NCPC
NATIONAL CAPITAL PLANNING COMMISSION

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Patricia E. Gallagher, AICP

IN REPLY REFER TO:
NCPC FILE NO. 05-36

MAR - 8 2006

Zoning Commission of
the District of Columbia
2nd Floor, Suite 210 South
441 4th Street, NW
Washington, D.C. 20001

Members of the Commission:

The National Capital Planning Commission, at its meeting on March 2, 2006 approved the enclosed action on the first stage Planned Unit Development and consolidated Planned Unit Development and related map amendment from split zones C-M-3 and C-2-B to C-3-C. Also enclosed, for your information, is a copy of the Staff Recommendation for the project.

Sincerely,

P. Gallagher

Patricia E. Gallagher, AICP
Executive Director

Enclosures

ZONING COMMISSION
District of Columbia
Case 05-36
Exhibit 31

ZONING COMMISSION
District of Columbia
CASE NO.05-36
EXHIBIT NO.31

COMMISSION ACTION

NCPC File No. ZC 05-36

NCPC
NATIONAL CAPITAL PLANNING COMMISSION

UNION PLACE AT 200 K STREET, NE WASHINGTON, DC
FIRST STAGE PLANNED UNIT DEVELOPMENT AND
CONSOLIDATED PLANNED UNIT DEVELOPMENT AND RELATED
MAP AMENDMENT FROM SPLIT ZONES C-M-3 and C-2-B to C-3-C

Located on all of Square 749 except for Lots 804, 805 and 31
Bounded by L, 2nd, K and 3rd Streets, NE
Washington, D.C.

Submitted By the Zoning Commission of the District of Columbia

March 2, 2006

Commission Action Requested by Applicant

Approval of comments to the District of Columbia Zoning Commission pursuant to 40 U.S.C. 8724(a) and D.C. Code 2-1006(a).

Commission Action

The Commission:

- **Concludes** that the proposed Consolidated Planned Unit Development would not adversely affect the identified federal interests and would be consistent with the Comprehensive Plan for the National Capital.
- **Concludes** that the proposed First Stage Planned Unit Development would adversely affect the identified federal interests and would be inconsistent with the Comprehensive Plan for the National Capital and the Height of Buildings Act of 1910 for the following reasons:
  - The applicant has failed to demonstrate that there is a meaningful connection between the two portions of the First Stage Planned Unit Development or between the First Stage Planned Unit Development and the Consolidated Planned Unit Development.
  - Without a meaningful connection between the First Stage Planned Unit Development and the Consolidated Planned Unit Development, the measuring point for the First Stage Planned Unit Development cannot be located on 3rd Street.

- **Recommends** that the Zoning Commission require the applicant:
  - to clearly demonstrate that the First Stage Planned Unit Development is functionally one building by providing a meaningful connection between the two portions of the building, and
  - to reduce the height of the building so it would not exceed 130 feet as measured at the front of the building on K Street.

Deborah B. Young
Secretary to the National Capital Planning Commission

STAFF RECOMMENDATION

NCPC File No. Z.C. 05-36

NCPC
NATIONAL CAPITAL PLANNING COMMISSION

UNION PLACE AT 200 K STREET, NE WASHINGTON, DC
FIRST STAGE PLANNED UNIT DEVELOPMENT AND
CONSOLIDATED PLANNED UNIT DEVELOPMENT AND RELATED
MAP AMENDMENT FROM SPLIT ZONES C-M-3 and C-2-B to C-3-C

Located on all of Square 749 except for Lots 804, 805 and 31
Bounded by L, 2nd, K and 3rd Streets, NE
Washington, D.C.

Submitted By the Zoning Commission of the District of Columbia

February 23, 2006

Abstract

The Zoning Commission has taken a proposed action to approve both a First Stage Planned Unit Development (PUD) and a Consolidated PUD with a related zoning map amendment for a mixed use project with residential and retail components, to be built in two phases and known by its address, 200 K Street, NE. The 2.3 acre project site occupies all of square 749 with the exception of lots 804, 805 and 31 in the northeast corner of the square. The site slopes approximately 17 feet from northeast to southwest. The eastern portion of the site is currently zoned C-2-B, and the western portion of the site is currently zoned C-M-1. Both portions would be rezoned to C-3-C. A Consolidated PUD on the eastern portion would contain 202 residential units over 5,234 gross square feet (gsf) of retail in a building with a height step-down from 90 feet on K Street to 65 feet on 3rd Street. A Two Stage PUD on the western portion of the site would provide 500 residential units over 9,000 gsf retail and 3,000 gsf for a daycare center in a building with a building height of 130. Public benefit and amenities include a reservation of at least 10.98% of the residential gsf as affordable units. The project has been separated into two separate zoning actions, and a Second Stage PUD application will follow at a later date.

Federal Interests

The identified federal interests relevant to this project include original L'Enfant streets (K, L, 2nd and 3rd Streets, NE), and the Height of Buildings Act of 1910.

Commission Action Requested by Applicant

Approval of comments to the District of Columbia Zoning Commission pursuant to 40 U.S.C. 8724(a) and D.C. Code 2-1006(a).

Executive Director's Recommendation

The Commission:

- **Concludes** that the proposed Consolidated Planned Unit Development would not adversely affect the identified federal interests and would be consistent with the Comprehensive Plan for the National Capital.
- **Concludes** that the proposed First Stage Planned Unit Development would adversely affect the identified federal interests and would be inconsistent with the Comprehensive Plan for the National Capital and the Height of Buildings Act of 1910 for the following reasons:
  - **The applicant has failed to demonstrate that there is a meaningful connection between the two portions of the First Stage Planned Unit Development or between the First Stage Planned Unit Development and the Consolidated Planned Unit Development.**
  - **Without a meaningful connection between the First Stage Planned Unit Development and the Consolidated Planned Unit Development, the measuring point for the First Stage Planned Unit Development cannot be located on 3rd Street.**
- **Recommends that the Zoning Commission require the applicant to modify the design of the First Stage Planned Unit Development:**
  - **to clearly demonstrate that it is functionally one building by providing a meaningful connection between the two portions of the building, and**
  - **to reduce the height of the building so it would not exceed 130 feet as measured at the front of the building on K Street.**

* * *

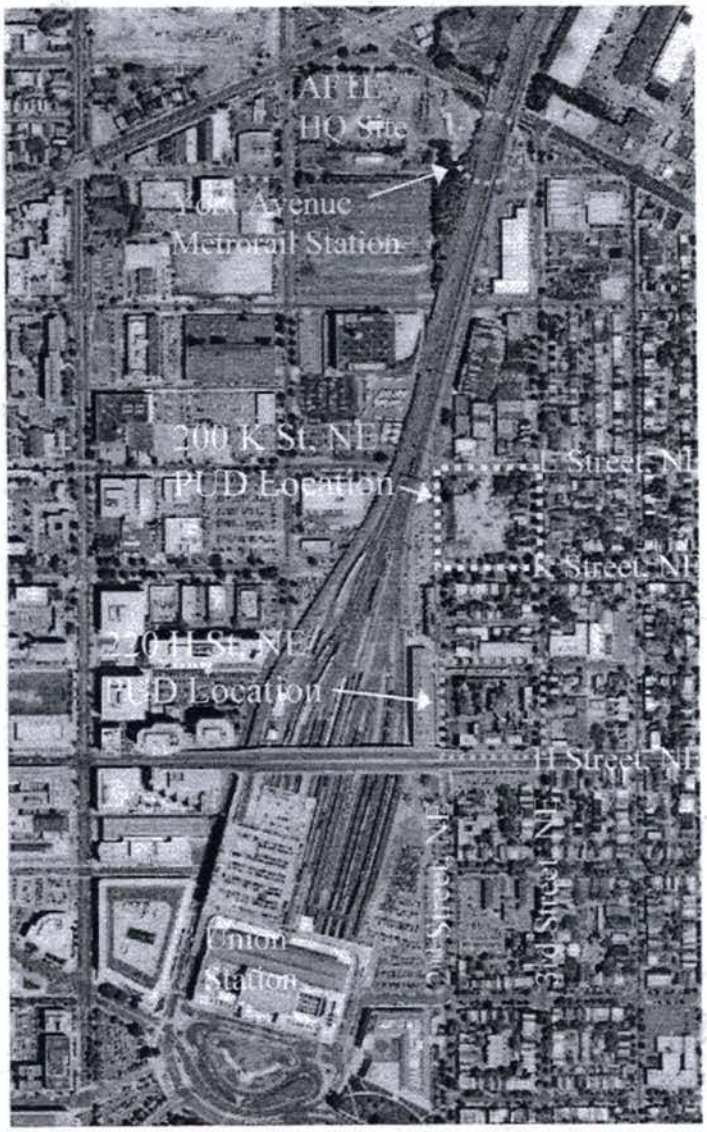
PROJECT DESCRIPTION

Site

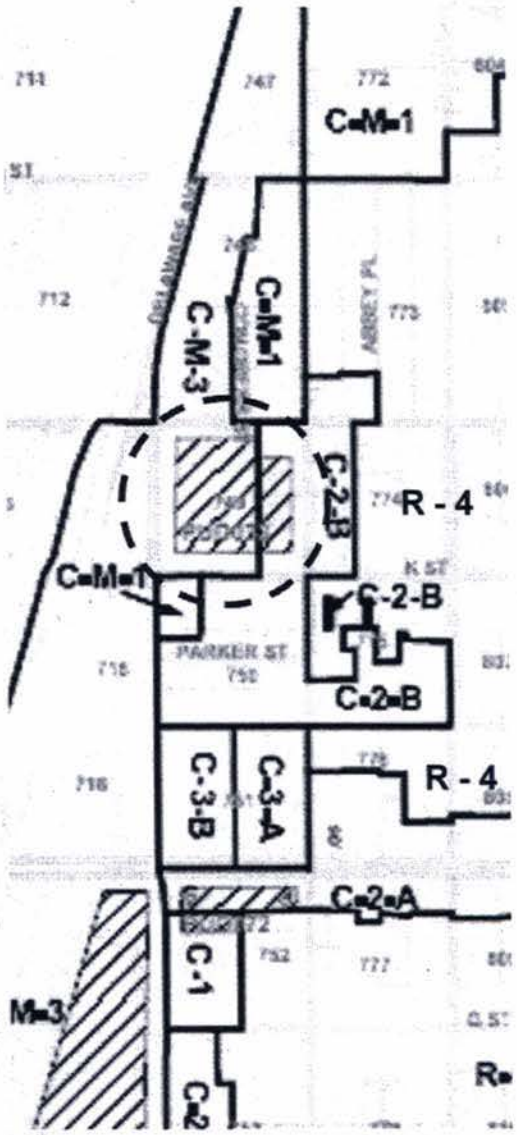
The Zoning Commission has taken a proposed action to approve both a *First Stage Planned Unit Development (PUD)* and a *Consolidated Planned Unit Development (PUD) with related zoning map amendment* from C-M-3 (high bulk commercial and light manufacturing) and C-2-B (medium density mixed use office, retail, and/or residential) to C-3-C (medium/high density mixed use major business, office, retail and/or residential) for a mixed use project with residential and retail components, to be built in two phases and known by its address, 200 K Street, NE. The site is located two blocks south of the New York Avenue Metro Station, within the North of Massachusetts Avenue (NoMa) redevelopment area. To the south and east are 2-story townhouses, to the north are low-rise commercial buildings, and the the west are the CSX railroad tracks.

Previous Commission Action

This is a new PUD application based on a previously approved PUD that lapsed. In 1995, NCPC found that the previous PUD would have no adverse impacts to federal interests.

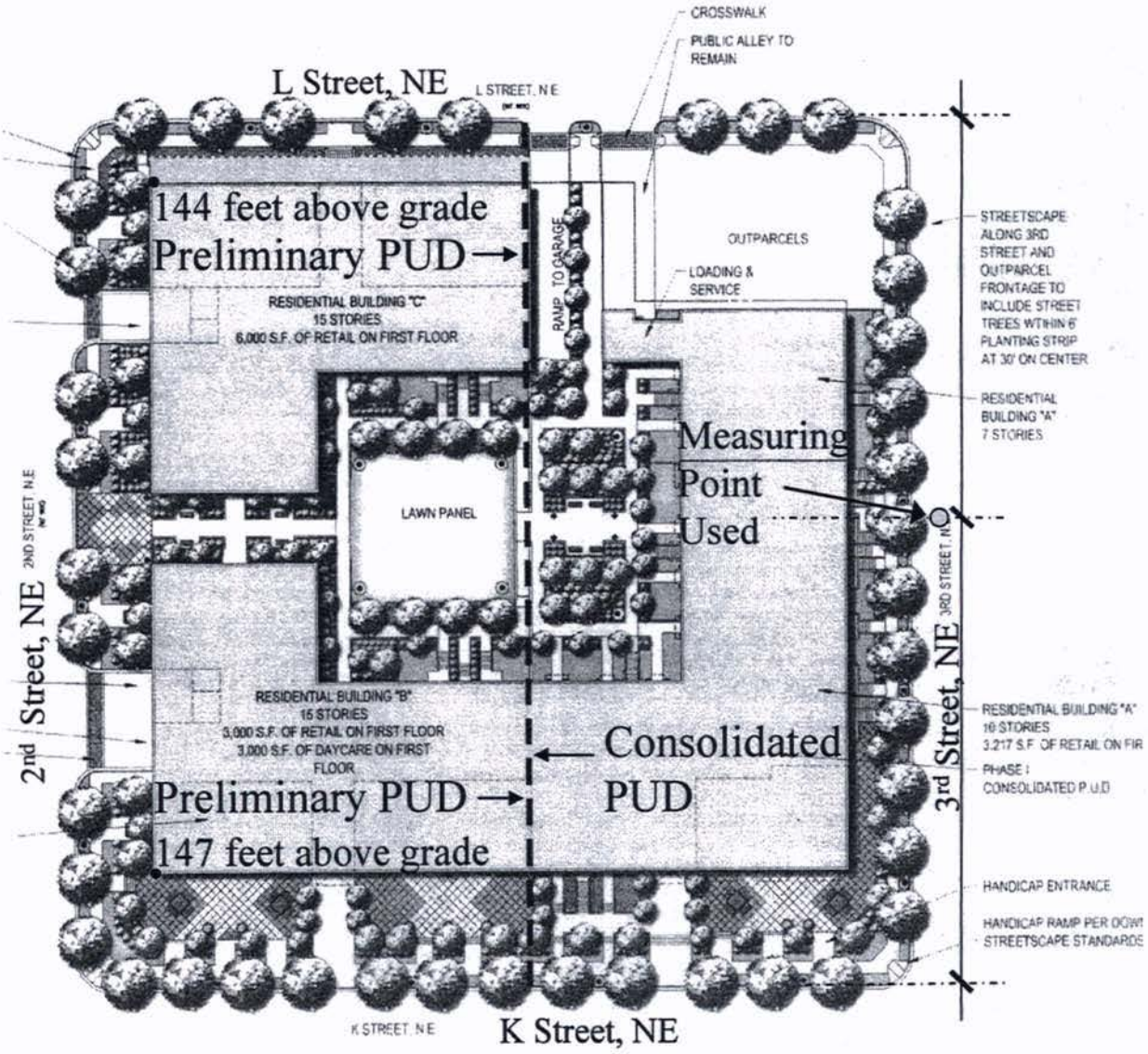


Site Context for 200 K Street, NE



Existing Zoning in Vicinity

Rowhouses South Across K Street Viewed from Site



Site Plan Showing Building Height and Measuring Point

In a delegated action dated February 25, 2005, the Executive Director found that a nearby PUD for the Capital Children's Museum site, located at 220 H Street NE, would not be inconsistent with the Comprehensive Plan nor have an adverse impact on any federal interest. Staff noted that because the property was located in a transition zone between high density commercial and low density residential development, it would have preferred to see the building height restricted to 90 feet, as allowed matter-of right in C-3-C districts, but found that the proposed maximum height of 110 feet did not violate the Height of Buildings Act.

Proposal

The applicant, 200 K Street Limited Partnership, has filed a PUD and related map amendment that would encompass almost all of Square 749, bounded by K, L, 2nd and 3rs Streets, NE. The PUD would be divided into two parts, with a Consolidated PUD on the eastern section nearest 3rs Street, and a Preliminary PUD on the western section nearest 2nd Street.
The Consolidated PUD would contain 202 residential units and 5,234 gross square feet (gsf) of retail space. The Preliminary PUD on the western portion of the site would provide 500 residential units, over 9,000 gsf retail and 3,000 gsf for a daycare center.

The related map amendment would be to rezone both portions of the site (eastern, C-2-B, and western, C-M-1), to C-3-C.

Principal project benefits and amenities would be:
- Dedication of approximately 11% of the PUD's gross residential floor space to housing that is affordable to households making no more than 80% of Area Median income (AMI), and
- A 3,000 square foot day car center.

DCOP recommends the Zoning Commission approve this application, subject to the provision of information noted in their report, and subject to certain conditions, including the following:

- The Preliminary PUD shall be restudied to address the height issue noted in Section V (b) of this report. In particular, in response to ANC concerns, when filing the Second Stage PUD application for the Preliminary PUD, the applicant shall submit an alternative that maintains a 90 foot building height along K Street for at least 40 feet back from the building line.

PROJECT ANALYSIS

In its 1995 report on the previous PUD submission, DCOP found that the proposed 130 foot height "would tower over nearby residential blocks" and that "the 130 foot height and resulting bulk would have some adverse visual impact on the whole residential community." In its December 27, 2005 report on the current PUD submission, DCOP included, as a condition of approval, the recommendation that "the preliminary PUD shall be restudied to address the height issue noted in Section V (b) of this report." Staff concurs with DCOP's current and previously expressed concerns regarding the height and recommends that the Zoning Commission not approve the preliminary PUD until these concerns are resolved.

Furthermore, the 130 foot height proposed for the Preliminary PUD would violate the Height of Building Act of 1910. Compliance with the Act is required by the Federal Elements of the Comprehensive Plan for the National Capital. The PUD violates the Act for the reasons below:

The applicant has stated that the 130 foot height of the structure is "measured from the mid-point of 3rd Street which has an elevation of 51.63 feet." Staff finds no justification for the use of a measuring point on 3rd Street, given that the Consolidated and Preliminary PUDs are separate structures, to be authorized under two separate zoning actions, designed by two different architects, and built at two different times. The Preliminary PUD has no frontage on 3rd Street. This was not an issue in 1995 when NCPC found that the previous PUD would not violate the Height Act, as it was being approved as a single project.

DCOP staff describes the Preliminary PUD as one U-shaped building, for which "the principal plaza entrance would be from 2nd Street, under a 12-story glass bridge connecting the wings." However, none of the drawings submitted to date shows floor plans or elevations of such a connection, and site plans indicate two separate structures. Because an opening of some sort will be required to provide public access to the center plaza which is one of the public benefit and amenities to be provided, staff finds that the Preliminary PUD as currently designed consists of two separate structures.

While the Height Act allows 130 foot building height along K Street, it allows only 110 feet on L and 2nd Streets. The Height Act also states that "the height of a building on a corner lot will be determined by the width of the wider street." Given that the Preliminary PUD as currently proposed consists of two separate structures, staff finds that only the portion of the project at the corner of 2nd and K Streets is allowed a height of 130 foot under the Height Act, and the portion at the corner of 2nd and L Streets cannot exceed 110 feet.

Given DCOP's recommendation that the applicant submit an alternative that maintains a 90 foot building height along K Street for at least 40' back from the building line and staff findings that this area is the only location where 130 foot is allowable under the Height Act, staff recommends that no portion of the Preliminary PUD be allowed to exceed 110 feet, as measured from either K or 2nd Streets, NE, in accordance with Section 7 of the Height Act:

That for the purposed of this Act the height of buildings shall be measured from the level of the sidewalk opposite the middle of the front of the building to the highest point of the roof. If the building has more than one front, the height shall be measured from the elevation of the sidewalk opposite the middle of the front that will permit of the greater height. No parapet walls shall extend above the limit of height

CONFORMANCE

Comprehensive Plan

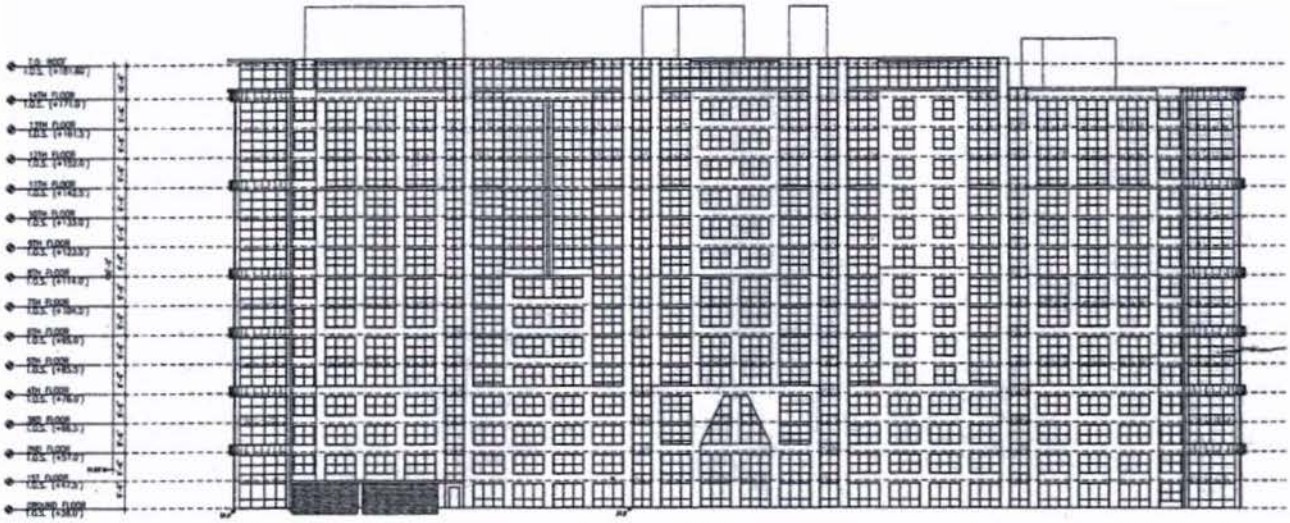
The Comprehensive Plan for the National Capital Federal Elements notes that both the federal and the District of Columbia governments should adhere to the principles of the L'Enfant Plan

by protecting and enhancing the elements and views in any improvements or alterations to the historic framework. The Preservation and Historic Features element includes a policy that states that the federal government should "Preserve the horizontal character of the national capital through enforcement of the 1910 Height of Buildings Act" (Page 161, Policy #3).

CONSULATION

Advisory Neighborhood Commissions

ANC 6C voted to approve the new PUD on December 14, 2005, with interim parking provisions. At ANC meetings and as recently as an ANC sponsored forum on October 18, 2005, several members of the community expressed concern about the 130 foot height of the First Stage PUD along K Street and the unbroken 90 to 130 foot wall that the project would present on K Street. Although the majority of residents who spoke at the January 5, 2006 public hearing supported the project, the owner of a townhouse on K Street expressed concern that even 90 feet would be too high and would overshadow the existing two story townhouses if the measurement starts above structured parking, rather than from the lower elevation. She requested that the Zoning Commission enforce height restrictions and request that the developer decrease the height.



2nd Street Elevation Submitted but Described as Not a Facade

D.C. Office of Planning

In its Final Report of 2005, DCOP recommended approval of the PUD subject to ten conditions. The first condition was for the applicant to provide information requested to demonstrate consistency with the PUD Standards of § 2400 of the Zoning Regulation prior to the public hearing on January 5, 2006. Basing its argument on the PUD Standards, the DCOP Report stated that "The maximum height may not exceed …130 feet for a PUD in the proposed C-3-C zone, provided this complies with the Height Act." The second condition in the report was for the Consolidated PUD to be constructed according to previously submitted plans.

The third condition was discussed earlier in this report. However, at the January 5th hearing, Steven Cochran from DCOP gave further testimony to reiterate the need to explore massing and height; specifically, its timing, that "this will clearly need to be addressed before the submission of the Second Stage for the Preliminary PUD. OP is particularly concerned about the 130 foot height on K Street and the insertion of 15 floors into 130 feet."

Following the hearing, the record was left open for additional information. Drawings submitted since the January hearing serve to muddle rather than to clarify the issue of height and number buildings by including a statement warning not to misconstrue the elevations submitted as facades. This is further evidence of the premature phase of design used as the basis for accepting height and massing at this stage.