

**GOVERNMENT
OF
THE DISTRICT OF COLUMBIA
ZONING COMMISSION
PUBLIC HEARING**

IN THE MATTER OF:

CASE NO. 97-15 (I)

INITIATIVE TO AMEND THE
TEXT OF THE DISTRICT OF
COLUMBIA ZONING REGULATIONS,
TITLE 11, DISTRICT OF
COLUMBIA MUNICIPAL
REGULATIONS (DCMR)

Thursday,
April 8, 1999

Room 220
441 4th Street, N.W.
Washington, D.C. 20001

The hearing in the above-entitled matter was convened,
pursuant to notice, at 7:30 p.m.

ZONING COMMISSION MEMBERS PRESENT:

JERRILY R. KRESS	Chairperson
ANGEL F. CLARENS	Commissioner
HERBERT M. FRANKLIN	Commissioner
ANTHONY HOOD	Commissioner
JOHN F. PARSONS	Commissioner

STAFF PRESENT:

Sheri Pruitt-Williams, Interim Director, Office of
Zoning
Alberto Bastida, Office of Planning
Vincent Erondou, Office of Zoning

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

APPEARANCES:

On Behalf of the Applicant:

PAUL TUMMONDS, ESQ.
Wilkes, Artis, Hedrick & Lane, Chartered
1666 K Street, N.W.
Washington, D.C. 20006
202/457-7326

I-N-D-E-X

	<u>Page</u>
Preliminary Matters	5
Presentation of the Application:	
Paul Tummonds, Esq.	10
Monty Hoffman	14
Ralph Cunningham	22
Martin J. Wells	31
Steven E. Shor	33
Commisson Questions	38
Office of Planning Report	69
Persons in Support of the Application:	
Jim Nathanson	70
Margaret Deitrich	73

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

2 (7:21 p.m.)

3 CHAIRPERSON KRESS: Good evening, ladies and
4 gentlemen.

5 I am Jerrily Kress, Chairperson of the Zoning
6 Commission for the District of Columbia. Joining me this
7 evening are Commissioners Hood and Clarens and we expect
8 Commissioner Parsons to join us a little later.

9 I declare this public hearing open.

10 The case that is the subject of this hearing is
11 an application from the law of Wilkes, Artis, Hedrick & Lane,
12 on behalf of Heurich Company, the owner, and P.N. Hoffman, the
13 contract purchase/the applicant.

14 The application requests a consolidated review
15 and approval of a planned unit development and a related
16 change of zoning from C-2-A to C-2-B for Lots 807, 812, and
17 817, in Square 1734. The property is located at 4725 to 4727
18 Wisconsin Avenue, N.W.

19 The PUD site consists of approximately 17,519
20 square feet of land area. It is bounded by Davenport Street
21 to the north, 41st Street, N.W. and Fort Reno Park to the
22 east, Wisconsin Avenue, N.W. to the west, and the intersection
23 of Chesapeake Street and Wisconsin Avenue to the south. The
24 site is presently used as a surface parking lot and is
25 improved with a small building.

26 The applicant seeks to construct a

1 residential/commercial mixed-use development on the site. The
2 building will have a maximum height of approximately 65 feet.
3 The development will consist of retail/office uses on the
4 first and second floors along Wisconsin Avenue and will
5 include 42 residential units along Davenport and 41st Streets,
6 N.W.

7 The project will consist of a gross floor area
8 of 78,835 square feet, a floor area ratio of 4.5, of which
9 3.75 would be devoted to residential and .75 for commercial
10 purposes, and a lot occupancy of 85 percent.

11 Sixty-six parking spaces would be provided, 42
12 parking spaces for residential and 24 for commercial uses.
13 The C-2-A District permits matter of right low density
14 development, including office, retail and all kinds of
15 residential uses limited to 1.5 FAR, a maximum height of 50
16 feet, and a maximum lot occupancy of 60 percent for
17 residential uses.

18 The C-2-B District permits matter of right
19 medium density development including office, retail, housing,
20 and mixed uses to a maximum height of 65 feet, a maximum FAR
21 of 3.5 for other permitted uses, and a maximum lot occupancy
22 of 80 percent for residential uses.

23 Under the PUD process of the Zoning Regulations,
24 the Zoning Commission has the authority to consider this
25 application as a final stage PUD. The Commission may also
26 impose development conditions, guidelines and standards that

1 may exceed or be less than the matter of right.

2 Notice of today's public hearing was published
3 in the D.C. Register on February 23, 1999 and the Washington
4 Times on February 26, 1999. This hearing will be conducted in
5 accordance with the provisions of 11 DCMR 3022.

6 The order of procedure will be as follows:

- 7 1. Preliminary matters
- 8 2. The applicant's case
- 9 3. Report of the Office of Planning
- 10 4. Report of other Agencies
- 11 5. Report of the Advisory Neighborhood

12 Commission

- 13 6. Parties and Persons in support
- 14 7. Parties and Persons in opposition.

15 The Zoning Commission intends to establish time
16 limits for all oral presentations of both parties and persons.

17 Accordingly, the time limits shall be as
18 follows: the Applicant, 60 minutes; Other Parties; 15
19 minutes; Organizations, 5 minutes; and individuals, 3 minutes.

20 The Commission intends to adhere to these time
21 limits as strictly as possible in order to hear the case
22 within a reasonable period of time. However, the Commission
23 reserves the right to change the time limits if necessary. No
24 time shall be seeded.

25 The Zoning Commission requests that all
26 witnesses prepare their testimony in writing, submit the

1 written testimony prior to giving statements, and limit oral
2 presentations to summaries of the most important points.

3 Those presenting testimony should be brief and
4 nonrepetitive. If you have a prepared statement, you should
5 give copies to staff and orally summarize the highlights only.
6 Please provide copies of your statement before summarizing.

7 Each individual appearing before the Commission
8 must complete two identification cards and submit them to the
9 reporter at the time you make your statement. If these
10 guidelines are followed, an adequate record can be developed
11 in a reasonable length of time.

12 The decision of the Commission in this case must
13 be based exclusively on the record. To avoid any appearance
14 to the contrary, the Commission requests that parties, counsel
15 and witnesses not engage the members of the Commission in
16 conversation during any recess or at the conclusion of the
17 hearing session.

18 While the intended conversation may be entirely
19 unrelated to the case that is before the Commission, other
20 persons may not recognize that the discussion is not about the
21 case. The staff will be available to discuss procedural
22 questions.

23 All individuals who wish to testify, please rise
24 to take the oath.

25 (Witnesses sworn.)

26 CHAIRPERSON KRESS: Thank you. Ms. Pruitt-

1 Williams, preliminary matters?

2 MS. PRUITT-WILLIAMS: Really no, but staff would

3 like to note for the record that we received the maintenance

4 of the posting of affidavits for the record.

5 CHAIRPERSON KRESS: And there were no party

6 requests that I saw?

7 MS. PRUITT-WILLIAMS: No.

8 CHAIRPERSON KRESS: Thank you. Do you have a

9 preliminary matter?

10 MR. TUMMONDS: Madam Chair, my name is Paul

11 Tummons of the law firm of Wilkes, Artis, Hedrick and Lane and

12 we have one preliminary matter to address to you this evening.

13 The notice of the hearing which you read this

14 evening was the previous notice. Subsequent to the set down

15 for this case and prior to the notice which was published in

16 the D.C. Register, we included the lot to the south of the

17 subject site.

18 CHAIRPERSON KRESS: Prior to?

19 MR. TUMMONDS: Yes, the notice which is

20 published in the D.C. Register included, in the newspaper,

21 included --

22 CHAIRPERSON KRESS: Included the additional lot?

23 MS. PRUITT-WILLIAMS: Was a correct notice.

24 MR. TUMMONDS: That is correct.

25 CHAIRPERSON KRESS: So my statement was

26 incorrect on that point.

1 MR. TUMMONDS: Right.

2 MR. SHOR: Madam Chair, for the record, Steven
3 E. Shor, Director, Zoning Services with Wilkes, Artis, Hedrick
4 & Lane. We just wanted to make clear for the record so that
5 if anyone was in the audience listening to the description of
6 lots, square footages of the site and so forth, they reflect
7 the original application rather than the modified application.

8 The modified application has been on file for
9 some 65 days at this point. It's been in the file. The
10 notice reflects the modified application. All of the
11 statistics and development characteristics cited in the notice
12 are correct. It's just what you read this evening was based
13 on the earlier set of documents.

14 CHAIRPERSON KRESS: All right, perhaps when you
15 make your case, you can put on the record those specific
16 points which I have incorrectly addressed.

17 MR. SHOR: Okay.

18 CHAIRPERSON KRESS: Thank you. With that, next
19 it is the applicant's case, so you can stay.

20 Good evening.

21 MR. TUMMONDS: Good evening, Madam Chair. Once
22 again, my name is Paul Tummonds with the law firm of Wilkes,
23 Artis, Hedrick & Lane.

24 We are here this evening to discuss an exciting
25 new project which is primarily residential, mixed use project
26 with community-related retail uses located on an appropriate

1 site in the Tenley Town neighborhood. This site is currently
2 used as a car and truck rental agency and a deteriorating
3 vacant
4 two-story structure.

5 To begin with, we previously submitted the
6 résumés of three witnesses that we propose to submit as
7 experts this evening. Those witnesses are Ralph Cunningham,
8 the field of architecture; Martin Wells, in the area of
9 traffic engineering; and Steven E. Shor, in the area of land
10 use and planning. We would ask that they be submitted as
11 expert witnesses.

12 CHAIRPERSON KRESS: Thank you. I have reviewed
13 the résumés and I would just ask if anyone has any problems
14 with declaring these three people expert witnesses. They are
15 so declared expert witnesses.

16 MR. TUMMONDS: Thank you. Our presentation this
17 evening should take approximately 30 minutes.

18 I will proceed with a brief introductory
19 statement, followed by Mr. Monty Hoffman, the representative
20 of the applicant. Mr. Ralph Cunningham will then discuss the
21 project. Mr. Martin Wells will then discuss the proposed
22 traffic impacts of the project and then we will conclude with
23 Mr. Shor to discuss the project consistency with the general
24 use land use map and the comprehensive plan.

25 At this time I would like to reserve 30 seconds
26 to conclude our statement with a brief summation of what we

1 are here to do tonight.

2 In addition, I would like to submit for the
3 record two documents. The first is a development
4 construction, and post construction agreement which has been
5 entered into between the applicant and the immediate neighbors
6 of the project. And we would also like to submit a
7 comprehensive set of the development plans. These are the
8 plans which we'll be presenting this evening.

9 CHAIRPERSON KRESS: Terrific. Thank you.

10 MR. TUMMONDS: Since the conception of this
11 project, the applicant has made continuing efforts to include
12 the input of the community and the ANC. Prior to the initial
13 filing of this case in November, the applicant and the
14 architect met with ANC 3E and members of the community.

15 We believe that this project tonight is the
16 culmination of those efforts. As evidenced in the filed for
17 this case, ANC 3E has submitted two unanimous resolutions in
18 favor of this case and there are numerous support letters as
19 well.

20 As we previously mentioned before and as Mr.
21 Cunningham will discuss in his testimony, since this case was
22 set down for hearing, we have included an additional lot, the
23 immediate lot to the south, lot 809, in this project.

24 Mr. Hoffman will describe the community
25 amenities in detail. I would just like to add that we have
26 received concept design approval from the National Parks

1 Service for our proposed relandscaping and maintenance of the
2 triangular park immediately bounded by 41st Street, Davenport
3 and Belt Road and in addition, we will enter into agreements
4 with the Department of Employment Services and the Department
5 of Human Rights and local business development.

6 Again, we're very excited about this exciting
7 new project and we would now start with Mr. Hoffman to discuss
8 his experience with other projects in the District and the
9 development process for this project.

10 Mr. Hoffman.

11 MR. HOFFMAN: Good evening.

12 CHAIRPERSON KRESS: Good evening.

13 MR. HOFFMAN: Since this is my first time before
14 the Commission, I'll give you a brief background on myself and
15 my company. I've been working in the District for the past 17
16 years in development and construction.

17 For the first ten years it was with Donahoe
18 Construction and I had the opportunity to work on several
19 large projects in the D.C. area, some mixed use and some
20 commercial.

21 But about six years ago, I had the bug to start
22 my own company which I did with a fellow named Pete Naselrod,
23 who became my partner. And from the beginning our mission
24 statement was to create extraordinary residences in Washington
25 neighborhoods.

26 And if you recall, 1993 really wasn't a banner

1 year for the District, so this was a real leap of faith on our
2 part. But there was a real demand for our niche and we
3 fortunately were very successful in what we did and we have
4 grown rapidly each year since.

5 From that time until now, we've completed
6 projects in Dupont Circle and Logan Circle and
7 Adams-Morgan and Kalorama, Woodley Park, Foggy Bottom and
8 currently we're working in Old Towne, Alexandria, Forest
9 Hills, Cleveland Park and I think that's about all of them.

10 Anyway --

11 CHAIRPERSON KRESS: Sounds like a lot.

12 MR. HOFFMAN: We've been busy. And we've had
13 very good success so far and as you can tell we've been
14 working in dense, mature neighborhoods. So we've become pretty
15 experienced at working with the community and the neighborhood
16 interest.

17 Our product is an upscale product and you can
18 see by the pictures, I put those up there just for your
19 reference to see the kind of product that we build. Those are
20 just typical of our units and they're all condominiums. And a
21 few of our projects have actually won awards.

22 Our Woodley Park Place won an award last year
23 and that is in Woodley Park on Connecticut Avenue and I think
24 it was successful because we took some vacant row houses and
25 made use of them. And then we built a six-story midrise
26 behind them which sold out actually before we were complete

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 with construction.

2 We also received a lot of compliments on Logan I
3 and II and that's the big mansion on Logan Circle that sort of
4 looks like the Addams Family house. We put \$1.5 million in
5 that a couple of years ago when it wasn't real popular to put
6 that kind of money in that area and we're very proud of the
7 fact that we believe that helps spark other renovation and
8 other development in that area.

9 Just recently we were actually nominated by the
10 Washington Business Journal for our project on -- in Forest
11 Hills which is Park Hill and that's an
12 8-story condominium building.

13 So we're basically taking the creativity and our
14 experience and we're applying it to our Tenley Hill project.
15 And conventional wisdom would look at this site, I think, and
16 look at it for commercial use and probably a destination
17 commercial use which I don't believe would enhance the
18 neighborhood at all.

19 In fact, when I was competing for this property,
20 my competitors were Mobil Oil, presumably they would put a gas
21 station in there in one of those architecturally appealing go-
22 marts or whatever and possibly a Pet Smart could have gone in
23 there and a car dealership I know was also after it.

24 So we didn't see it that way. We saw it totally
25 different. We saw it for family housing and we know that
26 there's a big demand for quality housing in the District. If

1 you ask any agent right now and ask them what their biggest
2 challenge is, they will tell you finding product. There
3 simply isn't enough to fill the demand. This is an
4 opportunity for the District to raise its quality housing
5 stock in that area.

6 I also believe that this particular site is very
7 marketable for housing. First of all, it's within 400 yards
8 of the Tenley Metro Station and secondly, there are fine
9 schools, both public and private, real close by.

10 You can walk to the shops and the restaurants
11 nearby and there's a Safeway and there's a Fresh Fields and
12 Starbucks, all within walking distance of this site. It's
13 definitely marketable.

14 I also believe this project will give back to
15 the neighborhood. I think the obvious benefit to the
16 neighborhood is the elimination of the Budget Truck Rental.

17 If you drive by there on any given day, there's
18 between 20 and 40 trucks, randomly parked throughout the site
19 on the sidewalks and on the streets and they look that way
20 because they're parked by amateurs and I really feel for the
21 neighbors who have had to put up with.

22 Another benefit, I think, for the neighborhood
23 is that we're going to put substantial amount of landscaping
24 and planting around the entire perimeter of the site. Now
25 that's 41st Street, Davenport and Wisconsin Avenue. That's
26 over 600 feet of road frontage that we will be putting

1 landscaping on.

2 Further, we're going to demolish that vacant
3 house that is known right now as the Walforth property and
4 we're going to take this, in my view, a visual blight on
5 Wisconsin Avenue and replace it with quality architecture that
6 Ralph Cunningham will speak to in a few minutes.

7 We're also going to take the triangular piece of
8 ground that is directly to the east of this property and owned
9 by the National Parks Service. It's overgrown with vegetation
10 and trash and it's on a hill and with the guidance of the
11 National Parks Service, we're going to flatten one section of
12 it. We're going to plant grass, we're going to save the
13 mature trees and make it a nice park that the neighborhood can
14 enjoy.

15 We're also going to put sidewalks along
16 Davenport. There's no sidewalks there right now. It's broken
17 glass and gravel right now.

18 The project will also provide 48 homeowners to
19 that neighborhood and presumably these are going to be high
20 income neighbors and they're going to be paying substantial
21 income tax to D.C. which I think is needed. And they're going
22 to patronize the businesses that are along Wisconsin Avenue.
23 It will help stimulate the business corridor along Wisconsin
24 Avenue.

25 And finally, because they're homeowners, I
26 believe that they're going to have a vested interest in this

1 neighborhood in improving the quality of life there.

2 I think the neighborhood recognizes these
3 benefits and I think that's why they're supporting this
4 project. In fact, we approached the neighborhood early on and
5 they helped create some of these benefits, we took their
6 suggestions. We took their ideas.

7 The one thing that I explained to them up front
8 was that we couldn't really be reflexible on was the
9 residential density, because I needed that to make it work, to
10 make it economical. So they were on board with that early on
11 and we got surprisingly very good response from everyone. So
12 we approached the ANC last November and we got an unanimous
13 support decision by the ANC.

14 There's one significant request that some of the
15 neighbors had made at that meeting though, and that was
16 actually to expand our project to the Walforth property which
17 was directly to the south.

18 So after that meeting, I dutifully went to Mr.
19 Walforth. He's a precious 92-year-old man, self-made man and
20 I have a lot of respect for him. He's a ruthless negotiator
21 though, let me tell you. Three and a half months of getting
22 to know each other and actually finally coming to terms.

23 But we got it done and as soon as we got it
24 done, I bought the property and Cunningham and Quill went back
25 to the drawing board. They went back and redrafted our design
26 to include that Walforth property and then we adjusted the PUD

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 application before you tonight.

2 We then went and took that package and
3 represented it for the second time to the ANC. Again, we got
4 unanimous support by the ANC. We also actually got an
5 applause which is somewhat awkward for a developer to see.

6 In any event, it was all very good. We have a
7 lot of community support. We have a petition from many of the
8 neighbors that live around there and a lot of the businesses
9 across the street supporting it. We have letters from the
10 adjoining land owners around this property supporting it.

11 We've drafted and I've committed to a
12 development and construction agreement with the neighbors and
13 you have a recommendation by the Office of Planning to support
14 this project.

15 So I respectfully ask that you support this
16 project tonight, but let me continue my work, and let me
17 continue on my schedule. My goal is to begin construction
18 some time in August.

19 So with that said, I'll leave it to Ralph.

20 MR. CUNNINGHAM: I am Ralph Cunningham from
21 Cunningham and Quill, Architects.

22 We're a Washington-based architecture firm and
23 while we're setting up here, may I ask does the wireless
24 microphone work?

25 CHAIRPERSON KRESS: Yes.

26 MS. PRUITT-WILLIAMS: No, it doesn't.

1 CHAIRPERSON KRESS: Oh no. Well, since I was
2 here last, forgive me.

3 MR. CUNNINGHAM: Well, maybe I can --

4 CHAIRPERSON KRESS: It just happened yesterday.
5 It will be taken care of soon.

6 MR. CUNNINGHAM: That's quite all right. Thank
7 you for having us here this evening. I'm here to talk about
8 the architecture of the project and about the site.

9 Before you on these two easels are the 41st
10 Street side of our site which is the residential entrance to
11 the entire building.

12 As you know, the site is bounded by three
13 streets. It's bounded by 41st Street, Davenport Street and
14 Belt Road. We are developing a mixed use building where 80
15 percent of the square footage will be residential. About 10
16 percent will be office and about 10 percent will be retail.

17 To talk about the context of the site, as you
18 know, we're on Wisconsin Avenue which is a major commercial
19 street in Washington. There are many mixed use buildings on
20 the street, a lot of apartment buildings, a lot of businesses.

21 We are in the Tenley Town area of upper
22 Northwest Washington towards Chevy Chase, but well inside the
23 District. The Tenley Town Metro Station as Monty mentioned,
24 is very close to our site and is right here at the top of a
25 hill.

26 The major landmark in the neighborhood, as you

1 may know, are the Towers of USA Television, Wilson High School
2 which is here, Fort Reno Park which is there, those are the
3 water and sewer authority towers and also Marten's Volvo,
4 Georgetown Day School, Safeway and a number of other mixed use
5 office, commercial, residential buildings.

6 And again, getting in closer to our site, you
7 can start to see the immediate context and to just point out
8 the streets, this is again Wisconsin Avenue, this is Davenport
9 Street, this is 41st Street and this is Belt Road. Again,
10 Fort Reno Park is up here. The triangular park that Monty
11 mentioned is right here. This is an existing mixed use
12 building to our north.

13 And to get directly into the site and to get
14 closer here, you can see the current use which is the Budget
15 Truck and Car Rental site. As you can see, the site is
16 currently being used for a very unsightly use. It's
17 surrounded by very fine single family houses to the north and
18 also row houses and town houses on 41st Street and the
19 Walforth property that had been mentioned earlier is right
20 here. That is an abandoned house that was used for many years
21 as a plumbing company.

22 On 41st Street, we can talk a little bit about
23 the strategy for developing the project. We are very
24 conscious of the fact that we have three very different
25 streets surrounding our site. I should mention though that
26 our site is extremely well buffered from the community, from

1 the adjacent houses because it has streets on three sides and
2 directly to the south is Friendship House which is a homeless
3 social service agency which is right here.

4 On 41st Street, we have a street that is
5 basically composed of single family houses and what we've done
6 is we've placed three townhouses on 41st Street and we've left
7 about 50 percent of the street frontage open as a series of
8 two courtyards. The large courtyard is the primary entrance
9 into the residential portion of our building into the midrise
10 building and then small courtyard is the entrance into the two
11 townhouses to the south and north of it. And again, that
12 drawing shows the midrise building behind it.

13 The townhouses have been developed with a series
14 of bays and stoops. The entrances on
15 Davenport Street are on Davenport Street to create a lively
16 presence on the street. Also on Davenport Street is the
17 entrance to our residential parking area which will have
18 spaces for 52 cars. That is approximately three times what
19 we're required to have by zoning, if we have 48 units, 52
20 spaces.

21 Also on Davenport Street begins the mixed use
22 section of our building. There's a retail base on Wisconsin
23 Avenue, an office level above that and then the five stores,
24 residential space above that.

25 To look at the Wisconsin Avenue facade we can
26 talk a bit about facade composition. To start on the south

1 end of the site we've pulled out building back two feet from
2 the property line at the border with Friendship Place, at
3 their request, so they can continue to use their driveway
4 which is currently shared with the Walforth Property. Then
5 we've created a low rise section of the base at the south end
6 which contains a terrace on top, office space and the loading
7 bay for the building.

8 Then we have the base of the building, the
9 building is divided into base, middle and top. The base,
10 which is two stories and is really a kind of colonnade,
11 contains the retail space on the ground floor. Then there's
12 actually a sort of stripe in the facade which will be used for
13 signage and then above that is office space.

14 Directly above that there is a strong cornice
15 dividing the bottom of the building from the midrise section
16 of the residential section of the building. There are four
17 stories of red brick that you can see in the drawing there,
18 and then a strong top which is a beige brick.

19 The materials of the building are primarily
20 brick which we think is appropriate for a residential
21 building. There are also numerous pieces of cast stone trim
22 and a few other elements like trellises. There's one on the
23 south side of the building and also there's a large trellis on
24 the penthouse on top.

25 In terms of other facade development, the
26 building has also been divided into three sections vertically

1 and that's really to create some relief to a fairly horizontal
2 facade. The middle section which Sal is showing you there is
3 recessed ten feet also to allow for that visual relief.

4 One other element on the Wisconsin Avenue
5 facade, the balconies have been recessed into the building.
6 There are no projections. We wanted to avoid the kind of
7 visual clutter that balconies can cause.

8 Also, in response to some of the comments that
9 were presented to us at the set down hearing, we've raised the
10 height of the cornice at the base. We've changed the design
11 of the base of the building and we've also created more wall
12 in the elevation and less rail.

13 On the south side of the property with the
14 acquisition of the Walforth property, that allowed us to have
15 windows completely covering the south side of the elevation.
16 The base has office windows and then there are residential
17 windows above. On the right, there's a townhouse, the end of
18 the last townhouse.

19 I'll talk about the plan for a moment. The
20 ground floor which is the residential parking level contains
21 52 parking spaces for residents. The next level up which
22 corresponds to the Wisconsin Avenue elevation contains four
23 retail spaces.

24 It also contains a large community room for the
25 building and also for the ANC to use and there's also an
26 office space for that ANC which is provided at their request.

1 Also on that level are 23 commercial parking spaces.

2 One level up which corresponds to 41st Street,
3 there is the main entrance courtyard to the building, the main
4 lobby and the series of five townhouses and two apartments on
5 that level, as well as the office space which is on Wisconsin
6 Avenue side of the building.

7 On a typical floor, there are ten units. These
8 are ten apartments of varied shapes. They range in size from
9 800 square feet to about 1500 square. That's a one bedroom to
10 a two bedroom and a study.

11 On the fifth floor we have something rather
12 unusual. We have two story duplex units which are entered
13 again from the fifth floor. There are 11 duplexes and as you
14 get to the six floor the hall drops out because these are the
15 second floor of those units and then on the top floor there's
16 a penthouse which provides roof access to the terrace for
17 those units.

18 We've been able to keep the penthouse to ten
19 feet tall rather than the customary 18 feet because the
20 elevator drops off at the floor below, so we don't need an
21 elevator penthouse.

22 Also, in response to requests from the
23 Commission, we've provided this photo montage of our building
24 in context. You can see our building right here and you can
25 see how it relates to other large buildings around the site,
26 Wilson High School, Fort Reno Park and existing mixed use

1 building to the north.

2 You might be interested in what we're planning
3 to do with the park. This has received preliminary approval
4 from the Parks Service. Primarily what we're planning to do
5 is to remove the underbrush and it's got quite a bit of refuse
6 on it. We're going to keep all of the mature trees and we're
7 going to create a relatively flat play area on the north side
8 of the site which is in response to neighborhood requests.

9 We're also going to create a stair and access
10 into the park from 41st Street. The neighbors live on 41st
11 Street. Belt Road is really a kind of divider between Fort
12 Reno Park and Tenley Town, so they really felt the need to
13 have this park visible from 41st Street.

14 In section, the building, as you can see,
15 there's quite a slope from Fort Reno Park down to Belt Road to
16 the park where there's another slope, then there's 41st Street
17 and then the court yard of our building, again entered from
18 the 41st Street grade and the Wisconsin Avenue retail is the
19 level below.

20 Also, in response to a request from the
21 Commission, we've created this photo montage also which is a
22 view from Fort Reno Park of our property. This photograph was
23 taken about 300 feet from the property. We've created solid
24 red lines around adjacent buildings and we have a dash line
25 for our building which you can see on the horizon there.

26 Again, to summarize here, to look at the

1 perspective, looking up from 41st Street and Davenport Street
2 on the left and also from the photo montage on the right, we
3 intend to do a very high quality mixed used building on the
4 site. We think it's a very appropriate use for the site and
5 we welcome your support.

6 Thank you.

7 CHAIRPERSON KRESS: Thank you.

8 MR. WELLS: Good evening.

9 CHAIRPERSON KRESS: Good evening.

10 MR. WELLS: My name is Marty Wells.

11 I'm President of Wells and Associates and my
12 company are composed of traffic engineers and transportation
13 planners. I'm a registered professional engineer with some 24
14 years of experience.

15 We've conducted numerous traffic impact study or
16 transportation impact studies of comparable developments for
17 private real estate developers, federal, state and local
18 agencies and institutions.

19 In the past seven years, we've completed more
20 than 900 projects in some 28 states. Our most prominent
21 project in the District of Columbia currently is a parking and
22 traffic study for the Kennedy Center. I've been previously
23 qualified as an expert witness also in the District of
24 Columbia.

25 The case before you this evening, we've
26 evaluated in terms of traffic impacts, parking impacts and

1 loading impacts. I'll be brief.

2 In terms of traffic, the site today is served by
3 some five driveways, three on Wisconsin Avenue, one on
4 Davenport Street and one of 41st Street. The proposal is to
5 consolidate those driveways to three, two on Wisconsin, one of
6 which would be for a single 30-foot loading bay and one on
7 Davenport and those would be more or less located at roughly
8 mid-block.

9 In terms of intersection levels of service in
10 this immediate area, they're generally good. The signalized
11 intersection of Wisconsin Avenue and Davenport Street operates
12 at level service B. The stop sign controlled intersection at
13 Davenport Street and 41st Street operates at A, both of which
14 are considerably better than the level of service D which we
15 generally consider the minimum acceptable standard.

16 The site will generate relatively few trips, a
17 modest number of trips due in large part to its location on a
18 Metro corridor. In the morning peak hour, it would generate
19 about 36 trips, in the afternoon, after 64 trips. Of course,
20 the site generates some traffic today due to the truck rental
21 agency.

22 To put those numbers in perspective, Wisconsin
23 Avenue carries about 27,000 vehicles per day. In terms of
24 parking, the code requires roughly 30 parking spaces. As
25 Ralph as indicated, some 75 spaces will be provided, 23 on the
26 upper level for the nonresidential uses and 52 on the lower

1 level for residential uses. So all of the parking demand can
2 be met on-site. There is a 30-foot loading bay which meets
3 the zoning ordinance.

4 Again, in conclusion, I find that there will be
5 no adverse traffic, parking or loading impacts and I'm
6 gratified to say that the Department of Public Works shares
7 that opinion and in their letter to the Office of Planning
8 they have so stated.

9 That concludes my prepared remarks.

10 MR. SHOR: Good evening, Madam Chairman and the
11 Commission.

12 For the record again, my name is Steven E. Shor.
13 I'm Director of the Zoning Services with the law firm of
14 Wilkes, Artis, Hedrick and Lane. Staff will hand you in a
15 moment the outline that I prepared to discuss this case and
16 I'm going to be even briefer than I usually am because I think
17 we have submitted for the record the information which I've
18 put in this outline and I don't think I need to repeat it for
19 you again.

20 You heard about where the site is and what the
21 description of it, you know what the general area is along the
22 Wisconsin Avenue commercial corridor with Tenley Circle,
23 commercial to the south and Friendship Heights to the north,
24 the broader area off the Wisconsin Avenue corridor containing
25 residential uses and then adjacent to this site east of Fort
26 Reno Park. The zoning along Wisconsin Avenue

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 corridor is shown on the map that I've attached as Exhibit A
2 with the site circled in the middle. It's essentially
3 commercial along the corridor in R-1 and R-2 to the east and
4 the west. The existing zoning on this site is C-2-A.

5 What we have proposed is that the property be
6 rezoned as C-2-B. Under the project, as you heard it
7 described, what we're essentially doing is taking the existing
8 matter of right permitted density for commercial uses of now
9 1.5 and cutting that about in half to .8 and instead proposing
10 to increase the density solely for residential uses.

11 So what you get here is a project that's 80
12 percent residential and only 20 percent office and retail.
13 And the increase in density is solely for residential use.

14 The C-2-A district permits a matter of right
15 height of 50 feet. Under PUD the C-2-A permits a height of 65
16 feet. Even though we're changing the zoning to C-2-B which
17 would allow 90 feet under PUD, the height is being held to the
18 same height permitted under PUD in C-2-A, i.e., 65 feet.

19 So the increase in height over the matter of
20 right height is 15 feet, but as you heard Mr. Cunningham
21 describe, we've kept the penthouse down to about half the size
22 that it might ordinarily be because there's no elevator
23 service to the sixth floor of the building, those top two
24 floors being duplex units and the elevator service stops at
25 the fifth floor.

26 So we've got a building that in total is 65 plus

1 10, rather than 50 plus 18.5.

2 All of that is discussed and described on pages
3 6 and 7 of the report. On page 8, Roman number 8 I've dealt
4 with how this application complies with the PUD evaluation
5 standards of Section 2403 and just to sort of crisply
6 summarize that, the Commission in balancing the public
7 benefits against the development incentives requested, we're
8 providing on-site housing, on-site amenities in terms of
9 design and landscaping, community amenities in terms of park
10 improvements and the construction agreement which you now have
11 a signed copy of in the record, balanced against a 15 foot
12 increase in height for part of the site and an increase of
13 residential density only.

14 On pages 9 and 10 and following I guess through
15 11 and 12, I've done a standard analysis of the compliance of
16 the project with the comprehensive plan. Would note that in
17 addition to all of the normal things that might apply, this
18 project is near the Tenley Town Metro rail station special
19 treatment area, the boundary of that actually just stops to
20 the south, but again if you look at those criteria which are
21 set forth on page 10 at the bottom, one of the things that's
22 called for in the Tenley Town Metro Rail Special Treatment
23 area is provide for the development of substantial new housing
24 and that's what this project provides.

25 We are within the Tenley Town housing
26 opportunity area and this is one of the area where the

1 District expects and encourages either new housing or
2 rehabilitated housing.

3 On page 12 I've dealt with the Ward 3 plan and
4 while the themes in that plan are fairly general, a couple of
5 things stand out. One of the policies in the Ward 3 plan is
6 to increase housing development opportunities in appropriate
7 locations and to provide zoning flexibility for the production
8 of new housing including preference for new housing near Metro
9 Stations.

10 In terms of compatibility with the area, as I've
11 said before and you've heard before, this is a predominantly
12 residential project. It's an appropriate mixed use transition
13 between the commercial character of Wisconsin Avenue and the
14 residential, institutional and park area to the east. It
15 replaces the open vehicle renting facility with a high
16 quality, well designed building. I've talked about the height
17 and the FAR and what that means.

18 As Mr. Cunningham said, we did evaluate the
19 potential impact and compatibility with Fort Reno Park. There
20 are a number of factors to be considered with respect to that.
21 The proximity of the site to the park and the relative
22 elevations, some of which you saw in that photograph.

23 The incremental increase in height is only 15
24 feet here with the roof structure only 10 feet. You've got
25 significant changes in grade and elevation within the park and
26 as you saw on the photograph that Mr. Cunningham displayed,

1 there is a tree screen along the western edge of the park.
2 The height of this building stays below the top of the trees.
3 It doesn't obscure any particular vista.

4 There's no particular site line from within the
5 park across the site that we are proposing to develop here and
6 then again, we've got that triangular piece of ground between
7 41st Street and Belt Road that further separates this site
8 from the edge of the park. The highest part of the height of
9 our site is set furthest away from the park, closest to
10 Wisconsin Avenue, furthest away from the residential
11 neighborhood.

12 So for all of those reasons, we believe that we
13 have come up with an appropriate design and that that design
14 is compatible is compatible with the neighborhood and its
15 surroundings.

16 My conclusions are that the project is not
17 inconsistent with the comprehensive plan. It's within the
18 applicable height and density standards of the zoning
19 regulations. It's compatible with the existing and expected
20 character of the area, that the increased height would not be
21 obtrusive and that the project should be approved.

22 MR. TUMMONDS: As I previously mentioned, I
23 would like to reserve approximately 30 seconds in the time
24 allotted for our rebuttal testimony to provide a brief
25 concluding statement.

26 CHAIRPERSON KRESS: Thank you. With that, I

1 will open it up for questions from the Commissioners. Sure,
2 go ahead. Commissioner Clarens.

3 COMMISSIONER CLARENS: Mr. Shor, can you be
4 brief for me again what are the issues of the PUD process is
5 providing the applicant as opposed to what he could build as a
6 matter of right in the C-2-A district and can we go a little
7 bit slower?

8 MR. SHOR: Two basic things happened.

9 COMMISSIONER CLARENS: The height?

10 MR. SHOR: The C-2-A now permits a matter of
11 right height of 50 feet.

12 COMMISSIONER CLARENS: 50 feet.

13 MR. SHOR: We are proposing a height of 65 feet.

14 COMMISSIONER CLARENS: All right.

15 MR. SHOR: Under the PUD in a C-2-A district,
16 that's the maximum height or the guideline height that the
17 regulations specify. So we are staying within the height of
18 C-2-A under PUD even though we're changing the zoning to C-2-
19 B.

20 The reason for changing the zoning to
21 C-2-B is to get the extra residential density. Under C-2-A,
22 the overall maximum density is 2.5 of which 1.5 may be
23 commercial. So if you maximized your commercial you'd have
24 1.5 commercial and one residential. What this project is
25 providing is .8 FAR commercial and 3.7 FAR residential for a
26 total of 4.5. So the reason to go to C-2-B is to get the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 extra residential density.

2 COMMISSIONER CLARENS: 3.5?

3 MR. SHOR: 4.5 total of which 3.7 is residential
4 and .8 is office and retail.

5 COMMISSIONER CLARENS: I'm trying to absorb
6 this. Recreational space, maybe it was mentioned. Where is
7 the recreation space in the building?

8 MR. SHOR: There are recreation space areas
9 available in three places. The two courtyards on the ground
10 floor which serve as passive recreation space, and then
11 there's roof top terraces for the units that -- there are 11
12 units on the top floor. We'll have staircases that go from
13 the units interior to the roof structure and then out onto a
14 roof top terrace.

15 COMMISSIONER CLARENS: For those 11 units?

16 MR. SHOR: For those 11 units.

17 COMMISSIONER CLARENS: So the rest of the
18 residential units don't have any recreation space?

19 MR. SHOR: Other than the open space available
20 on the ground level, no, and the fact that you've got the park
21 area right across the street.

22 COMMISSIONER CLARENS: C-2-B, 15 percent of the
23 total growth for an area needs to be dedicated to residential
24 recreation space. Is that correct?

25 MR. SHOR: That sounds right. I don't have my
26 regs right here, but I can get them.

1 COMMISSIONER CLARENS: And it says on 773.5 that
2 the area of a balcony shall not be counted to satisfy the
3 residential recreation space requirements of the building or
4 the balcony portion of it that joins an individual residential
5 unit and is accessible only from that unit. So these terraces
6 on the roof actually do not contribute to the recreation
7 space. Is that correct?

8 MR. SHOR: The area on the roof is not a balcony
9 and I didn't talk about the balconies even though there are
10 some individual units that have balconies.

11 COMMISSIONER CLARENS: But they are accessible
12 only through the units.

13 MR. SHOR: Roof top space is accessible from the
14 units only.

15 COMMISSIONER CLARENS: They are private.
16 They're not public.

17 MR. SHOR: That's correct. They're not
18 available to everyone in the building.

19 And there's also a community room in the
20 building which could serve as recreational space depending on
21 what the building wants --

22 COMMISSIONER CLARENS: Was is the area of that
23 and how close does it come to satisfying the 15 percent
24 requirement? Do you have an idea?

25 MR. SHOR: The community room is only about,
26 according to the plans we've submitted, only about 200 square

1 feet. We show the courtyard as being about 3300 square feet,
2 the roof terrace is 7800 square feet, the community room, 200
3 square feet. That's what the calculations are shown on D-1.

4 COMMISSIONER CLARENS: The last question at
5 least for the time being, the percentage of lot occupancy? I
6 understand that on C-2-B you would have 80 percent. Under C-
7 2-A it would be 60 percent, a residential building?

8 MR. SHOR: Yes.

9 COMMISSIONER CLARENS: And what is the percent
10 of lot occupancy of this proposed --

11 MR. SHOR: 83 percent.

12 COMMISSIONER CLARENS: Okay. No more questions,
13 Madam Chair, for the time being.

14 CHAIRPERSON KRESS: At this moment.

15 COMMISSIONER CLARENS: At this moment

16 CHAIRPERSON KRESS: Thank you. Other questions?
17 Commissioner Parsons?

18 COMMISSIONER PARSONS: I wonder if you could put
19 up Sheets A-14 and A-17. It's the section and the view from
20 Fort Reno.

21 I'm confused here and I think there might be
22 some inaccuracies in the section or maybe the section isn't
23 where this photograph was taken from, but certainly if you
24 look very quickly at the section you can see that the building
25 totally obstructs to a great height any view from Fort Reno
26 Park. It's not as what's simulated in the drawing on the

1 right, so something is wrong here. Either the topography as
2 shown on the section is inaccurate or that building should
3 frankly fill out the sky in your visual simulation.

4 MR. CUNNINGHAM: Mr. Parsons, I think the
5 problem is that this section doesn't go up as high as the
6 photograph. The photograph is taken 300 feet away from the
7 building. There's a knoll in the middle of the site at Fort
8 Reno Park which is really the majority of the park, actually,
9 a kind of knoll --

10 COMMISSIONER PARSONS: Why don't you scale that
11 out? I see a scale in the section -- to see where 300 feet
12 might fall.

13 (Pause.)

14 MR. CUNNINGHAM: Can you see my stick figure?

15 CHAIRPERSON KRESS: No, you were standing in
16 front of it. Do it again.

17 MR. CUNNINGHAM: Let me make it very obvious.

18 COMMISSIONER PARSONS: Well, wouldn't you agree
19 then that if I'm your stick figure looking towards that
20 building that I would see a lot more of that building before
21 I'd get to the horizon, if you see what I mean.

22 MR. CUNNINGHAM: It depends on the height of the
23 trees in the foreground. I mean this building here is an
24 existing as of right building which is 50 feet high, plus an
25 18 foot penthouse and --

26 CHAIRPERSON KRESS: And that is there right now

1 because you can't see it in our drawing. That was one of my
2 questions. That building is there and it's being obscured by
3 the landscape, trees --

4 MR. CUNNINGHAM: Can I just put this up for a
5 minute and then take it back down.

6 (Pause.)

7 This building is the building I'm talking about.

8 COMMISSIONER PARSONS: And the height of that
9 building is what?

10 MR. CUNNINGHAM: That building is this one.

11 COMMISSIONER PARSONS: Yes, and the height of
12 that building is what?

13 MR. CUNNINGHAM: It's a 50 foot tall as of right
14 building with an 18 foot penthouse.

15 COMMISSIONER PARSONS: So that building is 68
16 feet and yours is 65?

17 MR. CUNNINGHAM: That's right.

18 COMMISSIONER PARSONS: It must be at a slightly
19 lower elevation than yours, is that correct?

20 MR. CUNNINGHAM: It is, it is. Wisconsin Avenue
21 sloping down there. I don't know what the exact slope is
22 between the two buildings.

23 COMMISSIONER CLARENS: And your line is actually
24 drawn at 68 plus 18 or 65 plus 10 --

25 MR. CUNNINGHAM: The line there is 65 feet.

26 COMMISSIONER CLARENS: The line that is drawn?

1 MR. CUNNINGHAM: Yes.

2 COMMISSIONER CLARENS: That dotted line is 65

3 feet, so we don't see the penthouse?

4 MR. CUNNINGHAM: That's correct.

5 COMMISSIONER PARSONS: I missed that. You mean

6 the dotted line does not show us the penthouse top?

7 MR. CUNNINGHAM: It doesn't show the penthouse

8 of our building.

9 COMMISSIONER PARSONS: Why not?

10 MR. CUNNINGHAM: We didn't think that you would

11 see it on the horizon. I mean I can draw a little sketch if

12 you want to, the approximate height of it.

13 COMMISSIONER PARSONS: The purpose in asking for

14 this diagram is to see what impact the building would have and

15 we're certainly not going to see through the penthouse, are

16 we, in this location?

17 MR. CUNNINGHAM: The penthouse is set back 10

18 feet from the edge of the building and it's 10 feet tall. And

19 remember, that you're also looking over the parapet of our

20 building at the penthouse.

21 CHAIRPERSON KRESS: But you wouldn't see it, but

22 it's look say perhaps more like 5 feet instead of 10 feet?

23 MR. CUNNINGHAM: That's correct. I don't know

24 exactly how much of it you can see, to be honest.

25 COMMISSIONER PARSONS: We would see 10 more

26 feet, wouldn't we?

1 MR. CUNNINGHAM: No, because you're below it and
2 you're looking up at the building.

3 COMMISSIONER CLARENS: From this distance I
4 think you would see most of it.

5 MR. CUNNINGHAM: Perhaps you would see all 10
6 feet of it. I don't know.

7 COMMISSIONER PARSONS: Why does the penthouse
8 have to be so -- cover so much of the roof?

9 MR. CUNNINGHAM: The penthouse serves two
10 functions. It's roof access for the duplex units and it is
11 also mechanical. All of the individual units for all the
12 apartments are on that roof and they're actually all enclosed
13 in the penthouse. I mean they're open to the sky, but they're
14 enclosed.

15 COMMISSIONER PARSONS: Do you have a penthouse
16 plan for what's going to be contained in that penthouse? I
17 don't see one in the drawings.

18 (Pause.)

19 MR. CUNNINGHAM: This is an actual roof plan of
20 the building, the roof and penthouse plan. You can see all of
21 the 11 different sets of stairs going up to the roof.

22 This is a series of colonnades around the
23 building which are really like trellises and all of this space
24 in the center is mechanical space. So it's a sort of a
25 mechanical core in the middle, surrounded by roof access,
26 surrounded by colonnades, surrounded by roof terrace.

1 COMMISSIONER PARSONS: I guess it's a concept
2 I'm not familiar with. What's going on up here? What is
3 this?

4 MR. CUNNINGHAM: The duplexes all have -- they
5 basically have two sets of stairs. They have a set of stairs
6 that goes from the fifth floor to the sixth floor and then a
7 set of stairs that goes from the stair up into the roof.

8 COMMISSIONER PARSONS: So these are three story
9 units, essentially?

10 MR. CUNNINGHAM: Essentially, but they have just
11 roof access in the penthouse.

12 COMMISSIONER CLARENS: They're not occupied,
13 there are no defined rooms on the --

14 MR. CUNNINGHAM: No, the maximum width of the
15 roof access is 6 feet.

16 COMMISSIONER PARSONS: So what occurs up there,
17 sunbathing?

18 MR. CUNNINGHAM: It's recreation space for those
19 units. It's very valuable space. They're beautiful views
20 from the exterior terraces.

21 COMMISSIONER PARSONS: Plus the views that I'm
22 trying to save from Fort Reno.

23 So if we eliminated those, what would the size
24 of the penthouse be?

25 MR. CUNNINGHAM: If we eliminated the roof
26 access?

1 COMMISSIONER PARSONS: Yes.

2 MR. CUNNINGHAM: It would be the same height. I

3 think that we might be able to pull in the perimeter of it.

4 I'm not sure.

5 COMMISSIONER PARSONS: Where are the mechanical

6 air conditioners or whatever?

7 MR. CUNNINGHAM: That's all in the center of the

8 penthouse.

9 COMMISSIONER PARSONS: Oh.

10 COMMISSIONER CLARENS: And some of these spaces

11 are open to the space below?

12 MR. CUNNINGHAM: Yes.

13 COMMISSIONER CLARENS: But the space below is

14 where the bedrooms of the duplex units are going to be?

15 MR. CUNNINGHAM: Most of the spaces below are

16 actually studies where they're double height spaces.

17 So it creates a --

18 COMMISSIONER CLARENS: So how are the units

19 going to work? You enter and you have your living and dining

20 room on the first level?

21 MR. CUNNINGHAM: Yes, in general, the duplex

22 units have an entry with a stair that goes up two flights,

23 living, dining, kitchen, maybe a study, depends on the unit.

24 The second floor has bedrooms and a study and where generally

25 where there are double height spaces that is into the study.

26 And then the third level of the duplex which is roof access is

1 on this level --

2 COMMISSIONER CLARENS: Is there a landing of the
3 stair and you access to the terrace.

4 MR. CUNNINGHAM: Right, and access to the
5 mechanical space and the mechanical space for these units is
6 here, as well as the mechanical space actually for virtually
7 all the units in the building.

8 COMMISSIONER CLARENS: And without getting into
9 a discussion on the -- and in deference to what Mr. Parsons is
10 coming from, architecturally without getting into the style of
11 the building or the massiveness of the building, shouldn't or
12 couldn't that be developed as a more transparent structure?

13 MR. CUNNINGHAM: Well, in fact, it is primarily
14 glass and columns. It is --

15 COMMISSIONER CLARENS: Okay, we don't see that -
16 - where do we see that?

17 MR. CUNNINGHAM: If you look at the Wisconsin
18 Avenue elevation, I think there's probably some --

19 COMMISSIONER CLARENS: I see. I get it. I see.

20 MR. CUNNINGHAM: A-10, if you look at that and
21 see -- could you move that to the left?

22 COMMISSIONER CLARENS: I saw it, I saw it.

23 MR. CUNNINGHAM: So it's primarily columns, a
24 series of beams sticking off the columns sort of like a
25 trellis. And there are very large areas there, actually open
26 to the sky.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 COMMISSIONER CLARENS: And planting?

2 MR. CUNNINGHAM: Sure, there's planting -- I
3 mean there can be planting as part of the building and as part
4 of the owners' use of the terrace. But these areas here where
5 the grade comes in, those are open to the sky.

6 COMMISSIONER CLARENS: But planting can happen
7 two ways. It can happen just simply by the will of the owners
8 and it can be also by design of the developer team.

9 MR. CUNNINGHAM: Yes.

10 COMMISSIONER CLARENS: As it were. And it will
11 soft the top of this building significantly if landscaping
12 were to be presented. Now obviously it's an issue of the
13 condominium structure how that planting gets maintained, but
14 at least you would give it a fighting chance.

15 COMMISSIONER PARSONS: Thank you trying to help
16 me. I'm not sure it did, but let's move on to the letter from
17 the Parks Service to Ms. Kress. I sense from this letter that
18 maybe there isn't total agreement on the concept that has been
19 expressed here.

20 And in an effort to move this project along, I
21 guess since there's so much support for it, what we've done in
22 other circumstance here on the Commission is rather than a
23 specific plan which may be subject to change so that you don't
24 have to come back here, is that -- because there are other
25 people that are going to have to review this, as you probably
26 know, that we get a financial commitment from you and that is

1 part of our order, rather than a specific plan. And then
2 you're at liberty to go ahead and do what everybody agrees on.

3 I don't know that you've given a cost estimate
4 or have any idea of where you are at this point, but I think
5 that would probably be more helpful than the plan you've
6 presented. I don't really agree with that, but -- you don't
7 have to jump to a figure tonight. I mean you could provide it
8 for the record, but I think that would be more helpful here.

9 MR. TUMMONDS: I think in response to Mr.
10 Parsons, when we met with the Parks Service on February 22 to
11 address these issues and to go over our landscape plan, the
12 main concerns they had were that one, they wanted to make sure
13 that we were going to use native species, rather than
14 nonnative species.

15 They wanted to make sure that the plantings we
16 were putting there would require a minimum amount of
17 maintenance so that we don't have the problem that we have now
18 where if at some point in the future maintenance does not
19 occur, then you would turn into the situation we have now.

20 While the home owners' association will be
21 required to maintain this project, we believe that the
22 comments that National Parks Service will have on this will
23 not be that great, but again we will do whatever we think is
24 necessary to get the National Parks Service approval. We'll
25 pledge a number now.

26 MR. HOFFMAN: 30,000.

1 COMMISSIONER PARSONS: Certainly you couldn't do
2 all this for --

3 MR. HOFFMAN: We're our own contractor. We
4 would be -- we are a builder, meaning we're sort of a
5 developer/contractor. We'd be doing the work ourselves with
6 some of our own people. So there wouldn't be a lot of the
7 extraordinary stuff that you may normally see as a bid, but
8 \$30,000, I believe, would do that.

9 COMMISSIONER PARSONS: Build a stairway, the
10 retaining walls, the paving areas, all the new trees?
11 \$30,000?

12 MR. HOFFMAN: Yes.

13 COMMISSIONER PARSONS: I don't know how to react
14 to that because that's why I didn't want you to do that
15 tonight.

16 (Laughter.)

17 MR. HOFFMAN: I'm interested in putting it to
18 resolution and if that --

19 COMMISSIONER PARSONS: I think \$30,000 is much
20 too small a figure.

21 MR. HOFFMAN: If you're uncomfortable with that
22 I will add \$8,000.

23 COMMISSIONER PARSONS: I'm not going to
24 negotiate it, Madam Chair.

25 MR. HOFFMAN: My intention really isn't to
26 negotiate, it's really to resolve. When we get into it and we

1 decide or find out that the funds are insufficient, I'll deal
2 with it, I suppose at that time.

3 CHAIRPERSON KRESS: Any other questions?

4 COMMISSIONER HOOD: I'd like to know for the
5 community room, are the ANCs and the community groups, are
6 they going to be responsible for paying the rent or how is
7 that going to be worked out?

8 MR. HOFFMAN: The community room, no, to
9 directly answer your question. They're not going to be paying
10 rent in there. That is a provision that we made to the
11 community.

12 This community room is also going to be
13 available to others such as the residents above, as a party
14 room or a business function room, that sort of thing.

15 COMMISSIONER HOOD: So I guess the ANC will not
16 have an office here?

17 MR. HOFFMAN: They will have an office.

18 COMMISSIONER HOOD: They ill have an office?

19 MR. HOFFMAN: Yes.

20 COMMISSIONER HOOD: And they will pay that rent?
21 They won't?

22 MR. HOFFMAN: There's no rent to the ANC. This
23 was a gift to the neighborhood as part of our amenity package.
24 They had requested at the first ANC meeting and we said that
25 would be fine and we worked to do that.

26 COMMISSIONER HOOD: Okay. Also, if you can turn

1 to A12, I may be getting myself into trouble, but A12. Put
2 that back up. 41st Street east elevation.

3 (Pause.)

4 I want to make sure I'm correct. You have three
5 townhomes and the other entrances into the condominium piece,
6 am I correct?

7 MR. CUNNINGHAM: That's correct.

8 COMMISSIONER HOOD: Now the lighter brick, is
9 that just for definition in your drawings here or is that
10 actually how it's going to look?

11 MR. CUNNINGHAM: That's actually what we're
12 intending.

13 COMMISSIONER HOOD: So you're going to have two
14 different color bricks on the lower half of the drawing?

15 MR. CUNNINGHAM: That's correct. There are four
16 basic exterior materials of the building. One is red brick.
17 One is cream brick. One is cast stone and one is glass.

18 COMMISSIONER HOOD: The darker red as opposed to
19 the lighter red.

20 MR. CUNNINGHAM: That is really just to receive
21 the midrise building into the background and to bring the
22 townhouses forward which are on the street.

23 COMMISSIONER HOOD: So it will be coordinated
24 all the way across?

25 MR. CUNNINGHAM: Yes, the colors are exactly the
26 same.

1 COMMISSIONER HOOD: I'm going to give you a
2 scenario about the parking. It's in the report that the
3 commercia parking spaces will be also be available to be used
4 by residents and their guests during the hours that the
5 commercial tenants are closed. I've seen other cases like
6 this, I just haven't seen how they actually pan out.

7 If you have 23 vacant parking spaces in which
8 you're allowing the residents to use, when the commercial
9 businesses open in the morning, what kind of problem do you
10 foresee if everybody doesn't get up and go to work and that's
11 a question I ask constantly. I see a problem.

12 MR. HOFFMAN: I don't have an answer for that.
13 I honestly do not have an answer to that. There could be a
14 conflict there. It was basically there was sort of a kind of
15 safety valve type thing. If somebody was having a get
16 together in the evening and of course it's after the building
17 hours that they could use that parking for a few hours. We'd
18 have to regulate it in some way.

19 We just really never got to that definition that
20 you're asking me right now. We'd have to regulate and put
21 certain restrictions on that, that's all.

22 COMMISSIONER HOOD: And you're going to submit
23 that?

24 MR. HOFFMAN: Yes, and would incorporate that
25 into the condominium regime to regulator.

26 COMMISSIONER HOOD: In theory, I think it's a

1 great idea, but we live in the real world and those things do
2 happen and when the retail and the commercial piece opens up
3 in the morning, those spaces are filled and I just see a
4 problem.

5 Next question is in your construction agreement
6 on page 6, I see it's been signed by the Advisory Committee,
7 but are they fully aware -- I'm just curious of what kind of
8 urgent matters you may have in construction. Are they aware
9 that maybe you might have an urgency using a bulldozer at
10 night until about 10:30 in construction?

11 Let me rephrase the question. Maybe I wasn't
12 quite clear. If you -- you have here in your document that
13 you may come up with some urgent matters that you may have to
14 deal with after normal working hours. I just want to make
15 sure that the community is aware that at 10:30 some of your
16 urgencies may be dealing with a bulldozer.

17 MR. TUMMONDS: The way that the construction
18 agreement has been drafted is that there is a contact person
19 for the community and a representative of the developer, the
20 construction company. When we foresee the need to do overtime
21 hours, we will provide that notice to the contact person for
22 the community who will then provide that information to the
23 community.

24 COMMISSIONER HOOD: And I see that will be done
25 two working days in advance?

26 MR. TUMMONDS: Yes, when possible. Two working

1 days.

2 MR. HOFFMAN: Mr. Hood also, this agreement
3 actually came off on agreement, a prior agreement at
4 Friendship Heights with the McCaffrey project and we were told
5 that it was very successful. Jill Diskin who chairs the ANC3E
6 lives literally across the street from there and so as a
7 practical matter, at least speaking from that experience, it
8 worked quite well and I think a lot of this, in any agreement,
9 still relies on trust within the parties not to abuse it.

10 The emergency is just that, just for -- a water
11 line bust, something God awful would happen. That would be
12 the only time that that would be done.

13 COMMISSIONER HOOD: My last question, what type
14 of retail businesses are you trying to recruit?

15 MR. HOFFMAN: I am not recruiting anybody just
16 yet. I would love to -- joke, there's not a Starbucks within
17 100 yards. We'd like to get a Starbucks there. We're looking
18 at putting our own market center there to sell our product,
19 our condominium product, so that would be a retail. And
20 Randall Hagner may have a real estate agency there and I guess
21 that could be considered retail, sort of a light, soft retail.
22 But nothing of any real intense activity.

23 Please keep in mind that we're selling upscale
24 residences, so I'm sort of aligned with the community. What's
25 good for the community is good for this project, so we're
26 looking for something that's rather soft. We're community

1 oriented.

2 COMMISSIONER HOOD: They play a role in making
3 suggestions and would you take what the community has to give
4 you under advisement?

5 MR. HOFFMAN: Well, we've limited the actual
6 usages already in the agreement. I don't know the exact
7 wording but basically what the community had already said is
8 that they did not want a fast food establishment.

9 COMMISSIONER HOOD: That's where I was going.

10 MR. HOFFMAN: I don't want that either. They
11 didn't want a dry cleaning establishment. I don't want that.
12 I don't want a check cashing, a pawnshop, a liquor shop.
13 Porno-video store. We don't want any of that business. And
14 we discussed a lot of this and it's actually in the retail
15 exclusions, page 10 of the agreement.

16 COMMISSIONER HOOD: Well, under C-2-B, it is
17 permitted, so that's why I was just concerned, but then again
18 under the PUD process I'm sure, but I just wanted to make sure
19 that you restrict it.

20 MR. HOFFMAN: We're restricting it through the
21 agreement.

22 COMMISSIONER CLARENS: I have one other question
23 here. Okay, thank you.

24 CHAIRPERSON KRESS: Any other questions?

25 COMMISSIONER CLARENS: Yes.

26 CHAIRPERSON KRESS: Commissioner Clarens.

1 COMMISSIONER CLARENS: Unfortunately. Getting
2 back to the floor plan at the Wisconsin Avenue elevation, what
3 is the logic of placing the loading berth and the garage entry
4 off of Wisconsin Avenue?

5 MR. CUNNINGHAM: We are surrounded by two
6 virtually completely residential streets.

7 COMMISSIONER CLARENS: No, that's not
8 necessarily factual, right? The street that is from this
9 side, what is the name of that street?

10 MR. CUNNINGHAM: 41st Street.

11 COMMISSIONER CLARENS: 41st Street.

12 MR. CUNNINGHAM: 41st Street is here, Davenport
13 Street is here.

14 COMMISSIONER CLARENS: And Davenport Street has
15 a building adjacent to it which is residential above, but it's
16 basically commercial -- it's not a residential character
17 street.

18 We have what could be a handsome building on
19 Wisconsin Avenue, adding quality to what is a rather not a
20 very pretty part of town and we're placing services, entrance
21 to garages, unloading, right on the avenue.

22 MR. CUNNINGHAM: There are a couple of issues
23 with that. One is that the only -- well, virtually, the only
24 retail entrances are on Wisconsin Avenue. There's one on the
25 corner of Davenport Street and Wisconsin Avenue. So we
26 thought that for access, for commercial parking to get to

1 those retail spaces that that would be convenient.

2 Also, I think that we heard from the neighbors
3 that there was really no interest in having a loading berth on
4 Davenport Street or on 41st Street. So that was one issue
5 that they wanted to avoid by -- Monty mentioned earlier the
6 possibility of a Pet Smart coming there. They were going to
7 have the loading berths on 41st Street.

8 So that was one of the reasons. The other is
9 that there's a grade change on the site and we have a kind of
10 neat, meaning clean situation with access. The grade rises to
11 the south on Wisconsin Avenue, so we're able to drive pretty
12 much right in a grade to that garage.

13 And then we're also, because the grade drops,
14 down towards the corner of Davenport, so the residential
15 parking level is able to go down a short ramp and be in the
16 parking.

17 I should also mention that residential parking
18 entrance faces an alley across the street. There's an alley
19 between that existing building, the mixed use building to our
20 north and house to its east.

21 COMMISSIONER CLARENS: I'm sorry, you lost me
22 there. What was that last statement? What was it about the
23 alley? What did you say?

24 MR. CUNNINGHAM: This is our residential parking
25 entrance here. Right there. You see there's a house right
26 here. Okay, and then that's our Wisconsin Avenue entrance for

1 commercial parking.

2 COMMISSIONER CLARENS: And the loading dock will
3 have an overhead roll down door right on the face of the
4 building?

5 MR. CUNNINGHAM: No, we'd want to recess it in
6 some way. We want to avoid the kind of noisy clattery door
7 right there. There will be office space directly above and I
8 think that's a technical problem that we'll have to try to
9 solve.

10 One way to solve that might be to just use a
11 sectional door rather than a coiling door.

12 COMMISSIONER CLARENS: And the retail garage
13 will be open and gated with a bar or will it have a door or
14 how is that going to be?

15 MR. CUNNINGHAM: The doors are recessed from
16 Wisconsin Avenue facade and it will have a door for closing it
17 at night.

18 COMMISSIONER CLARENS: During the day it will be
19 open.

20 MR. CUNNINGHAM: During the day it will be open
21 and also really the same thing happens with the residential
22 parking entrance. I think Monty will tell you that he has a
23 lot of experience with this because you know, you're selling
24 condominiums above a garage entrance and it's a big issue as
25 what does that look like, first of all, but secondly, what
26 does it sound like.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 COMMISSIONER CLARENS: It's kind of unfortunate
2 because you're doing a building, I believe, on Connecticut
3 Avenue?

4 MR. CUNNINGHAM: Yes, we are.

5 COMMISSIONER CLARENS: And Connecticut has a
6 quality of buildings along the avenue which is really
7 exceptional in American cities and Wisconsin Avenue
8 unfortunately doesn't share that and I see this project on its
9 positive side contributing to an improvement of Wisconsin
10 Avenue, both in terms of quality and terms of the residential
11 aspect and its bulk, etcetera, etcetera which might have
12 adverse issues in other areas as far as the avenue is
13 concerned.

14 And then all of a sudden to have this loading
15 dock and this entrance to a retail garage, it could be an
16 elegant facade on the avenue is really an unfortunate thing.

17 MR. CUNNINGHAM: All I can say that we will, it
18 certainly is our very strong desire to camouflage those
19 entrances as best we can. I should point out one thing about
20 the loading dock which is that because this is a relatively
21 lightly retail building, it's only 10,000 square feet of
22 retail and it's 80 percent residential, we think the use of
23 the loading berth will be relatively infrequent, so one of the
24 concerns we have about it is this idea of driving past there
25 and the gaping door is open and you see the truck in there.
26 We think that with a primarily residential use of the building

1 that that won't be happening.

2 COMMISSIONER CLARENS: There's no way to move
3 that over to the -- garage obviously, you cannot -- you have
4 studied the thing and I assume you are sensitive to what I'm
5 talking about and there's no way to move that entrance over to
6 the southern end of the property?

7 MR. CUNNINGHAM: To the southern end -- not on
8 Wisconsin Avenue, I assume, but you're talking --

9 COMMISSIONER CLARENS: On Wisconsin Avenue all
10 the way to the bottom of the south end of the site.

11 MR. CUNNINGHAM: You're talking about the
12 garage entrance now?

13 COMMISSIONER CLARENS: The garage entrance?

14 MR. CUNNINGHAM: Yes, because the loading dock
15 is separated by the -- you can see on the Wisconsin Avenue
16 facade there, four glass bays of retail space and there's --
17 I'm just telling you what's happening here. And then there's
18 the residential commercial parking entrance. Is that what
19 you're talking about?

20 COMMISSIONER CLARENS: Yes.

21 MR. CUNNINGHAM: Here's the loading dock right
22 here and here is the residential and it's the commercial
23 parking entrance right there. And what we've done is we've
24 recessed these doors back into the facade to create shadows
25 across there. This door, we're going to have to do something
26 cosmetic to make it look like metal panels or some part of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 building.

2 COMMISSIONER CLARENS: Which door?

3 MR. CUNNINGHAM: The loading door here.

4 COMMISSIONER CLARENS: Where does that show up

5 in our plans and what plan would that --

6 CHAIRPERSON KRESS: Do we have plans?

7 COMMISSIONER CLARENS: Can you pull out the plan

8 and show us where that loading is?

9 MR. CUNNINGHAM: Here is the loading berth right

10 here. There's the garage entry.

11 COMMISSIONER CLARENS: So actually I don't have

12 the latest.

13 CHAIRPERSON KRESS: They handed that out

14 tonight.

15 MR. CUNNINGHAM: If you look at the 11 by 17

16 book. To answer your question --

17 CHAIRPERSON KRESS: They did what you actually -

18 -

19 COMMISSIONER CLARENS: So actually you've done

20 what I've asked for.

21 CHAIRPERSON KRESS: What he was asking you to

22 consider doing, you've done.

23 COMMISSIONER CLARENS: Okay, I apologize for

24 wasting your time. That's okay, that's fine. That's better.

25 CHAIRPERSON KRESS: Any other further questions?

26 Is anyone here from the ANC that wishes to cross

1 examine the applicants? I didn't identify anyone from the ANC
2 who was here. Thank you.

3 Thank you for your presentation and we'll come
4 back to you at the end.

5 With that we'll move to Office of Planning.

6 MR. BASTIDA: Good evening, Madam Chairperson
7 and members of the Commission. For the record, my name is
8 Alberto Bastida with the Office of Planning. The Office has
9 submitted its report on March 29th. We analyzed the existing
10 and proposed map amendment, the consistency with the
11 comprehensive plan, neighborhood impact, zoning and the
12 amenity package that the applicant proposed.

13 The Office of Planning was impressed by the
14 applicant's actions regarding the negotiation with the Office
15 of Planning which requested a multitude of details and
16 improvements with the facade. I think that the building will
17 provide a strong design character to Wisconsin Avenue that
18 presently lacks and accordingly, the Office of Planning
19 enthusiastically recommends approval of this application.

20 The Office of Planning filed on Tuesday two
21 reports, one from the Office of -- the Metropolitan Police
22 Department and the other from the Department of Public Works.
23 The Department of Public Works says that they support the
24 proposal. The Department, the Metropolitan Police Department
25 has no objections to the proposal.

26 That concludes my presentation and I will try to

1 answer any questions you may have. Thank you.

2 CHAIRPERSON KRESS: Thank you.

3 Questions for Office of Planning, Mr. Bastida?
4 Any questions?

5 Thank you. We have no questions. Does the
6 applicant wish to cross examine Office of Planning.

7 MR. TUMMONDS: No.

8 CHAIRPERSON KRESS: With that we'll move on to -
9 - since no one from the ANC is here we do have the letters in
10 the file, am I correct? So no one wishes to testify on behalf
11 of the ANC?

12 With that we'll move to the persons in support.
13 Are there any people who wish to testify this evening in
14 support?

15 MR. NATHANSON: Thank you, Madam Chairman. I am
16 here this evening in the capacity as a member of the Executive
17 Committee of the Community Council for the Homeless at
18 Friendship Place which operates and owns the property
19 immediately to the south of this project.

20 And I believe you have in the record a letter of
21 our support and I believe you have what was submitted earlier,
22 a copy of the agreement that exists between Mr. Hoffman and
23 Community Council for the Homeless at Friendship Place.

24 We enthusiastically support this. I would say
25 that Mr. Hoffman came and met with us on at least a couple of
26 occasions. At the first meeting Jill Diskin, the Chair of the

1 ANC and one of the immediate neighbors was present and we
2 expressed concerns and reflected on our needs and the result
3 of these discussions was an amicable agreement whereby Mr.
4 Hoffman agreed to set his property two feet back off the
5 property line which was not his original intent and plan to
6 allow us to continue to use the area between us as parking for
7 our outreach vehicles, as well as some employee parking.

8 I won't go into all the details of the
9 agreement. Let me just say that Mr. Hoffman has agreed to
10 meet our needs and we also have given him an easement in the
11 rear of our property so that he can finish off his project in
12 a way that will benefit not only his folks, but us as well.
13 And we have no overriding concerns about the project.

14 He has agreed in the discussion about the
15 loading bay, even in the agreement is a comment that we would
16 be able to use that when it's not being used and there's a
17 notice agreement in there, for parking also for our needs as
18 well.

19 He will also fix up our front porch with his
20 people and so forth and so on. So we are very happy with the
21 immediate neighbor. We think the fact that he did buy that
22 property next to us will be a real boon to the community
23 because that property was deteriorating and I think the
24 neighborhood is very lucky.

25 I would say, reflecting on another hat I wore at
26 one time, I was a member of the Council when the comprehensive

1 plan went through. That in fact, designated the Tenley area
2 as part of its character that it be a housing opportunity and
3 even though technically this area is maybe just a block
4 outside the circle that's on the map, that this is certainly
5 consistent with the development that the community would like
6 to see in the Tenley area and I would only hope that other
7 developers who have interest there would look at this example
8 and use it as a wonderful example in design for the needs of
9 that community.

10 With that, I thank you.

11 CHAIRPERSON KRESS: Terrific, thank you.

12 Questions?

13 Gee, I guess we're selling tonight. Thank you
14 so much for coming to testify. I really appreciate your
15 testimony.

16 Anybody else who wishes to testify in support?
17 Please come forward.

18 MS. DEITRICH: My name is Margaret Deitrich. My
19 mother, Katherine Lloyd, owns the property at the south end of
20 this block. It's square 1734 and it's lot 818. I support
21 this whole heartedly. I think it will bring a lot of great
22 business to the block.

23 However, I have a question and I'm not sure it's
24 appropriate at this time, but based on the information we've
25 been given on the C-2-B classification for all the reasons
26 that Mr. Shor represented and the other architects and

1 everyone else here, why not include this C-2-A zoning for the
2 entire block, based on Mr. Nathanson's final comment about
3 bringing the needs of the community as the residential and the
4 office?

5 Our property is very small, but we would like to
6 have that same opportunity so to speak, considering tonight
7 for the other property and my mother has owned this property
8 since 1958 and we'd like to share in that same opportunity.
9 And so it may not be appropriate, but you may comment on that
10 for my knowledge.

11 CHAIRPERSON KRESS: It would have to be a
12 different case. As you know, we have advertised this and it
13 only contains this particular area.

14 I think that's something you might want to
15 explore. I guess Mr. Bastida just left, but that could be
16 perhaps handled as a separate case and a map amendment. I'm
17 not speaking for us. I'm not saying we would agree to that,
18 but if you want to explore that you need to explore that as a
19 separate issue.

20 MS. DEITRICH: Thank you.

21 CHAIRPERSON KRESS: Thank you for coming this
22 evening. I had forgotten to ask if you wish to cross, but I
23 thought since they were in support, you probably didn't have
24 much cross examination.

25 Is there anyone further in support who wishes to
26 testimony?

1 Anyone in opposition who wishes to testify?
2 Seeing none, we'll have the closing statements and closing
3 remarks.

4 MR. TUMMONDS: Thank you. Due to the
5 overwhelming support of this project by the ANC, the
6 community, the Office of Planning, the Department of Public
7 Works, we would ask that you render a decision in this case
8 tonight. And to help you further with that we would like to
9 submit proposed guidelines and conditions for that approval
10 and we believe that in these conditions we address Mr. Parsons
11 concerns with regards to the development, relandscaping,
12 maintenance of that park.

13 CHAIRPERSON KRESS: You might want to take a few
14 minutes to look at this.

15 MR. TUMMONDS: That would be No. 7. Condition 7
16 addresses that issue.

17 COMMISSIONER CLARENS: You want us to read
18 through this and make a decision now?

19 CHAIRPERSON KRESS: We don't have to --

20 COMMISSIONER CLARENS: Well, I have to read this
21 --

22 CHAIRPERSON KRESS: No, no, in adopting this, we
23 would not be stuck with this or limited to this if we -- I'm
24 not suggesting we do that, I'm just saying we don't have to
25 have -- we don't have to make our decision on the basis of
26 this, it's just being proffered for us.

1 COMMISSIONER CLARENS: Well, okay.

2 CHAIRPERSON KRESS: But I think -- I mean if
3 there's not a major hesitation of needing more information or
4 feeling that there's something major unresolved, and we have
5 before made a bench decision in favor and then dealt with the
6 actual decision in detail later.

7 COMMISSIONER HOOD: Madam Chair, would that also
8 reflect on the parking issue? There were some unresolved
9 issues dealing with the commercial parking spaces as opposed
10 to the residential parking spaces?

11 CHAIRPERSON KRESS: I am sorry. I did not write
12 down that you were looking for more information on that.

13 COMMISSIONER HOOD: Mr. Hoffman mentioned that
14 he had not concentrated or went into depth about how to handle
15 the situation which I posed to him. I guess I'm kind of in
16 line with Commissioner Clarens. If we vote and get a bench
17 decision tonight, would he be able to come back later --

18 CHAIRPERSON KRESS: He wouldn't be able to come
19 back unless we left the record open. I didn't know anyone
20 needed anything and that's one of the things we normally do at
21 the end is see if anybody needs anything to keep the record
22 open for additional information.

23 Perhaps Commissioner Parsons might want some
24 additional information. I don't mean to jump ahead. I was
25 just answering a question of whether we could go ahead and
26 make a decision and I was just answering Mr. Clarens. I'm not

1 pushing that we make a decision this evening.

2 COMMISSIONER HOOD: Let me say this, Madam
3 Chair, if Commissioner Parsons doesn't need any additional
4 information, I mean if he doesn't require any additional
5 information, then I would not the item that I requested to be
6 to hold up progress, but also I would ask that they would
7 still work on that. I'll handle it from that standpoint.

8 COMMISSIONER PARSONS: Well, Madam Chairman, I
9 might as well disclose my opposition to this case. It looks
10 to be a very good project in an area that really needs this
11 kind of activity and residential is certainly welcome. But to
12 me it is out of scale.

13 It is intrusive on the views from Fort Reno
14 which is the highest point in the city. It is precedential in
15 that we are leap frogging over C-2-A from C-2-B to the south,
16 we are spot zoning. We have already had a request to zone the
17 intervening property which means to me that a potential of C-
18 2-B is going to exist to the south which could go to 90 feet
19 with an irresponsible commission.

20 The only reason we're asked to do this is to up
21 the size of the residential. I'd rather the residential
22 reduced in size and keep this building at a C-2-A level
23 without a PUD at about 50 feet. So if the developer wants to
24 respond to that with additional information, that's one thing.

25 But I'm asking him is to restudy the top two
26 floors, plus penthouse and redistribute the density that he

1 wants elsewhere on the site instead of poking up into this
2 vista that he obviously wants to take advantage of, certainly
3 it's going to be spectacular views all the way to Maryland,
4 but I cannot bring myself to vote for this, vote in favor of
5 this case.

6 CHAIRPERSON KRESS: All right, thank you. Are
7 you prepared to vote tonight?

8 COMMISSIONER HOOD: I'm not prepared to vote
9 tonight.

10 CHAIRPERSON KRESS: Then we will not have a vote
11 tonight.

12 Now let's talk about what additional information
13 we would like, if any, to keep the record open until our vote.

14 I would like to follow on what Commissioner
15 Parsons was talking about. I feel like the drawing A17, I
16 would like to see that done to really reflect three
17 dimensionally if things are foreshortened what we would
18 actually see. It's also
19 -- and I know color xeroxes have their limitation, but I'm not
20 sure what is being masked by the trees.

21 And what is trees I'm seeing and what is
22 buildings I'm seeing and because I personally would be
23 affected if a large portion of the building as it kind of
24 looks to me, the view is already being obstructed by trees.
25 So I would like to see personally A17 redone to more
26 accurately reflect what someone would truly see foreshortened

1 whatever and perhaps a little clearer to designate the trees
2 from the buildings, if possible.

3 And you had a request that you wanted --

4 COMMISSIONER HOOD: I just simply wanted them to
5 work out something so they wouldn't run into the problem of
6 the commercial parking spaces being filled when those
7 commercial places open up and work something out, either do it
8 or don't do it, explain to them they need to be out of there
9 by a certain time and I think that needs to be brought out
10 front so you won't have problems down the road.

11 CHAIRPERSON KRESS: So you'd like them to see if
12 they --

13 COMMISSIONER HOOD: See if they can work it out.

14 CHAIRPERSON KRESS: See if they can work it out?

15 COMMISSIONER HOOD: Right.

16 CHAIRPERSON KRESS: Commissioner Clarens, did
17 you want any additional information?

18 COMMISSIONER CLARENS: Let me tell you. It is
19 not specific to this project, but in a sense it is and despite
20 of all the support that it has and despite that I think it
21 might be a good project, I'm concerned with the quality of the
22 presentation. I've been on the Commissioner for only 10
23 months or so, but I've seen a number of presentations come
24 before this commission.

25 We see no material selection. We just have
26 words that it's going to be red brick, but there are a zillion

1 variations of red brick. There's only going to be a buff
2 brick, but there's a zillion variations of buff brick. This
3 is a PUD and it's a one step PUD and you're coming here. We
4 don't have another shot at you. This is it. We approve it
5 and you go off and we drive by and we see this thing and we
6 say, gee, did I approve that?

7 And we have a responsibility to the city, that's
8 why we're here, I assume, and to the massing and I think that
9 the issues that Mr. Parsons has brought up are very valid and
10 it is very high and it makes a lot of sense, I'm sure, from a
11 developer's point of view. Those apartments up there are
12 going to be terrific, but is it going to intrude excessively
13 on the skyline of that area.

14 So I'm a little bit concerned with the
15 presentation. I'm not asking for anything.

16 CHAIRPERSON KRESS: We can ask for those
17 materials and I think that's a reasonable thing and I think
18 that was why I brought it up. You're making a general
19 comment, but I think specifically we really should have --

20 COMMISSIONER CLARENS: I'm making a general
21 comment because in other PUD projects, the client, we have the
22 applicants come in with samples of the granite, of the metal,
23 etcetera etcetera and we see the building and this is it.
24 This is all we're going to get.

25 We don't have this wishy washy -- well, it might
26 be this way, it might be this way. We want flexibility here.

1 We want flexibility there. This is what we're going to get
2 and this makes sense or it doesn't make sense. We have a
3 sense of the openness of the penthouse, but then when you
4 really look at the elevation there's really nothing much open
5 as in the penthouse then there is on the regular floors which
6 are quite open.

7 So there's all these things in between the two.
8 I have some concerns. I'm not saying I'm not declaring an
9 opinion. I'm not ready to go for it now. I need to think
10 about it. I would like to see, perhaps, a little bit more
11 development of the areas that I mentioned, including the
12 landscape of the roof terraces.

13 CHAIRPERSON KRESS: Be specific. You want to
14 see --

15 COMMISSIONER CLARENS: The landscape of the roof
16 terraces.

17 CHAIRPERSON KRESS: Was there anything else?

18 COMMISSIONER CLARENS: There was a lot of
19 discussion about what's going to happen with that door, the
20 door to the service area as well as the loading dock as well
21 as the whole entrance to the garage and there might be
22 additional development of those ideas as part of a final
23 additional submission to the Commission.

24 CHAIRPERSON KRESS: All right, anything else?
25 You have all of that?

26 MS. PRUITT-WILLIAMS: Excuse me, Madam Chair, do

1 you still want information on the cost estimate of the --

2 CHAIRPERSON KRESS: I am not sure that's going
3 to be helpful. What they're proffering here is the approval
4 and I think we would need to have an approved plan by the
5 Parks Service and in fact, that was the last thing I was going
6 to add on the list is to see what final agreement can be
7 reached with the Park before we finalize this.

8 I have -- I really respect you and I hope you
9 could do this work for \$30,000, but as an architect looking
10 it, I wonder as well whether that's enough money and perhaps
11 you could. In lieu of the money since there seems to be some
12 problem with defining that, let's go back to defining the
13 scope of work pretty exactly with the Parks Service so that if
14 we vote for this, we know exactly what we're voting for by
15 virtue of the scope of work, unless you feel comfortable
16 reevaluating the number, but if you're in the \$30,000 range,
17 I'm not comfortable, so I'd rather see it in the plan set.

18 Anything else, Commissioners?

19 COMMISSIONER CLARENS: One second.

20 CHAIRPERSON KRESS: One other thing, all right.

21 COMMISSIONER CLARENS: I have a question. It's
22 more in the form of a question to the applicant. It has to do
23 with the landscape plan for the park and has to do with the
24 specificity of the plan. I'm looking at it and I'm seeing a
25 number of trees, defined as columnar trees, but there's number
26 of trees, nor there's the spacing. So the specificity of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 plan is vague and all of a sudden that spacing might become 10
2 feet more and half the trees might be eliminated.

3 So it seems to me if we are going to approve
4 something and this has a little bit to do with my concern and
5 it is the sketchy quality of what we have in front of us. It's
6 all -- I'm not quarreling with the merits. I understand the
7 merits. But it's very vague. It's very sketchy. Are we
8 going to have -- I don't know how many trees, 22 trees,
9 etcetera, etcetera. What's happening to the trees at the
10 northern end of the wedge park or existing trees, are those
11 being -- do we have -- has Mr. Fitch who is your landscape
12 architect, has he been there and actually assessed what those
13 trees are and which ones should come down and which ones
14 should be staying? Or do we have any idea or are we going to
15 be tearing down or taking down all the trees to the north end
16 of the side and have to grade that flat area. Maybe that's
17 very good. But we need to know what, in fact, is happening.

18 MR. TUMMONDS: Mr. Fitch is here to address
19 those concerns now.

20 COMMISSIONER CLARENS: That's fine and I don't
21 know that we need to hear from Mr. Fitch. I'm sure he wants
22 to talk, but we have a -- we can have a more specific plan and
23 then we can agree to that plan.

24 CHAIRPERSON KRESS: I think we've already asked
25 for it and I think you've added to my request quite well. If
26 we vote positively in favor of this, this needs to be totally

1 resolved with the Parks Service and we need more specificity,
2 so if I can just add that on to that -- on to the request for
3 the landscape plan.

4 COMMISSIONER PARSONS: I would only caution you
5 as I tried to earlier that the Parks Service requires the
6 approval of the Planning Commission and Fine Arts Commission
7 and so forth and if you approve a specific plan or we approve
8 a specific plan here and there's changes made by other bodies,
9 it will have to come back through the PUD process.

10 CHAIRPERSON KRESS: How long will that take?

11 COMMISSIONER PARSONS: Six months.

12 COMMISSIONER CLARENS: Then they come back for a
13 modification. It will be a minor modification to the plans as
14 agreed to and we can handle that. Then that won't delay them
15 and it's a very minor procedure.

16 MR. TUMMONDS: What we proposed in the draft
17 order is that we will, and I think it addressed everyone's
18 concerns, that the plan which -- maybe it doesn't. The draft
19 order we have presented says that in accordance with the
20 approval of the National Parks Service, the applicant shall
21 relandscape and maintain the triangular piece of land.

22 So I think that would address it. Mr. Parsons
23 is concerned that it does take a long time and we've been told
24 that by the National Parks Services representatives. We
25 originally met with them at the site in December. We had a
26 meeting with them in February. We've tried to get them every

1 week, for the last month every day. I have called looking for
2 comments and we've just -- unfortunately, were not able to
3 move this along as quickly as we would like.

4 COMMISSIONER CLARENS: Let me tell you where I
5 am coming from. I am coming from liking this plan. I like
6 this park as it is. The vaguer it is the more it's going to
7 be up for redesign. It's going to go to one of these
8 commissions and then they're going to say well, move it over
9 here, etcetera, etcetera, because it's not defined.

10 And because we have given them in a sense, I
11 think, obviously there's going to be some give and take, but
12 it seems to me this plan needs to be finalized, presented to
13 us. We approve it. It goes to all of these other bodies with
14 the approval of the Zoning Commission and it's already
15 approved by Zoning Commission.

16 If they want to modify it, they can go ahead and
17 modify it. You come back and you ask for a modification of
18 the order and we can handle that and that shouldn't be a major
19 hassle to the applicant. And then we have something final in
20 front of us, we don't have this wishy washy type of thing.

21 MR. TUMMONDS: Okay.

22 CHAIRPERSON KRESS: Any other comments? I might
23 ask you since you are interested in a speedy decision.

24 Right now, obviously we can't decide this in our
25 April meeting. We may be able to decide it in our May
26 meeting, depending on how fast you can get the information

1 together. Right now this has been drafted for me to say we
2 wouldn't vote on this until the June meeting.

3 So I'm going to ask you what your pleasure is.
4 You've heard what we need. Right now, tentatively, I'm having
5 all of the information filed by May 19th and then any
6 responses by May 26th which would put that up to the beginning
7 of June when we would have a meeting on the issue.

8 MR. TUMMONDS: With regards to what we could
9 produce, we would do whatever is necessary to submit this for
10 you for your review at the May meeting.

11 CHAIRPERSON KRESS: Can you -- what revised
12 dates should I be using here? Ten days. Will you let me know
13 when the May meeting is, please?

14 MR. SHOR: We believe the May meeting is May
15 10th, second Monday.

16 CHAIRPERSON KRESS: May 10th?

17 COMMISSIONER PARSONS: That's correct.

18 CHAIRPERSON KRESS: We would need to have the
19 information --

20 MR. SHOR: April 30th.

21 CHAIRPERSON KRESS: Is that correct, Mr. Shor,
22 you can help me. April 30th --

23 MR. SHOR: April 30th is 10 days before the
24 meeting. We can have our material filed by then.

25 CHAIRPERSON KRESS: Right now the way this was
26 written there was a time for responses. I don't know that

1 there's going to be any responses. We only had one letter in
2 opposition. Normally, it's more than 10 days. I'm not sure
3 we need to allow for the responses.

4 MR. TUMMONDS: The only party in this case is
5 the ANC and they've supported this case.

6 CHAIRPERSON KRESS: All right, why don't we
7 just-- because I do want to give you enough time. There's
8 some substantial things that need to be done so let's make it
9 April 30th then. Anything else before I close the meeting?

10 MR. TUMMONDS: Would you request proposed
11 findings othat same day as well? We'd be prepared to submit
12 those as well on the 30th.

13 CHAIRPERSON KRESS: Yes. Ladies and gentlemen,
14 thank you for your testimony and assistance in this hearing.

15 The record in this case will now be closed
16 except for information specifically requested by the
17 Commission. Any special information requested should be filed
18 by May 30th in Suite 210 of 441 4th Street. Parties in this
19 case are invited to submit proposed findings of fact and
20 conclusions of law. Any party who submits proposed findings
21 and conclusions should do so by May 30th, I mean April 30th.

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

1 transcript are incorporated and encouraged.

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

7 After the record is closed, the Commission will
8 make a decision on this case at one of its regular monthly
9 meetings and they're generally held at 1:30 p.m. on the second
10 Monday of each month.

11 Any person who is interested in following this
12 case further may contact staff to determine whether this case
13 is on the agenda of a particular meeting

14 You should also be aware that if the Commission
15 proposed to approve the application, the proposed decision
16 must be referred to the National Capital Planning Commission
17 for federal impact review. The Zoning Commission will take
18 final action at a public meeting following receipt of the NCPC
19 comments after which a written order will be published.

20 I declared this hearing closed.

21 Thank you.

22 (Whereupon, at 9:15 p.m., the hearing was
23 concluded.)

24

25

26

1

2

3

4

5

6

7

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com