am -- could you -- I would
7 like more evidence of the hotel component's height
8 before I answer that question, because that has been a
9 source of considerable discussion.

10 MR. HITCHCOCK: Well, let's assume --

11 MS. MCCARTHY: And I -- plus, Mr.
12 Hitchcock, I think what we pointed out in our
13 testimony is that we are looking at the total height
14 of those buildings, and to argue that there were
15 shorter components of them that served as a buffer, I
16 believe what we pointed out was the buffer in this
17 case is zero height.

18 So we felt that it was a more substantial
19 buffer than what was being provided in any of those
20 projects.

21 MR. HITCHCOCK: At a point further down
22 the block on the Military Road side because of the
23 green spaces.

24 MS. MCCARTHY: Right.

25 MR. HITCHCOCK: Right. Okay. A couple

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1 other questions; then I will finish up. One of your
2 statements was tree preservation, more tree
3 preservation as an amenity. You're aware, I take it,
4 there will be no tree preservation on the site with
5 the excavation for the underground garage?

6 MR. COCHRAN: I'm aware that on the
7 Washington Clinic property there will be no tree
8 preservation.

9 MR. HITCHCOCK: Yes.

10 MR. COCHRAN: I am not aware that under
11 the entire PUD, or if you look at the PUD in a time
12 line context, I believe that there will be more tree
13 preservation than there might have been at some other
14 point. I would be happy to go into that.

15 MR. HITCHCOCK: Could you?

16 MR. COCHRAN: Yes. I think you're sort of
17 in a catch-22 here.

18 MR. HITCHCOCK: It wouldn't be the first
19 time.

20 MR. COCHRAN: On the one hand, the
21 applicant had proposed a certain configuration for the
22 purchase of the land on the Lisner property, and to
23 put a TOD lot under the southern portion of that land,
24 as well as the excavation for the parking garage.

25 In response to the community the applicant

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1 changed the configuration of the purchase, and where a
2 daycare-related amenity, in this case a new building
3 for the daycare center would go, eliminated the TOD
4 lot, eliminated the excavation under that portion of
5 the Lisner property and in fact decided not even to
6 buy that portion of the Lisner property.

7 It's true, you can't say that the
8 applicant is now saving the trees, because the
9 applicant is no longer purchasing the property on
10 which the applicant would formerly have taken down the
11 trees.

12 But the applicant has gone even further by
13 not even purchasing the property that the community in
14 essence was asking it not to purchase. Therefore, I
15 would consider that to be a greater retention of trees
16 in response to the community than we had previously
17 seen.

18 MR. HITCHCOCK: All right. We'll explore
19 that further. One final question or subject matter
20 dealing with the housing opportunity area. You
21 pointed out that fewer than 100 units of new housing
22 had been constructed in Friendship Heights since this
23 area was created in 1984.

24 And your written statement says that
25 there's not much guidance in terms of what is an

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1 appropriate number of houses. Does OP have any view
2 in terms of what is appropriate number, and how did
3 you get there?

4 MR. COCHRAN: You mean, what -- how many
5 units --

6 MR. HITCHCOCK: How many units.

7 MR. COCHRAN: -- should be in a housing
8 opportunity area?

9 MR. HITCHCOCK: In this particular area.

10 MR. COCHRAN: We do not have a specific
11 number in mind. We do know that you have a
12 combination of comprehensive plan factors at play
13 here. One is that Friendship Heights is designated as
14 the second most intensive commercial development area
15 in the city outside of downtown.

16 The second is that it is designated as a
17 housing opportunity area, a Metro-related housing
18 opportunity area, at a Metro station that has
19 certainly more entrances than any Metro outside of
20 downtown, which indicates that it is a very busy
21 Metro.

22 We hope that in the overall sense of what
23 is the appropriate number of housing units for
24 Friendship Heights that the -- just starting a
25 corridor plan will help give us some guidance on the

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1 overall, but we certainly feel confident that to say
2 110 to 125 units of housing would certainly not be
3 fewer numbers of units for Friendship Heights than had
4 been intended for a housing opportunity area.

5 If additional developments come in down
6 the pike, they come in, if the Zoning Commission
7 approves this project, with this project as their
8 context.

9 MR. ALTMAN: I would just add that the
10 language actually that also gives some guidance in the
11 comprehensive plan related to housing opportunity area
12 says that these housing opportunity areas are not the
13 only areas where new housing units will become
14 available, but represent locations of significant
15 concentration, and goes on to discuss Metro rail
16 stations as supporting additional housing units.

17 So though there's not a target for each
18 housing opportunity area in terms of number of units,
19 it's clear at least in the reading that the Office of
20 Planning takes it as -- in light of a comprehensive
21 plan -- that these are areas where you look to provide
22 a significant concentration of housing, in balance
23 with obviously all the other issues that we discussed
24 in our report, but certainly, that there is a priority
25 and preference that within a proximity to a tract

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1 station, assuming it's within 300 feet, that that is a
2 place you look to have a significant concentration of
3 housing.

4 MR. HITCHCOCK: Do you have a definition
5 of the blocks or the area that you consider to be the
6 housing opportunity area for this neighborhood?

7 MR. COCHRAN: It is not precisely defined
8 in the text or in the overlay.

9 MR. HITCHCOCK: Okay.

10 MR. COCHRAN: That is to say, in the
11 second of the land-use maps.

12 MR. HITCHCOCK: Okay. That is my
13 understanding, as well. I guess one of the concerns
14 of -- this is a preface to a question -- is in terms
15 of drawing the line. I mean, under the analysis you
16 just gave isn't it true that there could be more
17 intensive development to advance that rationale on
18 other sites to the east of this location?

19 MR. COCHRAN: There is --

20 MR. HITCHCOCK: Such as the Lisner
21 property?

22 MR. COCHRAN: There is no application for
23 anything east of there. The Office of Planning has
24 already stated in its report that it intends to weigh
25 in, unless the community feels otherwise, that the

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1 Lisner property shall remain R-2 and that we would
2 look at only matter of right development on that
3 property.

4 That's as far as -- well, I'll defer to my
5 -- that I think that that's as far as we can go. But
6 we would assume that the community would more likely
7 than not go along with that as, in effect, a line of
8 demarcation.

9 MR. HITCHCOCK: Okay. I see Mr. Altman
10 nodding, and so I will stop there.

11 Thank you, Madam Chair.

12 CHAIRPERSON MITTEN: Thank you, Mr.
13 Hitchcock. I just -- I had noticed that Mr. Gordon
14 and Mr. DiBiase came in. Did you have any cross-
15 examination for the Office of Planning, either of you?
16 Okay. If you'd just identify yourself for the record
17 when you begin.

18 MR. TAD DiBIASE: Tad DiBiase with ANC 3-
19 E. If I could just pick up on Mr. Hitchcock's last
20 point and that's regarding what zoning changes could
21 come online.

22 I know, Ms. McCarthy, you testified I
23 think in response to something that I said, the Office
24 of Planning was committed to not up-zoning or not
25 changing the zoning of the Lisner property or anything

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1 east.

2 But you would agree with me, would you
3 not, that there is -- there's certainly no force of
4 law that would prevent either you, unlikely, or your
5 successor from approving a project with a greater
6 zoning, correct?

7 MS. McCARTHY: I think what I indicated
8 was that we expected that issue to be taken up by the
9 Wisconsin Avenue Corridor Plan and that one of the
10 specifics tasks of that plan is to draw a line of
11 demarcation between a development zone and one in
12 which the housing -- where the zoning is to remain
13 intact.

14 MR. DiBIASE: Correct. And even --

15 MS. McCARTHY: And that will be adopted by
16 the City Council. So it will have the force of law.

17 MR. DiBIASE: If it's adopted by the City
18 Council and if that line of demarcation is drawn
19 there, correct?

20 MS. McCARTHY: Correct.

21 MR. DiBIASE: And what's the time frame
22 that you would expect the Wisconsin Avenue Corridor
23 Plan to be passed by the City Council and then at that
24 point become force of law?

25 MS. McCARTHY: My guess is it would be

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1 within the year.

2 MR. DiBIASE: Okay. You're confident that
3 will take place within a year?

4 MS. McCARTHY: There's a major charette
5 that's -- the major part of effort of the planning
6 consultant is a charette that will take place in early
7 February. So the planning work should be finished up
8 within a couple months of that time and then it goes
9 to the City Council for their adoption.

10 MR. DiBIASE: Okay. Has anyone from the
11 Office of Planning ever had a discussion with a
12 developer about a possible R-5-B PUD; that is, what
13 would fit what the parameters would be?

14 MS. McCARTHY: I think when the developer
15 came in we talked about -- we explored a variety of
16 options of density, placement, green space, the zoning
17 on the Lisner property, the zoning on the applicant's
18 property. We touched on a whole variety of zoning
19 issues.

20 MR. DiBIASE: But when they came to you,
21 they came to you at first with a project that was
22 seeking an R-5-D, correct, zoning?

23 MS. McCARTHY: That's right.

24 MR. COCHRAN: No. Actually, didn't it
25 come with yet higher density for a commercial project?

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1 MS. McCARTHY: That's right. I guess it
2 was originally a contemplation of a C-2-A. There was
3 -- it was a C zoning which we felt would not be
4 advisable on this site.

5 MR. DiBIASE: And I'm not as familiar with
6 the C zoning as I am with the R zoning. For the C
7 zoning, where does that density fit in, in terms of
8 being more dense than an R-5-D or less dense?

9 MS. McCARTHY: It probably would have been
10 a similar density, perhaps higher, depending on what
11 the -- which C zone it would have been. But C is
12 short for -- or is --

13 MR. DiBIASE: Commercial.

14 MS. McCARTHY: -- a commercial zone.

15 MR. DiBIASE: Correct.

16 MS. McCARTHY: Which we felt was too
17 intense and inappropriate to put commercial zoning on
18 the site, even if one were going to do housing,
19 because we didn't like the precedent that that would
20 establish.

21 MR. DiBIASE: But there's no proposal that
22 you're aware of that was ever actually put forth by
23 the developer that was an R-5-B PUD or something that
24 would fit under an R-5-B PUD. Is that correct?

25 MS. McCARTHY: When you're talking to a

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1 developer and looking at site planning you're not
2 saying, okay, now let's look at the R-5-C model or the
3 R-5-D model, necessarily. What you're looking at is
4 trying to figure out carrying capacity, traffic
5 studies, how many units will work and not have an
6 adverse impact, and I --

7 MR. COCHRAN: We never saw a site plan,
8 for instance, that was at an R-5-D PU -- excuse me --
9 an R-5-B, as in boy, PUD. We did discuss numbers of
10 units, as is indicated in the report, that might fit
11 on the site under an R-5-B PUD.

12 MR. DiBIASE: Correct, but there was never
13 any proposal by Stonebridge to say, here's what might
14 fit under R-5-B, what do you think.

15 MR. COCHRAN: That's correct.

16 MR. DiBIASE: And you do not view the role
17 of the Office of Planning, do you not, to say, well,
18 show us first what you can do as an R-5-B and let's
19 see where we might be able to go, up or down or
20 whatever the case may be; presumably up, but you don't
21 view that as the role of the Office of Planning?
22 Maybe that's better directed to Mr. Altman.

23 MR. ALTMAN: I think the answer to your
24 question is that we -- as we said in the presentation,
25 I mean, the project started as significantly more

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1 units, a significantly different configuration. I
2 think the architect showed sort of the evolution of
3 this project over a year period of time in response to
4 community issues, our issues.

5 So we are continually shaping the project
6 and it's a balancing act of number of units, site
7 planning, public benefits and amenities and putting
8 all that together in a package that we think is
9 supportable.

10 And it's clearly, you know, we're looking
11 at the existing zoning. We're looking at what's been
12 proposed by the applicant and we're trying to come up
13 with what we think is a supportable project that can
14 achieve and further the goals of the comprehensive
15 plan, which is how we arrived at the package that
16 we've supported today.

17 MR. DiBIASE: Is it fair to say that for
18 the most part, the jumping off point is the project
19 before you? And I'm not saying that you ignore what
20 existing zoning is, but you're sort of -- it's not as
21 if the Office of Planning has some project in mind.

22 You're clearly guided by what the
23 applicant is presenting and determining whether that's
24 appropriate or not, correct?

25 MR. ALTMAN: Well, we're certainly guided

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1 by what's -- I mean, it's presented to us. What we're
2 then guided by are, as I said, a series of things. We
3 have the comprehensive plan. We have the sectional
4 development plan.

5 We have the zoning. We have the policies
6 that the city is interested in pursuing, in this case,
7 transit-oriented development. And then in that
8 context we then evaluate the project and specifically
9 here also as a PUD, you're looking at the public
10 benefits that are provided, commensurate with the
11 flexibility being requested.

12 All of those comes together. We are not
13 simply taking that project as a given or we would have
14 a very different project before us today than what's
15 been presented to the Commission that we're
16 supporting.

17 MR. COCHRAN: At Mr. Altman said,
18 commensurate with the flexibility being requested, to
19 that extent we have to go back and look at what might
20 be done on the site under R-5-B, which is why we
21 evaluated the number of units, the amount of open
22 space that might be provided, et cetera.

23 MR. DiBIASE: But --

24 MS. MCCARTHY: We always start with the
25 matter of right. Everything is compared against what

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1 could be accomplished as a matter of right.

2 MR. DiBIASE: Right. But the initial
3 project in this case was something much larger than
4 the matter of right, correct?

5 MS. McCARTHY: That's what the developer
6 provided.

7 MR. DiBIASE: Right. No, that's what I
8 mean.

9 MS. McCARTHY: We -- in our analysis --
10 you asked what were we guided by or where did we
11 start. We started with, what could be accomplished on
12 the site as a matter of right, and then we weighed
13 what was being requested versus what was being offered
14 in the way of the public benefits and amenities.

15 MR. DiBIASE: Correct. And at no time did
16 you ever ask them to present a proposal that would fit
17 under an R-5 PUD, correct?

18 MS. McCARTHY: We met --

19 CHAIRPERSON MITTEN: I think we've covered
20 that one, if I'm not mistaken.

21 MS. McCARTHY: Right.

22 MR. DiBIASE: Okay. Because I believe the
23 answer's no, you didn't ask them. I mean, wouldn't
24 there be some evidence that you had asked them, come
25 back with an R-5-B PUD and we'll see where we're at.

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1 I understand you have negotiations and you look at
2 that.

3 My question is simply, did you ever say to
4 them, show us an R-5-B fit.

5 MS. McCARTHY: Well, see, why I'm having
6 such a hard time answering that is because we don't
7 have to ask the developer --

8 MR. DiBIASE: I understand.

9 MS. McCARTHY: -- what an R-5-B --

10 CHAIRPERSON MITTEN: He just wants -- I'm
11 sorry.

12 MS. McCARTHY: -- would look like. What
13 we --

14 CHAIRPERSON MITTEN: He just wants to
15 know, did you do that.

16 MR. DiBIASE: Right.

17 MS. McCARTHY: Right. Right. We didn't -
18 - I guess the answer is, we didn't ask the developer
19 because we could calculate what an R-5-B would look
20 like, how many units it would be, what kind of height
21 and density that would require.

22 MR. DiBIASE: It's --

23 MS. McCARTHY: So we didn't ask the
24 developer to do it because we felt we had done that
25 assessment ourselves.

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1 MR. COCHRAN: We suggested at one point
2 that the developer might wish to show the community --
3 if the developer felt that the PUD was as advantageous
4 as it seemed, the developer might wish to illustrate
5 what an R-5-B PUD might look like.

6 MR. DiBIASE: Did you ever see one?

7 MR. COCHRAN: We did not see one.

8 MR. DiBIASE: Okay.

9 MR. COCHRAN: But we were suggesting --

10 MR. DiBIASE: Okay. Let me move on.

11 MR. COCHRAN: -- that this would be
12 something that would the community --

13 CHAIRPERSON MITTEN: Okay.

14 MR. COCHRAN: -- visualize, since we
15 already felt unable to visualize it ourselves.

16 MR. DiBIASE: I agree with you. I would
17 have liked to have seen one, too. But let me move on
18 to my last question, which I think is probably
19 directed to Mr. Cochran.

20 You had, and I guess you probably don't
21 have it today, but the PowerPoint presentation that
22 you did, which was quite good, the very first slide, I
23 think -- you don't have to put it on -- but the very
24 first slide or one of the early slides listed all of
25 the benefits and amenities.

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1 Are there any of those benefits or
2 amenities that you feel would be unavailable under an
3 R-5-B PUD, putting aside the issue of whether they
4 would actually do them, but would you agree with me
5 that there's nothing intrinsic to those benefits that
6 makes them unavailable under an R-5 PUD?

7 MR. COCHRAN: I believe it was slide
8 number five; additional housing at a site designated
9 for it. It's a housing opportunity area. It's a TOD
10 location, one of two regional, commercial centers in
11 D.C.

12 This -- under these we're talking about
13 qualitative benefits, as well as quantitative
14 benefits. It is a housing opportunity. How much
15 housing is appropriate at a transit-oriented
16 development stop. In our judgment --

17 MS. MCCARTHY: The short of it is, if you
18 had an R-5-B PUD you would not have as much additional
19 housing.

20 MR. COCHRAN: Right.

21 MS. MCCARTHY: In the housing opportunity
22 area. So obviously, that would be precluded --

23 MR. DiBIASE: So quantity would be lower
24 there.

25 MR. COCHRAN: Yes.

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1 MS. McCARTHY: Right.

2 MR. COCHRAN: Eighty percent AMI
3 affordable housing.

4 MR. DiBIASE: Still doable, right?

5 MS. McCARTHY: Yes. But I think the
6 bottom line is, the economics of a project drive how
7 much of a benefit or amenity package a developer is
8 able to provide. Our expectation was at a smaller
9 level of density there would be fewer benefits
10 provided.

11 MR. DiBIASE: And that's because you're
12 assuming that a larger -- well, that you're assuming a
13 project that is an R-5-C or even an R-5-D, that the
14 economic benefit to the developer would be greater,
15 correct? And therefore, they should give more
16 amenities, correct?

17 MS. McCARTHY: Correct.

18 MR. DiBIASE: And in fact, if one could
19 show that an R-5-B project would be as economically
20 beneficial as what would seem to be a larger, bigger
21 project, that the amenity package should be the same.

22 MS. McCARTHY: As economically beneficial
23 to the developer?

24 MR. DiBIASE: Yes. I mean, I think it's
25 just logic, right?

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1 MS. McCARTHY: Yes, I can --

2 MR. DiBIASE: Okay. Okay. That's all I
3 have. You don't need to go through them. I mean, I
4 think we all agree that -- well, I won't even go
5 there.

6 MR. ALTMAN: The only point I would add is
7 -- which is just to reinforce what McCarthy said,
8 which is the first point on the benefits and return,
9 that additional housing at the site and housing
10 opportunity area is a significant benefit.

11 And yes, there are the other amenities
12 which you can argue in terms of the economics, but the
13 fact that at this location within a housing
14 opportunity area, that those additional units we do
15 think from a citywide perspective is an important
16 public benefit, and it's been weighed in the context
17 of all the other issues and criteria.

18 MR. DiBIASE: And the current plan
19 projects about 110 units, correct?

20 MR. COCHRAN: Between 110 and 125, I think
21 was the maximum.

22 MR. ALTMAN: Twenty-five.

23 MR. DiBIASE: And in terms of that number
24 of units, that number of units, putting aside square
25 footage, that number of units would be available under

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1 an R-5-B.

2 MR. COCHRAN: Let me -- that, I need to
3 check.

4 MR. DiBIASE: And then that's my last
5 question.

6 CHAIRPERSON MITTEN: Thank you.

7 MR. COCHRAN: Putting aside the square
8 footage, working on certain market assumptions, we had
9 calculated that, yes, that number would be available
10 under R-5-B with a PUD.

11 MR. DiBIASE: PUD -- okay. Thank you. I
12 have to go to another meeting. So I will waive the
13 rest of my cross-examination and thank the Commission
14 very much, and thank the Office of Planning for their
15 presentation.

16 CHAIRPERSON MITTEN: Thank you, Mr.
17 DiBiase. And Mr. Gordon, did you have some questions?

18 MR. R. GORDON: Yes.

19 CHAIRPERSON MITTEN: All right. Would you
20 mind just stating your name for the record as you
21 begin?

22 MR. R. GORDON: Yes. Robert Gordon. I'm
23 with ANC 3/4G.

24 CHAIRPERSON MITTEN: Thank you.

25 MR. R. GORDON: Do you agree with the

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1 developer that there'll be no negative adverse affect
2 from traffic, additional traffic from the building and
3 from the daycare center, particularly during peak
4 hours?

5 MR. COCHRAN: We've relied on the
6 Department of Transportation, which has even more
7 expertise than we do on this, and yes, we rely on
8 their opinion that there will be no negative impact
9 from the traffic at this proposal project.

10 MR. R. GORDON: When you combine the
11 additional traffic from this building, the daycare
12 center and the other planned buildings along Wisconsin
13 Avenue and -- how do you see the traffic pattern
14 changing or worsening, as far as I can see, over the
15 next few years?

16 MR. COCHRAN: Yes. If I were able to see
17 that then I would be working at the Department of
18 Transportation. So it would be appropriate for you
19 perhaps to cross-examine DDOT on this, or the
20 applicant's transportation consultant.

21 MR. R. GORDON: Thank you. One of the --
22 my last question is, one of the -- the developers said
23 that they would not haul trash or building materials
24 along Military Road.

25 Do you have a way of enforcing that? Are

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1 you planning on enforcing that or is that -- or how
2 does that fit in with your planning process?

3 MR. COCHRAN: This would be part of the
4 covenant that is -- presumably -- that the Zoning
5 Commission would attach to any possible approval of
6 the planned unit development. It's enforceable to
7 that extent.

8 MR. R. GORDON: And who does enforce that?
9 Is that a police function?

10 MR. COCHRAN: Well, it's DCRA, but it's
11 the -- I'm sorry. Let me --

12 MS. McCARTHY: The Office of Zoning now
13 has hired a person --

14 MR. COCHRAN: Oh, right.

15 MS. McCARTHY: -- who is specifically in
16 charge of looking at the enforcement of conditions on
17 BZA orders in planned unit developments.

18 MR. R. GORDON: Okay. Thank you.

19 CHAIRPERSON MITTEN: Thank you, Mr.
20 Gordon, and you might want to get your presentation,
21 because I think you'll be up next. We had the
22 presentation by the Department of Transportation
23 already, and are there any other government agencies
24 that you're aware of that have weighed in on this?

25 All right. And we had taken Mr. DiBiase

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1 earlier last week. So Mr. Gordon, we're ready for the
2 presentation for ANC 3/4G.

3 MR. QUIN: I thought the ANCs had already
4 presented and we were now -- we were continuing with
5 people in support. I didn't realize that --

6 CHAIRPERSON MITTEN: Mr. DiBiase had
7 presented for ANC 3E. If you recall --

8 MR. QUIN: Right. But there's -- I know
9 there's another representative of 3E, but I thought
10 that was -- are you going through more of the --

11 CHAIRPERSON MITTEN: We had said in the
12 original hearing that ANC 3E would be a party because
13 of where the property is located.

14 MR. QUIN: Right. Understand.

15 CHAIRPERSON MITTEN: And then we granted
16 party status to ANC 3/4G, as well, and I was going to
17 take their report at this point.

18 MR. QUIN: All right. And I think there
19 is another witness here from ANC 3E, as well.

20 CHAIRPERSON MITTEN: Well, then they'll
21 testify as an individual, because we're taking the
22 representatives from the -- representing the ANC
23 positions at this point.

24 Whenever you're ready, Mr. Gordon.

25 MR. R. GORDON: Thank you very much. ANC

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1 3/4G, Chevy Chase, D.C., has been following the
2 negotiations between the Stonebridge developers and
3 the Friendship Heights community closely. We have
4 been formally and publicly briefed by both the
5 developer and the opponents of the development.

6 We have seen the size and the
7 intrusiveness of the buildings shrink and the mass get
8 pushed toward Western Avenue. We have also observed
9 that the developer has been flexible in response --
10 and responsive in its discussions with ANC 3E.

11 Our ANC did not focus on the aesthetics of
12 the project, but we understand that it'll be an
13 attractive building. Smart growth advocates think
14 that it is a worthy project. Yet my ANC voted five
15 zero one against the Stonebridge project.

16 Why did we do that? The reason, as I see
17 it, is that our community in Chevy Chase sees month by
18 month, year by year, our quality of life being chipped
19 away and eroded. We're experiencing greater levels of
20 traffic in our streets, moving at faster speeds.

21 We're having greater difficulty in finding
22 parking. Furthermore, we see no end in sight as
23 Friendship Heights continues to grow. And who can we
24 turn to for a solution of these problems? I can tell
25 you from experience that ANC's pushed the Department

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1 of Transportation, the Department of Planning, the
2 police and other agencies to study the situation, come
3 up with solutions and take action.

4 And yet, we can wait years for a basic
5 study of the traffic on Military Road, Western Avenue
6 and other arterials, let alone the back streets. We
7 often wait for years for traffic calming studies, let
8 alone effective action taken by the city.

9 This may not be the developer's
10 responsibility, but it is the operating environment.
11 Along comes a developer who seeks a PUD. I am betting
12 that Stonebridge has a better chance of getting a PUD
13 approved and an apartment building built long before I
14 see a traffic light put in.

15 We've waited several years for a stop
16 sign. So part of the reason that we voted to oppose
17 the development is that we believe that the developer
18 is getting better service from the city than the
19 citizens.

20 But another disturbing factor is that the
21 developers -- the developer claims that the projects
22 will have a positive effect on traffic. Yet, the
23 developer's own traffic studies appear to be
24 contradictory.

25 From experience the numbers are clearly

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1 wrong, and anyone with any sense who drives west on
2 Military Road knows that an average waiting time of
3 less than 30 seconds at Western and Wisconsin during
4 the peak demand hour is ridiculous.

5 Furthermore, the issue of whether the site
6 will drive motorists onto side streets was not
7 addressed in the study. This calls into question the
8 developer's credibility, at least on this issue.

9 The developer provides a vague list of
10 improvements to help traffic conditions, but we know
11 that the city would not approve or pay for the
12 improvements, such as traffic humps on 43rd Street.

13 I am not convinced that the traffic issues
14 associated with the combined apartment building and
15 the daycare center have been adequately thought
16 through or addressed. In short, my ANC's key concerns
17 are still traffic and its effects on the neighborhood,
18 safety for motorists and pedestrians and construction
19 impacts.

20 We are not yet convinced that the
21 developer has addressed these issues adequately.
22 Thank you.

23 CHAIRPERSON MITTEN: Thank you, Mr.
24 Gordon. Anyone have any questions for Mr. Gordon?
25 Any questions?

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1 Mr. Quin? Let's see. We don't have Mr.
2 DiBiase. Mr. Hitchcock, any questions?

3 MR. HITCHCOCK: No questions.

4 CHAIRPERSON MITTEN: All right. Thank
5 you, Mr. Gordon. All right. We'll go to persons in
6 support and we had -- I have the sign-in sheet from
7 last time and we had a few people who couldn't come
8 back that testified.

9 And I'll just call folks from the list,
10 and then if there's anyone else who didn't sign up
11 we'll get you at the end. Caitlin Wood Sklar.

12 MS. BOHAN: She's not here.

13 CHAIRPERSON MITTEN: Not here. Karen
14 Bohan.

15 MS. BOHAN: Yes, that's me.

16 CHAIRPERSON MITTEN: Come forward and take
17 a seat at the table, and I would remind everybody -- I
18 hope you did this -- but you need to fill out two
19 witness cards and give them to the reporter when you
20 come forward.

21 Allison Barnard Feeney, have a seat. Lisa
22 Danahy.

23 MS. BOHAN: Danahy. She's not here yet.

24 MR. QUIN: Maybe I can just explain that
25 she's representing the daycare. She's at a meeting

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1 tonight and will be here at 8:00 o'clock.

2 CHAIRPERSON MITTEN: Okay.

3 MR. QUIN: Thanks.

4 CHAIRPERSON MITTEN: Richard Hurlaux, H-U-
5 R-I-A-U-X. Not here. I think we heard from Mr.
6 Pettit last time. Mr. Meyer. Is Mr. Meyer here, Mike
7 Meyer? Anyone else want to testify as a proponent?
8 We have two seats.

9 So two people come up and then we'll get
10 you -- we'll get who's ever left on the next round.
11 So we'll start with you and we'll work our way down
12 the table. And I believe everyone's just testifying
13 as an individual. So you each have three minutes.

14 MS. BOHAN: Okay. My name is Caren Bohan
15 and I'm a seven-year resident of the District. I
16 would like to speak in strong support of the
17 Stonebridge plan to develop the Washington Clinic
18 site.

19 I live in Chevy Chase, D.C., about a 20-
20 minute walk from the site, and my two children have
21 both attended Chevy Chase Plaza Children's Center.
22 Although being a parent at the Center is what
23 initially sparked my involvement in the hearings on
24 this project, it is not the only reason for my
25 support.

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1 I think this is a very reasonable proposal
2 that will serve the need for additional housing in the
3 District near public transit. As far as the childcare
4 component goes, that is one of the many reasons I
5 think this proposal deserves approval.

6 The fact that the childcare center will be
7 a nonprofit run by the Children's Center represents a
8 very important opportunity to expand the options for
9 quality childcare in the District.

10 A few months after my son was born five
11 years ago I visited many childcare centers in the
12 District, but found none with the kind of warm and
13 caring atmosphere of the Children's Center.

14 We were lucky enough to be on the waiting
15 list only 10 months before getting a space, and my son
16 thrived there and my daughter, who is now three, has
17 also had a terrific experience there. When my son
18 started kindergarten in September I was impressed at
19 how well he adapted to a new full-day school, five
20 days a week.

21 He's excelling at things like phonics and
22 early reading. I give a lot of credit to the
23 Children's Center for helping prepare him for this
24 important step. I feel very lucky to have had access
25 to such excellent childcare.

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1 I know many, many working mothers who are
2 not so lucky and who have been on waiting lists for a
3 long time to try to get their children into a good
4 childcare program. If the Stonebridge plan goes
5 through it is unlikely that I personally will benefit
6 from the expanded childcare center, as both my
7 children will already be in public school by then.

8 But I would like to see other children
9 benefit from the wonderful atmosphere of the
10 Children's Center. Since I live a 20-minute walk away
11 from the proposed development, I won't have to deal
12 with the noise and other issues that accompany new
13 construction and I'm sympathetic to the neighbors'
14 concerns.

15 However, I think that the developers have
16 made quite a number of compromises to try to address
17 the issues they have raised. I also think that it's
18 crucial to look at the long-term and issues such as
19 the environment.

20 I take my daughter to the Children's
21 Center on the bus or often walk to Friendship Heights
22 with her in the stroller. I'm a big believer in
23 public transportation, and as a Chevy Chase resident I
24 would like to say that I think that building housing
25 near transit is a way to help traffic.

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1 I think it helps it in the long-run, not
2 hurts it, and I think building the higher density
3 developments near the Metro is a way to help the
4 environment and help traffic issues. It gets cars off
5 the road and ultimately will contribute to a sensible
6 development pattern, as population density is
7 clustered near restaurants, shops and other amenities.

8 CHAIRPERSON MITTEN: You need to wrap it
9 up now.

10 MS. BOHAN: Okay. Sorry.

11 CHAIRPERSON MITTEN: You're out of time.

12 MS. BOHAN: I think that this contributes
13 to a more cosmopolitan atmosphere for the District, as
14 opposed to the sprawl that we see in Montgomery County
15 and Northern Virginia. I encourage you to support
16 this proposal. Thank you very much for listening to
17 what I have to say.

18 CHAIRPERSON MITTEN: Thank you. And if
19 you wanted to submit the written statement for the
20 record now or before the record closes, we would be
21 happy to receive it.

22 MS. BOHAN: Okay.

23 CHAIRPERSON MITTEN: Next -- and just stay
24 at the table until everybody speaks, and then we'll
25 have some questions.

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1 MS. BOHAN: Okay.

2 CHAIRPERSON MITTEN: You need to turn on
3 the mike there, just push down. There you go.

4 MS. FEENEY: Good evening. My name is
5 Allison Barnard Feeney. When a developer approaches a
6 neighborhood with the intent of creating a planned
7 unit development it's an opportunity for a win/win
8 relationship between the developer and the community.

9 The neighborhood should use the PUD
10 process to negotiate agreements in critical areas of
11 concern. It should then exchange compromises in
12 density for height for amenities it values but that
13 cannot be secured by any other means.

14 Our neighbors have negotiated agreements
15 on the key issues of parking, traffic ingress and
16 egress from the site, pedestrian safety and
17 establishing a buffer between the commercial and low
18 density area residential area.

19 At the same time, through the efforts of
20 the Office of Planning we've secured two valuable
21 amenities that could not be secured by any means other
22 than through a PUD, moderate income housing units and
23 a childcare center that will accommodate 44 children.

24 Both amenities are desperately needed in
25 Ward Three. Escalating property values are nice for

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1 residents, but who will young professionals or
2 retirees afford to live in our neighborhood? How will
3 we maintain the diverse population needed to make our
4 neighborhood thrive?

5 Chevy Chase Plaza Children's Center was
6 created through a PUD. It has a wait list that's more
7 than two years long and it has been looking for space
8 to expand for three years without success. How else
9 can we increase our supply of infant childcare?

10 The question to be answered is: are the
11 amenities offered in this PUD sufficient to justify
12 the additional height and density of the proposal that
13 is above the matter of right development? Stonebridge
14 has offered an uncommonly generous amenity package.

15 I believe that the public benefits of that
16 package clearly exceed any cost to the immediate
17 neighborhood of the additional height over that
18 allowed by right.

19 We must keep in perspective that however
20 vocal, however well funded and well organized, the
21 opposition to this project numbers less than 500
22 residents in an ANC 3E that has an estimated current
23 population of 11,876, and in Ward Three that has an
24 estimated current population of 73,718 residents.

25 Furthermore, the silence of the remaining

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1 96 percent of ANC 3E does not imply opposition to the
2 project. In discussing this project with my friends
3 and neighbors, they have communicated to me unanimous
4 support for increased residential density on the
5 Washington Clinic site.

6 They have communicated such varied
7 concerns as for shoring up the eroded D.C. tax base,
8 the lack of variety of housing types in ANC 3E, the
9 lack of affordable housing and attracting a diverse
10 set of neighborhood serving businesses.

11 In talking to my immediate neighbors I was
12 surprised to find four different households within 200
13 feet of my home have had a child on the wait list at
14 CCPCC for more than two years without being able to
15 secure space.

16 In closing, I encourage you to approve
17 this application as proposed, because it represents a
18 cooperative effort between the neighborhood and the
19 developer, it provides solutions for problems of
20 import to the neighborhood, it provides a generous
21 amenity package that is critical to the continued
22 appeal of this neighborhood as a place to start out to
23 raise families and to retire. Thank you very much.

24 CHAIRPERSON MITTEN: Thank you.

25 Sir.

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1 MR. THAW: My name is Larry Thaw, and I'll
2 just speak to you from -- just from the heart of what
3 I feel about the project. I'm a resident for 22 years
4 and have three children. Besides the architecture
5 with the developers taking a lot of time, we heard
6 about 143 feet at Chevy Chase Pavilion, and this
7 project is scaled down to 78 feet.

8 One of the most important things that the
9 group ought to consider is the amount of money that
10 the developer's going to give to the park that's right
11 there adjacent to the clinic. As a coach for the past
12 15 years of Capitol City Little League, the biggest
13 problem we have is the condition of the fields.

14 The biggest problem we have is that
15 there's a lot of little children who are sitting out
16 in the swings and foul balls hit them and it's just a
17 tough situation. This developer is going to
18 contribute, I think it's approximately \$700,000 to
19 that park, which ordinarily, those contributions from
20 the Little League teams are about \$3 and \$5.

21 So once again, as a resident I feel very
22 comfortable what they're doing to the community, what
23 they're doing for the park and I strongly -- strongly
24 propose that we accept this developer situation.

25 Thank you.

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1 CHAIRPERSON MITTEN: Thank you, Mr. Thaw.

2 Sir, I need you to turn on your
3 microphone. There you go.

4 MR. F. GORDON: Madam Chair, members of
5 the Zoning Commission, my name is Frank Gordon, and I
6 am the Advisory Neighborhood Commissioner for ANC 3E-
7 05, and I appreciate the opportunity to testify in
8 support of this application.

9 I think the Stonebridge plan is an
10 excellent plan. It represents smart growth at its
11 best by putting appropriate density at a transit hub
12 in a commercial center. The plan balances increased
13 density with substantial community amenities and
14 benefits, including a half-acre of open space as a
15 buffer to the neighborhood.

16 And Stonebridge, to its credit, actively
17 sought community input in the plan and incorporated
18 many positive elements as a result. The plan before
19 you today is as good as it is because of this
20 community involvement and the input from the Office of
21 Planning.

22 The factors that led to the Office of
23 Planning's support of this plan are compelling. This
24 application is in conformance with the comprehensive
25 plan, and it provides exceptional amenities and

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1 benefits to the District of Columbia, especially the
2 provision of affordable housing.

3 Therefore, the zoning flexibility the
4 applicant requests should be granted. And with
5 respect to our ANC I think the record speaks for
6 itself that four of five Commissioners think this is a
7 good plan, even though two of those four voted to the
8 contrary. I strongly urge you to support this plan.
9 Thank you.

10 CHAIRPERSON MITTEN: Thank you. I think I
11 overlooked your name because it was so similar to the
12 other Mr. Gordon.

13 MR. F. GORDON: Right.

14 CHAIRPERSON MITTEN: Any questions for
15 this panel? Any -- Mr. May?

16 COMMISSIONER MAY: I just want to clarify
17 now so that it's not a real surprise later that I
18 think that the stated benefit from the -- for the
19 improvements to the park is in the neighborhood of
20 \$75,000, which is still very significant, at least
21 according to OP. So that's where I got it.

22 VICE CHAIR HOOD: Madam Chair --

23 CHAIRPERSON MITTEN: Mr. Hood.

24 VICE CHAIR HOOD: -- I just wanted to ask
25 Ms. Barnard Feeney, did you support this project

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1 through the whole process, I mean, what was first
2 proposed and what's now being proposed?

3 MS. FEENEY: Yes, I did.

4 VICE CHAIR HOOD: Okay. Everyone at the
5 table just supported the project the whole time?

6 MR. F. GORDON: No. I --

7 VICE CHAIR HOOD: That's who I was looking
8 for.

9 MR. F. GORDON: No. Actually, in the
10 testimony that -- you know -- in our hearings at the
11 ANC I was the first to say, I think in September, that
12 I thought the amenity package was sub-par, and that
13 was my quote.

14 It improved dramatically. I also said I
15 thought the height of the building was too tall. I
16 thought it was too wide. I wasn't thrilled with the
17 plan, but it did improve as a result of the give and
18 take with those of us on the ANC who did engage with
19 the developer, and those neighbors who wanted to
20 participate.

21 So I think the plan improved as a result,
22 and I am very comfortable with it now. I was not
23 comfortable with it as originally proposed.

24 VICE CHAIR HOOD: Okay. Thank you.

25 MS. FEENEY: Do you mind if I elaborate on

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1 my answer?

2 VICE CHAIR HOOD: Sure.

3 MS. FEENEY: Okay. I really -- I liked
4 the initial design that was presented in November
5 2001. I thought it was an elegant design. I really
6 would have welcomed the ground floor retail on Western
7 Avenue, because as a pedestrian walking from American
8 University Park over to Chevy Chase, there is -- it's
9 sort of a no man's land to walk down Western Avenue.

10 So I really would have -- I welcomed that
11 as a reason for pedestrians to turn the corner.
12 However, I appreciate the process and I appreciate
13 that the immediate neighbors had their reasons for
14 being -- for objecting to the ground floor retail.

15 They had their reasons for objecting to
16 the building going from -- or being rental units as
17 opposed to owned units. I would have preferred rental
18 units. There's very few rental opportunities in ANC
19 3E, but this is something that the neighborhood had a
20 significant impact on the immediate neighbors.

21 And so they were able to make their
22 concerns heard. And I appreciate that process and I
23 support it. And while I supported the project all
24 along, I do support the neighborhood is allowed to
25 have its say.

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1 This is not the project I would have
2 designed for the site, but I think it's a good
3 compromise.

4 VICE CHAIR HOOD: Okay. Thank you, all.

5 CHAIRPERSON MITTEN: Thank you. Let me
6 just see if Mr. Quin has any questions.

7 MR. QUIN: No questions.

8 CHAIRPERSON MITTEN: Mr. Gordon, Mr.
9 Robert Gordon, did you have any questions?

10 MR. R. GORDON: No questions.

11 CHAIRPERSON MITTEN: And Mr. Hitchcock,
12 did you have any questions?

13 MR. HITCHCOCK: One or two, if I may. Ms.
14 Feeney, you mentioned the Chevy Chase Pavilion
15 Children's Center. Do you have any affiliation with
16 the Center?

17 MS. FEENEY: I have one son that goes to
18 the Center currently, and my other son is an alumni.

19 MR. HITCHCOCK: Okay. In taking your
20 children there do you drive or walk?

21 MS. FEENEY: I typically drive.

22 MR. HITCHCOCK: Typically drive.

23 Ms. Bohan -- and how far away do you live?

24 MS. FEENEY: How far do I live?

25 MR. HITCHCOCK: Yes.

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1 MS. FEENEY: I live, I guess it's about
2 half a mile.

3 MR. HITCHCOCK: Half a mile.

4 Ms. Bohan, same question to you. In
5 taking your kids to and from the daycare center do you
6 typically drive or walk?

7 MS. BOHAN: I take the bus.

8 MR. HITCHCOCK: You take the bus. Okay.
9 Thank you.

10 CHAIRPERSON MITTEN: Thank you, Mr.
11 Hitchcock, and thanks to all of you. And I believe
12 there was at least one more gentleman in the back.
13 Anyone else want to testify in support? Now is the
14 time.

15 And if Ms. -- is it Danahy -- I said it
16 wrong, Dahany, Danahy -- if she comes, I think there
17 might have been some questions for her. So we'll take
18 her out of turn if she comes later. So call -- you
19 know -- remind me.

20 Just go ahead and begin whenever you're
21 ready.

22 MR. TOBRINA: My name is Matthew Tobrina.
23 I'm the president of the Board of Lisner Home. We're
24 the closest neighbor, probably, and the one
25 potentially most affected by this. We're in favor of

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1 the project.

2 I thought I'd go back in time to the '20s,
3 to give you a little history of how we got here. Mr.
4 Lisner owned a department store called Palais Royale
5 on Washington. He fell in love with a woman who
6 worked there.

7 Excuse me. She prevailed upon Mr. Lisner
8 to put into his will the donation of monies to support
9 the Lisner Home. He died in 1939. The home was left
10 a million dollars in his will, along with other
11 recipients like the Lisner Auditorium.

12 The home was built and my grandfather was
13 the original president. I fast-forward to 1952. My
14 father then was the president and he sold this piece
15 of property to the Washington Clinic, which was
16 originally our property, subject to a covenant.

17 That covenant provided that only medical
18 usage would be applied in that particular building.
19 Again, the current Washington Clinic's been there
20 since the early '50s. We have had great neighborly
21 relationships with them.

22 They were interested in moving out of
23 there. They came to us, asked us if we would release
24 the covenant. We did so for consideration. As the
25 Board, we have to -- we're not good guys. We have to

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1 run a business.

2 We're a 501(c)(3), of course, but we still
3 have to run a financially sound activity there. We
4 can't give anything away. At the same time, they
5 asked us if they could have an option on a piece of
6 property from us to enhance the value of their resale.

7 We said yes. We offered them an option on
8 15,000 square feet. That subsequently was transferred
9 through the -- I guess the contingent sale for
10 Stonebridge. We stand to get some money out of this.

11 We're happy about that because that's going to help
12 us with our mission.

13 Our mission is to take care of indigent
14 people who live in the District of Columbia. We have
15 105 people there. No one on the Board gets a cent out
16 of this thing.

17 It's all volunteer and we believe that
18 this is a good use of the property, in addition to the
19 fact that we will receive compensation for the
20 property that we're selling. It's going to help us a
21 lot.

22 So as a neighbor, we appreciate the fact
23 that this is a very good use of the resources there.
24 And as an individual Washingtonian for many years, and
25 still living in town part-time, I think it's the right

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1 kind of use for that property. So I'll stop at that
2 point.

3 CHAIRPERSON MITTEN: Thank you, Mr.
4 Tobrina.

5 Sir, turn on your mike for me.

6 MR. POE: I'm sorry. My name is Gregory
7 Poe. I am a resident of the District. I live in the
8 3600 block of Jennifer Street. My daughter is a child
9 at the Center. I have supported the project in
10 principle from an early meeting at the Embassy Suites
11 Hotel that I think was conducted by Ms. Diskin of the
12 ANC.

13 I think the community has done an
14 extremely impressive job of helping to shape this
15 project, and having -- living in the 3600 block of
16 Jennifer Street, it's a little easier for me from that
17 perspective, than from the perspective of a person --
18 of a person who lives in the immediate area to support
19 the project in principle.

20 But it is evident to me that this is a
21 responsible developer. I practiced a lot of different
22 kinds of law in my life, and it's evident to me that
23 this is a responsible developer who's lived -- who has
24 responded well to the opposition of the immediate
25 individuals in the community.

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1 It is also evident to me that the District
2 needs quality daycare. My child was on the waiting
3 list almost two years before we could get into the
4 Center. And I think this is a responsibly run center.

5 I think it has a track record of doing that.

6 And if the developer has added this as
7 part of an amenity to get the project done, I think
8 that's a responsible thing to do. And I think the
9 project is at a point now where from my amateur
10 position it seems to be a reasonable accommodation,
11 and I am in support of it for that reason. Thank you.

12 CHAIRPERSON MITTEN: Thank you, Mr. Poe.
13 Any questions for these gentlemen? Any questions?
14 Any questions?

15 Mr. Quin.

16 MR. QUIN: No questions.

17 CHAIRPERSON MITTEN: Mr. Gordon?

18 MR. R. GORDON: None.

19 CHAIRPERSON MITTEN: Mr. Hitchcock.

20 MR. HITCHCOCK: Mr. Tobrina, you're
21 appearing here for the Lisner House. Am I correct?

22 MR. TOBRINA: Lisner Home, yes.

23 MR. HITCHCOCK: Lisner Home, which is an -
24 - which is one of the applicants, correct?

25 MR. TOBRINA: I assume we are. I heard

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1 the name read.

2 MR. HITCHCOCK: Okay. The applicant's
3 case was earlier. Question in terms of the covenant.
4 What was the consideration for leasing covenant?

5 MR. TOBRINA: I'll be glad to tell, but is
6 that something I really have to answer?

7 CHAIRPERSON MITTEN: Can you tell us what
8 the relevance is?

9 MR. TOBRINA: If you mean dollars, I can
10 tell you that.

11 MR. HITCHCOCK: Well, it deals with part
12 of the nature of the benefits that are being proffered
13 by the applicant in terms of the trade-off for the
14 community, basically, the heart of the case.

15 MR. QUIN: I would object. I don't think
16 it has anything whatsoever to do with the amenity
17 package. It has to do with the deal separately, in
18 order to allow the land to go forward as part of the
19 PUD.

20 CHAIRPERSON MITTEN: I think the balancing
21 that goes on is not the balance of economic benefits
22 that flow to the applicant or one applicant versus
23 another, but it's a question of is -- for the
24 flexibility that is being sought, is the amenity
25 package adequate.

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1 So I'd rather that you weighed it against
2 the flexibility being sought rather than any dollar
3 amounts that are changing hands.

4 MR. HITCHCOCK: Okay. Thank you, Madam
5 Chair.

6 CHAIRPERSON MITTEN: Thank you. Thank
7 you, gentlemen. All right. Anyone else who wants to
8 testify in support?

9 All right. Then we'll move to the
10 opposition case, and I understand that the Fhord Group
11 would like to have five minutes to set up their
12 PowerPoint Presentation. So we'll take a five-minute
13 break.

14 Oh, and I'll ask Mr. Thaw, Mr. Frank
15 Gordon, Mr. Tobrina and Mr. Hitchcock, they don't seem
16 to have cards, for you. So but we need cards filled
17 out. And if you have any questions, you can direct it
18 to staff.

19 (Whereupon, the foregoing Hearing went off
20 the record 7:50 p.m., and went back on the record at
21 7:58 p.m.)

22 CHAIRPERSON MITTEN: Please take your
23 seats, and I would remind you, Mr. Hitchcock, you have
24 60 minutes.

25 MR. HITCHCOCK: Thank you, Madam Chair.

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1 As a preliminary matter we would seek to qualify two
2 of our witnesses as experts: George Oberlander on
3 Planning and Joe Mehra on transportation. Their
4 resumes appear in the record as Exhibit 3 to our
5 request for party status and both have previously
6 testified as experts before this Commission.

7 CHAIRPERSON MITTEN: Let me just find out.
8 Has everyone read those over or do you need a minute
9 to look at that? Just give a minute.

10 MR. HITCHCOCK: Okay. Thank you. Is this
11 coming from our time?

12 CHAIRPERSON MITTEN: No. The clock's
13 going to get reset.

14 MR. HITCHCOCK: Okay. Thank you.

15 (Laughter)

16 MR. HITCHCOCK: I would also ask while the
17 Commission is looking at it, is it possible to lower
18 the lights?

19 CHAIRPERSON MITTEN: I know it's possible.
20 I don't know how, but I know it is.

21 MR. HITCHCOCK: I felt the same way
22 putting together this presentation. Okay. Yes.
23 Actually, could we put the lights out after -- Ms.
24 Rebold, as our first witness, has some presentation
25 that's not up here.

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1 CHAIRPERSON MITTEN: Is there any
2 objection to qualifying Mr. Oberlander as an expert in
3 planning and Mr. Mehra as an expert in traffic and
4 parking? Any objection? All right. They're both
5 accepted as experts in the proffered field. Now,
6 we'll start the clock.

7 MR. HITCHCOCK: Okay. Thank you, Madam
8 Chair, members of the Commission. My name is Con
9 Hitchcock, and I'm representing the parties in
10 opposition to this proceeding. This is a case about
11 two competing visions for an important site in the
12 District of Columbia.

13 You've heard Stonebridge offer its vision
14 for this neighborhood, a vision of high density
15 development packed close to a community of townhouses
16 and single family homes.

17 You've heard about smart growth and how
18 some of the witnesses think a building this size is
19 perhaps the smallest possible that ought to be allowed
20 on this particular site.

21 Well, what we'd like to offer in the next
22 hour is a competing vision, a vision from the people
23 who live very close to the specific site, and they
24 would like to make three major points. First of all,
25 smart growth is not synonymous with great density.

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1 And in the same fashion, development in a
2 housing opportunity area does not automatically mean
3 greater density. Second, you can achieve smart growth
4 a number of the benefits touted by Stonebridge under
5 matter of rights zoning, which is R-5-B.

6 And we will show how Stonebridge has
7 overestimated the value of the amenities package, and
8 we've also pointed out, as you heard testimony
9 earlier, the residential portions of the buildings
10 near this site are developed according to the R-5-B
11 zone.

12 Third, we believe there is a compelling
13 need to respect the lines that have already been drawn
14 in this neighborhood and to maintain a clearly defined
15 transition between the commercial and high density
16 part of the neighborhood and the nearby low density
17 residential area.

18 The Stonebridge proposal simply does not
19 do this. The current zoning, which was put in place
20 with full knowledge and recognition that Metro was
21 coming to this site, accomplishes that goal in a
22 superior fashion.

23 Let me now introduce our witnesses. You
24 will hear first from Ms. Hazel Rebold, immediately to
25 my left, who lives closest to the development site,

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1 who will describe the neighborhood and give you a
2 quick overview of the harmful impact of this proposal
3 from their perspective.

4 We will then turn to our planning expert,
5 George Oberlander, who will demonstrate that the
6 current zoning reflected the result of a considered --
7 and we can note also -- considerable planning effort
8 by local and federal authorities and why there's no
9 need to disturb that zoning in the sort of ad hoc
10 fashion being proposed here.

11 Our transportation expert, Mr. Joe Mehra,
12 will explain why Stonebridge's estimated traffic
13 impact is seriously flawed. Dr. Marilyn Simon,
14 another neighbor, is an economist who has reviewed
15 Stonebridge's economic analysis and will talk about
16 the affordable housing, daycare tax and other
17 amenities, and demonstrate why the alleged benefits
18 are not substantial enough to warrant approval.

19 Larry Freedman, another neighbor, will
20 focus on the purported benefits and demonstrate why
21 Stonebridge has failed to establish that this amenity
22 -- that this pledge should be granted, or to justify
23 the added height and density.

24 And finally, we have Ms. Betsey Kuhn,
25 another neighbor, who will talk about the constructive

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1 management plan, which a number of neighbors regard as
2 inadequate. And with that introduction, let me
3 introduce Ms. Rebold.

4 MS. REBOLD: Thank you. My name is Hazel
5 Rebold. I live at 4228 Military Road, the closest
6 house. I'm car-free. I work at home as an artist.
7 So most of my life takes place across the street from
8 this site.

9 I've prepared some illustrations that give
10 a sense of my neighborhood and the impact of the
11 proposed development. If you will please turn to page
12 1 on the large drawings, this is what the closest
13 houses look like.

14 The house on the corner, the white one
15 with the parking sign in front, is mine, right across
16 the street from the Lisner part of the site. My
17 property line is only 90 feet from the site. My stone
18 wall, not shown in the photo, is sort of a
19 neighborhood landmark and is even closer, 71 feet
20 away.

21 There is a one-story house to my east, a
22 two-story house to the south and townhouses to my
23 west. In the 18 years I've lived here the immediate
24 neighborhood has changed from probably half rental
25 properties into nearly all owner occupied houses.

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1 My own house had been a rather shabby
2 rental. I've tried to turn it into a neighborhood
3 asset, located as it is on this very prominent corner.

4 I can think of at least 38 housing units I have seen
5 added to the total in my neighborhood just within a
6 two-block radius of my house, including the 29
7 townhouses directly across from the site.

8 Drawing number two shows just how out of
9 scale and character the proposed building would be.
10 It gives an idea of what I would have to look at. The
11 tallest part is their penthouse, remarkably flaunted
12 for a grand total there of over 94 feet.

13 Note the comparison with my house, which
14 is about 26 feet to the peak of its roof. This is not
15 a buffer between my house and the massive high rises
16 on Wisconsin Avenue. It is itself a massive high
17 rise.

18 Please turn to page 3. As I noted before,
19 the courts of Chevy Chase Townhouses were recently
20 built right across Military Road from the clinic site.

21 They are an effective and pleasing transition between
22 my house and the commercial half of that square.

23 In both character and scale they respect
24 the nearby areas. On page 4 is another example of
25 housing near a busy Metro station that I particularly

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1 like, which shows that it's possible to not only have
2 dense new housing that respects its neighbors, but
3 also, that it can be done with a single curb cut and
4 underground parking.

5 It was said during the Stonebridge
6 presentation that townhouses would involve an
7 unacceptable series of driveways onto our busy
8 streets, but an urban townhouse community can be built
9 with a single curb cut leading down into a common
10 basement level from which each homeowner enters their
11 own two-car garage.

12 And if this garage level is just partially
13 below grade under townhouses raised up a few steps, it
14 can be particularly attractive. The villages of
15 Bethesda, within a block from the Bethesda Metro and
16 pictured here, is an example of this way to eliminate
17 driveways, to maximize landscaping and to maximize
18 townhouses per acre, all with a single curb cut as
19 shown in the last photo.

20 Page 5 illustrates how the height and
21 floor area of the existing clinic compares to the much
22 larger building that could be built as a matter of
23 right under the current zoning. I included it because
24 it's been useful to show people that the Fhord motto,
25 keep the zoning, does not mean keep the clinic.

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1 But Stonebridge is asking to build
2 something eight times as massive as the clinic and
3 more than twice as massive as matter of right.
4 Incidentally, I would not object to a new matter of
5 right sized clinic.

6 This is not a question of growth or no
7 growth. The question is, how much. I was a member of
8 the working group that was supposed to involve
9 neighborhood residents in the planning for this site,
10 but the meetings all seemed to be just an exercise
11 carried off to check out -- excuse me -- to check off
12 an item on the list of required steps.

13 The mass was largely predetermined and it
14 seemed we were only there to talk about moving it
15 around. When I suggested not just moving, but
16 eliminating some of the height and density, the
17 developer's team literally laughed at this idea.

18 These meetings were terminated almost a
19 year ago. The Stonebridge and OP talk about an
20 amenity of tree preservation. This claim absolutely
21 confounds me. Drawing number 6 is a copy of the
22 Stonebridge landscape plan.

23 I believe it's intended to impress
24 everyone with tree preservation and the inviting green
25 space. But please turn to drawing number 7. Look at

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1 the Stonebridge site and not at their neighbor's
2 property.

3 They cannot claim that they are preserving
4 trees on land that they don't own in the first place.

5 The strips to the north and south are owned by the
6 city. The part to the east is owned by the Lisner
7 Home and would continue to be owned by the Lisner
8 Home.

9 Now that we are looking only at what is
10 actually the Stonebridge site, please turn to drawing
11 8. This is the excavation area. No trees here. They
12 have several levels of parking under the entire clinic
13 site, even beyond the building restriction line and
14 right up to the property line.

15 What's left to preserve? There are three
16 small sycamore trees left standing on the strip at
17 their eastern edge, each with a trunk of six inches.
18 The exaggerated trees shown here are much larger than
19 life.

20 My final page identifies the three small
21 trees preserved. With Stonebridge proposing several
22 levels of underground parking right up to the lot
23 line, the excavation will be both deep and close to
24 existing houses.

25 I speak for four of the closest households

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1 regarding our grave concerns about possible damage to
2 our property from this project. I also speak from
3 experience, very bad experience of having my house
4 seriously damaged during construction on Square 1661.

5 A reasonable fear of damage causes us
6 closest neighbors to ask that any PUD granted for this
7 site include certain requirements for our protection.

8 We find the construction management plan submitted by
9 Stonebridge to be totally inadequate, and I cite the
10 major deficiencies in the one-page list handed out to
11 you for your later consideration.

12 The OP cites as a public benefit that
13 there will be less chance of blasting because
14 Stonebridge removed a level of parking. But the depth
15 of the lowest level remains virtually unchanged at
16 elevation 299.

17 Still, OP recommends insuring excavation
18 methods that prevent damage to adjacent residences.
19 We are particularly anxious to have blasting
20 prohibited and to have augured methods of pile
21 placement required to avoid impact and vibration.

22 Finally, it's surely no surprise that I
23 have grave concerns about the rest of the Lisner Home
24 property. Lisner is six acres of under-utilized land
25 within a block from the Metro. I believe it's

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1 inevitable that it will be redeveloped.

2 If it were redeveloped at the same density
3 as the Stonebridge proposal that would be over 700
4 large units and over 1,000,000 square feet of floor
5 area, and according to car ownership statistics,
6 another 1,000 cars.

7 Ever since I moved here I expected that
8 there would be in-fill development on under-utilized
9 sites in this desirable area, but I also expected that
10 my contract with the city, the zoning regulations,
11 were my guarantee of the stability of the character of
12 my neighborhood. Thank you.

13 MR. HITCHCOCK: Mr. Oberlander.

14 MR. OBERLANDER: Madam Chairman and member
15 of the Commission, for the record my name is George H.
16 F. Oberlander, an urban planning consultant having
17 retired several years ago from the National Capitol
18 Planning Staff, after 31 years of planning our
19 nation's capitol.

20 During 1974 I supervised the work that
21 became the Friendship Heights sectional development
22 plan adopted by the Planning Commission and adopt --
23 the zoning portion of which was adopted by the Zoning
24 Commission.

25 You have my 16-page statement with maps

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1 and you also have a yellow-covered booklet, which is
2 the actual copy of the sectional development plan. I
3 couldn't get the same color as it was printed back in
4 1974. I apologize for the color change.

5 I hope you'll review -- Appendix A of that
6 document is the zoning portion which the Zoning
7 Commission adopted. I hope you'll review the entire
8 statement at your leisure, and my testimony will deal
9 with why the PUD should not be approved at the density
10 and height, as is currently proposed.

11 The site's proximity to the existing one-
12 family housing outweighs its proximity to Metro. That
13 is discussed in page 1 of the statement. I'm just
14 summarizing because of the shortage of time.

15 The current R-5-B zoning was deliberately
16 placed on the site as part of an extensive planning,
17 traffic and zoning process with the State of Maryland
18 or the office -- the Maryland National Capitol Park
19 and Planning Commission at that time, and the Office
20 of Planning, which was headed by Ben Gilbert at that
21 time.

22 Now, that is described on page 2 and 3 of
23 the statement. The matter of right density of 1.8 FAR
24 with a possibility of a PUD density of 3 established a
25 housing transition area. That was an extremely

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1 important part of this whole area which encompassed
2 both the Maryland side and the District side.

3 The R-5-B was put in place to protected
4 the property values, assure orderly development and
5 safeguard the general welfare. That is discussed on
6 page 8 of my statement. No anticipated changes have
7 occurred, other than increased traffic to warrant
8 land-use changes or intensification.

9 The intensification that's taken place on
10 the Maryland side was all anticipated, as well as on
11 the District side. Approving the PUD and map
12 amendment at a density and height proposed will signal
13 to the homeowners that additional rezoning may be
14 considered.

15 At best, it will create real uncertainty
16 in the low density area, and that is discussed on page
17 7 and 8 of my statement. The PUD process was created
18 to provide flexibility from strict standards, not to
19 change the zoning classification.

20 That was the original intent of the
21 planned unit development in the 1958 zoning
22 regulations. The Zoning Commission has been deviating
23 from that over the years, but that's my opinion.

24 The existing R-5-B seeks to protect the
25 planned character of this specific neighborhood.

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1 Allowing greater density and height would be
2 prejudicial to the restricted transition purpose of
3 the zone, and that is discussed on page 8 of the
4 statement.

5 A careful density balance related to
6 traffic capacity was established in 1974 by the
7 sectional development plan, which in my opinion should
8 not be intensified. That's discussed on page 3 and 4.

9 The following maps show the change in zoning since
10 zoning was put in place in this area in 1958.

11 The clinic site was zoned at that time R-
12 2. In 1966 it was changed to C-3-A, a commercial
13 zoning classification. After 1966, as a result of the
14 sectional development plan, this Zoning Commission
15 rezoned the area to R-5-B, and that is the zoning that
16 is in existence now, which is spelled out in the next
17 slide showing exactly where the R-5-B is located.

18 And you'll see that there is a distance
19 identified, 334 feet It's inscribed on the zoning
20 map. That is the specific distance at Military Road,
21 which this transition zone was established as part of
22 that what is now called small area planning.

23 We called it at that time section
24 development planning, because that provision was in
25 the zoning regulation, which the Zoning Commission

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1 eliminated several years later. If the PUD is
2 approved, existing home ownership will suffer in the
3 area.

4 More property owners will place their
5 properties on the rental market and the adjoining one-
6 family area will become less stable. Section 1400.2,
7 1402.1(H) and 1406.2(d) of the comprehensive plan for
8 the National Capitol all deal with protecting and
9 maintaining the low density, high quality character of
10 Ward Three.

11 That's identified on page 3 of my
12 statement. The proposed PUD density and height is not
13 in character with the adjoining one-family
14 neighborhood to the east. That is described on page 8
15 of the statement.

16 The OP report justifies a PUD on benefits,
17 as outlined on page 8 and 9 of my statement. Economic
18 considerations not based on official planning policies
19 contained in the comprehensive plan are insufficient
20 grounds for rezoning.

21 The five percent density bonus for
22 affordable units not based on any required standards,
23 as was already testified to, is arbitrary. The four
24 to six dwelling units that will come out of this
25 process is a very small number.

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1 The matter of right housing density would
2 produce benefits and tax revenue, and that is what was
3 anticipated as part of the section development plan,
4 and it has happened in Square 1661 and it can happen
5 on this particular site, as well.

6 New small area planning is about to be
7 undertaken, but the plan has not yet been prepared.
8 That's described on page 8 of the testimony. The plan
9 should precede the consideration of the PUD, not come
10 after the PUD.

11 The zoning or the implementation of a PUD
12 is a result of a plan, not the zoning preceding the
13 planning. OP reports based approval recommendations
14 on "current policies being developed" not contained in
15 the comprehensive plan.

16 The attraction of 25,000 or 50,000 people
17 back into the city is not stated in the comprehensive
18 plan. That is maybe a current proposal of the mayor's
19 or an idea that the mayor is proposing which may be a
20 very good one, but it's not in the comprehensive plan.

21 The OP report, page 18, recognizes the
22 importance of preserving one-family area, but the PUD
23 intrudes into the existing transition zone. So I
24 believe they're talking out of both sides of their
25 mouth.

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1 OP misrepresents Section 209.5(b), that
2 is, the section dealing with 1,000 new homeowners
3 annually. This section deals with incentive for home
4 ownership by employers, churches and universities in
5 downtown housing, not what a developer might propose.

6 The comprehensive plan text does not
7 specifically identify this site as a housing
8 opportunity area, as it does the Lord and Taylor site
9 and the Metro bus site.

10 Although the symbol is placed on the
11 section land-use policy map right over the clinic
12 site, that is a generalized map showing that the area
13 around the intersection of Wisconsin and Western is a
14 housing opportunity area.

15 But the more specific policy is contained
16 in the Ward plan, which says that the Lord and Taylor
17 site and the Metro bus sites are the specified housing
18 opportunity areas. The PUD is not in keeping with the
19 comprehensive plan to create an R-5-C zone next to an
20 existing R-2.

21 That is discussed also in my statement.
22 The OP states that some sort of development limiting
23 mechanism seems certain to result from the small area
24 plan process. Well, the existing zoning in my opinion
25 already is that mechanism.

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1 Inclusion -- in conclusion, the PUD in my
2 opinion is inconsistent with the detailed Ward
3 planning and zoning established for this area. I'll
4 be happy to answer any questions the Commission may
5 have when I get the opportunity to. Thank you.

6 CHAIRPERSON MITTEN: Thank you, Mr.
7 Oberlander.

8 MR. HITCHCOCK: Mr. Joe Mehra on traffic.

9 CHAIRPERSON MITTEN: Would you turn on
10 your mike when you speak.

11 MR. HITCHCOCK: Yes. Our next witness is
12 Joe Mehra, who is our transportation expert.

13 MR. MEHRA: Good evening. For the record,
14 I am Joe Mehra, President of MCV Associates. The
15 first slide shows a couple of problems with the data
16 collection aspect of the study, in the sense that the
17 traffic data was -- some of the traffic data was
18 collected in August, and generally, it leads to lower
19 traffic volumes than the other times of the year.

20 Secondly, the weekend analysis excluded
21 the intersection of Wisconsin Avenue and Jennifer
22 Street, which is heavily impacted by retail traffic,
23 which is very significant on weekends. In terms of
24 the trip generation analysis, O.R. George has used a
25 much lower trip generation rate for retail use on the

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1 WMATA site than the other retail uses in the area.

2 Use of a consistent trip rate will result
3 in doubling of the traffic volumes for the WMATA site.

4 The residential trip rates for the site have been
5 reduced by 65 to 50 percent from the ITE rates. The
6 resultant rate is low in comparison to the rates used
7 in the Friendship Heights starting in the area of 0.3
8 trips per unit.

9 O-R George has also reduced -- excuse me --
10 -- has also reduced the daycare center trip rates from
11 the ITE trip generation rates by 65 percent. We
12 conducted a traffic survey at the daycare center on
13 43rd Street and Jennifer Street.

14 During the hours of 8:00 a.m. to 9:00 a.m.
15 eight vehicles dropped off eight children at the
16 daycare center. No walk trips were observed.
17 Assuming that the proposed daycare center has travels,
18 there are similar patterns, then all children or
19 nearly all children will be driven to the center,
20 resulting in as many vehicle trips as the total number
21 of students enrolled.

22 The use of correct trip rates will result
23 in a much higher vehicle travel through the Friendship
24 Heights area. In terms of the levels of service --
25 next slide, please. Okay. Due to the close proximity

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1 of the intersections analyzed and the definite impact
2 of the intersections on each other, the highway
3 capacity manual or the highway capacity software is
4 not the correct technique to estimate delays in levels
5 of service.

6 The SYNCHRO model or the CORSIM model is
7 the correct technique to use for such a road network
8 analysis. The results based on the HCS analysis will
9 not reflect real world conditions. It should be noted
10 that the District Department of Transportation in
11 their study of the Palais traffic also utilized the
12 SYNCHRO model to conduct their analysis.

13 Assuming for a moment that the HCS is the
14 correct technique for estimating levels of service, O-
15 R George has conducted the analysis assuming that the
16 study area is not in the central business district or
17 a similar area.

18 Their analysis is based on an urban or
19 suburban area. The study area in the Friendship
20 Heights CBD and the use of CBD area analysis will
21 result in worse levels of service than what has been
22 shown in the traffic reports.

23 In terms of the future traffic volumes, a
24 growth rate of two percent per year was assumed.
25 Wisconsin Avenue volumes have increased at an average

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1 annual rate of 3.2 percent. Therefore, the future
2 traffic has been underestimated by O-R George.

3 Using the correct growth rate and the CBD
4 area type at the intersection of Wisconsin and Western
5 Avenue, for example, during the a.m. and p.m. peak
6 hours, the level of service is determined to be level
7 of service F and not level of service D.

8 This level of service F is also
9 substantiated by the Friendship Heights sector plan
10 prepared by Montgomery County. On Table 3, page 15,
11 it shows the Bagdorn development included in the
12 analysis.

13 Some key developments have not been
14 included and this includes the Chase Tower located in
15 the northwest quadrant of Wisconsin Avenue, and the
16 Wisconsin Circle. This property is estimated to
17 generate an additional 328 vehicle trips.

18 Further, the traffic assignment numbers do
19 not add up to the total numbers shown in Table 3, page
20 15. Approximately 25 to 30 percent of all trips will
21 be arriving or departing to the south on Wisconsin
22 Avenue.

23 The Appendix Exhibit F-2 shows no traffic
24 arriving or departing from the south on Wisconsin
25 Avenue going to the Hex or the Geico sites. ORG has

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1 significantly underestimated the vehicle trip
2 generation, as shown in the next slide.

3 The comparison of trips by O-R George and
4 MCV Associates shows in the morning a total of 2498
5 versus 2935, and in the p.m. peak hour of 3289 versus
6 3794. This shows that O-R George has underestimated
7 the peak hour trips by as much as 14 to 15 percent.

8 In terms of the future levels of service,
9 the O-R George did not analyze the levels of service
10 with the site developed as proposed. The current use
11 is a clinic whose peaks are inbound in the a.m. peak
12 period, and outbound during the p.m. peak period.

13 The proposed use is residential whose
14 peaks are just the opposite of the clinic. This is a
15 critical difference, since the delays in levels of
16 service are based on conflicting movements.

17 A right-turn movement into the site during
18 the a.m. peak may not add to the intersection delay,
19 but a left turn out of the site during the a.m. peak
20 will certainly add to the intersection delay.
21 Therefore, the total traffic impact and levels of
22 service should be evaluated at each intersection, and
23 this has not been done.

24 In terms of the parking, the latest
25 proposal calls for 137 parking spaces for the

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1 residential units and four for the daycare center.
2 The plan results in an availability of 108 accessible
3 parking spaces.

4 The vehicle availability ratio for
5 occupied housing units in the census tract in the
6 Friendship Heights areas are varied from a low of 1.1
7 to 1.4, with an average of 1.3. Even assuming
8 conservative estimate of 1.1, the proposed development
9 will have approximately 138 owned vehicles.

10 Therefore, there will be a shortfall of 30
11 accessible parking spaces. In terms of safety issues,
12 the proposed entrance and exit to the parking garage
13 on site is offset by approximately 50 feet from the
14 intersection of Wisconsin Circle and the traffic
15 signal.

16 Traffic exiting from the parking garage
17 onto Wisconsin Circle will end up on the eastbound
18 lane of Wisconsin Circle due to the offset. This
19 condition can lead to safety problems and potential
20 for head-on collisions.

21 The entranceway to the loading dock, the
22 daycare center and the visitor parking lot all occur
23 on one driveway. Further, the driveway also crosses
24 the pedestrian walkway. This is a safety problem due
25 to truck and children conflicts.

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1 Further, this new intersection when
2 analyzed resulted in a level of service F. In
3 conclusion, DDOT's report is primarily based on the O-
4 R George reports, and therefore, the comments noted in
5 my report are generally applicable to DDOT's report,
6 also.

7 The traffic study conducted for the
8 subject site is not complete, has used an incorrect
9 methodology and has not provided mitigation measures
10 for several intersections that will be operating at
11 level of service F.

12 O-R George has noted that the intersection
13 of Western Avenue and Wisconsin Circle will be
14 operating on a split phase in the future. This split
15 phase makes the level of service drop to a level of
16 service D, which means that it requires mitigation.

17 The access plan, as noted, has major
18 safety problems associated with it and should be
19 rejected at this time. Thank you.

20 CHAIRPERSON MITTEN: Thank you, Mr. Mehra.

21 MR. HITCHCOCK: Our next witness, Dr.
22 Marilyn Simon, is an economist --

23 CHAIRPERSON MITTEN: You need to turn on
24 your mike.

25 MR. HITCHCOCK: Forgot to. Our next

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1 witness, Dr. Marilyn Simon, is an economist who will
2 talk about the benefits that are quantified in the
3 report.

4 CHAIRPERSON MITTEN: Thank you.

5 DR. SIMON: My name is Marilyn Simon. I'm
6 a District homeowner. I bought my house on 43rd
7 Street, about a block and a half south of the clinic
8 Lisner site in 1985, and have lived in the District
9 since 1982.

10 I'm an economist with a Ph.D. in economics
11 from Princeton University, and before coming to
12 Washington I was a professor at MIT. As a homeowner,
13 citizen, taxpayer and economist, I'm quite concerned
14 about the quality of economic analysis that the
15 Commission is being asked to rely on in making this
16 decision.

17 Earlier in this proceeding Mr. Smart
18 indicated that the same analysis was used in other
19 zoning cases. That concerns me, as well. Stonebridge
20 claims that the proposed project will provide over 1.7
21 in additional tax revenue, compared with the clinic.

22 Given that the clinic has announced it's
23 closing, a more appropriate comparison would be tax
24 revenue with likely development under current zoning,
25 either as matter of right or as a PUD. There are

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1 three basic elements in additional tax revenue from
2 any project.

3 These are additional income tax,
4 additional real estate tax and retail sales tax. Mr.
5 Smart made a number of very serious errors in
6 estimating the District tax revenue that this project
7 would generate.

8 These errors were pointed out to the
9 applicant in my earlier letters and at two ANC
10 meetings. Yet they were not corrected. Correction of
11 these errors would significantly reduce the estimate
12 of District tax revenues associated with the proposal.

13 These errors include a failure to use D.C.
14 tax rates in computing income tax, a failure to use
15 the homestead exemption in computing real estate tax
16 and an inappropriate methodology for computing retail
17 sales tax revenue.

18 Mr. Smart made these three fundamental
19 errors in computing his estimate. Correcting for
20 these errors significantly reduces the estimate of
21 District tax revenue associated with the project, and
22 this slide gives a sense of the magnitude of the
23 errors.

24 Mr. Smart also -- next -- understated the
25 revenue that would be generated by development under

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1 current zoning. Yes, that's right. He assumed that
2 the development under current zoning would be a
3 smaller version of the Stonebridge proposal, rather
4 than townhouses or townhouses and a smaller apartment
5 building at the western corner of the site.

6 He assumed that no houses would be built
7 on the 15,000 square feet of Lisner land which is
8 zoned R-2. Thus, he is assuming that that parcel
9 would generate no tax revenue under current zoning.
10 If the zoning was unchanged, it is unlikely that any
11 developer would choose to build a smaller version of
12 this project.

13 Rather, townhouses or a mix of townhouses
14 and apartments would be much more profitable for that
15 developer. Thus, that would be the appropriate
16 comparison. By correcting for the errors in computing
17 District tax revenues, I found that Mr. Smart gave an
18 estimate 13 percent higher than the estimate that
19 would be obtained using D.C. tax rates an the
20 affordable housing income limits and all of Mr.
21 Smart's other assumptions.

22 By correcting for errors in computing
23 District real estate taxes I found that Mr. Smart
24 produced an estimate ten percent higher than the
25 estimate that would result using the homestead

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1 exemption, the affordable housing income limits and
2 all Mr. Smart's other assumptions.

3 Bohan Smart underestimates the annual
4 District income taxes for matter of right with current
5 zoning by 26 percent. Mr. Smart underestimates annual
6 District real estate taxes for matter of right with
7 current zoning by 22 percent.

8 Income and real estate taxes resulting
9 from a development using a modest PUD and current
10 zoning would be significantly higher. Those
11 calculations are included in my submission.
12 Stonebridge has also offered no conditions that would
13 assure that these units would actually be sold
14 individually, or that if sold individually would be
15 owner occupied.

16 The change to owner occupancy was based on
17 a change in market conditions. I examined the tax
18 records for a condominium building in Ward Three with
19 118 units and resale prices comparable to those
20 assumed here.

21 Changing the assumed mix of owner
22 occupants, renters and seniors to reflect the mix in
23 that building would significantly reduce the estimated
24 annual income and real estate taxes. With these
25 corrections and adjustments we see that matter of

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1 right development under currently zoning, or a very
2 modest PUD with no zoning change, would likely produce
3 tax revenue for the District that is not significantly
4 lower than the current proposal, and would not have
5 the same negative impact on the surrounding community.

6 I'd now like to turn to the amenities
7 package and comment on the two central items in the
8 amenities package. To begin with, I believe that the
9 following two principles should apply to the provision
10 of amenities in a PUD.

11 Amenities should be efficiently provided
12 and the value of the benefits should be measured as a
13 value to the community, and not the cost to the
14 developer. Further, neighborhood amenities should
15 serve the area most affected by the increased density.

16 The affordable housing and daycare
17 amenities in the Stonebridge proposal fail miserably
18 in these respects. With respect to the proposed
19 affordable housing amenity, first of all, selling four
20 to six expensive condominium units to families with
21 incomes below 54,400 is not an efficient way of
22 providing affordable housing.

23 Also, the applicants even in the detailed
24 description did not provide any information about how
25 the program would be monitored and operated, to assure

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1 that the units would be sold to eligible buyers, that
2 the pool of eligible buyers is informed of the
3 opportunity and that the units would be resold
4 according to the stated restrictions.

5 According to the proposal, the applicant
6 would have sole control over the administration of
7 this amenity; absent significant regulatory oversight,
8 there is no reason to believe that this would actually
9 provide any amenity to the District.

10 As structured, the District adds few
11 affordable housing units. Significantly more housing
12 units can be added with an efficient plan. The
13 applicants and OP view this as a model for programs of
14 affordable housing.

15 This is not a good model for affordable
16 housing. This could be the poster child for how not
17 to model an affordable housing amenity in a new
18 program. Further HPAP is a program that's meant to
19 give -- to subsidize loans to cover down payments for
20 people buying their first homes in the District.

21 This is not the type of amenity -- this
22 program doesn't given the kinds of terms that you
23 would to necessarily guide who should be eligible for
24 this program. Stonebridge -- with respect to the
25 daycare amenity, providing a building rent free for 50

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1 years is not an efficient way to increase daycare
2 capacity.

3 In addition, it is not clear that the
4 local neighborhood would benefit from this amenity.
5 Further, the daycare amenity would be provided at a
6 very high cost to the District. It removed 15,000
7 square feet of R-2 land, a great housing opportunity,
8 from future development.

9 The District will forego significant
10 future annual tax revenues if this land cannot later
11 be developed as single family housing, as the
12 neighborhood would otherwise expect to see. I also
13 note that the daycare proposal is inconsistent with
14 the Ward Three comprehensive plan.

15 There are also serious questions about
16 whether additional market rate, \$1,000 a month daycare
17 capacity is needed by the local neighborhood or
18 assists the District in providing "affordable quality
19 childcare which is viewed as an essential precondition
20 for parents to enable them to seek employment,
21 complete school and participate in job-training
22 programs."

23 While 16 slots might have been considered
24 a neighborhood amenity in 1985, it does not follow
25 that 44 market rate slots would be a neighborhood

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1 amenity in 2002. If, however, the Commission
2 determines that an increase in market rate daycare
3 capacity would be an appropriate neighborhood amenity,
4 I propose that it be formulated according to these
5 four principles.

6 In general, daycare can be more
7 efficiently provided by including these provisions in
8 the PUD, and I've included specific language for these
9 provisions in my submission.

10 As proposed by the developer, the daycare
11 amenity does not provide any benefit to the community
12 and cannot be considered a community amenity. At
13 most, it could be considered a very minor amenity.
14 Thank you.

15 MR. HITCHCOCK: Our next witness is Mr.
16 Lawrence Freedman, who will talk about a number of the
17 amenities and demonstrate that the purported
18 advantages and benefits are really overstated, given
19 the impact on the neighborhood.

20 MR. FREEDMAN: Chair Mitten,
21 Commissioners, my name is Lawrence Freedman. I live
22 at 4104 Legation Street, with my wife and my two and a
23 half year old son, Levi. I am a member of Fhord, and
24 speaking in that capacity, Fhord is a group of
25 approximately 400 members, or over 400 members and

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1 supporters from the neighborhoods surrounding the
2 site.

3 This issue boils down to some very simple
4 choices and I'd like to come back to those choices.
5 There are, as our attorney mentioned, competing
6 visions and the core of the issue involves these
7 competing visions.

8 The Stonebridge and the new OP vision is
9 that the clinic site is a pocket, as they termed it,
10 to be gobbled by, integrated with high density
11 commercial development on Wisconsin Avenue and a
12 commercial residential development in Friendship
13 Heights, Maryland.

14 They've become a very integrated part of
15 that. If you look at Exhibit 1, this is drawing D-1
16 from the Stonebridge application, the very first
17 visual you see. And in fact, if this were correct it
18 would appear that this site is a nice pocket to be
19 enveloped within that line on the right-hand side.

20 That is if 1661 C-3-B it would look like a
21 pocket. This is an erroneous, erroneous drawing.
22 Square 1661 has never been zoned C-3-B with three-line
23 zoning or even with all the PUDs. If you look at the
24 next slide, this is of course the official D.C. Office
25 of Planning zoning map, which shows in the dark lines

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1 the underlying zoning.

2 The quarter zoning, strip zoning along
3 Wisconsin Avenue only extending 150 feet to the east
4 of C-2-B, and then a nice transition zone, R-5-B, not
5 too wide, but a nice transition to the east of it and
6 then the R-2 low density zone.

7 That in fact is the zoning now and the
8 vision that we endorse. Our vision, as consistent
9 with the National Capitol Planning vision, in fact,
10 the Office of Planning vision from 1974 until 2002, in
11 fact, until the November 14th report -- I'm sorry --
12 the November 17th report by this Office of Planning,
13 the Office of Planning supported this view to any
14 public knowledge.

15 And of course, the Zoning Commission
16 reflected this the last time it rezoned this property.

17 The vision is that the Washington Clinic site is the
18 essential transition buffer zone between the high
19 density commercial and the low density residential.

20 This is reflected in every land-use and
21 zoning decision over the past 30 years. If you look
22 at the next slide, this is of course the photo of the
23 Stonebridge model that they presented, with the zoning
24 overlay in web lines.

25 Again, you see the nicely defined

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1 commercial and high density zoning on the left-hand
2 side, narrowly tailored to Wisconsin Avenue, and as
3 buffer zone to the east, not too wide in the low
4 density.

5 If you look at A, the area in A, the
6 dotted lines, that has been gobbled up by the prior
7 PUD for Embassy Suites Pavilion. That was a slight
8 intrusion. In fact, then if you in fact take away
9 this whole clinic site what you're left with is half
10 or less of the original transition zone.

11 That's why the neighborhood is anxious and
12 opposes this spot zoning change, why we feel so
13 insecure. In short, just to make this very clear, of
14 course, as we present, the neighborhood and Fhord
15 strongly, strongly rezoning this clinic site for this
16 proposal.

17 We strongly support smart growth, transit
18 oriented development and residential development
19 within the current zoning. We think that is smart
20 growth for this project. Next slide. I just should
21 not that I'm not going to go over every point in this
22 slide.

23 So I would -- if you find it interesting
24 would urge you to review them for additional material.

25 A very important point in the bottom of this slide is

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1 that Stonebridge wants to rezoned this site not to
2 provide any additional housing units, zero.

3 Office of Planning made this clear on its
4 direct testimony and its cross-examination, that the
5 housing that could be done under R-5-B with a PUD is
6 as many or more units, actual units, than the
7 applicant is providing.

8 So it's really not a question of
9 additional units. In fact, under the PUD there's be
10 smaller apartments, the original size, actually, of
11 the Stonebridge application, and thus, maybe not
12 affordable, but more affordable than these high-end
13 units.

14 So you get the same number of housing
15 units and they're somewhat more affordable. That's
16 smarter growth, it seems to me. As the Commission is
17 well aware, Stonebridge must satisfy a number of
18 standards to grant the PUD.

19 And the Stonebridge application, as I'll
20 go through briefly, unequivocally fails all three
21 requirements. The first requirement, as we've
22 discussed and heard throughout this hearing, is
23 weighing the flexibility requested with the public
24 benefits and amenities.

25 On the flexibility side, let's be very

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1 clear about this. This is not a little bump-up, some
2 -- you know -- what I in lay terms would call
3 flexibility. This is a massive request for upward
4 departure, 230 percent of the matter of right gross
5 square footage, and therefore, 230 percent of the
6 density, an additional almost 30 feet of height.

7 This is a huge upward departure and that
8 shouldn't be disputed at all. The next slide shows
9 visually how much additional density in square footage
10 that was -- that's being requested. To compare that,
11 let's look at the benefits.

12 And what I want to do is go through the
13 one-page summary that I believe the Commissioners had
14 in their hand and may still have available that
15 Stonebridge presented. They summarized their proposed
16 public benefits and amenities.

17 And I'm not skipping any. I'll go by each
18 one -- go down each one and give the evaluation in our
19 view of what the value is, not the cost but the value
20 to the neighborhood. First of all, new residential
21 housing in a housing opportunity area, actual public
22 benefit, none, zero.

23 OP itself until its testimony here was
24 reluctant to consider new housing in a residentially
25 zoned land to be a public benefit. I heard testimony

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1 that's differed slightly than the written report, and
2 I quote from it. It says: "We're reluctant to
3 consider this a benefit."

4 And secondly, as I mentioned, Stonebridge
5 will build no new housing units over that to be
6 created under a PUD under current zoning. So it's
7 hard to see how that's a benefit.

8 Bottom of this slide, just to note, the
9 comp plan does -- for Ward Three -- does note three
10 specific sites that are housing opportunity sites. We
11 don't dispute that this site is within the general
12 area, but these are three sites.

13 And what's interesting is that two of them
14 have been or will be developed. And the last one, the
15 Lord and Taylor parking lot, might be a perfect place
16 in the city's interest to have dense development or
17 smart growth.

18 It's a commercially zoned land between
19 Mazza Gallery and Lord and Taylor, and if the
20 developer actually had the public interest in mind, if
21 OP pushed in this way, it might be a perfect place in
22 a commercial zone to get a bunch of residential
23 property.

24 But that one is undeveloped and hasn't
25 been touched. This is just generally site and we take

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1 great issue with the Office of Planning's perspective
2 that a housing opportunity means necessarily up-
3 zoning. It doesn't.

4 The comp plan says it means more housing.

5 Talks about vacant housing, abandoned housing, maybe
6 building housing up to the zoning envelope. It never,
7 never says that means the question is rezoning; the
8 only question is how much, which is what Office of
9 Planning seems to believe and we've never known quite
10 why.

11 Next benefit listed is affordable housing.

12 Again, as Dr. Simon presented. the actual public
13 benefit we think is minimal. It's about half of what
14 the developer is requesting in the bonus density.

15 So you know, they're getting twice that
16 and using half of it for affordable housing. It's
17 hard to see how that should also be counted to justify
18 the PUD itself, when that's why they're getting the
19 bonus. That doesn't make much sense to us.

20 Dr. Simon went into that in some more
21 detail. Can skip ahead. The applicant mentioned the
22 landscape walkway. The actual public benefit from the
23 neighborhood perspective is slight, if any. It's not
24 necessary for access to Metro Rail.

25 You already can go down Western and

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1 Military right into the nice entrances, and the
2 current cut-through -- this is my personal perspective
3 -- is better. It's pleasant. It's green. You don't
4 have to cross any road or curb cut to get from one
5 road to the other.

6 This way, I have to go across the loading
7 dock, parking lot entrance to the daycare center.
8 Levi, my son, and I would rather go through the green
9 space. That's a personal perspective. Next benefit,
10 the creation of green and the open space, tree
11 preservation and the actual public benefit is minimal.

12 Very little open space over matter of
13 right, and as Hazel Rebold talked about, no tree
14 preservation on the clinic side. That's -- they broke
15 out in three different bullets their traffic
16 enhancements.

17 The actual public benefit appears to be
18 very minimal, if any. Much of it is to mitigate the
19 impact of the project in terms of crosswalks and
20 traffic, re-signaling or whatnot; again, not much
21 benefit, if any.

22 Next benefit, excess public resident
23 parking. As our transportation expert testified to,
24 in fact, there's be insufficient resident parking to
25 meet market demand. It'd be great if, you know,

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1 nobody owned cards and we didn't need the parking.

2 But the fact is, Metro Rail's limited.
3 People own cars, hopefully don't use them that much.
4 Not enough parking to meet market demand. The next
5 major public benefit the applicant lists is the
6 daycare.

7 Again, the actual public benefit, as Dr.
8 Simon testified to, is very minimal. It's not
9 affordable childcare. It's market rate. There's no
10 assurance of any neighborhood benefit. I mean, people
11 were presuming the prior conditions would be in it.

12 In fact, there's no conditions. Have we
13 seen anything in writing that there's be any
14 neighborhood spots, any economic pass-through to the
15 neighborhood. It simply is just creating the slots
16 and we don't know whether there's be Maryland spots or
17 D.C.

18 And a point that has been making on this -
19 - back up just one slide -- the specific -- this is
20 the bottom bullet here -- the specific provider here
21 was handpicked and we have some concern about that.
22 This provider is in a continued and material breach of
23 their prior PUD -- their current PUD, and does not
24 seem appropriate if one's going to handpick a
25 provider.

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1 The next witness will talk about the
2 construction benefit, construction management plan. I
3 won't. Let's skip to the summary slide. This is
4 similar to kind of Office of Planning summary. Again,
5 a huge flexibility is requested, 230 percent, and we
6 just see very little that the neighborhood -- and not
7 just the neighborhood, to the whole city -- housing,
8 affordable housing, walkway, et cetera, minimal.

9 I didn't put which ones are mitigation,
10 but some are, but very minimal, if any, benefits
11 throughout there. Let's skip ahead two slides. As
12 the Commission's familiar with, there's a list of
13 criteria that the applicant must meet in all
14 categories and be superior in many.

15 As we've seen -- we can go through this
16 list -- we don't think the applicant is acceptable in
17 some of these and it's certainly not superior in any
18 of them. So it fails the second test. A third test,
19 of course, is that the project is not inconsistent
20 with the comprehensive plan.

21 Strikingly, strikingly, the Office of
22 Planning in its oral testimony did not mention the
23 major theme in Ward Three comp plan. You can find a
24 lot of stuff in there. The major theme, undeniably,
25 is to protect and maintain a low density, high quality

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1 character of the ward.

2 The single greatest concern is controlling
3 redevelopment. Office of Planning didn't even mention
4 that in its testimony. I think it -- maybe it's
5 buried in its report. This proposal is a direct
6 affront to these values and interests, specifically in
7 the comp plan.

8 Dismantling the transition zone in fact
9 would raise great uncertainty in the neighborhood.
10 Therefore, the stability of our low density is
11 undermined, and in fact, it literally intrudes on it
12 with its up-zoning or rezoning.

13 We think it's directly inconsistent with
14 the comp plan, even with the housing opportunity area
15 listed. Let's skip ahead. I'd be glad to go into
16 this in some more detail, but there's no time
17 permitting.

18 Lastly, there's no justification for this
19 rezoning. We've repeatedly asked for -- in the
20 comparable projects around Metro, and therefore Ward
21 Three, there's nothing, nothing this dense in the
22 entire Tenleytown to Friendship Heights Corridor.

23 It's way out of line with what the Office
24 of Planning put in place after community involvement
25 in Takoma, Maryland -- I'm sorry -- Takoma, D.C. It's

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1 many times that dense. It seems to be just out of
2 balance and out of line with what other neighborhoods
3 and planning efforts get to.

4 Lastly, there's great emphasis on the
5 community involvement. Let's skip ahead. In fact,
6 there was very little -- no. Community involvement,
7 as Ms. Rebold testified, the only working group that
8 was formed was disbanded in January 2002, and no
9 matter what the process was, Stonebridge was very
10 clear with us.

11 And we commend them for their clear
12 communications when they said there might be some
13 things around the margins that we can deal with; we're
14 not going to address the community's concerns about
15 mass -- basic concerns about rezoning this and the
16 mass and density.

17 And they were very clear with us and we
18 accepted that and then we wind up before the
19 Commission. But there should be mistake that, you
20 know, the slight back and forth with various
21 individuals was not a community process that resulted
22 in community acceptance.

23 With that, I invite questions. I hope
24 this was useful. Thank you.

25 CHAIRPERSON MITTEN: Thank you, Mr.

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1 Freedman.

2 MR. HITCHCOCK: Okay. Our final witness
3 is one of the neighbors who lives closest to the site,
4 Ms. Betsey Kuhn.

5 MS. KUHN: Thank you, Madam Chairman. My
6 name is Betsey Kuhn. My husband and I live at 4211
7 Military Road, one of the houses closest to the
8 proposed development.

9 I'm very concerned about possible damage
10 to my house, and believe the construction management
11 agreement proposed by Stonebridge is inadequate. It
12 calls for Stonebridge to hire a firm from its own list
13 of three firms to survey my home before and after
14 construction to determine the damage to my property.

15 Surveys are important, but Stonebridge
16 should be required to pay the cost of an engineering
17 firm selected by the homeowners, not Stonebridge, so
18 that we will have confidence that an independent
19 survey has been performed.

20 We are concerned also that Stonebridge's
21 plan refuses to rule out blasting or pile-driving on
22 the site. And as homeowners, we have no means to
23 limit construction methods that could damage our
24 houses.

25 Finally, a review of Square 1663 shows

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1 that there are only three houses that stand in the way
2 of development of this large piece of land should the
3 Lisner home decide to sell. Mine is one of the three
4 and I would hate to be forced to sell because of
5 extensive damage.

6 I love living in this neighborhood because
7 of its residential character. Thank you.

8 CHAIRPERSON MITTEN: Thank you, Ms. Kuhn.

9 MR. HITCHCOCK: Thank you, Madam Chair. A
10 couple of remarks in closing. That concludes our
11 witnesses. This has been a complex case. There are a
12 number of issues that are presented and a number of
13 competing visions, as has been testified to, and
14 competing testimony on factual points, economic
15 points, zoning points and the like.

16 But if there's one thing which I think has
17 come through from the testimony you have just heard is
18 that there's a pattern here, and the pattern is that
19 Stonebridge has consistently underestimated the
20 negative impacts of this PUD, and consistently
21 overestimated the benefits that it believes will flow
22 from approval.

23 Let me just tick them off quickly just
24 again to review. I think they have underestimated the
25 impact of this project in terms of the size and

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1 density on the community. They have underestimated
2 the negative impacts in terms of traffic.

3 They have underestimated the negative
4 impacts in terms of parking. What they have
5 overestimated, however, are the benefits. They have
6 overestimated the benefits in terms of housing. As OP
7 recognized and as the testimony you heard was there,
8 you can build quite a few units on this particular
9 parcel.

10 They've overestimated the benefits in
11 terms of revenue, taxes and the like, as Dr. Simon
12 described in some detail. They've overestimated the
13 benefits from affordable housing, which has so many
14 loopholes, as we now understand it, that the intended
15 beneficiaries may not benefit, or if they do, there
16 may be loopholes that they could get out of, and what
17 you would have is the concept of affordable housing,
18 but not the reality.

19 They've overestimated the value of daycare
20 and the focus on affordable daycare, which is
21 constantly mentioned in the comprehensive plan, not
22 simply daycare in and of itself. They've
23 overestimated the value of the green space and the
24 tree preservation.

25 And generally speaking, everything that

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1 could be pumped up has been. If a picture is worth
2 1,000 words, I would like to close with one picture of
3 the site which may answer the question, why do the
4 neighbors care so much about this.

5 I would direct your attention to this
6 photograph, which shows you the current outsized
7 development coming up Wisconsin Avenue, the projects
8 that are dwarfing the townhouses there and the concern
9 that neighbors would have here.

10 And this brings us to a larger point about
11 the planning and zoning of this site. Mr. Oberlander
12 testified that a number of these issues were looked at
13 back in 1974. The conclusion was that this zoning
14 should stay the same.

15 In our view, it isn't broke and you
16 shouldn't fix it. Also, we submit, there are as has
17 been testified to a number of studies that are going
18 on now that would provide some input and analysis.
19 You heard the testimony, for example, from Mr. Laden
20 that street widening is not a possibility, in all
21 likelihood, or at least that would be an extreme
22 example looking at the traffic impacts.

23 But this is the traffic impact now. There
24 is also the possibility for further development down
25 the road, but it's not likely that the streets will be

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1 widened. Where will the traffic go? Who will suffer
2 the impact? The neighbors here in question.

3 There's no need for a rush to judgment in
4 this case. Given that the benefits are overstated,
5 both qualitatively and quantitatively, and that the
6 negative impacts are understated, we submit that this
7 is a case where the Commission should say no, await
8 the studies, await planning on an organized basis, and
9 then decide the neighborhood's future at that time.

10 But please, for the present time, let's
11 keep the zoning as the Fhord witnesses have testified.

12 And that -- thank you for our presentation. It is
13 over at this point.

14 CHAIRPERSON MITTEN: Thank you, Mr.
15 Hitchcock. Questions. Mr. Hood.

16 VICE CHAIR HOOD: Yes, I'll go first this
17 time. Mrs. Simon.

18 DR. SIMON: Yes.

19 VICE CHAIR HOOD: I believe you and Mr.
20 Oberlander referred to the comprehensive plan quite a
21 bit, and you mentioned that childcare centers with
22 inconsistent with the comp plan. Is that exactly what
23 you said? Something similar. I'm not concerned right
24 to be -- err in your --

25 DR. SIMON: Oh, yes.

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1 VICE CHAIR HOOD: It was in here
2 somewhere, in this presentation.

3 DR. SIMON: Yes. Yes. I had several
4 quotes from the comp plan. First of all, it was
5 inconsistent with the Ward Three comp plan that
6 specifies that there should be an increase in daycare
7 facilities, but it should be in the commercial areas,
8 not the residential areas.

9 In addition, the more general sections of
10 the comp plan talk about providing a affordable
11 quality daycare for the specific purposes of allowing
12 parents to work, seek employment, complete school and
13 participate in job training programs.

14 VICE CHAIR HOOD: Okay.

15 DR. SIMON: This isn't what we're seeing
16 here.

17 VICE CHAIR HOOD: Right. I guess my point
18 is, you're saying it's inconsistent with the comp
19 plan. Then when I turn and I see where it says,
20 increase supply, and I understand that you've said
21 that, but increase the supply of the childcare
22 facilities.

23 You know, when you have to weigh those
24 things as a Commission and you turn on one page and it
25 says one thing, and you turn to the next page, it says

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1 something different, I just want you to know it's not
2 an easy job.

3 DR. SIMON: Yes. I understand that, but
4 it was inconsistent in two different ways with two
5 different things. The general one's we're looking for
6 affordable daycare. This is \$12,000 a year for each
7 child at the daycare center.

8 In my mind that's not affordable for many
9 families. The other one, the Ward Three one, the
10 location, this is on R-2 land, the location is
11 contrary to the specifics of the Ward Three plan that
12 says that the increase in daycare facilities should be
13 in the commercial areas, and presumably that was
14 because of concerns of the impact on residentially
15 zoned areas.

16 Other Ward Four plan doesn't -- it just
17 says increase daycare. It doesn't specify commercial
18 areas.

19 VICE CHAIR HOOD: Okay. Thank you, Ms.
20 Simon.

21 Mr. Oberlander, did you want to --

22 MR. OBERLANDER: Mr. Hood, if I could
23 maybe try to clarify that since I was party to
24 preparing the comprehensive plan back in 1984. The
25 land-use map is a generalized map. The land-use for

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1 this as testified to by the Office of Planning shows
2 institutional use for both the clinic site and the
3 Lisner site.

4 It's been that way for a long time. The
5 comprehensive plan ward sections are much more
6 specific, and that should be the guidance to the
7 Zoning Commission. If you look on my statement on
8 page 7, I try to outline the Ward Three portion of the
9 comprehensive plan, which gives the details.

10 Section 1400.2 has as its major theme for
11 Ward Three protecting the ward's residential
12 neighborhoods. This project doesn't do that
13 adequately. Yes, there is a small park area, but the
14 height of the building is going to be visible from the
15 surrounding one-family homes.

16 There's going to be 78 or 90 -- 80 feet
17 high. The homes around are 20 and 30 feet high. So
18 there is a very strong difference between the heights
19 of buildings across the street. Now, you've heard
20 testimony previously that it's okay to do that.

21 Well, the intention of the comprehensive
22 plan is not to do that. That's why the language is
23 the way it is on the statement that I prepared on page
24 7.

25 VICE CHAIR HOOD: Okay. I may come back

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1 to you, Mr. Oberlander, after other Commissioners.
2 But also, I wanted to find out if we could give Mr.
3 Mehra's transportation report to DDOT, because I
4 listened to the applicant's report and I've listened
5 to Mr. Mehra's, and my personal view is -- falls
6 somewhere in between.

7 And it might be more towards Mr. Mehra's,
8 I don't know, but I would like for that to go to DDOT,
9 because I do know that the level of service -- the
10 transportation report that I saw from the applicant, I
11 didn't comment on it the other night because I was
12 very displeased at what I saw.

13 I do know a little bit about the area. I
14 do know a little bit about D.C. And to say that it's
15 sufficient -- but then again, I'm not an expert. So I
16 would like to see Mr. Mehra's report also go to DDOT,
17 if we can do that.

18 CHAIRPERSON MITTEN: Oh, and we would ask
19 the Office of Planning to make that referral for us to
20 DDOT, since they're our technical advisor on these
21 matters, and it is quite technical. But I support
22 your request because there's a lot that it's beyond
23 our expertise to analyze. So thank you for the
24 suggestion.

25 VICE CHAIR HOOD: I think that's it for

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1 me. I had one or two questions -- wait a minute. I
2 wanted to ask a question about smart growth. Let me
3 come back on the back end.

4 CHAIRPERSON MITTEN: All right. Mr.
5 Parsons.

6 COMMISSIONER PARSONS: Mr. Hitchcock, I'd
7 like to congratulate you and your team on a excellent,
8 comprehensive and concise statement of your concerns
9 with 45 seconds to spare.

10 (Laughter)

11 MR. HITCHCOCK: Perhaps I can reclaim that
12 in some future case, Commissioner.

13 COMMISSIONER PARSONS: We've spent a lot
14 of time here listening to both sides of the story and
15 I think you have done one of the best jobs I've seen
16 of expressing your concerns in a fast-paced but
17 thorough way.

18 MR. HITCHCOCK: Thank you.

19 COMMISSIONER PARSONS: I do have a couple
20 questions, and many of your comparisons throughout the
21 testimony is between matter of right and the proposal.

22 And I see a -- I think I see a going back and forth
23 between matter of right and then seemingly accepting
24 the concept of a PUD, which is much different than
25 matter of right.

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1 And I want to make sure that your analysis
2 deals with either matter of right or full max PUD, one
3 or the other. And I'm not sure which we're getting
4 here.

5 MR. HITCHCOCK: I think --

6 COMMISSIONER PARSONS: You either have to
7 go with matter of right without a PUD, or absolute
8 maximum 3-FAR evaluations.

9 MR. HITCHCOCK: There are several
10 gradations. I'll let Mr. Oberlander address it more
11 specifically, lest I put my foot in my mouth. I mean,
12 there's matter of right, matter of right with the R#-
13 5-B with PUD and then the more extensive levels that
14 we're talking about here.

15 And we've been talking about both of the
16 others apart from the proposal. Maybe I should let
17 Mr. Oberlander speak to --

18 COMMISSIONER PARSONS: Well, what I'm
19 trying to elicit is, does the team agree that matter
20 of right with a PUD, full max availability of density
21 and height, is acceptable?

22 MR. HITCHCOCK: Our position --

23 COMMISSIONER PARSONS: Or are we talking
24 about matter of right because townhouses feel good?

25 MR. HITCHCOCK: I'd better let the client

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1 answer this one.

2 MR. FREEDMAN: Our analysis is meant to
3 focus on matter of right versus the application. We
4 do, as you noted, reference what could be done under a
5 PUD under current zoning.

6 Our view is that we would, like the
7 Commission would have to do, would evaluate that sort
8 of application on its merits, what flexibility it
9 requested and what it's offering the community.

10 So the answer is, we wouldn't reflexively
11 reject it. We would look at it on its merits. It
12 could well be acceptable, depending on what it asks
13 for. But we -- it's hard to say in the abstract,
14 having not seen one.

15 MR. OBERLANDER: If I could add to that.
16 If I could add to that, Commissioner Parsons. My
17 testimony dealt with the R-5-B as it is currently
18 constituted, which is an FAR of 1.8 and a height of 50
19 feet.

20 COMMISSIONER PARSONS: I see.

21 MR. OBERLANDER: That height was reduced
22 in the zoning back in 1974 from 60 feet to 50 feet.
23 The PUD associated with that is an FAR of 3 and no
24 higher than 60 feet. So that is from a planning
25 perspective back in the '70s, the desired or the

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1 flexibility of a PUD from the matter of right to, but
2 no more than what the PUD guidelines are.

3 The prior Zoning Commissions, and you may
4 have been personally involved in some of those, have
5 gone a little, in my opinion, beyond that concept of
6 stretching, and as you can see in square 1661, the
7 massiveness of the commercial zoning on Wisconsin
8 Avenue and backing into that buffer strip already.

9 COMMISSIONER PARSONS: Mr. Oberlander,
10 what I'm trying to -- I think I've got it; I think
11 I've got it. You're not there. If we were to say to
12 the applicant or the next owner of the property, bring
13 forward a PUD on an R-5-B, I would be suspicious that
14 some of you would come forward and say, we didn't mean
15 a PUD. We meant matter of right.

16 And I've heard two or three different sets
17 of testimony to that.

18 MR. FREEDMAN: I mean, again, if I can be
19 clear on that, and that hopefully our yellow buttons
20 are very clear. We say, keep the zoning, not, no PUD.
21 We --

22 COMMISSIONER PARSONS: Well, that's what
23 you said.

24 MR. FREEDMAN: That's what -- I can tell
25 you what --

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1 COMMISSIONER PARSONS: You said that.

2 MR. FREEDMAN: -- I can tell you what
3 Fhord's position is, what we think reflects our
4 membership and our supporters, which is, you know,
5 matter of right zoning might well be appropriate.
6 Obviously, we couldn't and wouldn't oppose that
7 because it's matter of right.

8 And we would look very seriously at any
9 application, PUD, within existing zoning, within that
10 flexibility range, but again, it's hard to opine on
11 that without seeing it. If you -- I mean, if there's
12 a specific question we'll look at it, but I can assure
13 you we would not reflexively reject it, reflexively
14 say, no, no, no, we meant current zoning, no
15 exception. We are not saying that.

16 COMMISSIONER PARSONS: I understand.
17 Okay.

18 MR. FREEDMAN: So I hope that's clear
19 enough. It's hard, again, in the abstract to go
20 further.

21 COMMISSIONER PARSONS: All right. I
22 wanted to ask Ms. Rebold about this exhibit here. I
23 would presume under the scheme that you're talking
24 about, the residential scheme that you showed in your
25 exhibits, that the excavation would probably be about

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1 the same as this is in order to get the parking
2 structure underneath the townhouses.

3 MS. REBOLD: It's -- I would think it's
4 possible that it encompassed the same area. It
5 certainly would not have the same depth. It would
6 only have a depth of several feet, because that --

7 COMMISSIONER PARSONS: Right. But the
8 purpose of this was to show tree preservation,
9 correct? So it's about the same impact as far as tree
10 preservation?

11 MS. REBOLD: That's possible.

12 COMMISSIONER PARSONS: Thank you.

13 CHAIRPERSON MITTEN: If I could just jump
14 in. I'll -- I just wanted to follow up on something
15 that Mr. Parsons was talking to Mr. Oberlander about.
16 When we -- you know -- you spoke about the
17 generalized land-use map, and that is the guide for
18 zoning.

19 But we're not so locked into a particular
20 zone that we don't have choices within a land-use
21 category. There is some flexibility. Otherwise, the
22 City Council would be zoning, because there wouldn't
23 be any flexibility.

24 And what I wanted to ask you is about the
25 sort of dynamic nature of zoning and the area -- the

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1 zoning was put in place in 1974, and then I believe
2 these designations of the site for -- as a housing
3 opportunity area and so forth came in after. Am I
4 correct about that?

5 MR. OBERLANDER: That's correct.

6 CHAIRPERSON MITTEN: And I guess to get to
7 the actual question, what are we supposed to do with
8 that guidance when -- if we are supposed to be
9 responsive to the dynamic nature of neighborhoods
10 changing and getting additional direction from the
11 comprehensive plan, how are we supposed to respond to
12 that?

13 MR. OBERLANDER: Well, in my opinion if
14 the comprehensive plan is general, then you can only
15 respond in the flexibility that you're willing to
16 provide. But if the comprehensive plan is as specific
17 in this instance as it is under the ward portion,
18 which says that the housing opportunity areas, if
19 we're talking about that, are sites other than the
20 clinic site, that should give you guidance to not
21 create flexibility on this site.

22 CHAIRPERSON MITTEN: Well, let me ask --

23 MR. OBERLANDER: The map just shows a
24 general area, and the words in the comprehensive plan
25 are site specific with regard to the Lord and Taylor

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1 site and the Metro bus site.

2 CHAIRPERSON MITTEN: I believe we've
3 encountered this subject in other PUD applications,
4 and we know a couple things. One is that the housing
5 opportunity areas are not defined. And what you're
6 suggesting, I'm not sure I'm willing to go all the way
7 to agree with you, is that so in lieu of that not
8 being defined they've selected sites, and those are
9 the only sites.

10 MR. OBERLANDER: Well, those are the sites
11 for intensification, because there are other
12 provisions in the comprehensive plan which says around
13 Metro stations you can in certain instances intensify.

14 But the matter of right housing on the clinic site is
15 also a housing opportunity.

16 CHAIRPERSON MITTEN: I understand that.

17 MR. OBERLANDER: It's just a lesser
18 density.

19 CHAIRPERSON MITTEN: I understand that
20 part. Let me -- I'll just finish up with Mr.
21 Oberlander and then I'll let the other Commissioners
22 have their chance and then I'll ask a few more.

23 You made a statement in your testimony
24 that more property owners -- in terms of having a
25 destabilizing effect on the area -- that more property

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1 owners will place their properties on the rental
2 market. What evidence do you have for that?

3 MR. OBERLANDER: There are already a few
4 houses that are on the rental market, abutting on 43rd
5 Street, because of the impact of the commercial
6 development along Wisconsin Avenue.

7 CHAIRPERSON MITTEN: So out of --

8 MR. OBERLANDER: And that is going to
9 spread, in my opinion.

10 CHAIRPERSON MITTEN: So out of all the
11 single-family properties in Chevy Chase, D.C., there's
12 sort of a disproportionate number available for rent?

13 MR. OBERLANDER: Well, I didn't make such
14 a finding or survey. I can, if you wish, but --

15 CHAIRPERSON MITTEN: I just want to know
16 the -- what compelled you to make that statement.

17 MR. OBERLANDER: Because that -- in my
18 experience over the years, the 31 years with the
19 National Capitol Planning Commission, I've noticed
20 this in areas around where density, either apartment
21 houses or office buildings next to low density
22 housing, that's the first sign of a change in the one-
23 family home area.

24 That has happened in the city throughout.

25 I came to this city in 1965 and there was a lot of

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1 changes that occurred since that -- the Zoning
2 Commission then was pushing the commercial zoning
3 westward and westward, where there were two and three-
4 story and four-story one-family and multi-family
5 houses, and all of this has -- that was a transition
6 for the western movement of the central business
7 district.

8 CHAIRPERSON MITTEN: Okay. Thank you.

9 Mr. May, did you have some questions?

10 COMMISSIONER MAY: Yes. I'll try to keep
11 it short. I'm not sure who can answer this question
12 best. So I'll throw it out and you can -- whoever
13 can, wants to take a try at it. This is -- really
14 goes back to the question of matter of right and what
15 you're considering as the alternative to this
16 development.

17 In other words, is it a PUD under R-5-B,
18 which if you'd do the math on it, it doesn't add up to
19 some of the other conclusions. What I'm getting at is
20 that the -- if you tried to build the matter of right
21 square footage on this lot and obeyed the lot
22 occupancy and the height limitations you wind up with
23 a five-story building.

24 A five-story building is not townhouses.
25 So I'm wondering, I mean, is it -- are you -- and

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1 there's been a lot of talk about wanting townhouses.
2 Is it townhouses that you want or is it R-5-B with a
3 PUD?

4 MR. FREEDMAN: Let me give a start to that
5 answer, which is, under matter of right zoning, no
6 PUD, we think there can be about 80 condos or
7 apartments or -- I'm talking about the clinic site
8 alone -- 30 or 40 town homes.

9 Either of those would be acceptable. I
10 think the neighborhood would express a preference for
11 town homes, although there's been a lot of discussion
12 about maybe some sort of hybrid; you know, some sort
13 of bar, as the developers say, of apartments or condos
14 along Western with some town homes.

15 So the answer is, either one or a mix of
16 them could be accomplished under matter of right.
17 Obviously, if the only driving force is as many units
18 as possible near the Metro, that would push it toward
19 condos or apartments, and we would have no problem
20 with that under matter of right.

21 When you get into a PUD, again, it depends
22 on specifics. There may be limiting principles of
23 traffic or parking or something and it's hard to opine
24 without specifics. I can tell you we would seriously
25 consider any proposal.

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1 I can't say whether we would embrace it or
2 not, but we certainly would not reflexively say, oh,
3 no, no, we didn't mean no PUD. You know, so I mean, I
4 hope that helps some. We'd prefer town homes from a
5 design perspective and from the character of the
6 community perspective, but we also understand the
7 interest in more units near the Metro.

8 We support that. We live near the Metro
9 and we'll take more housing than I think any other
10 planned effort now near Metro. It's accepting. The
11 Takoma Park, right by the Metro. You don't cross the
12 street.

13 Office of Planning's involved in the
14 planning efforts; 22 to 32 units per acre. And again,
15 matter of right would be 80 here, almost three times
16 that. We're fine with that. I mean, we think we're
17 very reasonable about this and we're -- you know --
18 we're the smart growth folks.

19 MR. OBERLANDER: Could I just add to that,
20 that matter of right residential is one aspect. There
21 are other uses to which this property could be put
22 under the comprehensive plan, institutional use
23 category, which specifically identifies the -- on the
24 map -- the clinic site and the Lisner site as
25 institutional uses.

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1 Can put daycare centers, a larger daycare
2 center on this. You can put churches on it. You can
3 put other kinds of uses that the zoning would allow on
4 this without going to a PUD.

5 COMMISSIONER MAY: Okay. I think I
6 understand where you're coming from. That leads into
7 the traffic question that I had. So if you could -- I
8 appreciate especially Commissioner Hood's suggestion
9 that we get a more precise review of what you
10 submitted, because it would have taken a really long
11 time to understand the differences between some of
12 those analyses that you suggested.

13 And I guess what I'm looking for is sort
14 of a bottom line answer here. There's a lot of
15 discussion of why the applicant's traffic report is
16 flawed.

17 But there isn't a very -- I didn't get a
18 very clear reading in what you presented with regard
19 to how you think that that adds up to -- and maybe it
20 does or it doesn't, I don't know -- this project
21 making -- creating a traffic situation that is better
22 or worse than the current situation, or even some
23 redevelopment with the same sort of use, given that
24 right now there's 60 or 70 parking spaces on it and
25 it's a completely different, you know, time of people

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1 going in and out.

2 So it's a question of current situation,
3 is it going to be better or worse, or even some other
4 proposed matter of right use, is it going to be better
5 or worse. Obviously, if it's apartments, you know,
6 and there are fewer apartments it's going to be less
7 of an impact.

8 But with the existing use how does it
9 compare, and maybe you can answer that, maybe you
10 can't. I don't know.

11 MR. MEHRA: I think first of all the
12 applicant has actually tried to compare the trips from
13 the existing use versus the proposed use, or uses.
14 However -- excuse me -- there are problems with the
15 estimation of trips from the proposed uses.

16 And right there is one of the differences,
17 that the proposed use would generate more trips than
18 the existing use. So that's one thing. So that would
19 obviously lead to --

20 COMMISSIONER MAY: Does that add up to an
21 objectionable condition traffic-wise? Or have you
22 don't enough study to say that?

23 MR. MEHRA: Well, I think when you look at
24 the comparison of trips and the levels of service that
25 O-R George report shows, and if you correct for some

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1 of the things, I've not gone through and done as
2 detailed an analysis, obviously, due to resource
3 constraints, but when you look at the limited analysis
4 I've done it shows that there are major problems.

5 First of all, the future traffic has been
6 estimated using a low growth rate. It's two percent
7 versus 3.2 percent. That's number one. Number two --

8 COMMISSIONER MAY: I'm sorry, but that's
9 for surrounding properties, right?

10 MR. MEHRA: Yes, that's for the --

11 COMMISSIONER MAY: So that would be true
12 regardless of whether it's developed as it is
13 proposed, or whether it's developed with some other
14 use or density, right?

15 MR. MEHRA: That's correct, that's
16 correct.

17 COMMISSIONER MAY: Okay.

18 MR. MEHRA: Okay. If you look at just the
19 site itself, for example, the traffic consultant has
20 said that at the intersection of Western Avenue and
21 Wisconsin Circle where the garage traffic will exit
22 onto Western Avenue they recommend a split phase so
23 that the traffic leaving the garage will have its own
24 exclusive signal phasing.

25 When you analyze that you find out that

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1 that makes the level of service worse than where it's
2 going to be without that split phase, which is what
3 the condition is today. In today's condition there's
4 no split phase there.

5 The signal on Wisconsin Circle operates as
6 what we call a simultaneous phase. That's one thing.

7 The second thing is the trips itself. When you take
8 a condition --

9 COMMISSIONER MAY: Will you back up for a
10 second there? I mean, that's a -- I mean, that could
11 be addressed by simply going back to a -- whatever you
12 call it, the shared phase or whatever, instead of a
13 split phase, right? I mean, that's a relatively small
14 point --

15 MR. MEHRA: I think that part of the
16 problem is --

17 COMMISSIONER MAY: -- traffic-wise, isn't
18 it?

19 MR. MEHRA -- part of the problem is
20 probably because of the site plan. The way it's
21 structured, I think there's an offset of the traffic
22 coming out of the garage and to make it, I guess,
23 operate smoothly they've recommended a split phase.

24 Otherwise, the traffic will tend to sort
25 of go into the eastbound direction because of the

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1 offset.

2 COMMISSIONER MAY: Okay.

3 MR. MEHRA: The other thing which you're
4 kind of referring to is if you look at the existing
5 use versus the proposed use, the proposed use does
6 cause more trips, or does result in more trips than
7 the existing use.

8 And given the fact that the existing
9 conditions are actually levels of service ENF, then
10 the future conditions with even a slight increase in
11 traffic would actually make it worse.

12 COMMISSIONER MAY: Okay. I'll take that.
13 I'm sorry I did this out of order. I have a question
14 for Dr. Simon and then I'm done. The -- I've boiled
15 my essential questions down to one.

16 You referred to a couple of the amenities,
17 specifically the -- I guess the two major amenities,
18 the affordable housing and even the daycare as not
19 being an efficient means of providing these amenities.

20 Can you tell me what you mean by not being efficient,
21 or tell me what an efficient means would be, in your
22 opinion?

23 DR. SIMON: Okay. For example, on the
24 daycare amenity they're proposing to provide a
25 building for 50 years at cost to a particular daycare

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1 provider that will provide 44 daycare spaces. This
2 obviously costs the developer a fair amount of money,
3 which OP is taking into account.

4 It also costs the city a fair amount of
5 money because it is taking essentially the equivalent
6 of three building lots that could support houses of
7 close to \$1 million apiece off the market, which would
8 be substantial future revenues. And for this --

9 COMMISSIONER MAY: Considering, though,
10 the overall development of the site and the overall
11 lot -- I mean -- occupancy of the site, that's not
12 even there.

13 DR. SIMON: That's -- obviously taking
14 those off the market went into the economic
15 calculation, yes.

16 COMMISSIONER MAY: Okay.

17 DR. SIMON: But I am -- but it is part of
18 the cost to the city of the daycare center of getting
19 44 slots. I had drawn up a way of doing a daycare
20 center where you could get 44 slots at a significantly
21 lower cost to the developer.

22 We're not here to bleed the developer.
23 We're here to provide amenities. And so we're not
24 looking at how much the developer pays as the benefit.

25 We're looking at what the neighborhood gets. And you

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1 could provide space that would only be used for
2 daycare, and I had several provisions in there where I
3 had actually written out language --

4 COMMISSIONER MAY: Is this in your
5 submission?

6 DR. SIMON: It's in my submission with
7 both an outline, as well as regulatory language that
8 shows how you could provide space that would be used
9 only for daycare. They'd have to charge rent that
10 daycare providers could afford to pay and operate at.

11 And if they couldn't get a daycare
12 provider in there they wouldn't get any rent. They
13 also, if they couldn't get a daycare provider in
14 there, would have to make some other equivalent
15 amenity such as donating for a library reading program
16 or some other thing that would be a comparable
17 benefit.

18 But I gave detailed language of how you
19 could efficiently provide a daycare amenity if you
20 thought the neighborhood needed a daycare amenity.

21 COMMISSIONER MAY: Okay.

22 DR. SIMON: The affordable housing, you're
23 essentially taking approximately five units that have
24 a market rate somewhere between four and \$500,000,
25 selecting five very lucky households to be able to buy

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1 them at a fraction of the cost.

2 Clearly, there are other ways and the city
3 has done other ways of providing affordable housing
4 where you can build units, renovate units that
5 actually are affordable.

6 You could use something like the HPAP
7 Program that helps people to borrow money for their
8 down payments, if that's the stumbling block they have
9 to get over, and you can get people into affordable
10 housing in a less expensive way than this way of
11 providing a mere four to six units for quite a few
12 hundred thousand dollars, and that will only be
13 available for a very short period of time because of
14 the total lack of enforcement ability for this, as
15 well as the 20-year phase-out, even if it were
16 enforceable.

17 COMMISSIONER MAY: Okay. Well, I wasn't
18 so much concerned about the enforce ability issue as
19 it was the idea of a more efficient means of doing
20 this. Essentially, you're talking about doing some
21 other -- something else in a different location, in
22 essence.

23 DR. SIMON: It might be in Ward Three. It
24 might be at a -- this is a small fil-in site. So it
25 might need to be in a small location in a suburban

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1 area. Where you have acres upon acres, you can
2 possibly put lower-cost housing on a portion of the
3 site without having this phenomena of basically giving
4 away a unit for a third of its cost.

5 COMMISSIONER MAY: But anything that would
6 be in this neighborhood would essentially be subject
7 to the same economic factors, would it not?

8 DR. SIMON: Except perhaps renovations.

9 COMMISSIONER MAY: Okay.

10 DR. SIMON: Or other things, yes.

11 COMMISSIONER MAY: All right. Thanks.

12 CHAIRPERSON MITTEN: Anybody else? Any
13 questions?

14 COMMISSIONER HANNAHAM: Yes. I was just
15 interested in I think it was a statement might have
16 been made earlier that -- to the effect that earlier
17 in the discussions with the community there was a
18 digression between Fhord and the rest of the people in
19 this -- and the developer.

20 And what you've presented to us in this --
21 in opposition to night is really a very comprehensive
22 look at the whole thing, and it really knocks a lot of
23 holes in the benefits, the public benefits, amenities.

24 And I just wondered whether there's some particular
25 level of compromise.

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1 I mean, where can we come to a
2 satisfactory accommodation, given your position and
3 given the applicant's proposal?

4 MR. HITCHCOCK: Does Mr. Freedman want to
5 answer? I mean --

6 MR. FREEDMAN: Consistent with my prior
7 answers, there are two answers. First of all,
8 obviously, the applicant as a matter of right can come
9 in with something as a matter of right and do it. We
10 would love to be engaged in that conversation, but we
11 may not have any entitlement to be.

12 So what we would welcome, though, is a
13 discussion -- well, we'd welcome an application for a
14 PUD from this developer or anyone else, if they deem
15 appropriate, under the current zoning, and we think
16 the appropriate place to have that discussion is
17 between the way the strict matter of right provides
18 and some middle or all of a PUD under current zoning,
19 and that's where we are very open to having a
20 discussion.

21 This developer's been absolutely clear,
22 and again, to his credit, that it has a very different
23 vision for this project and it does not want to have a
24 discussion within those bounds. And that's really why
25 we're here.

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1 We think that's the place to have a
2 discussion, is somewhere between 70,000 as a matter of
3 right, and I -- about 133,000, which is very
4 significant flexibility or departure, with a maximum
5 PUD.

6 And we'd have that discussion. We'd
7 welcome it. No one's been at the other side of the
8 table to have that discussion with us, Commissioner.

9 COMMISSIONER HANNAHAM: Okay. Thank you,
10 Madam Chair.

11 CHAIRPERSON MITTEN: Thank you, Mr.
12 Hannaham.

13 Mr. Freedman, while you're there. You had
14 made a statement in your testimony that the childcare
15 center was in breach of the previous PUD on Square
16 1661. In what way?

17 MR. FREEDMAN: I was hoping that would
18 provoke somebody to ask a question, quick as it went
19 by. The prior PUD which created this daycare center
20 was designed to have no traffic impact, and it was
21 designed to do that in a closely tailored way.

22 It was required to have 50 percent of the
23 children in there from the very local community that
24 were expected to walk there, not just the ward or even
25 the whole ANC, but to walk there, and the other half

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1 from the commercial part of the PUD being granted, and
2 it was supposed to be a 50/50 balance, therefore
3 generating really no adverse traffic impact.

4 When we -- we've observed for years, we've
5 been the neighbors, that there's a very significant
6 amount of drop-off traffic there. Basically, the kids
7 all seem to be driven there.

8 When we actually looked through a
9 directory of the addresses of the children enrolled
10 there in the year 2000, and mapped out where they were
11 located it seemed to be that, generously speaking,
12 about four of the 32 children were within walking
13 distance.

14 The best we could figure, about two
15 children were from the commercial part of the PUD, not
16 just attached to that, but the -- any commercial
17 development on Square 1661. Therefore, of the 50
18 percent or 16 spots that were supposed to be for
19 walkable neighborhood kids, four were being used.

20 And of the 50 percent or 16 neighborhood
21 spots that were supposed to be used for the commercial
22 tenant the most, two were being used. So basically,
23 six out of 32 spots were being used as according to
24 the PUD, and that is consistent with our observations.

25 And we think what we've heard consistently

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1 from daycare center, and they'll talk about there are,
2 you know, a bunch of kids, I think, you know, eight or
3 more or ten from Maryland because their sibling
4 preference trumps their community preference, and we
5 don't know where that came from.

6 Many people are from, you know, Ward Three
7 generally, but drive there. But again, the PUD was
8 very specific. It's for the local people who are
9 going to be impacted, people who live as close as
10 Maryland, who would be impacted from this, would
11 likely walk there, and it just seems to be in blatant
12 breach of this.

13 CHAIRPERSON MITTEN: Let me ask you if --

14 MR. FREEDMAN: Yes.

15 CHAIRPERSON MITTEN: -- you could -- you
16 obviously have some more information that backs this
17 up. So if you could submit that for the record so
18 that we could understand by examining the information
19 that you have whether or not the flaw lies in the
20 language of the PUD condition for Square 1661 or
21 whatever project it was.

22 MR. FREEDMAN: Yes.

23 CHAIRPERSON MITTEN: Or whether it lies in
24 the execution of the condition.

25 MR. FREEDMAN: Yes.

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1 CHAIRPERSON MITTEN: Because we -- this is
2 what we run into, unfortunately, is that there's an
3 intent and the intent is not completely and
4 effectively articulated in the condition. So we --
5 I'd like to understand that better.

6 MR. FREEDMAN: Yes. I understand that,
7 and there's a little wiggle room in the PUD and it
8 talks about -- but not much. It has very specific
9 language about the 50/50. It talks about that being
10 the goal.

11 The applicant there said it would achieve
12 that goal. It's something maybe just shy of a
13 requirement, but it clearly was the expectation and
14 the promise of the applicant that that's what it would
15 be. So I understand the question.

16 I'd just caveat this by saying that we
17 have, you know, limited data and I can provide what we
18 have. Obviously, I wouldn't have made that statement
19 without any --

20 CHAIRPERSON MITTEN: Sure.

21 MR. FREEDMAN: -- support for it, but I
22 don't have -- you know -- we don't have discovery
23 here.

24 CHAIRPERSON MITTEN: Right. I understand.

25 MR. FREEDMAN: So I don't have the

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1 question.

2 CHAIRPERSON MITTEN: And that's all I'm
3 asking for, is whatever you have. And we do have the
4 condition of the prior PUD, and it is available to us
5 and it's in the record, I think.

6 MR. FREEDMAN: I'd love to -- if I can
7 refer you -- and we've written about this and I know
8 you've gotten voluminous writings and I hope they're
9 useful. On a December 12th letter --

10 DR. SIMON: The one I handed up just now.

11 MR. FREEDMAN: The one Dr. Simon's handed
12 up from Dr. Simon to the Commission on page 3 of 7
13 talks about the conditions on the Abrams PUD of the
14 daycare center. And I believe --

15 DR. SIMON: This is the amenities letter,
16 not the economics one.

17 CHAIRPERSON MITTEN: Page 3 of 7. I'm
18 with you.

19 MR. FREEDMAN: Let me turn this over to
20 the author of this letter.

21 CHAIRPERSON MITTEN: Is it in footnote 5,
22 maybe?

23 Dr. SIMON: Yes, it's in number 5. But
24 no, 5 is the split for the children, where they should
25 come from. And the following footnotes give the

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1 information from the directory of children and
2 parents.

3 CHAIRPERSON MITTEN: Okay.

4 DR. SIMON: On the following page.

5 CHAIRPERSON MITTEN: Okay.

6 DR. SIMON: And then I also had some
7 census tract information on how many children live
8 between Connecticut and Wisconsin, between Nebraska
9 and Western Avenue.

10 CHAIRPERSON MITTEN: Okay. Thank you. I
11 should also express my thanks for the comprehensive
12 presentation that you made. It's very interesting and
13 I look forward to reviewing it in more detail.

14 I just wanted to ask one question of
15 clarification of Mr. Mehra, if you could come back to
16 the table. Sorry for all the musical chairs. By the
17 actions that Mr. May is taking, I just want to invite
18 anyone who is -- finds it quite warm in this room to
19 take off your coat.

20 Mr. Mehra, you had made a -- you had drawn
21 a conclusion in your testimony that there was a
22 shortfall of 30 accessible parking spaces for the
23 project based on the demand that you felt would exist.

24 And I just want to know, is that -- is your
25 conclusion tied to the applicant's request for

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1 stacking of part of the -- some of the spaces?

2 MR. MEHRA: That's correct. I think the
3 applicant said that up to 25 percent stack spaces.

4 CHAIRPERSON MITTEN: Okay.

5 MR. MEHRA: So after -- that's the reason
6 I used the word accessible spaces.

7 CHAIRPERSON MITTEN: Right. I just wanted
8 to make sure I understood that. But in total, if all
9 of the spaces were not -- if they were as they
10 normally would be for required parking, they would
11 have to be accessible, the sheer number of spaces
12 being offered, you would find that adequate?

13 MR. MEHRA: I think the -- one of the
14 things was that the census tract data for the sort of
15 Friendship Heights area showed that the auto ownership
16 varied from 1.1 to 1.4. For my analysis of kind of
17 went with the lower end, which is 1.1.

18 So based on that, I came out with the
19 conclusion that they'd be 30 accessible spaces short.
20 However, if you go to, say, the average, which was
21 1.3, that might result in a different conclusion,
22 though.

23 CHAIRPERSON MITTEN: And you say this is
24 for the census tract? Is that where you got the data
25 on the --

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1 MR. MEHRA: I used the data that O-R
2 George provided in their report.

3 CHAIRPERSON MITTEN: Okay. And somebody
4 was going to get us the census tract.

5 DR. SIMON: Yes. We also had census tract
6 data for block group number 5, which is a relatively
7 small area right around that includes the Stonebridge
8 sites and several blocks nearby. And we found that
9 there was something like 1.4 for owner-occupied houses
10 on that site.

11 CHAIRPERSON MITTEN: Well, I guess what
12 I'm trying to understand and not having the census
13 tract delineation in front of me, it's one thing if
14 you live in a detached house and you have a garage and
15 a driveway and all that stuff.

16 You're -- I would presume that people
17 would own more cars on average than if they live in
18 more my circumstance. I live in a high rise building,
19 relatively high rise building here. We don't have
20 high rises.

21 MR. MEHRA: Obviously, I'm not a traffic
22 expert, but I -- if I can just make a lay point.
23 There's a very serious limiting principle in terms of
24 the design of this project. They promise only two
25 stories of parking and that it -- underground parking,

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1 and it'd only be under the clinic land.

2 If you look at the their drawings, they
3 obviously use every inch of that they can and they
4 have 100 accessible spaces, plus 17 stacked, and there
5 is no way -- I mean, you can ask Shalom Baranes. You
6 know, doesn't appear to be any way to get any
7 additional spaces there.

8 So there's not enough, with or without
9 stacked, for the number of units we're talking about.

10 Secondly, just my simple understanding of the census
11 data is, Friendship Heights, Maryland, close in where
12 we live, we own about 1.3, 1.4 cars per unit.

13 And I would suggest that we don't own more
14 or less cars than -- fewer or more cars than the
15 Stonebridge residents would. There's things Metro
16 works for and things it doesn't. Hazel doesn't own a
17 car. My two and a half year old son hates riding in a
18 car. I commute by --

19 CHAIRPERSON MITTEN: Good kids.

20 MR. FREEDMAN: I go to Bethesda on
21 weekends on Metro. He loves trains, by the way. So
22 we ride the trains all day and never get in a car. I
23 don't think there's that much difference between
24 people who move here and people who live here.

25 We live here because we don't want to be

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1 dependent on cars. But we have -- some have them,
2 zero, one or two. I don't think it's that different.
3 But if you look at Friendship Heights, Maryland,
4 across the border, much -- you know -- basically,
5 dense high rises, rental units, not luxury type or
6 high end type that Stonebridge is talking about.

7 That's 1.1 cars per unit. So that's where
8 we get the range of 1.1 if your in Friendship Heights,
9 Maryland for rentals, more rentals.

10 CHAIRPERSON MITTEN: Okay.

11 MR. FREEDMAN: 1.4. Either way you look
12 at it, there's not enough parking.

13 CHAIRPERSON MITTEN: Okay. I got that.

14 MR. HITCHCOCK: Madam Chair, if I may
15 respond to your question. There was a detail; I
16 omitted to submit the data you requested last time for
17 the definition of the census tract data and we do have
18 it here.

19 I would proffer that this site is located
20 in census tract 11, and within that it is within block
21 group 5. Census tract 11 is essentially Wisconsin to
22 Connecticut, Western down to Van Ness and Nebraska.

23 Dr. Simon, who did the analysis, can break
24 it down further, give you a map of block group 5,
25 which is the smaller area here, get the specific data,

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1 if the Commissioner has, on some of these issues from
2 the 2000 data, which is as -- I believe it just came
3 out within the last month or two.

4 CHAIRPERSON MITTEN: Having the
5 delineation of the reference points is helpful. So if
6 you talk about a census tract, where exactly are we
7 talking about. If we're talking about block group 5,
8 where's that.

9 MR. HITCHCOCK: Yes.

10 CHAIRPERSON MITTEN: So that would be
11 helpful.

12 MR. HITCHCOCK: Okay. We will hand this
13 up and we will submit for the record the map showing
14 where block group 5 is. And if there are data you
15 want in terms of the car ownership, ridership and that
16 sort of thing, that can be provided, as well, and Dr.
17 Simon perhaps could address any specific questions
18 that the Commission had based on this data in terms of
19 what's available.

20 CHAIRPERSON MITTEN: Okay. Thank you.
21 Any -- Mr. Hood.

22 VICE CHAIR HOOD: I've got two quick
23 questions.

24 Mr. Oberlander, could you -- sorry, but
25 could you come back? I have a quick question for you.

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1 Mr. Hitchcock, I received something from a
2 young lady and I want to ask her to come back, in red,
3 who was sitting to my far right. Are these basically
4 the concerns about the construction management plan
5 that you have?

6 MR. HITCHCOCK: That is correct,
7 Commissioner Hood. The -- Ms. Rebold and the
8 neighbors prepared a list of concerns that they have
9 about ways that the comprehensive management plan is
10 inadequate.

11 Ms. Rebold is prepared to testify and
12 respond to questions, having been a neighbor involved
13 I believe in a prior construction management plan as
14 part of the Square 1661 development. And if she could
15 come up to the table.

16 VICE CHAIR HOOD: I'm not going to
17 necessarily ask any questions.

18 MR. HITCHCOCK: Yes, sure.

19 VICE CHAIR HOOD: I just wanted to make
20 sure this will be sufficient.

21 MR. HITCHCOCK: Yes.

22 VICE CHAIR HOOD: Because if you notice,
23 at the last hearing I did ask about the management
24 plan and I asked it to be more specific. So I wanted
25 to ask the applicant to really look at this when they

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1 come back with those specifics for a later date.

2 MR. HITCHCOCK: Right. It was provided in
3 an attempt to give the Commission a specific set of
4 concerns that the neighbors had.

5 VICE CHAIR HOOD: That was all. I'm sorry
6 to have you come all the way back. I don't really
7 have any questions. You have it -- just put it right
8 here for us. Thank you.

9 Mr. Oberlander, right quick, I don't know
10 how you want to answer this, but with your expertise
11 and your years of experience your testimony weighed
12 heavily on the comprehensive plan. Would you say that
13 that's an adequate way -- would you say the
14 comprehensive plan amendment process was adequate, is
15 adequate for your years of experience?

16 Because let me just say this: I've heard
17 horror stories that it -- before 12:00 o'clock people
18 just run down there with something. They know a
19 council member. They run down there with a provision
20 to go in the comp plan.

21 Would you say it's a well thought out
22 piece or would you say it's adequate? Just expand on
23 it like, because your testimony really went to the
24 comp plan.

25 MR. OBERLANDER: The process for amending

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1 the comprehensive plan is established in the Home Rule
2 Act. I mean, that's by law since 1975. The way the
3 Council of the District of Columbia maybe accepts
4 amendments or suggestions to be put into amendments, I
5 have no direct experience with because that was done
6 by the Council.

7 The Planning Commission was not involved
8 in that. The Planning Commission gets the document
9 after the Council approves it. And before it can go
10 to the Congress for its 30-day layover it has to have
11 a federal interest review by the Planning Commission.

12 That's where I would have had the
13 experience with. So the document would have already
14 been amended if it -- there was an amendment process.

15 There is -- as you know, you and I serve on a task
16 force the mayor's established to consider the
17 comprehensive plan, not the substance, but the
18 process, and that is one of the issues that the task
19 force is discussing, the amendment process.

20 The amendment to zoning is a very precise
21 way of amending the zoning regulations. And there
22 isn't a direct comparableness in the comprehensive
23 planning process to how you amend the zoning
24 regulations, because they are specified public
25 hearings required. You know very well the amendments

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1 to the zoning process.

2 VICE CHAIR HOOD: Okay. I just thought I
3 would seize the moment. Thank you, Mr. Oberlander.

4 CHAIRPERSON MITTEN: Anybody else have any
5 follow-up questions? Questions?

6 Mr. Quin.

7 MR. QUIN: Yes, Madam Chairperson --
8 sorry. I just was inquiring as to your intentions on
9 how late -- I don't plan to talk for very long.

10 CHAIRPERSON MITTEN: Yes. How late are we
11 going to be, Mr. Quin?

12 MR. QUIN: Not long for my questions.

13 CHAIRPERSON MITTEN: Okay.

14 MR. QUIN: But I just was inquiring
15 because you asked me to tell you that when Ms. Danahy
16 got here, she is here.

17 CHAIRPERSON MITTEN: Oh, okay.

18 MR. QUIN: And I don't know how many more
19 people might testify, and I want to make sure that we
20 complete it tonight. So I know we'll have an
21 opportunity for rebuttal, whether it's in writing or
22 otherwise.

23 And so I want to try to limit my cross-
24 examination, but I didn't know what your intentions
25 were about timing.

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1 CHAIRPERSON MITTEN: We're intending to
2 finish and not at midnight.

3 MR. QUIN: Right. Well, I don't want to
4 be here either then.

5 CHAIRPERSON MITTEN: We have to get the
6 trains to go home.

7 MR. QUIN: Yes, right.

8 MR. OBERLANDER: We've got 35 minutes
9 left.

10 MR. QUIN: I have just -- sorry. Forty-
11 five minutes left?

12 CHAIRPERSON MITTEN: Well, if we stop at
13 10:30. I think if we just keep moving we'll be fine.

14 MR. QUIN: I'm going to be very brief,
15 then.

16 First, Mr. Oberlander, a couple questions.
17 Mr. Oberlander, as part of your testimony you dealt a
18 lot with the sectional development plan back in 1973
19 and '74. Are you aware that the Zoning Commission
20 denied the sectional development plan in terms of
21 mapping?

22 MR. OBERLANDER: Well, I am aware that
23 they did not adopt the sectional development plan.
24 They adopted the zoning, which was a direct result of
25 the sectional development plan.

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1 MR. QUIN: Right.

2 MR. OBERLANDER: And there was no need for
3 the Zoning Commission to in fact adopt the sectional
4 development plan. There was a memorandum in the file
5 that I went through. There are 11 files in the Zoning
6 Commission office dealing with the sectional
7 development process for the Friendship Heights.

8 And there's a memorandum from Lou Robbins
9 when he was assistant corporation counsel that spelled
10 out why the Zoning Commission does not need to adopt
11 the sectional development plan.

12 MR. QUIN: And in terms of the order, may
13 I show you the order that's dated number -- order
14 number 250.

15 CHAIRPERSON MITTEN: Do we have that?

16 MR. QUIN: I'm sure you have a reference
17 to it because we've talked about it in other -- our
18 testimony --

19 CHAIRPERSON MITTEN: I just want to be
20 sure that we're looking at whatever you're looking at.

21 MR. QUIN: I'm not sure you have a copy of
22 it.

23 CHAIRPERSON MITTEN: Okay.

24 MR. QUIN: But it was -- Mr. Sher did
25 testify to that part and specifically, why don't I

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1 just call your attention to it rather than get into
2 more questions of Mr. Oberlander.

3 CHAIRPERSON MITTEN: Oh, okay.

4 MR. QUIN: It'd be faster. It's the --

5 CHAIRPERSON MITTEN: Okay. We have it.

6 MR. QUIN: -- it's the one that on page 2
7 talks about why they find it inappropriate to adopt
8 the proposed sectional development plan.

9 CHAIRPERSON MITTEN: Oh, yes, we have
10 that.

11 MR. QUIN: Okay. Then

12 MR. OBERLANDER: Could I just make the
13 point that --

14 MR. QUIN: I don't have a pending --

15 CHAIRPERSON MITTEN: He didn't ask you a
16 question yet.

17 MR. OBERLANDER: Okay.

18 MR. QUIN: I do have another question,
19 though, Mr. Oberlander. You in your testimony also
20 talked a lot about the Ward Three provisions in the
21 comp plan, and I wanted to ask you about two
22 provisions in Ward Three.

23 My understanding is you feel the Ward
24 Three plan is very important for this particular case,
25 that it's more specific than some of the other

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1 provisions.

2 MR. OBERLANDER: Well, the ward level
3 planning is more detailed than the general provisions
4 in the elements of both the federal and the D.C.
5 elements. So the ward plan is at a more -- a scale of
6 development which is more specific than the general
7 policies contained in the land-use considerations and
8 the housing considerations. The ward plan is a lower
9 level planning, more detailed level planning.

10 MR. QUIN: So when it provides in Ward
11 Three that provide the greatest housing densities in
12 those corridors that have the best access to
13 transportation and shopping and giving zoning
14 preference to projects that include housing near each
15 of the ward's Metro rail stations, that's a very
16 important guide for the Zoning Commission. Is that
17 correct?

18 MR. OBERLANDER: It is, but it mentions
19 the word "corridor," and the zoning has already
20 established a corridor by having the commercial zoning
21 along Wisconsin Avenue as the corridor, and the
22 specific plan for this area created a transition zone
23 next to that corridor to step down the density of
24 development adjacent to the one-family housing area.

25 MR. QUIN: And when did those zoning

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1 changes, the PUDs take place, subsequent to '74?

2 MR. OBERLANDER: This was in '75.

3 MR. QUIN: And the --

4 MR. OBERLANDER: The zoning changes were
5 approved by the Zoning Commission in 1975. In fact,
6 Mr. Parsons wasn't even on that Commission. Mr.
7 Stanton was his predecessor on that.

8 MR. QUIN: And in Square 1661 the --

9 MR. OBERLANDER: Well, that came later.

10 MR. QUIN: Right. That came after --

11 MR. OBERLANDER: And that's where, in my
12 opinion, the Zoning Commission exceeded that corridor
13 strip, but that --

14 MR. QUIN: Okay.

15 MR. OBERLANDER: -- in their wisdom that
16 was appropriate.

17 MR. QUIN: So you disagree with the Zoning
18 Commission on that?

19 MR. OBERLANDER: I didn't say I disagree.
20 I just said --

21 A PARTICIPANT: Yes, you did.

22 MR. OBERLANDER: -- it went beyond --

23 (Laughter)

24 MR. OBERLANDER: -- beyond the concept
25 that was established in the sectional development

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1 plan.

2 MR. QUIN: All right. Okay. I won't ask
3 you anymore questions then.

4 MR. OBERLANDER: We've had these
5 discussions before in other cases like this.

6 MR. QUIN: Right, we have. I'd like to
7 ask Mr. Mehra to come forward with just a quick
8 question.

9 Mr. Mehra, from a transportation planning
10 standpoint -- this may seem like a very general
11 question and it is -- what would be preferable in
12 terms of locating housing density, closer to Metro and
13 bus transit facilities, or farther away?

14 MR. MEHRA: I think in a generic sense
15 yes, it would be more appropriate to locate it closer
16 to a Metro stations, yes.

17 MR. QUIN: That's all the questions.

18 CHAIRPERSON MITTEN: Thank you, Mr. Quin.

19 MR. QUIN: Thank you.

20 CHAIRPERSON MITTEN: Mr. Gordon, for the
21 ANC, did you have any?

22 MR. R. GORDON: No questions.

23 CHAIRPERSON MITTEN: No questions. Okay.
24 Great. I'm just going to ask that we could go
25 through the other folks in opposition before we go

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1 back to Ms. Danahy.

2 MR. QUIN: Okay.

3 CHAIRPERSON MITTEN: Just in fairness.
4 I'll use my witness list again, and then anyone else
5 who would like to testify. Dean Filmer. I hope I
6 have that right, F-I-L-M-E-R, it looks like. Not
7 here. Okay.

8 Barbara Robinson; Barbara Robinson. Not
9 here? Okay. Tom Coleman; Tom Coleman. Okay. That's
10 -- I think that's -- who would like to testify as a
11 person in opposition? We have four seats at the
12 table. I think I saw four hands.

13 If not, we'll have a second panel. We can
14 -- we'll just move down the table, starting with the
15 woman in the blue turtleneck. And I just need to tell
16 you, you have three minutes, and you turn the mike on
17 before you start speaking and identify yourself for
18 the record.

19 MS. MELLON: My name is Margaret Mellon.
20 I am a District homeowner. I live at 5417 42st Street
21 Northwest, directly across from the Lisner Home. I
22 very much appreciate the opportunity to testify before
23 you tonight.

24 I understand you do these late night
25 hearings rather routinely, and for that I salute you.

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1 I would like to make three points in opposition to
2 this project. First, I want to reiterate that in my
3 opinion as a neighbor, the Stonebridge building as
4 proposed is simply too massive and too intrusive to
5 fit into the character of our neighborhood.

6 Second, I think the developer should have
7 considered what could be built with a PUD based on
8 matter of right zoning. I sat through most of the
9 meetings and hearings and saw I think all the
10 presentations the developer made on the project over
11 the last ten months.

12 You know, not one of the six or seven
13 different architectural work-ups I saw would have met
14 the requirements for matter of right zoning. Yes, I
15 know it's a challenge to -- it's a challenging site
16 for townhouses or maybe for apartments, but then I
17 heard many times how challenging it was to place a
18 ten-story building on it.

19 The developers have a really good
20 architect. I really would have liked to have seen
21 what he could have done under the constraints of
22 matter of right zoning.

23 I mean, somebody, I'm not sure who, I
24 mean, maybe it's the Office of Planning, ought to
25 elicit from developers a serious vision of what could

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1 be done with matter of right zoning and a PUD so that
2 we would all have an opportunity to really make a
3 well-founded judgment.

4 Third, I'm very concerned about the future
5 of the Lisner property and the process that will be in
6 place to make decisions about it. As I said, I live
7 right across the street from it. It's a beautiful
8 six-acre, tree-studded property.

9 I think once the clinic site is developed,
10 once all of the Maryland side development has taken
11 place, this tract is going to become one of the most
12 attractive for development in the Friendship Heights
13 area.

14 I think it'll be such a development plum
15 they'll have to paint it purple. I mean, if -- or as
16 really I believe -- when the developers start to move
17 on it they'll have every incentive to up-zone it as
18 far as possible.

19 I mean, I live there. I plan to be around
20 for that process and I'm concerned about the precedent
21 that this planning process will set for it. I mean, I
22 expect that in developing and making arguments for up-
23 zoning that site, you know, they're going to start by
24 proposing to build Mount Rushmore.

25 And then they're going to claim to have

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1 worked with the community when they come down to
2 something about the size of Sugar Loaf.

3 CHAIRPERSON MITTEN: You need to wrap it
4 up now.

5 MS. MELLON: Okay. I think we ought to
6 consider that proposal, turn down the Stonebridge
7 proposal, encourage I think the first genuine
8 consideration of what could be built with matter of
9 right and set the stage for a productive, long-term
10 planning process that would encompass, rather than
11 deny the inevitability that the site's going to be
12 developed.

13 I'm really for development with houses on
14 that site. I mean, with as high a density --

15 CHAIRPERSON MITTEN: I need you to give us
16 your final thought.

17 MS. MELLON: Okay. As consistent with the
18 character and infrastructure of our neighborhood, but
19 I think with -- if Stonebridge is approved I don't
20 think that that's what we'll get.

21 CHAIRPERSON MITTEN: Thank you, Ms.
22 Mellon.

23 MS. MELLON: Thank you.

24 CHAIRPERSON MITTEN: Ma'am.

25 MS. JANSEN: My name is Ann Jansen. I'm a

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1 native Washingtonian and live at 4224 Military Road.
2 My house is well within 200 feet of the Stonebridge
3 site. I have lived here for 31 years. My father
4 originally had this house built for his three single
5 sisters and bachelor brother in 1958, and I moved in
6 June 1971.

7 In 1985, I was pleased to show off the
8 neighborhood to my new husband. Both he and I have
9 enjoyed living here in Friendship Heights. Two years
10 ago we started thinking about moving. We were
11 disturbed about the traffic congestion on our street
12 and the side streets, especially 43rd Street.

13 When we heard that the Washington Clinic
14 was going to be torn down to make room for a huge new
15 development we knew that the neighborhood was in deep
16 trouble. That's when we knew for sure that we wanted
17 to move out of the District into a saner, safer
18 environment where there would be less traffic
19 congestion, noise, pollution and construction.

20 We may soon be selling our house and we
21 are very concerned about the possibility that our
22 house could be damaged if there is new construction so
23 close. Whoever buys our house will have the same
24 concerns that we have, and we will want to know how
25 this house is protected.

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1 It will be very difficult to sell our
2 house without a strong signed agreement from
3 Stonebridge that assures the new owners that they have
4 little change of being damaged. And they need to know
5 that if they are damaged they will be fairly
6 compensated.

7 I know what serious damage occurred to the
8 homes of several of my neighbors during construction
9 on Square 1661, and some of them were much farther
10 from that construction than we are from the
11 Stonebridge site.

12 I believe you have already received from
13 my neighbor, Hazel Rebold, a document concerning the
14 provisions that I also would like to have Stonebridge
15 make if any PUD is granted for this site. I thank
16 you.

17 CHAIRPERSON MITTEN: Thank you, Ms.
18 Jansen.

19 Sir.

20 DR. FURANO: My name is Dr. Anthony
21 Furano. I live at 5406 41st Street, and I carry out
22 biomedical research at the NIH, the National
23 Institutes of Health, commuting there daily by Metro.

24 I have lived in this area for more than 25 years and
25 have witnessed the ever increasing problems of traffic

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1 congestion, parking and pedestrian safety problems,
2 air pollution and the such, that has accompanied the
3 increased development of Friendship Heights.

4 Therefore, I strongly oppose any
5 development that would require up-zoning of the
6 Washington Clinic site for all the reasons already
7 enumerated by others. However, I have concerns with
8 several aspects of the proposal that I have -- that I
9 believe have not received sufficient attention.

10 The one I want to focus on is the
11 rationale for qualifying the affordable housing
12 component as an amenity from Stonebridge to the city.

13 So let's go through this step by step. Stonebridge
14 seeks a five percent increase above R-5-C, plus full
15 PUD, and will offer the five percent increase, which
16 is five to six units, as affordable housing.

17 It is safe to assume that they at least
18 break even on the sale of these units. There's no
19 evidence that they will offer them below their cost of
20 building them. Thus, their offer to the city is a
21 wash. They are not giving an amenity to the city.

22 Rather, the city by granting them their
23 five percent increase is in reality giving Stonebridge
24 the wherewithal to enhance their proposal with an
25 affordable housing component that they hope will earn

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1 them approval on the rest of the project, up-zoning to
2 R-5-C plus full PUD.

3 And that up-zoning and full PUD is worth
4 100,000 extra square feet. This arrangement where the
5 city gives Stonebridge five percent extra and the
6 Stonebridge turns around and gives it back as an
7 amenity does not sound like a good precedent for
8 establishing affordable housing in our city. And
9 thank you.

10 CHAIRPERSON MITTEN: Thank you, Dr.
11 Furano.

12 Sir.

13 MR. HUNTER: Madam Chairman,
14 Commissioners, my name is Joel Hunter. I live with my
15 wife at 4205 Military Road, in the second house up the
16 hill from the clinic site on the same side of Military
17 Road as the clinic.

18 Our house is in Square 1663, as are the
19 clinic and the Lisner Home, and we have owned it since
20 1974. Thanks for letting me have this three minutes
21 at the tail end of the evening. I'll be quick. I
22 understand that two studies are currently underway
23 that bear directly on this case.

24 They're called, one, the Military Road-
25 Missouri Avenue Crosstown Traffic Study, and the other

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1 is the Upper Wisconsin Commercial Corridor Study.
2 Their broad purposes are to preserve and enhance the
3 quality of life in our neighborhoods.

4 Both of them are being conducted by
5 professional consultants under a contract to DDOT. I
6 understand that their reports are due within a year, a
7 very short time in the life of our city. I urge the
8 Commission to defer any decision on the Stonebridge
9 application until after the results of these studies
10 have been received and considered.

11 That's just plain common sense. Why
12 approve a big project like this without benefit of
13 professional evaluations that are already contracted
14 and in the works? But I have two more specific
15 reasons to request deferral of a decision.

16 One is about traffic. I live on Military
17 Road, as I told you, and I tell you, for hours during
18 each morning and afternoon commuter traffic comes to a
19 standstill, comes to a halt on Military. As my wife
20 says, we are held hostage daily in our house and our
21 driveway.

22 We are some who have a driveway, but not a
23 garage. And worse, public safety is becoming an
24 increasing issue because of the clogged roadways.
25 Frustrated drivers get aggressive and they make

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1 illegal turns and they cut through alleys and drive on
2 the wrong side of the road.

3 Children and older folks not so spry
4 anymore are in real danger when they try to cross the
5 street. Accidents happen a lot. Soon, massive
6 developments already approved, we saw the pictures of
7 them during prior presentations, across the Maryland
8 line are going to make the existing traffic congestion
9 and parking problems only a fond memory.

10 Please wait for the Crosstown Traffic
11 Study before you approve any redevelopment at the
12 Washington Clinic site. It's just common sense to do
13 so. My second specific concern is about the boundary
14 between the Wisconsin Commercial Corridor and the
15 adjacent neighborhood of single-family homes.

16 Shall I just cut it off?

17 CHAIRPERSON MITTEN: Well, just give us
18 your thought in case any of the Commissioners want to
19 ask you.

20 MR. HUNTER: Yes, thank you. The clinic
21 site is our buffer between those two distinct zones,
22 commercial and single family, and the study, the
23 upcoming study, will address its propriety. Thank
24 you.

25 CHAIRPERSON MITTEN: Thank you, Mr.

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1 Hunter.

2 Any questions for this panel? Any
3 Commissioners have any questions for this panel?
4 Thank you, folks, and thank you for being so patient,
5 waiting your turn. Oh, I'm sorry. Did you have any
6 cross-examination, Mr. Gordon? Mr. Hitchcock. Thank
7 you.

8 And who else did we have that raised their
9 hand that wishes to testify in opposition? Just come
10 on forward.

11 A PARTICIPANT: Do I have to fill out a
12 card first?

13 CHAIRPERSON MITTEN: Well, before you
14 leave. Come on forward. Anyone else? Don't be shy
15 if you have something to say. Okay. You can go ahead
16 and go first, sir.

17 MR. MILLER: My name is Luther D. Miller,
18 III. I reside at 3811 Jennifer Street, Northwest.
19 With me here in the audience is my brother, Harrison
20 Desay Miller. We wish to express our strong opposition
21 to the proposal by Stonebridge Associates for the huge
22 development on the Washington Clinic site at Western
23 and Military.

24 Members of our family have lived on
25 Jennifer Street continuously since 1911. Our maternal

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1 great grandfather, Leon E. Desay, was the architect
2 for the Chevy Chase Land Company, which originally
3 developed the area.

4 My wife and I live with our infant
5 daughter in a house designed by my great grandfather
6 for his sisters. My brother and I, along with our
7 four siblings, all attended Merch Elementary, Alice
8 Deal Junior High School, Woodrow Wilson Senior High
9 School and the University of Maryland.

10 My father and brother live next door to me
11 in the house my great grandfather designed for himself
12 and his family. My ten-month-old daughter is
13 therefore the fifth generation of her family to live
14 on the 3800 block of Jennifer Street.

15 My brother is a third grade teacher in the
16 District of Columbia public schools. Like my great
17 grandfather, I am an architect. I practiced
18 exclusively in the Washington area for 16 years with
19 the firm of Kyes, Condon and Florence, now the Smith
20 Group.

21 For the past seven years I've been in the
22 aviation architecture practice with the local office
23 of HNTV Corporation, an architecture and engineering
24 firm based in Kansas City.

25 I am proud of the fact that Roger Lewis

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1 was an instructor of mine at the University of
2 Maryland School of Architecture. I have great
3 admiration for Mr. Baranes and his staff. However,
4 reasonable architects can and do disagree.

5 I respectfully disagree with my mentor,
6 Mr. Lewis, and the gifted Mr. Baranes. The existing
7 zoning for the Washington Clinic site was specifically
8 enacted to preserve the nature and character of our
9 low density residential neighborhood.

10 I fail to see how a high rise tower
11 dwarfing the homes of my neighbors buffers them from
12 other high rise towers. I believe allowing this
13 project to violate the zoning regulations will
14 encourage and set a precedent for others to do the
15 same.

16 I support the right development on the
17 Washington Clinic site. I believe that the existing
18 zoning was enacted for sound reasons. I also believe
19 that the regulations should not be ignored because
20 they are inconvenient for Stonebridge Associates.

21 Please do not sacrifice the residents and
22 our neighborhood to this proposal. Thank you.

23 CHAIRPERSON MITTEN: Thank you, Mr.
24 Miller.

25 Ma'am.

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1 MS. LINDQUIST: My name is Mary Lindquist.
2 I've been a resident of Ward Three for the majority
3 of my 48 years. Currently, I live at 5368 43st Street
4 in the courts of Chevy Chase at the west end of a row
5 of townhouses facing Military Avenue, approximately
6 100 feet from the proposed development at the
7 Washington Clinic.

8 My square and lot number are 1661 and 847,
9 respectively. I have owned my house since 1998. The
10 plan that Stonebridge and the Office of Planning have
11 presented to you may sound copacetic, but in
12 scrutinizing it with the aim of making it consistent
13 with the wishes and desires of the immediate
14 neighborhood and the plan for Ward Three there are
15 inconsistencies that can't be ignored.

16 I hate to be thumbs down on this. My
17 normal instinct would be to rebuild or to -- actually,
18 to build on an idea and make it work. But in this
19 case there aren't enough redeeming features to offset
20 the negatives.

21 Stonebridge and the Office of Planning
22 were good at setting up a rationale. Their concepts
23 were good. Their presentations were good. But their
24 proposals didn't address the neighborhood's sentiment,
25 nor the practical realities, mine fields where the

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1 whole project has an overall negative effect on the
2 neighborhood.

3 As a long-time resident of Ward Three and
4 a four-year homeowner in Friendship Heights, I need to
5 make you aware that there are four compelling
6 characteristics of the neighborhood that need to be
7 considered.

8 One, Friendship Heights is a stable, low
9 density neighborhood. Two, this neighborhood attracts
10 intense development pressures. Development pressures
11 need to be channeled to appropriate uses, densities
12 and sites so as not to destroy the neighborhoods.

13 Three, housing opportunity areas, transit-
14 oriented development and smart growth are not one size
15 fits all concepts, unless we just want to zone for an
16 8.5 story high rise near each Metro site in D.C.
17 Thus, the scale, character, traffic and parking of
18 each neighborhood must inform new housing decisions.

19 Four, city planning documents and the
20 comprehensive plan do not state anywhere that housing
21 opportunity areas mean that up-zoning is appropriate.

22 Specifically, my objections to up-zoning the
23 Washington Clinic/Lisner site are the following.

24 This one acre of land was deliberately
25 zoned R-5-B to provide transitional or buffer zoning,

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1 and this is the right zoning today, similar to
2 Bethesda's TSR zoning, one block from the Bethesda
3 Metro, next to the commercial business district.

4 Two, the Stonebridge August application --
5 or November application greatly exceeds what is
6 permitted under current zoning, even with the very
7 significant flexibility that a PUD could provide
8 without any justification.

9 CHAIRPERSON MITTEN: You need to wrap it
10 up.

11 MS. LINDQUIST: The surrounding
12 neighborhood has heard no public justification for up-
13 zoning this one parcel. So that really basically hits
14 my areas, and I appreciate the opportunity to speak.
15 Thank you.

16 CHAIRPERSON MITTEN: Thank you, Ms.
17 Lindquist. Any questions for these folks? Any
18 questions?

19 Mr. Quin. Mr. Gordon. Mr. Hitchcock.
20 Thank you, both. Okay. Last call for persons in
21 opposition. Okay. Then we'll ask Ms. Danahy to come
22 forward. Are we going to hear from one person or two
23 people?

24 MS. DANAHY: No, just one.

25 CHAIRPERSON MITTEN: Okay. Good answer.

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1 Whenever you're ready you need to turn on the mike and
2 identify yourself for the record.

3 MS. DANAHY: Okay. I'm Lisa Danahy, and
4 I'm the Executive Director for the Chevy Chase Plaza
5 Children's Center. I did have a brief question for
6 you before I start my testimony. I don't know if you
7 want me to include it in my testimony or --

8 CHAIRPERSON MITTEN: Well, why don't you
9 tell me what the question is --

10 MS. DANAHY: Okay.

11 CHAIRPERSON MITTEN: -- and I'll tell you
12 if we'll answer it.

13 MS. DANAHY: I saw some information in the
14 Fhord presentation tonight that I haven't received a
15 copy of and I haven't had a chance to review that I
16 think reflects some inaccuracies, and I was wondering
17 if I could have the opportunity to review that
18 information and provide you all with some written
19 corrections.

20 CHAIRPERSON MITTEN: Well, we'll give you
21 the opportunity --

22 MS. DANAHY: Okay.

23 CHAIRPERSON MITTEN: -- to respond.

24 MS. DANAHY: Okay.

25 CHAIRPERSON MITTEN: Where you get the

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1 information is up to you.

2 MS. DANAHY: Okay. That's -- okay.
3 That's fine. I had some concern about there was a
4 request for information on our family demographics and
5 where people live, and if that's coming from our
6 family handbook, it's the Staff and Family Directory,
7 it's got some personal information about the children.
8 I'm concerned about that becoming public.

9 CHAIRPERSON MITTEN: I understand.

10 MS. DANAHY: Okay. I just -- okay. All
11 right. I will make this brief. I've given you my
12 testimony. I will try to just highlight some of the
13 points that I -- let me start by telling you that the
14 Children's Center is a nonprofit corporation
15 established in 1989 at its present location, pursuant
16 to zoning order 519, as an amenity located in Ward
17 Three.

18 It is managed by a board of directors
19 comprised of local parents and professionals and
20 licensed to care for 31 children between the ages of
21 three months and five years. The Children's Center is
22 located one block from the proposed PUD in Square
23 1661.

24 We are committed to educating and
25 supporting neighborhood children of working parents

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1 through full-day, full-time and part-time enrollment.

2 We provide enrollment preference for families who
3 live or work in Ward Three, and specifically ANC 3-E,
4 with the goal of achieving a balance on our weight
5 list of neighborhood families and employees of
6 neighborhood businesses, in accordance with zoning
7 order 519.

8 We subsidize childcare expenses for our
9 students through needs-based tuition assistance,
10 tuition reduction for sibling enrollment and
11 discounted care for children of our teachers. We
12 partner regularly with the ANC, local businesses,
13 employers, public and private schools, residents and
14 the D.C. government to optimize the services we
15 provide and to enhance our children's learning
16 experience locally.

17 We are a community-based organization and
18 we do serve the immediate neighborhood. Eighty-seven
19 percent of our current families live or work in Ward
20 Three, and 58 percent of those are actually in the ANC
21 3-E.

22 Eight-five percent of the school's alumni
23 families live or work in Ward Three. Seventy-one
24 percent of the alumni families live within 15 blocks
25 of the school, and 31 percent live less than five

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1 blocks away.

2 Eighty-one percent of our current wait
3 list families live within 15 blocks of our school.
4 According to statistics prepared by the D.C. Office of
5 Early Childhood Education, Ward Three has 2,009
6 licensed childcare spaces to accommodate the estimated
7 6500 children under the age of 14 who live in Ward
8 Three, 5600 -- excuse me -- of whom have all working
9 parents.

10 Licensed infant care spaces account for
11 only 143 of the 2,009 spaces reported in Ward Three.
12 The Children's Center currently provides seven of the
13 143 spaces. In the recent survey, less than one-
14 fourth of the childcare centers located in Ward Three
15 indicated a willingness to expand their services to
16 care for additional children.

17 Economic conditions and lack of available
18 space in Ward Three are extremely limiting. For three
19 years the Children's Center has tried to secure
20 resources and locate appropriate affordable space to
21 open a second location.

22 There is without question a demonstrated
23 need for quality childcare in the District of
24 Columbia, including Ward Three. The District of
25 Columbia comprehensive plan calls for an increase in

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1 the supply of childcare facilities, in particular
2 within each residential area.

3 Childcare centers can no longer
4 singlehandedly secure space and generate the revenue
5 necessary to expand while continuing to make childcare
6 affordable. A collaborative effort between private
7 businesses, government and individuals such as what
8 Stonebridge is offering is needed in order to bring
9 more affordable, high quality care to our neighbors.
10 Thank you for your time.

11 CHAIRPERSON MITTEN: Thank you, Ms.
12 Danahy. Any questions? Any questions? There was a
13 concern raised earlier when the opposition was putting
14 their case on that the intent was, with the PUD
15 amenity for Square 1661, to draw people that would
16 walk.

17 And there was a concern raised that in
18 fact you're attracting more traffic. Can you say
19 anything to address that?

20 MS. DANAHY: Yes, I can certainly try to.
21 First of all, we -- the zoning order, as you
22 mentioned earlier, is a little bit vague in terms of,
23 you know, the exact parameters of what it's looking
24 for, but I do --

25 CHAIRPERSON MITTEN: Right. I'm not --

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1 MS. DANAHY: Yes.

2 CHAIRPERSON MITTEN: -- I'm not as much
3 focused on you being in the -- in compliance with
4 whatever the letter of that is. It's more of the
5 spirit of it and the notion that, first of all, issues
6 about traffic and whether or not this is actually more
7 of a traffic generator than may be apparent.

8 And then the second is the issue of this
9 being an amenity for the immediate neighborhood.

10 MS. DANAHY: Absolutely. I think what
11 we've done over the past 13 years is actually tailor
12 our school policies to be more definitive than the
13 zoning order. We have written policies that speak to
14 where the neighbors -- you know -- how many residents
15 and employees work there, what priority they get in
16 terms of enrollment.

17 I've ben personally with the Center since
18 1992 and I'm not aware of any complaints issued,
19 individually or through the ANC, that -- the chair of
20 the ANC lives across the street from us -- and I'm not
21 aware of any traffic problems that have been generated
22 as a result of the Children's Center being there.

23 I put together some traffic numbers just
24 generally to figure out how many cars come here and
25 there. And if you'd like I can --

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1 CHAIRPERSON MITTEN: Is that in your
2 testimony or --

3 MS. DANAHY: No. Actually, I did not -- I
4 just kind of started thumbing through and figuring
5 out. What I did was try to kind of extrapolate how
6 much traffic would be generated by a 44 childcare -- a
7 44 child center, and I used my current statistics.

8 With a student enrollment of 31 children
9 we estimated that you would have -- most of them would
10 probably be dropped off by vehicle. There are four
11 parking spaces in front of the Children's Center and
12 drop off happens between 7:30 and 10:00 in the
13 morning.

14 I have here 23 vehicles dropped off on
15 this average morning. So it's 23 vehicles came and
16 used the four spaces over a period of three hours. Is
17 that what you were --

18 CHAIRPERSON MITTEN: Right. That's the
19 kind of thing we're looking for.

20 MS. DANAHY: I mean, I'm not statistical.
21 So I have no idea if I was presenting it the right
22 way.

23 CHAIRPERSON MITTEN: However you have it
24 is however we would like to receive it.

25 MS. DANAHY: Okay. I'm -- you know --

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1 this was just kind of my notes, but I'd be happy to
2 share it with you all.

3 CHAIRPERSON MITTEN: That'd be great.

4 MS. DANAHY: Okay.

5 CHAIRPERSON MITTEN: If you could shed any
6 light on that.

7 MS. DANAHY: Okay.

8 CHAIRPERSON MITTEN: And also, I don't
9 know if it's possible for you to break down -- you
10 have 87 percent of the -- well, let me -- the other
11 statistics I think that I -- well, can you break down
12 these percentage -- the percentage on ANC 3-E between
13 -- you've broken down the Ward Three between residents
14 and resident/employees so we could extrapolate
15 employees from that.

16 Can you break it down any further on the
17 ANC 3-E residents versus employees?

18 MS. DANAHY: I probably could.

19 CHAIRPERSON MITTEN: Okay. I don't mean
20 for you to do it right now.

21 MS. DANAHY: Okay.

22 CHAIRPERSON MITTEN: You can just submit
23 that later.

24 MS. DANAHY: Yes.

25 CHAIRPERSON MITTEN: Okay. Anyone else

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1 have any -- Mr. Quin, any questions?

2 MR. QUIN: No questions.

3 CHAIRPERSON MITTEN: Mr. Gordon, any
4 questions?

5 MR. R. GORDON: No questions.

6 CHAIRPERSON MITTEN: Mr. Hitchcock.

7 MR. HITCHCOCK: One other question or
8 maybe two. What percentage of the children are coming
9 from Maryland?

10 MS. DANAHY: I think right now I have two
11 children out of 30.

12 MR. HITCHCOCK: Okay.

13 MS. DANAHY: I don't know what that person
14 is.

15 MR. HITCHCOCK: Thank you.

16 CHAIRPERSON MITTEN: Thank you. And if
17 you can just supplement the record with that
18 additional information we'd appreciate it.

19 Mr. Quin, I just want you to know Mr. Sher
20 looks very sleepy.

21 MR. QUIN: I know. I've been noticing
22 that all night long, but at any rate, I'm going to be
23 very brief. We're not going to call rebuttal
24 witnesses. We are going to submit for the record
25 rebuttal on the points that have been raised.

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1 I think we've taken very careful notes and
2 we will respond, and I'm sure Mr. Bastida will find a
3 way to give adequate time for a response to that.

4 CHAIRPERSON MITTEN: Yes.

5 MR. QUIN: But there's one thing I would
6 like to cover, other than questions -- if there are
7 questions of any of our witnesses that came about by
8 virtue of the hearing tonight, and that is one exhibit
9 that in response last time -- there's been a lot of
10 discussion about how does this project, the portion of
11 the building which was shifted over to Western Avenue,
12 how does it really fit into the neighborhood?

13 How does it -- what's its juxtaposition
14 with other buildings there? And we have one -- if you
15 could take that -- oh, I can hold it here. What we
16 did was -- and there are copies. Christy, could you
17 circulate those?

18 What we did was to take the same aerial
19 photograph, less what OP had put on as far as
20 identifying the areas, and superimpose the site plan,
21 which shows the location. And I think that sort of
22 speaks for itself because it shows where the division
23 is, where the landscaping is, where the open space is
24 and the other development in the area.

25 And I don't want to argue it anymore. I

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1 think you can see it yourself, but I would submit that
2 this is a very important exhibit in terms of how it
3 relates to the community, not only to the other
4 development.

5 You remember, I started my statement in
6 the very beginning of the case with, I think there are
7 three major issues that support -- not issues, but
8 points that support our case. One is location,
9 meaning towards transit.

10 Two is the character of the surrounding
11 development, and that means everything, not just to
12 north, south, east and west, and what remains, and
13 three, are the planning principles that have been
14 adopted and that are -- that guide us in our
15 development.

16 There are sub-issues and they've been
17 discussed, and we'll address those in the rebuttal:
18 traffic, you've decided to refer that to DOT, which is
19 fine with us because I think I remember their
20 testimony before as to their evaluation, and buffers,
21 and there's some other sub-issues.

22 But basically, those three points I think
23 are the critical points for determining the
24 appropriateness of this PUD. So with that, I would
25 just like to -- I can leave this board as part of the

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1 record, as well, in addition to the small ones that
2 you have, and then offer, if there are any questions
3 specifically of any of our witnesses, they're
4 available for any questions in any area that you'd
5 like to cover.

6 Otherwise, we will submit both the closing
7 statement and rebuttal in writing by the time that Mr.
8 Bastida and of course the Commission tell us as a
9 guide.

10 CHAIRPERSON MITTEN: Okay. Are there any
11 follow-up questions that any of the Commissioners have
12 for any of the applicant's witnesses? I'm getting a
13 lot of shaking heads. So I appreciate the offer.

14 MR. QUIN: Not offering any witnesses.

15 CHAIRPERSON MITTEN: Okay. I think we're
16 ready to go to a schedule, Mr. Bastida.

17 SECRETARY BASTIDA: Madam Chairman, some
18 of the things that you had requested to be filed this
19 evening, because I might require a different deadline
20 and I want to make sure that you still is interested.

21 First, the report of the opposition on the
22 traffic going to the DDOT and the report back, and I
23 would like to obtain from the Office of Planning a
24 time table when you think that that will be -- when
25 they think that that will be able to be submitted for

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1 the record.

2 CHAIRPERSON MITTEN: We're looking for
3 some guidance about getting a response from DDOT to
4 the opposition's traffic analysis.

5 MR. COCHRAN: I'll -- I can check tomorrow
6 with DDOT.

7 CHAIRPERSON MITTEN: Unfortunately, we
8 would like to have something -- I mean, is --

9 MR. COCHRAN: Well, let's see. I should
10 think --

11 MS. McCARTHY: To wit, 30 days.

12 MR. COCHRAN: -- I should think that they
13 would more likely be able to do it by the close of
14 business of Christmas Eve.

15 Ms. McCARTHY: And they'll have a ho-ho-ho
16 for Mr. Cochran.

17 (Laughter)

18 MS. McCARTHY: When they find out he
19 offered that. I would say, Madam Chair, that given
20 that it's very specific, the comments for them to
21 comment on, it would normally be a two-week piece of
22 work. It's just a little hard for me without a
23 calendar in front to factor in how that's affected by
24 the Christmas holidays.

25 CHAIRPERSON MITTEN: Okay. Well, then

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1 let's say three weeks then. If it's normally two,
2 we'll say three.

3 MS. MCCARTHY: So by January 3rd, 4th.

4 CHAIRPERSON MITTEN: What's three weeks
5 from today, Mr. Bastida?

6 SECRETARY BASTIDA: It would be January
7 the 6th.

8 CHAIRPERSON MITTEN: Okay. Then that will
9 be the day.

10 SECRETARY BASTIDA: Okay. The other --
11 are you still interested in receiving the census
12 tract, the map and car ownership?

13 CHAIRPERSON MITTEN: Well, the delineation
14 of the census --

15 SECRETARY BASTIDA: The delineation,
16 right.

17 CHAIRPERSON MITTEN: -- areas that they
18 were making reference to, the census tract 11 and
19 block 5, or whatever it's called.

20 SECRETARY BASTIDA: Okay. Also, that
21 would be due on the 6th.

22 CHAIRPERSON MITTEN: Okay.

23 SECRETARY BASTIDA: And you would like the
24 child development statistics regarding about traffic,
25 population, residents of the population, et cetera,

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1 also that would be due January the 6th.

2 CHAIRPERSON MITTEN: Okay. That clear?

3 SECRETARY BASTIDA: Okay. I believe that
4 those are the items that you have requested for the
5 Commissioners.

6 CHAIRPERSON MITTEN: I think that's true.

7 SECRETARY BASTIDA: Covered by the
8 request. The --

9 CHAIRPERSON MITTEN: Wait. Wait. Wait.
10 Mr. May.

11 COMMISSIONER MAY: We discussed I think at
12 the first hearing -- no -- second hearing having more
13 on the development of the child development center.

14 CHAIRPERSON MITTEN: Oh, yes, a more
15 fleshed out --

16 COMMISSIONER MAY: Yes.

17 CHAIRPERSON MITTEN: Actually, all the
18 things from the last --

19 SECRETARY BASTIDA: Right, the two items.

20 CHAIRPERSON MITTEN: -- hearing on
21 Thursday, that would come in by the 6th, as well.

22 COMMISSIONER MAY: Right.

23 SECRETARY BASTIDA: Okay. Fine.

24 COMMISSIONER MAY: In that case I would
25 want to make it clear that I don't think that we need

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1 a lot of accelerated effort on that. We're just --
2 I'd just like to get another look at it with -- you
3 know -- as the design progresses between now and then.

4 CHAIRPERSON MITTEN: Well, and I think
5 it's appropriate since it's part of the PUD site, it's
6 not off the PUD site.

7 COMMISSIONER MAY: Right. No. I'm just
8 suggesting that it all has to be finished by then.

9 CHAIRPERSON MITTEN: Okay.

10 SECRETARY BASTIDA: Okay. All those
11 submissions on the 6th will have to be served on all
12 the parties. The applicant will have -- will submit
13 all his documentation on January the 6th, also, and
14 will serve it on all the parties.

15 The parties will have until January 27 to
16 respond to all those submittals.

17 CHAIRPERSON MITTEN: Did you say 27th?

18 SECRETARY BASTIDA: Right.

19 CHAIRPERSON MITTEN: Okay.

20 SECRETARY BASTIDA: Twenty-seventh,
21 Monday, 27th.

22 CHAIRPERSON MITTEN: Okay.

23 SECRETARY BASTIDA: And all these are 3:00
24 o'clock filing times, deadline. Conclusion of
25 proposed orders and draft orders will be due on the

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1 office on Thursday, January the 30th at 3:00 o'clock,
2 and then tentatively, these will be on the
3 Commission's agenda for February the 10th to make a
4 decision.

5 CHAIRPERSON MITTEN: Don't be promising
6 when it's going to be on the -- our meeting agenda.

7 SECRETARY BASTIDA: I just said
8 tentatively.

9 CHAIRPERSON MITTEN: Yes.

10 SECRETARY BASTIDA: I didn't promise.

11 CHAIRPERSON MITTEN: Okay.

12 SECRETARY BASTIDA: But that is what
13 drives the schedule and the deadlines.

14 CHAIRPERSON MITTEN: The finds of fact and
15 conclusions of law, what day is that again?

16 SECRETARY BASTIDA: It is Thursday,
17 January the 30th.

18 CHAIRPERSON MITTEN: Thirtieth, okay.

19 MR. COCHRAN: Excuse me, Madam Chair. Did
20 you want any additional material on the affordable
21 housing? Or did I miss that?

22 CHAIRPERSON MITTEN: Well, let me -- well,
23 we -- I think we asked for some additional material at
24 our -- last Thursday.

25 MR. COCHRAN: Yes.

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1 CHAIRPERSON MITTEN: And basically, what
2 we're going to do is we will have as fleshed out an
3 amenity as is being offered and we'll evaluate it. So
4 if there's something missing then it makes the amenity
5 vulnerable.

6 MR. COCHRAN: Okay. And that needs to be
7 in again? I'm sorry.

8 SECRETARY BASTIDA: That is due on Monday,
9 May the 6th at 3:00 o'clock.

10 MR. COCHRAN: May 6th? That should be --

11 SECRETARY BASTIDA: I mean -- I'm sorry.

12 MR. COCHRAN: -- plenty of time.

13 SECRETARY BASTIDA: January --

14 (Laughter)

15 SECRETARY BASTIDA: Monday, January 6th, at
16 3:00 o'clock.

17 MR. COCHRAN: January 2 or 6?

18 SECRETARY BASTIDA: I said 6, Monday,
19 January the 6th.

20 CHAIRPERSON MITTEN: S-I-X.

21 MR. COCHRAN: I see.

22 CHAIRPERSON MITTEN: Okay. Is everyone
23 clear? So I'll just review quickly. The record in
24 this case is closed except for the information that we
25 specifically requested, and anyone who had a written

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1 statement that they didn't get in tonight.

2 And the additional filings must be made by
3 January 6th. Then any party to the case may file a
4 written response to any of the information that's
5 filed by the 27th of January, and all those responses
6 are due in the room next door, 210, by 3:00 o'clock,
7 and then the parties are invited to submit proposed
8 findings of fact and conclusions of law by January
9 30th.

10 And the Commission will make a decision in
11 this case at one of our regular monthly meetings. And
12 if you'd like to know whether or not the case is on
13 the agenda for a particular meeting, please contact
14 Mr. Bastida or Ms. Sanchez and they can advise you as
15 to the status of the case.

16 And again, I thank you all for being with
17 us through three hearings and up till this late hour.

18 We appreciate all your assistance.

19 (Whereupon, the Zoning Commission Public
20 Hearing was concluded at 10:33 p.m.)

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