

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

In the Matter of:

APPLICATION OF THE NEW JERSEY Case No. 96-16C
 & H LIMITED PARTNERSHIP and
 THE DISTRICT OF COLUMBIA
 DEPARTMENT OF ADMINISTRATIVE
 SERVICES

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

Thursday
June 5, 1997

The above entitled matter came on for hearing,
pursuant to notice, at 5:30 p.m.

BEFORE:

MAYBELLE TAYLOR BENNETT, Chairperson
JERRILY R. KRESS, Vice Chair
HERBERT M. FRANKLIN, Commissioner
JOHN G. PARSONS, Commissioner

ALSO PRESENT:

STEFANIE BROWN, Office of Zoning
ALBERTO BASTIDA, Office of Planning
KENNETH KARKEET, Office of Planning

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

(5:32 p.m.)

CHAIRPERSON BENNETT: Good evening,
ladies and gentlemen. My name is Maybelle Taylor
Bennett. I'm Chairperson of the Zoning Commission
for the District of Columbia. Joining me this
evening are Commissioners Franklin, Kress and
Parsons. I declare this adjourned hearing reopened.

The case that is the subject of this
hearing is Case No. 96-16C, an application of the
New Jersey and H Limited Partnership and the
District of Columbia Department of Administrative
Services. The application requests consolidated
review and approval of a planned unit development
and related change of zoning from R-4 and C-2-A to
C-3-C for lots 190 through 193 in square 623,
formerly lot 188, located at the northeast corner of
the intersection of New Jersey Avenue and H Street,
N.W.

The PUD site contains approximately
161,670 square feet of land. The applicant proposes
to construct a mixed use project consisting of
commercial office and institutional uses. Notice of
today's hearing was published in the *D.C. Register*
and the *Washington Times* on April 11, 1997.

This hearing will be conducted in

1 accordance with the provisions of DCMR 3022. The
2 order of procedure will be as follows. First,
3 preliminary matters including the certification of
4 the maintenance of posting and the identification of
5 parties. Second, the applicant's case. Third, the
6 report of the Office of Planning. Fourth, the
7 report of other agencies. Fifth, the report of
8 Advisory Neighborhood Commission 2-C. Sixth,
9 parties and persons in support and seventh, parties
10 and persons in opposition.

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

21 The decision of the Commission in this
22 contested case must be based exclusively on the
23 public record. To avoid any appearance to the
24 contrary, the Commission requests the parties,
25 counsel, and witnesses not engage the Commission in
26 conversation during any recess or at the conclusion

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1 of the hearing session. While the intended
2 conversation may be entirely unrelated to the case
3 that is before the Commission, other persons may not
4 recognize that the discussion is not about the case.
5 The staff will be available to discuss procedural
6 questions.

7 All individuals who wish to testify and
8 have not been sworn previously, please rise to take
9 the oath.

10 (The witnesses were sworn.)

11 CHAIRPERSON BENNETT: Thank you. Let's
12 get on with preliminary matters, Ms. Brown.

13 MS. BROWN: Good evening, Madam Chair.
14 This evening we have just received the affidavit of
15 the maintenance of posting and it appears to be in
16 order. It'll be labeled Exhibit No. 48.

17 CHAIRPERSON BENNETT: Thank you.

18 MS. BROWN: You also have before you
19 Exhibits No. 45 through 47. They came in after I
20 delivered the packages. Exhibit No. 45 is a second
21 supplemental memorandum from the applicant. Exhibit
22 46 is the DPW report and Exhibit 47 is a letter of
23 support. And those are all the preliminary matters
24 that I have.

25 CHAIRPERSON BENNETT: Thank you, Ms.
26 Brown.

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1 As I understand it, we have three
2 parties in this case: the applicant, New Jersey and
3 H Limited Partnership, ANC-2C and there was a
4 request in our folders from Mount Carmel Baptist
5 Church requesting that they be admitted as parties
6 to the case. In my judgment, the request is
7 properly formulated, and I am disposed to allowing
8 them as parties. Colleagues? Thank you. So Mount
9 Carmel is now a party.

10 Why don't we move on then with the
11 applicant's case. Ms. Kress is mentioning that she
12 thought we had other requests for party status. I
13 didn't see any. I know we had one for the next
14 case. Now, Joshua Group meets at Mount Carmel, and
15 they expect to be represented by Doctor Albert
16 Avant. Is Doctor Avant here? You're not Doctor
17 Avant. Hold on. We're looking for other requests
18 for parties. Did you want to say something?

19 MR. KEYS: Yes, ma'am. I'm George Keys.
20 I'm an attorney. I have represented Mount Carmel on
21 a number of matters. Mount Carmel submitted a
22 letter asking to participate, and I think that there
23 was a certain amount of confusion. They really are
24 here in support, and they also have a letter
25 supporting the application, and I think that was the
26 confusion. It's not party status he was seeking but

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1 the right to come.

2 CHAIRPERSON BENNETT: The last sentence
3 reads, "For these reasons, Mount Carmel Baptist
4 Church applies to appear and participate as a
5 party."

6 MR. KEYS: I understand. I understand.

7 CHAIRPERSON BENNETT: So you just want
8 to be supportive.

9 MR. KEYS: Correct, and the Chairperson
10 of the Trustee Board, Ms. Blaylock, Margaret
11 Blaylock, is also here.

12 CHAIRPERSON BENNETT: Okay. So you're
13 not requesting party status. You just want to
14 appear as a person in support. All right. Thank
15 you.

16 MR. KEYS: Thank you.

17 CHAIRPERSON BENNETT: Let's go to the
18 next two. Is Center City Community Corporation or
19 North Capital Neighborhood Development here? Give
20 us your name, your address, and then tell us what
21 you want to tell us.

22 MR. NESBITT: My name is Ed Nesbitt,
23 Executive Director of Center City Community
24 Corporation, 1190 First Place, N.W. We are one of
25 the persons who have been with this project from the
26 very beginning, and we submitted a copy of testimony

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1 that we wanted to give and we wanted to simply just
2 be in support.

3 CHAIRPERSON BENNETT: Okay. So on page
4 two of your letter where you ask to participate as a
5 party --

6 MR. NESBITT: Yes, but I also sent some
7 additional information including testimony.

8 CHAIRPERSON BENNETT: All right. We
9 have that, but I'm trying to identify parties now so
10 do you wish to be a party or do you simply wish to
11 appear in support?

12 MR. NESBITT: Appear in support.

13 CHAIRPERSON BENNETT: All right. Thank
14 you.

15 North Capital Neighborhood Development,
16 Inc. Is North Capital Neighborhood Development,
17 Inc. here? All right. We have received in the
18 package dated May 7th a letter from them also asking
19 to appear as a party, and if they are not here, that
20 request is denied. So what we have are two parties,
21 the applicant and ANC-2C. Is anyone here from ANC-
22 2C? Okay. Let's proceed then with the applicant's
23 case.

24 MR. GELL: Madam Chairperson, members of
25 the Commission, my name is Stephen Gell. I'm an
26 attorney representing the New Jersey and H Limited

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1 Partnership in this application for a planned unit
2 development and zoning modification on the
3 prevocational school site.

4 CHAIRPERSON BENNETT: Do we not have
5 about three or four witnesses you'd like to qualify
6 as experts?

7 MR. GELL: As a matter of fact, we do.
8 I'd be happy to do that at this point.

9 CHAIRPERSON BENNETT: Well, this
10 Commission has seen Mr. Peterson before and I
11 understand you'd like to have him represented as an
12 expert in traffic and transportation. Is Mr.
13 Tischler here?

14 MR. GELL: Mr. Paul Tischler is here.
15 Yes.

16 CHAIRPERSON BENNETT: Okay. Yes, I
17 recognize him. Mr. Tischler has also been before us
18 and has been recognized as an expert in economic
19 consulting.

20 MR. GELL: That's correct.

21 CHAIRPERSON BENNETT: Mr. Hartman, of
22 course, of Hartman Cox is here.

23 MR. GELL: And Mr. Graham Davidson, as
24 well.

25 CHAIRPERSON BENNETT: Graham Davidson.
26 Mr. Hartman is here.

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1 CHAIRPERSON BENNETT: Oh, I thought Mr.
2 Hartman was here. They have been before us. And
3 representatives of New Jersey and H Limited
4 Partnerships are here representing themselves.
5 You're not asking expert status for them.

6 MR. GELL: That's correct.

7 First, I do want to thank you very much.
8 I know you had to postpone the last hearing, and I
9 really appreciate your being able to find the time
10 for us this soon after the original date.

11 We're asking for a zoning change from C-
12 2-A and R-4 to C-3-C, something the Commission has
13 already taken significant steps to accomplish under
14 Zoning Commission Case No. 96-12Z part 2. We're
15 also asking for a PUD to build three office
16 buildings and a day care center on lots 190, 191,
17 192, and 193 in square 623.

18 With me are Ms. LuAnn L. Bennett,
19 President of NJH Inc. which is the general partner
20 for New Jersey and H Limited Partnership, Mr.
21 Brigman Owens, the Vice President of NJH Inc. and a
22 limited partner in the partnership, Arthur Monk.
23 Mr. Monk is not here. And, of course, Mr. Hartman,
24 Mr. Davidson, Mr. Peterson, and Mr. Tischler.
25 You've already recognized them.

26 Although we originally asked for an hour

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1 and a half, we took very seriously your request that
2 we cut down. We are going to try to do everything
3 on our side within 45 minutes which should leave
4 enough time for the community and for any questions,
5 as well.

6 We've made as our application as
7 identical as possible to the zoning order approved
8 by the Commission in 1990. The differences are
9 truly minor, but we believe they strengthen the
10 proposal. I would point out at this time that when
11 we made our first application in 1990, the zoning
12 was C-2-A and R-4. We are asking for C-3-C. In
13 1994, the Council adopted a comprehensive plan
14 change to high density commercial for the site in
15 keeping with their desire to make North Capital
16 corridor a major office building area.

17 The Zoning Commission has already held a
18 hearing in order to change the zoning to C-3-C, as
19 you know. Consequently, we're starting from a much
20 closer base and, although we're asking for less than
21 we did in 1990 because of that, we've not changed
22 our FAR, design, uses or any element of the amenity
23 package.

24 There are a few changes, and I would
25 point them out at this point. The most significant
26 are as follows. First, the single lot 188 has been

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1 subdivided into four lots, 190 through 193. Second,
2 we have taken advantage of the efficiency of the
3 arrangement of the loading berths to reduce their
4 numbers to the minimum required by zoning. Third,
5 while the previous zoning order called for 614
6 parking spaces to be provided, we are providing 656
7 in order to cover the increases which may be
8 required if we use the flexibility we're seeking to
9 build an additional office level below ground.

10 Fourth, we have asked for flexibility to
11 combine Buildings A and C into a single building.
12 They are now attached anyway, so the change, the
13 appearance will certainly materially differ. Fifth,
14 we have also asked for the flexibility to build the
15 project in as many as three phases. Although it is
16 our preference to construct the project at one time,
17 the markets will dictate how and when tenants become
18 available. Through this and other elements of
19 flexibility, we want to give this project every
20 chance to succeed, either by attracting a single
21 user or a combination of smaller users.

22 The first phase would include the day
23 care center and at least one of the office
24 buildings. The second and third office buildings
25 would be built in one or two phases. We suggest the
26 order require a building permit for the first phase

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1 to be applied for within two years with an
2 additional year to begin construction. The time
3 limit for each succeeding office building should be
4 two years from the start of construction of the
5 previous building.

6 At this point, I am pleased to turn the
7 microphone over to LuAnn L. Bennett, President of
8 NJH Corporation.

9 MS. BENNETT: Good evening. Madam
10 Chairperson, Members of the Zoning Commission, thank
11 you for giving me the opportunity to participate in
12 this hearing as a member of the New Jersey and H
13 Street Limited Partnership. As Mr. Gell indicated
14 in his introduction, my name is LuAnn Bennett. I am
15 the only new member to the development team. I'm
16 the President of the corporate general partner, a
17 position that I now fill in the place of my late
18 husband, Richard Bennett.

19 Together, Richard and Brig Owens
20 assembled the group that you'll see before you this
21 afternoon, created the original PUD, and presented
22 it to the Zoning Commission in May of 1990. That
23 PUD was granted by the Zoning Commission in December
24 of that same year. We believe very strongly in its
25 benefits to the District, in the positive economic
26 impact that it will have on the surrounding

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1 neighborhoods, and in the youth that it will work to
2 educate.

3 All of us are committed to seeing this
4 project through to completion. I hope that the
5 series of events that I'm about to describe will
6 help you understand why the partnership was unable
7 to move forward within the time allowed under the
8 previous zoning order.

9 In 1990, Bennett and Owens formed a
10 limited partnership to compete along with other
11 developers for the right to lease and develop the
12 three and a half acre parcel at the corner of New
13 Jersey and H Streets. Based upon the merit of their
14 proposal which included a substantial commitment to
15 the community and a 37.5 percent minority
16 participation and minority ownership, they were
17 awarded a 99 year ground lease. The partnership
18 then created a PUD which expanded those commitments
19 to include significant participation in the project
20 by local community groups enhancing the benefits
21 that this development would bring to the surrounding
22 neighborhoods.

23 The PUD that was passed required that
24 the developers break ground for one of the office
25 buildings, begin construction of the pre-school, and
26 fund an educational foundation. The severe real

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1 estate recession that began in the early 1990s was
2 certainly a pivotal event, changing the face of the
3 real estate market for investors and developers
4 alike. in spite of its occurrence, however, an
5 option included in the New Jersey and H Street
6 ground lease to construct the first of the project's
7 three buildings for the D.C. Law School would have
8 allowed the project to begin the first of the
9 project's three buildings within the time allowed.

10 When the District chose not to exercise
11 its option due to budgetary considerations, the
12 developers were left without a tenant at a time when
13 the real estate market was falling precipitously.
14 The above difficulties were further compounded by
15 the fact that during the same time period Bennett
16 and Owens, through a separate partnership, was
17 constructing an office building on an expedited
18 schedule to comply with the lease with the District
19 of Columbia for space at the corner of North Capital
20 and H Streets.

21 In 1991, however, the District informed
22 the developers of its decision not to go forward
23 with its lease at 800 North Capital. This created a
24 severe hardship for the developers. They had not
25 only borrowed significant sums of money but had
26 substantially completed the building and much of the

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1 tenant space. They were left with an empty building
2 in a real estate market that was in severe decline.
3 Ultimately, they were able to save the 800 North
4 Capital Street project, but not without paying a
5 tremendous price, both financially and personally.

6 In 1993, Richard was diagnosed with
7 leukemia. In the 12 months following his diagnosis,
8 Richard and I spent our time either in the hospital
9 where he underwent aggressive chemotherapy or at
10 home recovering. Anyone who's gone through a
11 similar experience will understand the shift or
12 priorities that occurs when one's life is
13 threatened. Simply stated, the PUD and all other
14 real estate issues were set aside so that our full
15 attention could be given to saving his life.

16 In spite of our efforts, Rick lost his
17 battle with cancer. He died in September of 1994.
18 After Rick's death, I joined Brig Owens and John
19 Hauser full time in the real estate side of our
20 business. We own and operate a number of office
21 buildings, all located in the District of Columbia,
22 and have been very active over the years in leasing
23 space to the federal government.

24 Over the past 12 months, it's become
25 very clear to us that the real estate market is
26 showing real signs of improvement. We also have

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1 become aware through our contacts at GSA of
2 significant requirements that may be coming to
3 market in the near future. The New Jersey and H
4 Street property is well located for either public or
5 private sector use. With its proximity to the U.S.
6 Capitol, Union Station, and the North Capital and H
7 Street Corridors. Development at this location
8 would be extremely beneficial to reviving the
9 surrounding neighborhood and to continuing to draw
10 development beyond the MCI Arena, the Washington
11 Opera, and the new Convention Center.
12 For these reasons, we have turned our full attention
13 to positioning this project to compete for future
14 tenants.

15 I would like to make one final point.
16 The decision to present the PUD in as close to its
17 original form was one that was not made lightly.
18 Brig and I were fully aware that the District was in
19 the process of rezoning this property to C-3-C
20 zoning in order to comply with the District's
21 comprehensive plan passed in 1994. It was, however,
22 very important to both of us that the amenity
23 package and all the commitments made by Rick and he
24 to the residents in that community remain intact.
25 They believed, as we do today, that education is a
26 key to changing lives. The pre-school, the

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1 educational foundation, and the community
2 participation was their attempt to act on that
3 belief.

4 Rich isn't here any more but his
5 commitments are. Tonight we're asking for your help
6 to help us finish what we began. Thank you.

7 MR. GELL: At this time, Madam
8 Chairperson, I'd like to ask Mr. Hartman and Mr.
9 Davidson to come forward. Mr. Hartman and Mr.
10 Davidson did the original design, and we asked them
11 to follow through.

12 CHAIRPERSON BENNETT: Ms. Bennett, you
13 should know that the Commission extends our belated
14 condolences to you, your family and the partnership.

15 MR. HARTMAN: Good evening.

16 CHAIRPERSON BENNETT: Good evening.

17 MR. HARTMAN: I'm George Hartman from
18 the firm of Hartman and Cox Architects in
19 Washington.

20 What I want to do is start immediately
21 by going into the site map to make sure that we all
22 understand exactly where this site is. It's shown
23 in gray. It's superimposed over a real estate map,
24 but the site is shown in gray. North Capital
25 Street. This is Massachusetts Avenue, New Jersey
26 Avenue, and the site is at the corner of New Jersey

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1 and H.

2 The building referred to earlier, 800
3 North Capital Street, done by the same development
4 team, same architects, and now occupied by
5 government agencies, is right here. It's adjacent to
6 the Government Printing Office and, of course, we
7 have Gonzaga. We're looking towards North Capital
8 Street which these light buildings behind are on.

9 The site is important to understand that
10 we are very close to Metro. That's this red line
11 going through here. And we're equally distant from
12 Judiciary Square -- this is the Judiciary Square
13 Metro stop -- and the Metro stop in Union Station.
14 This building, of course, is the old Post Office
15 Building, and the Government Printing Office is
16 right here. This is a very nice lower part of North
17 Capital Street, and we'll come back and look at that
18 again.

19 We're looking at 800 between Government
20 Printing Office and St. Aloysius Church at Gonzaga.
21 This shows our complex, New Jersey Avenue, H Street,
22 800 North Capital Street, Government Printing Office
23 here, 800 here, St. Aloysius Church here. And what
24 we're going to do now is look at some slides of the
25 neighborhood to get a feel for it because it is a
26 rather special place, and it's an interesting

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1 juxtaposition. The pivotal building for us has
2 always been this wonderful old Government Printing
3 Office which inspired 800. 800 is glassier, it has
4 a much more open pedestrian ground level front than
5 this does, but obviously our debts to this very
6 strong industrial building are quite clear.

7 800, the Gonzaga playing field. This is
8 down I Street. Gonzaga is along here. 800 at this
9 point. Our site is immediately to the right and
10 immediately behind us in this slide.

11 Some of the adjacent apartment
12 buildings, the Government Printing Office, this
13 apartment building immediately to the north of the
14 site. This is Gonzaga which goes off to the right.

15 Again, we're seeing the row of Gonzaga
16 coming up from St. Aloysius, the playing field. This
17 is our site at the head of the playing field.
18 Existing apartments and existing Gonzaga school
19 building.

20 This is a sketch, enlargement of a
21 sketch that we have here focusing down on the
22 Capitol. You can see all these cornice lines picked
23 up from the Government Printing Office and other
24 buildings making a very strong piece of urbanism
25 that reinforce and focus the views to the Capitol.
26 Our site is right here and this is a fairly accurate

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1 reconstruction of looking down to the Capitol.

2 Many of the buildings in this area --
3 this happens to be the Amico Building -- are
4 unsympathetic curtain wall buildings and we've
5 elected not to take our cue from these buildings but
6 rather from the 800 and Government Printing Office
7 building.

8 We're going to look now at a series of
9 plans of this. The site is developed -- here again,
10 Gonzaga 800. The site is developed to the cluster
11 of four buildings, three office buildings and a day
12 care center, and each of these buildings is very
13 much an independent building. They're very closely
14 designed in style, as the entire complex is closely
15 designed to 800. But they each are different and
16 each is conceived of as an individual building to
17 further break down the scale.

18 We're looking now at a ground plan.
19 This is the day care center with its lawn facing the
20 Gonzaga playing field here. Building A with its
21 parking entrance from I Street at the north and then
22 Building B with its parking entrance from I Street.
23 Notice that each of these buildings has an
24 individual entrance and core, individual entrance
25 from New Jersey, individual entrance from H.
26 Service is all clustered together in a common

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1 service court really between Buildings A and B and
2 it exits out to H Street.

3 This shows a typical parking level where
4 each of the buildings houses its own parking. They
5 are self-contained parking structures. Each has its
6 own ramp which spreads the burden of the parking as
7 much around the site as we can.

8 Buildings A and C are the two that we
9 would like permission to connect to form a single
10 building should a tenant request it. The sequencing
11 of the buildings is important because we may start
12 with either A, B, or C but, in any case, whichever
13 one we begin with, the day care center will be built
14 concurrently with that first building.

15 This shows the section of the offices on
16 top of the parking. This shows the service court in
17 the middle and the day care facing the playground.
18 All of the site measuring point is taken from the
19 middle of New Jersey Avenue 108' at that point.

20 The critical design motifs are taken
21 from the Printing Office and cornice lines run
22 through, whether they're from 800 which is taken
23 from the Printing Office itself, and even though the
24 site moves up hill, all of these alignments are
25 maintained. We can also see here one of the
26 existing apartment buildings immediately to the

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1 north. You can see the Amico Building shown in here
2 for scale purposes. These are the Gonzaga buildings
3 between 800 and our H Street building, and here is a
4 section through one of the Gonzaga buildings, the
5 day care, and coming back up to the H Street
6 building.

7 We're going to look at photographs of
8 the model which is in front of you. You're seeing
9 it from this side, but it may be a little easier to
10 look at the photos and then the model because
11 they're bigger, and I've focused your attention a
12 bit. We're going to start from up here looking down
13 at the New Jersey Avenue entrance and then move
14 around this building in a counterclockwise fashion.
15 This is the first view. Measuring point is here.
16 We're looking at New Jersey Avenue and this slide
17 relates roughly to this sketch and the Capitol would
18 be here.

19 Again, the measuring point is the ground
20 sloping down from the north to the south, H Street.
21 Again, the H Street shown not as a single building
22 but rather as a group of buildings but with very
23 strong cornices that pick up the existing heights.
24 You can just pick up here and on the next slide at
25 this point the cut that is the alley as we look down
26 towards 800 and Government Printing Office, H

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1 Street. We're looking down here and now we're
2 turned and get H Street in elevation. This should
3 look very much as the model appears to you now with
4 the service corridor here, the H Street parking exit
5 and entrance to Building C at this point.

6 We're now coming around and this is
7 taken from the playing field as opposed to all the
8 slides I've showed you of the playing field, and the
9 day care center is clustered here on its lawn
10 adjacent to the playing field in front of Building
11 A.

12 The last slide, we've turned the corner
13 and we're now back up on I Street. The day care
14 center, Building A and the end of Building B where
15 it turns back to where we started onto New Jersey
16 Avenue.

For materials, this is a
17 detail of the rendering, but we're really using the
18 same materials that we used on 800. The building is
19 substantially brick with limestone colored precast.
20 It has painted aluminum trim spandrels. It has a
21 limestone base with bronze storefront and entrance
22 at that base.

23 This is in your kit but it's really a
24 detail of the building showing what these materials
25 are as we go through. It's very similar to what we
26 submitted previously.

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1 This is the last pair of slides. Again,
2 we're looking back at the rendering. The point I
3 want to make and what we are intending to recreate
4 on New Jersey and H is this is that nice part of
5 lower North Capital. The Capitol is behind us but
6 the Post Office cornice and these wonderful
7 cornices, ours at 800, and these Government Printing
8 Office's back here, it has a nice character and we'd
9 like to get this to work again. In our case, we'll
10 have the Capitol setting up at the end as the sketch
11 suggests.

12 If there are any questions, I'd be glad
13 to answer.

14 CHAIRPERSON BENNETT: We are going to
15 wait until all of your presenters have gone.

16 MR. HARTMAN: Thank you.

17 CHAIRPERSON BENNETT: Thank you.

18 MR. GELL: I'd like now to ask Mr. Brig
19 Owens to speak. He became partners with Rick
20 Bennett about 14 years ago, and he will outline the
21 very strong benefit package that this project will
22 entail.

23 MR. OWENS: Good evening. Madam
24 Chairperson, Members of the Commission, my name is
25 Brig Owens. I'm a partner with Bennett and Owens
26 and a partner in the New Jersey and H Street Limited

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1 Partnership.

2 I'd like to talk to you about the
3 amenities package which we feel is exceptional. The
4 amenities package is as follows. A 9,800 square
5 feet day care center/preschool for three to five
6 year olds with 20,000 square feet of green space
7 fully equipped for playground use. The partnership
8 will pay for its construction which will begin with
9 the first phase of the project. The educational
10 facility will provide day care, education, and
11 tutoring services first for the children of the
12 District residents who live in the neighborhood and
13 secondarily, to children whose parents work in the
14 neighborhood.

15 Parenting programs will also be
16 provided. The education facility will be staffed
17 with qualified educators and day care providers.
18 The educational facility will provide space for a
19 higher achievement program to tutor neighborhood
20 youth. Through our experience with I Have A Dream,
21 we feel it is essential to prepare children for
22 children and life at an earlier stage. The
23 educational facility will provide use of space to
24 the community and its senior citizens groups in the
25 neighborhood.

26 A minority educational foundation will

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1 be established to operate, control and fund all the
2 activities of the day care center preschool
3 facility. The foundation will be funded with a
4 minimum of over \$4 million. It will be established
5 as a nonprofit District of Columbia entity. There
6 will be a seven member board of directors which will
7 include myself, LuAnn Bennett, members appointed by
8 the local ANC and community groups. The foundation
9 charter will require that the foundation utilize its
10 funds to benefit primarily the children of the
11 residents who live in the neighborhood.

12 Thirty percent of the funds distributed
13 from cash flow, refinancing, or sales proceeds
14 generated by the project will go to the Joshua Group
15 and the H Street Community Development Corporation.
16 Those funds are to be utilized to provide and
17 promote housing, education, health care, and
18 economic development.

19 We'll make our best efforts in working
20 with the community to use our 26,000 square feet of
21 retail space for pharmacy/drug store, small
22 convenience store/grocery store, bank/credit union,
23 hardware store, book/stationary/computer store,
24 sandwich shop, cleaners/shoe repair/tailor shop,
25 optical goods store, film exchange, photographic
26 studio, and a clothing store.

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1 We have entered into a memorandum of
2 understanding with the Minority Business Opportunity
3 Commission committing ourselves to use our best
4 efforts to target 35 percent of the contract, both
5 during the construction and at the completion for
6 minorities. We will participate in the District's
7 First Source Employment Program to fill entry level
8 positions.

9 We think we have put together a project
10 that not only has the community involvement, but a
11 project that provides an educational base for the
12 youth to stand on and move forward. We have a
13 strong history of working with the community and
14 we're committed to continue to do so. Through our
15 800 North Capital Street Project and I Have A Dream
16 Program, we adopted 62 students at Terrell Junior
17 High School and guaranteed them that if they
18 graduated from high school, we would pay for their
19 college tuition. We retained a full-time project
20 coordinator and tutors to provide support and
21 guidance to these students. Today, 30 of our
22 students have just finished their first year of
23 college. We have seven additional students who will
24 graduate from high school this year. Fifty percent
25 of our class is in college and 72 percent of our
26 students graduated from high school on time. We

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1 have an 80 percent retention rate in the I Have A
2 Dream Programs. I'm proud to say that we have one
3 of the highest rates in our national program.

4 We also purchased and donated to Terrell
5 Junior High School high quality computers, graphic
6 arts and communication equipment. In addition, we
7 set up a financial assistance scholarship program at
8 Gonzaga High School for minority students from the
9 District of Columbia. We plan to continue this
10 level of commitment with the prevocational site.

11 I thank you for your time and
12 consideration.

13 CHAIRPERSON BENNETT: Thank you.

14 MR. GELL: Mr. Stephen Petersen will now
15 talk about traffic.

16 MR. PETERSEN: Madam Chair, members of
17 the Commission, for the record, I'm Stephen G.
18 Petersen, traffic planning and engineering
19 consultant. I did the original traffic study on
20 this case when it was presented in 1990 and it was
21 reviewed by the DPW so, as a first step, I went back
22 and talked with staff at DPW to determine if they
23 wanted to make any changes in the approach that we
24 used at that time.

25 They concurred with the replication of
26 the prior study which we then proceeded to do and

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1 determined that traffic conditions had not changed
2 substantially in that particular area of the city,
3 that the site could be accommodated by the street
4 system, that the other support transportation
5 facilities in terms of Metro rail and Metro bus were
6 still in place and, therefore, found that, as I
7 said, concluded that the project could be
8 accommodated. The review of DPW as contained in
9 their memorandum to you indicates that they concur
10 in that decision and, therefore, from a traffic
11 aspect we believe the project can go forward.

12 Thank you.

13 CHAIRPERSON BENNETT: Thank you, Mr.
14 Petersen.

15 MR. GELL: Thank you very much, and our
16 last witness will be Paul Tischler of Tischler and
17 Associates, who will outline the economic impact
18 regarding jobs, payroll, and taxes.

19 MR. TISCHLER: Good evening, Madam
20 Chairperson, members of the Commission. We also
21 updated the previous study, the fiscal impacts of
22 the proposed project. In brief, the completion of
23 the project will increase permanent employment for
24 District residents by 1,870 persons. An estimated
25 1,091 construction for D.C. residents are also
26 projected.

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1 Upon completion, the office buildings
2 will generate annual revenues of about \$11.7 million
3 to the District on an ongoing basis.

4 During the two year construction period,
5 the city will receive income taxes from construction
6 workers estimated at about \$4.4 million, and these
7 figures do not include one time fees such as
8 building permits. That is the summary of our fiscal
9 impact.

10 CHAIRPERSON BENNETT: Thank you, Mr.
11 Tischler.

12 MR. GELL: Madam Chair, the high points
13 of our testimony are that this is conceptually a
14 reinstatement of the PUD that was granted in 1990
15 and the rezoning. It has graceful and site
16 appropriate architecture, an outstanding amenity
17 package which has not changed despite the passage of
18 time. We have shown that traffic will not be
19 substantially affected, and the project will bring
20 exceptional employment and economic benefits to the
21 District.

22 That concludes our presentation. Thank
23 you.

24 CHAIRPERSON BENNETT: Thank you, Mr.
25 Gell. You did it in half an hour.

26 Let me ask for the members of your team

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1 to come back to the table so that we can find out if
2 our colleagues have questions of them. I will start
3 from my right.

4 COMMISSIONER PARSONS: No questions.

5 CHAIRPERSON BENNETT: No questions.
6 I'll go to my Vice Chair.

7 COMMISSIONER KRESS: First of all, more
8 than questions I would just like to make a comment.
9 I think this is a terrific project, not only
10 architecturally but also from the amenity point of
11 view. This is, as far as I've seen, one of the
12 largest amenity packages being brought forth to us
13 in the most recent projects we've reviewed, and I
14 know it's been a hardship to stick by some of those
15 old amenities as put forth years ago, and I'm just
16 very, very impressed with that and your willingness
17 to honor old commitments, shall we say.

18 The amenities is put forth in a couple
19 of places. They don't disagree. They're just
20 sometimes a little confusing, and you did reiterate
21 them. May I assume that the letter dated May 8 is
22 the best recapitulation of those amenities?

23 MR. GELL: That was a summary of the
24 amenities.

25 COMMISSIONER KRESS: A point that was
26 confusing but I believe you bottom lined it there

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1 was the amounts of money and who the participants
2 are. That was somewhat confusing from some of the
3 material, but I think I'm pretty clear in summary as
4 to what the amenities are.

5 MR. GELL: You will find in your package
6 an amendment to the Joshua Group participation
7 agreement which does modify the participants, so
8 some of our earlier documentation actually had a
9 different set of people but some people were added
10 to it, so you should use the latest one that we've
11 given you.

12 CHAIRPERSON BENNETT: For instance, if
13 this Commission should act affirmatively, what ought
14 there be placed into the order? I guess that's what
15 we're looking for. You know what I'm saying? From
16 what should we draw?

17 MR. GELL: The entire of agreement
18 including the amendment. Nobody was dropped. We
19 just added two.

20 COMMISSIONER KRESS: And you have
21 executed the First Source employment agreement and
22 the draft memorandum of understanding. All of those
23 are in place.

24 MR. GELL: Those have been executed.

25 CHAIRPERSON BENNETT: Mr. Franklin,
26 question?

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1 COMMISSIONER FRANKLIN: I share the
2 views of Commissioner Kress. I think it's a
3 magnificent project and my only hope is that it can
4 be successfully carried off. You have, I think,
5 posed a terrific challenge in that regard,
6 particularly with the amenity package. You're
7 bringing about a million square feet to market.

8 MR. GELL: Over a million.

9 COMMISSIONER FRANKLIN: Over a million.
10 I take it that this is not going to be something
11 that if GSA doesn't end up on line is going to be
12 sitting around. Do your studies show an ability of
13 that location to absorb over a million square feet
14 in the absence of GSA's commitment?

15 MS. BENNETT: Mr. Franklin, I'll address
16 that. We believe that private sector use could
17 extend to that area. Certainly, with its proximity
18 to the Capitol and Union Station. As you know,
19 Jones, Day, Reves and Poe is moving to the Acacia
20 site. They're taking that whole building, so we see
21 a strong move toward that, and it's one of the
22 reasons, as a matter of fact, that we had requested
23 the flexibility to be able to build this in three
24 separate phases. Certainly, there aren't many
25 million square foot users outside of the federal
26 government, but to be able to accommodate private

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1 users, we felt that if we had the flexibility to
2 build the buildings one at a time that we certainly
3 would have that option of being able to accommodate
4 private sectors users, as well.

5 COMMISSIONER FRANKLIN: I think
6 certainly you ought to have that flexibility.

7 Now, with respect to the retail usage,
8 Mr. Hartman described the lower end of North Capital
9 as a relatively nice area, but my recollection is
10 that while it looks nice in bird's eye view, it's
11 not something that one would walk for pleasure along
12 because there isn't much in terms of, as I recall,
13 retail amenities there. You're talking about 26,000
14 square feet. Is that the maximum? When I look at
15 the first floor plan showing retail on H Street, is
16 that the entire 26,000?

17 MR. HARTMAN: In effect, that is the
18 entire H Street frontage that runs along here is
19 what we're indicating as that. Our experience is
20 that we can build 100 percent of the usable first
21 floor and no more, and that's what that does
22 represent. We're looking actually for a first floor
23 commercial floor that we don't seem to have our
24 hands on right now but yes, sir, that's correct, and
25 the reason it can't be increased is that we can't
26 make it work on the level change.

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1 COMMISSIONER FRANKLIN: But your plan is
2 that will be designated for retail.

3 MR. HARTMAN: It is designated.

4 COMMISSIONER FRANKLIN: Okay. Thank
5 you. I have no further questions.

6 CHAIRPERSON BENNETT: Did the ANC come
7 in? All right. So there's no cross examination of
8 the applicant's witnesses. Thank you very much.
9 Did you want to say something else?

10 MR. GELL: I may at the end.

11 CHAIRPERSON BENNETT: Now let's turn to
12 the report of the Office of Planning.

13 MR. BASTIDA: Good afternoon, Madam
14 Chairperson, members of the Commission. For the
15 record, my name is Alberto Bastida with the D.C.
16 Office of Planning. The Office of Planning submitted
17 its report on May 12, and I will not go through the
18 report since the applicant has done a thorough
19 presentation and I would be just restating what has
20 been previously stated. I will go to the
21 recommendation and read it.

22 The project would replace a vacant lot
23 with an architecturally significant complex of
24 buildings that would go toward returning that part
25 of the city to respectability and produce, setting a
26 standard for future architecture and economic

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1 development for both sides of North Capital Street
2 and H Street.

3 The proposal amenities package contains
4 a strong educational component with a day care
5 center/nursery school proffering facility and a
6 minority educational foundation. The potential
7 impact on residents of the area would be extremely
8 positive. In addition, monies made available to
9 community groups out of the net proceeds will fund
10 housing, education and economic development projects
11 well into the future.

12 The Office of Planning recommends that
13 this application be approved. We have submitted
14 earlier today a report from the Department of Public
15 Works in which they affirm their previous position
16 on the project in which they have no objection and
17 the only recommendation that they make is that the
18 developer must coordinate all construction, street
19 escape and design elements within the public space
20 with the Department of Public Works and assumes that
21 cost.

22 That concludes my presentation. I will
23 try to answer any questions you might have. Thank
24 you.

25 CHAIRPERSON BENNETT: Thank you, Mr.
26 Bastida. Colleagues, questions of Office of

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1 Planning? None.

2 COMMISSIONER KRESS: I'm sorry. I would
3 note for the record, did you mention the Public
4 Works report?

5 MR. BASTIDA: Yes, I just did.

6 COMMISSIONER KRESS: Sorry. I was just
7 talking and wanted to make sure it was on the
8 record. Thank you.

9 CHAIRPERSON BENNETT: All right. Cross
10 examination of the Office of Planning.

11 MR. GELL: I decline.

12 CHAIRPERSON BENNETT: I bet you do. All
13 right. I assume the Advisory Neighborhood
14 Commission has not come in. Then why don't we move
15 on to persons in support and we'll first call Mount
16 Carmel Baptist Church. Is there a representative
17 from Mount Carmel? Ms. Blaylock, come on right on
18 up.

19 MS. BLAYLOCK: Good evening. I'm
20 Margaret Blaylock from Mount Carmel Baptist Church.
21 The Joshua Group wishes to go on record as
22 supporting the application of the New Jersey and H
23 Limited Partnership for the PUD and zoning
24 modification on land leased from the District
25 government as New Jersey and H Streets. We have
26 been impressed with the design of the project as

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1 well as the amenities promised by the developer.
2 The proposed office buildings will continue the
3 superb architecture of 800 North Capital Street
4 along H Street and on New Jersey Avenue.

5 Our community is surely in need of jobs,
6 education, housing and social amenities. Not only
7 will the project create employment but, through the
8 participation agreement with the Joshua Group, 15
9 percent of the net profits of the project will be
10 diverted to housing and educational programs which
11 will benefit the residents of the neighborhood.

12 In addition to our call for more
13 shopping in the area, the developer has dedicated
14 26,000 square feet of space to retail uses. We hope
15 that the Zoning Commission will approve this PUD and
16 rezoning without delay. Thank you very much.

17 CHAIRPERSON BENNETT: Thank you. Ms.
18 Blaylock, you were representing Joshua Group?

19 MS. BLAYLOCK: Mount Carmel Baptist
20 Church.

21 CHAIRPERSON BENNETT: Mount Carmel
22 Baptist Church.

23 MS. BLAYLOCK: Yes. We are part of the
24 Joshua Group.

25 CHAIRPERSON BENNETT: Hold on. Let's
26 find out if anyone has some questions.

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1 MS. BLAYLOCK: Oh, okay.

2 CHAIRPERSON BENNETT: Colleagues,
3 questions of Ms. Blaylock? All right. Thank you.

4 Has anyone come in from North Capital
5 Neighborhood Development? All right.

6 Center City Community Corporation, Mr.
7 Nesbitt.

8 MR. NESBITT: Madam Chairperson, my name
9 is Edward Nesbitt, Executive Director of Center City
10 Community Corporation. This is a 31 year community
11 owned and operated social service agency whose
12 target area includes the applicant's site. We have
13 been in this process from the very beginning, and we
14 believed then and now the design of the project will
15 enhance rather than overshadow the existing
16 community.

17 We also believe the community benefits
18 promised by the developer would enable the community
19 to realize many of the dreams of employment,
20 shopping, day care, meeting space and funds to
21 promote positive efforts in housing, education and
22 health care. The establishment of the Minority
23 Education Foundation with the substantial level of
24 funding will give youngsters a hand up the education
25 ladder.

26 As a member of the Joshua Group and as

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1 an independent organization, Center City urges the
2 Commission to approve the application as presented.
3 Thank you.

4 CHAIRPERSON BENNETT: Thank you.
5 Colleagues, questions of Mr. Nesbitt? I take it the
6 applicant does not wish to cross examine.

7 Are there any other persons who wish to
8 testify this evening? I did not record any persons
9 in opposition.

10 All right. Mr. Gell, are you ready with
11 your closing remarks?

12 MR. GELL: Yes, Madam Chairperson. I
13 would begin by saying that the Advisory Neighborhood
14 Commission I believe has submitted something for the
15 record, a letter. I know Mr. Lawrence Thomas has
16 spoken very highly in favor of the project, so the
17 ANC has indeed been heard from.

18 We've made, I believe, a very strong
19 case for this PUD and rezoning. We've satisfied the
20 design, traffic, economic, and public benefits
21 requirements for a planned unit development and
22 rezoning. We've taken a number of steps in order to
23 speed the process so that we could be prepared to
24 respond to potential tenants who we are told will
25 soon be entering the market place for a site the
26 size of this one. We're gratified by the full

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1 support of the Neighborhood and its organizations.

2 In view of the fact that there has been
3 no opposition and we have such a strong package, we
4 would at this time ask for a bench decision, and I
5 do thank you very much for your time.

6 CHAIRPERSON BENNETT: Thank you.
7 Colleagues, are we ready for a bench?

8 COMMISSIONER FRANKLIN: I am, Madam
9 Chair.

10 COMMISSIONER KRESS: Again, I don't know
11 if it was mentioned, but we do have a letter in the
12 record from Jack Evans.

13 CHAIRPERSON BENNETT: Yes, we do.

14 COMMISSIONER KRESS: Also in support.

15 CHAIRPERSON BENNETT: Mr. Parsons, are
16 you ready for a bench decision?

17 COMMISSIONER PARSONS: I think we're all
18 anxious to make such a motion.

19 CHAIRPERSON BENNETT: Well, let me hear
20 one. Give me a motion.

21 COMMISSIONER PARSONS: This project has
22 gotten better, I think.

23 CHAIRPERSON BENNETT: I think so, too.

24 COMMISSIONER PARSONS: It has matured
25 and there isn't anything we should do to stand in
26 its way, and let's get on with it. So who wants the

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1 honor of making a motion to approve this
2 application? So moved.

3 COMMISSIONER FRANKLIN: Second.

4 CHAIRPERSON BENNETT: We've had a motion
5 and a second. Can we discuss conditions because we
6 are taking proposed action. I'll get us started.
7 It would seem to me that the recommendations made by
8 the Department of Public Works that all
9 construction, streetscape and design elements that
10 take place within public space ought to be
11 coordinated with them. We have the letter dated
12 June 2nd to which were attached the amenities
13 package that I think Mr. Owens was reading from
14 and, if that's the latest, then that ought to be
15 incorporated, I believe, in the conditions.

16 The applicant mentioned that they wanted
17 some phasing flexibility and they outlined that.
18 The ability to combine Buildings A and C to the
19 extent that there was a request by tenants to do
20 that, that nevertheless the day care center would be
21 built together with the first phase. There was an
22 increase in parking from 614 spaces to 656. There
23 were some changes in the loading berth
24 configuration, as I recall and, of course, one of
25 the differences that was outlined from the previous
26 PUD to now is that we're now looking at four lots,

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1 lots #190 through 193 instead of the single lot
2 #188.

3 Colleagues, can you think of anything
4 else that ought to be noted in the conditions
5 outside of what we would normally incorporate?

6 COMMISSIONER KRESS: I would say
7 normally the agreements that have been arrived at
8 and the documents they've submitted --

9 CHAIRPERSON BENNETT: That's right.

10 COMMISSIONER KRESS: -- those are always
11 referenced.

12 CHAIRPERSON BENNETT: That's right.

13 COMMISSIONER PARSONS: Mr. Gell in his
14 opening remarks was talking about a two year
15 sequence. The building would proceed. I can not
16 repeat it but I think that ought to be incorporated
17 in there. I'm sure he's written that somewhere. Do
18 you remember that sequence of start after finish f
19 the first building and then the second would start.

20 COMMISSIONER KRESS: Could we not ask,
21 as we often do, for findings of fact, conclusions of
22 law, and often a draft --

23 CHAIRPERSON BENNETT: Would you happen
24 to have a copy of findings of fact and conclusions
25 of law in your hip pocket?

26 COMMISSIONER KRESS: But what I'm saying

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1 is we can pass as a bench decision and in the final
2 decision allow them to submit detailed information
3 that might compose the order.

4 CHAIRPERSON BENNETT: I think that's a
5 good idea.

6 COMMISSIONER FRANKLIN: I think that's
7 the way to proceed and the Office of Planning's
8 memorandum does list amenities and public benefits.
9 They're very general, but they ought not be
10 overlooked in terms of the ultimate conditions. I
11 do think that while I don't want to put them into a
12 straight jacket that I would hate to see that retail
13 space go for office use or some other non-retail
14 purpose. I know that there's been some suggestion
15 that they're committed to the community for that and
16 that may be embodied in one of those agreements, but
17 I'd like to make sure that it's embodied somewhere.

18 COMMISSIONER KRESS: It is mentioned in
19 several of the letters. I mean I think all of the
20 information is here. My concern is is that they
21 perhaps are the best ones to articulate it and let
22 us make sure it includes everything.

23 COMMISSIONER FRANKLIN: I'm sure Mr.
24 Gell will be faithful to the terms of all of these
25 provisions.

26 COMMISSIONER KRESS: That retail

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1 specifically is mentioned in the May 8, '97 letter.

2 COMMISSIONER FRANKLIN: Just want to
3 make sure it's in there.

4 CHAIRPERSON BENNETT: All right. Okay.
5 So if we don't feel we need give staff any further
6 guidance vis à vis the conditions, I'll call the
7 question. All those in favor sign by aye.

8 (Ayes)

9 CHAIRPERSON BENNETT: Opposed.
10 Abstentions. The ayes have it.

11 MS. BROWN: Staff will record the vote
12 as four to zero to approve the application.

13 CHAIRPERSON BENNETT: Now, colleagues,
14 what we have done is to take proposed action and I
15 want to thank you for your testimony and assistance
16 in this hearing. The parties in this case are
17 invited to submit proposed findings of fact and
18 conclusions of law. Any person who submits proposed
19 findings and conclusions should do so by June 27,
20 1997.

21 Parties are reminded that their findings
22 of fact should not include findings stating how
23 witnesses testified. The findings should be those
24 findings the parties believe the Commission should
25 make based upon the testimony and other evidence in
26 the record. Citations to exhibits and the

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1 transcript are appropriate and encouraged. To
2 assist parties in the preparation of these findings
3 of fact and conclusions of law, a copy of the
4 hearing transcript will be available for review in
5 the Office of Zoning in about two weeks. Copies of
6 the transcript may also be purchased from the
7 recording firm.

8 When the transcript is received, the
9 Office of Zoning will contact the parties. After
10 the record is closed, the Commission will make a
11 decision on this case at one of its regular monthly
12 meetings. These meetings are generally held at 1:30
13 p.m. on the second Monday of each month and are open
14 to the public. Any person who is interested in
15 following this case further may contact the staff to
16 determine whether this case is on the agenda of a
17 particular meeting.

18 You should also be aware that if the
19 Commission proposes to approve the application --
20 and we did -- since we have -- the proposed decision
21 must be referred to the National Capital Planning
22 Commission for federal impact review. The Zoning
23 Commission will take final action at a public
24 meeting following receipt of the NCPC comments after
25 which a written order will be published, and I
26 declare this hearing closed.

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1 (Whereupon, the proceedings went off the
2 record at 6:38 p.m.)
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