

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

FEBRUARY 10, 2015

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 10:17 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
MARNIQUE HEATH, Vice-Chairperson
JEFFREY HINKLE, Board Member (NCPC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.
SHERRY GLAZER, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

STEPHEN GYOR
STEPHEN MORDFIN
MEGAN RAPPOLT
BRANDICE ELLIOTT
MAXINE BROWN-ROBERTS
KAREN THOMAS

DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

RYAN WESTROM

The transcript constitutes the minutes from the
Public Hearing held on February 10, 2015.

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

(10:17 a.m.)

CHAIRPERSON JORDAN: Then let's look at our hearings for the day. Anything easy on this docket today? I should've asked him to wait for me later. No.

(Off microphone comment.)

CHAIRPERSON JORDAN: Mr. Moy, let's do 18917 first, please.

MR. MOY: Okay. To the table representatives to Application Number 18917 of Asmus Conerman. Mr. Chairman, this application was advertised and publically noticed for variance for the side yard requirements.

As I understand from the filings and the record that the applicant revised the relief requested, and I believe is now requesting special exception relief under Section 223, not meeting the side yard non-conforming structure provisions.

I would ask that the applicant clarify the relief that they're requesting.

CHAIRPERSON JORDAN: Okay. Yes, let's do that. Mr. Moy, did you have a chance to talk to them about it? Okay. Did we get the documents?

MR. MOY: They were going, well, the documents in the record under Exhibit 27, but I asked for the clarification orally.

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CHAIRPERSON JORDAN: Okay. All right, please identify yourselves for the record. Just make sure you have a bright, glowing green light. And did you turn your witness cards over to the court reporter?

See, I saw those cards sitting there. Okay. Please identify yourselves. Make sure your mic is on.

MS. OHI: Jasmine Ohi. I'm here on behalf of the architect.

MR. CONERMAN: And my name is Asmus Conerman, the homeowner.

CHAIRPERSON JORDAN: All right, there was an amendment request for this file here. Did you submit any amendments for the file?

MS. OHI: I spoke to Mr. Moy before the hearing, and we'd like to, we have not submitted anything for the additional relief that is required. We would like to go through that orally.

CHAIRPERSON JORDAN: All right, and then we need to follow up with a written document supporting that. And we need to add for relief here 2001.3, I believe.

MS. OHI: Correct.

CHAIRPERSON JORDAN: And do we have a self-certification form in this case? I don't believe.

MR. CONERMAN: Yes, it's --

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MS. OHI: We do.

MR. CONERMAN: It's there, Exhibit Number 27, sir.

CHAIRPERSON JORDAN: Okay. Then we also need to, but I think something was missing looking at the self-certification form. Is the architect's license number on the form? Something's wrong with the, I'm looking at my notes.

MR. CONERMAN: There is no architect registration number on the form, sir.

CHAIRPERSON JORDAN: So that needs to be amended with the proper license number on a D.C., it has to be a D.C., okay. All right then, so with that, and that the applicant is going to subsequently amend their, they've made an oral motion to amend.

I think this matter is very straightforward in regards to the relief being requested. I don't believe that, I believe that the file does already contain enough evidence that supports the relief, the amended relief that you're requesting.

And so unless, does the Board need to hear anything on this particular case? The Board believes that there's enough already in the evidence submitted to the Board to grant the relief.

It's your opportunity whether or not you want to have

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a, offer something else to the Board or just let us proceed on and grant you the relief that you're trying to seek.

Many people step into this dark hole and say something, and they've worked their way backwards.

MS. OHI: I think we're just ready to proceed.

CHAIRPERSON JORDAN: Very good. It has happened. Stranger things have, we just wanted to say, we go oh, you didn't have that in your file. All right, so good. So let's turn to the Office of Planning and see what they have for us. Anything additional?

MR. GYOR: Good morning, Mr. Chairman and members of the Board. Stephen Gyor with the Office of Planning. We support the applicant's amended request and rest on the record. Thank you.

CHAIRPERSON JORDAN: Okay. Board any questions for Office of Planning? The applicant, any questions for Office of Planning? Anyone here from the Department of Transportation for this particular matter?

Anyone from DDOT in this matter? We do have a letter of no objection from DDOT on this case. Anyone here from ANC-5B on this, the ANC-5B? We do have a letter of support and the ANC-5B supporting this application.

Is anyone here wishing to speak in support of the application? Anyone in support? Anyone in opposition?

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Then we will close the record, and I would move that we grant the relief, the amended relief requested in this matter.

MR. MILLER: I would second that, your motion, Mr. Chairman and also note that we also have in the record a petition of support signed by neighbors, which we appreciate the applicant reaching out to your neighbors --

CHAIRPERSON JORDAN: Thank you.

MR. MILLER: -- support your addition.

CHAIRPERSON JORDAN: And thank you, Mr. Miller, for that. Additional discussion? All those in favor of the motion, aye.

(Chorus of ayes.)

CHAIRPERSON JORDAN: Those opposed, nay. The motion carries. Mr. Moy?

MR. MOY: Staff would record the vote as 4 to 0, this on a motion of Chairman Jordan to approve the amended relief requested, also in the support of the motion or seconded the motion, Mr. Miller. Also in support, Vice Chair Heath and Mr. Hinkle. No other member participating. The motion carries 4 to 0. Thank you.

CHAIRPERSON JORDAN: Thank you very much. I appreciate it, 918, Mr. Moy.

MR. MOY: All right, to the table applicants for Application Number 18918 of Edward Hertwig and Cindy Cota.

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This is a request for a special exception relief, not meeting several area requirements. And I believe, no, I'll leave it at that, Mr. Chairman.

CHAIRPERSON JORDAN: Are you just going to open the door and run away with the suspense? Okay. All right, please identify yourselves.

MR. HERTWIG: Good morning, Edward Hertwig, property owner and applicant.

CHAIRPERSON JORDAN: What was the name again? That was kind of fast.

MR. HERTWIG: Edward Hertwig.

CHAIRPERSON JORDAN: Okay.

MR. HOLEYMAN: I'm Greg Holeyman, architect.

CHAIRPERSON JORDAN: All right, again, I think this is a, I think we might need to have relief from 2001.3. I think we're expanding some non-conforming aspects of the court. So we would need you to amend your request of relief.

MR. HOLEYMAN: I believe 2001.3 is already in there.

CHAIRPERSON JORDAN: Is it? You already have it. Okay.

MR. HOLEYMAN: I'm looking at the agenda.

CHAIRPERSON JORDAN: It's there. Okay. All right, so then we're okay. Then I don't have any additional, I don't, I believe that the record supports the requested relief.

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Is there anything that the Board needs to hear from this applicant? Again, you have the right to proceed on or present whatever you, proceed on.

MR. HERTWIG: We'll rest on the record. Thank you.

CHAIRPERSON JORDAN: Very good.

MS. GLAZER: Mr. Chair?

CHAIRPERSON JORDAN: Yes.

MS. GLAZER: Sorry to interrupt.

(Off microphone discussion.)

CHAIRPERSON JORDAN: All right, so --

(Off microphone discussion.)

CHAIRPERSON JORDAN: All right, well let's make sure the record reflects the open court relief is 406 and not 404. I think that might have been in the application, and so it's 406 in that this is a single family dwelling issue. But that's okay.

MS. GLAZER: One family dwelling.

CHAIRPERSON JORDAN: One family dwelling. Excuse me, one family dwelling and not single family. I think that's, all right, so then let's turn to the Office of Planning. Is there anything in addition that we --

MR. MORDFIN: Good morning Chair and members of the Board. I'm Stephen Mordfin, and the Office of Planning continues to support this application and rests on the record.

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Thank you.

CHAIRPERSON JORDAN: Any questions for planning anyone? Questions for planning? Is there anyone here from DDOT on this case? We have a letter of no objection to the relief being requested.

Anyone here from ANC-6B? 6B? We have a letter of support from ANC-6B for the relief. Anyone here wishing to testify in support of this application? Anyone in support? Anyone in opposition? Anyone in opposition.

Then we'll close the record on this case, and I would move that we grant the relief, the amended relief on this case.

MEMBER HINKLE: Second.

CHAIRPERSON JORDAN: Motion made and seconded.
Discussion?

MR. MILLER: Mr. Chairman, I would again note that seven neighbors submitted letters in support, and we appreciate the applicant reaching out to your neighbors.

CHAIRPERSON JORDAN: Thank you. All those in favor of the motion, aye.

(Chorus of ayes.)

CHAIRPERSON JORDAN: Those opposed, nay. Motion carries. Mr. Moy?

MR. MOY: Staff would record the vote as 4 to 0, this on a motion of Chairman Jordan to approve the amended relief

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and seconding the motion, Mr. Hinkle, also in support, Mr. Miller and Vice Chair Heath. No other members present. Motion carries, sir.

CHAIRPERSON JORDAN: Okay. Got it. That's the issue with that one. Let's go ahead. I think we're okay.

MR. MOY: So --

CHAIRPERSON JORDAN: Summary, please.

MR. MOY: All right, thank you.

CHAIRPERSON JORDAN: Thank you. Let's come back to that. We may have to dance around that. It might be a little. No, let's go ahead and do it, 19, Mr. Moy.

MR. MOY: Nineteen, okay. This would be, oh, did we get the amended? Is this the Hillwood Estate application, sir?

CHAIRPERSON JORDAN: Yes.

MR. MOY: Okay. All right, I'm going to call the corrected case number, and this would be Application Number 17229 of Hillwood Estate Museum and Gardens.

And as filed in the record, Mr. Chairman, the applicant had filed for a variance to allow modification of selected conditions in the previous order. So I'll leave this action before the Board.

CHAIRPERSON JORDAN: Okay. Please identify yourselves.

MR. KADLECEK: Good morning. Excuse me, Cary Kadlecek

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from the law firm of Wilson Stores on behalf of the applicant.

MS. MARKERT: Kate Markert, Executive Director, Hillwood Estate Museum and Gardens.

MR. SUMMERSGILL: Bob Summersgill, ANC-3F, former commissioner.

MR. SHETLER: Jason Shetler, Wells and Associates, the transportation consultant.

MS. MARTIN: Amelia Martin, also Wells and Associates.

CHAIRPERSON JORDAN: All right, this originally was filed as new, a request for a use variance, but this is actually, while we've converted it over to be a modification of a previous order of the Board.

And that's why it's been given a new number, since we're not trying to change the use from what's already been granted. We're just now modifying the conditions or seeking to modify the conditions.

So that's always a modification of the previous order. Plus I believe this use has been in place since at least 1977. Is that correct?

MS. MARKERT: Correct.

CHAIRPERSON JORDAN: So we don't need to go back through all that type of hearing on this. And the Board would be looking for any impact that this modification would have on the previous operation.

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We have several different agreements, a community agreement which I believe has been executed between the applicant and the community. There are some requests change for changing certain things in the order, the previous order.

The change in conditions would be that out of all the levels of conditions, I think there are like 16 conditions previously, and you're trying to change Number 3 where visitors were required to be admitted by appointment only. They would not have to have an appointment.

MS. MARKERT: Correct.

CHAIRPERSON JORDAN: That the parking facility spaces. In fact, parking you have 110 spaces. You're now asking to be allowed to do 200 spaces. We would never argue with more parking.

Number 5, no more than two buses Tuesday through Saturday is permitted, except two buses will be permitted, including Sunday. Four overflow events would be changed to seven overflow events.

Number 7, it presently reads 41 evening events from 6:00 p.m. to 10:00 p.m., 18 Sunday events from 12 p.m. to 6:00 p.m. per year and limited to 75 attendees.

It would be changed to all Sundays are operational from 8:30 to 6:00 p.m. Evening educational events permitted two times per week, 104 evening events and three times a year, three

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times per week.

One evening event per week can end at, who's keeping track of all this?

MS. MARKERT: We do.

CHAIRPERSON JORDAN: One evening event per week can end at 11:00 p.m. plus three additional events per year, 200 attendees permitted, not 201, but 200, right?

MS. MARKERT: Correct.

CHAIRPERSON JORDAN: All right, so nothing changed with Condition Number 8. Nothing changed with Condition 9. Condition 10, it presently reads maintain a liaison committee of ANC, area residents, institutions to coordinate activities and meet quarterly to resolve problems.

It would be changed to Hillwood agrees to communicate with all area residents quarterly about events and activities.

MS. MARKERT: Right.

CHAIRPERSON JORDAN: No change to 11, 12, 13, 14, 15. Sixteen is a new condition. Upon request by Hillwood, oh, upon request, Hillwood would meet with area residents to discuss matters of concern as often as reasonably necessary to resolve.

So we'll make a slight change. Upon request, Hillwood shall meet with. Number 10 should be changed to Hillwood shall communicate with area residents. Okay. Is that all the conditions I believe, all the modifications?

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MR. SHETLER: Yes. Correct.

CHAIRPERSON JORDAN: Okay. As I said, this, the applicant has been operating at the site at least since 1977, and it's been through a lot of durations.

You've been back and forth here a number of times. I believe the file definitely since 1977 provides enough evidence to support these kind of minor modifications.

Plus, you've met with the community, and we really thank you for doing that beforehand, and worked out a very thorough and very detailed agreement between the community and the applicant, which we certainly hope that you keep in place.

Board, we have any questions, anything you need to hear from the applicant on this case? Anyone? Yes?

MR. MILLER: Just one thing, Mr. Chairman, on that very detailed comprehensive neighborhood cooperation agreement. If, I didn't have in my record an executed copy of that. If you can, if that, for the record, if you haven't already.

MR. KADLECEK: We do have the signature pages. There isn't one master copy because everyone signed individual pages, but I'd be happy to submit that for the record.

CHAIRPERSON JORDAN: All right, thank you. With that, Mr. Kadlecek, is there anything you think you need to present to the Board?

MR. KADLECEK: We have nothing further. We'll rest on

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the record.

CHAIRPERSON JORDAN: And we will turn to the Office of Planning, see if there's anything additional they need to submit.

MS. RAPPOLT: Good morning. OP stands on the record as well.

CHAIRPERSON JORDAN: Anything from DDOT on this that needs submit?

MR. WESTROM: No. We are content to stand on the record, however, available for questions of needed.

CHAIRPERSON JORDAN: Very good. Also, for the record, we have, we talked about the members understanding and there have been reach out and contact with the community on this. Anyone wishing to speak in, did I say ANC? ANC-3F, anyone here from ANC-3F?

MR. KADLECEK: Yes, sir. We're fully in support of this application.

CHAIRPERSON JORDAN: Thank you, and we do have a letter in support from ANC-3F, and we thank you. Anyone here wishing to speak in support of the application? Anyone in support? If you think it's necessary, but since you came down. Come on in. Come talk to us.

MS. PALMER: Good morning.

CHAIRPERSON JORDAN: Good morning. Give us your name,

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please.

MS. PALMER: Nancy Palmer.

CHAIRPERSON JORDAN: All right, Ms. Palmer. Good, you have up to three minutes to tell us what's on your mind.

MS. PALMER: I'll be brief. I'm a neighbor. I actually live right across the street from Hillwood and would be one of the neighbors most impacted by increased traffic. And speaking for many of us in the neighborhood, we love having Hillwood as a neighbor.

We've been so upset to see people come on Sundays and be turned away, having walked all the way from Connecticut Avenue, because it's closed on Sundays. So the Sunday opening is something we're all very happy about. So we're in support of this as well.

CHAIRPERSON JORDAN: Very good. Thank you. Any questions, Board? Thank you very much. Anyone else wishing to speak in support? Anyone else wishing to speak in support? Anybody in opposition? Anyone in opposition?

Then we will close the record on this case, and I would move that we grant the relief requested with the conditions as modified, as we spoke here as modified.

VICE CHAIRPERSON HEATH: Second.

CHAIRPERSON JORDAN: Motion made and seconded. Are we ready? Discussion? All those in favor of the motion, aye.

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(Chorus of ayes.)

CHAIRPERSON JORDAN: Those opposed, nay. The motion carries. Mr. Moy?

MR. MOY: Staff would record the vote as 4 to 0, this on the motion of Chairman Jordan to approve the relief requested along with the conditions as modified.

Second motion, Vice Chair Heath. Also in support, Mr. Miller, Mr. Hinkle and the Board member not present with us today. So the motion carries 4 to 0, sir.

CHAIRPERSON JORDAN: Thank you, Mr. Moy. Summary.

MR. MOY: Thank you.

CHAIRPERSON JORDAN: And don't forget to the file, okay. Thank you very much. Okay, because this is amended relief. I think the next one, Mr. Moy.

MR. MOY: The next one. Would that be 18920?

CHAIRPERSON JORDAN: Yes.

MR. MOY: To the table, applicant to Application Number 18920 of Richard Parnell. This application, Mr. Chairman, was advertised for, originally advertised for special exceptions from area requirements.

And I believe the applicant made a revision to relief requested and is now, I believe, request for a special exception relief under Section 223, not meeting the lot occupancy and rear yard requirements.

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CHAIRPERSON JORDAN: Okay. Do we need an amended application self-cert? Do we have that in this file?

MR. MOY: There is his Exhibit 25 with the revised relief. Self-cert?

CHAIRPERSON JORDAN: Okay.

MR. MOY: There is Exhibit 27, and that one probably.

CHAIRPERSON JORDAN: Go ahead.

MS. GLAZER: Mr. Chair, I believe 25 is just a clarification in written form. It's not a self-certification.

CHAIRPERSON JORDAN: Nor amended application, right?

MS. GLAZER: Correct.

CHAIRPERSON JORDAN: Okay, so, all right, so please give us your name, please.

MR. HUTSON: It's Christopher Hutson. I'm the architect on the project.

CHAIRPERSON JORDAN: We need to, you need to file amendment to the record regarding the amended relief. You need to amend your application, amend your self-certification form. So you can do that.

MR. HUTSON: The original application contains both options, so rear yard setback and lot occupancy are part of the original.

CHAIRPERSON JORDAN: Part of the original, okay.

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MR. HUTSON: We just took out the area of variance.

CHAIRPERSON JORDAN: Right. All right then.

MR. HUTSON: But I'm happy to amend.

CHAIRPERSON JORDAN: All right, so with that, Board any issues with this? I think this is another very straightforward 223 request, minimal impact.

So the Board believes that there's enough in the record to support the amended relief requested. Do you have anything you want to present to us, or we can proceed on? We can stand on the record?

MR. HUTSON: Yes.

CHAIRPERSON JORDAN: Okay. Then we turn to the Office of Planning to see whether Ms. Elliott has anything additional she wants to tell us.

MS. ELLIOTT: Thank you, Mr. Chair. OP doesn't have anything to add to the record. We are recommending approval of the request.

CHAIRPERSON JORDAN: Okay. Thank you. Is there anyone here for DDOT on this case? We have a letter of no objection from Department of Transportation on this file.

Anyone here from ANC-6B for this case? 6B? We do have a letter of support from ANC-6B. Is there anyone here wishing to speak in support of the application? Anyone in support?

Anyone in opposition? Anyone in opposition? Then we

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will close the record, and I move that we grant the relief, the amended relief requested.

MR. MILLER: Mr. Chairman, I would second that motion, and note again that the application submitted several letters of support from neighbors, which we always appreciate.

CHAIRPERSON JORDAN: Good. Thank you. All those in favor of the motion, aye.

(Chorus of ayes.)

CHAIRPERSON JORDAN: Those opposed, nay. The motion carries. Mr. Moy?

MR. MOY: Staff would record the vote as 4 to 0, this on the motion of Chairman Jordan to approve the amended relief requested. Second the motion, Mr. Miller, also in support, Vice Chair Heath and Mr. Hinkle. No other members present with us today. Motion carries 4 to 0, sir.

CHAIRPERSON JORDAN: All right. Thank you. Summary.

MR. MOY: Thank you.

CHAIRPERSON JORDAN: Let's take a five minute. I ran past our 10:30. Let's take five minutes. Thanks. Five minute break.

(Whereupon, the above-entitled matter went off the record at 10:43 a.m. and resumed at 10:49 a.m.)

CHAIRPERSON JORDAN: The Board has to be very careful about having conversations with people. Anything you want to

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communicate to the Board, even if you know Board members, need to go through the Secretary of the Board. Thanks. I know most folks, it's just for added information.

(Whereupon, the above-entitled matter went off the record at 10:49 a.m. and resumed at 10:53 a.m.)

CHAIRPERSON JORDAN: Let's do, I think we have another quick one here, and then I'm going to go to 49th Street. So let's do 18876.

MR. MOY: All right, thank you, sir. So next to the table, the applicant to application number 18876 of Habitat for Humanity.

And as advertised, Mr. Chairman, this was notice for request for area variance relief from the parking requirements and special exception for the new residential development under the 353.

CHAIRPERSON JORDAN: No, they might have it. We can have a conversation with it. All right, please identify yourselves.

MS. BLOOMFIELD: Good morning. My name is Jessica Bloomfield from the law firm of Holland and Knight.

MS. SLATER: My name is Susan Slater. I'm the President and CEO of Habitat for Humanity of Washington, D.C.

MS. QUIN: Whayne Quin, Holland and Knight, representing the applicant.

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CHAIRPERSON JORDAN: All right, a couple of procedural things here. One, did we get, did you, we get anything from ANC-7E?

MS. BLOOMFIELD: We have not yet. ANC-7E has not met since October. I believe there's a representative here from the ANC, but I would say that Susanne could give you a detailed explanation of all the meetings that we've attended, all the discussions we had.

CHAIRPERSON JORDAN: You've had a meeting with ANC?

MS. BLOOMFIELD: Yes.

CHAIRPERSON JORDAN: Okay. I have here a note, Ms. Glazer, that the caption needs to be amended to reflect something. It's just the caption of the case.

MS. GLAZER: Mr. Chair, that's from the original application for an apartment building to the new revised application for five row dwellings.

CHAIRPERSON JORDAN: Okay. All right, I think this is another one that it's clear that the relief needs to be supported here by the Board, by the filings.

The Board have anything that you think you need to hear or drill down on this application? With that, I'm going to, I'll turn back to the applicant and see if there, if you want to waive.

MS. BLOOMFIELD: We will rest on the record. Thank

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you.

CHAIRPERSON JORDAN: All right then, we will turn to the Office of Planning to see if there's anything in addition we need to do.

MS. RAPPOLT: Good morning, Megan Rappolt for the record, and we'll just stand on the record.

CHAIRPERSON JORDAN: Certainly. Department of Transportation?

MR. WESTROM: Good morning. Ryan Westrom from DDOT, and again, DDOT would stand on the record. We have no objection to his variance request.

CHAIRPERSON JORDAN: Very good. Anyone here from ANC-7E that's been, well, just come forward.

MR. SMITH: Good morning.

CHAIRPERSON JORDAN: Good morning. Identify yourself, please.

MR. SMITH: Byron Smith, 7E-04.

CHAIRPERSON JORDAN: 7E-04.

MR. SMITH: 7E-04.

CHAIRPERSON JORDAN: Now, the full ANC hasn't voted on this.

MR. SMITH: Correct. We have not met since October.

CHAIRPERSON JORDAN: Okay. All right, so we can't take anything that you say as an action of the ANC, but we just got

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input from, you're a single member district. You got anything you want to say?

MR. SMITH: Yes, I'm a new ANC member, so I've been five weeks into the position. And we're meeting tonight to vote on our officers, and so hopefully from this point we'll be able to move forward and address any concerns.

CHAIRPERSON JORDAN: All right, very good. Thank you, appreciate it. Anyone wishing to speak in support of the application? Anyone in support? Anyone in opposition? Anyone in opposition?

Then we will close the record on this case. Were there letters of support from the community on this?

MS. BLOOMFIELD: There are no letters in the record, no.

CHAIRPERSON JORDAN: Okay. I just want to make sure that I said it. I would move that we grant the relief requested in this matter.

VICE CHAIRPERSON HEATH: I'll second the motion.

CHAIRPERSON JORDAN: Motion made and seconded.

MR. MILLER: Chairman?

CHAIRPERSON JORDAN: Yes.

MR. MILLER: I just wanted to commend the applicant, the Habitat for Humanity, Washington D.C. for this affordable housing project and for all of the projects that you've worked on to try to address the affordable housing crisis in the

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district. Thank you.

CHAIRPERSON JORDAN: Very good. All those in favor of the motion, signify by saying aye.

(Chorus of ayes.)

CHAIRPERSON JORDAN: Those opposed, nay. The motion carries. Mr. Moy?

MR. MOY: Staff would record the vote as 4 to 0, this on the motion of Chairman Jordan to approve the relief requested and the change in the caption to five row dwellings. Second the motion is Vice Chair Heath. Also in support, Mr. Miller and Mr. Hinkle. No other members present.

CHAIRPERSON JORDAN: Very good. Sorry to make it so difficult for you today. Summary order, please.

MR. MOY: Thank you.

MS. BLOOMFIELD: Thank you.

CHAIRPERSON JORDAN: All right, let's do 916, please.

MR. MOY: All right, to the table, applicants to Application Number 18916 of 49th Street Developer LLC. This application, Mr. Chairman, was advertised for special exception relief from requirements of Section 353.

CHAIRPERSON JORDAN: All right, so please identify yourselves.

MR. BLANCHARD: Good morning, Mr. Jordan and members of the BZA. My name is Lyle Blanchard with the law firm of

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Greenstein, DeLorme & Luchs, and with me is the applicant, Mr. Tim Chapman of 49th Street Development, LLC.

MR. GREENE: Brett Greene, President and CEO of American Management Corporation.

MR. ANDRES: Good morning. Erwin Andres with Grove Slate Associates.

MR. SCHUTZ: Logan Schutz with Grimm and Parker Architects.

MR. BLANCHARD: Mr. Jordan, this application is for special exception --

CHAIRPERSON JORDAN: Mr. Blanchard, I know you haven't been maybe around us for many, let me --

MR. BLANCHARD: No, I have, and I will let you continue. Thank you.

CHAIRPERSON JORDAN: Let me handle that, appreciate it. We do things a little bit, we're trying to be a little more effective and efficient.

We understand what the application's about, and as you know, we spend hours going through these applications prior to coming here today.

So, and I always say this for the record because people don't realize we probably spend at least 12 hours, eight to 12 hours before we sit here going through these cases, not paid for it, but we do it since we love you.

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MR. BLANCHARD: We appreciate it.

CHAIRPERSON JORDAN: So, I don't think that this requires, unless the Board wants to hear a full roll out in regard to the architectural and all that, I think that, I think we're down to a transportation issue.

I think there's great support here for this, but, everyone except for DDOT, and I want to drill down on the DDOT issue. I think we understand the design of the project, the layout of the project, what's going on.

But I think we would need to drill down on DDOT's issue because DDOT appears to be, and shockingly so, in opposition to this because I've never seen such a letter from DDOT. What did you guys do? But, is that, Board, would that be okay with you, or do you need to hear something more?

MR. MILLER: Mr. Chairman, I agree that we need to hear about the transportation issues. I also would be just interested to hear about how the building, if the building had been designed to meeting some LEED certification level.

And then I just also had a question about, it isn't really relevant to the relief, but it's relevant to the project is I just wanted to hear a little bit, very briefly, about what happened to the tenants who were at the site.

CHAIRPERSON JORDAN: Okay. So let's go here. So before we, so what we need to hear from you is regarding the

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LEED certification, which I know doesn't go to the relief and the tenant treatment.

Yes, but it's okay. We just want to know for the record. It goes to impact on community. So just quick would you tell us about --

MR. BLANCHARD: Very briefly, Mr. Jordan, I'd ask Mr. Schutz who is our architect to talk about how it's going to, it at all, meet any LEED requirements or green issues.

MS. SCHUTZ: For the record, my name is Logan Schutz with Grimm and Parker Architects. The project has, because it is in the district, must meet the green community's requirements, which will require us to be 15 percent energy efficient, better than actually 90.1.

There are a number of other requirements that will be required. We'll have ENERGY STAR windows, ENERGY STAR roof, which is a green roof with a high reflectance.

The mechanical units will have to help meet that 15 percent increase or energy efficiency, so the building will meet green communities and will meet all the standards for the District of Columbia.

MR. BLANCHARD: Mr. Miller, the green building, it's really a building code issue, so not necessarily a LEED issue. The green building code allows alternatives to LEED. Green communities is one of those.

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CHAIRPERSON JORDAN: Is that sufficient? Okay.

MR. BLANCHARD: And I'll ask Mr. Chapman to talk about the history with the tenants.

MR. CHAPMAN: Good morning, Mr. Chairman, Board members. We are very excited to be here today. We've been working with the tenants in the community now for about two years, but they're really the ones that have put this all together.

They've been working on this project to return to their homes for over ten years. They're here to testify in support of it, so I will save my 45 minute speech --

CHAIRPERSON JORDAN: I wouldn't give it here.

MR. CHAPMAN: -- and turn it back over to Lyle.

CHAIRPERSON JORDAN: Let's make sure, I want to make sure, is there a question?

MR. MILLER: So how many tenants were at the site originally, and how many are coming back?

CHAIRPERSON JORDAN: You mean when? I thought it was vacant, right? Am I wrong?

MR. CHAPMAN: It was vacant. The tenants are the land owner. There's a Carver 2000 Tenants' Association. There were hundreds of units there. Some of those tenants have passed away.

Some of those tenants have moved across the street. We

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have the Carver 2000 Tenants' Association here to testify in support of it. They're actually our land owners, our partners in the deal.

And they'll be working with us. Anyone who previously lived at the site will be allowed to return to the site.

MR. MILLER: I just wanted to get that on the record. We have that issue in many cases.

CHAIRPERSON JORDAN: Well, especially when the active building, how long has this place been vacant?

MR. CHAPMAN: Probably the better of a, over a decade. It's been a cleared, vacant lot now for probably five or six years.

CHAIRPERSON JORDAN: Okay. Yes, I know and especially inactive buildings when some of these things go on, people are told they can move out, and they're going to be able to move back in. And that sometimes never happens.

MR. CHAPMAN: The work that these tenants have put in to getting us to this point is really extraordinary.

CHAIRPERSON JORDAN: Okay. So let's then drill down into the transportation issue, and I'm trying to think about how to go about doing this. Okay.

Let's go ahead and talk about your transportation study and how you believe that the, you've seen the DDOT report in opposition to relief being granted. Why don't you begin at

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that point?

MR. BLANCHARD: Very good. Mr. Jordan, Chairman Jordan, I'd like to turn it over to Mr. Andres. He's our expert witness. We did have a late filing yesterday, and I apologize for that. We did not file until yesterday afternoon a letter, which responds to DDOT's report.

CHAIRPERSON JORDAN: There's a letter?

MR. BLANCHARD: We also filed --

CHAIRPERSON JORDAN: Please, do we have that? Did you ask for leave to file that?

MR. BLANCHARD: Yes, we did.

CHAIRPERSON JORDAN: Okay. When did you file that?

MR. BLANCHARD: Yesterday afternoon, late, and I apologize for that.

CHAIRPERSON JORDAN: Do you have copies? That's why this is so very, very important that these things are timely because we do spend a lot of time going through that.

MR. BLANCHARD: I understand.

CHAIRPERSON JORDAN: And we want to give justice to looking at all the documents. So --

MR. BLANCHARD: We can do it verbally, and that's why Mr. Andres is here.

CHAIRPERSON JORDAN: All right, so then it's not in the record then until, we got it last night?

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MR. BLANCHARD: It is actually Exhibit 36D.

CHAIRPERSON JORDAN: Okay.

MR. BLANCHARD: There are several documents there, and the reason we filed late was because we were waiting for after the results of a special meeting with the ANC on Saturday. We wanted to include the results of that meeting with our filing.

CHAIRPERSON JORDAN: Okay. Give me a second. Let me try to get to it. I understand it is in the --

MR. BLANCHARD: And I believe that's maybe Exhibit, it's 36D as in David. There were several documents in Exhibit 36, some of which respond to OP concerns. But this particular one --

CHAIRPERSON JORDAN: Has OP been given a copy of it? So the document's 36 what?

MR. BLANCHARD: Thirty-six D as in David is the letter.

MR. MOY: I'm just checking the record, Mr. Chairman. It is in the record as the applicant has described, under Exhibit 36D, D as in David or delta.

MR. BLANCHARD: We did provide copies to OP and DDOT electronically yesterday afternoon.

CHAIRPERSON JORDAN: So this is just argument. All right, you can tell us about this, but again, where is your request for leave to file it out of time?

MR. BLANCHARD: That is in the cover letter, which is

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Exhibit 36 without any letter after it.

MR. MOY: That's correct, Mr. Chairman, just looking at it. It's in your record file, dated February the 9th.

CHAIRPERSON JORDAN: Now you see why we don't want things coming in last minute.

MR. BLANCHARD: I understand completely, and I do apologize.

CHAIRPERSON JORDAN: All right, let's proceed.

MR. BLANCHARD: Mr. Andres?

MR. ANDRES: Good morning, Chairman Jordan, members of the Board. Again, Erwin Andres of Grove Slate Associates. In coordinating with DDOT on this project, we had met with them, and we had submitted --

CHAIRPERSON JORDAN: When did you first meet with DDOT?

MR. ANDRES: We met with DDOT on, it was, I'm sorry. It was around, it was before Christmas.

CHAIRPERSON JORDAN: I want to know the date when you first made contact and had discussion with DDOT.

MR. ANDRES: It was on November 15th.

CHAIRPERSON JORDAN: Okay, 2014?

MR. ANDRES: Yes, that's correct.

CHAIRPERSON JORDAN: All right.

MR. ANDRES: So in those meetings we presented the application. We identified where, what the different

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components of the plan were, including access and the size of the development and things of that nature, generally a meeting with DDOT that we typically have.

In that meeting, we identified that there was a potential that this might not meet DDOT's threshold for traffic studies. And their thresholds for traffic studies is any new development or any expansion of an existing development that generates 25 additional new trips to the network in the peak direction.

CHAIRPERSON JORDAN: And that was in a November meeting you had that discussion?

MR. ANDRES: Yes, and that discussion. So after that meeting we had submitted a document that identified that the --

CHAIRPERSON JORDAN: When did you submit the document?

MR. ANDRES: The document --

CHAIRPERSON JORDAN: Mr. Andres, I need dates and times because I think it's going to be very important about the Board's decision here.

MR. ANDRES: Absolutely. The documents were submitted January 15, 2015. So in this document, we outlined why the project did not meet DDOT's trip threshold because of the fact that the uses are relatively low trip generators, especially the adult affordable housing building that's been identified.

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So with that, we had, the way that the calculation is performed, you run the numbers to see what the trip generation would be without any type of transit credit, and then based on the, based on where the site is, you apply a transit credit that is reasonable.

And the level of reasonableness we thought was very, was on very strong ground for two reasons. One, the percentage that we used for the credit was indicative of the census data we had.

So the census data currently says that the number of people who typically drive to work was, excuse me, was 45 percent. So that means that 55 percent of the people in that neighborhood who typically get to work either take transit or walk or take alternative modes.

CHAIRPERSON JORDAN: Forty-five percent?

MR. ANDRES: Yes. And so what we did is we said okay. Well, we think just to be conservative, let's use a higher driving percentage, which is 60 percent.

CHAIRPERSON JORDAN: And the census report is the one that's in your statement, in your report?

MR. ANDRES: Yes. That's correct. So we used a higher driving percentage, a 60 percent driving percentage, which is higher than what people are driving in the neighborhood today.

And not only did we use that, the same reason why we used

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that 60 percent, it's because we used the same percentage for a project further east. We worked on the Capital Gateway Walmart project, which had a residential component.

CHAIRPERSON JORDAN: Wait one second. So instead of 55, you used 60.

MR. ANDRES: No, instead of 45, we used 60.

CHAIRPERSON JORDAN: As driving?

MR. ANDRES: Yes, as driving. So we assumed more people would be driving.

CHAIRPERSON JORDAN: I think you said before opposite because I see myself scratching out my note, and I also see Ms. Heath going back scratching out before, too.

MR. ANDRES: Oh, okay.

CHAIRPERSON JORDAN: You actually said were non-drivers.

MR. ANDRES: Well, I apologize. So yes, so the current census data says 45 percent are driving, and this analysis that we submitted to DDOT we bumped that up to 60 percent because we wanted to be more conservative compared to what the existing driving percentage --

CHAIRPERSON JORDAN: What was used at Walmart?

MR. ANDRES: The Walmart was 60 percent as well.

CHAIRPERSON JORDAN: And how far is the Walmart from here?

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MR. ANDRES: It's approximately three quarters to eight tenths of a mile east of the site, so further away from the city.

CHAIRPERSON JORDAN: But less than a mile?

MR. ANDRES: It's in that range.

CHAIRPERSON JORDAN: And you used 55 percent for Walmart?

MR. ANDRES: No. We used the same 60 percent.

CHAIRPERSON JORDAN: Okay. Got it.

MR. ANDRES: So we realized that we had two benchmarks for the census data as well as a traffic report that we did for a project relatively close, but further away from the urban core, that we used to come up with our results.

So applying the credit, the result was that the number of trips generated in a peak direction was below DDOT's 25 percent, 25 trips.

CHAIRPERSON JORDAN: What was the credit?

MR. ANDRES: So the credit you take is the number of trips that are taking other modes that aren't driving. So we took a 40 percent credit because 60 percent are driving. So you take a 40 percent credit.

So that dropped us below the threshold, but in addition to that, we have also identified that the, excuse me, that the driveways as shown for the site meet all of DDOT's standards.

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They're all within 60 feet, all further than 60 feet than the nearest intersection. They are all at least 32 feet away. The driveways are all less than 24 feet wide, so they all meet DDOT's standards as if were to go to pull a building permit, this is what they would check for, the standards relative to the site plan.

So we confirmed that all the site plan elements are appropriate and are standard. And we confirmed that the traffic study did not meet DDOT's threshold for a traffic study.

CHAIRPERSON JORDAN: And so you sent that report on January 15th?

MR. ANDRES: Yes, that's correct.

CHAIRPERSON JORDAN: Did you have conversation with them about that?

MR. ANDRES: Well, sir, we submitted the report, and we had phone conversations with DDOT. And they said that we should have used a much more higher driving percentage. And essentially, if we did use a higher driving percentage, it would trigger the need for a traffic study.

CHAIRPERSON JORDAN: When did you have that conversation with DDOT?

MR. ANDRES: Shortly after, probably the day after this was submitted.

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CHAIRPERSON JORDAN: Okay.

MR. ANDRES: So then, moving forward, we essentially agree to disagree with DDOT that we didn't believe that the type of use, which includes an affordable --

CHAIRPERSON JORDAN: Now it's my understanding that you had, your 60 percent number came to 21, was it number 21 was the trip generation or 22?

MR. ANDRES: Yes. The trip generation is 21 in peak.

CHAIRPERSON JORDAN: And what does 65 do? What's the number on 65?

MR. ANDRES: Sixty five would get it close. You would probably be 25, or I'd have to do the math.

CHAIRPERSON JORDAN: This is like the first time you thought about doing that number?

MR. ANDRES: I'm sorry. I --

CHAIRPERSON JORDAN: All right, because you got a disagreement with DDOT over a percentage, and what if you were at the same number? What would be your argument? So I'm just surprised we're just now doing this.

MR. ANDRES: Well, no. If we were at the same number, then we wouldn't be here.

CHAIRPERSON JORDAN: All right.

MR. ANDRES: It would be 23.

CHAIRPERSON JORDAN: So using DDOT's number, it would

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still be 23, and that's under the, is 25 the threshold?

MR. ANDRES: Yes, that's 23 for one of the peak hours.

MR. BLANCHARD: And Mr. Jordan, just because DDOT accepted the 60 percent number for a much bigger project, Walmart --

CHAIRPERSON JORDAN: Mr. Blanchard, I understand exactly what's being said. I don't need you to interpret it for me. I heard what he said.

MR. BLANCHARD: Very good.

CHAIRPERSON JORDAN: I did my numbers, and I subtracted and added and plus, and I know what he was trying to say. But I'm having a conversation with him about the difference in where DDOT was versus his numbers.

Okay? That's acceptable. All right, so if you use the 65 percent, you think it's 23 trips one of the peak times. And what's at the other peak time?

MR. ANDRES: The other peak time it would be the same 23.

CHAIRPERSON JORDAN: So both peak times? Okay.

MR. ANDRES: Yes.

CHAIRPERSON JORDAN: Okay.

MR. ANDRES: Which is still under the threshold.

CHAIRPERSON JORDAN: Yes, that's less than 25. Got you. Okay. So what else happened?

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MR. ANDRES: And then DDOT issued their report on February 3rd that identified their position.

CHAIRPERSON JORDAN: Okay. So on January 16th, you had further, so when DDOT tells you on about January 16th, 17th that they thought you should use 65 percent, what, if anything, did you say to DDOT? You did have further conversation?

MR. ANDRES: We did, and --

CHAIRPERSON JORDAN: Those are the dates I need. Remember, we're trying to step through the communication.

MR. ANDRES: Absolutely. So after DDOT had identified that they wanted to, that they were requiring a full traffic study, we questioned why they wanted a full traffic study, given that it was under the threshold.

CHAIRPERSON JORDAN: When did, DDOT told you a full traffic study on January 16th?

MR. ANDRES: Yes. Well, they said that the, that we needed, that project triggered the trips required to do a traffic study. And we were, essentially we were agreeing to disagree that our position was that we don't believe that this view in this project and the fact that all of the elements meet DDOT standards required a traffic study.

CHAIRPERSON JORDAN: All right, what's the cost of a full traffic study?

MR. ANDRES: In this case, in a range of about \$10,000.

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CHAIRPERSON JORDAN: Okay. And the study that you did, your traffic report, what did that cost?

MR. ANDRES: In the range of about \$2000.

MEMBER HINKLE: As a follow up to that, Mr. Chairman --

CHAIRPERSON JORDAN: Yes, go ahead.

MEMBER HINKLE: Could I just ask and what would be the cost to the applicant of the TDM measures that DDOT would typically recommend in this type of case?

MR. ANDRES: Well, in this case, there is no variance. We meet the parking variance. We meet the loading variance. Excuse me. We meet the loading requirements, so there are no variance. So typically you provide TDM because you're short somehow, whether in loading or parking.

CHAIRPERSON JORDAN: In fact, you're like 400 percent over the requirement.

MR. ANDRES: Yes, and the reason for that is essentially they're building a lower level to accommodate parking, and they're just maximizing the size of the building.

CHAIRPERSON JORDAN: They just had space, so you fill in the space with parking.

MR. GREENE: If I could, the reason for those, the number of parking space was from communication from the community where, with all due respect to DDOT, if we were in DuPont Circle, it makes perfect sense to have a de minimis

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amount of parking.

But in this area, it is a much more residential area. There was concern from the community that we would have visitors and more people. I mean to meet what DDOT was talking about, we've got 178 apartments, and they're suggestion was is that we have 36 parking spaces. Again --

CHAIRPERSON JORDAN: And you're providing 125?

MR. GREENE: One hundred twenty. And although it seems when we're talking about the different studies, the 2000 or the 10,000, this being an affordable housing project, with the de minimis amount of resources in the city, really does every single penny count.

CHAIRPERSON JORDAN: There's a DHCD grant on this or financing?

MR. GREENE: Yes, sir. DHCD currently has money in the project, and we'll be going back to also ask for more grant money.

So we felt that when DDOT was asking for a traffic study, which we believed and from our traffic consultant had told us was not required, then our position was we should follow the rules because, again, every nickel that we add to the project we have to go back to the city and ask for that nickel.

CHAIRPERSON JORDAN: Got it. All right, anything else you want to add, Mr. Andres? So you had this conversation

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January. And then what happened?

MR. ANDRES: Then on February 3rd, DDOT issued this report, and then we decided as a team that we would address it before the Board.

CHAIRPERSON JORDAN: Hmm, anything else? Board, anything else you need to hear about the traffic study and why the numbers were used because what I was thinking about doing is then listening to DDOT on this particular issue?

Is that what we want to do? So let's turn to the Department of Transportation to discuss this issue if we could, please.

MR. WESTROM: Good morning, Board. Thank you. I appreciate the opportunity. I think that an appropriate place to begin is the memo that they responded with yesterday. And DDOT is frankly quite disappointed with the tenor of that document.

CHAIRPERSON JORDAN: Well, let me say this. We're not going to have that kind of conversation, but if you just talk factually about what we've heard here in regards to one, we just did a drive by reading of the document.

So we haven't digested the document. That's why we don't like to get things the last minute, because basically people waste paper when they submit stuff to this Board last minute.

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We've already read these cases. We've made notes. We've gone through it, and we don't have the time to sit here and digest.

MR. WESTROM: Understood.

CHAIRPERSON JORDAN: So whichever way you want to talk about it.

MR. WESTROM: So we believe that both the memo and the testimony that has just been given mischaracterizes the sequence of dialogue that occurred with DDOT and the applicant.

As was stated, we met originally November 15th in order to have a scoping meeting to determine what the scope of this document should be.

In between then, when the document was prepared and that scoping meeting, you exchange, and the Board is familiar with the process, a comprehensive transportation review scoping form. And such a scoping form was indeed exchanged.

CHAIRPERSON JORDAN: That was on the 15th?

MR. WESTROM: It was between November 15th, and then we returned comments to the applicant on December 2nd, which outlined the scope of the comprehensive transportation review we expected.

Within that CTR and within the document includes pedestrian analysis, bicycle analysis, five intersections to be analyzed. Contrary to what the document, that was

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ultimately produced contained. The document was expected by December 27th. That would be 45 days prior, and --

CHAIRPERSON JORDAN: It was due when?

MR. WESTROM: December 27th, was not received until January 15th. Before that, on January 14th, we sent an email to the applicant essentially asking where is the comprehensive transportation review.

We then received it on the 15th. Immediately upon receipt, we gave an email and a call to the applicant to let them know that it did not meet the standards by which we desire to see CTRs, and it did not meet the scoping form to which the applicant had agreed.

At that point, there was no more communication from the applicant.

CHAIRPERSON JORDAN: What day was that?

MR. WESTROM: That was, the dialogue was January 16th, right after the CTR was submitted as was stated. At that point, we were left to file the report as we did.

Unfortunately, an analysis of impacts is not possible without the information that we requested, and as was noted, significant details are lacking from the transportation review that was conducted.

And I think it's worthwhile to note that our expectation is a comprehensive transportation review, a portion of which

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is the traffic study component. And obviously, we can have a dialogue about whether the traffic study component was necessary.

One consideration in that regard is whether the threshold is met. However, an agreement as to whether the traffic study portion of the comprehensive transportation review is required according to the design and engineering manual.

So DDOT would essentially need to agree with an applicant that a traffic study is not needed. And in this case, we did not do so. Furthermore --

CHAIRPERSON JORDAN: So you're saying the regulation provides that they have to do one, unless DDOT says they don't have to do one?

MR. WESTROM: That is correct. And one measure by which you could make that decision is if a threshold such as this is not met. However, there are other considerations.

And additionally, the comprehensive transportation review should also consider the non-automobile traffic components. And so within the scoping form we had requested a safety analysis.

We had requested pedestrian analysis, bicycle analysis, all the other modes that perhaps could support the use of non-auto use as they're proposing.

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None of that was conducted and left us in a position that's hard to understand with the level of parking that's provided, which would indicate that they're expecting, as they just noted, expecting a certain level of vehicular traffic to then also make the claim that you're expecting that there's not traffic that's going to be generated.

CHAIRPERSON JORDAN: But I thought in their traffic review that they set forth the various modes and the distance and the number, the various modes and how far they were from various public transportation, et cetera.

MR. WESTROM: They did that only at the very most basic levels. So basically as was just identified, they noted and they stated that they expected 40 percent to be non-auto.

However, there wasn't characterization of what that non-auto was. We're aware of a shuttle service that's anticipated for this, obviously, senior citizens who are anticipated for this building.

What does that shuttle service mean? Is that considered part of the transit, or is that considered part of the vehicular traffic? Are the people going on transit going to ride on bus or on Metrorail?

How are they going to get to those services? None of those things were considered and would normally be considered as part of a comprehensive transportation review.

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CHAIRPERSON JORDAN: Maybe I misread the transportation review report, but that's okay because I thought that was all contained in there. But, all right.

So is the issue for you, so the issue, I'm hearing you say, but your report said that the thing that as bam into me when I was looking at your report and the applicant's report was this 65 percent number because I think you even used that in your, well, not you, DDOT used it in their number.

What then, if they use the 65 percent number, generates how many trips peak and in the peak time? What's the difference in it?

MR. WESTROM: I don't have that number in front of me. I believe that Mr. Andres is approximately correct. It's coming closer to 25, but again, that wasn't our only consideration.

So our goal is not to game the numbers to get it one way or the other, but our goal is to try and approximate what's going to happen as best we possibly can. And here we have a situation where it's mostly senior citizens, which is different than the adjacent developments. And --

CHAIRPERSON JORDAN: So you're saying that in your normal DDOT recommendation, your normal DDOT letter to the Board says no objection. Correct?

MR. WESTROM: If that's our position on a case, yes.

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CHAIRPERSON JORDAN: Yes, if that's your position on a case. And the opposite of that is you have objection.

MR. WESTROM: Correct.

CHAIRPERSON JORDAN: And your objection is based upon not having enough information.

MR. WESTROM: Well, no, in this case, so we understand the urgency of this building. I think it's a great project. It has great potential. And our responsibility is to ensure that any impacts will not negatively affect the transportation network.

And we don't want to see the project go forward until we are able to ensure that. Unfortunately, right now we are in the position to not be able to respond, kind of the third category.

So we're not objecting to the building necessarily. We just don't have the information that's needed to make a decision on whether the transportation impacts negatively affect our network.

And if they did, what sort of mitigation might be expected in order to allow the project to remediate that?

CHAIRPERSON JORDAN: Okay. Good. I appreciate that. That helps me. You're saying you just simply don't have enough information

MR. WESTROM: That is correct.

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CHAIRPERSON JORDAN: Yes, please, Mr. Miller.

MR. MILLER: I don't mean to interrupt here, but I did interrupt. I wanted to ask what are the, you said 65 percent auto modes, but it's one consideration. But that isn't necessarily the only one. What are the other considerations that you used to determine whether a traffic study is required?

MR. WESTROM: Absolutely, so there's various things, and included would be some of the things that we just mentioned, so anticipated operations at the building. Here we have a shuttle service that's expected.

In addition, we have multiple bus routes going immediately adjacent to the building, and a Metro station not too far as well. So understanding how are people expected to come and go.

Who is expected to be using this parking lot? So he noted that it would be perhaps visitors and staff. Well, what magnitude of traffic is expected from that component. And so you'd love to be able to understand the operations of the transportation that is serving this building in a more effectual way.

And in order to understand that, sometimes a traffic study is necessary and here especially so. And if people are going to utilize transit, we want to make sure that they can safely traverse from their building to the transit source that

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they need, whether it's the bus or the Metro right down the road.

And all of that is very important. Additionally, all these things were identified within the scoping form. This is what we were anticipating receiving. We were hoping to receive it in order to show that the building could function as it did.

And then we did not receive it. We noted it as immediately as we could, and unfortunately, they decided not to provide us with that information.

CHAIRPERSON JORDAN: So I have from you, besides the mode split, then you need to know about the bus routes, the Metro and how the shuttle is going to be used?

MR. WESTROM: That's correct and then also, who is going to use the parking lot in what distribution. So how many staff are there? How many visitors are anticipated? What sort of usage might be anticipated for those purposes?

Is the proportion of trips expected in the peak hour appropriate based on the trips generated. All these sorts of things would be dialogue that we would love to have with any applicant. And unfortunately, we're not able to do so.

CHAIRPERSON JORDAN: Okay. So let's, no, Mr. Chapman. Mr. Andres, let's hit these as we sit here if you have this information. How is the shuttle going to be used?

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MR. ANDRES: Well, the shuttle, DDOT in their traffic analysis identifies traffic that's generated during the peak hour. The shuttle service, that primarily because they're going to doctor's visits and places that are off-peak, don't actually impact that 25 trip threshold that we've identified.

The Institute of Transportation Engineers, actually their manual which uses --

CHAIRPERSON JORDAN: How is the shuttle going to be used?

MR. ANDRES: Off-peak, during off-peak hours.

CHAIRPERSON JORDAN: Off-peak?

MR. ANDRES: Yes.

CHAIRPERSON JORDAN: To do what? To take people?

MR. ANDRES: To doctor's appointments and things of that nature.

CHAIRPERSON JORDAN: Okay. So you're not using it during the peak time?

MR. ANDRES: No.

MR. MILLER: And before you leave the shuttle, I mean how many passengers are in the shuttle? How often is it going to be used?

MR. GREENE: We typically have assumed that it's about a six to ten person shuttle, and they're rarely full.

MR. MILLER: It would be how many trips a day?

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MR. GREENE: Maybe one drop off, one or two drop off and pickups.

CHAIRPERSON JORDAN: So is this shuttle just going to be available for people who need to go places when they need to do? Is that's what I'm understanding?

MR. GREENE: Correct.

CHAIRPERSON JORDAN: Okay. So the shuttle's not going to be used during peak hours to take people to the Metro? That's from my understanding. Correct?

MR. ANDRES: That's correct.

CHAIRPERSON JORDAN: All right, so how do people get to the, how will people get to the bus routes or the Metro? How will they get to the public transportation?

MR. ANDRES: They would, well, the Metro is a block to the west and half a block to the north.

CHAIRPERSON JORDAN: The Metro's only one block away?

MR. ANDRES: It's diagonally as the crow flies, a longer block.

CHAIRPERSON JORDAN: All right, and how far is the bus?

MR. ANDRES: The bus, there are buses on East Capital Street where they can walk.

CHAIRPERSON JORDAN: How far?

MR. ANDRES: I'd say probably, there's one, there's a bus stop at the northwest corner of the site, so at the site.

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CHAIRPERSON JORDAN: Okay. Thank you very much, 250 feet. Okay. All right, so who's going to be using the parking lot? What's your projection of who's going to be using the parking lot?

MR. ANDRES: The users are any residents that happen to have a car, primarily any management staff that would be managing the building and then essentially visitors to the --

CHAIRPERSON JORDAN: Let's just stop. What's your projection of residents who are going to have a car?

MR. GREENE: I'd say probably about 50 percent of the residents would have a car.

CHAIRPERSON JORDAN: And you based that upon what?

MR. GREENE: Experiential data from owning apartment buildings. We have an apartment building that has 118 apartments in it. We end up with about 60 people, 65 people that have cars. We know this because they lease them from us in the vacancy rate on the parking.

CHAIRPERSON JORDAN: Okay. How many employees will be at this site?

MR. GREENE: There will be four office staff and probably four maintenance men.

CHAIRPERSON JORDAN: So how many of them do you think is going to drive?

MR. GREENE: All of them will have cars. We'll

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probably have, one of the managers will most likely live on site. And then we'll most likely have, you should probably add security in there. There will probably be two security guards.

CHAIRPERSON JORDAN: Let me go back to my notes. What else did we miss? All right, any other use of the parking lot? Are you inviting the public to park there or --

MR. GREENE: No.

CHAIRPERSON JORDAN: Okay. Is there some type of security on the parking lot that's going to stop others from parking there?

MR. GREENE: There would be a garage door.

CHAIRPERSON JORDAN: Oh, so this is enclosed. It's not an open, flat-level?

MR. GREENE: No. It's under the building.

CHAIRPERSON JORDAN: All right.

MR. GREENE: The building would also have a visitor's unit, so that when the seniors' children wanted to come visit them, we would have, they'd have the ability to park there.

CHAIRPERSON JORDAN: So, and the visitors can park in the parking garage?

MR. GREENE: Visitors to leaseholders of the building and potential --

CHAIRPERSON JORDAN: Because they would have to let

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them in?

MR. GREENE: Right.

CHAIRPERSON JORDAN: Not because I live down the street, I just want to put my car --

MR. GREENE: Correct.

CHAIRPERSON JORDAN: What's the effect upon, I saw something in the DDOT report. Let me go back to DDOT. How does this collision, the collision requirement, collision report requirement affect this study? And why is it necessary?

MR. WESTROM: So again, the concern would be the safety of the users that are originating from this building. And so it's pretty standard in traffic studies that we would do to look for high crash locations and look for intersections where there might be a problem and especially look for geometry that perhaps is inadequate to support the use that is intended.

And again, our concern is the safe traverse of all the residents of this building in getting to these transit locations, and safety obviously would consider this.

We want to make sure that the pedestrian facilities meet the standards that are necessary. Typically, we would expect a building such as this one to upgrade the pedestrian facilities.

I'm not aware of the exact conditions of all of the

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sidewalks around this. In order to get across East Capital, in order to get to the bus that is westbound, we do know that there are ADA ramps that are non-existent or inadequate.

And those sorts of things we would've wanted to have documented so that we could work with them to mitigate that.

CHAIRPERSON JORDAN: What's the pedestrian facilities, and how will they get back and forth? Is there any improvements to the sidewalk and et cetera?

MR. ANDRES: Typically, when those, when a project goes for a building permit, we have PDRM meetings with DDOT that identifies what those improvements are because they're all in public space that we'd have to coordinate with them.

CHAIRPERSON JORDAN: So, but he's saying that your report, he couldn't give you that information, I'm thinking because you don't have a report that's talking about it.

MR. GREENE: But I think he just said what that information was. They know what is there. They know what the, what handicap accessibility is needed.

CHAIRPERSON JORDAN: So are you doing any improvements to that?

MR. GREENE: In that, and what needs to be approved and wouldn't need to be approved organically grow out of a PDRM.

CHAIRPERSON JORDAN: All right, let me ask you another question. What about the collision aspect of the report?

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MR. GREENE: Well, that's where the threshold for vehicular traffic is critical.

CHAIRPERSON JORDAN: Do you have any inklings of what is going on in the intersections there now? I mean this is not right at the intersection. In fact, it's back away, isn't it?

MR. GREENE: From the major utilized intersection, yes. That's correct. So --

CHAIRPERSON JORDAN: But you don't just pull out this parking lot like right into an intersection?

MR. GREENE: No. That's correct. And that's why the driveways that we've identified are off of East Capital Street. There's no driveways on East Capital Street. And they're set back per DDOT standard.

CHAIRPERSON JORDAN: Does that have any affect upon --

MR. WESTROM: We are more concerned about the unsignalized intersection at 47th, which is obviously where that ingress and egress would occur.

CHAIRPERSON JORDAN: On 47th?

MR. WESTROM: Again, we are not aware whether there is a crash problem at that location right now. And I would respond to the prior comment in that yes, we could go out to the site and make a determination of whether the pedestrian facilities are appropriate.

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However, it is not standard practice for us to go and review every single application. And that's something we would thus expect to come from you for us to understand the transportation conditions that do exist at this location because this is your application.

CHAIRPERSON JORDAN: That would have come in a comprehensive study?

MR. WESTROM: That would have come in a comprehensive transportation review. And that's exactly the comprehensive transportation review that we scoped, and we were not aware was being disagreed with until the so-called traffic study was submitted on January 15th.

CHAIRPERSON JORDAN: So, but for this collision intersection study, I think we've got the deduced here in the hearing everything that DDOT needed. It's not in the formal report, but we got the evidence by the applicant's statement about what's going on.

We don't have an intersection, collision report. I'm just trying to make sure we get this all down. Is there anything else that you want to say Mr. Andres? Go ahead. Is there anything else you want to talk about on this issue?

MR. GREENE: We're down to a collision review on a project for seniors --

(Simultaneous speaking)

CHAIRPERSON JORDAN: I hear you, but --

MR. GREENE: -- for ten years and for, it's my understanding from our traffic consultant and from the meeting with DDOT, to get to all of those reviews, you first have to meet the threshold of 25 trips.

CHAIRPERSON JORDAN: I understand. We're not taking argument. We're doing factual here. Is there anything else you need to say in support of where you are?

MR. ANDRES: No, I think everything has been discussed.

CHAIRPERSON JORDAN: Okay. Is there anything else DDOT wanted to add to this issue? I think we were clear.

MR. WESTROM: I think we tend to agree. I think I would state for the record that we believe that there are additional items beyond that. I think that we would expect a review that matches the scoping that we completed back on December 2nd.

CHAIRPERSON JORDAN: Where's that scoping? Has it been submitted by anyone?

MR. WESTROM: I do have a copy here. It's not typically submitted as part of the record for a proceeding such as this because we would expect that the transportation review that is completed matches the scoping that was conducted.

CHAIRPERSON JORDAN: Okay. I got it.

MR. MILLER: Mr. Chairman, I think it would be useful for them to submit that for the record --

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CHAIRPERSON JORDAN: Submit it.

MR. MILLER: -- in this case.

CHAIRPERSON JORDAN: All right, so, all right. I don't know if we need to hear anything else from the applicant. I think the issue is centered around this parking.

I think everything else is clear unless the Board needs to hear anything else on this application. Yes, please. Feel free.

MR. MILLER: On the parking, what will be the cost of the parking space to a tenant?

MR. GREENE: We will not be charging the tenants for parking.

MR. MILLER: Okay. Thank you. Is the cost factored into their rent or just --

MR. GREENE: The rent is controlled, and if the parking is required as a matter of zoning, we can't charge for it.

It seems that this issue all boils down to the number of parking spaces beyond all the flying around, the collision study, the traffic study, this and that study. It all comes down to if we agreed to 38 parking spaces, this wouldn't be an issue.

MR. MILLER: I had one other non-transportation issue to ask on the, all of the units, both the apartment units and the for sale units I understand are going to, well, why don't

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you tell me about the affordability level of the units.

MR. GREENE: The affordability of the units are --

CHAIRPERSON JORDAN: You want to back off a little bit.

MR. GREENE: Yes, sorry about that.

CHAIRPERSON JORDAN: I know we get excited about the affordability, but --

MR. MILLER: How many units of the total will be affordable at what level?

MR. GREENE: Candidly, I've spent a life building affordable housing. The affordability will be at 60 percent of the median area income. Now that doesn't really clarify what people will be living there.

We used the 60 percent because the median area income has a higher level, but what we'll see in there are closer to 40 to 50 percent of the median area income and some at 30 percent of the median area income.

The number of units that will be affordable will be 100 percent. All of them will be affordable. We also have 28 townhouses that we're working with DHCD to define the pricing on.

But those will be limited to an affordability level as well as for sale housing for the 28 town houses. There are 23 townhouses behind and five townhouses across the street. The five across the street are not a part of this application

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because they're by right.

MR. MILLER: Well, I was happy to hear about the 60 percent and 30 percent levels, given the tenants that are returning and that population, and given, I think there was, OP had maybe referenced an 80 percent AMI level.

And that concerned me, so I'm happy to hear that it is, in fact, at 60 percent or lower and it will often be at the 30 percent level for those, the lower income.

MR. GREENE: Correct.

CHAIRPERSON JORDAN: Thank you, appreciate that. Let's turn to Office of Planning to see if there's anything that needs to be added. And we do have Office of Planning's report, which I think is very comprehensive.

MS. BROWN-ROBERTS: Good morning, Mr. Chairman. The Office of Planning is supportive of this application. As you will see, we had asked for some additional information.

We did get the information regarding the previous pavers and the labels on the, labels were given for the apartment building, not for the row houses.

Regarding the balconies, the applicant said they have removed those optional balconies, which would mean that if those homeowners who are over the 40 percent lot occupancy and they need to put a balcony on, they'll have to come back to the Board for relief.

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CHAIRPERSON JORDAN: But that's before us, right?

MS. BROWN-ROBERTS: I just want you to know. That's not before us, but I just wanted you to know that was something there. But, and then regarding, you just made a comment about the affordability, about the 80 percent.

That was information that was given to us by the representative of the applicant, so, but we are glad to hear that it will be in a low AMI. Thank you.

CHAIRPERSON JORDAN: Okay. Any questions, Board? Any questions, Board? Applicant, any questions?

MR. GREENE: I just wanted to clarify the 80 percent versus the 60 percent. It's going to be 100 percent at 60 percent.

The reason the 80 percent number keeps popping up is the funding that was used for DHCD to help the tenants buy the land is tied to a certain type of funding that limits to 80 percent. And that's why you would see that, but the project will be 100 percent at 60 percent.

MR. MILLER: Thank you for that clarification.

CHAIRPERSON JORDAN: Eighty percent is the high?

MR. GREENE: No, what I'm saying is that the type of funding that the District used to do it limits to 80 percent.

CHAIRPERSON JORDAN: I understand that. I just want to be careful of what you had in the record, but I understand what

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you're saying.

MR. GREENE: Sixty percent is the highest.

CHAIRPERSON JORDAN: That you're going to do, but the application on this funding says that you have to be 80 percent and below for the type of funding. The way you said it --

MR. GREENE: Right.

CHAIRPERSON JORDAN: -- was, I didn't want you to have problems later down the road and somebody pulls you in front of an investigation. But anyway, I was trying to help you there.

MR. GREENE: Appreciate it.

CHAIRPERSON JORDAN: All right, any questions applicant of Office of Planning? Anything additional from DDOT?

MR. WESTROM: I'm not sure exactly which way the Board is moving here, but I think it's worth noting that we do believe that if and when this action proceeds, I think there could be a mitigation that is appropriate, helping understand exactly what that is, is something we're again trying to get to the bottom of.

CHAIRPERSON JORDAN: If there's mitigation needed, you're saying --

MR. WESTROM: Correct.

CHAIRPERSON JORDAN: Yes. We've got 100 something

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parking spaces where they only need like what 35, 40 parking spaces. And we're giving away in other spots where people have like no parking spaces in the middle of neighborhoods and we put TDMS. I'm sure we can come up with something for this if there is an issue.

MR. WESTROM: That is correct.

CHAIRPERSON JORDAN: Any questions for DDOT? Okay. Where are we? ANC-7E, we don't have a letter on file, but I know the ANC's in flux, so that's probably why we don't have anything from ANC-7E.

I don't believe there was a, as we had in a previous meeting, I got this Mr. Blanchard. Trust me. I have this hearing.

MR. BLANCHARD: I leave it all to you, sir.

CHAIRPERSON JORDAN: I got this hearing. I've done this for several years now. Anyway, so that's why we don't have 7E. We also got that in earlier testimony that they're in flux, but they're getting their act together.

And we're glad to have them. We do have the single member District representative here, who's probably going to say something if need be during the part of support, those who wish to speak in support.

That's where they come, on single member Districts in our hearings, Mr. Blanchard. So now we're at that point.

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Anyone wishing to speak in support of the application, please come forward.

It's only three? Okay. Three? Okay. That's good. Okay. And you all turned in witness cards. Correct?

(Chorus of yes.)

CHAIRPERSON JORDAN: And you've been sworn. I think you were here this morning. All right, so let me catch up with my notes here. And please identify yourselves.

MS. WILLIAMSON: My name is Barbara Williamson. I now live at Carver 2000 senior building, 4800 East Capital Street. I am --

CHAIRPERSON JORDAN: Can you give me one second? How many people are we going to have speak in support? How many people are speaking in support? We got five? Four, five? Five.

All right, okay. I just need to know for time management where we are. Then we have three minutes, please. You don't have to use all three minutes.

MS. WILLIAMSON: Oh, no, no.

CHAIRPERSON JORDAN: Okay.

MS. WILLIAMSON: I'm not going to take, like I say, I am Barbara Williamson. I'm President of Carver 2000 Tenant Association. I have been living there since the building first went up.

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We have a senior building, and I just want to say that I really support the BZA case because we need more affordable housing in that area.

And from what we were told, the design on that would be an excellent thing for us because right now we're in a senior building. And I heard you all, which I know this is not my expertise on the parking and whatever.

But we are limited with parking where we live now in our units. And half the time, the tenants have to park on the street because we don't have space enough on our lot.

So in order to be able to park on a lot where you live would be very feasible for me. I'm not one to sit in the house constantly, so if I come in when it's dark, I don't want to have to walk two blocks to get to my building.

So like I say, I'm all for the project. Looking at what we were told the design is going to be, I think it's going to be a fantastic project.

CHAIRPERSON JORDAN: Okay.

MS. WATSON: Good morning, Chairman Jordan. How are you on the rest of you grand zoning commissioners? My name is Barbara Watson. I'm Barbara also, and I live in 4800 East Capital Street.

And I was at a luncheon, was told about everything that's going on across the street. In fact, I used to live over there,

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and I raised two sons over there. But I left for a reason and went back to Maryland.

But I'm back, and I live at 4800 East Capital Street, which is the senior building. And so I'm favor, and I support this strongly, this building over there because we do, like Barbara said, also that we do need more senior buildings.

I know that you guys will take us in consideration and approve this construction as this new residential development over there for us because we greatly need it. And the people need it also.

CHAIRPERSON JORDAN: It's been a while since you've been able to get back over here, right?

MS. WATSON: Yes, yes.

CHAIRPERSON JORDAN: Shame. Mr. Commissioner.

MR. HUTSON: Yes.

CHAIRPERSON JORDAN: Welcome back.

MR. HUTSON: Thank you. As you can, really I live on 4600 block of East Capital, and so we're definitely looking forward to the development in the neighborhood, positive development.

But to the DDOT question, pedestrian safety along East Capital is a real issue. So there are six lanes that to get to the Metro, you have to cross six lanes without a traffic light. So a study will be helpful to clarify main, major

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issues along East Capital. So I just want to add that.

CHAIRPERSON JORDAN: Okay. On the mic.

MR. HUTSON: It wasn't to recommend anything, but it was just to say it's a present issue, and so --

CHAIRPERSON JORDAN: Got you.

MR. HUTSON: -- address it.

CHAIRPERSON JORDAN: Yes. Please give us your name.

MS. CARTER: My name is Erin Carter.

CHAIRPERSON JORDAN: Got to make sure your mic's on.

MS. CARTER: My name is Erin Carter, and I live at 401 Chapman Street, SE, Washington, D.C. And I used to live at George Washington Carver Apartments for 29 years, and I transitioned to this address at 401 Chapman Street.

We as a board and members of the Tenant Association have been working diligently on this project for 15 years, and it seems like every time we think that we're making progress, something happens.

Something comes up, and sometimes I stop and I think. I said is this really going to happen. Are we really going to get this senior building? Are we really going to get the housing that we worked so hard for?

We had two members of our board that are deceased now. They were so dedicated. They were seniors. Anytime we wanted them or had to call on them, they were always there.

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And these board members didn't even have a car, but they were always dependable. And they won't be able to see what all their hard work has accomplished.

A lot of times I sit at work. I go home. I said what have we done wrong. We've gone to all the meetings. We've signed all the papers. We've done everything that we've been asked to do.

But it seems like we're at a stand still. We've given up our time with our family, time on our job. Some of us work for the government. Some of us work for private industry.

And we just can't understand why we can't get this housing that we have so much desire for, and we had worked so hard to accomplish for. A lot of times I go to the site where I used to live in the evening.

I park where I used to park at. I get out of my car and look at where I used to live at. I said now wait a minute. I should be able to walk into a house. But all I see now is this empty lot.

Is this really going to happen? We've worked so hard. And it's just, a lot of times I get really emotional because I said all our hard work that we put into this. When we first got started, organized, we didn't even know that the apartments were for sale.

One of our ANC commissioners told us that the apartments

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were for sale. We had 45 days to get our paperwork together, plus get the \$25,000 down payment. We accomplished that. We worked day and night, and we just, we were just --

CHAIRPERSON JORDAN: We understand, and we appreciate you coming down and your passion for the project.

MS. CARTER: We just don't know what's going on because we've done everything we're supposed to do.

CHAIRPERSON JORDAN: I know. There's just the --

MS. CARTER: And we, and every time we think we're going to accomplish something, we get set back. Then we go ahead. Then we set back.

CHAIRPERSON JORDAN: We understand.

MS. CARTER: We want to move into our homes. We want to see our homes because we're not getting any younger. And I thank you for this opportunity to testify before you.

CHAIRPERSON JORDAN: And we thank you all for coming down, and we really understand where you are on this and the effort and being here all morning coming down to this. So we do support. We thank you, and we thank others that are here.

Is anyone wishing to speak in, Board any questions? Anyone wishing to speak in opposition? Anyone in opposition? Okay. Then let's, if you will give us back the tables because they're going to have to come back up.

If the applicant would come back up. Board, any

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additional questions of the applicant? Is there anything that you think you need to say in rebuttal that we haven't already talked about, Mr. Blanchard?

MR. BLANCHARD: No, Mr. Jordan. We stand on the record submitted and today's testimony.

CHAIRPERSON JORDAN: Okay. All right, then let me, all right. Yes, please? Mr. Miller, please.

MR. MILLER: I realize there's a dispute about the traffic setting, but how long would it take for you to do a traffic study?

CHAIRPERSON JORDAN: Mr. Miller, can I offer something?

MR. MILLER: Sure.

CHAIRPERSON JORDAN: Let me, this is what I'm thinking. I think we have a project here that everybody wants. We have a project that looks very, very clear that should happen.

We have the Office of Planning's support. There is, the plans look just wonderful. We have a project that community sorely needs and wants. However, we've fallen down, and we got abundance of parking, an abundance of parking that we don't have in many other projects.

But this is what I wanted to offer to the Board so that we don't have to get, people I understand got bussed here, and there's a shuttle. And there's seniors involved.

This is what I was going to suggest that we do, that we

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go ahead, close this hearing, maybe agree to the relief but make a condition.

And I was thinking the condition would be that the applicant would have to conduct a comprehensive traffic study as directed by DDOT and implement any necessary TDM plans as agreed upon by DDOT and the applicant.

I think that way everything is covered. I think that they would have their information. The applicant would have the relief that they needed. They would have to do the study.

And any TDM, if any, that 100 and something parking spaces need to go, will be provided because it might have to be something else. And that way, we wouldn't have to see it. That's what I was going to suggest to the Board. But if you think of something. That's not strong --

MR. MILLER: No, I think that's a very good solution, Mr. Chairman. I'm concerned about the precedent of the applicant doing a different study than was scoped in their scoping meeting.

So I think that's a way to move forward, and DDOT has the public space permitting process before this project gets going. But I think they need to meet with DDOT and seriously address these issues.

CHAIRPERSON JORDAN: Yes, and I knew the Board was uncomfortable with not having that report, but I think this

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way we have it. The project doesn't get held up. It's in the hands of the applicant and DDOT to work those things out.

The relief will be granted under the 353, and we're not holding up the community that really needs to have this project. And I think it makes it easier to move forward. So with that, then that would be my motion. Board, any further unreadiness, discussion?

MR. MILLER: I would second the motion and say it is a great project, and it will address a longstanding need in the community.

CHAIRPERSON JORDAN: Okay. Then all those in favor of the motion, signify by saying aye.

(Chorus of ayes.)

CHAIRPERSON JORDAN: Those opposed, nay. The motion carries. Mr. Moy?

MR. MOY: Staff would record the vote as 4 to 0. This is on the motion of Chairman Jordan to approve the application with the condition as cited by the Board.

Seconded the motion is Mr. Miller. Also support, Vice Chair Heath and Mr. Hinkle, and we have a Board member not present with us today. Motion carries, sir.

CHAIRPERSON JORDAN: Okay. Good. Then, let's, I think we do summary. Okay. Very good. Thank you all, appreciate it. All right, so if we can proceed on. I think

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we have an --

(Off microphone comment.)

CHAIRPERSON JORDAN: Okay. Then we just add that in the order of some flexibility in design. All right.

(Off microphone discussion.)

CHAIRPERSON JORDAN: Okay. Let's do, which one, 865? No, let's do. I know, 865, cannot approve, cannot approve. Let's do, what a day. Let's do 90, 18890 first.

MR. MOY: Okay. Good. That would be --

CHAIRPERSON JORDAN: You guys need to break for lunch or anything or just keep going? Keep going? Okay. Let's do 890 if we can.

MR. MOY: Okay. That would be Application Number 18890 of Rock Creek-650 LLC.

CHAIRPERSON JORDAN: Please identify yourselves.

MS. GIORDANO: Cynthia Giordano with Saw Young Law Firm.

MR. LASTUVKA: Jon Lastuvka of Rock Creek Property Group with the applicant.

CHAIRPERSON JORDAN: Your name again?

MR. LASTUVKA: Jon Lastuvka.

MR. GOINS: Jeff Goins with PGN Architects.

MR. ANDRES: Good afternoon, Chairman, Erwin Andres of Grove Slate.

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CHAIRPERSON JORDAN: So you just like live in here now, right? I want to get one of these cases where you're against. All right, I'm trying to see if there's, what issues we have with this.

This is a request for, oh the TDM measures. I know, Mr. Hinkle, you had some questions you wanted to, I thought you did. I was going to pull this a long time ago.

Get out of here. Well then we could've done this a long time ago. Does the Board have any issues with this case? I think it's pretty straightforward.

That's the only reason, oh. Let me, only question I have about this one is why don't we have a smart card in the TDM measures.

MR. ANDRES: We coordinated the TDM measures with DDOT. We just wanted to make sure DDOT was on board so.

CHAIRPERSON JORDAN: And, because we normally do smart cards with something like this so we can get people interested in Metro. Is there a reason why we --

MR. WESTROM: Good morning, or good afternoon again now. There we go. In this case we're dealing with the 8th Street Corridor, and we felt like perhaps it wasn't as pertinent in this particular instance.

We did suggest a couple additional TDM elements that could be considered by the applicant. Overall, I believe

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we're supportive. And if we come back there's one minor caveat I have with the plan as currently proposed. But --

CHAIRPERSON JORDAN: Well, let's put it out here now so we can get the question.

MR. WESTROM: That sounds good. The TDM measures as proposed, I think, are good. We appreciate doing the comprehensive transportation review as scoped.

And I think that the end result will be good. We noted the additional TDM program measures, so bike sharing, car sharing memberships and a bicycle repair facility in conjunction with provision of the onsite bicycle parking.

And then the caveat that I would not is the current plan for the five compact parking spaces adjacent to the alley has them oriented such that we believe it would suggest back in movements out to H Street or to 7th Street, the side entrance of the alley.

And our suggestion is to flip them the other way. We have no problem with the provision of parking, but we believe that flipping them the other way would discourage the back in movements that we are concerned about. And with that change, we would have no qualms with the project.

CHAIRPERSON JORDAN: Is that something that the applicant feels they can do with --

MS. GIORDANO: Yes.

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CHAIRPERSON JORDAN: All right, Board, anything else on this project, because I think this is straightforward? Okay. And so based upon that, I'm sure you guys are going to stand on the record, and we can go ahead and proceed on.

MS. GIORDANO: We're happy to stand on the record.

CHAIRPERSON JORDAN: Anything additional from the Office of Planning?

MS. BROWN-ROBERTS: Nothing additional. We really appreciate how the applicant took the time to revise it and work with the community. And we support the requests as stated.

CHAIRPERSON JORDAN: Okay. All right, anything additional from DDOT?

MR. WESTROM: Nothing additional. Thank you.

CHAIRPERSON JORDAN: Is anyone here from ANC-6C? 6C? We do have a letter in support from ANC-6C supporting this. We also have a letter of support from the 8th Street Community Development Corporation on this.

Anybody else wishing to speak in support? Anyone in support? Anyone in opposition? Anyone in opposition? Then we will close the record on this case. I'm just wondering. Do we need to make that a condition? What do you think?

MR. WESTROM: We would be more comfortable with that. I do believe this is the appropriate venue for conditions that

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could be considered mitigation to ensure that the transportation network is not negatively impacted.

CHAIRPERSON JORDAN: All right, so we will make the number six, the applicant will reorient the compact car parking. So we'll just say in such a way that does not encourage --

MR. WESTROM: So the concern is back-in movements onto 8th Street, so anytime if they pulled out of their parking spot and then just kept backing out of the alley. So if we reorient it to encourage no back-in maneuvers on the public street network, on 7th, sorry again, the side street.

MS. GIORDANO: Mr. Chair, I think instead of tilting to the east, just orienting them to tilt to the west would be the way to --

CHAIRPERSON JORDAN: Whichever way to do it.

MR. WESTROM: Said more simply. That's great.

CHAIRPERSON JORDAN: Whichever way you're going to do it, that's fine with me. So I would move that we grant the relief requested in this matter with the five conditions already stated, that's already in the TDM measures, with the additional sixth measure, which says the applicant shall reorient the compact parking to discourage back-in parking.

VICE CHAIRPERSON HEATH: Second.

CHAIRPERSON JORDAN: Motion made and seconded.

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Additional discussion?

MR. MILLER: I just wanted to commend the applicant for developing this mixed use project. I think it will be an attractive addition to that neighborhood. And thank you for working with the community, the ANC-6E, to address their concerns --

CHAIRPERSON JORDAN: Very good.

MR. MILLER: -- and with DDOT.

CHAIRPERSON JORDAN: All those in favor of the motion, aye.

(Chorus of ayes.)

CHAIRPERSON JORDAN: Those opposed, nay. The motion carries. Mr. Moy?

MR. MOY: The staff would record the vote as 4 to 0, this on the motion of Chairman Jordan to approve the requested relief with the five conditions plus the new one that's just been added, giving a total of six conditions.

Seconding the motion, Vice Chair Heath, also in support, Mr. Miller and Mr. Hinkle. And we have a Board member not present with us today. Motion carries 4 to 0, Mr. Chairman.

CHAIRPERSON JORDAN: Summary please.

MR. MOY: Thank you.

CHAIRPERSON JORDAN: Very good. Thank you all. Okay. That's it for today. No, 18865. Let's take another quick

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five minute, quick five minute.

(Whereupon, the above-entitled matter went off the record at 12:18 p.m. and resumed at 12:22 p.m.)

CHAIRPERSON JORDAN: Okay. Let me go back on the record in regards to Case Number 18916, 49th Street Development.

Just want to be sure that the record reflects what we did at the very end is allow them some flexibility regarding modifications to the plan as the plan submitted. Is that what they need? Right?

MR. MOY: Thank you very much, sir. They did. And thank you for adding that into the record.

CHAIRPERSON JORDAN: All right, thank you. All right, so let's hear 18865.

MR. MOY: Okay. I see the gentleman's at the table. This would be Application Number 18865 of Kevin Latner, and I believe that the request, relief request is as was advertised.

CHAIRPERSON JORDAN: Okay. All right, please identify yourself. Is your mic on?

MR. LATNER: Good afternoon, Chairman, members of the Board. Thank you. My name's Kevin Latner. I'm the applicant. I'm a homeowner at 21 Quincy Place, NW, so thanks for the opportunity to present for the continuance last

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December, to give me the opportunity to get some additional information.

CHAIRPERSON JORDAN: Yes, this matter was continued over to give you the opportunity to supplement your application and testimony to try to see if the, if you could convince the Board that you met the requirements for zoning relief.

And I know you supplemented the file, and the Office of Planning submitted a supplemental report, as you may see, that still cannot support the relief.

MR. LATNER: Yes, although they did say that they didn't oppose if you wanted to offer the relief.

CHAIRPERSON JORDAN: Well, that happens anyway. They couldn't like jump out in front of us and stop us. So, all right, thanks for that authority.

MR. LATNER: So --

CHAIRPERSON JORDAN: I just, I don't know. Board, see I looked at your supplement. I don't know if your supplement even helped, but --

MR. LATNER: I mean --

CHAIRPERSON JORDAN: Go ahead.

MR. MILLER: Maybe I, did the Office of, I wanted to ask the Office of Planning if they saw the supplemental information which was submitted late.

I think it was submitted prior to your supplemental

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report. So I just wanted to get their response to that if you had an opportunity to look at that.

MR. GYOR: Good afternoon, Mr. Miller. I did have a chance to look at the supplemental, and we stand by our original recommendation that we cannot support the relief.

We don't believe there's a nexus between the unique condition on the property and the practical difficulty, and that's, the first prong of the variance test really was for us the, sort of the stumbling block to this particular application.

We don't see that there's necessarily a detriment to the public good, but we had some trouble with the nexus aspect.

MR. MILLER: So you didn't, you weren't persuaded by the confluence of factors, the argument that the applicant made in his supplemental plan?

MR. GYOR: No, we were not.

MR. MILLER: Okay. Thank you.

CHAIRPERSON JORDAN: I think, because we already took testimony in this. Didn't we? Yes, we already went through the whole process, and we were giving you opportunity to save it. Is there anything additional you want to say to the Board?

MR. LATNER: Well, I do think that, I guess there's two things I would say. One is that it does seem to me a unique situation in that there is probably no place else in Washington

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where we've got a one-car garage, the particular zoning history, that particular lot size, with particular physical characteristics.

And it is, in fact, those characteristics that result in the practical difficulty. The practical difficulty is I get to choose, and do I get this or that, on the horns of that dilemma have to make some compromise.

And, in fact, one of the compromises, probably the compromise what I will take will be to build a one-car garage. I'll lose the parking space. We're in a community now where we've got four bars going up within half a block.

Already, the ones that are there are parking on, in front of my house. And so I lose that place. And I end up, should I choose, I'd end up coming back here saying look, I'd like to expand parking because I could put a parking place here.

But right now I can't find a place to park my other car. And I'm parking down the street unnecessarily. So I mean it is a practical difficulty.

And it is a result of this situation, which is, I've got the particular lot, the particular zoning history, the particular physical characteristics of the property. And they are unique.

And it is that, that puts me on the horns of this dilemma. Do I build it, or do I not build it? I understand that there

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are some cases where if a self-inflicted harm would not be considered a harm.

But in this, in the case of area variances, the self-inflicted harm, at least traditionally, is not applied. And so I mean it's really, and on the horns of the dilemma I get to lose either way.

And the relief is really pretty minor. The relief is a few feet of any way unusable space should I take it up, should I make the choice of building this one-car garage.

So I mean, and the ANC and my neighbors are like yes, that's great. And I went through that process to get their support. So it seems like it's, everybody, looks like a good idea.

And there's no detriment, and if you want to look at, if you know historical, the case law, there's a path forward. And so I would hope that the Board would consider my, consider relief.

CHAIRPERSON JORDAN: All right.

MEMBER HINKLE: Could I, I'm sorry, Mr. Chairman.

CHAIRPERSON JORDAN: No, I'm was going to say is there any questions.

MEMBER HINKLE: If I could ask, how many feet extra would remain if you were to build the one-car garage?

MR. LATNER: There'd be about seven feet.

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MEMBER HINKLE: Seven feet? And it's probably in the file, but on which side is that? On the north side, on the south side?

MR. LATNER: It'd be --

MEMBER HINKLE: I'm sorry, east or west?

MR. LATNER: Yes, it would be on the west side, and so what it would do is create sort of a little walkway between the structure that's there on my neighbor's lot and what's on my lot.

So it's not like there's an open space that would be. You could create a little walkway between their carport and my garage.

MEMBER HINKLE: Okay. And they have a carport next door, not a garage?

MR. LATNER: It's not a garage. It's a carport deck.

MEMBER HINKLE: Okay.

MR. LATNER: Yes, carport deck.

MEMBER HINKLE: And that space, that's actually opposite of where your stairs come down?

MR. LATNER: It is in the opposite side of where my stairs come down.

MEMBER HINKLE: So can you access that if you were to build the garage? Can you actually access that space from where your stairs come down, or does the garage?

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MR. LATNER: There is adequate for the way the design is. There's adequate space behind the garage to walk to the stairs.

MEMBER HINKLE: Okay. But there's really no purpose for that space.

MR. LATNER: There's no purpose for the space.

MEMBER HINKLE: Okay. Thank you.

CHAIRPERSON JORDAN: Board, additional questions? Please, Ms. Heath?

(Off microphone comments.)

MR. LATNER: The space is on the east side.

CHAIRPERSON JORDAN: East side. Yes, that's what he's talking about space between the buildings.

VICE CHAIRPERSON HEATH: Can you talk about why you have a need for the roof structure to be so tall or for the garage itself to be so tall? I mean it seems like it's all roof area.

MR. LATNER: Yes, actually, and I made a mistake when I originally submitted. The original plan is 15 feet, which would actually not require a variance there. And the purpose of that was to be able to just stack boxes, put storage.

CHAIRPERSON JORDAN: It's not 15?

MR. LATNER: No, that was my mistake. It was just 15.

VICE CHAIRPERSON HEATH: It is 15?

MR. LATNER: It's 15, and the purpose is just, I got a

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growing family. I would like to be able to take the boxes there in my bedroom and put them there. I've got stuff in storage that has been in storage for, since I moved to D.C. that I would like to get out of storage.

VICE CHAIRPERSON HEATH: So this becomes attic storage for you?

MR. LATNER: Yes.

VICE CHAIRPERSON HEATH: Okay.

CHAIRPERSON JORDAN: And it's only 15 feet, so it's not 15.6?

MR. LATNER: No.

CHAIRPERSON JORDAN: So we would amend your application to reflect that, and you wouldn't need the accessory building height relief if that's what I'm hearing.

MR. LATNER: Yes.

CHAIRPERSON JORDAN: Okay. Board, any other questions of the applicant?

MEMBER HINKLE: I was just going to note that the plans in Exhibit 7 show 15 feet.

CHAIRPERSON JORDAN: Okay, do show 15. We just want to amend that.

MR. LATNER: It was my fault.

CHAIRPERSON JORDAN: That's okay.

MR. LATNER: I read one of the ones that was written in,

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and I read it wrong. I apologize.

CHAIRPERSON JORDAN: So make sure we amend the relief here from 2500.4. It's not necessary. And that the plans, actually the building height is doesn't need any relief. Board, any additional questions? Anything? Anything from Office of Planning? Anymore? We're good.

MR. GYOR: Nothing additional, Mr. Chairman.

CHAIRPERSON JORDAN: I know we've already been through this hearing process already. All right, so we'll close the record based upon what's been submitted and the previous hearing.

And the Board ready to deliberate in this case? Anybody? Yes, we've been through the hearing before already. Yes, we just gave the opportunity for, is anybody else here in opposition? Anyone else in support?

We've already done all that. We know we had a recommendation from ANC-5C in support and DDOT had no objection. And the neighbors were in support. They had three or four neighbors or so that were in support.

(Off microphone discussion.)

CHAIRPERSON JORDAN: When did it come in?

(Off microphone discussion.)

CHAIRPERSON JORDAN: Thirty-six? Technically that was out of time, really out of time. We had already conducted

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the hearing.

MR. LATNER: Yes, that would have been late, sir.

CHAIRPERSON JORDAN: Yes, that's late. All right, so Board anybody got a feel what you want to do with this? Well, let's all not speak at the same time. Mr. Miller, I see you reaching? No. Well, go ahead, Mr. Hinkle.

MEMBER HINKLE: Sir, I mean, I find the issue of the applicant having the ability to construct a one-car garage and having this odd space left over does lead to some uniqueness on this property. It's not the best argument, but we've seen weaker arguments, I guess.

CHAIRPERSON JORDAN: And the relief requested is de minimis.

MEMBER HINKLE: The relief requested is really de minimis, and I'm just looking at an aerial of the block itself. And I see two-car garages along the line but not many, if any, one-car garages.

And I think it would be a bit odd actually to have this one-car garage in this deck space. So that's my attempt.

CHAIRPERSON JORDAN: And I threw in my de minimis statement in there. All right, so with that do you want to make a motion? So I don't have to be the motion hog here today.

MEMBER HINKLE: Right, so I'll make a motion to approve the application as modified, I guess.

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VICE CHAIRPERSON HEATH: I was on the fence about this, but I agree. The relief is de minimis, so I'll second.

CHAIRPERSON JORDAN: Motion made and seconded. Additional discussion? All those in favor, signify by saying aye.

(Chorus of ayes.)

CHAIRPERSON JORDAN: Those opposed, nay. Motion carries. Mr. Moy?

MR. MOY: The staff would record the vote as 4 to 0, this on the motion of Mr. Hinkle. Second the motion, Vice Chair Heath, also in support, Chairman Jordan and Mr. Miller. We have a Board member not present. And this is for the relief actually that has been amended.

CHAIRPERSON JORDAN: Okay. Summary order, please.

MR. MOY: Thank you, sir.

CHAIRPERSON JORDAN: And thank you.

MR. LATNER: Thank you very much. Appreciate it. I'm ecstatic.

CHAIRPERSON JORDAN: All right, any other business coming before the Board today? Then we are adjourned. Thank you everybody for participating.

(Whereupon, the above-entitled matter went off the record at 12:36 p.m.)

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