

STATEMENT
Of
GEORGE H.F. OBERLANDER, AICP
On behalf of
TILDEN STREET COALITION
On
A Planned Unit Development and Map Amendment
At 2950 Tilden Street, NW
Washington, D.C.
Before the
Zoning Commission for the District of Columbia
DC Zoning Case No. 05-26
June 5, 2006

ZONING COMMISSION
District of Columbia

CASE NO. 05-26
EXHIBIT NO. 103

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Madam Chairman and members of the Commission, for the record, my name is George Oberlander, an urban planning and zoning consultant, having retired in 1996 as the former Associate Executive Director, DC Affairs, of the National Capital Planning Commission. During the past nine years I have testified as an expert witness before this Commission on several zoning cases. My complete resume is on file.

I appear on behalf of the Tilden Street Coalition, property owners in the immediate vicinity of the proposed Planned Unit Development (PUD). My testimony deals with why the consolidated PUD and R-5-C map amendment **should be rejected at the density and height currently proposed.**

I. The PUD site in its neighborhood setting (land use and zoning)

The attached aerial photo shows the PUD site on the south side of Tilden St. (outlined in yellow) beginning about 232 feet east of its intersection with Connecticut Avenue, stretching 248 feet eastward to its neighboring Kuwait Embassy/Chancery building. The southeastern corner of the site abuts Melvin Hazen Park, a tributary to Rock Creek Park, and eligible for listing on the National Register of Historic Places (Federal Reservation 630). The possible impact(s) of the proximity of the proposed building on the Embassy, the Park and low density housing have not been adequately addressed by the applicant or the Office of Planning (OP).

The existing zoning map for the area, shows the proposed PUD site within an R-2, one family detached or semi-detached classification, stretching from the eastern or rear property line of Connecticut Avenue (zoned R-5-D), 798 feet to opposite 29th Street, (as specifically marked on the map). This zoning classification has been in place since 1958 when the current regulations were comprehensively updated.

The attached Existing Land Use Map, prepared at my request by the Office of Planning, is based on 2004 Office of Tax and Revenue records and verified by my field survey. It

shows the area to the rear or east of properties fronting on Connecticut Avenue as low density residential, institutional and park uses. The higher density residential development is **only fronting on the Connecticut Avenue corridor**. Allowing R-5-C medium-high density apartment zoning on this assembled lot would be contrary to the 1958 zoning which was based on the then existing land use conditions.

The 1978 Existing Land Use Map (on the illustration board 1) indicates the entire eastern side of the Connecticut Avenue frontage from Upton Street to Melvin Hazen Park as existing Flats/garden apartments. The continued use of both sides of Tilden Street for low density residential uses substantiated the earlier 1958 zoning classification. The only development changes that have taken place in the immediate area have taken place on properties fronting on the Connecticut Avenue corridor. **Why can not this vacant site be developed under the existing R-2 zoning?**

I call your attention to the NCPC approved General Land Use Objectives: 1970/1985, the earlier Comprehensive Plan (Comp. Plan)(on illustration board 2) showing both sides of Tilden Street east of Connecticut Avenue as Low to Medium residential densities of 30 to 60 dwelling units per net acre. **This was the basis of the land use planning for the current approved Comprehensive Plan for the National Capital.**

II. Current approved Comprehensive Plan Policies

The current adopted DC Generalized Land Use Map (on file) includes the proposed PUD site in a brown color which designates the area as "High Density". The map also states "High-rise apartment buildings are the predominant uses: **may also include low, moderate and medium density housing**". To my knowledge, having worked on the Comp. Plan now in effect, the extent of the brown area as far east as shown, along the south side of Tilden St. **may be a color printing error**. All of the Comp. Planning land use efforts from 1965 to 1996 (my time with the NCPC) have indicated the high density housing use to front on or side up to Connecticut Avenue **only**, following the established zone boundary lines.

There were and are **exceptions** to this intent. "**Uptown Centers**" were proposed by NCPC in 1968 (the closest one here, is several blocks north, at Van Ness Street and Connecticut Avenue) this was the "Smart Growth" or "Transit Oriented" philosophy of the day) and in the 1984 current Comp. Plan locations for "**Housing and/or Development Opportunity areas**".

In my understanding of the Comp. Plan, there are no "**Housing and/or Opportunity areas**" along Connecticut Avenue outside of the downtown central business area.

In his January 9, 2006 letter to the Commission (in case file) Councilmember At-large Phil Mendelson describes his personal involvement in the Generalized Land Use Map issues and also mentions, as the map was revised or amended, "...it was assumed that the coloring followed the lines of the zone districts along Connecticut Avenue".

In researching this map color issue, I have spoken to several former and current OP staff members involved with formulating the current Comp. Plan. We have not been able to find any specific reference to this location being correct in its brown color or that a specific printing error took place.

Regardless of this possible confusion or dilemma, there is a very specific Ward 3 policy which applies to this situation. **Section 1404.3 (a) (1) (B)** states:

“Medium and high density residential uses (where designated in the Land Use Element) should be limited to the major arterials well served by either Metrorail or Metrobus”.

This PUD site is not along a major arterial. Any OP finding that the PUD is ‘Not inconsistent with the Comp. Plan’ violates this Section 1404.3 (a) (1) (B).

In my professional opinion, turning down this current PUD, could give the OP an opportunity to re think this specific situation and study the possibility of a new transition or buffer zone between the low density housing and the existing high density district.

III. Review of OP May 26, 2006 Hearing Report

The OP Report dated May 26, 2006, made available the morning of May 30th (less than 10 days before the hearing), is lacking justification and is not complete. It is awaiting:

- A copy of DCDOT report
- Further exploration of a 5-story building option, and
- A preliminary construction management plan.

Aside from the Generalized Land Use Map issue (described above), the OP report cites various general and some specific Comp. Plan policies that the “PUD proposal furthers”. This however is not an adequate finding of “not inconsistent with the Comp. Plan” as required by the Home Rule Act. (Section 492 (b) (1)).

IV. Comprehensive Plan policy violations.

The following are additional Ward 3 specific policies that the PUD violates:

- **Section 1400.2(a) (2).** “Residents seek to insure that stability be maintained. Accordingly, no significant land use changes have been indicated...and it is a major theme of this ward plan to protect and maintain the low-density, high quality character of the ward”.
- **Section 1409.1(b).** “...The Generalized Land Use Map of the Land Use Element designates most of the ward in the low-density residential category. ...”
- **Section 1409.1(e).** “...The Comp. Plan and this ward plan recognize that Ward 3’s commercial areas are established, and that redevelopment pressures must be strictly limited and redirected to other areas of the city...”

- **Section 1409.1(h).** “The current land use character of the ward - which is reflected in the Comp. Plan without change - has created a value in the land and attracted an affluence in population that contributes substantially to the District’s tax base. ...”
- **Section 1409.2(a).** “Maintain the existing land use character of the ward.”
- **Section 1409.2(b).** “Protect existing **residential neighborhoods** and enhance their qualities.”
- **Section 1409.2(i).** “Maintain and improve viable residential areas and eliminate incompatible and non conforming land uses in or proximate to residential areas.”
- **Section 1409.7(e).** “A significant complex of embassy compounds or ambassadorial residences is now concentrated on **Tilden** and Van Ness Streets. Special security considerations for these properties should be taken into account whenever the potential for intrusive new development **on immediately adjacent properties exists**. New high-rise structures adjacent to these properties, whose upper floors would permit visual scrutiny of activities within such properties in foreign government ownership, are inappropriate.” (Emphasis added).

Section 1409.7(e) was modified by the Council September 1999 at the request of NCPC; in order to eliminate any discussion of security needs of embassies or related facilities covered by the NCPC Foreign Missions Element of the Comp. Plan. The modified language now is “...**New high-rise structures adjacent to these properties would adversely impact existing residential uses in the area**”. The issue remains.

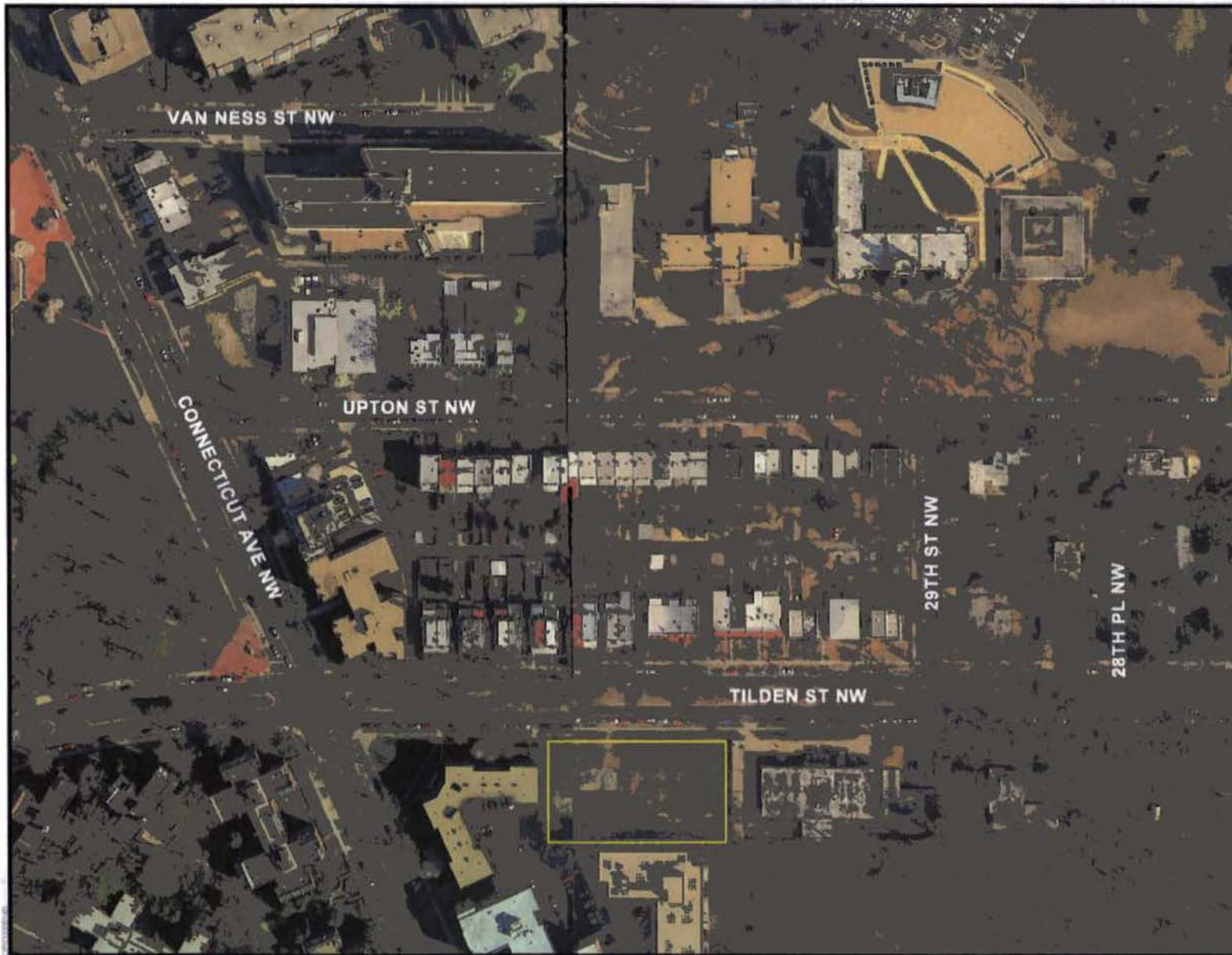
With respect to any of these cited policies as well as the Embassy/Chancery security issues, the OP report is silent.

V. Reasons why the PUD application should be turned down

1. Even with the applicant’s May 22, 2006 modifications and/or the OP’s suggested 5 story option, the proposed building (height & FAR) is too intense on the land area and its surroundings to the north and east. (Poor driveway and service area).
2. The rear and west side of the building is too close to other apartment buildings and Hazen Park.
3. The 1999 Clark Realty Capital agreement with 3901 Connecticut Avenue showed a “conceptual plan” for the subject property which provided for parking along Tilden Street and 8 row houses /4 duplexes, indicating development possibility. (Drawing page 8).
4. Original subdivision platting of area, now known as lot 800 Sq. 2234, must have been for small one-family/detached houses as expressed in the long standing R-2 zoning district, otherwise the zoning boundary would have been drawn within the median strip or the center-line of Tilden Street. (Median strip is N.P.S Reservation 308).
5. Rezoning R-2 to R-5-C goes contrary to normal zoning practice which maps both sides of the street with similar zoning categories. The zoning map specifically shows a 798 foot dimension for the R-2 on the south side of Tilden. A “Spot Zone” or gerrymandering of the boundaries would take place by the R-5-C zone.

6. Rezoning the applicant's site to R-5-C will leave another 550 feet of R-2 zoning on the south side of Tilden Street.
7. Medium to High density residential development has been primarily intended along the Connecticut Avenue frontages with access from and to Connecticut Avenue.
8. Since the Comp. Plan does not call for a "Housing Opportunity Area" in Squares 2234 or 2235 or anywhere near this neighborhood, the residential density proposed in the PUD is inappropriate and not justified.
9. The public benefits or amenities (including the financial contributions for park maintenance) are insufficient and not superior features that could not result from development under matter-of-right zoning. There are really no on site benefits other than the 3 proposed affordable housing units. Three is better than none; however, a very small amount to meet the large need in the City. The architecture is not exemplary and shadow studies are not available. All proposed benefits can be provided under the existing R-2 zoning.
10. The OP Report's claim that "The principal public benefits... urban design and (superior) architecture and site planning", are not demonstrated or justified.
11. The PUD application requesting a zone change violates Section 2400.5 of the Regulations which specifies that "the PUD process **shall not be used to circumvent the intent and purpose of this title, nor result in action that is inconsistent with the Comprehensive Plan**". The R-2 classification intent is **low density**. The Comp. Plan intent (Section 1404.3(a) (1) (B)) is to keep apartment development on **major arterials**. The PUD process was established to provide flexibility from the strict zoning standards, **not to change the zoning classification**.
12. The PUD's site immediate northern proximity to existing detached and semi-detached houses out weighs its proximity to the closest Metro station entrance.
13. The existing zoning seeks to protect the low density residential properties to the east of the Connecticut Avenue corridor.
14. Approving the PUD & Map amendment, at the density and height proposed, could indicate to property owners that additional re-zonings may be considered. At best it will create real uncertainty in the remaining R-2 area.
15. Allowing the applicant to develop approximately 49 dwelling units in a multi-story building rather than (8) 3-story dwellings is insufficient justification to rezone the site.
16. The OP Report indicates that "The most significant impact (on the surrounding area) is anticipated to be on traffic circulation" (May 26, 2006 Report, page 5). This is a major issue, among others, and has not been mitigated. The only resolution of this issue is to deny the application.
17. Economic benefit for the applicant is **not** a basis for granting a PUD

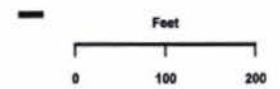
Thank you. I will be pleased to answer any questions.



Square 2234
Tax Lot 800



 TAX LOT 800



*** Government of the
District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ May 22, 2006

This map was created for planning
purposes from a variety of sources.
It is neither a survey nor a legal document.
Information provided by other agencies
should be verified with them where appropriate.
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Existing Land Use

Existing land use information shown on this map is an interim product derived from 2004 Office of Tax and Revenue records and additional input from Office of Planning staff. It is not a lot-by-lot analysis and does not reflect digitized lot boundaries. Squares with generally uniform land use were labeled with that use; squares with substantially differing uses were split as needed until each split portion had generally uniform land use. Information on vacant areas was added separately. It is expected that this product will be replaced with lot-by-lot information when it becomes available.

□ Square 2234
Tax Lot 800

Land Use Designation

- Low Density Residential
- Low-Medium Density Residential
- Medium Density Residential
- High Density Residential
- Commercial
- Institutional
- Public, Quasi-Public, Institutional
- Parks and Open Spaces
- Roads; Alleys; Median
- Transportation Right of Way
- Vacant



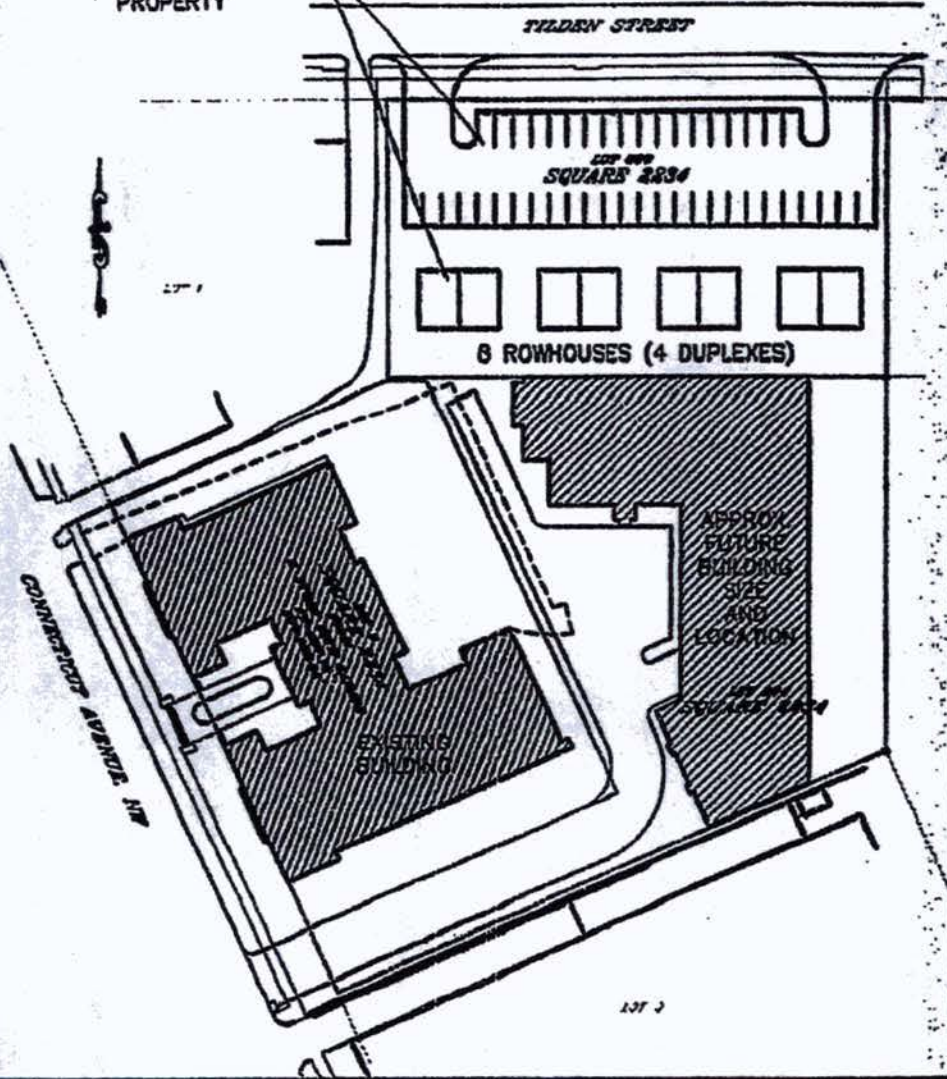
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Office of Planning ~ May 23, 2006

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CONCEPTUAL LAYOUT
FOR ADJACENT
PROPERTY



CLARK REALTY CAPITAL
CONNECTICUT AVENUE
WASHINGTON, D.C.

CONCEPTUAL PLAN
EXHIBIT H
NOT TO SCALE

District of Columbia Generalized Land Use Map

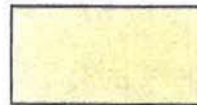
Legend

residential land use categories



low density

Single-family detached and semi-detached housing are the predominant uses.



moderate density

Row houses and garden apartments are the predominant uses; may also include low density housing.



medium density

Multiple-unit housing and mid-rise apartment buildings are the predominant uses; may also include low and moderate density housing.



high density

High-rise apartment buildings are the predominant uses; may also include low, moderate, and medium density housing.

