adverse or the negative impact that this addition of use may make. I believe probably the clearest one -- well, first of all, let me also say that the facility itself selling groceries on a corner, a retail market, does not, in fact, create drug activity on a corner. However, I think the condition or the environment may not deter illegal or illicit behavior, and I think we have an opportunity, especially with a retail facility, to deter that type of activity. So, with that, I think -- as I've stated under our jurisdiction of the regulations, I think we can make specific conditions.

One of which, if it's not scientifically documented, it should be -- litter. The presence of litter and the presence of disheveled public areas and also private foster illegal activity. I would think that, clearly, we have a condition on a motion that would talk about keeping the area around a store free of litter and debris. That would be a defined area. That would be the defined area, clearly, of the private property. But it would also include the public space that abuts the store property, going all the way out to and including the curb at the street.

I think part of -- also, facilitating

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that clean environment would be the inclusion of trash receptacles there. We do have a submission that indicates that there were two put. The Office of Planning had indicated that they wanted industrial size trash receptacles. The operative word there was appropriate industrial size. I think should not include "industrial," as that makes me shiver on a neighborhood location. But clearly, we would have appropriate sized, affixed trash receptacles.

We do have in the record the fact that there are two trash pick ups per week. There was a request for a third; I think, clearly, it would not be appropriate to have overflowing trash receptacles. And that goes to the first issue I brought up, that it's free and clear of litter and debris.

I think the other issues -- and I'll run them down and let someone else speak -- the other issues go to the site and the site maintenance. We had testimony about how perhaps illegal or alleged illegal activity -- people could come and go out of the store. There were undefined areas. They could basically take off in every direction if they needed to. We will require to be submitted by the applicant a landscape plan that specifically defines softscape

and hardscape on the property. And I would suggest that the applicant look at putting a defining fence around the property that clearly indicates there is one entrance and one exit out of the retail space.

I think it would be absolutely inappropriate and unacceptable to this Board member to have a chain link fence, but rather have what may look more to be like an iron fence appropriate to the neighborhood. That may be of aluminum material; it could well be steel or iron, if they wanted to. I do believe the Board's correct in looking at that and having a fence on or close to the existing masonry wall that's there, although that may be beyond the building restriction line. I believe if it's kept under a certain height that it would be allowable.

I also think that keeping the storefront windows for vision, and to be maintained by vision glass, into the retail area also would be a successful.

The lighting has been talked about quite a bit. I think we'd need to have submissions on lighting. I think it's more appropriate to have some sort of retail lighting at the entrance; that is, some sort of wall sconce that will have a lower lumen

or lower transmission of light that announces the storefront and have the higher floodlights that illuminate the site itself. I think there are two types of lighting that is needed for this type of facility.

I also think that the storefront area that looks to be white clapBoard or wood or some sort of material cladding needs to be well kept. I think that would include painting.

Signage, we've talked about in the record. Signage clearly is also regulated by regulations, and I believe other -- I think it's inappropriate to plaster the entire building with signage. I think, in fact -- well, there it is. Let me leave it at that and let others speak.

MR. ETHERLY: Mr. Chairman, I'm in agreement with the preliminary course that you've outlined. Most certainly, when you look at 2003.2 and .3, we're obviously concerned about some of deleterious impacts that have been alleged in the record regarding the store's operation.

But I think this is a situation that can be addressed with some very careful and crafted and specifically directed language in the way of

traditions. So, without the need to prolong dialog, Mr. Chairman, I would be prepared to support that direction. Thank you.

MS. RENSHAW: Mr. Chairman. I am skeptical, but I am willing to support deferring this for another opportunity for the community -- that means the ANC -- and Council member Fenty's office to gather together additional comments and support from the community, if that is possible.

I just want to point out that what we are putting forth in the way of proposed conditions for the applicant should have been in place in any case, in order to win the respect of the community and to come before this Board with that kind of support. However, we are doing the housekeeping here, and perhaps it's appropriate, at least at this point, to do it.

I just want to point out for the record that we have several agencies involved in this. We've got a Clean Cities program that obviously has not been addressing itself to the problems on this corner and at this location. We have DCRA, which obviously has licensed this establishment but has not enforced any problem areas -- clean-up of any problem

areas. And now, if we get into any kind of food operation, we're going to have the Department of Health involved.

So, it will be a major enforcement opportunity with a lot of agencies coming to grips with the problems at this one store. Now, perhaps that's going to work; we hope so. But at least we are giving the community another opportunity, and the ANC and Mr. Fenty, another opportunity to bring comments to this Board and let us know whether those conditions are going to be enough to turn this establishment around to be a positive force in the community.

CHAIRMAN GRIFFIS: Thank you, Ms. Renshaw. So, what you're indicating is that when we give the applicant time to submit what we will outline, you would like to hear from Council member Fenty's office, and it would be your anticipation that the council member would pull the ANC and community together for discussion and review of this.

MS. RENSHAW: Yes. I think that is the appropriate way to handle it. And I am hopeful that between the ANC and Council member Fenty's office, there can be some reply from the fourth district

police department regarding the opportunity for police people to stop into the store on a frequent basis; kind of like a stop-in center, if you will.

CHAIRMAN GRIFFIS: Right.

MS. RENSHAW: And also, to get some reply from the Department of Public Works on that tree cutback or tree removal, because there was that issue of the tree shading the front entrance.

CHAIRMAN GRIFFIS: I see.

MS. RENSHAW: And so, those are two areas where we do not have any feedback, where I think it's crucial for us to get some feedback. And I also think it's crucial for the community, the ANC and Mr. Fenty's office to have that kind of response from DPW and the police.

CHAIRMAN GRIFFIS: Okay. Well, hopefully we won't have a tree removal there. I think the photographs that, actually. Yeah, if it can be maintained and trimmed, and then appropriate lighting, I think it can cover that.

MR. ZAIDAIN: Mr. Chairman, not to reiterate everything else that has been said by other Board members, but I am in support of the direction we're going in. I think if you look under 2003.7, it

specifically gives us the ability to address, design, screening and landscaping issues when deliberating on this. And I think that if we're going to move in a positive manner with the special exception, those issues need to be addressed. So, I'll be looking forward to seeing some additional submissions the next time we see this.

CHAIRMAN GRIFFIS: Excellent.

MS. RENSHAW: And we might point out that it's not just responding to these, but we want to see the applicant put forth a schedule of when these conditions are going to be in place.

CHAIRMAN GRIFFIS: Good point. Others?

MR. ZAIDAIN: I'll just -- I'll just defer to my colleague, Mr. Hannaham and Mr. (inaudible).

MR. HANNAHAM: In line with that, in terms of a schedule, I concur, as well as the general tenor of the comments that have been made by my colleagues. Should we then be satisfied with the response, I would hope that we also have some condition that limits the time. Give us a time limit, a short period of maybe two or three years, to revisit this particular situation and see whether

there's been a substantial improvement or not.

CHAIRMAN GRIFFIS: Good, I think that's an excellent point, Mr. Hannaham, and clearly, I think that will be part of our further deliberation and perhaps added to a motion. I would agree with you in terms of your comment that this is -- as we have heard from the community, it's been a long-term problem. Now, this is a new owner, but I think it is absolutely appropriate in a special exception perhaps to limit the time of approval so that there might be a time for review.

Okay. Anything else?

(No response.)

CHAIRMAN GRIFFIS: Very well. Then, if I understand correctly, we're looking for the applicant to submit what let us call a landscaping, and I think that will go to how the area behind the stone wall, basically to the sidewalk line and to the store, will upgraded. And our firm feeling and direction would be the addition of some softscape, and perhaps an enclosed fencing that's appropriate to the residential area. We're clearly not looking at a chain link fence.

I think in that plan we can also include

our issue -- well, rather, let's do -- I think we were also looking for lighting, lighting location, and then lighting fixture cut sheets that might indicate what and how they will illuminate the area. With that, I think we're also looking at how the storefront would be long-term maintained, short-term upgraded, in terms of painting. And then I think that we would be looking for the base understanding of the applicant of how he will maintain his storefront window.

I hear from the Board that we're looking at clear-vision glass that would be unobstructed into the retail area.

In the landscape plan, I think, as the record shows, we're also looking at the maintenance of the existing hardscapes -- the sidewalks that lead to the store, and also the stone masonry wall that is there. Am I forgetting anything else?

MS. RENSHAW: Signage.

CHAIRMAN GRIFFIS: Oh, signage. I'm sorry. We should -- let me lump that all into basic elevation and the storefront windows and the upgrading. What we're looking for is a plan for how the applicant proposes to display signage, which

clearly we understand is an appropriate piece. But we'll displace signage under our regulations and the state regulations that limit the signage. So, we're looking at location size, etc.

MR. ETHERLY: Mr. Chair, I would also suggest, while not specifying in the condition itself but at the very least, some language which directs the applicant to work very closely with officers from the local PSA. My colleagues will recall that we did have some discussion from the Office of Planning regarding the interior layout of the store and sight lines from the register area to some of the rear portions of the commercial space.

And I think it would be very helpful to, in some manner at least, direct that the applicant work closely with the police officers to perhaps review the way out and make any changes that may be recommended, as a result of that dialog, to the interior of the store to assist in mitigating or discouraging any loitering or other types of undesirable activity.

CHAIRMAN GRIFFIS: Excellent point. I think that's a very good direction.

MS. RENSHAW: And it wouldn't hurt to

encourage the applicant to get in touch with the fire marshal's office to have a review of the interior of the store, vis-à-vis, now that they are putting in some equipment for hot food, just to make sure that everything is set up for that electrically.

CHAIRMAN GRIFFIS: Also a good direction.

Okay. And then the last thing that we're looking for in submission is that, if appropriate or -- well, yes, if appropriate -- a letter from Council member Fenty's office. And our anticipation would be that the council member could coordinate the community's response to these conditions. And we will provide his office, once submitted, all the information that will be needed.

Very well. Let's look at schedule, then and see --

MS. RENSHAW: Well, in addition, Mr. Chair, if the ANC wishes to submit a separate statement, that is its right, but it may go through Council member Fenty's office and work from there. And again, we are looking for some response from the 4th District Police Department and the Department of Public Works on the letters that have been sent to them. But there has been no response.

CHAIRMAN GRIFFIS: Good, okay. How are we on the schedule?

MS. BAILEY: Just a moment, Mr. Chairman. Mrs. Pruitt went to check on something and she'll be right back.

CHAIRMAN GRIFFIS: Excellent.

MR. ETHERLY: Mr. Chair, perhaps as we wait for staff, it would be useful, I think, just to reiterate -- not as a condition but just as we fill out the record here -- that while we did hear substantial testimony from the community, and in particular with police officers familiar with the site, this was a very close case for me because I think it's important to balance the need for small business here in the District of Columbia as well as access on the part of residents to facilities that are in near proximity to their residential homes.

And so, for me, I am heartened by the Board's efforts to balance those two needs and, I think, work out a compromise that's going to help maintain a valuable community resource for this community, while at the same time assuring that public safety concerns are satisfactorily addressed. Thank you, Mr. Chair.

CHAIRMAN GRIFFIS: I think that's an excellent comment.

How are we on schedule?

MR. PRUITT: Right now, I'm looking at our schedule. We can request submissions for -- first of all, a decision for January 7, 2003, with submissions due on the 22nd, responses on the 6th of December and draft findings on the 16th December.

CHAIRMAN GRIFFIS: Does that seem doable by Board members? Very well.

MR. PRUITT: And as soon as -- the 22nd, of course, would be October. I just want to be sure everyone's clear on that.

CHAIRMAN GRIFFIS: What was the date? November, you --

MR. PRUITT: November.

CHAIRMAN GRIFFIS: Let's run them down again.

MR. PRUITT: Okay, just to reiterate, submissions would be due October -- excuse me, November 22nd. Responses due on December 6th, with findings on the 16th, for a January decision.

CHAIRMAN GRIFFIS: Does that work? Fabulous. I think it's a good point.

Last, Board members, let me just reiterate so that we can get total clarification here. Clearly, we understand that the Council member's office not a party in this case. However, I think what the Board is looking for is a reliance on the Council member's office to facilitate the discussion and basically direct it. Whether the council member's office takes a stand, if they have already, they can certainly maintain that stand.

What we're looking for is them just to be able to focus working, obviously, with the ANC and with the community so that we can get one response, although, as stated, we can have an additional response from the ANC, if they find that they differ substantially. Or even if they don't differ, they can do whatever they want. We'd love to hear from them separately. However, clearly, we're trying to get it focused so that this doesn't run on and it facilitates everyone involved for the best, for this great city.

Mr. Zaidain?

MR. ZAIDAIN: To follow that up, I was just curious as to the dates again. The final submissions are due on the 16th, and for our -- /

MR. PRUITT: January.

MR. ZAIDAIN: January? That's an awful lot of dead time. Are you sure you want to give them --

MR. PRUITT: Well, the reason there's a lot of dead time is because of the holidays between and meetings. So, we're trying to give the community as much time as possible for responses, to get drafts in, notwithstanding Christmas and New Year's

MR. ZAIDAIN: Okay. When's our January decision meeting?

MR. PRUITT: The January decision meeting is on the 7th.

MR. ZAIDAIN: The 7th, okay. Thanks.

MR. GRIFFIS: Everybody okay?

MR. ZAIDAIN: Yes.

CHAIRMAN GRIFFIS: Yes. Then, let's move on.

MR. MOY: The next case is application number 16863 of S&P Properties, LLC, pursuant to 11 D.C.M.R. 3103.2 for a variance from the occupancy requirements under Section 403 and a variance from the rear yard requirements under Section 404, and a variance from a non-conforming structure provisions

under subsection 2001.3, to allow the conversion of a single-family dwelling and carriage house into a six-unit apartment house in the DDR5B District, at premises 420 M Street, N.W., Square 514, lot 863.

The Board may also wish to waiver the deadline for requested information from the applicant and the OP supplemental report, which were submitted late.

MR. ETHERLY: Mr. Chair, just as a preliminary matter, I did not participate in the September 17th hearing of this case. And as a result, I am not a participating member on this case.

CHAIRMAN GRIFFIS: We could give you ten minutes and have you read the entire record. Okay. That, of course, is a joke. We do have a quorum to facilitate our deliberations on this. And I'm prepared to move forward, unless there's any objections. I would think that we first need to take up waiving in the late submissions, and I'd hear objections on that. As indicated by Mr. Moy, there was the list of the findings of facts, and also the Office of Planning. Any objections?

(No response.)

CHAIRMAN GRIFFIS: Very well. Then it is

consensus of the Board to waive and accept into the record the two items.

Then I do believe we need to get to, first, the rear yard issue. What has been submitted to us is the-- well, what's before us is to decide whether a variance to the rear yard requirement under Section 404 is actually needed.

And that goes to -- as we heard in the testimony, and as is shown in the new submissions of plans by the applicant, I think we need to look at 2001.2, which goes to modifications. And that's ordinary repairs, alterations, modifications to the structure, including structural alterations, are allowed. As it states, "shall be permitted." And this does go to the issue of the structure that ties the carriage house to the main structure. It's all part of the same -- similar -- with modification, which is an allowed matter of right, then the relief would not be required.

If this was beyond the scope as indicated in 2001.2, then the relief would be required. So, I would hear from anybody and all that would like to speak to that.

(No response.)

CHAIRMAN GRIFFIS: Very well. I do not believe, and I will hear any objections, that the required (inaudible) yard is needed by this Board, based on the fact that 2001.2, although fairly generally written, alterations and modifications to the structure shall be permitted. Clearly, what we have here is a maintenance -- maintaining of an existing party line wall or lot line wall, and there is a structural modification or alteration to it that allows, frankly, just a little bit more transition of light into the area. I think it clearly falls well within 2001.2, and I don't believe that relief is required for the rear yard.

MS. RENSHAW: Sir.

CHAIRMAN GRIFFIS: Yes.

MS. RENSHAW: Did you make a motion?

CHAIRMAN GRIFFIS: I don't know if we need to move that, do we?

MS. RENSHAW: Why don't you?

CHAIRMAN GRIFFIS: I don't think you do. I think it could be a matter of -- this is your analysis as you're going through it. So ultimately, when you vote on it, the vote would only be on the relief that's left, based upon your analysis, which

would be the lot occupancy. You could take a vote, if you want, but --

CHAIRMAN GRIFFIS: Okay. Yeah, there's nothing precluding us from doing a motion that would amend the application, correct?

MR. BERGSTEIN: No.

CHAIRMAN GRIFFIS: In which case I would so move.

MS. RENSHAW: Second.

CHAIRMAN GRIFFIS: Thank you very much. Any discussion?

(No response.)

CHAIRMAN GRIFFIS: All those in favor?

(Unanimous ayes.)

CHAIRMAN GRIFFIS: And opposed?

(No response.)

CHAIRMAN GRIFFIS: Very well. I wish we could break for lunch, but we've got more to do on this.

Now that that's all cleaned up, we still have the issues, as indicated in red, of the lot occupancy requirements and the variance from a non-conforming structure.

This is -- I found it a very interesting

case in terms of the historic wood structure -- oh. Let me clear another issue. We have -- the Board has some issue with the parking. And that was, first of all, how much parking was required, how much was provided, and how it was to be provided; and how it was to be provided went to the dimensions and then to the drive aisle that was coming in.

The dimension of the parking space that was outside the structure, I think that has all been, to my satisfaction -- I'll hear others if it's not the case -- to my satisfaction cleared up in the new submissions of the plans and also in the submission of the narratives. They are talking about having a widened mouth drive aisle in. It exceeds the minimum required in the regulations, and I think it is fairly clear, fairly illustrated, that the uncovered parking space is appropriately sized.

I think that one of the advantages of what is being proposed to the rear yard area is -- and I hope that this would be implemented -- the pavers that allow growth so that it may, in fact, be utilized more as a green space, but also is sound enough to have driving on top of it.

Going to the variance test, I think there

are several extraordinary or unique conditions. As I was starting to state, this wood structure -- first of all, its size, its lot, its orientation with the carriage house, is, in fact, in evidence to be different. The proposed project is clearly within the matter of right zoning use, and it's in fact appropriate for the block, being that residential.

They also have the issue of how to access for fire and life safety the rear portion, which again takes away from the -- let me call it usable space on the first-floor area of the lot. The restriction of building on top of the two-story structure, which happens to be if not the smallest, one of the smallest elevations on the block -- all of which, in my mind, speak to the fact of how you re-mask this site, how you accommodate not impeding on the structure but masking it out, still within, I say, the general intent -- well, it is -- the general intent of the overall zoning in the area. I think that does create the practical difficulty in how you make this usable and how you accommodate the project itself.

In terms of the detrimental impact, I really -- I don't believe there was strong evidence

to show that there may well be some. I know there was an issue on the height of the structure. I think there was an issue in the record about parking and the street parking and the lack of parking. Parking is being provided beyond -- I think the applicant has certified -- beyond the required -- I think the height is not outside the context. In fact, I think it's a fairly eclectic lot, and it seems like this is continuing the eclectic nature of the elevation, which is evidenced by the submission.

I must say, I don't think I was fooled -- well, I think of particular importance was the elevation of the street frontage, and showing the mass of what may be proposed behind it was daunting. It kind of looks like a tidal wave is going to crash down on it. But not having us looking at and what's actually happening there, clearly, the important piece is the M Street elevation. But I can hear from others.

MS. RENSHAW: Mr. Chairman, you've summed it up very, very well -- just to point out the HPRB and its reading of what it will not permit, and that is the demolition of the two-story frame house, nor the carriage house. And that is significant.

CHAIRMAN GRIFFIS: Yes, indeed. Others?

(No response.)

CHAIRMAN GRIFFIS: Very well. Then -- clearly, I know that we all went through all this, but I want to put it on the record that we had asked for several things. We had asked for some of the cases that were referenced, submissions. Those cases were submitted. There was an update of some of the dimensions and percentages of relief required, and they actually were a reduction in the lot occupancy. And I think it just goes to strengthen the case that was already heading in a good direction.

Good. If there's nothing further, then I would move for approval of application 16863 of S&P properties for the variance from the lot occupancy under 403 and a variance from non-conforming structure provisions under Section 2001.3, to allow its conversion to a single-family dwelling and carriage house into a six-unit apartment in DDR5B district premises for 20 M Street, N.W.

MR. ZAIDAIN: I'll second that.

CHAIRMAN GRIFFIS: Thank you very much, Mr. Zaidain. You know, it's an interesting point -- perhaps I'll do this after the motion. Any

discussion?

MR. ZAIDAIN: I will say I was very happy with the submissions we received both from OP and from the applicant. I think they were clear and gave us some good direction in resolving issues.

MS. RENSHAW: And very good background.

MR. ZAIDAIN: Yes.

CHAIRMAN GRIFFIS: Good. Then I would ask for all those in favor to signify by saying aye.

(Unanimous ayes.)

CHAIRMAN GRIFFIS: Opposed?

(No response.)

CHAIRMAN GRIFFIS: Very well.

MR. MOY: The staff would record the vote as 4-0-0 on Chairman Griffis' motion and David Zaidain's second.

CHAIRMAN GRIFFIS: Excellent. Mrs. --

MR. ZAIDAIN: 4-0-1, Curtis Etherly not present, not voting, not hearing the case.

CHAIRMAN GRIFFIS: Very good. Thank you all very much. My point was -- and it goes more to a nomenclature, let us say. That is, is it a carriage house if it's actually -- as we have and was substantiated -- it's joined to the existing

structure, we actually have -- and I don't think it goes to the substance of the case that we were looking at, and I think clearly we looked at the rear yard. But I think it's something that I will have answered off the record.

So, with that, let us move to the last item on our public meeting agenda, and that would be minutes, if I'm not mistaken.

MS. RENSHAW: Mr. Chairman, I just got a copy of these today.

CHAIRMAN GRIFFIS: Oh, dear.

MS. RENSHAW: So, I am involved in these cases. But I would like to have a moment to review the minutes before voting.

CHAIRMAN GRIFFIS: Excellent. Let us, then, recess the meeting for lunch and we'll review the minutes. And we'll convene at one o'clock, or perhaps we'll try a little bit early and then go into our public hearing. I think that's perfectly appropriate.

(Whereupon, a lunch recess was taken, to reconvene at 1:00 p.m.)