

1 MS. BAILEY: All right.

2 Mr. Chairman, the application Stephen
3 Hopkins had been discussed previously and this is a
4 continuation of that discussion.

5 CHAIRPERSON GRIFFIS: Excellent. Thank
6 you very much.

7 Mr. Hopkins, welcome this afternoon.
8 Where we had left off, your architect had indicated
9 that the application had changed to remove the higher
10 burden of the variances to ask the Board for a review
11 of the special exception under 223. What we were
12 beginning to embark on is just the test for 223 and
13 specific questions, and it was indicated that we might
14 wait for you. Now that you are here, did you want to
15 make an opening statement regarding how you meet the
16 test of the section 223?

17 MR. HOPKINS: Certainly. It is requested
18 that the requirement for a ten foot wide open court be
19 reduced to the size of the existing open court for a
20 third floor rear addition to preserve the existing
21 light, ventilation and egress of the property in the
22 adjacent house.

23 The existing lot size and the zoning
24 regulations permit significant area to be added to the
25 house. However, the existing lot width at 16 and 2/3rd

1 feet will not result in a useful addition to be made
2 with an adjacent open court of ten feet. Whether the
3 property is developed as two apartments or three, and
4 we've withdrawn the application to develop it into
5 three, so if the property is developed into two units,
6 the third floor addition -- and this is extension of
7 an existing third floor. I have a third floor. The
8 third floor does not have adequate ceiling height.
9 And that will result in a useful space on the third
10 floor.

11 And I have spoke with my neighbor about
12 it. And we share this court. Both of have windows onto
13 this court. And four foot between us. And he in
14 support of the way I want to go about doing this where
15 I continue the existing lines of the house.

16 CHAIRPERSON GRIFFIS: Okay. If I
17 understand you correctly, you're indicating that a
18 matter of right in terms of the masking and other
19 aspects of the regulations and other aspects of the
20 regulations that allows you to do this addition. But
21 based on the existing condition, one that being the
22 minimum lot width dimension which you don't meet, and
23 then this existing court; with this addition that's
24 essentially matter of right if you take that away. You
25 are put here for relief only because of this court

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1 setback, but you could pull that addition all the way
2 over to the property line which would then just be
3 much more of a negative impact to your neighbor
4 because it would bring a wall closer to their --

5 MR. HOPKINS: And one of the things that
6 I had asked him specifically was that if he had any
7 plans for his house and if he was intending to do
8 something to his house, that it might be advantageous
9 for both of us to raise that common wall up and do his
10 change now. And he said he had no -- he was intending
11 -- he bought his house cheap and he was intending to
12 keep it that way.

13 CHAIRPERSON GRIFFIS: Okay. So in terms of
14 223.2 with the addition of any substantial adverse
15 effects in the use and enjoyment, air, privacy to the
16 adjacent neighbors, the letter's in the record from
17 the adjacent neighbor. And your testimony today is
18 that it would not, is that correct?

19 MR. HOPKINS: That's correct.

20 CHAIRPERSON GRIFFIS: Okay. And in terms
21 of the addition together with the original building as
22 you've termed street alley your architect started to
23 talk a little bit about that. Your testimony is what?
24 Does this stay within the visual character of the area
25 or does it --

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1 MR. HOPKINS: I think it absolutely stays
2 within the visual character of the area. The rowhouse
3 immediately adjacent to mine on the east side is about
4 4 foot lower than my house. So there would be a
5 greater roof distance, I would have more exposed wall
6 with that house than exists now. And on the other
7 side, there's a row of units that are similar to mine.
8 They're a little bit higher than mine, and then you go
9 down a couple of houses and the houses are built all
10 the way up and all the way back with three stories
11 now.

12 The houses, all of the houses on the other
13 side of the street that third story has been built up
14 and in a lot of cases built up partially back or all
15 the way back to the alley. Those houses on the other
16 side tend to occupy their entire lot. On my side, most
17 of us have parking.

18 CHAIRPERSON GRIFFIS: And in terms of the
19 material for the addition, what are you proposing at
20 this point?

21 MR. HOPKINS: Our original thinking was
22 that we would -- my preference would be to use brick
23 and maintain the facade, maintain -- you know, a
24 similar looking brick. And if it's economically
25 feasible to do that, I will continue -- and that's

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1 what I would do.

2 CHAIRPERSON GRIFFIS: Okay. You don't know
3 right now what that pricing might in?

4 MR. HOPKINS: Well, taking out the third
5 unit alters the economics significantly, too. I have
6 to go back. I have to go back and do a lot of
7 figuring. And if there's anyway possible, I will do
8 brick.

9 My architect is very familiar with the
10 look and feel issues and the aesthetic issues. And
11 it's my intent to live in the neighborhood a long
12 time. And I want the neighborhood look good. And doing
13 projects and doing them right makes the neighborhood
14 look good, and that increases everybody's property
15 value, and that helps everybody.

16 CHAIRPERSON GRIFFIS: Okay. Well,
17 anything else? Questions, clarifications?

18 MR. HOPKINS: I believe you have in the
19 file letters of support from the ANC and letters from
20 both of my neighbors on both sides. We have also for
21 the record held a neighborhood meeting to talk bout
22 this property and this house and what I'm doing with
23 it and two other houses in the neighborhood that are
24 both the same as mine but vacant.

25 VICE CHAIRPERSON MILLER: Could you

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1 clarify for me how what you're planning to do now
2 physically is different from what you put forward in
3 the previous application?

4 MR. HOPKINS: It isn't different at all.
5 The only difference between this and the previous
6 application is that we would be dividing it into two
7 units. A basement, first level and second, third
8 level.

9 VICE CHAIRPERSON MILLER: So physically
10 the same plan?

11 MR. HOPKINS: Physically it's the same
12 plan. Well, the room arrangements are totally
13 different because it's not -- I would have two 700
14 square foot units and one 1200 square foot unit. Now
15 I'll have two 1200 square foot units.

16 VICE CHAIRPERSON MILLER: Okay. My
17 confusion is -- maybe Office of Planning can also help
18 address this sort of with the Chairman.

19 But Office of Planning or Zoning said that
20 you need to the floor use variance and an area
21 variance. And I understand why you don't need the use
22 variance anymore. But I'm not sure why we're at a 223
23 instead of a variance if nothing's changed physically.

24 MR. HOPKINS: I don't know the areas of
25 the regulations. I can tell you this, that the plans

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1 that we submitted before to divide it into three
2 units, where we get hung up as I understand was on two
3 issues. One was that though I can park four cars in
4 the back of my house, it's 16.6 feet wide, I could not
5 possibly have two legal parking spaces.

6 The other was that the code requires 900
7 square feet of lot size per unit. And I have 2300 that
8 if you divide it by three, it comes about 80 square
9 feet short of sufficient for three units, but it's
10 perfectly adequate two.

11 Other units have been approved in my
12 neighborhood at 600 square feet per lot, so I had a
13 hard time swallowing that that little bit, that the 80
14 square feet of difference per unit is a significant
15 difference, but let it go at that.

16 There is no -- the floor plans, the
17 construction, everything is virtually identical with
18 the exception that we would have fewer kitchens and
19 fewer bathrooms.

20 VICE CHAIRPERSON MILLER: Well, maybe
21 Office of Planning can address it. Because in their
22 recommendation for the previous application, one was
23 denial of the use variance and the other was approval
24 of variance relief from lot area and court width
25 requirements. And also the memorandum from the Zoning

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1 Administrator refers it for a variance pursuant to
2 section 406.1 for required minimum open court width.

3 MR. HOPKINS: Well, the open court width
4 required in the code is ten feet. The existing open
5 court is four feet. So as I understand it, I can go
6 up with a common wall or I have to go back ten feet.

7 VICE CHAIRPERSON MILLER: Okay.

8 MR. HOPKINS: If I go back ten feet, I
9 don't have useable space left.

10 VICE CHAIRPERSON MILLER: So you already
11 had a nonconforming court, right?

12 MR. HOPKINS: Yes.

13 VICE CHAIRPERSON MILLER: Okay.

14 MR. HOPKINS: Yes, ma'am.

15 VICE CHAIRPERSON MILLER: So it's really
16 a continuation of that nonconforming?

17 MR. HOPKINS: Yes, ma'am. Or what I'm
18 trying to do is raise up the existing building
19 structure on the existing building lines and not
20 change it either way.

21 VICE CHAIRPERSON MILLER: Okay. Thank
22 you.

23 MR. HOPKINS: I'm sorry. I should have
24 been more clear with that.

25 CHAIRPERSON GRIFFIS: Anything else?

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1 Well, the issue before that you bring up why was it a
2 variance and now it's a special exception, I think it
3 was in fact just --

4 MR. HOPKINS: If we had just gone in with
5 the one, they may have gone in for the special
6 exception with the three units, and we're in the
7 territory anyway.

8 CHAIRPERSON GRIFFIS: I think it's a
9 difference of opinions. I think that it's correct
10 that it forced to 223. One of the tipping points of
11 the 233, of course, is the lot occupancy. We've
12 already been through the testimony. And I believe in
13 terms of the lot occupancy you had indicated that it
14 was well below 40 percent, is that correct?

15 MR. CUMMINGS: Forty-one percent. Yes,
16 sir.

17 CHAIRPERSON GRIFFIS: Forty-one percent,
18 which is well within the allowing under 223. Also
19 401, 44, 45, 46 and 2001.3 are covered under the 223
20 special exception. And this meets all the criteriums
21 in terms of review for the special exception.

22 Okay. Well, because this is going back--

23 MR. HOPKINS: Well, the Office of Planning
24 is here. Karen is here.

25 CHAIRPERSON GRIFFIS: I know. I know.

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1 The other aspect of the parking that was
2 brought up, of course, it's a matter of right. What
3 is required, of course, is in development is a single
4 parking space, and you are providing a single parking
5 space. Anything above that, of course, is how you
6 program the space is always one is required.
7 Therefore, no relief from parking as I look at this
8 would be required.

9 Anything else from the applicant at this
10 time? Anything else? Excellent.

11 We're going to go through very quickly
12 because we've had everyone already give their
13 presentations for the entire application. So really
14 what this is is just a re-review and availability for
15 comment on the new iteration of this application. So
16 we will ask Office of Planning if they have
17 additional, they come forward now to provide
18 additional information in terms of their analysis.

19 I think you'll find sitting right there,
20 gentlemen, you don't need to move. We can save some
21 time and move ahead with this.

22 MS. THOMAS: Good afternoon, Mr. Chairman,
23 members of the Board. I'm Karen Thomas with the Office
24 of Planning.

25 In light of the applicant's changes to

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1 requests relief under section 223 I would also state
2 for the record that we recognize that the applicant
3 could seek this relief under 223 since it would be an
4 addition to an existing residential structure. We
5 could have stated that simply in our report instead
6 going through the variance relief, which was the more
7 stricter test under 223.

8 We would stand on the record with respect
9 to our recommendation as stated in our report in
10 support of the applicant's renovation of his home to
11 accommodate a flat.

12 We believe it meets the test of relief
13 from the special exception requirements in that the
14 addition would maintain the light and air to adjacent
15 properties. Since the proposed addition does not
16 effect the width of the court. If the court is
17 eliminated altogether, light and air to the abutting
18 residence would be severely minimized.

19 And we also know that the neighbors are in
20 support of the addition as presented.

21 We know that a new addition does not
22 extend beyond the existing structure and two bay
23 windows and a smaller window are proposed, which make
24 the second floor windows. No other windows are
25 proposed beyond that and we do not believe the

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1 addition would cause privacy issues.

2 The addition will not be visible from the
3 street frontage, only from the alley system at the
4 rear, and it is not out of character with other rear
5 addition in the square.

6 Since the building's footprint is not
7 expanded, the lot occupancy does not increase which
8 would remain at 41 percent, which is well within the
9 zone requirements and within the limits required by
10 additions under section 223. That would be at 70
11 percent.

12 The existing court will be maintained and
13 this addition would provide adequate space between the
14 addition and neighboring property and the property
15 addition would not change the residential use of the
16 structure.

17 We believe it would be in harmony with the
18 intent and purpose of zone regulations and map and we
19 would support the applicant's request for addition
20 under 223 as recommended.

21 Thank you.

22 CHAIRPERSON GRIFFIS: Thank you very much.
23 Are there any questions from the Board.

24 In your review did you have concerns in
25 terms of lighting or screening or anything else that

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1 came up in the application?

2 MS. THOMAS: No. No.

3 CHAIRPERSON GRIFFIS: Very well. Is the
4 applicant have any cross examination of the Office of
5 Planning?

6 MR. HOPKINS: No.

7 CHAIRPERSON GRIFFIS: Any questions?
8 Okay. Very well. Thank you very much.

9 Let's move ahead then. Of course, this is
10 not located in -- I should probably read the right
11 piece of paper for the application. Not located in the
12 historic district.

13 We do have, as indicated previously, ANC
14 1A that has submitted a report to this.

15 We had, actually, a request for parties
16 which were denied, but were submitted in as written
17 testimony in support of the application of the
18 adjacent neighbors.

19 Let me ask at this time then is anyone
20 present to provide testimony with regards to 21734
21 today, persons present in support of the application
22 or in opposition to the application? There are no
23 persons present to provide additional testimony to
24 this application.

25 So let's turn it over to you, Mr. Hopkins,

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1 for any closing remarks that you might have?

2 MR. HOPKINS: I have no closing remarks.
3 I appreciate consideration.

4 CHAIRPERSON GRIFFIS: Very well. Board
5 members? I don't see any reason why we wouldn't take
6 the time at this point to deliberate and decide on
7 this. And I would move approval of application 17354
8 for the special exception to allow the addition to an
9 existing structure at the third floor level at
10 premises 1201 Harvard Street, N.W., and would ask for
11 a second.

12 BOARD MEMBER ETHERLY: Second, Mr. Chair.

13 CHAIRPERSON GRIFFIS: Thank you very much,
14 Mr. Etherly.

15 I think the test has been clearly --
16 although the application has taken on an awful of
17 iterations. I think we've come down to a very
18 decidedly appropriate point for this in looking at the
19 continuation of the addition on the third level, which
20 would not impact the front and it certainly wouldn't
21 visually impair the character. It wouldn't visually
22 impair the character or the massing of the existing
23 structure, allows for what 223 is put forth as
24 additions to nonconforming structures. And I'll leave
25 it at that and let it open to others for additional

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1 comments or deliberation.

2 Mr. Etherly? Very well.

3 We have a motion before us. It's been
4 seconded and I'm going to ask for all those in favor
5 signify by saying aye.

6 BOARD MEMBERS: Aye.

7 CHAIRPERSON GRIFFIS: And opposed.
8 Abstaining? Very well, Ms. Bailey?

9 MS. BAILEY: Mr. Chairman, the Board has
10 approved the application to allow a flat at the
11 premises under section 223 of the regulations. The
12 vote is four zero one. Mr. Griffis made the motion.
13 Mr. Etherly second. Mr. Mann, Ms. Miller are in
14 agreement and Mr Hildebrand is not present who
15 originally sat on this case.

16 CHAIRPERSON GRIFFIS: Thank you very much.

17 I don't see any reason why we wouldn't
18 waive our rules and regulations and issue a summary
19 order on this unless there are those that object to it
20 on the Board. Not noting any objection, Ms. Bailey,
21 why don't we do that.

22 MS. BAILEY: Thank you, Mr. Chairman.

23 CHAIRPERSON GRIFFIS: Excellent. Is there
24 any other business for the Board this morning?

25 MS. BAILEY: Not for the morning sessions,

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1 Mr. Chairman.

2 CHAIRPERSON GRIFFIS: Indeed. An awful
3 lot accomplished this morning. It is, of course,
4 1:20. We will adjourn the morning session. And let
5 me just make a quick clarification of those that are
6 here present for our afternoon case. We're going to
7 take a lunch recess and we will return at 2:15 and
8 call and go directly into the afternoon.

9 (Whereupon, at 1:19 p.m. the public
10 hearing was adjourned, to reconvene this same day at
11 2:37 p.m.)
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A-F-T-E-R-T-N-O-O-N S-E-S-S-I-O-N

2:37 p.m.

CHAIRPERSON GRIFFIS: Good afternoon, ladies and gentlemen. Let me call to order the 11th of October, 2005 afternoon public hearing of the Board of Zoning Adjustment of the District of Columbia

My name is Geof Griffis, Chairperson. Joining me today is the Vice Chair, Ms. Miller and also Mr. Etherly. Representing the National Capital Planning Commission is Mr. Mann. Representing the Zoning Commission is Mr. Parsons.

Copies of today's hearing agenda are probably around here somewhere. If you don't have one, certainly we can get you one to make sure you know where you are on the afternoon schedule.

We are recording all proceedings before the Board of Zoning Adjustment. Of course, the court reporter sitting to my left is making the official transcript. Accordingly, we would ask several things of you.

First of all, when coming forward to speak to the Board I'm going to have you just state your name and address for the record. Try and put a microphone close to you so that we can get your on the record and recorded.

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1 Also, I would ask that you fill out two
2 witness cards. Witness cards are available at the
3 table where you'll provide testimony. Those two cards
4 can go to the court reporter prior to coming forward.
5 That, obviously, will make sure that your name is
6 correctly spelled and put on the transcript for all
7 the important testimony you will provide us today.

8 This afternoon we're going to hear
9 special exceptions and variances. Special exceptions
10 and variances follow the following chronology. First,
11 we hear from the applicant the presentation of the
12 case, any specific facts and of course the test for
13 variance and/or special exception.

14 Second, we will hear from any of the
15 government agencies that have provided analysis in the
16 record. The Office of Planning is with us. We often
17 have Department of Transportation in applications.

18 Third, we will hear the report from the
19 Advisory Neighborhood Commission within which the
20 property is located.

21 Fourth, we will call for persons to
22 provide testimony that in support of the application.

23 Fifth would be persons in opposition to an
24 application. They will be provided three minutes to
25 provide testimony.

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1 And then last, we will return to the
2 applicant. You will be able to present rebuttal
3 testimony if required or you will give any sort of
4 closing remarks or summations as you will see fit.

5 Cross examination of witnesses is
6 permitted by the applicant and parties in a case. And
7 as I say, the ANC within which the property is located
8 is automatically a party in the case. And we will
9 establish any other parties that will be in a case.

10 The record will be closed at the
11 conclusion of the hearing today except for any
12 material that we specifically request. If we think
13 that there is additional material that we will need in
14 order to make a proper judicial decision, then we will
15 ask you for that. And we will give you a time and the
16 exact date to submit that into the record.

17 The Sunshine Act requires that this Board
18 conduct its hearings in the open and before the
19 public. We do enter into Executive Session, both
20 during or after a hearing on a case. And that is in
21 accordance with the Sunshine Act. It also in
22 accordance with our rules and regulations and
23 procedure. And it is used and utilized for reviewing
24 and deliberating on cases.

25 Let me ask everyone if they would, just

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1 turn off their cell phone and noise making devices at
2 this time so we don't have any disruption of those
3 giving testimony before us. Certainly wouldn't want
4 to knock anyone of their cadence as they get rolling
5 on these applications. We're going to pick up a lot
6 of great time.

7 We will look to get you all out of here by
8 6:00. If we get close to that point and I don't think
9 we're going to make that, I will obviously update you
10 and check schedules to make sure we can go over, if
11 that is needed.

12 However, at this time I would ask that
13 people that are going to testify or if you're thinking
14 about testifying, if you would stand. You're going to
15 give your attention to Ms. Bailey and she's going to
16 swear you in.

17 (Whereupon, the witnesses were sworn.)

18 CHAIRPERSON GRIFFIS: Thank you all very
19 much. And thank you, Ms. Bailey, and a very good
20 afternoon to you. Ms. Bailey is with the Office of
21 Zoning, as is Mr. Moy, who is sitting behind me. We
22 also have representatives from the Office of General
23 with us today.

24 Of course, many of you who are here, or
25 perhaps some of you do not realize that this is not

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1 our normal hearing room. We are under a major
2 renovation in order to serve the public better and
3 hopefully, we'll be in there sometime this year.
4 However, in the meantime we're going to make do with
5 the great opportunities that we have given us, and
6 move ahead.

7 To that, at this time we will consider any
8 preliminary matters attendant to our afternoon
9 schedule. Preliminary matters are those which relate
10 to whether a case will or should be heard today. If
11 you are not prepared to go forward with a case or if
12 you want to request a postponement or actually
13 withdraw a case or if you think that the proper and
14 adequate notice has not been provided, now is the time
15 to bring that the attention of the Board. You can do
16 so by coming forward and having a seat at the table.

17 Not noting anyone storm the table, I'll
18 assume that there are no preliminary matters at this
19 time from the audience. And I'll Ms. Bailey if she's
20 aware of any preliminary matters for us.

21 MS. BAILEY: Mr. Chairman and members of
22 the Board, and to everyone, good afternoon. No, sir,
23 the staff does not have any.

24 CHAIRPERSON GRIFFIS: Very well. Then
25 let's move ahead and call the first case in the

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1 afternoon.

2 MS. BAILEY: Application 17371, pursuant
3 to 11 DCMR §3104.1 for a special exception to allow a
4 two car garage addition to an exiting single-family
5 detached dwelling under section 223, not meeting the
6 rear yard requirements (section 404). The property is
7 zoned R-1-B and it's located at 1470 Roxanna Road,
8 N.W. It's located in Square 2768 on Lot 11.

9 MR. NUNLEY: Good afternoon, Chairman,
10 members of the Board and staff. My name is Edgar T.
11 Nunley, just for the record.

12 I have a case here that I think is very
13 similar to one I had earlier today, in that we're
14 seeking special exception relief. We believe that we
15 have shown that we meet our burden of proof in our
16 statement of the application showing that this project
17 will not have a negative impact on the neighboring
18 house, there is only one.

19 Secondly, we've gotten an approval from
20 the Office of Planning, a favorable report from the
21 Office of Planning.

22 And to his credit Mr. Bovellev was somehow
23 able to get a letter from ANC-4. So we do have that
24 in the case file as well.

25 So at this point I'd like to stand on the

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1 record and just ask the Board if they have any
2 questions.

3 CHAIRPERSON GRIFFIS: Very well, Mr.
4 Nunley.

5 Does the Board have any questions?

6 Mr. Nunley, in your work with the
7 applicant and/or the applicant, are they aware of
8 talking to neighbors or anything else that's come up
9 that would give rise to the fact that you believe that
10 the use of privacy, light or air might be unduly
11 impacted by the adjoining neighbors?

12 MR. BOVELLE: Good afternoon, Mr.
13 Chairman, Board members. Nathan Bovelleville, 1470 Roxanna
14 Road.

15 We haven't received any sort of opposition
16 or unfavorable comments from any of our neighbors.

17 CHAIRPERSON GRIFFIS: Very well. Let's
18 move ahead if there are no other questions.

19 Mr. Nunley will rest on the record and
20 we'll take up any other issues that come up. At this
21 point then let's move to the Office of Planning for
22 the presentation of their report.

23 MR. MORDFIN: Good afternoon, Chair and
24 members of the Board. I'm Stephen Mordfin with the
25 Office of Planning.

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1 And the subject application is in
2 conformance with the provisions of section 223 in that
3 a one family detached dwelling is permitted as a
4 matter of right within the R-1-B zone district. Light
5 and air will not be unduly affected as the reduced
6 rear yard faces a 16 foot wide public alley.

7 Use and enjoyment of neighboring
8 properties will not be unduly compromised the garage
9 will be screened from the rear by a combination of
10 mature evergreen trees and a drop in elevation.

11 Photos and architectural drawings were
12 submitted as part of the application, and a proposed
13 lot occupancy of 33 percent is less than the maximum
14 of 50 percent permitted by the section 223.3 for the
15 R-1-B zone district. Therefore, the Office of
16 Planning recommends approval of the application as
17 submitted by the applicant.

18 And that concludes the presentation by the
19 Office of Planning.

20 CHAIRPERSON GRIFFIS: Excellent. Thank
21 you very much. And appreciate your report and the
22 summation that you just provided.

23 Are there any other additional questions
24 of the Office of Planning from the Board? Does the
25 applicant have any cross examination of the Office of

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1 Planning?

2 MR. NUNLEY: No.

3 CHAIRPERSON GRIFFIS: Very well. Let's
4 move ahead then. As indicated for 4A has submitted a
5 letter of support. It is Exhibit 21. We'll take that
6 into account that 4A is represented today, or are they
7 not? No ANC representation for this application this
8 afternoon.

9 I don't have any other attendant
10 government reports or civic or neighborhood
11 associations submitting into the record, unless you're
12 aware of anything else, Mr. Nunley?

13 MR. NUNLEY: No. I'm not aware of any
14 opposition at all.

15 CHAIRPERSON GRIFFIS: Let's move ahead
16 then and ask persons present for application 17371 in
17 support or in opposition you can come forward to
18 provide testimony. Are there any persons present to
19 provide testimony today? Not noting anybody present
20 to provide additional testimony, Mr. Nunley, we'll
21 turn it over to you for any closing remarks you might
22 have.

23 MR. NUNLEY: I have no closing remarks,
24 other than I believe that we met the test and I would
25 ask for a bench decision and a summary order.

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1 CHAIRPERSON GRIFFIS: Very well. Thank
2 you.

3 I neglected to make one oral comment into
4 the record. Of course, Exhibit 20 is the letter of
5 support from Milton Lee. That's in the record on
6 that.

7 And I do appreciate you being patient with
8 us and putting together an excellent application. And
9 as far as the Office of Planning has said, and you
10 have indicated, that all the requirements for
11 submissions have been put into the record. They were
12 fully understandable and graphically representing
13 enough that the Board could easily comprehend what was
14 being proposed here. And I think it's appropriate to
15 move ahead today with a motion for approval of
16 application 17371, which is a special exception under
17 223 which would permit building an addition to a
18 single to a single family detached at 1470 Roxanna
19 Road, N.W., and I would ask for a second.

20 BOARD MEMBER ETHERLY: Second, Mr. Chair.

21 CHAIRPERSON GRIFFIS: Thank you very much,
22 Mr. Etherly.

23 I think it's very clear and Office of
24 Planning has announced, also the applicant's
25 submission and the fact that no rebuttal evidence has

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1 come forward that this would not tend to impair light
2 or air, use or enjoyment of the adjoining neighbor's.
3 It is wholly within character of the adjoining
4 architecture and neighborhood. And, of course, the
5 submissions have been put in in compliance with our
6 regulations, and therefore I will support the motion.

7 I'll open it up to any other further
8 discussion or deliberation on the motion. Very well,
9 if there's nothing further, I'd ask for all those in
10 favor signify by saying aye.

11 BOARD MEMBERS: Aye.

12 CHAIRPERSON GRIFFIS: And opposed?
13 Abstaining? Very well.

14 And I don't see any reason why wouldn't
15 waive our ruling and regulations to issue a summary
16 order on this case.

17 Thank you very much. Enjoy.

18 Ms. Bailey, if you wouldn't mind recording
19 the vote before they leave.

20 MS. BAILEY: Mr. Chairman, the vote is
21 recorded five zero zero to approve the application.
22 Mr. Griffis made the motion. Mr. Etherly second. Mr.
23 Mann, Ms. Miller and Mr. Parsons are in agreement.
24 Summary order, Mr. Chairman, as indicated.

25 CHAIRPERSON GRIFFIS: Thank you very much,

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1 Ms. Bailey.

2 Let's move ahead then to the next case in
3 the afternoon.

4 MS. BAILEY: Application 17386 of the D.C.
5 Department of Parks and Recreation, pursuant to 11
6 DCMR § 3104.1, for special exceptions to allow the
7 percentage of lot occupancy to exceed 20 percent,
8 that's § 43.3, and public recreation and community
9 center to exceed 40,000 square feet, §408.1 and
10 pursuant to 11 DCMR 3103.2 for area variances to allow
11 a height of building to exceed 45 feet, that's §
12 400.14 from the requirement that one parking space be
13 provided for each 2,000 square feet of gross floor
14 area of building, that's §2101.1, and from the
15 requirement that automobile parking spaces be a
16 minimum of 9 feet in width and 19 feet in length.
17 That's §2115.1. And, if necessary in the alternative
18 a use variance to allow office use by the D.C.
19 Department of Park and Recreation on the fourth floor
20 of a public recreation and community center. The
21 property is zoned D/R-5-B and R-5-B. It's located at
22 2809 15th Street, N.W. and 1480 Girard Street, N.W.
23 It is also located in Square 2667 on Lot 74.

24 CHAIRPERSON GRIFFIS: Very well. While
25 they're setting up, let me just take this opportunity

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1 to ask of those present persons that are thinking
2 about providing testimony, if I could see a show of
3 hands of how many people are going to be testifying
4 today. Okay. Good. That'll help us understand how
5 long we will need for this.

6 MR. BLANCHARD: Members of the Board, I beg
7 your indulgence and I apologize for our tardiness this
8 afternoon. We expected, of course, cross town traffic
9 being what it is and the agency Director apparently is
10 not here at the moment, but the Deputy Director is.
11 So I'd like to go forward with our presentation if we
12 could at this time.

13 CHAIRPERSON GRIFFIS: Good.

14 MR. BLANCHARD: Good afternoon. My name
15 is Lyle Blanchard of the firm of Greenstein, Delorme
16 and Luchs. We are here today with a, and "we" being
17 the D.C. Department of Parks and Recreation are here
18 with an application to build a community center at
19 15th and Girard Streets, N.W.

20 This is the site. The site is an existing
21 park, and as you see from our submissions in the
22 record, is a -- well, vacant former RLA property.
23 These lots were combined to form the current property.
24 And the Department is proposing to build a four story
25 community center on what was two apartment buildings

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1 located at the corner of 15th and Girard Streets.

2 This is an unusual site in that, as you
3 can see, it's almost a flag shaped site extending down
4 below Fuller Street and occupying the entire corner of
5 15th and Girard Streets. It was for many years the
6 site of violence in the neighborhood, drug dealing,
7 prostitution and gang activity.

8 With Council Member Jim Graham and others
9 in the community and the Department there were a
10 series of approximately 15 community meetings and
11 several charrettes over the period of several years to
12 come up with a plan for this site.

13 This project, unfortunately, got caught up
14 in the midst of and was designed prior to the Zoning
15 Commission's rulemaking for recreation centers and
16 community centers. The design has been modified as
17 best we can, but we are before you today with two
18 special exceptions, three area variances. And we hope
19 the Board will agree with us that a use variance is
20 not necessary, but we have included it in the
21 alternative to allow what we believe would come under
22 the definition of what can be the variety of uses in
23 a community and recreation center, in that the
24 Department wants to use a portion of the fourth floor
25 as an educational incubator. The definition for

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1 community center and recreational facility includes
2 educational uses. The Department will expound on what
3 those uses are, but essentially this is to be sort of
4 an incubator to serve the immediate Columbia Heights
5 community and try out some new programs that are
6 responsive to the needs of that particular community.
7 And train the trainers and work with the community, in
8 essence.

9 And we believe that that proposed use
10 comes within the ambit of the definition prescribed
11 the Zoning Commission in its rulemaking. So I wanted
12 to make you aware of that.

13 And the ANC has written in support. We had
14 hoped to get a letter of support from Council Member
15 Graham. I don't know if he sent one in or not. But we
16 have certainly talked with his staff about sending one
17 in.

18 We believe the community is in support of
19 this application. As I said, it was a four year
20 planning process.

21 The lot is unique. It has a use as a
22 former park. And we believe those uses should be
23 extended to the proposed center.

24 Demolition of the former apartment
25 buildings and budgetary constraints of the Department

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1 have precluded the Department from excavating below
2 grade to provide additional parking. There just isn't
3 the resources for doing that. If this was a private
4 development, probably they could. But this funded by
5 the District's budget so there are constraints.

6 The practical difficulties here are that
7 we need to maintain as much park land as possible
8 while responding to the indoor recreation needs of the
9 community. We have asked for a 3 percent variance in
10 the lot occupancy. The Department has designed the
11 part in such a way as to maximize the park land and
12 park outdoor recreational uses as much as possible.
13 But they need to occupy an addition three percent
14 beyond the 20 percent that's allowed by the Zoning
15 Commission.

16 There are programmatic requirements with
17 the Department and the architect, Mr. Walter Page will
18 speak to. But in order to have a multipurpose
19 gymnasium, we are asking for a variance for height,
20 some additional height. And those same programmatic
21 requests from the community had also driven the total
22 gross square footage of the building beyond the Zoning
23 Commission's standard of a maximum of 40,000 square
24 feet.

25 And then we have a request for parking.

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1 Normally if you were to use the guidelines prescribed
2 by the Commission, you would have one parking space
3 for every 2,000 square feet of gross floor area, which
4 would yield approximately 22 spaces here. The
5 Department is only able to provide 8, but the
6 Department will speak to the fact that this is a
7 neighborhood serving center and that most of the
8 people using this center including employees will
9 either walk or be able to park elsewhere. Most of the
10 citizens using this facility are youth. They will be
11 walking there. There are some elderly that will be
12 driven in vans by the Department. They are not driving
13 there.

14 And then finally, we're asking for a small
15 variance on the size of the parking spaces. Normally
16 parking spaces are 9 by 19 feet, as you all know. In
17 order to fit as many spaces within the envelop
18 available without compromising programmatic spaces in
19 the building, they have reduced the spaces slightly to
20 18 by 8½ feet

21 And that summarizes my introduction. I'd
22 like to turn to a representative of the Department
23 since the Director is still not here and have her
24 present the Department's testimony.

25 MS. JOHNSON: Good afternoon. Thank you

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1 for the opportunity to testify before you today at the
2 Board of Zoning Adjustment. Mr. Chairman and
3 distinguished members of the Committee, I'm Roslyn
4 Johnson, and I am the Deputy Director for the D.C.
5 Department of Parks and Recreation. I'm here to
6 discuss the D.C. Department of Parks and Recreation's
7 Columbia Heights community center at 15th and Girard
8 Streets, N.W. I will talk about the importance of the
9 center and the good it will serve for our neighbors.

10 The center is on par with the development
11 of the 14th Street corridor. There are homes, stores,
12 a new high school and renovated middle school being
13 developed. The presence of these build a strong
14 community and the D.C. Department of Parks and
15 Recreation is proud to play a role. We are prepared to
16 meet the needs of the growing community by ensuring
17 that the center is properly staffed throughout the
18 day, and we will provide programs that will improve
19 the quality of life for neighborhood residents by
20 providing access to a state of the art facility within
21 walking distance of their homes.

22 We will include a myriad of programs
23 specific to the needs of the Community Heights
24 community. Many of those programs will take place in
25 our gymnasium. A gymnasium at a DPR property is not

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1 your regular or ordinary gymnasium. It serves as a
2 runway for fashion shows, a track for our senior
3 walking program, a stage for drama programs, and a
4 showcase for many other cultural arts and learning
5 programs. It is the ballroom for special community
6 events, the welcoming center for children's holiday
7 parties, and the indoor playground in case of rain.

8 We will offer many activities in our
9 spacious gymnasium, including a full complement of
10 basketball and volleyball for all ages. Basketball is
11 often the draw to get teenagers into our many
12 facility, but we will have many offerings for them.
13 We will have educational offerings, arts and craft,
14 ceramics, health and wellness classes, nutrition, as
15 well as conflict resolution skills and peer
16 counseling. There will be a Head Start child care for
17 ages 2 through 5 and a food program as well. We will
18 have programs for seniors, and we plan to expand our
19 multi-generational program that joins seniors and
20 young people for exciting experiences.

21 The center will be a haven for the more
22 than 800 Bell Multi-cultural High School students and
23 the 400 Lincoln Middle School students that will
24 attend school in the area.

25 It has been proven that community centers

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1 that promote programs for all ages have a direct
2 correlation in the reduction of crime. We will be
3 creating a pilot program that will test the success of
4 innovative programming for disconnected youth through
5 the use of the sound studio that will be included in
6 the center and the full kitchen that will support our
7 culinary arts program. The use of this site as an
8 "educational incubator" is ground breaking.

9 The Columbia Heights community center will
10 be the most culturally diverse center in the District
11 of Columbia. We see this center as a beacon for this
12 area and will bring together the cultural diversity
13 reflected in the neighborhood.

14 The building is also going to be silver
15 certified by LEED - Leadership in Energy and
16 Environmental Design. This status is granted by
17 reducing the pavement in the area and creating more
18 green space to provide an environmentally friendly
19 environment. The D.C. Department of Parks and
20 Recreation is excited about this and as such, the
21 testimony focuses on the strength and programming, and
22 the good that this center will serve, however, the
23 reason we are here is to request some relief from this
24 Board.

25 I will yield to our capable architectural

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1 team to cover the extensive code requirements. I am
2 sure that after their testimony, this Board will be
3 prepared to render a decision that will please the
4 community.

5 Thank you.

6 MR. BLANCHARD: And I'd like to Page to
7 make a presentation.

8 MR. PAGE: Mr. Chairman, my name is Walter
9 Page. I'm here representing Leo A. Daly, Architects.
10 We are the project Architects for this project.

11 I'm going to try not to be redundant. The
12 first presentation covered some of the things that I
13 had on my list, but I will go through as quickly as
14 possible and again, please pardon me if there is some
15 redundancy.

16 First, I'd like to speak regarding the
17 site description. The site for the completed Columbia
18 Heights community center project consists of two
19 contiguous DPR owned properties. One containing a
20 traditional park functions designed by our office and
21 constructed by DPR in 2004. And the other to contain
22 the new community center.

23 The community center building site is a
24 very restricted urban site that originally contained
25 two derelict apartment buildings. One of these

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1 buildings was two stories high and the other was four
2 stories high. These buildings have been boarded up
3 for approximately five years prior to their demolition
4 early in 2005 to provide a suitable site for the new
5 community center building.

6 The developed park facility also situated
7 on a very restricted site contains a basketball court,
8 a very popular thing in the neighborhood. Concrete
9 paver defined walking surfaces. Concrete art walls.
10 Portable bleachers, ornamental steel fences. Safety
11 surface. Grass and loose filled playgrounds with age
12 appropriate playground equipment. A small storage and
13 restroom building, etcetera.

14 The park amenities are highly sought after
15 and utilized by the residents of the neighborhood,
16 especially the paved basketball court.

17 Also, I've been on site several times
18 since the construction has basically started. And
19 there was a tremendous amount of use during the day by
20 local school children while they're on break.

21 Some of the elements of the community
22 center building program include a multipurpose space,
23 a computer lab, an arcade, a lounge, a gymnasium with
24 stage and bleachers, prop and costume storage rooms
25 adjacent to the dressing rooms and stage, music room,

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1 dance and aerobics room, individual offices,
2 administrative offices, weights and an exercise room,
3 a culinary arts room, an arts and crafts classroom, a
4 library and just general classrooms.

5 Open office area for the special program
6 development is on the top floor of the building.

7 All these building programmed elements
8 have been approved for inclusion in this project by
9 the ANC Commissions, the Friends of Girard Street
10 Park, the members of the Columbia Heights Youth Club
11 and the Asian American League.

12 Some of the community building
13 architectural design elements and motifs include the
14 following:

15 The building exterior consists primarily
16 of colored brick masonry construction that has been
17 selected to be aesthetically appropriate for the
18 neighborhood. The primary brick and the building is
19 basically similar to quite a number of the other
20 buildings that are directly adjacent to this site.

21 The brick masonry construction is banded
22 with contrasting brick colors separating the bands to
23 assist in minimizing the mass of the building exterior
24 and adding visual interest to the facade.

25 Additional building exterior features

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1 include a four story partial glass facade that
2 surrounds an interior monumental stair and other
3 programmed areas overlooking the park. That's on the
4 far left hand side of the front elevation, that north
5 elevation. This overlooks the park and it's a very
6 pleasant way, and I think it relieve -- again, it
7 serves to relieve the mass of the building.

8 Building fenestration generally consists
9 of punched window opening on both street elevations.
10 Again, to minimize the mass of the building exterior
11 and to create an appearance reminiscent of the scale
12 of the adjacent neighborhood apartments, townhouses
13 and the embassy building across the street.

14 At the request of the Ward I Council
15 member the 15th N.W. facade of the original four story
16 apartment building, subsequently demolished, was
17 removed, cleaned and stored. Portions of this
18 salvaged material will be reinstalled as part of a new
19 building facade. By honoring this request, the mass
20 of the building facade was additional minimized and it
21 allowed a reflection of the demolished apartment to be
22 captured for the older residents of the neighborhood.

23 A roof terrace adjacent to the open office
24 area for special program development on the fourth
25 floor also overlooks the park. That appears on the

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1 east elevation. Yes.

2 Okay. All large roof top mechanical
3 equipment elements have been surrounded by
4 architectural metal screen.

5 The clear story windows on the roof have
6 been provided to natural light to be introduced into
7 the open office area for special program development.
8 Those are those little sawtooth elements up there.

9 This building is designed to receive a
10 LEED certification for sustainable design and
11 construction. Every attempt is being made to achieve
12 the highest certification rating possible for the
13 building.

14 I'll be happy to answer questions if there
15 are some.

16 CHAIRPERSON GRIFFIS: Thank you very much.
17 Any questions from the Board?

18 BOARD MEMBER ETHERLY: If I could, Mr.
19 Chair, and this question may be directed back to the
20 representative of the agency. I just wanted to follow
21 up, there were a couple of items that I wanted to flag
22 from the Office of Planning's report that we can
23 either address now or perhaps at a later point. Not
24 so much architecturally, although it will get to the
25 issue of parking.

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1 There was a little bit of discussion in
2 the Office of Planning report and also in the opening
3 submittal of the applicant regarding the number of
4 employees that you're anticipating in the center.
5 Could you speak to what you are anticipating? It
6 appeared from the submittal that you could be looking
7 at traditionally maybe five employees. But it could
8 perhaps be as many as 20. And I noticed that we're
9 joined by the Director, so I'll wait.

10 DIRECTOR FLOWERS: Hi. I apologize for my
11 tardiness.

12 BOARD MEMBER ETHERLY: Good morning, Ms.
13 Flowers.

14 DIRECTOR FLOWERS: My name is Kimberley
15 Flowers. I'm the Director of D.C. Department of Parks
16 and Recreation.

17 And the staffing compliment that we're
18 expecting could be approximately up to about 20
19 people. However, all 20 staffers will not be on site
20 at the same time.

21 Our programming varies throughout
22 different parts of the day. We have senior programming
23 in the morning, after school programming for our
24 youngsters after school in the afternoons and then
25 family programming from about 6:00 p.m. to 10:00 p.m.

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1 It would also vary during the summer, also
2 as we strive to stay open later during summer hours up
3 until about midnight.

4 BOARD MEMBER ETHERLY: That answers my
5 question.

6 And now also I note that the ANC
7 representative is here. I'll just flag that question
8 for any comment that they may have once their time to
9 testify comes forward.

10 Thank you, Mr. Chair.

11 Thank you, Madam Director.

12 CHAIRPERSON GRIFFIS: Any other questions,
13 clarifications required at this point?

14 You made one interesting statement in
15 terms of the east elevation, there are walkout
16 balconies that overlook the open area, the playground
17 area.

18 MR. PAGE: That's correct.

19 CHAIRPERSON GRIFFIS: And I'm not really
20 sure I'm not seeing those plans. Maybe it's just my
21 tired eyes this afternoon.

22 MR. PAGE: Do you have a fourth floor
23 plan?

24 CHAIRPERSON GRIFFIS: A104?

25 MR. PAGE: Yes.

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1 CHAIRPERSON GRIFFIS: Oh, I see. It's
2 going to be -- oh, actually, I can't have you up here.

3 MR. PAGE: Oh, I'm sorry.

4 CHAIRPERSON GRIFFIS: You have to sit back
5 on the record.

6 I see where it was. I was looking at the
7 wrong -- so it's the project or sheet setup, it'd be
8 on the south side.

9 MR. PAGE: There is it is right there.
10 Yes.

11 CHAIRPERSON GRIFFIS: Gotcha.

12 MR. PAGE: That is overlooking the park.

13 CHAIRPERSON GRIFFIS: Indeed.

14 MR. PAGE: Basically the basketball court.

15 CHAIRPERSON GRIFFIS: Okay. Excellent.
16 Excellent.

17 And this is going to be a silver LEED.

18 MR. PAGE: We are making every effort to
19 achieve a silver.

20 CHAIRPERSON GRIFFIS: Are there any other
21 silvers in the District of Columbia that you're aware
22 of?

23 MR. PAGE: I'm not sure whether there are.
24 But this is certainly going to be one of the first
25 ones if we're able to achieve it for the D.C.

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1 Department of Recreation. And this is a mandate from
2 the Department of Recreation. They're trying to
3 achieve as much as they can in the way of sustainable
4 design in all of their facilities.

5 CHAIRPERSON GRIFFIS: Excellent.

6 There's been a lot of, some in your
7 testimony, but mostly in the written submission about
8 the difficulties of the program itself in terms of
9 complying with the strict regulations of the zoning,
10 that being the lot occupancy, but also the height.
11 The height, obviously, is not something that this
12 Board sees see everyday. We're very sensitive about
13 height in this city for some particular reason. In
14 fact, an adjacent property had a height variance
15 recently before this Board, if I'm not mistaken, in
16 the same square.

17 Can you just talk about -- I'm more
18 concerned with lot occupancy because I understand
19 fitting in the entire program and certainly with a
20 first level gymnasium you obviously can't play
21 basketball with a standard eight foot high ceiling.
22 But what else is going into making it practically
23 difficult to comply with the regulations?

24 MR. PAGE: I think basically the largest
25 contributor to the overall height of the building is

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1 in fact the gymnasium, because the recommendations of
2 the high school association that certifies basketball
3 court sizes, they recommend a minimum of 20 feet and
4 a maximum of 25. They would prefer 25. And where we
5 are right now in someplace in the middle.

6 CHAIRPERSON GRIFFIS: That's at your first
7 floor. And there's no question about that. But then
8 why do you need the fourth floor?

9 MR. PAGE: That, again, was the program
10 area requirement because the pilot project that the
11 Department of Recreation is planning had to have a
12 place to go. And there was physically no other space
13 in the building to accommodate that use.

14 CHAIRPERSON GRIFFIS: So it's your
15 testimony the design of this building, that the
16 creation of the demand from the community that has
17 created the demand for the program, good timing in
18 terms of the committee wanting this and DPR creating
19 these things, that's the confluence of issues that
20 have come together that have created a practically
21 difficult -- mass this building within the regulations
22 themselves.

23 MR. PAGE: That's correct.

24 CHAIRPERSON GRIFFIS: So a community
25 demand or a community want might lend itself and rise

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1 to the level of a uniqueness and practical difficulty?

2 MR. PAGE: Yes, I believe that's true.

3 CHAIRPERSON GRIFFIS: Legal standing on
4 this, Mr. Blanchard? Do you believe that that would
5 go into the test?

6 MR. BLANCHARD: I would make the analogy,
7 Chairman Griffis, that under the Monaco case where you
8 have a nonprofit with certain programmatic functions
9 that drive its need and create actually a practical
10 difficulty of trying to achieve that need on a given
11 site that you could have an analogous situation with
12 a District government agency responding to needs
13 voiced by the community when you have an underlying
14 use of that property as a part or recreation area. So
15 they're trying to fulfill that and continue that
16 underlying use as a part and recreation area at the
17 same time they are constrained or they face practical
18 difficulties of providing programs on that site. And
19 based on the drivers of the community, their programs
20 are supposed to respond to what the community wants.
21 And so they're caught between a rock and a hard place
22 or a lot occupancy and a underserved community to do
23 what they need to do on this site. So that would be
24 my legal argument.

25 CHAIRPERSON GRIFFIS: Fascinating. I don't

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1 disagree.

2 Could you exchange just for hypothetical
3 reasons in your argument that for retail as opposed to
4 residential or a recreation center, would it still
5 hold if you had a nonprofit even developing and there
6 was a demand for a type of retail that would fit only
7 within a space or a volume, or would better fit in
8 that space?

9 MR. BLANCHARD: Retail.

10 CHAIRPERSON GRIFFIS: That's a point to
11 ponder. We won't put you on the spot with that. Okay.

12 MR. BLANCHARD: Nonprofit retail, yes,
13 that's hard to -- I'll have to think about that.

14 CHAIRPERSON GRIFFIS: You don't have to
15 think too hard?

16 MR. BLANCHARD: No.

17 CHAIRPERSON GRIFFIS: Okay. Let's move
18 ahead then on the other aspects to this.

19 You indicated that you have a penthouse
20 enclosure which has -- it looks like it terms of the
21 rented elevations, very articulated. Could we talk a
22 little bit about that? Is that reality, what you were
23 talking about metal panel enclosure on that?

24 MR. PAGE: There are metal screens that
25 will actually cover up the rooftop mechanical

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1 equipment.

2 CHAIRPERSON GRIFFIS: And what's creating
3 that banding on it?

4 MR. PAGE: That's part of the screening
5 system.

6 CHAIRPERSON GRIFFIS: Okay. So that's a
7 manufactured system --

8 MR. PAGE: Yes, it is.

9 CHAIRPERSON GRIFFIS: -- that's actually
10 enclosing it?

11 MR. PAGE: Yes.

12 CHAIRPERSON GRIFFIS: Okay. Excellent.
13 And the punch windows, let me also just in terms of
14 the west elevation, you indicated that I think that
15 the Council member of the Ward that this is in had you
16 tear down the existing building but save some of the
17 facade?

18 MR. PAGE: Yes. The portion of it that
19 was saved, and this was basically a brick facade.
20 Pardon my back. But this is the element that we're
21 talking about right here. And we saved all of the
22 limestone surrounds and all of the articulation that
23 was on that building that we could when it was
24 demolished. That whole front skin was peeled and the
25 bricks were taken off and cleaned so they could be

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1 reinstalled. And elements of the limestone were
2 cleaned, and they will be reinstalled.

3 CHAIRPERSON GRIFFIS: That entire facade
4 at that area is going to be from the existing --

5 MR. PAGE: As much of it as we can. And
6 my only reluctance in this is that we really needed
7 nine pallets of brick to do this entire facade. And
8 when the brick was culled and cleaned there were
9 really only five pallets that survived. You have to
10 remember that this building I think was probably 50
11 plus years old.

12 CHAIRPERSON GRIFFIS: Yes.

13 MR. PAGE: Yes, that was the facade that
14 came off.

15 So it is our plan to reinstall as much of
16 this material as we can.

17 CHAIRPERSON GRIFFIS: Interesting. Okay.

18 And lastly, I understand and in testimony
19 and in the submission of course it was said here by
20 your legal counsel if you had all the money in the
21 world you could park below grade. And that's
22 perfectly understandable, and that wasn't his words
23 but mine. But nonetheless, I wanted just quick
24 clarification because there's something in the written
25 submission that talked about the existing of the slab

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1 of the original building and the fact that when the
2 demolished parts of the building, they dropped it into
3 the site.

4 MR. PAGE: Right. They used it as a
5 controlled fill.

6 CHAIRPERSON GRIFFIS: Okay. So explain
7 what is, control fill? Why is that a problem or a
8 difficulty or what does that actually mean?

9 MR. PAGE: Well, first of all, when you
10 have a slab from an original building that you have
11 demolished, you can't leave it as a total horizontal
12 plane. You have to destroy it because you need to
13 have drainage on the site. So the slab was broken up
14 in small enough pieces so that it could be covered up
15 with a controlled fill and still drain properly.

16 And the biggest constraint that we would
17 have faced is we would have had to underpin three
18 sides, actually all four sides of that building to be
19 able to do it. And there's a tremendous amount of cost
20 involved in that, and especially next to that five
21 story apartment building that's next door.

22 CHAIRPERSON GRIFFIS: Okay. So whoever
23 demolished the existing building has decided not to
24 make the expenditure to truck it off site, but to drop
25 the building into the site?

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1 MR. PAGE: No. That was the decision that
2 was made as part of the programming for the building.
3 Because we knew that there were going to be tremendous
4 costs involved with hauling it from the site.

5 CHAIRPERSON GRIFFIS: I see. I see.
6 Okay. Good enough.

7 What else? Anything else?

8 VICE CHAIRPERSON MILLER: I have a
9 question just with respect to the costs, what you're
10 talking about, the tremendous cost to excavate, which
11 I understand. What's the cost with respect to
12 obtaining the silver LEED status and gets --

13 MR. PAGE: You mean in terms of
14 percentage?

15 VICE CHAIRPERSON MILLER: Well, how does
16 that compare to -- it sounds like you know you're
17 saying you have to seek a variance in part for
18 budgetary reasons because it's a D.C. agency. And
19 you've explained how this excavation would be very
20 costly. And then I also heard, though, you're doing
21 something that sounds like a very nice amenity and I'm
22 trying to get a feel for an optional thing, how costly
23 is that? Does that relate at all to the cost of
24 excavation or it's nowhere in the ballpark?

25 MR. PAGE: I think generally the cost to

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1 achieve any kind of certification on the building
2 probably would not exceed the costs of excavating and
3 trying to put in below grade parking.

4 One of the problems with this site is that
5 the footprint is so small that the efficiency that you
6 get out of trying to put in below grade parking is
7 very, very low.

8 CHAIRPERSON GRIFFIS: What are the
9 elements that would be that you're going after?

10 MR. PAGE: We're going after everything
11 that we can, very frankly.

12 CHAIRPERSON GRIFFIS: But I mean but what
13 are you putting in the building, what sort of aspects?
14 Are you doing like intelligent lighting --

15 MR. PAGE: Oh, intelligent lighting for
16 sure. Controls of the all the mechanical, electrical
17 systems.

18 CHAIRPERSON GRIFFIS: Daylighting?

19 MR. PAGE: Daylighting as much as
20 possible. That's one of the reasons the clear stories
21 are on the fourth story office element. Because the
22 only windows that would be on that particular
23 elevation would be the ones overlooking the patio,
24 overlooking the park.

25 CHAIRPERSON GRIFFIS: Okay.

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1 MR. PAGE: So all of the interior offices
2 depending on how it's broken up would not have any
3 natural light.

4 CHAIRPERSON GRIFFIS: Okay. Green roof?
5 No green roof?

6 MR. PAGE: No green roof.

7 CHAIRPERSON GRIFFIS: Right. Okay. So it
8 sounds to me like all those indirect discussion of Ms.
9 Miller's question, you know you're making this -- we
10 only have a certain amount of budget but she hears a
11 very expensive silver LEED. These elements seem to me
12 to be almost a life cycle costing, too. Is that going
13 to save you money in the long run.

14 MR. PAGE: Well, over the life of the
15 building for sure.

16 CHAIRPERSON GRIFFIS: Okay.

17 MR. PAGE: And that's one of the reasons
18 that the Department of Recreation is trying to achieve
19 this for the city because of the savings of
20 operational costs over the life of the building.

21 CHAIRPERSON GRIFFIS: And is there savings
22 if you do below grade parking?

23 MR. PAGE: Not really.

24 CHAIRPERSON GRIFFIS: That's rhetorical.
25 Okay. Very well. Excellent.

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1 Any other questions? Mr. Parsons, you had
2 something, yes?

3 COMMISSIONER PARSONS: Well, Mr. Page, I
4 was going to ask about the green roof and was
5 disappointed to learn there isn't one. What's the
6 reason for that?

7 MR. PAGE: Well, there was a small one.
8 But part of the problem with the green roof is that
9 we're taking up enough the roof space with the clear
10 story elements that there's not a whole lot of
11 footprint left for the green roof. So even though
12 there will be some benefit from what we have designed,
13 the reality of it is that it probably will not be all
14 that great. But it's an opportunity for us to
15 indicate that we have attempted to achieve as much as
16 we can in the way of a green roof.

17 But that whole element down there in the
18 lower right hand corner, all three of those are all
19 the clear stories. And you can see how much of the
20 percentage of the roof that takes. And then the rest
21 of the roof pretty much is covered with mechanical
22 equipment that's screened. So there's really not a
23 whole lot of room to make that happen.

24 COMMISSIONER PARSONS: So what is it
25 that's in the upper left of this drawing?

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1 MR. PAGE: That's the mechanical
2 equipment. That's a roof top HVAC unit.

3 COMMISSIONER PARSONS: So that is where
4 this special --

5 MR. PAGE: That's where the screening is.

6 COMMISSIONER PARSONS: Special --

7 MR. PAGE: Architectural screening.

8 COMMISSIONER PARSONS: Thank you.

9 MR. PAGE: Yes.

10 COMMISSIONER PARSONS: Is going. What is
11 the, I'll call it boardwalk looking device?

12 MR. PAGE: Those are basically walking
13 surfaces so that when you're walking around doing
14 maintenance up on the roof you don't damage the
15 membrane. It's a way of protecting the longevity of
16 the membrane for the roofing system.

17 COMMISSIONER PARSONS: So the roof is
18 simply a built up roof with gravel, is that it?

19 MR. PAGE: It's a sheet membrane, yes.

20 COMMISSIONER PARSONS: I see. Now how
21 about all these -- I'm told they're skylights. I
22 don't know what else to call them.

23 MR. PAGE: They're clear stories,
24 actually. It's just a horizontal plane that's got
25 metal on top of it. But this whole vertical face is

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1 glass. So that allows the light to filter into the
2 top floor office area.

3 COMMISSIONER PARSONS: I guess I just
4 don't understand the delineation here. It just doesn't
5 make sense to me.

6 Thank you. I've got a pointer.

7 What are these?

8 MR. PAGE: That is the roof.

9 COMMISSIONER PARSONS: Those don't look
10 like what you showed us.

11 MR. PAGE: That's the roof with the clear
12 stories.

13 COMMISSIONER PARSONS: The roofs are
14 these. Shouldn't it be individual boxes or just --

15 MR. PAGE: They are.

16 COMMISSIONER PARSONS: I mean, here
17 they're shown with spacing between them on the
18 elevation, right.

19 MR. PAGE: Well, there's spacing between
20 them on the elevation also. Here, let me come around.

21 COMMISSIONER PARSONS: So that's the space
22 that we're seeing there, I guess? It just looks more
23 generous in the elevation.

24 MR. PAGE: What you're looking at right
25 here is actually looking down on top of that roof. And

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1 this is where the glass is on this side. The light
2 comes in from this side, which is the north side. So
3 it's all north light. No glare.

4 COMMISSIONER PARSONS: Okay. It just
5 looked to me like the spacing on this elevation was
6 much more generous than that.

7 MR. PAGE: It is a little bit.

8 COMMISSIONER PARSONS: It's the detail.

9 MR. PAGE: Yes, it's the detail.

10 COMMISSIONER PARSONS: And then what are
11 the -- let me see it again here. What are these?

12 MR. PAGE: Those are planters. That's
13 part of the green roof.

14 MR. BLANCHARD: That's the roof top
15 gardens?

16 MR. PAGE: Yes.

17 COMMISSIONER PARSONS: Ah-ah. Okay.
18 Thank you.

19 BOARD MEMBER ETHERLY: So that's garden,
20 that's garden there and that's garden there.

21 CHAIRPERSON GRIFFIS: Anything else?

22 MR. BLANCHARD: Thank you very much,
23 Chairman Griffis.

24 As you've heard, I'll just sum up briefly
25 and then we can move on to the rest of the speakers.

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1 We believe that through our submissions
2 and the record, the original filing, and the pre-
3 hearing statement as well as the testimony you've
4 heard from us this afternoon that we have, in fact,
5 met the legal tests.

6 I didn't expound on the hardship test, but
7 our argument would be if you decide that the use is a
8 variance, the hardship we would say would be that the
9 educational training and incubator function is within
10 the definition. But if you determine that there is an
11 office use, then the former use of the park and the
12 lack of service to the community are the unique
13 circumstances which require this use and the strict
14 application of the zoning regulations would result in
15 an undue hardship and unfair result for the applicant
16 and the community it serves.

17 Again, we believe we've met the legal
18 tests for the variances and the special exceptions.
19 And we'll be glad to be come back at the end to answer
20 any questions you may have.

21 CHAIRPERSON GRIFFIS: We'll give you time
22 to do any rebuttal testimony at the conclusion after
23 we get through all the other pieces. But it's an
24 excellent point that you've brought up in terms of us
25 addressing this use variance of which you have put it

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1 and have advertised. Obviously, the use variance is
2 one of the highest, it is the highest threshold for
3 test for a variance. And often times I think it's put
4 that you have to prove that this could not be used for
5 any other matter of right use; that's what your
6 hardship is. And so it raises to a level of great
7 seriousness and the Board is always a little bit --
8 well, it takes great time and effort in reviewing all
9 cases, but specifically use variances and why and what
10 they're in front of us for.

11 Looking at this I think we do need to
12 deliberate very quickly on whether this is properly
13 before us as a use variance or not. I think there are
14 two aspects that are in the written submission that
15 we're looking at. And I think, one, it would be good
16 if we could be determinative, but we certainly can ask
17 other agencies that are there if they wanted to
18 indicated their analysis of it.

19 And this is an interesting situation to be
20 in because this is a new application essentially in
21 the text amendments of our own regulations in
22 requiring certain District agencies or all District
23 agencies to come into compliance with regulations as
24 before they would not have been. And so we probably
25 do have a couple of little rough areas to iron out.

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1 This is my opinion that we look at two
2 different directions. One this could be a straight use
3 variance because it doesn't fit in the definition or,
4 two, that it is within the definition because it is as
5 proposed accessory to an allowable use.

6 Looking at 199 the definition of public
7 recreation and community center we have an awful lot
8 of specific items and elements that are addressed But
9 it is not a complete list. And by reading the
10 definition itself it indicates that it is not be
11 limited to the following and listing them all out, of
12 which we do have educational uses from multipurposes
13 rooms to recreation, obviously the more traditional
14 pieces. So I guess the brief discussion is whether
15 anyone on the Board feels that this falls outside of
16 those listed activities or falls outside of those
17 elements that are similar to those listed. And if so,
18 then we need to have the discussion of whether this is
19 proffered for us as a use variance.

20 Comments

21 VICE CHAIRPERSON MILLER: Well, like I
22 said, I think that the definition is pretty broad. I
23 mean, it says the center may include but not be
24 limited to and then lists a variety of things that I
25 think the type of use that's been described here falls

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1 within the intent, as I see that list. So I don't
2 believe a use variance is necessary.

3 CHAIRPERSON GRIFFIS: Okay. Mr. Etherly?

4 BOARD MEMBER ETHERLY: I would agree, Mr.
5 Chair. I think you said the key words in terms of
6 viewing these uses as accessory to the functions that
7 we see with recreation centers of this type. I just
8 don't think a strict reading here would do us any good
9 and would probably frustrate the spirit of that
10 definition, as Ms. Miller has pointed out.

11 CHAIRPERSON GRIFFIS: Thank you.

12 Ms. Flowers, since you're here I was
13 wondering if you could talk to a little bit about
14 more about what this educational incubator program
15 involves?

16 DIRECTOR FLOWERS: Sure. Well, as you may
17 or may not know, we do have an accredited office of
18 educational services and we provide Heart Start and
19 before and after school programming as well as full
20 day programming for youngsters ages 2 to 5 at ten
21 sites throughout the city. This would be one of those
22 sites.

23 And we would also be using this as a test
24 site for innovative programming to appeal and to
25 accommodate to adolescents in the District,

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1 specifically the adolescents in that neighborhood.

2 Historically we've done a really good job
3 at servicing youngsters ages 5 to 12, but done a poor
4 job with reaching out to teenagers. And often those
5 teenagers that are deemed disconnected or at risk. So
6 this would be a site as we see it to be kind of a
7 testing ground for developing innovative programs to
8 appeal and attract to these young people. To be an
9 attractive resource to those youngsters that need it
10 the most.

11 CHAIRPERSON GRIFFIS: Would it mean
12 bringing the teenagers to this site or --

13 DIRECTOR FLOWERS: Yes.

14 CHAIRPERSON GRIFFIS: Oh, it is. Okay. So
15 it seems to me, understanding that perhaps it's not a
16 city wide program that you're doing, but you're
17 actually creating little programs within here, that's
18 what the testing aspect is?

19 DIRECTOR FLOWERS: Right. To be
20 implemented city wide if they successful.

21 CHAIRPERSON GRIFFIS: If it works? Right.
22 Okay.

23 Well, I don't see how that's necessarily
24 stepping out of any of the reasons that I see in terms
25 of that which is part and parcel of the recreation and

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1 community center and the definition, unless others
2 feel differently.

3 Very well. If there's no opposition, then
4 I think we would not go forward with the use variance,
5 but just continue with the area variances and special
6 exceptions, unless I'm missing anything and any other
7 opinions from the Board.

8 Okay. Very well. Indeed, don't go too
9 far. But let me ask, first of all, the ANC as Mr.
10 Etherly has ably said is here. Do you have any cross
11 examination of the testimony you've heard?

12 COMMISSIONER SPALDING: No.

13 CHAIRPERSON GRIFFIS: No cross.

14 Then let's move ahead to the Office of
15 Planning at this time.

16 MS. THOMAS: Good afternoon, Mr. Chairman,
17 members of the Board. I am Karen Thomas with the
18 Office of Planning.

19 The D.C. Department of Parks and
20 Recreation has proposed a development of its lot with
21 a public recreation and community center and the
22 Office of Planning is in support of their request for
23 variance and special exception relief from the zoning
24 requirements as stated in the application.

25 They submitted plans, OP believes that the

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1 property is unique due to its history of subdivision
2 acquiring and developing two lots at different times
3 which did allow for a comprehensive development of the
4 resulting lot in compliance with the current zone
5 regulations.

6 As such, the applicant would experience a
7 practical difficulty in a number of areas, including
8 the height and parking requirements and trying to meet
9 the program requirements of the proposed center.

10 OP believes that relief from the height,
11 number of parking spaces and size of spaces would not
12 substantially impair the intent of the zone
13 regulations since we believe that mass and
14 fenestration of the proposed structure is consistent
15 with the site's previous structure as well with the
16 abutting property.

17 With respect to parking, we recently
18 received DDOT's comments that the proposed project
19 would have a minimum impact on traffic circulation and
20 will not create unsafe traffic conditions in the area.
21 This neighborhood is served by a number of MetroBus
22 routes. It is intended as an urban facility that will
23 not be designed to serve a Metro wide area of
24 residents. The facility is designed to consolidate
25 existing neighborhood programs currently scattered in

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1 unsuitable building.

2 The regulation sized gymnasium and indoor
3 court area was significant in the determination of the
4 building's footprint, thereby effecting the lot
5 occupancy and subsequently the gross floor area as the
6 height of the structure and the additional floor had
7 to be designed to accommodate lots of space on the
8 third floor.

9 The center is unanimously supported by the
10 community and the additional gross floor area would
11 support their requested programs.

12 We believe that the rec center meets the
13 zoning regulations and will not adversely affect the
14 use of neighborhood properties as outlined in our
15 analysis under the special exception criteria.
16 Therefore, for those reasons, we recommend variance
17 relief from the height, parking provision and special
18 exception relief from the percentage lot occupancy
19 requirements and the gross floor area requirements for
20 public recreation facilities.

21 In addition, we did not believe that a use
22 variance for the offices were required since we
23 believed that the definition allows for those uses.

24 Thank you.

25 CHAIRPERSON GRIFFIS: Thank you very much.

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1 I appreciate your analysis and also the graphics that
2 assist in our full understanding of your analysis.

3 Let me ask you a quick question. There's
4 been some testimony in the written submission about
5 the design process for this which put together all the
6 programs. Was the Office of Planning involved in
7 that?

8 MS. THOMAS: No.

9 CHAIRPERSON GRIFFIS: Not in those early
10 stages?

11 MS. THOMAS: Not in the early stages, no.

12 CHAIRPERSON GRIFFIS: Okay. All right. Any
13 other questions? Questions of the Office of Planning?

14 BOARD MEMBER ETHERLY: Just very, very
15 quickly, Mr. Chair. It's noted on page 7 of the
16 Office of Planning's report in your discussion
17 regarding size of parking spaces. The question, if
18 you will, about the use of an attendant to assist with
19 parking. I noted that you didn't include any comment
20 in your opening statement. Has that issue fallen off
21 the table for you?

22 MS. THOMAS: Yes. With respect to DDOT's
23 report. We asked them if that was something that was
24 absolutely necessary. And we received no comment from
25 them on that, so --

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1 BOARD MEMBER ETHERLY: Okay. Thank you.
2 Thank you, Mr. Chair.

3 CHAIRPERSON GRIFFIS: Thank you.

4 Any other questions? Very well. Thank
5 you very much.

6 I'm sorry. Does applicant have any cross
7 examination of the Office of Planning?

8 MR. BLANCHARD: No.

9 CHAIRPERSON GRIFFIS: Any cross? ANC, any
10 cross?

11 COMMISSIONER SPALDING: No.

12 CHAIRPERSON GRIFFIS: Taking it easy on
13 your this afternoon, they are.

14 Mr. Spalding, a very good afternoon to
15 you.

16 COMMISSIONER SPALDING: Good afternoon,
17 Mr. Griffis. Phil Spalding. I represent ANC-1B.

18 And you have our letter. The community
19 back in July reviewed this project in the ANC setting.
20 And we voted unanimously to support the application
21 nine to nothing. And as testified earlier, this has
22 been before the community for a number of years. The
23 community has had a lot of input into what the
24 programs, the community wants to be included in this
25 recreation facility. And it has put a strain on the

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1 architects and on the zoning envelop.

2 As far as the staffing, I wasn't sure
3 quite how that question was directed.

4 Mr. Etherly, so if you want to reframe
5 that for me, I'd be --

6 BOARD MEMBER ETHERLY: Just from the
7 standpoint of would there be any concerns regarding
8 parking impacts, was there any discussion --

9 COMMISSIONER SPALDING: There was at the
10 ANC. And parking is a very sensitive issue both in
11 Columbia Heights and the entire ANC.

12 We do recognize that the design of this
13 facility was cramped by the community's requirements
14 that it fulfill a lot of needs.

15 We recognize that the facility is designed
16 for immediate use. In other words, it's only designed
17 for a quarter mile radius, really. It's really
18 pointing directly at the immediate community. And
19 most of those community members can either walk or
20 take public transport to the site.

21 As far as the very limited parking for
22 staff, which was part of your comment as well I think,
23 the Department itself has parking that's not very far
24 distant from this particular site. And that may aid
25 in alleviating the problems that the parking is going

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1 to bring.

2 BOARD MEMBER ETHERLY: Thank you.

3 COMMISSIONER SPALDING: Yes.

4 CHAIRPERSON GRIFFIS: Excellent. Any
5 other questions?

6 VICE CHAIRPERSON MILLER: From your
7 perspective could the facility have been built without
8 a need for a variance if it didn't respond to
9 community needs?

10 COMMISSIONER SPALDING: Yes. If the
11 Department had not gone out to the community and asked
12 what does the community want and we took advantage of
13 that and gave them a long laundry list of things that
14 we wanted included in this site, the Department could
15 have built a facility that did not include the wide
16 variety of programming that the community really
17 expects of this site at this time.

18 I think at one time in the development of
19 community centers they were more limited in design.
20 They were more strict interpretations of what parks,
21 rec, community center was. The ideas of the use of
22 these facilities has grown enormously. Some of it is
23 concerns that aren't be satisfied in other settings
24 that we might expect them to be. But because D.C.
25 Department of Parks and Recreation came to the

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