

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :

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JEMAL'S BABES, LLC :Case No.

:10-23

:

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Monday,

November 5, 2012

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No. 10-23

by the District of Columbia Zoning Commission

convened at 6:05 p.m. in the Jerrily R. Kress

Memorial Hearing Room at 441 4th Street, N.W.,

Washington, D.C., 20001, Anthony J. Hood,

Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman

MARCIE COHEN, Vice Chair

PETER MAY, Commissioner (NPS)

ROBERT MILLER, Commissioner

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OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation

JOEL LAWSON

STEPHEN MORDFIN

The transcript constitutes the minutes from the Public Hearing held on November 5, 2012.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

ZCDC CASE NO. 10-23 - Jemal's Babes, LLC - Consolidated PUD and Related Map Amendment

Preliminary Matters 7

Organizations or Persons in Opposition

Linda Schmitt 11
 Melissa Kunstadter 15
 Don Zowader 19
 Allen Seeber 23
 Marilyn Simon 27

Rebuttal of Applicant and Closing Statement of Applicant

Norman Glasgow 36

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

2 6:05 p.m.

3 CHAIRMAN HOOD: Okay. Good
4 evening, ladies and gentlemen. This is the
5 public hearing of the Zoning Commission of the
6 District of Columbia for Monday, November --
7 today is November the 5th, 2012.

8 My name is Anthony Hood. Joining
9 me are Vice Chair Cohen, Commissioners Miller
10 and May.

11 Michael Turnbull will not be here
12 tonight, but will be reviewing the record to
13 participate in the deliberations.

14 We're also joined by Ms. Sharon
15 Schellin.

16 Again, this is a continuation for
17 -- the very limited version of our hearing
18 tonight. The subject of this evening's hearing
19 is a continuation of Zoning Commission Case
20 10-23 from last Thursday. Which was November
21 the 1st.

22 The hearing will be conducted in

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1 accordance with provisions of 11 DCMR 3022 as
2 follows: Preliminary matters, the six persons
3 and organizations in opposition called at the
4 last hearing, rebuttal and closing by the
5 Applicant.

6 The six persons appearing before the
7 Commission are to fill out two witness cards.

8 These cards are located to my left on the table
9 near the door. Upon coming forward to speak
10 to the Commission, please give both cards to
11 the reporter sitting to my right before taking
12 a seat at the table.

13 The decision of the Commission in
14 this case must be based exclusively on the public
15 record. To avoid any appearance to the
16 contrary, the Commission requests that the
17 persons present not engage the members of the
18 Commission in conversation during any recess
19 or at any time. In addition, there should not
20 be any contact whatsoever with any Commissioner
21 concerning this matter be it written, electronic
22 or by telephone. Any materials received

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1 directly by a Commissioner will be discarded
2 without being read and any calls will be ignored
3 and I think we're going to change some of that
4 to emails.

5 The staff will be available
6 throughout the hearing to discuss procedural
7 questions.

8 Please turn off all beepers and cell
9 phones so as not to disrupt this proceedings.

10 Would the six individuals called at
11 the last hearing and the Applicant's rebuttal
12 witnesses please rise to take the oath? Are
13 they present? Those six witnesses.

14 MS. SCHELLIN: Please raise your
15 right hand.

16 Do you solemnly swear or affirm the
17 testimony you will give this evening will be
18 the truth, the whole truth and nothing but the
19 truth?

20 Thank you.

21 CHAIRMAN HOOD: Okay. Thank you,
22 Ms. Schellin.

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1 At this time, the Commission will
2 consider any preliminary matters? Does the
3 staff -- do we have any preliminary matters?

4 MS. SCHELLIN: No, sir.

5 CHAIRMAN HOOD: I have one
6 preliminary matter I would like to read. It's
7 been brought to my attention some misinformation
8 was posted and this is very unfortunate.

9 I don't believe the context at the
10 last hearing some recent articles reflect what
11 I said. To be clear, I've checked with the video
12 on demand and this is what I said and I quote
13 and actually -- and I didn't say this, but you
14 can also review and I would encourage you for
15 those who tweet inaccurate information to make
16 sure you look at the website so you can get the
17 information correct.

18 But, I will tell you I do not have
19 -- this is what I said and I quote "But, I will
20 tell you I do have some reservations about some
21 of this and how it works and how it materializes
22 and I am also concerned about what we are

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1 creating up here." Talking about us. "Case
2 in point, the bicycles. I don't make fun of
3 bicycle racks, but you know I say this all the
4 time. Some of us that are riding bikes now will
5 not be riding bikes later and then also we got
6 to make sure we balance the development we do
7 in the City for all. Because I have not seen
8 too many people, I have not seen too many people,
9 going to grocery stores and come back with their
10 groceries on a bicycle. I'm sorry. Maybe it's
11 another way of doing it. I'm sure somebody's
12 going to tell me." I said that before anyone
13 came up.

14 "I just want to make sure we balance
15 it so that when we have to make it -- we have
16 to make it inclusive. As one of my colleagues
17 mentioned at their confirmation hearing,
18 preserve the past and also make room for the
19 future. So, we have to balance that and that's
20 just where I come from."

21 So, one thing about information,
22 it's good to do it correctly and do it right

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1 and that's what this is about. It's about
2 balance. That's what we do. We all have to
3 coexist and actually, and I probably -- I guess
4 this will be tweeted tomorrow. I've been
5 talking to some of my friends about getting me
6 a bicycle for exercise.

7 So, be it may, let's move on to the
8 hearing and let's balance this thing. All that
9 other stuff you're going to tweet, tweet it right
10 and if you're sure you -- if you don't have it
11 right, please look at the video. That's why
12 it's so good and this statement comes directly
13 off the webcast live.

14 So, those are my comments and it's
15 just very unfortunate.

16 Okay. Anyway, let's move on and
17 continue the business of the City.

18 I'm going to ask -- let me call the
19 names of the folks who are coming up. These
20 are six folks in opposition: Allen Seeber.
21 You can come forward. I'm going to mess this
22 name up again. Melissa Kunstadter. Okay.

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1 Come forward. Donald Zowader. It's close.
2 Pretty good. Okay. Linda Schmitt, Marilyn
3 Simon and I think this is David Frankel. David
4 Frankel. Okay. He's not going to make it.

5 Also, we have the Office of Planning
6 Ms. Jennifer Steingasser, Mr. Lawson and Mr.
7 Mordfin.

8 I'm sorry you all missed my opening
9 statement about the bicycle issue, but like I
10 told everybody, watch the video and get the
11 correct comments. Okay. So, thank you.

12 And I know that there's a parking
13 issue. That's why you all are running late.
14 So. Well, really you all are not late for the
15 6:30. You all are right on time.

16 Okay. Are we ready? Okay. Why
17 don't we start to my left if that's okay?

18 You may begin. If you can just
19 identify yourself and I think -- does everybody
20 get three minutes or well, Ms. Schellin will
21 manage the clock. Okay.

22 Okay. You may begin.

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1 MS. SCHMITT: Thank you for this
2 opportunity to speak to you.

3 I'm Linda Schmitt, native of
4 Washington.

5 This year with other concerned
6 citizens from Wards 3, 4, 5 and 6, we formed
7 Neighbors for Neighborhoods because of OP's
8 attempts to change the character of our
9 neighborhoods like this Babe site.

10 Tonight, I speak for myself.

11 Tenleytown's part of my
12 neighborhood. The Babes' proposal just doesn't
13 make sense. It was designed for a different
14 community. It's a one-person apartment idea
15 with units about 600 square feet in an area of
16 family homes with gardens and yards. There's
17 no connection between the two types of residents
18 setting up a polarizing dynamic from the start
19 made worse by the car issue.

20 With a law school in the works, the
21 site will draw students. Law school is three
22 years. So, apartments might turn over every

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1 three years. With 60 units, it would be a
2 building in constant transition. Again, no
3 relationship with a neighborhood where people
4 often reside for decades.

5 Plus, there's no provision for
6 moving in and out. The loading dock doesn't
7 serve the apartments. Moving would be done from
8 a busy Wisconsin Avenue.

9 The idea occupants won't want cars
10 is just nonsense. Use me as an example. I'm
11 a biker. I have 9,000 miles on my Jamis bike.
12 I bike everywhere I can. I also have a car
13 and I use it often.

14 My clients are all over the
15 tidewater area. A Zipcar is expensive and
16 chasing down a rental is a major aggravation.

17 My car expense is \$280 a month
18 including purchase, insurance, gas and repair.

19 Where did DDOT get \$500 a month? A Zipcar would
20 cost \$70 a day. You do the numbers. Seventy
21 dollars for one day or \$280 for 30 days.

22 Let me shed light on biking a mode

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1 of transportation. Biking is not for the faint
2 of heart or people with ailments like colds,
3 bad knees or a bad temper. Biking is an athletic
4 activity for healthy adults who operate within
5 a very limited geography. Biking only works
6 as a choice not a requirement. Biking is best
7 done in daylight. It's no good on rainy days,
8 in the dark, at dawn or dusk much less snow or
9 ice. It's a limited option.

10 Biking on City streets is a perilous
11 activity. Drivers get nervous around bikers.

12 Bikers are harder to see than cars. They
13 operate at a different speed from cars. By
14 comparison to cars, bikes are unpredictable
15 where a smooth consistent traffic flow is the
16 most safe.

17 Major streets in Tenleytown are not
18 great for biking. Too many intersections. Too
19 much hubbub. I bike on the sidewalks giving
20 walkers the right of way. It works for now
21 because there's not very many bikes around.
22 It's not a good solution long term. You can't

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1 assume all occupants would use bikes.

2 The proposed building does not --

3 CHAIRMAN HOOD: Here's what I would
4 like you to do. Just give us your closing
5 thought because we have the rest of your
6 testimony.

7 MS. SCHMITT: Okay.

8 CHAIRMAN HOOD: Just close out.

9 MS. SCHMITT: Regarding transit
10 zones, whoever thought D.C. would be asked to
11 turn itself inside out to become tight buildings
12 without cars, shedding neighborhood by
13 neighborhood to become a cramped city with tot
14 cages and pocket parks.

15 Let's not become a city where you
16 can't shop outside the subway system, have
17 friends come to visit and a Sunday outing becomes
18 a Metro ride to Dulles.

19 CHAIRMAN HOOD: Okay. Thank you.

20 Next.

21 MS. KUNSTADTER: Good evening, Mr.
22 Chairman.

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1 CHAIRMAN HOOD: Is your mike on?

2 MS. KUNSTADTER: Now, it is. Good
3 evening, Mr. Chairman and Members of the
4 Commission.

5 My name is Melissa Kunstadter. My
6 family and I live at 3821 Veazey Street in
7 Tenleytown. Just a block and a half away from
8 Wisconsin Avenue.

9 I am writing to you in opposition
10 to Case 10-23 the proposed development of Babes
11 on Wisconsin Avenue and Brandywine Street in
12 Tenleytown.

13 Because this building would be
14 allowed greater height and density than allowed
15 by current regulations and would not be subject
16 to existing on-site parking requirements, I
17 believe that the construction of the building
18 as proposed would have a negative impact on the
19 neighborhood as well as set an unfortunate and
20 worrisome precedent for future building along
21 Wisconsin Avenue in Tenleytown.

22 It is the neighborhood which will

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1 bear the irreversible consequences of this
2 building proposal. Two floors of retail
3 without on-site parking provided will incur
4 parking spill over into the already parked up
5 streets. Sixty-five residential units without
6 on-site parking provided will cause further
7 parking spill over into those same neighborhood
8 streets.

9 A higher structure means less light,
10 more shadow to the lower buildings in the
11 vicinity. A higher structure also changes the
12 scale and human dimension of the overall
13 architectural fabric of Tenleytown. A
14 structure which will be the wedge for a sterile
15 canyon-like Bethesda-type development. A
16 structure with a denser residential ratio as
17 a further burden to an already under-performing
18 Metro stop. For example, the escalators are
19 frequently out.

20 Why would a developer, ANC,
21 neighborhood and City wish to so change the
22 character of an already solid, established,

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1 stable and safe community? Who on your
2 Commission or another body responsible for the
3 decision on this proposed development lives in
4 the immediately affected areas and thus would
5 directly feel the negative impact? Who on the
6 Commission does not own a car? Who on the
7 Commission has ever run a retail business much
8 less a retail business that could survive
9 without convenient customer parking?

10 What makes pleasant living possible
11 so near Wisconsin Avenue in addition to the
12 conveniences is the livable scale of commercial
13 buildings near our residential area. For the
14 most part, the structures aren't more than two
15 to three stories. Our homes are not
16 overshadowed by larger buildings and the
17 activities of the residents and workers.

18 Do we have parking issues on our
19 block? From time to time, yes. I would say
20 that at least half of our neighbors do not have
21 a garage or parking area on their lot and
22 therefore, park on the street.

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1 We have families with two or more
2 children, an elderly couple, a family with a
3 disabled child.

4 CHAIRMAN HOOD: Can you give us your
5 closing thought?

6 MS. KUNSTADTER: Yes. Yes, change
7 is coming to Tenleytown. Thousands, several
8 thousands of law students, faculty, continuing
9 ed and others will be flooding Tenleytown from
10 the new law school campus of American University
11 and so, I return to the matter of the Babes'
12 proposal.

13 Development per se is not the issue.
14 It's what kind of development and its
15 consequences that can destroy what it seeks to
16 benefit from.

17 Therefore, I request that the
18 Commission turn down this proposal.

19 CHAIRMAN HOOD: Okay. Thank you
20 very much. Next.

21 MR. ZOWADER: My name is Don
22 Zowader. I'm a member of the Tenley community.

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1 Very concerned about the proposal placed before
2 you regarding Babes developing a residential
3 retail building with virtually no parking.

4 First, let me be clear. I do not
5 oppose the building of a mixed-use apartment
6 building. I actually think it's a good idea.

7 But, no parking except for one space
8 for a person with a disability for anyone living
9 or visiting or shopping presents a problem for
10 the neighborhood.

11 Babes tenants we are told will be
12 prohibited from owning cars and if they do have
13 a car, they're going to be ineligible for a
14 residential parking permit.

15 Question: What has the Office of
16 the Attorney General and DCRA said about the
17 intention of the developer to evict tenants who
18 own cars?

19 Earlier this year, the Council
20 considered and did not pass legislation that
21 would authorize agreements between ANCs and
22 developers to forbid future residents of new

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1 projects to from acquiring RPPs.

2 Even if the suggested prohibitions
3 are allowed, the Babes' tenants can rent from
4 Car-To-Go and park on the residential streets
5 anytime, anywhere for as long as they please
6 since Car-To-Go cars have universal RPP status.

7 To not have car parking for the
8 residents, their friends and customers of this
9 building limits the people who will shop and
10 live in the building. The building is certainly
11 not friendly for a diverse resident population.

12 Single working women returning home alone late
13 at night to this location would definitely not
14 be welcome because of the dangers. Larger
15 families could not easily be accommodated. The
16 lack of parking suggests that the developers
17 and a few other folks have predetermined that
18 the only people they want are those who move
19 about in ways that they deem are appropriate.

20
21 Young single men who walk and have
22 bicycles would be fine, but this is not a college

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1 campus. It's Wisconsin Avenue.

2 The ANC Commissioners themselves
3 said that potential tenants with automobiles
4 should look elsewhere.

5 Cars are not going to go away though
6 some may want them to.

7 At the previous meeting, the DOT
8 said how much parking is enough is a very
9 difficult question to answer because all
10 situations are difficult. Well, I've got some
11 good news. I can help with this one because
12 one car parking space and a bike rack for 72
13 bikes and two to three or four retailers is not
14 enough parking for anyone. Not even close.

15 Smart planning and smart solutions
16 develop and get implemented when the community
17 and the developers work together smartly so
18 they're all part of the solution.

19 To develop and build a building with
20 more than 60 tenants and retail space and have
21 virtually no car parking is not smart planning,
22 but it does save money for the developer.

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1 Mr. Jemal has the ability to do this
2 right. He could demolish the entire building
3 and put up a proper building that is solid,
4 handsome and a welcomed addition to the
5 community or he could use the existing parking
6 in the basement and reduce the side of the
7 building and number of units.

8 Exemptions from current zoning
9 requirements to allow a developer who has not
10 been able to develop a smart property is not
11 smart planning or smart development.

12 CHAIRMAN HOOD: Just give us your
13 closing thought.

14 MR. ZOWADER: And I would question
15 the wisdom and fairness of those that believe
16 this is in the best interest of the community.

17 The building needs to be scaled and developed
18 appropriately and we rely on you within in the
19 Zoning Commission to be the voice of reason and
20 moderation.

21 Thank you.

22 CHAIRMAN HOOD: Thank you. Next.

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1 MR. SEEBER: My name is Allen
2 Seeber.

3 For more than 35 years, I've lived
4 at 5406 39th Street. Fifteen minutes walk from
5 the Babes' site.

6 I oppose relief of minimum parking
7 requirements for this project. Support for
8 waiver of the required 87 off-street parking
9 spaces is based upon false premises and
10 documented with evidence that is distorted or
11 conjectural.

12 OP Director Harriet Tregoning
13 presented a slide in a Council hearing last month
14 claiming that the current minimum parking
15 requirements have forced developers to
16 overproduce off-street parking spaces in
17 multi-family buildings. In response to my
18 inquiry, OP states: "The slide you refer to
19 was not making the claim about specific
20 buildings. The point on the slide was more
21 general. We know that anecdotally there are
22 parking facilities with unused spaces."

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1 Anecdotal evidence is an oxymoron.

2 Residents of multi-family buildings who do not
3 park off-street compete with other residents
4 on neighboring streets for parking spaces.
5 That's the fact.

6 OP argues that cars are going out
7 of favor and OP produced a slide presented at
8 a parking think tank last month that claims there
9 were only 150,000 passenger cars registered in
10 the District in 2010.

11 If true, that would indeed indicate
12 a precipitous drop from prior decades, but it's
13 not true.

14 OP ignores the fact that sport
15 utility vehicles or minivans are counted as
16 trucks not cars. Application of the Census
17 Bureau's vehicular access standard would raise
18 that 150,000 to approximately 270,000.

19 If data show that only 50 percent
20 of bicyclists have cars, then one bicyclist is
21 as likely to own a car as another. Moreover,
22 it does not follow from OP data that 35 percent

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1 of D.C. households elected to be carless. The
2 poor and elderly among others have no choice.

3 The balance of the subset must be parsed for
4 financial capability to determine the potential
5 market for this project.

6 The MOU between Douglas and ANC 3E
7 is unenforceable by anyone on any of its terms.

8 So called concessions to the community by the
9 developer are illusory. Recital F of the MOU
10 specifically prohibits the ANC from instituting
11 suit to enforce its agreement with Douglas.

12 If everything does not work out
13 exactly as hoped into perpetuity, there is only
14 one outcome. Exacerbation of neighborhood
15 parking problems.

16 Depriving tenants of residential
17 parking permits is utterly unenforceable. The
18 Council's refused to move on it and Council Chair
19 Mendelssohn last month pointed out that DDOT
20 and DMV will not enforce such a plan.

21 Parking spaces cannot be inserted
22 under a multi-family project once it is built.

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1 The Commissioners must recognize that D.C.'s
2 minimum parking requirements represent the
3 community's ounce of prevention. We have no
4 pound of cure.

5 Thank you.

6 CHAIRMAN HOOD: Okay. Thank you
7 and let me just say because I have to make sure
8 I'm equal when I do this, the reason I didn't
9 ask you to give me your closing thought is
10 because you were almost finished. I didn't want
11 to interrupt you. I want to make sure I'm
12 balanced.

13 Ms. Simon.

14 MS. SIMON: My name is Marilyn
15 Simon. Today, I will briefly address several
16 major concerns. More detail on these issues
17 is included in my written comments.

18 This application does not meet the
19 standards for a PUD. Yet, the Applicant is
20 requesting a waiver of the minimum lot size which
21 triggers a higher standard. Approval requires
22 a finding of exceptional merit. The project

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1 clearly does not meet this standard and I would
2 urge the Zoning Commission to deny the
3 application.

4 The Applicant is requesting a
5 significant increase in height and density.
6 An increase in height of 20 feet and an increase
7 in FAR of 60 percent above the IC limit.

8 The Applicant is also requesting
9 relief from providing 86 of 87 required
10 off-street parking spaces and a significant
11 reduction in loading facilities.

12 The result will be spill over
13 parking in an area which already faces excess
14 parking demand and more deliveries in the public
15 space interfering with pedestrian and vehicular
16 traffic.

17 In requesting relief from the
18 parking requirement, the Applicant cites OP's
19 draft CRR map of transit zones.

20 In March of last year, I submitted
21 comments on behalf of FNA citing how the proposal
22 to eliminate minimum parking requirements in

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1 Tenleytown and Friendship Heights was
2 inconsistent with the Comp Plan. I submitted
3 a copy of those comments with my written
4 statement.

5 The order included a statement that
6 if OP is to recommend the elimination of minimum
7 parking requirements in this area, they should
8 explain how that recommendation is consistent
9 with the cited Comp Plan policies.

10 While the Applicants are asking for
11 a substantial amount of relief, public benefits
12 offered are negligible. Some are improvements
13 that would be typical of any project built in
14 this area.

15 The documentation on the claim that
16 the building will achieve 62 points toward LEED
17 Gold is inadequate. The Applicant did not
18 provide any detail to allow the public to assess
19 the credibility of that claim.

20 The transportation benefits are
21 largely meant to be mitigation measures and they
22 fail as mitigation measures since they are

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1 unlikely to affect resident vehicle ownership
2 or worker transportation decisions in the short
3 run and will have no lasting impact on those
4 decisions. Yet, the lack of off-street parking
5 and loading facilities will be with us through
6 the life of the building.

7 The affordable housing is less than
8 would be provided with an IC building in a C-2-A
9 zone. They're providing seven apartments for
10 moderate income households at 80 percent of AMI.

11 In a C-2-A zone, the set aside would include
12 the same seven units, but four of those units
13 would be set aside for low income households
14 at 50 percent of AMI with the monthly rent of
15 each unit approximately \$700 less than in the
16 PUD.

17 As we know, the zoning envelope on
18 upper Wisconsin Avenue would allow an increase
19 of over 2,000 new housing units plus
20 ground-floor retail.

21 CHAIRMAN HOOD: Ms. Simon, can we
22 get your closing thoughts.

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1 MS. SIMON: Yes, the Comp Plan
2 policy requires that decisions such as this take
3 that into account and I ask that you deny that
4 application.

5 Thank you.

6 CHAIRMAN HOOD: Okay. Thank you
7 very much and again, Ms. Simon's testimony was
8 Exhibit 53 because I was looking for it as she
9 was speaking.

10 So, let's see if we have any
11 questions out there, Commissioners.

12 I would like to start off and ask
13 Mr. Zowader. Okay. You didn't get a chance
14 to talk about -- I'm always looking at pictures,
15 but you didn't get a chance to talk about page
16 3 of your testimony. Would you just elaborate
17 a little bit briefly?

18 What are you showing me in the
19 picture? What are you trying to tell me here
20 about this two-hour parking zone? Is that in
21 the neighborhood or what is this about?

22 You want to turn your --

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1 MR. ZOWADER: I can't actually
2 respond to that because the attachment was put
3 on my notes here, but I did not review that.

4 CHAIRMAN HOOD: Oh.

5 MR. ZOWADER: That was just put
6 there just for information.

7 CHAIRMAN HOOD: Okay. Okay. So,
8 basically, you were just telling us about the
9 -- in this case, the Zone 1 permit holders
10 accepted the window from 7:00 to 8:30. Okay.

11 MR. ZOWADER: Yes.

12 CHAIRMAN HOOD: All right. Any
13 other questions from up here? I did have one
14 more. Let me see whose testimony was this.

15 Ms. Kunstadter, I can mess up so
16 many. I'm sorry. Is that right? Kunstadter?
17 Kunstadter. Okay.

18 You mentioned in your testimony in
19 the next to the last paragraph on page -- this
20 says page 2. Oh, page 2. Okay. On the first
21 page, who in your Commission and other bodies
22 who are responsible for decisions of this

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1 proposed development lives in the immediate
2 affected areas and would like thus to feel the
3 negative impact? Who on the Commission does
4 not own a car? Who on the Commission has ever
5 run a retail business much less a retail business
6 that could survive without convenient parking?

7 Those were just questions you were
8 posting to us?

9 MS. KUNSTADTER: They were indeed.

10 CHAIRMAN HOOD: Okay.

11 MS. KUNSTADTER: They're -- they're
12 questions as well as rhetorical questions.

13 CHAIRMAN HOOD: Knowing my
14 colleagues, actually, all that fits us. I just
15 wanted to answer -- let you know that we do --
16 everything in there fits somebody up here. I'm
17 not going to get into who does what and who does
18 this, but it all fits us.

19 I'm not sure about the last one.
20 I'm going to be honest. I'm not sure about the
21 last statement. Somebody want to speak up?

22 But, I can tell you the other

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1 statements it fits everybody up here.

2 MS. KUNSTADTER: Thank you.

3 CHAIRMAN HOOD: Okay. All right.

4 Anything else? Okay.

5 Let's do cross examination. Just
6 wanted to make sure I was right. Okay. All
7 right. Okay. Let's go to cross examination.

8 Let's go to the Applicant. Do you have any
9 cross examination? Okay.

10 ANC, Mr. Frumin, do you have any
11 cross examination?

12 Okay. Ward 3 Vision, do you have
13 any cross examination?

14 City Line? Is City Line here?
15 Okay. Not seeing City Line present tonight.
16 Okay.

17 And TNA, do you have any cross? Ms.
18 Chesser, come forward.

19 MS. CHESSER: Hello. Mr. Zowader
20 was -- he left some pieces out of his testimony.

21 So, one of the things in your testimony was
22 it not that some people on the same block of

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1 Wisconsin had petitioned to add themselves to
2 the RPP?

3 MR. ZOWADER: The statement was
4 that with regard to RPP residents can petition
5 to have their addresses added to the roles.
6 In the past, residents in a building in the same
7 block of Wisconsin Avenue, 4722, successfully
8 petitioned to get RPPs.

9 CHAIRMAN HOOD: Did you leave that
10 out of your testimony? I'm just trying. I
11 didn't understand that.

12 MR. ZOWADER: What happened was I
13 was watching the clock and I'm trying to get
14 through as much as I can. So, I was skipping
15 through. So, I -- it's in my testimony, but
16 I had to decide --

17 CHAIRMAN HOOD: Okay.

18 MR. ZOWADER: -- you know, in --

19 CHAIRMAN HOOD: I got you.

20 MR. ZOWADER: -- milliseconds what
21 I could say.

22 CHAIRMAN HOOD: And let me say thank

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1 you. I appreciate that.

2 So, did he answer your question?

3 MS. CHESSER: He did.

4 CHAIRMAN HOOD: Okay.

5 MS. CHESSER: And is it true that
6 the attachment at the bottom shows where you
7 can go on the web to confirm that?

8 MR. ZOWADER: Yes.

9 MS. CHESSER: Okay. That's the end
10 of my questions.

11 CHAIRMAN HOOD: Oh. Okay. Thank
12 you. All right. All right.

13 Any other questions out there?

14 I want to thank this panel. We
15 appreciate your testimony. Okay. And I also
16 want to thank you all for coming back. Sorry
17 about that, but thanks for coming back. Okay.

18 Mr. Glasgow, if you can come
19 forward. Then we can figure out how we're going
20 to do rebuttal and closing.

21 MR. GLASGOW: Mr. Chairman, just a
22 couple of things very quickly. One, I wanted

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1 to make sure that the letter that was received
2 in support of the application from Councilmember
3 Cheh is part of the record.

4 Then with that, I would like to if
5 it is agreeable to the Commission submit
6 rebuttal and closing statement in writing.

7 CHAIRMAN HOOD: Okay.

8 Commissioners, do we like to do that? I do know
9 we have another hearing, but anyway, would we
10 like to do rebuttal and closing in writing?
11 Any comments?

12 COMMISSIONER MAY: That's fine with
13 me. There were a few points that were made by
14 the persons testifying in opposition that it
15 would be helpful to address. I saw you were
16 taking notes. So, hopefully, you'll be able
17 to address any questions.

18 MR. GLASGOW: And if there's
19 anything in particular that the Commissioners
20 want us to respond to and want to let us know
21 at this point in time, then we can make sure
22 that those get covered.

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1 CHAIRMAN HOOD: Okay.
2 Commissioner Miller.

3 COMMISSIONER MILLER: Yes, one of
4 the citizens who just testified mentioned
5 loading by residents would have to be from
6 Wisconsin Avenue. As I recall from the
7 Applicants, that's not -- the loading was going
8 to serve both the residential and the retail
9 from the alley. But, if you could just address
10 that in your rebuttal.

11 MR. GLASGOW: We will address that.
12 It's from the -- from the loading berth that
13 we have and DDOT also testified that there was
14 a loading zone across the street.

15 VICE CHAIR COHEN: Chairman Hood,
16 I have a small list if you want me to go through
17 that.

18 CHAIRMAN HOOD: Let me see.
19 Commissioners, have anything else you want to
20 add to that? Okay. Let's go through the list.

21 VICE CHAIR COHEN: Okay.
22 Commissioner May had made a statement that he

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1 feels like the, if I have this correct, corner
2 roof embellishment only is adding height.
3 Maybe submit another view showing it from I
4 believe the south and I think Commissioner
5 Turnbull had that same concern. He said maybe
6 more articulation on the roof embellishment
7 would help.

8 Turnbull said submit something on
9 the streetscape being an amenity.

10 MR. GLASGOW: Can I go back to the
11 roof embellishment. I think also it was either
12 Commissioners May or Turnbull asked the
13 architect to provide sort of a description or
14 a discussion as to why it was designed the way
15 it was.

16 COMMISSIONER MAY: Well, I think
17 the point was to either make the point with
18 drawings or whatever means. That it really is
19 necessary to visually improve that corner of
20 the building and, you know, I think we also were
21 interested in seeing it without that
22 embellishment.

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1 So, I think the architect
2 understands what we're looking for.

3 MR. GLASGOW: Okay.

4 COMMISSIONER MAY: I'm confident
5 we'll get something.

6 VICE CHAIR COHEN: Okay.
7 Commissioner Turnbull still asks that you submit
8 Pepco's cost analysis on under-grounding the
9 utilities.

10 Commissioner Miller said maybe look
11 at setting back the penthouse.

12 Then during cross by TNA, it came
13 up that you would provide a list of BZA cases
14 that are in TOD areas that provide no parking.

15 And a cost of parking at commercial
16 lots.

17 During OP and DDOT, they asked --
18 Commissioner Miller asked for detail on the
19 multi-modal display.

20 MR. GLASGOW: I'm sorry. Let me
21 get that again. Oh, multi-modal display.
22 Okay.

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1 VICE CHAIR COHEN: Details on that.
2 Commissioner Hood asked that the Applicant
3 provide information on other RPP cases. Maybe
4 it was where they didn't -- where they were
5 exempt from applying from RPP I think is what
6 it was.

7 CHAIRMAN HOOD: Actually, I wanted
8 him to provide and if we could find out those
9 work. I'm just curious. Maybe that -- maybe
10 some coordination with the Applicant. I know
11 -- I think Mr. Glasgow represented I know at
12 least one I'm thinking of.

13 VICE CHAIR COHEN: Okay.

14 CHAIRMAN HOOD: And maybe with
15 DDOT. I'm just curious how we can get a status
16 of how that's working out.

17 MR. GLASGOW: Right and we'll have
18 to see whether those ones that have been handled
19 that way are constructed yet.

20 CHAIRMAN HOOD: Well, yes, that's
21 true, but I know we've done some at least from
22 up here at this point. Been around long enough.

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1 Some of them should be done on --

2 MR. GLASGOW: I know. I know.
3 I'll try to remember and we'll check on it.

4 VICE CHAIR COHEN: Okay. These may
5 be for DDOT. During Ward 3's cross, I believe
6 that they were asking them to -- and I'm not
7 exactly sure what they want, but to check on
8 the handicapped spaces at Brandywine and then
9 the docking stations on Wisconsin.

10 CHAIRMAN HOOD: I need --

11 VICE CHAIR COHEN: Okay.
12 Potential for availability of docking stations.

13 CHAIRMAN HOOD: If you ask for that,
14 if you can come and clarify that, that will help
15 us and if you can just identify yourself.

16 MR. SEELIS: Steve Seelis from Ward
17 3 Vision.

18 We asked for the availability or
19 designation of on-street handicapped parking
20 and we asked also about when it is that DDOT
21 planned to install CABBIE stations along the
22 Wisconsin Avenue corridor.

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1 Thank you.

2 COMMISSIONER MAY: By CABBIE, you
3 mean Capital Bikeshare. Right?

4 MR. SEELIS: I apologize for using
5 the acronym. That's correct. Yes. Thanks.

6 VICE CHAIR COHEN: Okay. And then
7 the ANC, if I can read my own handwriting,
8 percent of car owners who live in single- family
9 homes. I think that was during cross, too.
10 Someone asked well, what's the percentage of
11 those that live in single-family homes who own
12 cars.

13 That's all I've got and I think one
14 of the things that we would require is just a
15 compelling argument as to why we should count
16 the Gold LEED qualification as a proffer.

17 CHAIRMAN HOOD: Okay. Is that it?
18 Anything else?

19 MR. GLASGOW: I think I may have one
20 other thing. We wanted some back-up
21 documentation for the facade pricing as to why
22 that was an amenity and the cost of that amenity.

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1 CHAIRMAN HOOD: Okay. Anything
2 else?

3 MR. GLASGOW: I'm looking real
4 quick here.

5 CHAIRMAN HOOD: Okay. Take your
6 time.

7 COMMISSIONER MAY: I had a note
8 about the ANC submitting some additional
9 information on the last meeting that they had.
10 Meeting notes or something like that.

11 CHAIRMAN HOOD: You wanted their
12 minutes?

13 VICE CHAIR COHEN: Minutes of the
14 prior meetings I believe.

15 MR. FRUMIN: This is Matthew Frumin
16 from the ANC. I think the question was from
17 the last meeting at which the project had then
18 gotten our support. We will be approving those
19 minutes at our meeting this week and we'll submit
20 them afterwards.

21 MR. GLASGOW: That's everything I
22 had, Mr. Chairman.

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1 CHAIRMAN HOOD: Okay. Thank you.
2 Ms. Schellin, do we have anything
3 else?

4 MS. SCHELLIN: Dates.

5 CHAIRMAN HOOD: Can you work us out
6 with some dates?

7 MS. SCHELLIN: Let's see. Today's
8 the 5th. If we could have all of these
9 documents, all these responses, by 3:00 p.m.
10 November 19th. Responses from the parties
11 would be due by 3:00 the 26th and then we'll
12 -- and draft findings of facts conclusions of
13 law also by the 26th and we can take this up
14 at our December 10 meeting.

15 COMMISSIONER MAY: Ms. Schellin?

16 MS. SCHELLIN: Yes.

17 COMMISSIONER MAY: The due date of
18 the 26th that's after the Thanksgiving weekend.

19 MS. SCHELLIN: Um-hum.

20 COMMISSIONER MAY: Is there any
21 room to allow a little more time for responses?

22 MS. SCHELLIN: The 28th. Two more

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1 days since they'll be losing two days pretty
2 much.

3 CHAIRMAN HOOD: Okay. I'm sorry.

4 COMMISSIONER MAY: No, I was just
5 suggesting that because of the Thanksgiving
6 holiday we might want to allow a little more
7 time because we were -- the first deadline was
8 the Monday before Thanksgiving and then the
9 responses would be due from --

10 MS. SCHELLIN: Right. So, I'm
11 saying that --

12 CHAIRMAN HOOD: Might be able to
13 save on the dates. Hold on. Let's --

14 MS. SCHELLIN: The 28th.

15 CHAIRMAN HOOD: One or two of us
16 might not be here on the 10th.

17 MS. SCHELLIN: Oh.

18 CHAIRMAN HOOD: And I think we need
19 to deliberate with all five. Believe me on this
20 I would like all five. I don't know when we're
21 going to push it back or, you know,
22 unfortunately, if we have to go to January 3rd

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1 and do a special public meeting or whatever,
2 but I'd like for all five of us to be here for
3 this deliberation.

4 MS. SCHELLIN: The first December
5 meeting isn't until -- I'm sorry. January
6 meeting is January 14th.

7 CHAIRMAN HOOD: Do we have a lot on
8 the --

9 MS. SCHELLIN: At this point, I
10 would --

11 CHAIRMAN HOOD: I guess I'm asking
12 -- I should ask you what the number is tonight,
13 but do you think we -- okay.

14 MS. SCHELLIN: I can say as of
15 today, there's not much on there. But, we do
16 have a few more hearings --

17 CHAIRMAN HOOD: Well, this is --

18 MS. SCHELLIN: -- before the end of
19 the year.

20 Do you want to do a 30-minute special
21 public meeting before a hearing?

22 CHAIRMAN HOOD: Probably.

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1 Probably.

2 MS. SCHELLIN: Do you need more than
3 that?

4 CHAIRMAN HOOD: It's not going to
5 be 30 minutes.

6 MS. SCHELLIN: Okay.

7 CHAIRMAN HOOD: Me and Peter are
8 going to be going back and forth for 30 minutes.

9 So --

10 MS. SCHELLIN: That's true. About
11 bicycles.

12 CHAIRMAN HOOD: No, actually, not
13 about that.

14 MS. SCHELLIN: Okay. So, tell me
15 are we looking at a special public meeting on
16 January 14th?

17 CHAIRMAN HOOD: Is there a problem
18 for January 14th or should we try to look at
19 something sooner?

20 I'm just -- I'm asking -- actually
21 asking everybody. Fine with the 14th.

22 MS. SCHELLIN: January 14th.

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1 Okay. So, then let's work backwards then. So,
2 January 14th is the meeting.

3 I would say then the Applicant can
4 work in Thanksgiving by giving them an extra
5 week and have until 11/26 for their documents.

6 December 3rd for responses and draft findings
7 of facts conclusions of law.

8 CHAIRMAN HOOD: You finished? I'm
9 sorry. So, we're finished with dates. We're
10 all on the same page.

11 Okay. With that, I want to thank
12 everyone for your participation tonight and this
13 hearing is adjourned.

14 (Whereupon, at 6:46 p.m., the
15 hearing was adjourned.)
16

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