

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA

2 ZONING COMMISSION

3 PUBLIC HEARING

4
5
6
7 In the Matter of:

Case No. 95-15I

8
9 Southwest Urban Renewal ☐10 Portion of Subarea C ☐11
12
13 Hearing Room 220 South
14 441 Fourth Street, N.W.
15 Washington, D.C.16
17
18 Monday,
19 March 24, 199720
21
22
23 The above-entitled matter came on for
24 hearing, pursuant to notice, at 7:30 p.m.25
26
27 BEFORE:28
29 MAYBELLE TAYLOR BENNETT, Chairperson
30 HERBERT FRANKLIN, Commissioner
31 JERRILY KRESS, Commissioner
32 JOHN PARSONS, Commissioner33
34
35 STAFF PRESENT:36
37 MADELIENE DOBBINS, Director
38 VINCENT ERONDU

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

2 7:38 p.m.

3 CHAIRPERSON BENNETT: Good evening,
4 ladies and gentlemen. My name is Maybelle Taylor
5 Bennett. I'm Chairperson of the Zoning Commission
6 for the District of Columbia. Joining me this
7 evening are Commissioners, Franklin, Kress and
8 Parsons.

9 I declare this hearing open. I want to
10 start out for apologizing for making you wait so
11 long. We had two other meeting agenda items and
12 they went on a little longer than we had
13 anticipated. So, with no further ado, I declare
14 this hearing open.

15 The case that is the subject of this
16 hearing is Zoning Commission Case Number 95-15I.
17 Case Number 95-151 is an initiative of the Zoning
18 Commission for the District of Columbia resulting
19 from the deliberation of Case Number 95-15. A
20 petition by the District of Columbia Office of
21 Planning to amend the District of Columbia's zoning
22 regulations and map for a portion of the Subarea C
23 of the Southwest Urban Renewal area.

24 Case Number 95-15 derives from the
25 expiration of land development controls in Subarea C
26 of the Southwest Urban Renewal Plan. The Southwest

1 Urban Renewal Plan for Subarea C expired on November
2 30, 1996, leaving the properties unzoned. The
3 proposed amendment will put zoning controls in place
4 for a portion of project area C, a Subarea of the
5 Southwest Urban Renewal Plan.

6 On May 23, 1996, the Zoning Commission
7 held a public hearing on Case Number 95-15. On
8 August 5, 1996, the Commission took proposed action
9 in that case and authorized an additional hearing to
10 address issues that were not within the scope of the
11 May 23, 1996 hearing.

12 The instance case, 95-15I, contains
13 those matters that were set for an additional
14 hearing. These matters include re-advertising
15 certain properties for zoning categories that the
16 Commission considers more appropriate than those
17 previously advertised. The special proposals that
18 would more appropriately address the special
19 circumstances of the properties known as P-1 through
20 P-6 were published in the District of Columbia
21 Register on November 8, 1996. A corrected version
22 of the same notice of public hearing was on January
23 17, 1997 and in the Washington Times on January 15,
24 1997.

25 The hearing will be conducted in
26 accordance with the provisions of Section 3021 of

1 the District of Columbia Municipal Regulations,
2 Title 11, Zoning. The order of procedure will be as
3 follows: first, preliminary matters including the
4 certification of the maintenance of posting; second,
5 the report of the Office of Planning; third, the
6 report of other agencies; fourth, the report of the
7 Advisory Neighborhood Commissions, persons in
8 support and persons in opposition.

9 The Commission will adhere to this
10 schedule as strictly as possible. Those presenting
11 testimony should be brief and non-repetitive. If
12 you have a prepared statement, you should give
13 copies to staff and orally summarize the highlights.
14 Please give us your statement before summarizing.
15 Each individual appearing before the Commission must
16 complete two identification slips and submit them to
17 the reporter when you make your statement. If these
18 guidelines are followed, an adequate record can be
19 developed in a reasonable length of time.

20 Why don't we move forward then with
21 preliminary matters?

22 MR. ERONDU: Madam Chair, members of the
23 Commission, good evening.

24 CHAIRPERSON BENNETT: Good evening.

25 MR. ERONDU: There is only one
26 preliminary matter and that is the Office of Zoning

1 recommends that the Commission waive grantor -- for
2 late posting of the signs.

3 CHAIRPERSON BENNETT: Late posting of
4 the?

5 MR. ERONDU: Of the property.

6 CHAIRPERSON BENNETT: Oh.

7 MR. ERONDU: -- waiver.

8 CHAIRPERSON BENNETT: All right.

9 Colleagues, I don't have a problem with
10 that since that is one of many forms of posting and
11 notification of the public. How do you feel about
12 that? Is that all right?

13 All right, we so waive.

14 Next item? Was that it?

15 MR. ERONDU: Next, is someone from
16 Office of Planning to certify that the postings were
17 maintained.

18 CHAIRPERSON BENNETT: All right.

19 Is there someone from the Office of
20 Planning who can do that?

21 MR. COLBY: Well, I am here for Mr.
22 Gross from the Office of Planning. I can testify
23 that I'm not aware from Mr. Gross and Mr. Johnson
24 that there's any problem with the posting.

25 CHAIRPERSON BENNETT: Or the maintenance
26 of the posting?

1 MR. COLBY: Or the maintenance of the
2 posting, correct.

3 CHAIRPERSON BENNETT: All right.
4 Colleagues, is that acceptable?

5 COMMISSIONER FRANKLIN: Yes.

6 CHAIRPERSON BENNETT: All right.
7 Was that the only other preliminary
8 item?

9 MR. ERONDU: That's all, Madam Chair.

10 CHAIRPERSON BENNETT: Okay. Thank you.
11 All right. Let's move on then to the
12 report of the Office of Planning. Mr. Colby?

13 MR. COLBY: Thank you, Madam
14 Chairperson. I am going to give the report. I'm
15 really here for Mr. Gross who had an opportunity to
16 go to France, take his family to France, and he took
17 advantage of that. I am here with Mr. Fagelson to
18 do the best we can in Mr. Gross' absence.

19 You've received the report. I can go
20 through it in terms of the five or six items that
21 are identified in the report and would be happy to
22 do that, if you like, just to summarize it.

23 CHAIRPERSON BENNETT: We'd appreciate
24 that.

25 MR. COLBY: All right. The first item
26 was the rezoning from unzoned, basically, to R-5-B.

1 That portion of Lot 128 in Square 472 improved with
2 townhouses. We've recommended that the zoning be as
3 advertised, which is R-5-B.

4 If you want to add anything to what I'm
5 saying, please do.

6 The apartment zoning will place all the
7 complex in an apartment classification and is more
8 suitable to the operation and layout of the complex
9 and is superior to the previously advertised R-3
10 zone. Item number two, to rezone
11 the eastern two-thirds of Square 413 to R-4 or R-5-B
12 which is part of Parcel 76, the Challengers site, I
13 believe. As presently configured, the width of the
14 lots, 18 feet, does not comply with the previously
15 advertised R-3 standards which call for 20 feet. R-
16 4 zoning, the next step up, can accommodate the site
17 plan, however, a theoretical lot approval by the BZA
18 would be required. R-5-B will also accommodate the
19 site plan, yet the density allowed by R-5-B 1.8 is
20 the same as that allowed by R-4, 60 percent lot
21 occupancy times three stories. The permitted height
22 is only ten feet greater at 50 feet versus 40 feet.
23 So, we believe that the extra degree of design and
24 site plan flexibility afforded by R-5-B could be
25 beneficial and therefore, we do recommend adoption
26 of R-5-B for that part of the urban renewal plan.

1 Number three is to rezone from unzoned
2 to W-1 or to W-1 in conjunction with proposed
3 Paragraph 2521.1F in those properties known as P-1
4 through P-6. I can speak to that again. There's
5 another item at the end of this report.

6 We would add the following text to
7 Chapter 25. This is 2521.F. We would add the
8 following text: "A building or structure
9 constructed on a lot designed in the urban renewal
10 plan as P-1 through P-6 shall not exceed a height of
11 22 feet unless the Board of Zoning Adjustment, after
12 public hearing, determines that the proposed height,
13 bulk and design are in harmony with existing uses
14 and structures on neighboring property. We do
15 recommend adoption with that restriction.

16 Item number five was a point raised by
17 attorney, Steven Gell on behalf of the Channel Inn.
18 The concern raised is that W-1 zoning may prohibit
19 the establishment of new parking or parking garages
20 as contemplated in the urban renewal plan because W-
21 1 does not permit parking lots. OP previously
22 responded to this issue and OP comments note that
23 the general conformity clause that the Commission is
24 proposing to adopt for all structures and buildings
25 built in conformity with the urban renewal plan
26 should resolve Mr. Gell's issues as to current

1 parking use. Secondly, the report notes that
2 Subsection 901.2 of the W zone's use provisions will
3 allow accessory parking including a structure for
4 this purpose to be allowed as a matter of right.

5 And then I would jump down to a final
6 recommendation which is that we recommend an
7 addition to Paragraph 2521.B that would effectuate a
8 continuation of urban renewal parking rules. It
9 would also provide some additional assurance on the
10 matter to the Channel Inn and potentially other
11 waterfront lessees. It is recommended that the
12 language would be added that would say, "and
13 provided further that parking lot and parking garage
14 use shall continue to be allowed on parking sites P-
15 1 through P-6 as designated in the urban renewal
16 plan."

17 With that, I will stop and respond to
18 any questions. Jim Fagelson from DACD is hear also
19 to respond to any questions.

20 CHAIRPERSON BENNETT: All right, thank
21 you.

22 So, the reference to 2521.1B refers to
23 another section that was not --

24 MR. COLBY: Contained.

25 CHAIRPERSON BENNETT: -- contained
26 within even the corrected notice. But it is your

1 notice that it can be referred to and modified
2 without readvertisement?

3 MR. COLBY: I --

4 CHAIRPERSON BENNETT: Well, it says, the
5 last paragraph on page 4 --

6 MR. COLBY: Right.

7 CHAIRPERSON BENNETT: -- "OP believes
8 that this modification to the provision is within
9 the scope of the notice of public hearing," --

10 MR. COLBY: That's correct.

11 CHAIRPERSON BENNETT: -- "being a
12 closely related modification of an advertised rule."

13 MR. COLBY: That's correct. It's a
14 judgment call, obviously, and in our judgment, it's
15 sufficiently within the scope of what was
16 advertised.

17 CHAIRPERSON BENNETT: Do you know
18 whether or not anyone talked to the Office of Zoning
19 about the--

20 MR. COLBY: I do not know. I'm sorry.

21 CHAIRPERSON BENNETT: Okay. Let me ask
22 you another question. We received letters
23 regarding-- and I think they were from a Mr.
24 Turnbull and a Mr. McCarthy, who were concerned
25 about the relationship between the Thomas Law House
26 and its view of the water. The point being made was

1 that this historic property needs to be set within
2 its context, appropriate context. And I saw nothing
3 in the Office of Planning's report that talked about
4 the height's impact on the Thomas Law House were
5 there to be any development built to the 22 feet on
6 that lot which would be closest to, I would imagine,
7 the Thomas Law House, P-6.

8 I didn't know if there were anyone who
9 could address that. I thought it was conspicuously
10 absent given the testimony that we had in the first
11 case about that issue.

12 MR. FAGELSON: I can not speak as to
13 what Planning did or did not consider. However, we
14 have requested that in looking at their
15 recommendation for the P-6 lot, that they consider
16 the total environment and not just the one building.
17 So that, they looked at the entire area around P-6
18 and make a judgment based upon the entire
19 environment that P-6 sits within.

20 COMMISSIONER FRANKLIN: Well, that
21 environment is south of M Street, is it not,
22 essentially?

23 MR. FAGELSON: That is correct.

24 COMMISSIONER FRANKLIN: And I recall at
25 the other hearing that I was concerned that there
26 should be some distinction between the areas south

1 of them and the areas north of them because I think
2 that there is a commercial investment, you know,
3 that's north of them that doesn't exist south of
4 them, really.

5 What is the source of the 22 foot height
6 limit, if you know?

7 MR. FAGELSON: Forty years ago when the
8 urban renewal plan was originally established, it
9 was felt that the 22 feet would preserve the views
10 from other parts of Southwest to the waterfront.
11 And they wanted to keep any development along the
12 waterfront to a low scale, and that is how the 22
13 feet came about.

14 COMMISSIONER FRANKLIN: And was that the
15 case under the urban renewal plan for south of M as
16 well?

17 MR. FAGELSON: That 22 feet only related
18 to the parking sites which were all south of them if
19 I get my directions straight there.

20 COMMISSIONER FRANKLIN: I recall
21 something in the urban renewal plan that talked
22 about -- I can not remember if it was 14 feet above
23 DC datum, so-called. Can you refresh my
24 recollection?

25 MR. FAGELSON: As I remember, you have
26 several different sites along there. You have the

1 deck sites. You have the buildings actually built
2 upon that has parking underneath that has -- I think
3 they are at six feet or so DC datum, above the
4 water. Then you have the P-1 through 6 which I
5 think is about a 14 because some of those have the
6 double-decker, or could be a double-decker.

7 COMMISSIONER FRANKLIN: Well, how does
8 14 feet above DC datum, so-called, translate into
9 the height limits that are now being proposed? Is
10 that the same thing?

11 MR. FAGELSON: Yes, it's the same thing.

12 CHAIRPERSON BENNETT: So, this 22 feet
13 would not be on top of?

14 MR. FAGELSON: No. The 22 feet was on
15 P-6 and that was within the urban renewal plan. It
16 stated that that one site, P-6, could have a
17 building up to 22 feet. The others had a lower
18 height because of the views of the waterfront.

19 COMMISSIONER FRANKLIN: But the Thomas
20 Law House had a higher height?

21 MR. FAGELSON: The Thomas Law House is -
22 -

23 COMMISSIONER FRANKLIN: That doesn't
24 right. I mean in front of it. I guess what I ought
25 to do is just be very blunt and say that I don't
26 think we ought to be approving anything higher than

1 what the original urban renewal plan permitted.

2 MR. FAGELSON: Right, and that is what -

3 -

4 COMMISSIONER KRESS: May I just answer?
5 I think that's how this all got written. That's how
6 this all came about. I believe I was the one who
7 made the motion on the six pieces of property out of
8 my concern for that --

9 MR. FAGELSON: Right.

10 COMMISSIONER KRESS: -- and that was the
11 base bottom line I want to hear tonight, to make
12 sure we're not making a mistake here. But that was
13 my understanding of how this got drafted and how
14 this was written --

15 MR. FAGELSON: Right. It is to conform
16 to the --

17 COMMISSIONER KRESS: -- for that
18 purpose--

19 MR. FAGELSON: -- urban renewal plan as
20 it is now written, or was written. And we wanted to
21 keep Southwest -- we tried to zone it exactly the
22 way it is right now so that any change would have to
23 come back to DZA or the Zoning Commission if it's a
24 new zone. But we tried to keep everything as close
25 as possible, trying to fit it into the zoning, which
26 is rather hard because of the way Southwest was

1 defined.

2 COMMISSIONER KRESS: And also the Thomas
3 Law House -- and I'm sure we will hear some more
4 tonight -- the testimony the first time, I was very
5 impressed and I've forgotten the name of the
6 individual who had drawn the DC datum lines and done
7 all of the photography.

8 COMMISSIONER FRANKLIN: Colonel
9 Turnbull, I think.

10 COMMISSIONER KRESS: Yes, that's right.
11 It was Colonel Turnbull.

12 But what I'm saying is that most of
13 those things that were, as I recall from those early
14 -- not early, but from that testimony in dealing
15 with this Thomas Law House had to do with what was
16 being proposed which was much higher, 40, 50 feet as
17 I recall.

18 MR. FAGELSON: Right and we reduced
19 that.

20 COMMISSIONER KRESS: And we've reduced
21 that to the 22. I look forward to the hearing
22 tonight, but I just wanted to make sure we were
23 under the same understanding --

24 MR. FAGELSON: Right.

25 COMMISSIONER KRESS: -- of what the
26 intent was. And if we've done something that's not

1 appropriate or advertised something, we'll hear
2 about it tonight.

3 CHAIRPERSON BENNETT: Okay, Mr. Parsons?

4 COMMISSIONER PARSONS: Mr. Fagelson, we
5 have before us a Southwest Waterfront Master Plan
6 that was produced in June of 1991. Do you have that
7 document?

8 MR. FAGELSON: I do not have it in front
9 of me.

10 COMMISSIONER PARSONS: Oh, Mr. Colby,
11 you must.

12 MR. COLBY: Pardon?

13 COMMISSIONER PARSONS: It's attached to
14 your October 30 memorandum to us.

15 Could somebody share with theirs so I
16 can ask Mr. Fagelson a question?

17 Could you turn to page 50?

18 MR. FAGELSON: Okay, this is the drawing
19 from the Sasaki plan.

20 COMMISSIONER PARSONS: Correct. So,
21 before we start then, what is the status of this
22 plan? Not this piece of paper, but this document.

23 MR. FAGELSON: This is a drawing out of
24 the Sasaki plan, a plan that we commissioned in the
25 early '90s to take a new look at the waterfront. It
26 was strictly a planning document. There are no

1 funds available to implement it.

2 COMMISSIONER PARSONS: But does it have
3 any status with your department?

4 MR. FAGELSON: The only status is that
5 it was accepted by the department as being complete
6 for contractual purposes.

7 COMMISSIONER PARSONS: So, it has no
8 status other than you've paid the bill and everybody
9 went home?

10 MR. FAGELSON: We accepted the report.
11 We are taking those parts out of it that we can do -
12 -

13 COMMISSIONER PARSONS: I see.

14 MR. FAGELSON: -- and not doing those
15 parts that we can't.

16 COMMISSIONER PARSONS: All right. Well,
17 let's look at this drawing, if we could.

18 Now, over in the right corner is what I
19 believe to be a reconfigured P-6. Is that correct?

20 MR. FAGELSON: That is correct. What
21 they were trying to do was take M Street extended,
22 the visual corridor of M Street, to the waterfront
23 so that somebody in getting off at the Metro
24 station, would be able to look down M Street and see
25 activity on the waterfront and supposedly draw them
26 down there. And then they created certain building

1 lots around there to frame that view.

2 COMMISSIONER PARSONS: Right. So, they
3 concluded in their study, at least, that a surface
4 parking lot here was preferable to a garage?

5 COMMISSIONER FRANKLIN: Are you looking
6 at page 50?

7 COMMISSIONER PARSONS: Yes.

8 MR. FAGELSON: I don't know if that's a
9 valid statement or they were just showing an
10 indication of parking without saying --

11 COMMISSIONER PARSONS: Well, let's look
12 over in the upper left-hand diagram then and see
13 what we find there. We find a parking garage there,
14 don't we?

15 CHAIRPERSON BENNETT: Yes, we do.

16 MR. FAGELSON: That appears to be a
17 parking garage, yes.

18 COMMISSIONER PARSONS: So --

19 MR. FAGELSON: And the one on the right,
20 immediately to the right of the circle, also appears
21 to be a parking garage because you can see the ramps
22 at either end.

23 COMMISSIONER PARSONS: The right of the
24 circle. You mean, the new -- proposed commercial?

25 MR. FAGELSON: To the right of that,
26 which looks like a parking lot?

1 COMMISSIONER PARSONS: Yes, to the right
2 and to the left are both parking garages.

3 MR. FAGELSON: Right.

4 COMMISSIONER PARSONS: Well, it appears
5 to me at least that somebody who developed this plan
6 believed that a parking lot was preferable here,
7 just by the lack of indication of ramps and the
8 planting of trees within it and so forth. That is
9 P-6.

10 MR. FAGELSON: I can not speak to what
11 they envisioned because this is strictly a
12 hypothetical view.

13 COMMISSIONER PARSONS: Hypothetical
14 view?

15 MR. FAGELSON: Their opinion of what
16 that site could look like if you extended M Street
17 to the waterfront and created a sense of place
18 there.

19 COMMISSIONER PARSONS: Did you agency
20 comment on this drawing when it was presented? Or
21 did you just accept it --

22 MR. FAGELSON: We were more interested
23 at the Fish Wharf Inn because we knew we did not
24 have the money to do the entire plan.

25 COMMISSIONER PARSONS: Now, if we could,
26 let's turn to page 39. At the bottom of that table,

1 it shows site P-6, that's number nine, although it's
2 not labeled on the diagram that's not important.
3 That shows an increase of 111 to 121 cars. That is
4 a ten car increase in that lot which doesn't imply
5 to me that there is a parking deck on it.

6 Does that imply to you that there was a
7 parking deck?

8 MR. FAGELSON: I would not view that as
9 a parking deck necessarily, but it could also mean
10 that there is a building there with one level of
11 parking underneath it.

12 COMMISSIONER PARSONS: Well then, let's
13 turn to page 60. Page 60 talks about phasing of
14 construction. Here it shows for the parking lot
15 modification, \$500,000. Does that seem like a
16 reasonable figure to do a surface parking lot --

17 MR. FAGELSON: Approximately.

18 COMMISSIONER PARSONS: All right. What
19 would it take to change the urban renewal plan to
20 reflect this concept for this parking lot?

21 MR. FAGELSON: Since the urban renewal
22 plan has expired --

23 COMMISSIONER PARSONS: Would an act of
24 the City Council modifying the comprehensive plan to
25 direct you to manage this as a surface parking lot
26 do the job?

1 COMMISSIONER FRANKLIN: Well, I think
2 our regulations could.

3 COMMISSIONER PARSONS: It's too hard.
4 It's too hard for us to do this, I think. But we
5 can try. I'm just trying to get help because we're
6 transient.

7 COMMISSIONER FRANKLIN: You've been here
8 for 20 years. I don't think you're --

9 COMMISSIONER PARSONS: Well, I'm not.

10 CHAIRPERSON BENNETT: He's looking at
11 us.

12 COMMISSIONER PARSONS: What I mean is
13 I'm looking for something to declare this for what
14 it should be, what I think we all agree it should
15 be, and not rely on a 40 year old document that
16 wasn't thinking. They were thinking of other
17 things. So, I'm trying to find from Mr. Fagelson,
18 what it would take other than this Commission, to
19 amend this obsolete plan and give new direction for
20 this District-owned piece of property.

21 MR. FAGELSON: I think the proper venue
22 for that would be the comprehensive plan.

23 COMMISSIONER PARSONS: All right.

24 COMMISSIONER FRANKLIN: I don't think
25 so. I don't think the comprehensive plan should get
26 into fine-grained, you know, decisions regarding

1 sites of this sort.

2 COMMISSIONER PARSONS: Like they did at
3 the Kennedy-Warren, telling us to save the lawn?

4 COMMISSIONER FRANKLIN: Yes. I don't --

5 COMMISSIONER PARSONS: I agree, but I'm
6 looking for something.

7 COMMISSIONER FRANKLIN: I don't think
8 that that should be given any effect. I mean, it's
9 not a comprehensive plan provision. It's our job as
10 the Zoning Commission to decide what the proper use
11 and density should be on that site and not to be
12 intimidated by somebody who thinks that it's going
13 to be a taking if we limit it to surface parking.
14 It's not.

15 COMMISSIONER PARSONS: Oh, I'm not
16 intimidated by that.

17 COMMISSIONER FRANKLIN: Okay.

18 COMMISSIONER PARSONS: I'm looking for a
19 zone that we have in our toolbox that doesn't exist.

20 COMMISSIONER FRANKLIN: Well then, we'll
21 create one.

22 COMMISSIONER PARSONS: Oh.

23 CHAIRPERSON BENNETT: Something we've
24 been trying to do for 20 years.

25 COMMISSIONER PARSONS: Thank you. Sorry
26 to belabor that.

1 CHAIRPERSON BENNETT: All right.

2 Further questions of the Office of Planning?

3 All right. Seeing none --

4 COMMISSIONER FRANKLIN: Madam Chair, I
5 might observe that the Sasaki plan, even though it
6 doesn't have any formal status, or the Sasaki report
7 certainly, as far as I'm concerned -- and I think
8 Mr. Parsons has done an excellent job in explicating
9 it -- is something that I'm prepared to give some
10 weight to in our own deliberations.

11 COMMISSIONER PARSONS: That's good.
12 Good.

13 CHAIRPERSON BENNETT: All right.

14 Were there any other government agencies
15 prepared to testify this evening?

16 MR. COLBY: No, ma'am.

17 CHAIRPERSON BENNETT: All right. Let's
18 move on then. Report of Advisory Neighborhood
19 Commissions.

20 Are there Advisory Neighborhood
21 Commission members here?

22 MR. SIMON: Madam Chairperson, my name
23 is Gottlieb Simon. I'm the executive director for
24 ANC 2-D. If you'd like while Mr. Westbrook is
25 setting up the projector, I could read our report
26 for you.

1 CHAIRPERSON BENNETT: Fine.

2 COMMISSIONER KRESS: Is your mic on?

3 I'm not hearing very well. The green light.

4 MR. SIMON: The green light is on now.

5 COMMISSIONER KRESS: Perfect, thank you.

6 Now I hear.

7 MR. SIMON: Thank you.

8 It's properly noticed meeting of
9 December 13, 1996, ANC 2-D considered the four text
10 and map amendments that make up Case 95-15I. The
11 ANC's actions on the four amendments are as follows:

12 On rezoning a portion of Lot 128, Square
13 472 from unzoned to R-5-B, the ANC voted its support
14 three to nothing with one abstention. On rezoning
15 Parcel 76, the eastern two-thirds of Square 413 from
16 UR to R-5-B, the Commission voted its support again,
17 three to nothing with one abstention.

18 The Commission considered number three,
19 rezoning P-1 through P-6 from UR to W-1 along with
20 item number four, adding proposed Section 2521.1F
21 together. At the same time, due to the intrinsic
22 differences in the sites and heightened community
23 concern over P-6, the ANC treated P-1 through P-5
24 separately from P-6.

25 In its May 17, 1996 report to you, the
26 ANC indicated unanimous support for proposed Section

1 2521.1, then identified as Section 2521.1E. Since
2 that time, however, members of the commission have
3 become more concerned whether this language affords
4 adequate protection to the waterfront and its views.
5 Accordingly, the ANC voted three in favor, one
6 opposed to recommend that this section apply only to
7 P-1 through P-5, and that you amend it by
8 substituting zero feet in place of 22 feet.

9 Again, because this distinctiveness from
10 the other sites and resident concern, the ANC
11 proposes different language to protect P-6. The
12 ANC, therefore, recommends that you adopt the
13 following text for P-6. "No building or structure
14 shall be constructed on a lot designated in the
15 urban renewal plan as P-6 above the existing grade
16 level." And I would just add to that the point that
17 that language was chosen in part because of the
18 previous illusions to the confusion as to DC datum,
19 not DC datum and so forth.

20 MR. WESTBROOK: I have some slides that
21 will show the rationale behind the ANC vote.

22 COMMISSIONER KRESS: That's absolutely
23 my question, so I'm glad you will do that.

24 MR. WESTBROOK: Madam Chair, of course,
25 this is the Law House. The reasoning behind Parcel
26 parking lot 6 was to have an unobstructed view,

1 reciprocal view, not only from Law House and Tiber
2 Island, but from the 30 foot wide park strip that is
3 in-between Tiber Island property and P-6; thirty
4 feet in width, designated as park land on the urban
5 renewal plan.

6 This is a view from the stoop or the
7 porch of the Law House. This is a winter shot,
8 obviously. You can have pretty good views across to
9 the waterfront from here. That's another one
10 showing the circle cul-de-sac at the end of Water
11 Street. This is the 30 foot park strip in between
12 Tiber Island property, the parking lot. Obviously,
13 this hedge, we believe is on P-6 property.

14 That's a shot of the Law House from the
15 Spirit Ship's property, or the part that they
16 operate, across Water Street and then across full
17 view of P-6. This is a summer shot of the 30 foot
18 wide park strip looking to the north. We're
19 approximately in front of Harbor Square right here
20 with that rather high hedge. As you can see, those
21 are very mature oak trees. I think it's a willow
22 oak and not a pin oak which we are having serious
23 trouble with disease in the pin oak down in our
24 neighborhood.

25 This is the actual parking lot. One of
26 the suggested things to do is to cut this down so

1 that you've got a retaining wall along where those
2 curved tire blocks are. So that, when you're on
3 that park strip coming down Sixth Street, you look
4 over the hedge and over the top of the cars to the
5 channel. That's another summer shot. As you can
6 see, from the porch of the Law House, you have a
7 shot under the branches of these trees and they are
8 not blocking the views on the ground level here.

9 That's, of course, a winter shot across
10 the parking lot to Law House, Tiber Island. Their
11 community room is on the left there. Another shot.
12 That's a Tiber Island apartment building. That's
13 the West Building, I believe. As you can see, there
14 are no windows facing directly west, but all the
15 balconies, obviously, have a full view. Just walk
16 out on the balcony and you look east, west and
17 south, unobstructed.

18 There's a little parking area in front
19 of the Spirit Ship's office across -- that's Water
20 Street where the busses are. We're having serious
21 problems with bus parking along Water Street and
22 Maine Avenue, especially during the height of the
23 tourist season. They are re-landscaping this little
24 part here, thank goodness.

25 This is the north end of the P-6 lot.
26 As you can see, Tiber Island, the high rise is

1 blank. There's no windows on that wall. But the
2 south building, obviously can look through the trees
3 right now and this is when it's in full leaf. So,
4 it's not totally obstructed view from almost any
5 level in Tiber Island development, whether they're
6 the townhouses or the balconies of the high-rise.

7 Here's Spirit Ship line. The question
8 in the urban renewal plan was that the P-6 was not
9 to exceed 22 feet up from DC datum. Okay. Then you
10 have to try to figure out, "well, what does that
11 mean to a structure on P-6?" Because this water
12 level, obviously, is fluctuating, DC datum, I'm
13 assuming, is mean sea level -- which all USGS maps
14 use mean sea level. So, we're maybe seven or eight
15 feet up from the water level, maybe, on this
16 promenade which is part of the lower promenade.
17 Not this upper promenade over the deck, the parking
18 deck, where you have all the restaurants lined up --

19 COMMISSIONER KRESS: I know you were
20 here before and we went through this before. We
21 really need to get this clarified about where this
22 starts. There was a lot of talk about this eight
23 feet. I left all those hearings thinking that it
24 was not a plus eight feet. But we really have to
25 have that decided before we vote on this and
26 understand where DC datum and where this 22 feet is.

1 We've got to have that very, very clear.

2 MR. WESTBROOK: Well, in my judgment,
3 the way this text is reading, it says 22 feet. You
4 measure height in the 40 foot high zoning categories
5 from the middle of the front of the building to the
6 ceiling of the top story. A very unusual
7 definition.

8 COMMISSIONER KRESS: Not to the ceiling.

9 MR. WESTBROOK: To the ceiling of the
10 top story.

11 COMMISSIONER KRESS: It's exterior, not
12 interior.

13 MR. WESTBROOK: That means you could
14 have your whole roof structure on top of that.

15 Now, when we testified the first
16 hearing, we put in 22 feet DC datum.

17 COMMISSIONER KRESS: Right.

18 COMMISSIONER FRANKLIN: Which I recall
19 was like 14 feet above grade. Was that right?

20 COMMISSIONER KRESS: That's what I
21 recall too. See, he's adding eight feet and I
22 thought we were taking it out. So, I'm still
23 confused.

24 MR. WESTBROOK: We're thinking that the
25 parking deck on which the restaurants are and the
26 motel is probably at 14 feet. I think we have

1 people in the audience I think can clarify that.
2 When you get back -- if you use 22 feet and you get
3 back to the far side of P-6, the parking lot along
4 the park strip, you're going to have about a seven
5 or an eight foot high structure. Now, the question
6 is, can you then also park on top of that structure?
7 So, parking deck, yes.

8 Then the urban renewal plan had this
9 thing that if you have more -- you have to
10 architecturally screen that upper level that's
11 visible. So, you're going to see in one of the
12 other pictures, that's what they did on parking lot
13 one, P-1. So, we'll see that.

14 COMMISSIONER KRESS: I just do want to
15 correct you, and I will look into it. But I am very
16 sure that does not apply to a ceiling. When you
17 measure the height of a building, you're talking
18 about to the roof line and/or to a -- line. You are
19 not talking about an interior ceiling dimension.
20 So, I --

21 MR. WESTBROOK: That's the definition in
22 the zoning ordinance, believe me. It's weird. I've
23 never seen that -- I've been in zoning --

24 COMMISSIONER KRESS: Well, we've used it
25 a lot. We've got to check that. I'm not going to
26 be on --

1 MR. WESTBROOK: Do we have a quote?

2 COMMISSIONER KRESS: Well, that's all
3 right. I don't want to get into that. But these
4 are things --

5 MR. WESTBROOK: But that is the
6 definition.

7 COMMISSIONER KRESS: -- that have got to
8 be clarified. I think that there is actually some
9 consensus here of what we mean by height. The
10 trouble is, we don't have it written correctly. I
11 mean, personally, I think myself and Commissioner
12 Franklin, I think we have an idea of what you have.
13 The trouble is, I don't know if the words are
14 correct. I just wanted to make that point.

15 MR. WESTBROOK: Well, we checked that
16 when the motel height question was involved. There
17 was an exception to that provision of the 40 feet
18 for the developer and owner to give him like 64 feet
19 or 65. I said, "well, why do you have 65 feet for a
20 four story motel?" "Oh, it's DC datum. 64 feet up
21 from DC datum." You've got a deck that is about 14
22 feet -- I'm sorry, I'm confusing you with the exact
23 figures because I don't have those in mind.

24 COMMISSIONER KRESS: That's okay. We
25 don't have them either.

26 MR. WESTBROOK: But they're determinable

1 if we know exactly the elevation of the lower
2 promenade here and the upper promenade which is the
3 roof of the deck, parking deck.

4 COMMISSIONER KRESS: Well, for purposes
5 of your testimony -- and we will go back and
6 translate -- do talk DC datum and number of feet
7 relating to DC datum which is how the urban renewal
8 was done. Then when we go back to vote, we'll be
9 clear on exactly what your testimony is.

10 MR. WESTBROOK: Yes. Well, our
11 recommendation is that you not consider DC datum.

12 COMMISSIONER FRANKLIN: Thank you.

13 MR. WESTBROOK: That you use the
14 definition of a 40 foot high category, which is
15 front of the building -- finished grade, the front
16 of the building, middle of the building to the
17 height of the ceiling -- that's what it says.

18 COMMISSIONER KRESS: Thank you.

19 MR. WESTBROOK: Now, this is one of the
20 parks looking across into Tiber Island and across
21 Water Street in P-6. Let's see, I can go forward
22 to -- I'm using these because I've proposed some
23 amendments to the Ward 2 comprehensive plan that
24 will carry out some of these things. These slides
25 illustrate that.

26 COMMISSIONER PARSONS: Mr. Westbrook,

1 have you proposed any amendments to the
2 comprehensive plan regarding the P-6?

3 MR. WESTBROOK: What, sir?

4 COMMISSIONER PARSONS: Have you proposed
5 any comprehensive plan changes to affect P-6?

6 MR. WESTBROOK: A slight modification in
7 modifying these parking areas between Water Street
8 and Maine Avenue. It's item number six in this page
9 of what the amendments are. It says, "modify and
10 improve the designated parking areas, P-1 through P-
11 6 along Water Street, for busses and autos to
12 provide better service and convenience for visitors
13 to the waterfront, especially patrons of the
14 waterfront's commercial activities."

15 Now, I had in there "busses" which the
16 people in Tiber Island and Harbor Square objected
17 to, strenuously. But this does not refer, saying
18 that you have to provide bus parking in all of those
19 lots but they do need modification so that they're
20 more easily entered and exited. It can go forward
21 to, let's see--

22 COMMISSIONER PARSONS: So, this was not
23 a proposal of the ANC, but your own?

24 MR. SIMON: That's correct.

25 MR. WESTBROOK: So, this is the parking
26 lot in front of Gangplank which would get the 40

1 foot height limit because this is the W-1 zone. So,
2 you could build a 40 foot high structure here.

3 Let's see, this is the parking area in
4 front of the Channel Inn. As you can see, it's half
5 below grade. You look across Maine Avenue -- you're
6 standing on Water Street, and that is Waterside
7 Towers which is also up for a rezoning or zoning
8 here. The townhouses would get the R-5-B and the
9 high-rise would stay as originally proposed at R-5-
10 D. So, the ANC is in favor of that.

11 This would be one of the lots where we
12 would consider in the modification of the Ward 2
13 plan, to be able to modify this so it's easier to
14 get in and out of. Also, maybe not so much on this
15 one but in P-1, there's a little bit of a security
16 problem, perceived security problem, in that lower
17 level of P-1 and I'll show you a slide of that.

18 There, we have the bus parking problem.
19 These busses are parked at meters along the street
20 which preclude an automobile -- they drop their kids
21 off or their patrons off up on the mall. They come
22 down here and double-park or park. It happens every
23 time there's a big tourist push here and it's
24 happening right now. This is last year's slide, but
25 we're faced with that all the time, enforcement
26 problem.

1 This is the lot across from the Channel
2 Inn. I don't know if you can read that sign but it
3 says "monthly parking." So, it's not really serving
4 the waterfront establishments. Mr. Fernandez
5 finally opened it up in the evening after we said,
6 "well, the Odyssey dinner boat really needs parking
7 areas that are closer instead of" -- they had
8 contracted to have 200 spaces up at the parking area
9 in front of Hogates. Well, they almost never used
10 it and had to pay up front to reserve this. So, the
11 ANC let them out of that. About six months ago, we
12 changed that.

13 Now, this is the one in front of the
14 Hogates which is farther up, and directly across is
15 the Orleans Restaurant and the club, Foxtrap, I'm
16 sorry. It's a club. We have school bus parking in
17 front of automobile parking meters.

18 This is another shot of the lot in front
19 of Hogates. One of the managers, or the manager of
20 the Hogates, is the one that proposed that item you
21 see on that third page of what was just distributed.
22 It was his idea to modify these lots so that you
23 could get busses in there and get them out easy.
24 This lot is very suitable for that and you wouldn't
25 see -- you would see, maybe, the tops of the busses
26 at best.

1 That's how large that lot is. It's
2 over -- that's the 200 -- no, it's even more than
3 that, about 400 spaces, I believe. The one in front
4 of the motel is 200 and this is about 400, maybe
5 even more than 400. Generally, it is very under-
6 utilized. Bus parking problem again.

7 Now, this is P-1 where you have a
8 structure on that lot. You can see that grill work
9 on the side, on the Water Street side, which kind of
10 creates a perceived security problem. Both upper
11 and lower levels of these decks are very under-
12 utilized. That's looking across from the Ninth
13 Street entrance into Water Street in the front.
14 That's how well used it is. This is the top level
15 of that deck, top level of the parking structure.
16 We have a little access problem on the upper
17 promenade. It should be corrected so you're not
18 intimidated on walking here because this does not
19 belong to the restaurants. This is a public access
20 and should be maintained, not just for pedestrians,
21 but for emergency vehicles and for emergencies.

22 Of course, this is the end of the whole
23 waterfront situation before you get into the fish
24 vendors. So, this was another area that I had in my
25 amendment that would be addressed so we could
26 increase the parking, separate pedestrian conflicts

1 with the parking and moving traffic, fix up the fish
2 vendor area by removing some of the support
3 facilities and fish cleaning activity right in the
4 middle of the parking lot and get the thing kind of
5 cleaned up. It is a marvelously successful
6 operation. It's just the District is not making too
7 much money off of it.

8 COMMISSIONER KRESS: By the way, most of
9 these things you should take to DCRA. I would love
10 if we could enforce things, but we can't. But like
11 you were talking the walk-through area where the
12 pots were, you should take some of that to DCRA
13 enforcement for whatever it's worth.

14 MR. WESTBROOK: Yes.

15 There was a couple of other things. In
16 case you want to recall what the difference in these
17 parking areas are, the height under Section 582.12,
18 on sites P-1, P-2, P-4 and P-5, eight feet above the
19 level of the curb of Maine Avenue adjacent to the
20 site. No mention of DC datum. On site --

21 CHAIRPERSON BENNETT: Eight feet above
22 the level --

23 MR. WESTBROOK: Of the curb on Maine --

24 CHAIRPERSON BENNETT: -- of the curb on
25 Maine?

26 MR. WESTBROOK: -- Avenue. These are

1 the plan controls.

2 On site P-3, which is the middle section
3 of that big, long parking area in front of Hogates,
4 two feet above the level of the curb of Maine Avenue
5 adjacent to the site. I don't know the reason for
6 the two feet, unless the thing is very depressed in
7 that part of the lot.

8 COMMISSIONER KRESS: It might be.

9 MR. WESTBROOK: so, you don't need any
10 more than two feet above the curb.

11 On site P-6, 22 feet elevation, DC
12 datum. So, there's only the one parking lot, P-6,
13 that has the 22 feet DC datum.

14 MR. SIMON: Right. And we should
15 underscore that that 22 feet is not the same as the
16 22 feet that are in the regulations that are being
17 proposed.

18 COMMISSIONER KRESS: Right.

19 By the way, I do want to correct myself.
20 I stand corrected as I read it. For commercial
21 buildings, you measure the height -- and you're
22 correct -- to the roof or the parapet. But for
23 residential buildings, you are correct. You do
24 measure it to the ceiling -- yes, for residential.
25 So, if someone built a residential building, that
26 would be measured differently than any commercial

1 structure.

2 MR. WESTBROOK: Well, most residential
3 buildings, Arlington County, it's a flat roof to the
4 top of the roof. If it's a pitched roof mean that.
5 Then if you had a mansard roof, it's the deck --

6 COMMISSIONER KRESS: Yes, that's why our
7 codes are -- I mean, right now, they're not dealing
8 with the pitch and what-not for residential.

9 MR. WESTBROOK: Yes.

10 COMMISSIONER KRESS: But for commercial,
11 it is established. It's residential. If you start
12 getting pitches or mansards then you've got a
13 different measuring device.

14 MR. WESTBROOK: We got all the controls
15 for P-1 through P-6. You've got my proposed
16 amendments for the Ward 2 plan which I don't think
17 need any zone changes, maybe some modification.
18 They'll be presented to the City Council sometime
19 this spring because they did go forward from the
20 Planning Office and Marion Barry's to the City
21 Council for review under the -- actually, it's Bill
22 1299 and the Comprehensive Plan Amendment Act of
23 '97. So, we will all have to take at these and see
24 if they're doable.

25 I'd like to just comment on really, what
26 we can really do about this. It just doesn't seem

1 that the zoning mechanism is the way to go here.
2 Mr. Parsons talked about a zoning category which --
3 I'll submit the one from Arlington County. I only
4 have one copy but I'll put that into the record.
5 They have an open space zone that's got a lot of
6 permitted uses in it. Three acres is the minimum
7 site area and 240 or 250 feet in width. So, it kind
8 of limits what you could do with these things. What
9 the county has done is generally zoned their own
10 properties this. I don't think there's any
11 privately zoned property because they would object
12 to that as constituting a taking. So, that was not
13 done.

14 This thing of how else to handle this
15 thing, I think there's, you know, a number of ways,
16 very few deals with zoning. Well, some do. And I
17 think it's key here that if the lease holder, P-6
18 and all these other lots, has some vested right to
19 build the deck or build a structure here, then maybe
20 you have to take a different action. You could just
21 keep it unzoned, okay? It's unzoned now. You could
22 do this by extending the central area that's in the
23 zoning regulations. Say, "okay, we're going to have
24 also the Southwest urban renewal area considered the
25 central area." Therefore, it would be under the
26 jurisdiction for planned buildings with the National

1 Capitol Planning Commission. Maybe that's not going
2 over too well, but that's a possibility.

3 Let's see, you could also transfer
4 jurisdiction to the Park Service so it becomes a
5 federal property instead of a DC property. I don't
6 know if the Park Service would be willing to take
7 that or not, but it's a possibility.

8 COMMISSIONER PARSONS: Most certainly.

9 MR. WESTBROOK: It would be an accessory
10 use for the historic buildings, for the park lands
11 already under jurisdiction of the Park Service.
12 It's very logical. They have a place for people to
13 park while they're walking along the promenade.
14 Then I also had, you know, this thing about adopting
15 the Arlington County's S-3-A zone, open space zone,
16 similar. That's some of the other ways to handle
17 this thing.

18 What is so unusual here, we're talking
19 about zoning DC property. That is only because of
20 an amendment to the comprehensive plan that said all
21 DC property, outside of the central area, should be
22 zoned. Of course, you all haven't done that yet,
23 right?

24 COMMISSIONER KRESS: Come on.

25 MR. WESTBROOK: No. So, that's another
26 minor problem. You know, there's no time limit on

1 that, that DC property should be zoned or that
2 zoning shall not be inconsistent with the
3 comprehensive plan. That was in the Home Rule Act.
4 There was no time limit on it and it has taken us
5 years and years to comply with that thing. We've
6 been doing it stage by stage over the years. So,
7 why not just wait another 20 years and then you can
8 zone this if you don't transfer it to the Park
9 Service.

10 Thank you very much. Gottlieb and I
11 can, I hope, field any questions you have.

12 COMMISSIONER KRESS: Thank you.

13 CHAIRPERSON BENNETT: Thank you.

14 I'd like to just make sure I understand
15 the ANC's official position. In going back to the
16 advertised text now, items one and two, there is a
17 support of three to zero to one votes on both. Item
18 three, you bifurcate for the lack of a better -- so
19 that P-1 through 5 is treated differently from P-6.
20 And that you would do P-1 through 5 in conjunction
21 with W-1 and 2521.1F, where instead of 22 feet, it's
22 zero feet.

23 MR. SIMON: Correct.

24 MR. WESTBROOK: Which implies Board of
25 Zoning Appeals hearing and a decision to go above
26 zero feet, special exception.

1 MR. SIMON: That is, we're replacing 22
2 with zero, but all the rest of that section remains
3 with the opportunity.

4 CHAIRPERSON BENNETT: So that, if anyone
5 wanted to do anything --

6 MR. SIMON: Yes.

7 CHAIRPERSON BENNETT: -- above zero --

8 MR. SIMON: Yes.

9 CHAIRPERSON BENNETT: -- they would go
10 to BZA?

11 MR. SIMON: Yes.

12 CHAIRPERSON BENNETT: Okay.

13 MR. SIMON: But when you get to P-6 --

14 CHAIRPERSON BENNETT: Now, P-6, you keep
15 the same W-1 plus proposed paragraph 2521.1F.
16 However, instead of dilly-dallying with some figure,
17 you say, "no structures at all"?

18 MR. SIMON: Correct. And it does not
19 include the language of going to BZA. It does not
20 include that language.

21 CHAIRPERSON BENNETT: You don't have
22 that option.

23 MR. WESTBROOK: Right.

24 COMMISSIONER KRESS: You understand one
25 of our problems is, as it has been put to us, that
26 we've got to treat these properties somewhat

1 similarly and what you're doing is --

2 MR. WESTBROOK: Uniformly.

3 COMMISSIONER KRESS: -- just what we've
4 struggled with. We wanted to tear it apart and
5 we've been advised in many ways that that's not a
6 wise decision for legal reasons. So, we tried to
7 put them together to come up with something and
8 you've pulled them apart again.

9 Understanding that, what advice do you
10 have for us to be able to do what you want to do,
11 but understand, you know, some of the legal and
12 other implications that we might have and how to
13 handle these?

14 MR. WESTBROOK: Well, just the things
15 that I think are options to consider how to control
16 these sites.

17 COMMISSIONER KRESS: Which you've talked
18 about, yes, and I have them written down.

19 MR. WESTBROOK: Yes.

20 COMMISSIONER KRESS: Including the Park
21 Service.

22 MR. WESTBROOK: What?

23 COMMISSIONER KRESS: Including the Park
24 Service.

25 MR. WESTBROOK: Right. And I think
26 there is this uniformity problem that everybody in

1 the W-1 category needs to be treated uniformly.

2 COMMISSIONER FRANKLIN: Well, they have
3 to be treated uniformly if the site conditions are
4 uniform. But my view is that P-6 is very
5 dissimilar, or let's say significantly and
6 relevantly dissimilar from the others because of the
7 proximity to a historic structure, and because the
8 commercial setting is very different.

9 MR. SIMON: Indeed, while our report
10 does not go into detail, that is the position that's
11 reflected here in identifying it as being
12 distinctive from the other five sites.

13 COMMISSIONER FRANKLIN: Plus, we have a
14 planning study that draws the same kind of
15 conclusions. So, it's not as though we're being
16 arbitrary and capricious in designating that for a
17 different density, in my view at least.

18 MR. WESTBROOK: Well, I think in zoning,
19 if you've got a public purpose behind a special
20 exception, it needs BZA review, that that's usually
21 acceptable. So, on P-6, we wouldn't do that.

22 COMMISSIONER KRESS: You don't care to.
23 But you feel confident that if there were some way
24 that P-1 through P-6 were put into a BZA, you would
25 get a proper hearing? You don't even want to have
26 the option possibly ever of P-6 going to BZA?

1 MR. WESTBROOK: That's right.

2 MR. SIMON: That's correct.

3 COMMISSIONER FRANKLIN: You know, it is
4 of some significance that, as I understand it and
5 correct me if I'm wrong, that there has been a lease
6 hold interest on this site for a long time. Under
7 the lease agreement and under the plan, there has
8 been the right to build to 22 feet above DC datum,
9 whatever that is. I recall from the last hearing
10 that it was about 14 feet above what we would call
11 grade. And yet, that has never happened. So, you
12 know, I'm not persuaded that anything has been
13 vested there.

14 MR. WESTBROOK: Well, we haven't seen
15 the lease either.

16 COMMISSIONER FRANKLIN: That's one
17 person's opinion.

18 MR. WESTBROOK: Or the provisions of the
19 lease.

20 COMMISSIONER FRANKLIN: No, I haven't
21 seen the lease either.

22 MR. WESTBROOK: We don't know what it
23 says.

24 COMMISSIONER FRANKLIN: Yes, that's a
25 good point. I haven't seen it either.

26 MR. SIMON: And clearly, the ANC wasn't

1 persuaded of that point either.

2 COMMISSIONER FRANKLIN: Yes.

3 CHAIRPERSON BENNETT: Further questions
4 of the ANC?

5 All right. Thank you very much.

6 MR. SIMON: Thank you.

7 CHAIRPERSON BENNETT: And thank you for
8 being so thoughtful and thorough, as usual.

9 All right, we're going to now turn to
10 the witness list. We're going to ask individuals to
11 try to limit their testimony to three minutes.
12 We're going to ask associations or representatives
13 of associations to try to limit themselves to five
14 minutes. We'll see if we can actually conclude this
15 evening.

16 Is Kathryn A. Pearson here? I didn't
17 see her come in. Kathryn Pearson? I'm surprised
18 that someone from Upper Northeast would be here.

19 Okay, Steve Sher?

20 MR. SHER: Madam Chair, members of the
21 Commission, for the record, my name is Steven E.
22 Sher. I'm the director of Zoning Services with the
23 law firm of Wilkes, Artis, Hedrick & Lane. I'm not
24 a lawyer.

25 In the interest of not --

26 CHAIRPERSON BENNETT: We'll stipulate

1 that from the last time.

2 MR. SHER: We'll stipulate that, yes.

3 In the interest of not standing too long
4 in front of an oncoming locomotive, I'm going to
5 make my presentation real short. I've submitted a
6 statement for the record and I think I only want to
7 emphasize a couple of points.

8 Comprehensive plan generalized land use
9 map -- and I apologize for the colors on the copy
10 attached because the colors didn't come out very
11 well. But I was otherwise occupied today, getting
12 ready for two hearings rather than one. The color
13 on the comprehensive plan generalized land use map
14 as applied to this property is low density
15 commercial. It's not parks, recreation and open
16 space. It's low density commercial. We believe
17 that the Office of Planning's recommendation to
18 allow the W-1 zone with a maximum height of 22 feet
19 is an appropriate compromise allowing review by the
20 BZA for height that would go to that point.
21 Respecting the concern about what might happen there
22 is a reasonable way to deal with that site.

23 We would suggest one modification to
24 that and it's, perhaps, a significant one. That is
25 that residential use, if it was to be proposed, be
26 allowed to go to a 40 foot height. Residential use

1 at 40 feet is the same minimum/maximum,
2 maximum/minimum height of the most restrictive
3 residential zone in the District of Columbia. You
4 can build a 40 foot height single-family dwelling.
5 There is no zone in the District that has a lower
6 minimum height than 40 feet. But we would suggest
7 that given you're talking about the adjacent
8 residential zoning be R-3 which is 40 feet and R-5-D
9 which is 90 feet, and on the waterfront side you're
10 going to allow 40 feet, we think it would be
11 arbitrary and inequitable to limit that height on
12 this property when you can go higher on both sides.

13 The adjoining residential development is
14 approximately 200 feet away. Mr. Westbrook's slides
15 were as illustrative and informative on that point
16 as anything I could say. I've just attached a copy
17 of the Sanborne plat as the last item, which shows
18 the various spacial relationships there.

19 Lastly, we would just point out that
20 there's no record that we're aware of with RLA of
21 any easements affecting this property in favor of
22 either the residences or the Law House. We see no
23 planning rationale to adopt a no-build zoning
24 classification and we would support what Office of
25 Planning has recommended at this point.

26 Thank you.

1 CHAIRPERSON BENNETT: So, let me get
2 something straight here. Maybe things are just
3 going too fast for me.

4 The modification that you would propose
5 would be that where we have a 22 foot limitation
6 currently proposed in 2521.1F, that would stay
7 unless there were a residential project proposed?
8 Or did I slip --

9 MR. SHER: That's correct. That's what
10 we said.

11 CHAIRPERSON BENNETT: That's correct.

12 MR. SHER: Twenty-two feet. But if it
13 was residential, 40 feet. In either case, BZA.

14 CHAIRPERSON BENNETT: In either case,
15 you'd keep BZA. Okay.

16 Questions of Mr. Sher?

17 COMMISSIONER FRANKLIN: Mr. Sher, would
18 you be willing to submit for the record, the
19 existing lease on that property?

20 MR. SHER: I guess, while it's in here,
21 I neglected to say, we're appearing on behalf of
22 Washington Boat Lines which is the lessee of the
23 property. I would have to consult with my client.
24 But assuming that we would take out any proprietary
25 financial information, I assume they would but I'd
26 have to consult with them.

1 COMMISSIONER FRANKLIN: Yes, it would be
2 very --

3 MR. SHER: I'm not in a position to
4 commit that.

5 COMMISSIONER FRANKLIN: Yes, I
6 understand. It would be very helpful if you could.

7 CHAIRPERSON BENNETT: Okay, questions?

8 MR. FAGELSON: If they do not, we can
9 give you the lease because it is public information
10 with appropriate financial notice stripped out.

11 CHAIRPERSON BENNETT: Okay.

12 COMMISSIONER FRANKLIN: One way or the
13 other, I don't care who.

14 COMMISSIONER KRESS: You don't care
15 where it comes from.

16 CHAIRPERSON BENNETT: Okay, so into the
17 record will come the lease for P-6, is that right?

18 COMMISSIONER FRANKLIN: Right.

19 CHAIRPERSON BENNETT: Okay.

20 Questions? Further questions?

21 All right, thank you.

22 Stephen Gell? I saw him here.

23 Good evening.

24 MR. GELL: Good evening, Madam
25 Chairperson, members of the Commission.

26 CHAIRPERSON BENNETT: You may proceed.

1 MR. GELL: Thank you.

2 The statement begins "my name is Mamel
3 B. Fernandez," and my name is not. It's Stephen
4 Gell. Mr. Fernandez was going to be here tonight
5 and is very sorry that he was not able to, but he
6 had to assist at a function honoring the staff of
7 the National Rehabilitation Hospital. He felt his
8 presence was needed there, and he felt I could read
9 his statement for him and respond to questions.

10 Just summarizing the beginning, we're
11 here to preserve the right of the Channel Inn and
12 Pier 7 to build a two-level parking garage, which
13 they had a right to build under the urban renewal
14 plan. We're not asking for 40 feet. We're not
15 asking for 20 feet. We're simply asking for the
16 right to build the parking garage which, under the
17 plan, was permitted at eight feet.

18 CHAIRPERSON BENNETT: At? I'm sorry.

19 MR. GELL: Eight feet.

20 CHAIRPERSON BENNETT: Eight.

21 MR. GELL: The Channel Inn, as you know,
22 had the right under the urban renewal plan and now
23 under zoning to build an additional 100 rooms, which
24 it intends to do as soon as there is a market for
25 those rooms. Additional rooms will, of course,
26 require additional parking. But I assure you that

1 if there's no market for parking and it's not
2 required by zoning, then there's no reason for that
3 parking to be built. It really is going to depend
4 on the need for parking in that area.

5 I point that out because we had been
6 asked by members of the ANC and others in Southwest,
7 to provide additional availability of parking at
8 site P-5. For some time that lot, which was not
9 really used at night, was closed. We were asked to
10 open it so that people who went to the Arena Stage,
11 the Odyssey and so forth, could park there rather
12 than on the street, rather than taking up space that
13 otherwise would be used by residents. We have done
14 that for some eight to ten months now.

15 In addition, we have made available 50
16 to 65 spaces for the Odyssey Boat. That's under an
17 agreement that we have with the Odyssey so those
18 cars will not have to park on the street. We are
19 entering into negotiations with Mr. Steve Graylove,
20 president of the Arena Stage Board, to provide 50 to
21 60 additional spaces for Arena Stage. This will
22 enable Arena Stage to continue to be successful in
23 their community and arts program.

24 Now, I don't know that I have to repeat
25 what's been said here before. The urban renewal
26 plan did contemplate that there would be a need for

1 a second level of parking. We think that's the
2 case. We think that it is appropriate for the
3 Zoning Commission to do what Mr. Franklin had said
4 which is, at least, to provide what was permitted
5 under the plan. These were the rules under which
6 people purchased or leased property, built their
7 buildings and took on the obligations. Clearly, you
8 have the authority -- I'm not saying you don't have
9 the right -- to establish zoning, but I think that
10 the plan was very carefully thought out, both the
11 heights and the densities, and ought to be observed
12 to the extent it can.

13 I had had a concern, as you know from an
14 exchange of letters, that the language that had been
15 proposed would not sufficiently protect our right to
16 build that second level of parking. Normally, in a
17 W-1 zone, a separate parking lot or parking garage
18 is not permitted. There is some language relating
19 to accessory use and the Office of Planning had
20 proposed some additional language which would
21 specify that a parking garage could be built. With
22 a height limitation that would permit that second
23 level, we think those would protect our rights. If
24 the Zoning Commission feels that the language is
25 sufficient to protect that right and can say so in
26 the order, we think that we won't have a problem

1 later on in trying to interpret for BZA or for some
2 other body, what was intended in that area.

3 We're simply asking that the record be
4 clear as to the ability of Channel Inn to build that
5 parking. I'd be happy to answer any questions that
6 you may have.

7 CHAIRPERSON BENNETT: So, you're all
8 right with the OP proposal as is and as modified?

9 MR. GELL: That's correct.

10 CHAIRPERSON BENNETT: All right.

11 MR. GELL: With the additional language
12 that specifies parking lot, parking garage, yes.

13 CHAIRPERSON BENNETT: All right.

14 Questions of Mr. Gell?

15 Thank you very much.

16 MR. GELL: Thanks.

17 CHAIRPERSON BENNETT: Mr. Turnbull?

18 MR. TURNBULL: Good evening.

19 CHAIRPERSON BENNETT: Good evening. How
20 are you doing?

21 MR. TURNBULL: Well, I feel like I'm in
22 traffic court.

23 My name is Samuel J. Turnbull. I'm a
24 fourth generation Washingtonian and a resident of
25 Tiber Island.

26 I refer Commissioners to my testimony on

1 23 May, 16 June, 16 December and particularly the
2 photographs showing the visual impact of either a 40
3 foot or a 22 foot building on parking lot P-6.

4 After reviewing the Office Of Planning's
5 proposal for the waterfront, I have come to the
6 conclusion that there are so many contradictions and
7 lack of backup data that I don't know how the Zoning
8 Commission and certainly, the public, could make an
9 informed judgment. I'm very concerned about
10 repeating the errors that I see over on the
11 Georgetown waterfront, and let me specify a couple
12 of these.

13 The urban renewal plan emphasized the
14 need for a variety of attractive housing complexes
15 near the water. It provided for optimum visibility
16 of the waterfront to attract upper bracket
17 taxpayers. OP declares its allegiance to this plan
18 by promising to zone to current use and density and
19 not to mar the planned open spaces and the other
20 design features built pursuant to the renewal plan.
21 But then they take a contrary position by advocating
22 buildings that will obscure the water and ultimately
23 return the waterfront to its pre-renewal state.
24 This seems to me, tantamount to a breach of contract
25 with the Southwest residents.

26 OP further states that the "landscaped

1 and well designed pedestrian areas along the
2 waterfront are also important to the quality of the
3 built and natural environment in the area." I agree
4 with that. But then they recommend a 22 foot
5 building on parking lot P-6, blocking the water view
6 from the pedestrian area fronting the historic
7 Thomas Law House and Tiber Island. And as has been
8 noted, the Southwest renewal plan permitted 22 foot
9 high buildings on P-6, but measured from the river
10 or DC datum. Now, that may be 14 feet at the river,
11 but because of the slope in the ground from the
12 river up to the Law House, when you get up to P-6,
13 you're talking about seven or eight feet.

14 Having recommended doubling the
15 allowable density under W-1, OP grants another
16 exception by allowing the Channel Inn to expand to a
17 height of 62 feet, DC datum. Interesting that they
18 mentioned DC datum in that authority. They are
19 amenable with the hotel's plan for a two-story
20 parking garage on P-5, but there's not justification
21 that I'm used to seeing such as average occupancy
22 rate of the hotel, the occupancy of existing
23 underground garage, or the ratio of guests arriving
24 by tour bus versus private automobile.

25 I have a sense that when the urban
26 renewal plan was developed and P-1 through P-6 were

1 included, that since that time, the use of tour
2 busses has increased drastically. So that, many of
3 the tourists coming down -- and I don't care whether
4 it's the Spirit Ships to spend the night at the Inn
5 or to a restaurant, they're coming by tour bus.
6 Those parking lots are under-used. It has not gone
7 unnoticed that every resumption recommended by OP
8 benefits commercial interests, although the renewal
9 plan was designed to attract residents. Business,
10 certainly, is essential for the city but so are
11 residents.

12 Also noteworthy is the fact when various
13 commercial interests leased land on the Southwest
14 waterfront, they were well aware that building
15 heights were measured from the water level and not
16 from the ground. The proposed zoning of the
17 Southwest waterfront, in my opinion, is the type of
18 ill considered action that will further deplete the
19 city's residential tax base. In addition to needing
20 backup data, an environmental impact statement would
21 be helpful. What will the impact be on water and
22 air and pollution of the river from additional
23 buildings and vehicle traffic, and the visual impact
24 on nearby residential areas?

25 Another omission is the failure to
26 change zoning regulations to incorporate the goals

1 set 40 years ago, or 50, in the urban renewal plan.
2 For example, W-1 zoning prohibits parking lots, thus
3 mandating that buildings be constructed on existing
4 lots. If I understood the OP's comment tonight,
5 they're recommending that they continue to be
6 parking lots.

7 I'd like to deviate for a moment and
8 just note that OP has shown and discussed P-1
9 through P-6. There are several other parking lots
10 on the waterfront and I'm not clear whether the
11 recommendation for P-1 through P-6 apply to those
12 other lots.

13 The time, in my opinion, to ensure that
14 the Southwest waterfront retains the openness
15 created by urban renewal is right now. Under the
16 OP's plan, public hearings will be needed every time
17 a building permit is sought. This is costly and
18 inefficient. The Zoning Commission has an
19 opportunity now to distance itself from the level of
20 mediocrity that seems to infect much of the city
21 government. Commissioners should disapprove this
22 plan and either develop a plan acceptable to both
23 commercial and residential interests, or authorize
24 open space zoning for portions of this area. I was
25 happy to hear the neighborhood commissioner
26 representative mention that.

1 That concludes my statement.

2 CHAIRPERSON BENNETT: Thank you, Mr.
3 Turnbull.

4 Questions, colleagues, for Mr. Turnbull?
5 Thank you very much.

6 William Whiston, Paul Rosstead, Davelene
7 Renshaw, Tiber Island Cooperative.

8 Good evening.

9 MR. WHISTON: Good evening. My name is
10 William Whiston. I'm the president of Tiber Island
11 Cooperative Homes. I'm here with several of our
12 residents who have asked to testify.

13 My personal testimony, because of the
14 shortness of time, will be the prepared statement
15 from Mr. McGovern, who is at my side. This is
16 Michael McGovern.

17 CHAIRPERSON BENNETT: Thank you.

18 All right.

19 MS. RENSHAW: Yes, I'm Davelene Renshaw.

20 CHAIRPERSON BENNETT: How are you doing?

21 MR. MCGOVERN: We thought what we would
22 do is, I would give brief comments on behalf of the
23 Tiber Island Homes Cooperative, and then Ms. Renshaw
24 would give her individual testimony. The other
25 people that will testify are speaking on their own
26 behalf, although the Tiber Island Cooperative and

1 the individual residents basically don't have any
2 disagreement, specifically, with regard to P-6.

3 CHAIRPERSON BENNETT: Okay.

4 MR. McGOVERN: I thought I would deviate
5 from the two-page statement that we prepared to
6 address a comment that I think the Chairperson and
7 Mrs. Kress referred to, that there's some law or
8 advice that you're operating under that the six P
9 parcels have to be addressed and dealt with
10 identically for some reason. I'd like to, just for
11 a few seconds, touch on why that should not be the
12 case.

13 As set forth in my statement, P-1
14 through P-5 are far removed from where P-6 is
15 physically located. You're not so aware of that
16 when you drive along the waterfront and you just see
17 row after row of parking lots. I wasn't the first
18 time I saw it in December. P-6 is the farthest away
19 from the fish market and Hogates as you can go.
20 There are some other parking lots that you see
21 physically when you drive that are not P-5 or P-4.
22 They are just there. I would say P-6 is as far from
23 P-5 as P-1 is from P-5. Yet, P-1 has, you know,
24 Parcel P-2, 3, and 4 in between. We're way off
25 away.

26 We are also different because the green

1 grass of the Park Service land and in front of the
2 Law House and in front of Tiber Island Cooperative
3 go directly without any interruption by a street or
4 avenue on to the parking lot. All the other
5 parcels, P-1 through P-5 are totally surrounded by
6 streets or avenues, Water Street and Maine Avenue,
7 specifically. That is not the case with P-6. P-6
8 is adjacent to residential, exclusively. P-6 is
9 right at that dead end. There's a cul-de-sac and
10 ends your ability to drive along the river. There's
11 just so many differences. So, don't think as a
12 matter of fact or a law that you have to treat P-6
13 somehow in unison with P-1 through P-5.

14 Another fact that has been pointed out
15 that this is DC land, once owned by the federal
16 government but now titled in DC RLA. I do happen to
17 have in my possession the lease for the P-6 parcel.
18 If you wanted to receive it, I could provide it to
19 you after my testimony is complete. There is no
20 right to purchase in there by the tenant. The
21 current tenants purchased this right to lease at a
22 bankruptcy sale about ten years ago with no
23 expectation that I can see, that they would ever be
24 able to develop or build on this land. This is a
25 total windfall for the tenant if this is permitted.

26 The lease for P-6 is also the only lease

1 that I'm aware of which includes the actual
2 waterfront property for the Boat Line terminal and
3 so forth. It is part of the P-6 lease whereas I
4 understand, although I have not seen the leases,
5 that P-1 through P-5 leases stand on their own.
6 They are not tied. For instance, the P-5 lease is
7 not tied to the Channel Inn in any way. I mean, it
8 may be, but the Channel Inn has a separate lease
9 from the parking space, P-6, whereas Boat Lines
10 doesn't have a separate lease. So, that's a
11 distinction.

12 In paragraph five of my prepared
13 statement, I addressed the issue of how we can
14 reconcile the need to zone, to not let these
15 properties be unzoned, and at the same time
16 accomplish your objectives. I suggest that there's
17 no need for zoning the parcel at this time. There's
18 many PC and federal government owned lands in the
19 city that are not zoned. But if you feel it must be
20 zoned, if you feel that's somehow a requirement but
21 you're grappling with the issue that you've been
22 talking about tonight -- how can we protect the
23 vista that would be destroyed if P-6 is developed? -
24 - I suggest some language.

25 In other words, you can make the land
26 zoned as follows through a text amendment, something

1 like this. This is just something I came up with
2 this afternoon. "Any lot or parcel formerly under
3 an urban renewal plan, since expired, in which lot
4 or parcel is not zoned shall continue with the
5 allowable uses, density, height and other
6 requirements of the former urban renewal plan."
7 Certainly, that would do it for the short-term until
8 you can get to all DC government owned land in the
9 city.

10 Finally, your own planning and
11 development statement for the Southwest waterfront
12 does say that you're to "preserve public access to
13 the waterfront, recreation space and adjacent mixed
14 use development." Only one of those three
15 objectives is addressed by the proposal of OP. The
16 other two, public access to the waterfront and
17 recreation and open space are not addressed. We
18 would ask that you not zone P-6 any differently from
19 its current use. Thank you.

20 CHAIRPERSON BENNETT: Don't zone P-6 any
21 differently from --

22 MR. McGOVERN: Just reject the current
23 proposal and leave it as is using whatever mechanism
24 you want to use. I suggested some text language,
25 but there may be other ways to do it too.

26 CHAIRPERSON BENNETT: Okay.

1 Ms. Renshaw?

2 MR. WHISTON: Mr. McGovern spoke for me.

3 CHAIRPERSON BENNETT: All right, fine,
4 because we were timing it. We've got eight minutes
5 with him.

6 MS. RENSHAW: Distinguished members of
7 the Board, I want to speak because I live in Tiber
8 Island. I have lived in the Southwest since 1988.
9 I graduated with a Master of Science degree in
10 community development from the University of
11 Louisville in 1978 and I retired from the Department
12 of Housing and Urban Development in 1995.

13 As regard to our neighborhoods there and
14 the ambience of the way we live and our lives, I'm
15 appealing to you to consider, number one, retention
16 of the goals which were established by the 1956
17 Southwest Urban Renewal Plan. I'd like to ask you
18 to reject the recommendations to double the density
19 of the Southwest waterfront and to continue to
20 maintain the status quo of the Southwest waterfront
21 until the development of a comprehensive Southwest
22 Waterfront Plan.

23 The goals that were established by the
24 1956 Southwest Urban Renewal Plan require that water
25 views be maintained from Maine Avenue and the
26 residences east of Maine Avenue. Even 22 foot

1 buildings, especially on those parking lots, would
2 destroy these views. I strongly urge you to retain
3 these goals to preserve the original intent of urban
4 renewal for the Southwest waterfront. These goals
5 were set forth in the 1956 Urban Renewal Plan so
6 that the city of Washington, DC, which also is the
7 capitol of the United States could proudly present
8 the Southwest waterfront as an ideal area where
9 business and residential properties could coexist
10 within a park land setting for the appreciation of
11 all the nation's people. It would be a shame to
12 have the beauty of the waterfront obscured from view
13 by unrestricted building and structure hides. The
14 waterfront will be here long after we're all gone.

15 Second, I would like to urge you that
16 until a comprehensive waterfront plan is developed,
17 the status quo be maintained. This includes
18 retaining the current building height and keeping
19 the parking lots on or below the surface of the
20 ground, in particularly P-6 since it is different in
21 so many ways from the rest of the parking lots.

22 I thank you for allowing me to come
23 before you.

24 CHAIRPERSON BENNETT: Thank you very
25 much. Questions of this panel,
26 colleagues?

1 COMMISSIONER FRANKLIN: Yes, Mr.
2 McGovern, well, it's interesting that this
3 afternoon, you came up with the same song I was
4 singing back in the first hearing we ever had on
5 this. Your language could have served for the
6 entire Southwest, couldn't it?

7 MR. McGOVERN: I just don't know what
8 the urgency. When I first got involved in this, I
9 just said, "what's the urgency?" You know, it's
10 served us well for 40 years. It's certainly been a
11 success in attracting residents to this quadrant of
12 the city. Why is it suddenly so --

13 COMMISSIONER FRANKLIN: Well, the plan
14 has expired and don't ask me why it expired. I
15 think it was just some -- it seemed like a good idea
16 at the time that it not last in perpetuity. But you
17 know, there's something about a vacuum that no
18 regulatory body likes to, you know, leave unfilled.
19 So, I guess here we are.

20 Your language, is that something that
21 you are suggesting to us for P-6, or just for all of
22 the--

23 MR. McGOVERN: It would have
24 applicability to any land. You know, if you felt
25 the need to zone, but you don't know exactly what to
26 do, you could maintain the status quo -- at least

1 the status quo as of December 1 -- by using this
2 language or something similar. I think it does it.

3 COMMISSIONER FRANKLIN: I could
4 recommend that to my colleagues for whenever we have
5 difficulty.

CHAIRPERSON BENNETT: --
6 don't do it, just whip this sentence out?

7 COMMISSIONER FRANKLIN: That's correct.

8 Well, I think that what you've suggested
9 about the distinctions between P-6 and the rest are
10 very, very helpful. I've always believed that since
11 the first hearing, that we should not put ourselves
12 in a straight jacket of having to deal with that in
13 the same vein as we deal with the others. Thank
14 you.

15 MR. McGOVERN: Thank you.

16 CHAIRPERSON BENNETT: Further discussion
17 or questions?

18 All right, thank you very much.

19 Lucia and Darryl Bertolucci?

20 Oh, Mr. McGovern? Mr. McGovern? You
21 said you had a copy of the lease and you indicated
22 you might be willing to share that with us. We are
23 interested in receiving it into the record at this
24 time. Thank you for providing that.

25 MR. McGOVERN: On the condition that I
26 might get a copy back?

1 CHAIRPERSON BENNETT: Oh, yes. We can
2 make a copy now, can we not?

3 Good evening.

4 MS. BERTOLUCCI: Good evening.

5 Madam Chairperson, members of the Board,
6 my husband and I, my name being Lucia and Darryl
7 Bertolucci, are residents of Southwest at Owners of
8 Southwest and owners of S-507 at Tiber Island.

9 Almost five years ago when there was a
10 slow migration out of DC, we made a very conscious
11 effort to stay and buy in DC when it would have been
12 much easier to leave. Rather, like so many other
13 residents who have lived here so much longer than
14 us, we decided to stay and through our tax dollars
15 have contributed to the growth of the District.

16 In an abstract sense, Southwest is our
17 spiritual anchor. For a newly married couple, it
18 made us happy and all the members of this Board, I
19 think, can empathize with the fact that somewhere
20 written in this Constitution, is that we have a
21 right to our happiness. But on a very concrete
22 dimension, there was space and very little sound
23 pollution, and very little noise pollution in
24 Southwest.

25 Over the last five years, the area has
26 grown ad hoc, the density of the area due to the

1 increase of the Boat Line. The planning has been
2 non-existent, spilling into our residential area, P-
3 6, with Maine Avenue and its adjoining areas,
4 resembling through the ever-increasing parking
5 problems, mid-Manhattan. Furthermore, one can not
6 leave one's balcony open in the warm months because
7 of the noise pollution and the fumes from the busses
8 which start revving at 11:30 at night.

9 This should not be tolerated in any
10 other area. Why should it be tolerated in our area?
11 Southwest has grown very quickly, but there has been
12 no thought given to dividing the residential area,
13 P-6, from P-1 or P-5. As an idealist, Australian
14 professional, I always thought that America has
15 vision, and I still do. That it cares about
16 planning for a better future. I really think this
17 Board is part of that vision. By making P-6 with
18 its unique historic Law House a uniquely residential
19 area, with no building on the parking lot -- rather,
20 to make it into a much needed garden park for the
21 area, we thank you.

22 CHAIRPERSON BENNETT: Thank you.

23 Wait a minute, Ms. Bertolucci. Wait a
24 minute. Wait a minute.

25 First of all, let me just mention that
26 we do have the right to life, liberty and the

1 pursuit of happiness, okay? We get to run after it.

2 Let me ask if there's anyone who has
3 questions of Ms. Bertolucci. Questions?

4 COMMISSIONER FRANKLIN: Thank you for
5 staying the District.

6 CHAIRPERSON BENNETT: All right, thank
7 you.

8 MS. BERTOLUCCI: Thank you very much.

9 M. Joseph Stoutenburgh?

10 MR. STOUTENBURGH: Madam Chairman, I'll
11 start introducing myself now if you won't time me
12 too quickly.

13 CHAIRPERSON BENNETT: No, but you can't
14 start doing anything until you're seated at the mic.

15 MR. STOUTENBURGH: All right. I am
16 Joseph Stoutenburgh and I'm a resident of Tiber
17 Island, a native Washingtonian, a product of its
18 public schools and of Georgetown University and its
19 law school. But I'm appearing tonight not as a
20 lawyer, as a concerned long-time resident who loves
21 the city.

22 I'm pleased to know that you are well
23 aware of our historic home, the Thomas Law House.
24 I'd point out too that we, as citizens, are proud of
25 the fact that we are living in the nation's first
26 urban redevelopment area and that our neighborhood

1 is remarkably integrated, both racially and
2 economically. We have poor people, average middle
3 income people such as myself, billionaires, and
4 people who are both rich and famous all living in
5 that marvelous, short, unique strip of residential
6 waterfront.

7 We support the city, pay our real estate
8 income and sales taxes, patronize its business, pay
9 our mortgages, and spend hundreds of thousands of
10 dollars annually for the goods and services needed
11 to maintain and improve our residences. Our viable
12 racial and economic mix has not been achieved
13 anywhere else in the Nation's Capitol.

14 Open space has always been the hallmark
15 of the redeveloped area, and in particular, vistas
16 to and from the river. The river is our major
17 common denominator. Thank God for it. Please don't
18 wall us off from it. Views of the water from our
19 apartments and walkways attracted many of us here.
20 They continue to attract tourists. Any obstructions
21 that will make the area less visible will make it
22 far less attractive to visitors and induce some of
23 us who live there, to leave.

24 Our neighborhood is unlike the decidedly
25 commercial restaurant, motel area extending westward
26 to 14th Street. There are, indeed, two separate

1 environments which appear to be similar on paper,
2 but are different. The long stretch along Maine
3 Avenue is blocked off by a barrier of what were
4 intended to be good sunken parking lots. That
5 result, of which, is they have the effect of being a
6 moat barrier which destroys not only the visual
7 continuity of the surface of the ground, but makes
8 it less than easy, less than pedestrian friendly for
9 someone walking along to reach the waterfront.

10 The restaurants themselves which are
11 marvelous and which we enjoy constitute a broken
12 wall which also obscures the view of the visitor.
13 The visitor who gets beyond the restaurant toward
14 the waterfront, if he walks at the water level, is
15 confronted on the land side by a solid retaining
16 wall which bounces off reflective heat at a great
17 rate all during the summer. So, we're particularly
18 pleased, feel we're fortunate to live in our area.

19 Waterfront areas in too many cities, it
20 seems to me, contain the same mix of shops, fast
21 food, garages, and homogenized architecture that
22 leaves the tourist with the feeling that he has been
23 there, done that. Why not emphasize the unique
24 difference in our area as an attraction? In short,
25 our difference makes a difference. I think perhaps
26 the slides from the Neighborhood Advisory Council

1 would help to emphasize that.

2 I don't think I need to say much, if
3 anything, about the Thomas Law House except to say
4 that we want to keep the ambience we have created
5 here at our own expense, remembering that people who
6 take the Spirit Ship board it there and go to Mount
7 Vernon whose scenic easement across the river was
8 achieved only after the expenditure of years of
9 effort and hundreds of millions of dollars. So, how
10 nice for them to be able to come back to the house
11 of George Washington's stepdaughter and view it with
12 a degree of pleasure and lack of obstruction.

13 And of course, we are sufficiently
14 sensitive to our vistas and our appearances that we
15 spend over \$20,000 a year in landscaping alone, over
16 and above the volunteer hours spent by many of our
17 residents, planting and cultivating shrubs and
18 flowers for visitors and ourselves. When we
19 invested a quarter of a million dollars in the
20 improvement of our community center which adjoins
21 the Law House, we waited and as a matter of fact,
22 held up construction pending approval of the Fine
23 Arts Commission. That's how sensitive we are to the
24 environment of the area.

25 Let's remember, and I realize this is
26 something repetitious of what others have said, but

1 the redevelopment plan was adopted at great expense
2 well over 30 years after much serious thought by
3 leading architects and planners. Millions of
4 dollars went into its production. Please remember
5 that our neighborhood and its plan are not broken
6 and they don't need fixing. We are a unique part of
7 the attraction at that particular segment of the
8 waterfront.

9 Paragraph 12 interested me because early
10 in the evening I heard this marvelous colloquy among
11 the Commissioners and it occurred to me that now,
12 I'm no longer practicing very actively. Perhaps I
13 should join the Psychic Friends Network.

14 CHAIRPERSON BENNETT: We're going to ask
15 you to close your comments though.

16 MR. STOUTENBURGH: All right.

17 CHAIRPERSON BENNETT: You've had over
18 five minutes and we asked --

19 MR. STOUTENBURGH: I'm awfully sorry.

20 CHAIRPERSON BENNETT: -- individuals to
21 do about three minutes.

22 MR. STOUTENBURGH: The redevelopment
23 plan was adopted at great expense, but we're 35
24 years wiser than we were when it was originated.
25 There is, in my opinion, no need for any development
26 of any size or height on P-6.

1 I'd be pleased to stop there. I look
2 forward to having you read the rest of the
3 statement. And if I might just make one aside, I
4 hope you realize that each of you, individually and
5 collectively, has a standing invitation to visit
6 Tiber Island and there are any number of us who
7 would be more than happy to serve as guides so that
8 you might become better acquainted with our problem.

9 Thank you, Madam Chair.

10 CHAIRPERSON BENNETT: All right, thank
11 you, Mr. Stoutenburgh. Hold on for a minute. Wait
12 a minute.

13 MR. STOUTENBURGH: Oh, fine, all right.

14 CHAIRPERSON BENNETT: Colleagues,
15 questions of Mr. Stoutenburgh?

16 COMMISSIONER FRANKLIN: I have none,
17 although I do want to say I think your statement is
18 just very thoughtful. Like so much of the testimony
19 at the first time we had our hearing, it is very
20 heartwarming to somebody like myself who came here
21 as a young lawyer and worked on the urban renewal
22 plan at the federal level at that time. Although a
23 lot of mistakes were made throughout the program,
24 it's nice to hear that people are still committed to
25 the integration that was the purpose of that whole
26 exercise.

1 MR. STOUTENBURGH: Well, thank you.

2 COMMISSIONER FRANKLIN: I certainly
3 don't want to do anything on this Commission that
4 would, in any way, undermine what has been achieved
5 by the urban renewal plan.

6 MR. STOUTENBURGH: Thank you, Mr.
7 Franklin.

8 CHAIRPERSON BENNETT: All right. Thank
9 you.

10 Karen Krueger?

11 MS. KRUEGER: Good evening.

12 CHAIRPERSON BENNETT: Good evening.

13 MS. KRUEGER: I'm not going to take up
14 much of your time. I have submitted testimony in
15 the past, on May 23rd, June 14th, and December 19th.
16 I would appreciate it if you would incorporate that
17 into my testimony tonight.

18 Everyone has pretty much said everything
19 I would say. I only had three points I wanted to
20 make. The first point was that Lot P-6 does differ
21 from Lots P-1 through P-5 and should be zoned
22 separately. As has already been mentioned, it
23 adjoins residential property. It adjoins the Law
24 House.

25 And also, unlike the leases on the P-1
26 through P-6, the lease on P-6 includes the lease on

1 the Boat Line, Pier 4. The reason for that, as I
2 understand it when reading the urban renewal plan,
3 is that there is no separate parking provided for
4 Pier 4 and that's what P-6 was intended to provide,
5 parking for Pier 4. If you permit residential
6 construction on P-6, there will no longer be parking
7 for Pier 4. I believe that would make Pier 4 in
8 violation of something because they would have no
9 parking, you know. And so, I don't understand why
10 OP would propose commercial construction on P-6 and
11 still maintain Pier 4.

12 My second point was that the proposed
13 height limit of 22 feet does exceed the height limit
14 of the eight foot from ground level established by
15 the urban renewal plan for P-6, and therefore, can
16 not be justified as a continuation of the existing
17 height limit on P-6 established by the urban renewal
18 plan. This goes to the DC datum issue. The height
19 limit established by the urban renewal plan was 22
20 feet DC datum. That's Sections 542.44 and 582.123
21 of the Southwest Urban Renewal Plan.

22 And I believe when the exception for
23 Channel Inn was acted upon at the last hearing, the
24 DC datum was explained to some extent by Steven
25 Gell, who worked with the Redevelopment and Land
26 Agency in the development of the Southwest Urban

1 Renewal area. And he explained it as 14 feet -- DC
2 datum is 14 feet below the ground level. Therefore,
3 if you're saying 22 feet DC datum, you're saying
4 eight feet above the ground level. It's my
5 understanding that that eight feet was established
6 to permit the construction of a low wall screening
7 the parking lot. I could be incorrect on that.
8 That function is now performed by a four foot hedge.
9 As Commissioner has already pointed out, nothing was
10 ever constructed on P-6 under that urban renewal
11 provision.

12 My third point was that P-6 should be
13 maintained as a surface parking lot and should not
14 be zoned as a commercial building site. The reasons
15 have already been mentioned. It would increase the
16 noise and the trash and so on in a residential area.
17 It would lead to future complaints, such as those
18 heard in DuPont Circle and Georgetown, when you have
19 commercial and residential right next to each other.
20 That was avoided by the urban renewal plan and I
21 think it should continue to be avoided in order to
22 prevent those kinds of complaints and the litigation
23 which is pretty much ongoing in areas where
24 commercial and residential are not separated or
25 planned for so that they can coexist.

26 I would also point out that if, in fact,

1 Tiber Island is cut -- the water, there will be a
2 big drop in property values. It's easy to document
3 that the units which face the water do bring a
4 higher price. The current assessments -- I mean, if
5 we had a drastic drop in property values, our
6 assessments would go down and our property taxes
7 would go down as well. I believe that Tiber Island
8 now pays over \$200,000 a year in property taxes.
9 This would change if we were no longer a waterfront
10 property. It clearly would affect our property
11 values and --

12 CHAIRPERSON BENNETT: Are you wrapping
13 up now?

14 MS. KRUEGER: I beg your pardon?

15 CHAIRPERSON BENNETT: Are you wrapping
16 up now?

17 MS. KRUEGER: Yes, I am.

18 I only have two more points which is
19 that what's already been mentioned, Law House would
20 be blocked from the water. In addition, that the P-
21 6 is owned by the District of Columbia. It's not
22 privately owned. There's no problem with taking
23 away any development rights from the owner of the
24 property -- owner of the properties of District
25 government. The lessee, when it obtained a lease,
26 knew that it was required to comply with the urban

1 renewal plan. So, the only litigation that could
2 ensue from this would be if -- there should be no
3 litigation ensuing from this from the lessee,
4 although there might be litigation involving the
5 drop in property values.

6 But in any event, I think these are all
7 good reasons for endorsing the ANC proposal to have
8 no construction on P-6. Thank you.

9 CHAIRPERSON BENNETT: Thank you.

10 Questions of Ms. Krueger?

11 CHAIRPERSON BENNETT: All right. Thank
12 you very much.

13 Margot Kelly?

14 Good evening.

15 MS. KELLY: Good evening.

16 CHAIRPERSON BENNETT: Ms. Kelly, we have
17 a question.

18 MS. KELLY: Certainly.

19 CHAIRPERSON BENNETT: We are in receipt
20 of a letter dated March 19, 1997 over your signature
21 as president of the Barrock Row Business Alliance.
22 Is that correct?

23 MS. KELLY: That's correct.

24 CHAIRPERSON BENNETT: In the second
25 paragraph of that letter, you indicate that your
26 members unanimously oppose the proposal to change

1 the zoning to C-2-B in Square 906 and you list
2 several lots.

3 MS. KELLY: Right. The lots that you
4 had mentioned in your proposal for the zoning
5 change.

6 CHAIRPERSON BENNETT: Okay. But I guess
7 you are referring to proposed zoning change for part
8 of Eighth Street, SE between Virginia Avenue and the
9 Navy Yard and we're talking about Southwest Urban
10 Renewal Parcel that is over on Maine Street. So,
11 I'm thinking --

12 MS. KELLY: But Square 906, is that not
13 Southeast?

14 CHAIRPERSON BENNETT: No, we're in
15 Southwest. This whole proceeding is dealing with
16 Southwest.

17 MS. KELLY: I noticed that, yes. I
18 thought well, there is something aside from
19 Southwest. Well, I thought in number 9, paragraph
20 number 9, it says Eighth Street SE, south of the
21 Southeast Freeway. That's the paper --

22 CHAIRPERSON BENNETT: Hold on. Now,
23 where are you?

24 MS. KELLY: Don't tell me they gave me
25 the wrong paper.

26 CHAIRPERSON BENNETT: Hold on now. Let

1 me sit down. You're looking at a hearing notice?

2 MS. KELLY: No. I'm looking now at
3 number 9 which is --

4 COMMISSIONER KRESS: We don't have a
5 number 9.

6 CHAIRPERSON BENNETT: Okay, we don't
7 have a number 9.

8 COMMISSIONER KRESS: We've got number 1
9 through 4.

10 CHAIRPERSON BENNETT: I think you're
11 here for the wrong case.

12 MS. KELLY: Oh, my God.

13 CHAIRPERSON BENNETT: I know, and having
14 sat here all this time.

15 MS. KELLY: Well, it was an experience.

16 CHAIRPERSON BENNETT: I know. That's
17 right.

18 MS. KELLY: A learning experience. But
19 this was given to me by one of our members and it
20 said that it was given to me in a bunch saying that
21 the hearing was March 24th. Then there were all
22 these different variances being asked for. Some of
23 those you mentioned, obviously were discussed
24 tonight and are on here, but not all of them
25 obviously. Or perhaps none of them --

26 COMMISSIONER KRESS: None of them.

1 MS. KELLY: -- now that I look.

2 CHAIRPERSON BENNETT: I don't think so.
3 I think that may have been a part of a zoning
4 consistency case that we entertained earlier. You
5 know, that's what it's beginning to feel like.

6 Are there 11 zoning proposals there?

7 MS. KELLY: Yes, exactly.

8 CHAIRPERSON BENNETT: All right. Now,
9 that is a part of a case that we have heard. I
10 don't know that we have done anything with it, have
11 we? I don't think we've taken proposed action, but
12 we have heard testimony on those again.

13 MS. KELLY: May I ask when?

14 CHAIRPERSON BENNETT: Oh, that's a good
15 question. Let me do this. Why don't we ask you to
16 check with our staff on this side of the dias. Let
17 me apologize to you for whatever confusion you have
18 been placed --

19 MS. KELLY: Well, it may be my fault. I
20 don't know whose fault it is. I was just given this
21 bunch of papers and the front page says March 24th,
22 you know?

23 CHAIRPERSON BENNETT: Okay.

24 MS. KELLY: And then it has these nine
25 issues on here, and we were number nine.

26 CHAIRPERSON BENNETT: Okay.

1 MS. KELLY: That one has more. It has
2 11.

3 CHAIRPERSON BENNETT: It has 11, yes.
4 Yes.

5 Why don't I ask you to step over to
6 staff and see if they can give you --

7 MS. KELLY: This -- over here?

8 CHAIRPERSON BENNETT: That's right. See
9 if they can give you some help and let you know when
10 those hearings actually took place and to what
11 extent -- the record may still be open for you to
12 submit some testimony, something written for that,
13 okay.

14 MS. KELLY: Right, yes.

15 CHAIRPERSON BENNETT: Thank you for
16 taking the time to come down.

17 MS. KELLY: Well, since I'm here, may I
18 just ask you one more question which actually also
19 concerns us. I don't have that particular paper
20 with me today. There's supposed to be another
21 hearing on April 17th regarding some of those lots
22 and squares.

23 CHAIRPERSON BENNETT: Hold on.

24 MS. KELLY: Perhaps I should ask the
25 gentleman on that one too, instead of wasting your
26 time.

1 CHAIRPERSON BENNETT: Okay. You know
2 what you're here for? You're here for Hearing
3 Number 96-12Z. Is that what you have on the front
4 of that? Does it say 96-12Z.

5 MS. KELLY: Case number?

6 CHAIRPERSON BENNETT: Yes.

7 MS. KELLY: No, it says 95-15I.

8 CHAIRPERSON BENNETT: Yes, why don't we
9 straighten that out with --

10 MS. KELLY: Something went wrong
11 somewhere.

12 CHAIRPERSON BENNETT: Yes, I know.

13 MS. KELLY: Well, at least that was a
14 quick one.

15 CHAIRPERSON BENNETT: Please forgive us
16 for any part we played in confusing you and your
17 constituents.

18 MS. KELLY: Thank you.

19 CHAIRPERSON BENNETT: All right.

20 We'll move on now to Frank Reed. Champs
21 is in the same kettle of fish.

22 MS. KELLY: Mr. Reed could not wait and
23 asked to be excused, and he asked me to represent
24 him.

25 CHAIRPERSON BENNETT: Okay. Well,
26 please let Mr. Reed know what's happening.

1 COMMISSIONER KRESS: He didn't miss
2 anything.

3 CHAIRPERSON BENNETT: That's right.

4 MS. KELLY: Well, he did.

5 CHAIRPERSON BENNETT: And Mr. McGovern
6 has already testified. He's identified down here as
7 number 11.

8 Are there any others here who would like
9 to testify who have not had an opportunity? Please
10 come forward. Why don't you both come forward so we
11 can wrap this up?

12 CHAIRPERSON BENNETT: Good evening.

13 MR. BROOKS: Good evening.

14 CHAIRPERSON BENNETT: Can you give us
15 your name and your full address?

16 MR. BROOKS: Yes. My name is Edward W.
17 Brooks. I live at 429 N Street, Southwest in Tiber
18 Island complex. I am a shareholder since its
19 inception and I also am a director of the Board of
20 the Directors, and a past president.

21 CHAIRPERSON BENNETT: All right,
22 proceed.

23 MR. BROOKS: Thank you.

24 I appreciate this opportunity. I have
25 submitted to the Commission, a brochure that I hope
26 will assist in allowing you to visit with us on a

1 continual basis, the site that we occupy at Tiber
2 Island. The photographs there will reiterate much
3 of what you've seen, but will make it a part of a
4 package that you might have for your own perusal and
5 for your own usage.

6 The purpose of this exhibit is to
7 illustrate for the Zoning Commission the special
8 relationship that exists between Southwest
9 waterfront and the residential community of Tiber
10 Island. The principle link in this relationship is
11 the existing, uninterrupted visual access to the
12 waterfront. This view of the Washington Channel is
13 seen from our community center, the historic Law
14 House and from our central plaza connecting four
15 high-rise buildings and 21 townhouses. The visual
16 impact of our location and its view is an important
17 marketing element, vital to our cooperative's
18 financial well being.

19 Currently, the absence of any major
20 architectural elements on parking lot number six
21 allows visitors to the city, our shareholders, their
22 guests and potential residents to view the Southwest
23 waterfront that is aesthetically a stimulating and
24 attractive place to live. The residential community
25 of Tiber Island wants to retain that visual asset.

26 Several decade ago, planners with a

1 vision replaced the randomly located commercial
2 structures that had massed the existence of a
3 potential and viable Southwest waterfront. The
4 Commission should work to maintain a waterfront
5 design concept that will help attract and retain the
6 residential tax base that is slipping away. Despite
7 suburban attractions, Tiber Island residents and
8 members of other residential communities located in
9 the smallest of the city's quadrants are still
10 dedicated in their support for living in the
11 Southwest area of Washington, DC and on its
12 waterfront.

13 With this in mind, I hope the Commission
14 will consider our concerns regarding the further
15 development of parking site number six. A general
16 review of parking activities in the waterfront areas
17 shows that several existing parking islands in close
18 proximity to parking site number six are under-
19 utilized. Moreover, it seems that additional
20 parking areas of questionable origin have evolved
21 and at times, 10 to 20 busses will sit alone on
22 parking lot number six with few or any cars on the
23 lot. My photo exhibits that I provided to you in
24 this package illustrate the limited utilization of
25 the site number six.

26 Finally, from my standpoint, additional

1 parking systems along the waterfront fail to support
2 the new and expanding metro green line that services
3 the Southwest waterfront. Given the limited tax
4 base available for the city services, the Commission
5 should first consider the service demands, auto
6 congestion, public safety, and the declining metro
7 ridership that additional parking will create. I
8 oppose any additional development of parking along
9 the waterfront. I oppose the regeneration of
10 architectural barriers that would, again, mass the
11 waterfront.

12 I thank you very much for the
13 opportunity to present my view.

14 CHAIRPERSON BENNETT: Thank you, and
15 thank you for the lovely exhibits.

16 Questions of Mr. Brooks? Questions?

17 MR. BROOKS: Thank you.

18 COMMISSIONER PARSONS: I do have one
19 question. You lease out or rent the Thomas Law
20 House for parties and so forth.

21 MR. BROOKS: The Thomas Law House and an
22 adjunct which is called our community center is a
23 financial venture that helps to provide income for
24 the cooperative. It is a location for activities of
25 the shareholders. But we have weddings. It's
26 available for the public. It can be leased, rented,

1 and we think it's a viable community contribution.

2 COMMISSIONER PARSONS: What is its
3 capacity when you rent it?

4 MR. BROOKS: I can't speak specifically
5 to the numbers of people. The Law House, in itself,
6 is a structure that is of the late 1700s. While it
7 aesthetically provides an environment for small
8 groups, it is not one that would allow, from the
9 standpoint of public safety and fire protection, the
10 types of things we'd like. The community area that
11 we have as an adjunct has a much larger capacity and
12 I believe some members here might be able to address
13 that specifically for you.

14 COMMISSIONER PARSONS: And where do you
15 suggest people park when you rent the Thomas Law
16 House?

17 MR. BROOKS: I'm suggesting that there's
18 adequate parking, under-utilized, not very
19 creatively used by the commercial vendors in the
20 area and imposed on by the bus system. There are
21 locations like Buzzard's Point, another location is
22 where busses could be staged without imposing
23 themselves on vehicle space.

24 COMMISSIONER PARSONS: But what I meant
25 was, if you rented this for a wedding --

26 MR. BROOKS: Pardon me?

1 COMMISSIONER PARSONS: If you rented the
2 building for a wedding, where would you suggest
3 people park? In P-6?

4 MR. BROOKS: P-6 is generally vacant.

5 COMMISSIONER PARSONS: So, that's where
6 you suggest people park?

7 MR. BROOKS: Yes, yes.

8 COMMISSIONER PARSONS: Thank you.

9 MR. BROOKS: And street parking is
10 available.

11 COMMISSIONER PARSONS: Thank you.

12 COMMISSIONER FRANKLIN: Well, Mr.
13 Brooks, one other further question. Is there some
14 document that sets out the historic character of Law
15 House that could be put in the record here?

16 MR. BROOKS: Yes. It can be provided to
17 the Commission.

18 COMMISSIONER FRANKLIN: Could you do so?
19 I'd appreciate that.

20 MR. BROOKS: Yes.

21 COMMISSIONER FRANKLIN: Thank you.

22 CHAIRPERSON BENNETT: Good evening.

23 MR. TOOMER: Good evening, Madam
24 Chairman, members of the Commission. My name is
25 Edward Toomer and I'm a resident of 1245 Fourth
26 Street, SW, which is part of Tiber Island. I have

1 here a few of my own observations which I'd like to
2 just more-or-less read, if I can. I spent a good
3 bit of time preparing them.

4 As soon as you enter the area, you feel
5 the relaxed openness. As one of our neighbors said,
6 "it's the only place I can find that's like San
7 Francisco." My wife and I bought our home in the
8 waterfront area in 1985, and later moved to South
9 America. Then without hesitation, looked
10 exclusively back at this area to purchase a home to
11 return to in 1993. We love it. It's a waterfront.
12 For various reasons, we chose an apartment about two
13 blocks from the water. But that doesn't matter.
14 There's no doubt about it. We live where we do
15 because it's waterfront.

16 One can see that an attractive
17 waterfront has an impact not just near the water's
18 edge, but also three or four blocks inland. Also,
19 one sees that it is the waterfront that gives value
20 to the property either by checking sales prices for
21 real estate sold in the area -- you can see that the
22 waterfront is what gives the value -- or simply by
23 driving around and observing. Of course, waterfront
24 attractiveness and property values impact not only
25 personal enjoyment, but also who buys. Therefore,
26 not just property taxes collected, but also income

1 taxes collected and the general character of the
2 neighborhood and of the District of Columbia.

3 There was a time when the property value
4 in this same waterfront area was very low. When, as
5 I've heard old-timers say -- and Ed, I hope you
6 don't mind me calling you an old-timer. I think it
7 was Ed that said it -- that one could pass by
8 frequently only a few yards from the water and never
9 realize that there was a waterfront here at all. It
10 was covered and hidden by commercial buildings.
11 Such times can return unless protected waterfront
12 areas tend to revert to commercial use -- I think I
13 made a mistake there -- oh, yes -- unless protected,
14 waterfront areas tend to revert to commercial use
15 and the water site tends to get covered up and
16 hidden by commercial concerns.

17 The area known as P-6 is a unique,
18 central and sensitive space. Careless development
19 here can drag down a sizeable area. Consider the
20 adjacent property. To the north is a beautiful
21 little church, St. Augustines, a lovely plot with
22 trees, vineyards, gardens, lawns. To the south,
23 there is a waterside park and a promenade that leads
24 to a graceful sculptured monument by the water,
25 honoring the men that gave their lives in the
26 Titanic.

1 On the west, the water's edge, are the
2 Spirit Ships, the Spirit of Mount Vernon, the Spirit
3 of Potomac which go to Mount Vernon and to George
4 Washington's hometown, Alexandria. And across from
5 this, appropriately, on the east facing the water is
6 the Law House, the home of Thomas Law and Eliza
7 Clark Custis Law who was a granddaughter of Martha
8 Washington. It is used for wedding receptions and
9 other gatherings in a beautiful historic setting and
10 has even greater potential for the future as an
11 historic building.

12 In front is a small portion of old Sixth
13 Street's cobblestone pavement, the only remaining
14 example of how almost Washington streets were paved
15 long ago. The annex, on the side of the Law House
16 which Ed has mentioned, was used as a hospital
17 during the Civil War. It burned, but some of it, I
18 guess, was left and it has been rebuilt. Also on
19 this side, and behind the Law House, are two
20 beautiful residential complexes with apartment
21 towers and townhouses including historic Wheat Row
22 along Fourth Street. There are -- fountains, lawns,
23 flowers and trees.

24 Any building on area P-6 or any mote-
25 like structure would separate these residences and
26 historical buildings from the waterfront. It would

1 separate the Law House from the Spirit of Mount
2 Vernon and the Potomac Spirit Ships from its
3 historic waterside setting. It would come between
4 the little church and the waterside park to the
5 south. Development on area P-6 should enhance these
6 connections, not destroy them. A park might be
7 good. Perhaps an appropriate, pleasing, non-
8 obtrusive monument, maybe a tiny museum that would
9 compliment the Law House and the maritime nature of
10 the area, but nothing that would block the view or
11 separate the many nearby residential and historical
12 buildings from the waterfront.

13 The historic development of Southwest DC
14 has not been easy from the time that the Law House
15 was built right up to the present. Urban renewal
16 was realized at a cost and has been maintained and
17 improved at a cost. The results are not perfect,
18 but we have a great neighborhood and we're working
19 to make it better. We must be very careful about
20 the impact of any changes made near the water so
21 that we can keep for ourselves and our children,
22 this beauty and value that we have paid and
23 sacrificed for over the years.

24 Thank you.

25 CHAIRPERSON BENNETT: Thank you, Mr.
26 Toomer.

1 Questions, colleagues, of Mr. Toomer?

2 Questions?

3 Thank you very much.

4 Are there any others who would like to
5 testify?

6 Seeing none, ladies and gentlemen, the
7 other members of the Commission and I thank you.

8 Good evening.

9 MS. MAXWELL: Good evening.

10 CHAIRPERSON BENNETT: Are you on? Did
11 you turn on?

12 MS. MAXWELL: The green light is on. Is
13 that it?

14 CHAIRPERSON BENNETT: Okay.

15 MS. MAXWELL: Is that all right?

16 CHAIRPERSON BENNETT: Why don't you
17 proceed?

18 MS. MAXWELL: Sitting here and realizing
19 that I am part of the history of not only Southwest,
20 but Washington, DC, as reflected in the Southwest
21 area of the District. I'm a 30 year-plus resident
22 of Tiber Island, which is an apartment complex on
23 the Southwest waterfront. I'm just adding my voice
24 to those of others who wish to preserve the present
25 zoning, that is the zoning that has just recently
26 expired, concerning the P-6 parking area.

1 I won't read all of this exactly as it
2 is written, but I do want to say that I appreciate
3 the fact very much that Tiber Island is a
4 residential community that has, with other apartment
5 complexes, grown up under the guidance of the urban
6 renewal plan established over 40 years ago. As you
7 probably know by now, it was part of the plan to
8 rejuvenate a section of the District of Columbia,
9 which had over the years, deteriorated to one of the
10 country's worst slums as documented at the Building
11 Museum in downtown Washington. The story of the new
12 Southwest, as it was once called, has also been
13 presented on television by the well-known
14 personality, Renee Pouissant. We have taped her
15 presentation and are very proud to have it.

16 As has been said before -- I don't
17 believe I have anything really new, but I just do
18 want to support what has been said before. The area
19 in the Southwest where we live was intended to
20 become a sought-after residential community, and I
21 think it has done that. The urban renewal plan has
22 worked as I see it, as many of us do. It has a mix
23 of many types of residents. A Vice President of the
24 United States has lived there, many Congressmen, and
25 as people have mentioned, well known personalities.
26 But that, of course, isn't the most important part.

1 It is a mix of all kinds of people. And it is a
2 convenient area, located near a large grocery store,
3 an excellent theater, award winning schools, banks,
4 small stores, and is within walking distance of
5 almost all of the museums in Washington that people
6 come from all over to visit. It is affordable and
7 includes many non-professional people. It has just
8 been a good mix. It has worked.

9 It includes businesses, restaurants, a
10 well patronized and picturesque fish wharf, and one
11 long established tourist boat landing. We are, as
12 has been mentioned also, at the saturation point for
13 parking for many other activities on the waterfront.
14 But all things considered, it has worked. As has
15 been mentioned by Mr. Toomer recently, we do have
16 problems and we have been working at solving them,
17 having to do with noise, trash overflow, fumes,
18 general disturbances day and night. But we have
19 been working with them and trying to deal with them.

20 The construction of a building on the
21 lot known as P-6 to house possibly a restaurant,
22 night club, or other entertainment facility, to say
23 nothing of the loss of view of many residents, a
24 main drawing point for those who have moved there,
25 many of them, would, in my opinion, so add to those
26 problems as to make them almost completely

1 unmanageable and change the character of what is now
2 a desirable residential area.

3 A question I have is what good does
4 renewal do if it is allowed to return to before
5 renewal? I think we should preserve what we have,
6 and we should be allowed to do so. We have a good
7 balance, and as the old saying goes -- and has been
8 said before tonight -- "if it isn't broken, why fix
9 it?" If another completely new business is allowed
10 to locate on the P-6 property with its additional
11 accompanying noise, pollution and congestion, the
12 quality of life for residents of this area would
13 probably deteriorate to the point where many of us
14 would feel compelled to vote with our feet, as the
15 saying goes, and follow other former taxpaying
16 citizens to pay their rents and taxes in the
17 suburbs.

18 I strongly request at least maintaining
19 the status quo of the zoning in the Southwest.
20 There are so many places in the District that need
21 renewal. Why can't we work on those areas? Adding
22 to the success of the urban renewal plan, and not
23 turn back the clock on what we, the city, working
24 together have accomplished so far.

25 Thank you.

26 CHAIRPERSON BENNETT: Thank you.

1 Questions of Ms. Maxwell?

2 All right, thank you.

3 MS. MAXWELL: You're welcome.

4 CHAIRPERSON BENNETT: Ladies and
5 gentlemen, the other members of the Commission and I
6 thank you for your testimony and assistance in this
7 hearing. The record in this case will be kept open
8 until --

9 MR. HUFF: Excuse me?

10 CHAIRPERSON BENNETT: Yes?

11 MR. HUFF: You didn't ask for anyone
12 after Ms. Maxwell, but --

13 CHAIRPERSON BENNETT: No, I had asked
14 earlier if there were anyone who wanted to testify
15 and we only had two hands and then we --

16 Would you like to testify?

17 MR. HUFF: Yes, and I'll be very brief.

18 CHAIRPERSON BENNETT: Thank you. Come
19 forward.

20 MR. HUFF: Thank you.

21 CHAIRPERSON BENNETT: Is there anyone
22 else who would like to testify?

23 Okay, well then, I have to go.

24 COMMISSIONER KRESS: Please testify.

25 MR. HUFF: Thank you very much.

26 My name is Steven Huff. I live at 430 M

1 Street, SW. That's the North Tower at the Tiber
2 Island complex. I'm also the treasurer of the Board
3 of Directors.

4 I just wanted to give you a little
5 background -- of what Tiber Island is. It's an
6 apartment complex on five acres. The cooperative
7 purchased that land from the District of \$767,000 in
8 1981. We pay approximately \$300,000 in taxes and
9 our 600 residents each pay individually District
10 taxes. Our value of our property is about \$20
11 million. The land is valued or assessed at
12 approximately \$5 million. Our budget is about \$4
13 million each year and after debt service, \$2 million
14 is operating cost.

15 I wanted to give you this small capsule
16 of Tiber Island so that you would know what sits
17 behind parking lot P-6. Thank you.

18 COMMISSIONER KRESS: Thank you.

19 Any questions?

20 Thank you.

21 By the way, just so most of you know,
22 we've heard testimony from Tiber Island four times
23 within the last year. So, we're not quite as
24 unknowledgeable about your project as you might
25 think we are.

26 MR. DORAN: I'll be mercifully brief.

1 COMMISSIONER KRESS: We've been here
2 since 5:30.

3 MR. DORAN: Yes. My name is Joe Doran.
4 I live in Townhouse 447 which is one of the
5 townhouses that faces the water at Tiber Island. I
6 just want to reinforce what some of my neighbors
7 have said, that I would appreciate it if the Zoning
8 Commission would vote to disallow any construction
9 on GP-6 above the grade level.

10 Bullet points, there are really five
11 reasons, I think, that would back that up. The
12 first is that the water view would be blocked. To
13 people like me that worked very hard to get a house
14 on the waterfront with a view, you know, the wall of
15 a building in front of my house I think would be --
16 it would pretty much ruin the character of the area.

17 The second is, technically, it's a sort
18 of a taking of value because the people that bought
19 there initially paid a premium for the waterfront
20 view. So, it would be quite a shock to have a
21 building put up in front of that row of townhouses.

22 The third has already been mentioned,
23 the close proximity of the residential housing to
24 this lot.

25 The next item was that the existing
26 parking is badly needed. It's jammed down there in

1 the summertime. If a building were put there and
2 the parking lot were eliminated, I think that would
3 make a bad situation a lot worse.

4 Then finally, just the historical
5 considerations of the Law House. I think it would
6 destroy the relationship of Law House to the water.

7 Thank you.

8 CHAIRPERSON BENNETT: Thank you.

9 Any questions?

10 Thank you.

11 With that, I'll quick make the final
12 closing statement. Ladies and gentlemen and other
13 members of the Commission, I thank you for your
14 testimony and assistance in this hearing. The
15 record in this case will be kept open until May 7th
16 for the submission of any additional information.
17 Any information or reports specifically requested by
18 the Commission should be filed during the period
19 ending on May 7th in the Office of Zoning at 441
20 Fourth Street, NW, Suite 210, Washington, DC.

21 The Commission will make a decision on
22 this case at one of its regular monthly meetings
23 following the closing of the record. These meetings
24 are held at 1:30 p.m., on the second Monday of each
25 month, with some exceptions, and are open to the
26 public. If you are interested in following this

1 case further, contact the staff to determine whether
2 it is on the agenda of an upcoming meeting.

3 You should also be aware that if the
4 Commission proposes affirmative action, the proposed
5 action must be referred to the National Capitol
6 Planning Commission for federal impact review. The
7 Zoning Commission will take final action at a public
8 meeting following receipt of the National Capitol
9 Planning Commission review, after which a written
10 order will be published.

11 I now declare this hearing closed.

12 Thank you.

13 (Whereupon, the meeting was adjourned at
14 10:10 p.m.)

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