

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

THURSDAY

NOVEMBER 14, 2002

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

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

ZONING COMMISSION STAFF PRESENT:

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

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

2 6:36 p.m.

3 MS. MITTEN: Good evening, ladies and  
4 gentlemen. This is a public hearing of the Zoning  
5 Commission of the District of Columbia, for Thursday,  
6 November 14<sup>th</sup>, 2002. My name is Carol Mitten.

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

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

18 And the property is known as Lot 805, and  
19 a portion of Lot 7 in Square 1663. Notice of today's  
20 hearing was published in the DC Register on October  
21 4<sup>th</sup>, 2002, and in the Washington Times on September  
22 26<sup>th</sup>, 2002.

23 This hearing will be conducted in  
24 accordance with the provisions of 11 DCMR, Section 30-  
25 22, which are the Procedures for Contested Cases.

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

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

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

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

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

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1 right.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 MS. MITTEN: Yes.

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

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

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

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

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

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

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

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

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

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

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

3 And notice on both properties was  
4 required.

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

11 MR. HITCHCOCK: Thank you, Madame Chair.

12 MR. QUIN: Thank you.

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

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

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

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

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

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

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

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

19 You will represent all of them.

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

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1 are concerned -- that are within this case.

2 MS. MITTEN: But you will represent them.

3 You will do the cross-examination?

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

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

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

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

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

17 (Laughter.)

18 MS. MITTEN: Thank you.

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

21 MS. MITTEN: Well, then --

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

24 MS. MITTEN: All right.

25 MR. HOOD: I'll second that.

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

3 (All say "aye")

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

5 (Silence.)

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

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

15 MR. HITCHCOCK: Thank you, Madame Chair.

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

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

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

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

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

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

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

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

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

18                  MR. MAY: I would second that.

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

21                  (All say "aye".)

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

24                  (Silence.)

25                  MS. MITTEN: So the request for party

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

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

10 (Off mic.)

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

13 (All say "aye".)

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

16 (Silence.)

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

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

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1                   microphone, please.

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

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

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

11                  MR. BEACH: Yes, Madame Chair --

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

15                  MR. BEACH: Thank you.

16                  MS. MITTEN: There you go.

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

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

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

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

5                   MR. BEACH: The boundary line is at 41<sup>st</sup>  
6 Street.

7                   MS. MITTEN: All right. Okay.

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

13                  MS. MITTEN: All right.

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

16                  MS. MITTEN: All right.

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

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

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

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

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

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

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

10 (All say "Aye".)

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

13 (Silence.)

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

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

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

21 MR. MAY: Just want to make sure.

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

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

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

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

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

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

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

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

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

25 MS. MITTEN: Yes.

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

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

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

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

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

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

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1 Thursday. Thursday?

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

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

11 MS. MITTEN: Right.

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

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

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

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

24 MR. QUIN: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15           MR. HITCHCOCK: Yes.

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

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

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

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

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

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

8 MR. HITCHCOCK: Sure.

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

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

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

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

25 The effect of this, if you look at the

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

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

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

14 MR. HITCHCOCK: Okay.

15 MS. MITTEN: Is there anything else?

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

20 MS. MITTEN: Okay.

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

25 MS. MITTEN: Okay.

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

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

6 MR. QUIN: Yes, I do.

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

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

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

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1 elevator shafts.

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

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

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

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

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

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

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1 course of a hearing.

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

4 MR. MAY: I would second that motion.

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

7 (All say "aye".)

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

10 (Silence.)

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

13 MR. QUIN: Thank you, Madame Chair.

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

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

22 (All: I do.)

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

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

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

4 MS. MITTEN: Oh, yes.

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

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

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

14 MS. MITTEN: Right.

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

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

25 MS. MITTEN: How about Mr. Courtney?

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

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

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

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

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

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

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

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

18                  MR. HITCHCOCK: No, Ma'am.

19                  MS. MITTEN: Okay. Mr. Beach?

20                  MR. BEACH: No objections.

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

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

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

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

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

7 MS. MITTEN: Please do.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Just south of the Hecht's store is the

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

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

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

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

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

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

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

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

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

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

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1 100 units.

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

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

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

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

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

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

3                   (Laughter.)

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

7                   MS. MITTEN: Go ahead.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 very carefully planned development.

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

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

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

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

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

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

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

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

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

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

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1 | tonight.

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 || our amenity package.

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

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

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

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1 and Wisconsin anymore, with all the traffic.

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

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

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

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

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

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

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

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

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

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

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1 Code, to be affordable housing.

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

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

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

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

25 We think this is a textbook case of TOD.

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

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

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

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

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

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

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

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

22 MS. MITTEN: So can we.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7                   (Laughter.)

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

11                  (Laughter.)

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

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

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

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

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

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

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

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

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

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

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

25                   Here are some additional relationships.

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

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

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

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

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

25              Here are a couple of views of that scheme.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1                   this, with a series of different red bricks.

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

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

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

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

22                   MS. MITTEN: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25                  And then, Lisner Home directly to the

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

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

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

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

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

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

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

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

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

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

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

25                   And it's very clear, from reviewing those

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (Laughter.)

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

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1 policies. But a couple of the most salient points.

2 This is a housing opportunity area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 I've got ten seconds left.

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

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

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

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

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

19 (Laughter.)

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

21 (Laughter.)

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

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

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

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

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

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

14                   MR. QUIN: Except for Mr. Sher.

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

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

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

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

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

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

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

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

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

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

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

23 MR. QUIN: Right. Thank you.

24 MR. HANNAHAM: Thanks.

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

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

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

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

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

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

14 MR. QUIN: No.

15 MS. MITTEN: All right.

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

17 MS. MITTEN: Yes, Mr. Bastida?

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

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

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

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

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

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

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

15 MR. BASTIDA: One week before?

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

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

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

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

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

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

9                   MR. HITCHCOCK: Yes, sir.

10                  MS. MITTEN: He said yes.

11                  MR. BASTIDA: Okay. Thank you.

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

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

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

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

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

25                  MR. BASTIDA: In addition, the Office of

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

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

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

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

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

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

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

5                   MS. MITTEN: Mr. May?

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

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

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

14                  MS. MITTEN: No?

15                  MR. QUIN: No.

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

19                  MR. MAY: It looks like a rectangle.

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

22                  MR. BASTIDA: Madame Chairman?

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

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

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

3 MS. MITTEN: And Mr. Cochran?

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

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

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

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

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

23 MR. HITCHCOCK: Madame Chair?

24 MS. MITTEN: Yes, sir?

25 MR. HITCHCOCK: A quick question for Mr.

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

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

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

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

12                  MR. BASTIDA: On the 13<sup>th</sup> --

13                  MS. MITTEN: Of November.

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

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

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

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

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

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

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

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

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

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