

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Board of Zoning Adjustment
441 4th Street, N.W.
Washington, D.C. 20001

PUBLIC MEETING AND PUBLIC HEARING
January 25, 2011
Start: 1:30pm - End: 4:00pm

Second Floor Hearing Room, Suite 220 South
Washington, D.C. 20001

Board Members

Meridith Moldenhauer - Chairperson
Nicole Sorg - Vice Chairperson
Jeffery L. Hinkle - NCPC
Michael G. Turnbull - Architect
Greg Selfridge - Zoning Commission
Clifford Moy - Secretary
Beverley Bailey - Office of Zoning
Mary Nagelhout - Office of the Attorney General
John Nyarku - Office of Zoning

C o n t e n t s

BOARDS ACTIONS/MOTIONS

1. Chairperson's Introduction3
2. Application 18132.5

MORNING SESSION

3. Application 18153. 16
4. Application 18158.19

AFTERNOON SESSION

5. Application 18157.28
6. Application 18148. 89

Conclusion of Meeting115

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

2 CHAIRPERSON MOLDENHAUER: This meeting
3 will please come to order good morning ladies and
4 gentleman. This is the January 25, 2011, Public
5 Hearing of the Board of Zoning Adjustments for
6 the District of Columbia. Convenient to act on a
7 Chancery application pursuant to the Foreign
8 Missions Act and Chapter 10 of the Zoning
9 Regulations. My name is Meredith Moldenhauer,
10 Chairperson, joining me today to my left is Vice
11 Chair Nicole Sorg, Mayoral Appointee, to her left
12 the Federal Representatives are Marcel Acosta,
13 Representative of the National Capital Planning
14 Commission, and then to my right is Peter Nay
15 representative of the United States National Park
16 Service. Copies of today's hearing agenda are
17 available to you and are located to my left in
18 the wall bin near the door. Please be advised
19 this proceeding is being recorded by a court
20 reporter and is also being webcast live.
21 Accordingly we must ask you to refrain from any
22 disturbing noises or actions in the hearing room.

1 When presenting information to the Board please
2 turn on and speak into your microphone first
3 stating your name and home address. When you are
4 finished speaking please turn off your microphone
5 so that your microphone is no longer picking up
6 sounds or background noise. The record has
7 already been closed in the preceding case that we
8 will be hearing today and the Sunshine Act
9 requires that a public hearing on each case be
10 held in the open before the public, the Board
11 consider it's rules and procedures in the
12 Sunshine Act enter into executive session during
13 or after a public hearing on a case for purposes
14 of reviewing the record or deliberating on the
15 case. The decision of Board in these legislative
16 procedures must be based exclusively on Public
17 record to avoid any appearance to the contrary
18 the Board requests that persons present not
19 engage the members of the Board in conversation.
20 Please turn off all beepers and cell phones at
21 this time. At this time the Board will consider
22 any preliminary matters; preliminary matter

1 relative to the case should or would be heard
2 today. If you are not prepared to go forward
3 with the case or you believe the case should not
4 be heard now is the time to raise such a matter.
5 Mr. Secretary, do you have any preliminary
6 matters?

7 MR. MOY: None for this session Madam
8 Chair.

9 CHAIRPERSON MOLDENHAUER: Thank you, then
10 the first case.

11 **Application No. 18136**

12 MR. MOY: Yes that would be Application
13 No. 18136 of the Government of the United Arab
14 Emirate pursuant to 11 DCMR 1002 to permit the
15 renovation and expansion to an existing Embassy
16 building for the Chancery use in the D/R3
17 District at premises 2406 Massachusetts Avenue,
18 N.W, property is located in (Square 2507, Lot
19 52). The earlier decision meeting on December 14,
20 2010, the Board after deliberation rescheduled
21 its decision to January 25th; this Board Action
22 would allow the opportunity for the Commission of

1 Fine ARCH to take action on the application and
2 to submit its letter to the Board. There are two
3 filings in your case folders Madam Chair, the
4 first is from the Applicant, that letter is dated
5 January 21, 2011, identified as "Exhibit 37", the
6 second filing is from the Commission of Fine ARCH
7 and that letters is also dated January 21, 2011,
8 identified as "Exhibit 38". The Board is to act
9 on the merits of the application to permit the
10 construction of a new Chancery and Embassy Staff
11 residential building pursuant to Section 1002 of
12 the Zoning Regulations. That completes the
13 Staff's briefing Madam Chair.

14 CHAIRPERSON MOLDENHAUER: Thank you very
15 much Mr. Moy, I think that a preliminary matter
16 would be to reopen the record and admit into our
17 record "Exhibit 36", which is the letter from the
18 Applicant dated December 10, 2010, and we don't
19 have to reopen the record for the letter from the
20 Commission of Fine ARCH since we had actually
21 left the record open specifically for that
22 purpose, that being said entering into

1 deliberation and reviewing this FMBAZ case we had
2 a full hearing, I think that really the case was
3 quite clear for us it was just a matter of
4 waiting for that one last remaining issue which
5 was the CFA letter, that being said I'll kind of
6 start walking us through the deliberation process
7 and then I'll open everything up for deliberation
8 from other Board Members. The first is to
9 determine if the Board should consider the
10 International obligations of the U.S. to
11 facilitate the provisions of adequacy and
12 security facilities for the Foreign Commission in
13 the Nation's Capital for this we look directly
14 and take the recommendation of the State
15 Department look to "Exhibit 29" and the testimony
16 we have before us which indicated that they were
17 supporting application and saw no concerns. The
18 next criteria is the Board to reconsider historic
19 preservation that's determined by the Board in
20 carrying out this section, this is the section
21 that we were waiting for potential weigh in from
22 the CFA and we just received that as indicated

1 which is our new "Exhibit No. 38" indicating that
2 they had no concerns or no objections to the
3 concept design and that they felt comfortable
4 moving forward with the application and we also
5 had submissions from the review from the State
6 Historic Preservation Office. The next criteria
7 would be to ensure the compatibility with
8 historic landmarks in the Historic District and
9 to that I think based on the OP report and based
10 on documentation on record and there's no
11 concerns expressed by the State Historic
12 Preservation Office under Section 2002.4, the
13 Board should consider the adequacy of street
14 parking and other parking to the extent of the
15 area and also consider security measures advised
16 to us by the Department of State, here we have
17 information in the record from the State
18 Department of security and we also have the study
19 done by Groves and Slade examining the
20 transportation and I think that there's
21 sufficient information in the record to indicate
22 that there's going to be no significant impact,

1 there is plenty of testimony regarding the
2 multiple means of transportation that are local
3 to the area such as the Metro, different transit
4 and the report that we received. Office of
5 Planning also weighed in agreeing with that
6 report and finding that to be adequate as though
7 there was no significant impact on traffic.
8 Another criteria under 2002.5, the Board should
9 consider the extent to which the area is capable
10 of being adequately protected as determined by
11 the Secretary of the State after consulting with
12 the Federal Agencies authorized with Foreign
13 Protective Services, again we look our "Exhibit
14 No. 29" and to the testimony that you heard and
15 there's no concerns in that regard. In 2002.6,
16 the Board will consider the municipal interest as
17 determined by the Mayor, here we have our Office
18 of Planning Report which is our "Exhibit No. 31"
19 which weighs all the different factors going
20 through the 403.2 standard to increase the
21 allowable lot occupancy 40 to 64% under 404.7 and
22 411.3 in regards to the roof structures and the

1 setback and then the 2101.1 to reduce the parking
2 from 16 to 10 and the Office of Planning Report I
3 think I'll incorporate it for my record, it fully
4 addresses all the issues and indicates that they
5 would be encouraging to not disapprove the
6 application. The last standard would be whether
7 the Board should consider the Federal Interest as
8 determined by the Secretary of State and again we
9 go back to our "Exhibit No. 29" and the testimony
10 in which there's no additional criteria. So
11 based on those standards and the agencies which
12 we look to evaluate the standards for a FMBZA
13 case I see no issue with this application and I
14 would definitely be in favor of not disapproving
15 this and I'll open up the floor to any additional
16 Board Members. Seeing none I'll submit a motion
17 unless, there are additional comments. A motion
18 to not disapprove the 2406 Massachusetts Avenue,
19 N.W. Chancery of the United Arab Emirates, Case
20 No. 18136 a motion has been made is there second.

21 MR. ACOSTA: Seconded

22 CHAIRPERSON MOLDENHAUER: Motion has been

1 made and seconded, all those in favor say aye.

2 CHORUS: Aye.

3 MR. MOY: Staff would record the vote as
4 4 to 0 to 1 this is on the motion of the
5 Chairperson Ms. Moldenhauer, seconded by Mr.
6 Acosta, in support of the motion Mr. May and Ms.
7 Sorg, no other Board Members Participating, so
8 again the motion is carried by a vote of 4 to 0
9 to 1.

10 CHAIRPERSON MOLDENHAUER: Thank you and
11 then that concludes our morning FMBZA case, thank
12 you all for coming, other Board Members who were
13 here for that. We will also then now wait for
14 some of our other Board Members to join us, but
15 while they do I will be reading our afternoon
16 hearing.

17 **Afternoon Session**

18 CHAIRPERSON MOLDENHAUER: This hearing
19 will please come to order, good afternoon ladies
20 and gentleman, this is the January 25, 2011,
21 Public Hearing of the Board of Zoning Adjustments
22 for the District of Columbia. My name is

1 Meredith Moldenhauer, Chairperson. Joining me
2 today to my left will be Nicole Sorg, Vice Chair,
3 to my right is Jeffrey Hinkle, Representative of
4 National Capital Planning Commission, and to my
5 left Representative of the Zoning Commission
6 Anthony Hood. Copies of today's meeting agenda
7 are available to you and are located to the left
8 in the wall bin near the door. Please be advised
9 this proceeding is being recorded by a court
10 reporter and is also being webcast live.
11 Accordingly we must ask you to refrain from any
12 disturbing noises or actions in the hearing room.
13 When presenting information to the Board please
14 turn on and speak into your microphone first
15 stating your name and home address. When you are
16 finished speaking please turn off your microphone
17 so that your microphone is no longer picking up
18 sounds or background noise. All persons planning
19 to testify either in support or in opposition are
20 to fill out two witness cards these cards are
21 located to my left on the table near the door and
22 on the witness tables. Upon coming forward to

1 the Board please give both cards to the court
2 reporter sitting to my right, the order of
3 procedure for special exceptions and variances
4 are as follows: 1. Statement of the Applicant and
5 Applicant's witnesses. 2. Parties and persons in
6 support. 3. Parties and persons in opposition.
7 4. Government reports including the Office of
8 Planning and the Department of Transportation and
9 other Government Offices. 5. Reports from the
10 ANC and 6. Rebuttal and closing statements of the
11 Applicant. Pursuant to Section 3117.4 and
12 3117.5, the following time constraints will be
13 maintained, the Applicant/Appellant, persons and
14 parties except an ANC in support and including
15 witnesses will be permitted 60 minutes
16 collectively. The Appellees persons and parties
17 except an ANC in opposition including witnesses
18 will be given 60 minutes collectively.
19 Individuals will be given 3 minutes and
20 organizations will be given 5 minutes. These
21 time restrictions do not include cross
22 examinations or questions from the Board. Cross

1 examination is permitted by the Applicant or the
2 parties and the ANC within which the property is
3 located is automatically a party to a special
4 exception or variance case. Nothing prohibits
5 the Board from placing reasonable restrictions on
6 cross examination including time limitations, and
7 limitations on the scope of cross examination.
8 The record will be closed at the conclusion of
9 each case except it will remain open for any
10 materials specifically requested by the Board.
11 The Board and the staff will specify at the end
12 of each hearing exactly what is expected and the
13 date when the person must submit this
14 documentation to the Office of Zoning. After the
15 record is closed no other information will be
16 accepted by the Board. The Sunshine Act requests
17 that the public hearing on each case be held in
18 the open before the public. The Board may
19 consistent with its rules and procedures and the
20 Sunshine Act enter into Executive Session during
21 or after a public hearing on a case for purposes
22 of reviewing the record or deliberating on a

1 case. The decision of the Board as in these
2 contested cases must be based exclusively on the
3 record, to avoid any appearance to the contrary
4 the Board requests that persons present not
5 engage the members of the Board in conversation.
6 Please turn off all beepers and cell phones at
7 this time as to not disturb these proceedings.
8 The Board will make every effort to conclude the
9 public hearing as near as possible to 6pm if the
10 afternoon cases are not completed at 6pm the
11 Board will assess whether it can complete the
12 pending case or cases remaining on the agenda.
13 At this time the Board will consider any
14 preliminary matters, preliminary matters relate
15 to whether a case should or will be heard today
16 such as a request for postponement, continuance
17 or withdrawal or whether proper or adequate
18 notice of a hearing was given. If you are not
19 prepared to go forward today or you believe that
20 the Board should not proceed now is the time to
21 raise such a matter. Mr. Secretary, do we have
22 any preliminary matters?

1 MR. MOY: Historically, traditionally no
2 Madam Chair, but we have one preliminary matter
3 that attended to a case where the Applicant is
4 requesting a change in a scheduled hearing so
5 Staff would suggest taking that matter up before
6 moving with the scheduled three cases for the
7 afternoon.

8 **Application No. 18153**

9 CHAIRPERSON MOLDENHAUER: Thank you then
10 why don't we address that now.

11 MR. MOY: That would be the matter of
12 Application No. 18153 of Julie Norton as I just
13 said the Applicant is requesting a Board Action
14 to reschedule its March 1st, hearing date to an
15 earlier hearing date. For the record the
16 original application is identified pursuant to 11
17 DCMR 3104.1 for a special exception to allow an
18 addition to an existing one family road dwelling
19 under Section 223 not meeting the lot occupancy,
20 Section 403 a non-conforming structure,
21 (Subsection 2001.3) requirements in the DC/R4
22 District at premises 1461 S. Street, N.W. (Square

1 206, Lot 25). As the Board will recall this
2 application was amended on January 4, 2011, by
3 the Applicant to add variance relief from the
4 requirements of off-street parking under the
5 section 2101. On January 13, 2011, the Applicant
6 submitted revised plans for a proposed project
7 that would only require special exception relief
8 from Section 223, and that document is in your
9 case folders as "Exhibit 29", the second filing
10 is a supplemental report from the Office of
11 Planning dated January 19, 2011, identified as
12 "Exhibit 30", so the Board is to act on this
13 motion from the Applicant.

14 CHAIRPERSON MOLDENHAUER: Thank you very
15 much Mr. Moy, I having reviewed the information
16 before us and the request I see no reason why and
17 based on looking at our calendar I think we can
18 push this application forward, if all Board
19 Members are in agreement I would choose a date
20 for that, so seeing a consensus of all three
21 Board Members I think what we will do is we'll
22 put this on the afternoon scheduled for February

1 8, 2011.

2 MR. MOY: Thank you.

3 CHAIRPERSON MOLDENHAUER: Mr. Secretary,
4 have we completed all preliminary matters?

5 MR. MOY: Yes Madam Chair.

6 CHAIRPERSON MOLDENHAUER: Okay then all
7 individuals wishing to testify please stand and
8 the secretary will administer the oath.

9 MR. MOY: Do you solemnly swear or affirm
10 that the testimony that you're about to present
11 in this proceeding is the truth, the whole truth
12 and nothing but the truth? Ladies and gentleman
13 you may consider yourselves under oath.

14 CHAIRPERSON MOLDENHAUER: Call the first
15 case.

16 **Application No. 18158**

17 MR. MOY: Application No. 18158 of Anne
18 Corbett pursuant to 11 DCMR 3104.1 and 1202.1 for
19 a special exception to allow a single family rear
20 addition to a one family row dwelling under
21 Section 223, not meeting the lot occupancy Section
22 403, side yard 405, and non-conforming structure

1 (Subsection 2001.3) requirements in the CAP/R-4
2 District at premises 428 4th Street, N.E. property
3 located in (Square 780, Lot 54).

4 CHAIRPERSON MOLDENHAUER: Whenever you
5 get seated you can turn on your microphone and
6 introduce yourself for the record.

7 MS. SORG: Madam Chair I'm sorry to
8 interrupt, Madam Chair before we begin I wanted
9 to make a disclosure for the record that I am
10 acquainted with the Applicant in this case Ann
11 Corbett the property owner is a business
12 acquaintance of mine, and I have in the past
13 served on a committee for her non-profit
14 organization and am likely to do so again,
15 although I feel that this will not sway my
16 judgment in this matter, I feel I can be
17 impartial in this case.

18 CHAIRPERSON MOLDENHAUER: Thank you I
19 appreciate that disclosure and I have no concern
20 in regards to impartiality in this case. I will
21 just also note for the record that joining us is
22 Chairman Anthony Hood representing the Zoning

1 Commission for this afternoon's case. That being
2 said I'll turn back to the Applicant to introduce
3 herself.

4 MS. LANCASTER: My name is Amy Lancaster,
5 I'm the Architect for Anne Corbett and I reside
6 at 700 12th Street, N.E. but as mentioned I'm here
7 representing her for 428 4th Street, N.E.

8 CHAIRPERSON MOLDENHAUER: Okay Ms.
9 Lancaster you can start off if you'd like to go
10 through the relief sought I also think though
11 that we have a fairly full record so you can
12 either rest on the record or you can feel free to
13 address any issues you feel are necessary.

14 MS. LANCASTER: I guess I might just ask
15 if the clarifications that were submitted earlier
16 in the month need to be addressed for 428 4th
17 Street, there were some minor comments from the
18 Office of Planning regarding this property. We
19 were asking for relief from the lot coverage
20 requirements and change the application, asking
21 for relief from the court requirement to the side
22 yard.

1 CHAIRPERSON MOLDENHAUER: Yes that was
2 recognized that there was a change if you want to
3 just for purposes of clarifying the record as
4 addressed the conversations you had and the
5 reasons for the change from the side yard to the
6 court.

7 MS. LANCASTER: Okay in conversations
8 with Paul Goldstein from the Office of Planning
9 he noted that the property did not have a true
10 side yard it's a historic property and what might
11 be considered a side yard was actually a court
12 and that we should amend the application to
13 reflect seeking relief from the court
14 requirement. So that was submitted on January
15 7th, there is an existing court which does not
16 meet zoning requirements, it's a historic
17 property and it's only four feet wide so the area
18 is included in the lot occupancy whereas the
19 known proposed court again short of the
20 requirements in terms of width at 5' 8" just a
21 few inches short of the 6 foot requirement would
22 not be included in the lot occupancy

1 calculations.

2 CHAIRPERSON MOLDENHAUER: Thank you; do
3 any Board Members have any questions for the
4 Applicant? Seeing none is there anything else
5 that you would like to add?

6 MS. LANCASTER: No.

7 CHAIRPERSON MOLDENHAUER: Then that being
8 said we'll continue through the process and see
9 is there any individuals in the audience in
10 support or in opposition in this case? Seeing
11 none then we'll turn to the Office of Planning
12 for their report.

13 MR. GOLDSTEIN: Good morning Madam Chair,
14 Members of the Board, I will brief. For the
15 record my name is Paul Goldstein with the Office
16 of Planning. OP recommends approval of the
17 Applicants request for special exception relief
18 to construct a one story rear addition to a
19 single family dwelling at 428 4th Street, N.E.
20 just to make sure its all clear the Applicant
21 requires special exception relief from Sections
22 401, 403, 406, and 2001.3 and also note that the

1 application satisfies the standards of the
2 capital interest overlay in Chapter 12. If the
3 Board would like I can answer any questions about
4 the impact of the addition but suffice it to say
5 OP recommends approval of the special exception
6 relief and I'm now available for any questions,
7 thank you.

8 CHAIRPERSON MOLDENHAUER: Thank you very
9 much does the Applicant have any questions for
10 the Office of Planning?

11 MS. LANCASTER: No thank you.

12 CHAIRPERSON MOLDENHAUER: Did the Office
13 of Planning ever receive an actual report from
14 the ANC? I know that you reference in your
15 report that the Applicant indicated that they
16 were in support but did you ever get something in
17 writing?

18 MR. GOLDSTEIN: I did not.

19 CHAIRPERSON MOLDENHAUER: Well we're
20 about to go to the ANC next but I'll turn to the
21 Applicant in a moment to answer that question.
22 Do the Board Members have any questions for the

1 Office of Planning in this case, seeing none,
2 then thank you? Now we'll turn to the ANC, is
3 anybody present from the ANC for this case?
4 Seeing no one, I'll ask the Applicant can you
5 address, the Office of Planning indicates that
6 you did receive their support but can you
7 reference when that occurred and if you were
8 going to get a letter in support from them.

9 MS. LANCASTER: Yes I'm surprised there
10 hasn't been one we attended two meetings one for
11 the ANC 6C08 and then for the immediate, the
12 initial hearing and then a follow up hearing to
13 present additional letters of support from
14 neighbors and both of those hearings the proposed
15 special exception were(inaudible).

16 CHAIRPERSON MOLDENHAUER: Were there any
17 neighbors that had any concerns with the
18 application?

19 MS. LANCASTER: None.

20 CHAIRPERSON MOLDENHAUER: Do any Board
21 Members have any final questions before the
22 Applicant gives closing remarks, no. I would

1 just ask our office if we have since this
2 application is in the Capitol Overlay, if we did
3 received some additional information from DHCD
4 based on the Capitol Overlay but did we receive
5 anything from the Architect of the Capitol in
6 regards to 1202.3 that standard?

7 MR. MOY: Yes thank you Madam Chair as a
8 matter of fact I have received communication from
9 the Architect for the Capitol, they have reviewed
10 the application and stated that they have no
11 objections to the application, they will not be
12 forwarding any written statement to that effect.

13 CHAIRPERSON MOLDENHAUER: Thank you very
14 much Mr. Moy, that being said are there any
15 closing, remarks from the Applicant?

16 MS. LANCASTER: No thank you.

17 CHAIRPERSON MOLDENHAUER: No, okay well
18 thank you very much and at this point we'll
19 conclude this hearing and what we'll do is we'll
20 enter directly into deliberation on this case.
21 What we have before us is we have a application
22 for a 223 special exception to permit a one story

1 rear addition to an existing row dwelling, it's
2 pretty much enclosing a back porch on the rear
3 of a house on Capitol Hill, they were seeking
4 relief under 401 for minimum lot area, maximum
5 lot occupancy under 403, the court width under
6 406 is we understood there's no need for side
7 relief because it's a row dwelling and there's
8 no side yard but rather there's court relief
9 that's required and then 2001.3 for any existing
10 non-conformity in addition to that the property's
11 in the CAP District so there's relief needed
12 under 1202.1 and so in that regard we have
13 received information from DHCD indicating that
14 they have no concerns to the application as
15 indicated on the record by Mr. Moy, the
16 Architect of the Capitol has no objection and
17 sees no impact that this would have on their
18 master plan. Even though we don't have and we
19 cannot give it any weight, the ANC support we do
20 have oral testimony from the Applicant that there
21 was no major concerns at an ANC meeting. Office
22 of Planning didn't receive any concerns from the

1 ANC or from neighbors and I can incorporate the
2 OP's 223 standard in regards to it's assessment
3 of light and air and privacy and use and
4 enjoyment into my deliberation and into our final
5 analysis and just indicate that I would recommend
6 approval of this application. That being said is
7 there any further deliberation from Board
8 Members.

9 MS. SORG: Thank you Madam Chair, I don't
10 have anything to add to your comments I think
11 that as you mentioned this seems to be a straight
12 forward case and I agree with your analysis.

13 CHAIRPERSON MOLDENHAUER: That being said
14 then I will submit a motion, a motion to approve
15 application No. 18158 for 223 relief, seeking 401
16 relief, 403 relief, 406 relief and 2001.3 relief
17 that a motion has been made is there a second?

18 MS. SORG: Second.

19 CHAIRPERSON MOLDENHAUER: Motion's been
20 made and seconded, all those in favor say aye,
21 aye.

22 CHORUS: Aye.

1 MR. MOY: Staff would record the vote as
2 4 to 0 to 1 on the motion of the Chairperson Ms.
3 Moldenhauer, seconded by the Vice Chair Ms. Sorg,
4 also in support of the motion Mr. Hinkle and Mr.
5 Hood, no other Board Members participating and
6 the approval was for the relief cited by the
7 Chair.

8 CHAIRPERSON MOLDENHAUER: Thank you.

9 **Application No. 18157**

10 MR. MOY: The next application is
11 Application No. 18157, this is of Jamal's
12 Hookers, LLC pursuant to 11 DCMR 3104.1 for
13 special exceptions from the rear depth
14 requirements under Section 774 the roof structure
15 requirements under (Subsection 770.6) and the
16 height of roof structure provisions under Section
17 1902 and 1906, and pursuant to 11 DCMR 3103.2
18 variances from the number of parking space
19 requirements under (Subsections 2101.1 and
20 2115.1) in the drive aisle width requirements
21 under (Subsection 2117.5) to construct a new 30
22 unit residential building in the ARCH/3CA

1 District at premises 2221 14th Street, N.W.
2 property is located in (Square 234, Lots 28 and
3 124, 125, 126 and 127).

4 CHAIRPERSON MOLDENHAUER: Thank you very
5 much Mr. Moy. If the parties could introduce
6 themselves for the record.

7 MS. BROWN: Good afternoon Madam Chair
8 and Members of the Board, my name is Carolyn
9 Brown with the Law Firm of Holland and Knight.
10 To my right is Paul Milstein of Douglas
11 Development and on behalf of the ownership entity
12 and if I could make one slight correction, the
13 name of the ownership entity has been changed to
14 2221 14th Street, LLC and to Mr. Milstein's right
15 is Sasha Rosen from R2L Architects the project
16 Architect.

17 CHAIRPERSON MOLDENHAUER: Thank you for
18 that clarification, that was going to be one of
19 our questions. I will turn to the Applicant to
20 get started.

21 MS. BROWN: Thank you Madam Chair, we're
22 very pleased to be here today with the

1 overwhelming support for our application from the
2 Office of Planning, the ANC, the U Street
3 Neighborhood Association and DDOT, in fact we're
4 aware of no opposition to this application and in
5 light of that fact we'll try to make a very brief
6 presentation today, since we have a very full
7 record explaining all the areas of relief that
8 we're requesting and how we meet those standards.

9 Before we start our case I have three quick
10 preliminary matters, first I want to confirm that
11 you received our prehearing statement which had
12 the amended area of relief for court width,
13 second, I would like to have Mr. Rosen qualified
14 as an expert in Architecture and historic
15 preservation. In our prehearing statement at
16 "Exhibit E" and that would be, I think, "Exhibit
17 27" in your materials. We have his resume that
18 shows all his qualifications and if you have any
19 questions he's available for them but we would
20 ask that he be qualified as an expert.

21 CHAIRPERSON MOLDENHAUER: Our first
22 preliminary issue is that yes we have received

1 the change is our "Exhibit No. 27" which includes
2 your submission and the open court requirement.
3 We also have the resume and I think Board Members
4 right now are just going to take a second to
5 review that before we address your second
6 request.

7 MS. BROWN: Thank you, and while you're
8 reviewing that the third item I have is that we
9 have another letter of support from the U Street
10 Neighborhood Association which I will submit to
11 Mr. Moy.

12 CHAIRPERSON MOLDENHAUER: Do any Board
13 Members have any questions for Mr. Rosen?

14 MS. SORG: Just to complete your resume
15 it shows that you received your degree from the
16 University of Oklahoma in what year?

17 MR. ROSEN: I received my degree in 99'.

18 MS. SORG: Thank you.

19 CHAIRPERSON MOLDENHAUER: I see no issues
20 with qualifying Mr. Rosen as an expert. You were
21 asking for an expert in what exactly, I'm sorry.

22 MS. BROWN: For Architecture and also

1 historic preservation Architecture with his
2 background with the internship with ICAMOS (ph
3 sp) and a history degree and a lot of experience
4 working in historic districts.

5 CHAIRPERSON MOLDENHAUER: I feel
6 comfortable qualifying him as an expert in
7 Architecture but not in historic preservation
8 just in regards to my quick glance I think that I
9 would need more information.

10 MS. SORG: Unless, is the degree that I
11 asked about earlier, that's in Architecture or in
12 historic preservation.

13 MR. ROSEN: I have an undergraduate
14 degree that I received in 1993 it's a bachelors
15 in American History, I also was a fellow at the
16 University of Michigan, also a PhD program in
17 American History, my Architecture degree from
18 1999 is in Architecture.

19 MS. SORG: Thank you.

20 MR. HOOD: I'm looking at your resume
21 could you just mention some of the projects that
22 had that historic component or do you have a copy

1 of it or can you just tell me.

2 MR. ROSEN: I remember, one project is
3 the Whitman Condominium its at 910 M. Street,
4 N.W. it's in the Shaw Historic District, it was
5 approved by the Historic Preservation Review
6 Board I believe in 2005, there's a second project
7 I've been working on since 2003, which has been
8 approved it's the Canterbury Project at 3rd and G
9 Streets N.W., it's an 11 Story addition to a
10 Historic Landmark.

11 MR. HOOD: Do you have one more or is
12 that...

13 MR. ROSEN: The Embassy residences, the
14 Embassy of the Peoples Republic of China, that's
15 on the Border between two different Historic
16 Districts, the Sheridan and Kalorama District is
17 the primary District there, 1604 to 1614 King
18 Street was in the King Street Historic District
19 of Old Towne Alexandria.

20 MR. HOOD: Okay, I think that's good,
21 thank you.

22 MR. SORG: I agree with you Madam Chair I

1 would be comfortable agreeing that with the
2 designation as expert as Architect.

3 CHAIRPERSON MOLDENHAUER: I definitely, I
4 see the experience in regards to historic
5 preservation in those areas but I don't see a
6 specific education that speaks to that, nor do I
7 see in his resume any specific awards or
8 publications that he's done on that topic in and
9 of itself, so I would just feel more cautious not
10 qualifying him as an expert in that field whereas
11 he has, obviously specific education in regards
12 to Architecture. That being said I'll look to
13 other Board Members to see if they're in
14 agreement with that?

15 MR. (?): I'm in agreement with your
16 opinion Madam Chair.

17 CHAIRPERSON MOLDENHAUER: Then I think if
18 we have a consensus we'll qualify him as an
19 expert in Architecture and we can then move
20 forward.

21 MS. BROWN: Thank you Madam Chair, in
22 preceding with our case as you heard we are here

1 seeking seven special exceptions and variances in
2 order to construct a 30 unit apartment building
3 at the Southeast corner of 14th Street and Florida
4 Avenue just two blocks north of the Reeve Center
5 and while it may see like we're asking for a fair
6 amount of relief in actuality these are all just
7 technical areas of relief in variances and
8 special exceptions that stem from the very narrow
9 dimension of the lot fronting on 14th Street and
10 the unusual shape of the property, it's corner
11 location and we need to address historic
12 preservation concerns for the site. Three of the
13 variances relate to parking, reduction in the
14 number of spaces, the reduced size of the parking
15 space for the standard size to compact and a
16 narrowing of the aisle width at one particular
17 location. These variances again are a direct
18 result of the very narrow width of the lot it's
19 only 43 feet wide at 14th Street and the inability
20 to squeeze in all those programs into a very
21 narrow width and Mr. Rosen will go over those in
22 detail in his presentation about the

1 extraordinary conditions that create practical
2 difficulties in meeting these standards and there
3 also fully set forth in our prehearing statement.

4 The fourth variance from the court width is also
5 technical in nature. If we were able to measure
6 the height of the court which then relates to the
7 width requirement we would meet the dimension if
8 we were able to go to the top of the roof but
9 since a part of that area abuts the tallest wall
10 which is the penthouse we now need some area of
11 relief on the width of the court. Finally we're
12 seeking special exception relief from the roof
13 structure and rear yard requirements which also
14 are triggered by the narrow lot size, the corner
15 lot, and the design direction given by the
16 Historic Preservation Review Board and its staff.

17 We have reviewed the Office of Planning Report
18 and am very pleased to have its full support and
19 they go through in detail how we meet the
20 criteria for special exception and variance
21 relief. We also have reviewed the DDOT report
22 and are likewise happy to have its support on the

1 only legally relevant issue before you today and
2 that is the reduction in parking. With respect
3 to DDOT's recommendation related to other areas
4 of relief, I'm sorry in regard to that particular
5 area of relief of reduction in the number of
6 parking spaces the Applicant agrees to the
7 condition that it has been recommended regarding
8 the transit incentives and the Applicant agrees
9 to provide each initial resident of the building
10 one Smart Trip Card with a value of 100 dollars
11 and either a car share or bike share membership
12 up to a value of 75 dollars. With respect to the
13 other issues raised by DDOT we note that the
14 project meets the requirements for loading and
15 bicycle spaces under the Zoning Regulations.
16 Since we do not need any areas relief from these
17 provisions legally and technically they're not
18 before you today. As a practical matter however
19 given the small size of the lot I just want to
20 briefly address the DDOT report. There's no way
21 to accommodate a bicycle storage space on the
22 ground floor as they've recommended and similarly

1 we've made adequate provisions for trash removal
2 from the alley, as Mr. Rosen will describe the
3 building has been set five feet back from the
4 alley and with a 14 foot clearance height so the
5 circulation will be improved. With that unless
6 you have any questions I can have Mr. Milstein
7 make a brief introduction and then we can pass it
8 off to Mr. Rosen.

9 CHAIRPERSON MOLDENHAUER: I just have one
10 question I know this is a self certified
11 application but when reviewing the plans it
12 looked at though there was need for additional
13 relief under Section 2115.4 in regards to having
14 the compact spaces be 5 contiguous spaces due to
15 the 1, I guess regular size space that's located
16 in between, can you address that?

17 MS. BROWN: To the extent that you
18 believe that we need the additional area of
19 relief we anticipated that it was incumbent just
20 by reducing all the number of spaces that it was
21 implicit in the area of relief but we're happy to
22 add, or amend our application to include it.

1 CHAIRPERSON MOLDENHUAUR: Thank you, so
2 then you're formally doing that now?

3 MS. BROWN: Yes, absolutely.

4 CHAIRPERSON MOLDENHAUER: Thank you so
5 then we'll move forward.

6 MR. MILSTEIN: Good afternoon again, Paul
7 Milstein with Douglas Development, been with the
8 company now for 22 years. This project I think
9 is an important project to us as much as it is to
10 the neighborhood because the project has set
11 vacant for a long time, it's a fenced parking lot
12 basically it was a use car lot for several years.
13 We own the building to the east of it which is
14 called the Manhattan Laundry another historic
15 building which houses several schools, we have
16 schools in there, a lot of kids, and the
17 neighborhood has just continued to evolve so
18 these corners that are blighted corners, vacant
19 corners I think are important to get developed,
20 it's a small development, it's 2500 feet of
21 retail on the ground floor approximately and 30
22 units but yet it really has quite a visual

1 standing and impact in the neighborhood so we're
2 glad to try to move this forward finally, it's
3 been sitting for too long and hopefully we'll all
4 agree that it makes sense to move the project
5 forward. So with that I'll turn it over to Mr.
6 Rosen for the actual project, thank you.

7 MR. ROSEN: Ladies and gentleman my name
8 is Sasha Rosen with R2L Architects, thank you for
9 having us. As a technical matter I'd like to
10 request that my partner Lee Rubenstein approach
11 and be able to operate the computer, the
12 connection here apparently is not working. I'm
13 going to briefly describe the project and then at
14 the end get into the description of the variance
15 and special exception relief. Here's the project
16 location, it's a corner site down by Florida
17 Avenue to the north and 14th Street running north
18 south on the west side. There's a small public
19 alley on the east side currently 10 feet wide.
20 There's been a lot of development on this corner
21 recently. There's a new project directly
22 cattycorner across the intersection a residential

1 project with ground floor retail. On the
2 northeast corner is View 14, a 10 story
3 residential project again with ground floor
4 retail. There's a new project that's being
5 developed at this location here, the YMCA
6 project. A few views of the site, this view over
7 here on the right is the view from the corner,
8 you can see the Manhattan Laundry, historic
9 building on the other side of the alley. The lot
10 is currently improved with used car sales which
11 has not actually been used in quite some time and
12 there's a yellow building it's a small somewhat
13 temporary structure which will be demolished in
14 the course of the project. This is a view down
15 the alley; the alley is currently 10 feet wide
16 which does not really permit access on the alley.
17 There are two existing curb cuts one on Florida
18 Avenue and one over here on 14th Street which
19 we're proposing to close. A couple of additional
20 views, this is the View 14 Building so your
21 looking from a little bit further north of the
22 project to the project site. This is looking

1 further down 14th Street so these are recent
2 developments over the last couple of years. This
3 is the Salum(ph sp) on the northwest corner of
4 the intersection and View 14 on the northeast.
5 View of the parking garage, one level parking
6 structure under the building as you can see it's
7 a very small site, 5,530 square feet, we've tried
8 to squeeze in as many parking spaces as possible,
9 which is the reason we're asking for relief. I
10 normally don't start showing the project with the
11 parking garage but I want to show you here
12 because the configuration of the site and
13 particularly the location of the elevator guides
14 the overall design of the entire project, the
15 layout. What we've done is brought in access off
16 the alley into the parking garage; because you
17 can't park on a speed ramp you can't have direct
18 access to parking we then need a drive aisle in
19 this location. So this is really the only
20 possible entrance to the garage, we've tried as
21 much parking as we can here and the central drive
22 aisle here. A view of the ground floor plan, we

1 anticipate having commercial ground floor use
2 here, we've shown a restaurant or small café in
3 the plan, this is not a commitment we don't
4 intend to build it out we'll wait and see what
5 the neighborhood demands and what the market
6 conditions bring. Generally here's the entrance
7 to the parking garage off of this alley, in order
8 to make the alley usable we would effectively
9 widen the alley by holding our building off of it
10 by five feet as noted in the DDOT and OP Reports
11 a 10 foot wide alley is generally not large
12 enough for one or two way traffic so we've held
13 it back five feet and then at the second floor we
14 extend back to the property line but we've done
15 that at a height of 14 feet to allow both
16 vehicular and truck in car traffic. In keeping
17 with the ARCH overlay we've provided as much
18 retail space as possible on 14th Street, we've
19 carried that expression around to Florida Avenue,
20 after consultation with the Historic Preservation
21 Office and DDOT as well, as you can see we have
22 Bay projections, show windows on both 14th Street

1 and Florida Avenue, those were specifically
2 requested by the Historic Preservation Office,
3 reconfirmed by the Historic Preservation Review
4 Board as well as DDOT at a preliminary design
5 review meeting. The residential entrance is
6 located over here separated from the commercial
7 entrance. This is a view of the typical floor
8 plate, as you can see the majority of the
9 residential units face either 14th Street or
10 Florida Avenue. We have just one residential
11 unit studio facing the rear court I this
12 location. You can see the elevator is here, this
13 is the only place the elevator could be located,
14 with the parking layout it's this weird fit and
15 can't actually be moved in any direction or else
16 the parking even as we have it doesn't work. You
17 can see the elevator here and then the stairs
18 here. We also have located in this area to make
19 the residential units as good as possible with
20 street use. We're providing, this is a view of
21 the roof, penthouse is here, we're providing a
22 roof terrace here that is occupied by the

1 building residents providing as much green roof
2 as we can surrounding that rib terrace. Over
3 here is where we're locating mechanical units to
4 serve HVAC systems for the individual apartments.
5 We're putting as much green roof around that as
6 possible. This is the portion of the roof which
7 is the elevator override, because we're providing
8 roof access from the building to this terrace we
9 need to have an override that is yet above the
10 required CAP height for access to the roof so
11 this is a bit higher than this area here. This
12 is a view of the building from cattycorner, the
13 northwest corner then of 14th and Florida. This
14 is an existing street tree these are two new
15 street trees which we've worked with DDOT in
16 order to resolve those, this is part of the
17 proposed plan for 14th Street is to improve the
18 sidewalk and the public space area there, we're
19 continuing to work with DDOT to understand what
20 their timing is in relationship of our project to
21 that development. The overall project design is,
22 we've met several times with Historic

1 Preservation Office to refine the design, and we
2 current have conceptual approval from the
3 Historic Preservation review Board. Here's a
4 north elevation of the project, one interesting
5 thing to note here is that the project, this view
6 is a computer rendering taken accurately from the
7 sidewalk from eye height from the sidewalk
8 directly opposite the project, opposite Florida
9 Avenue and you can see that the penthouse
10 structures are not actually visible from this
11 location. This is a view from further up Florida
12 Avenue towards the northeast looking back towards
13 the project, we find the design of this façade
14 even though it's a side façade because the
15 building is taller than the existing historical
16 structure adjacent we wanted to make sure that it
17 was a view that was nice for the future we did
18 take comments on from both the ANC and the
19 Historic Preservation Office as well as Office of
20 Planning and this is the design that has been
21 approved by Historic Preservation Review Board.
22 We want to make sure that the project is a good

1 addition to the streetscape, provides nice
2 commercial frontage, it's a great interception
3 with a lot of new residents we want to make sure
4 that whatever retail user comes into that space
5 is a pleasant contribution to the sidewalk.
6 We're still working on the final design of this
7 entrance but this is the residential entrance
8 which is somewhat separated from the commercial
9 space for the privacy of the residents. Here's a
10 view of the project from just a bit further south
11 down 14th Street, you can see the adjacent
12 structure here and the View 14 building across
13 Florida Avenue. You can see in this spot we're
14 showing a mural this is an interior lot line and
15 the allowable zoning height for this project is
16 the same height as our site so that's a temporary
17 lot line condition. Just a more Architectural
18 elevation view of the project is the west
19 elevation, again you can see a combination of
20 terracotta panels and glass, again the design
21 approved by Historic Preservation Review Board,
22 the main entrance on 14th Street as requested by

1 Historic Preservation Office and the Office of
2 Planning and consistent with the (inaudible) and
3 the roof structures. Again the north elevation
4 but if you recall the view, the three dimensional
5 view these roof structures are not actually
6 visible from across the street, but again a
7 similar repetition of bays just consistent with
8 the overall form and design of residential
9 buildings and Historic District. The west
10 elevation, if you could go back just one moment,
11 we're showing here the clear height below the
12 east portion of the building over the alley so
13 you can see there's a car at just under five feet
14 and the clear height underneath this is greater
15 than 14 feet. The entrance to the parking garage
16 down the alley which is consistent again with the
17 ARCH overlay regulations. The south elevation of
18 the project this is the outline of the existing
19 building that's directly to the south, here's the
20 temporary mural that we're proposing for that,
21 façade as requested by Office of Planning, well
22 Office of Planning requested that we

1 Architecturally treat that façade in someway,
2 we're proposing that there may be a mural in that
3 location. Here's a general diagram of the
4 prevailing building heights along the street, as
5 you can see here's Florida Avenue and the View 14
6 building we did as a general massing diagram but
7 it's substantially taller than our project. Our
8 project is at 75 feet building height is
9 consistent with prevailing building height of the
10 other projects south of W Street that have been
11 developed over the last couple of years, also the
12 site directly adjacent to us is the same zoning
13 as our site so we anticipate that at some point
14 will be developed as well at the same 75 foot
15 height. Now going to specific discussion of
16 variances and special exceptions please ask me
17 any questions as we go along if you choose. I'll
18 start with parking; again as I described we have
19 the entrance to the parking garage here, so the
20 most efficient way to lay this out is to have a
21 parking entrance ramp which is a speed ramp here
22 and you turn this corner down this way and we're

1 driving the access aisle to these parking spaces
2 here, once we do that the only place where we can
3 actually layout the elevator is here otherwise we
4 would require even more variances from the
5 parking. One thing to note is that the critical
6 dimension here is this width, over here where
7 it's approximately 43 feet and the site is just
8 over 100 feet long in this direction and you can
9 see we're having trouble squeezing the space in
10 here, we have a minimum requirement for the drive
11 aisle is 14 feet, so we have 14 feet clear so you
12 can come down the aisle, and then we're trying to
13 provide as many parking spaces as we can. If we
14 provided parking spaces at the full size spaces
15 at 19 feet long, there's no space to do that, we
16 couldn't have longer spaces and this pinch point
17 would be even worse and we wouldn't have a 20
18 foot access aisle anywhere. By providing 16 foot
19 deep parking spaces we can actually have a 20
20 foot drive aisle to some of these there somewhat
21 accessible and we only have a pinch point right
22 here at the bottom of the ramp where people have

1 to turn here so these spaces are relatively easy
2 to get to and we have once you get past this
3 pinch point then you just have the standard size.
4 Originally we proposed having all 8 x 16 spaces
5 but to meet building code we need to have one
6 full size parking space which is as you brought
7 up that they're discontinuous and that all the
8 parking spaces are not compact, we have one full
9 size that was why we have that one full size
10 space, that's the only spot we can have that full
11 size space because it actually has 20 feet behind
12 that space and we couldn't actually provide that
13 many of the other spaces. I'd also like to add
14 that we added that full size space not just for
15 zoning but because the ANC requested that we have
16 at least one full size parking space. On many
17 projects we're able to provide multiple levels of
18 underground parking and this diagram shows why we
19 cannot on this particular project, so here's a
20 section view which shows you that in order to get
21 down the minimum floor to floor height and a
22 parking structure of this type the standard is 9

1 feet floor to floor, we've accomplished an 8' 6"
2 but generally requires a 60 foot long ramp
3 because maximum slope in the center it's
4 approximately 15% for safety and then you get
5 some blends at either end, so at 60 foot drive
6 aisle length you can see here, we placed it here,
7 on our floor we're able to end that ramp here
8 because we're actually starting at the outside
9 edge of the building but if we were going to try
10 to put an extra level we'd have to have the ramp,
11 the next speed ramp here, so you'd come down you
12 wouldn't be able to have any of these parking
13 spaces, let's assume for a moment that we didn't
14 have to have our exit stair and we have to have
15 two and they basically need to be in this
16 location, but assuming we didn't have to have
17 that you'd come down the ramp and then you'd have
18 to come around here, well this turn would be
19 almost impossible so we wouldn't get any parking
20 spaces in here and then you'd have to come here
21 and actually that's the only place we can have
22 the elevator, so in fact you can't even get to,

1 so it's practically impossible to have a ramp and
2 an additional level. So those were variances
3 from parking as to the width of the drive aisle,
4 the number and size of parking spaces. Next is a
5 special exception for rear yard depth, so here's
6 our overall site, it's a small site, 5530 square
7 feet with 2 substantial frontages, 43 feet here
8 and 105 feet here. According to the ARCH Overlay
9 is to minimize gaps in the street while on
10 Florida Avenue, we're extending that concept to
11 Florida Avenue as well, so if we were to comply
12 we had two options, one is to provide a rear yard
13 in this location. Alternatively we could have
14 provided a rear yard in this location, we didn't
15 feel that the rear yard in this location complied
16 with the intent of the Arts Overlay also this was
17 practically impossible because we have to put the
18 elevator in this location there's no other place
19 we can do it and still provide parking in the
20 basement, so we already would have required a
21 variance. In looking at the overall
22 configuration of the building we felt

1 particularly in this shape it's a deep building
2 here, we were not have been able to get all of
3 the residential units fronting on these two
4 streets, we would have had some units fronting on
5 to this space and that was relatively short, so
6 we came up with a third alternative. We provided
7 a court in this location yet instead of set the
8 rear yard here or here and let me note that in
9 the C-2-A and higher zones on a corner lot is a
10 standard provision for providing a rear court on
11 a corner, this location we just felt that it was
12 a better design for the project as a result of
13 the overall configuration of the site. The only
14 unit which we have facing this area is this one
15 here and we actually have a view of over 60 feet
16 instead of a view of 25 feet if we had that in
17 this location. The next special exception is for
18 roof structures, I know we're talking about roof
19 structures but I threw this slide in just to
20 remind you that the roof structures exceptions
21 are guided by the location of the elevator and
22 again this is the only place we could put the

1 elevator in the project and still get the parking
2 to work. On a typical floor because the
3 elevators here and because the units layout here
4 this is the best place to have the exit stairs,
5 the exit stairs also guide the overall
6 construction of the roof structures. On the roof
7 we're asking for three variances, one is for set
8 back exception from this rear building wall you
9 see that the penthouse is actually on that rear
10 building wall not set back one to one from it.
11 Second lady we're asking for, we'll talk about
12 that one first, that's why it's in this location.
13 The one advantage to having it in this location
14 is that it increases the set back from the
15 principle street so as I noted in the elevations
16 there that there're not visible and that was
17 appreciate by both Office of Planning of Historic
18 Preservation Review Board. The main brief here
19 is at 75 feet above our measuring point with the
20 Zoning Regulations. Here was the roof structure
21 originally. Originally we had the entire roof
22 structure all at one level in compliance with

1 that requirement but when we first presented to
2 the Office of Planning they actually recommended
3 that even though it required additional relief
4 that we minimize the overall size from the roof
5 structure so the only part that really needs to
6 stick up so high is the elevator override here.
7 This portion of the roof can be just 10 feet
8 above the rest of the roof. Our exit stairs which
9 are here, some circulation from the stairs to the
10 roof deck and an enclosed mechanical space in
11 this location. Again here is the roof top which
12 is 18 ft. 6 inches above the roof level and
13 that's a standard height for a roof structure in
14 other Districts other than the Arts Overlay, I'm
15 not sure what the genesis of that special
16 requirement for the Arts Overlay is but there's a
17 meditation on the height of roof structures for
18 8' 6" above the 75 feet so the maximum height is
19 73' 6" but we have to have this coming up to 18.6
20 above the roof here in order to provide elevator
21 and wheelchair access the roof terrace here, the
22 roof terrace was actually requested also by

1 Office of Planning support by Historic
2 Reservation Review Board and supported by the
3 ANC. We did discover during our review just prior
4 to this hearing we were require the special
5 exception for the court width, so again we're
6 providing this court in lieu of the rear yard.
7 This court has an irregular shape it has this
8 circle here is a 19 foot circle so this would be
9 a compliant court based on the height of the
10 building in this location but because we've had
11 the setback the roof structure to this point as a
12 result of the location of the elevator and stairs
13 in order to provide parking, that resulted in
14 this wall of the court being higher than the
15 height of the actual roof and as a result of that
16 the with of court is required to be greater.
17 That's the last slide I'm free to take questions.

18 MS. SORG: I will start out with a couple
19 of questions that I had about the views, I know
20 this area and I know that the grade of 14th Street
21 as well as it's curvature towards the north
22 allows these parcels to be very visible, both

1 from far, farther downtown and to the south than
2 one would imagine and all the way up to Columbia
3 Heights so if you can go back to those views
4 looking, I'm interested in both of them first I
5 guess the view looking north on 14th Street with
6 the mural, I guess it's that façade, the first
7 question is what's the neighboring property is
8 going to be developed or at risk is that correct?

9 MR. ROSEN: Yes.

10 MS. SORG: What's there now just out of
11 curiosity?

12 MR. ROSEN: The adjacent property is an
13 office building it's mostly empty and we
14 understand that the owner of that property is
15 looking to develop but you know as every property
16 is on 14th Street.

17 MS. SORG: Actually I was going to ask
18 about the renderings, the Historic District runs
19 on Florida Avenue is that correct?

20 MR. ROSEN: On this corner the two
21 properties opposite on the northeast and
22 northwest corners of 14th and Florida are not in

1 the Historic District but farther to both the
2 east and the west the Historic District extends
3 to the buildings on the north side of Florida
4 Avenue.

5 MS. SORG: So this adjacent property to
6 the south also has a height limit of 75 feet?

7 MR. ROSEN: Correct.

8 MS. SORG: You said a possible mural is
9 there concrete plans, is this maybe sort of...

10 MR. MILISTEIN: If I may it's actually,
11 it was an evolution when I went to the first
12 Meridian Hill Community Association meeting one
13 of their early questions was what are you going
14 to do about the mural that's on the site and my
15 response embarrassingly was what mural are you
16 referring too, of 22 years I just didn't focus on
17 it, it's not ours it's the next property down but
18 it is called the Black Family Reunion it was done
19 by G. Byron Peck who is still active in the city
20 does murals throughout the country has several
21 ARCH Organizations. So after that I reached out
22 to Mr. Peck and we had a meeting, Sasha was

1 present and discussed the possibility of
2 recreating not that specific mural but some form
3 of public art on that wall, it turned out to be a
4 prank wall that was a problem for HPRB anyway so
5 we had to do something with it, he was excited
6 about the prospect as are we, so we have agreed
7 that if this project moves forward we're going to
8 engage Mr. Peck to do some form of art on that
9 wall, now he is talking about a removal mosaic
10 because most likely in the near future this will
11 also get covered which is what he anticipates
12 when he does these types of art but we were
13 trying to do something that could actually be
14 removed and put up somewhere else, somewhere in
15 the city or whatever, so the exact system, we're
16 not there yet, we have a lot of conversations to
17 have but our intentions are to bring on Board G.
18 Byron Peck to do some form of art on that wall.

19 MS. SORG: Okay, then to address the view
20 looking south on 14th Street, I wanted to ask you
21 about the materials that you're using there on
22 the alley, I guess that's looking west, can you

1 talk about that a little bit?

2 MR. ROSEN: Sure, in this location we're
3 taking the brick from the front and wrapping that
4 around the side of the building, then this is a
5 metal panel in this location going back, this is
6 a split face concrete block in the back there, we
7 wanted to change the material, it helped break
8 down the overall mass of the project. We had
9 originally shown brick going all the way back and
10 it looks a little plain, and after meeting with
11 the Historic Preservation and with the ANC they
12 felt they liked the material changes so we went
13 with that.

14 MS. SORG: Okay.

15 MR. HOOD: Yes Madam Chair I was looking
16 at all the different reliefs that are being
17 requested and I guess this will go possibly to
18 Ms. Brown, or whoever wants to answer. If I was
19 to make a statement that with all the reliefs and
20 everything we're actually trying to pack
21 something in here how would you answer that?

22 MS. BROWN: With respect to the variances

1 on parking whether you have a one story building
2 or a 10 story building you end up having some
3 very tight constraints, the parking requirements
4 are going to change when you reduce the number of
5 units but ultimately it's the configuration of
6 trying to squeeze cars into that site, it's not
7 going to change so much as you start lopping
8 floors off the building. What I also note is
9 its' highly desirably to have the residential
10 units on the building and for inclusionary zoning
11 your granted additional bonus density and height
12 in order to achieve that so you would have two
13 provisions of the regulations kind of working at
14 cross purposes, on one hand residential
15 affordable units are being encouraged and in
16 order to do that your given some additional
17 height an density to accomplish that and yet if
18 you would say that they're asking for too many
19 areas of relief reduce those, don't avail
20 yourself of the available bonus density in order
21 to balance out the number of areas of relief you
22 request I think there's a tension there that

1 would not work.

2 MR. HOOD: The style that I was looking
3 at the other renderings of pictures you had of
4 the other buildings up on 14th Street would you
5 say that this style actually falls into play with
6 what's actually being done on 14th Street because
7 I know the building that at the northwest corner
8 of 14th and Florida Avenue is a very well done
9 building so is this building kind of coincide
10 with the rest of the buildings as far as from an
11 Architectural standpoint.

12 MR. ROSEN: Yes, the primary feature is
13 the Bay window projections which is a common
14 feature in Washington and particular this
15 neighborhood where projecting Bays are used with
16 large windows to provide light to those units
17 it's very common, we discussed those specifically
18 with Historic Preservation Office and Office of
19 Planning and once we showed those for the
20 residential building, we actually did not have
21 them for the ground floor and the Historic
22 Preservation Office requested that we bring those

1 down to make the building consistent with both
2 the contemporary buildings going up as well as
3 the historic structures in the neighborhood.

4 MR. HOOD: I noticed that when you went
5 to the community I think Tony Norman had a lead
6 role in, I guess, working with you?

7 MR. ROSEN: That's correct he was the
8 Chair of the designer view committee.

9 MR. HOOD: I'm sure that was very well
10 vetted. Okay, alright, thank you Madam Chair.

11 MS. SORG: I also just would note I know
12 this is a sort of funny intersection because
13 you've got two of the corners in the Historic
14 District and two of them outside of it.

15 CHAIRPERSON MOLDENHAUER: I have a couple
16 of questions, one is that there was a comment
17 made I think it was by you Ms. Brown in regards
18 to the DDOT recommendations that the Applicant is
19 in agreement with providing the new car share
20 membership I guess Smart Trip Cards, is that to
21 all initial purchasers or residents?

22 MS. BROWN: Yes just to the initial

1 purchasers or residents consistent with other
2 provisions that we've worked on that it's just to
3 the initial occupants.

4 CHAIRPERSON MOLDENHAUER: And so I guess
5 one question I would have would be how then would
6 that help in the future, if your only giving it
7 to the current residents and so a resident buys
8 or somebody moves into the building I don't know
9 if it's going to be an apartment or a condo or
10 whether any of that's decided yet. How do you
11 then effect what's going to happen in five years
12 from now in regards to the parking if that
13 benefits not given, because someone could change
14 and then sale or then someone could move out, is
15 that something that you thought of.

16 MS. BROWN: I think that's a typical
17 question that is posed for these types of initial
18 incentives and you know how you balance that
19 against, do you provide a limitless subsidy for
20 the life of the project or do you try to control
21 it as best you can and help the initial residents
22 to accommodate their transit uses and you can't

1 know exactly how long a tenants going to be there
2 and certainly if it's condo. The developer would
3 be out of the project at that point and so it
4 would have to transfer the responsibility to the
5 condo owners and they have the fiduciary duty to
6 all it's owners whether or not that's the right
7 way to spend their money, and has (inaudible) as
8 renters maybe it's something that should be
9 thought about farther into the future but again
10 to have to subsidize transit use for the entire
11 life of the project is a very difficult burden I
12 think to place on an owner, plus I think this
13 area as DDOT said its transit rich, you don't
14 need a whole lot of incentives particularly since
15 you have the bike spaces that will be provided in
16 the building, you have bike racks outside and
17 then you have all the bus lines and metro within
18 walking distance.

19 CHAIRPERSON MOLDENHAUER: Are there any
20 new bike shares located near this property as
21 well?

22 MS. BROWN: I do not know, maybe Mr.

1 Rosen knows.

2 MR. ROSEN: Yes there's a bike share
3 directly outside the reused building at 14 and U.

4 CHAIRPERSON MOLDENHAUER: Okay. Then is
5 the reason why Mr. Milstein you were talking
6 about the potential moveable mosaic done by Mr.
7 Peck, is that because that wall is at risk of
8 eventually being developed?

9 MR. MILISTEIN: That's correct, that's
10 correct we anticipate that wall to be covered in
11 the near future.

12 CHAIRPERSON MOLDENHAUER: Okay, and I
13 just want to make sure that's being recommended
14 just as a general offering to the ANC but it's
15 not actually related to the Arts Overlay?

16 MR. MILISTEAD: That's correct and it was
17 as much to the ANC as it was to the Meridian Hill
18 Civic Association as well.

19 CHAIRPERSON MOLDENHAUER: You mentioned I
20 think a second ago about taking advantage of
21 additional density from IZ, one thing that OP
22 mentions in their report is that you are

1 satisfying the standards, if you could just
2 briefly go through so we have it in our record
3 that there is no need for relief in regards to IZ
4 in that regard.

5 MS. BROWN: First I believe we had a
6 meeting with the Zoning Administrator who
7 confirmed that there's no additional IZ relief
8 needed.

9 CHAIRPERSON MOLDENHAUER: I don't know if
10 we have that, do we have that in our record?

11 MS. BROWN: No, no, and secondly if we
12 did go to the Zoning Administrator and he for
13 some reason changed his mind I believe we have it
14 in writing though we would have to come back and
15 ask for additional relief. But we will be
16 providing based on the construction 10% of the
17 floor area ratio will be devoted to affordable
18 units, I think that equates to 3 units.

19 CHAIRPERSON MOLDENHAUER: And then, I
20 think that I heard Mr. Rosen I guess address the
21 issue of the new relief for the consecutive
22 parking spaces, but if you could just make sure

1 that you actually, could you go back, I don't
2 know if you were talking in general about the
3 previous relief that was being sought in regards
4 to the parking or if you were talking about that
5 new relief that we had discussed so if you could
6 just touch on that I would appreciate that.

7 MR. ROSEN: So the majority of these
8 spaces are 8 x 16 a compact size, this one space
9 here is a full size 9 x 19, it's the only space
10 where we can have the 20 foot drive aisle
11 directly behind that parking space and these
12 spaces don't work because of this point here,
13 these spaces as well they don't work because of
14 the width, these spaces here, this obstruction of
15 the elevator here, so this is the only space
16 where we can have that otherwise we would try to
17 separate the full size space and have all the
18 compact spaces all contiguous but we just can't
19 do that here.

20 CHAIRPERSON MOLDENHAUER: Any other
21 questions from Board Members? Seeing none then
22 at this point in time is there any additional

1 testimony from the Applicant?

2 MS. BROWN: I would just reiterate that
3 we would agree to two conditions, one we've
4 talked about what we have, the first is the
5 transit incentives where we would have the Smart
6 Trip Card worth \$100 and either a membership in
7 bike share or car sharing program to a maximum
8 value of \$75 and that would be for each initial
9 resident. The second one is requesting
10 flexibility to revise the design to address any
11 final design considerations by HPRB as long as it
12 doesn't generate any new areas of relief and with
13 that I think that concludes our direct
14 presentation of our case and we'd be happy to
15 answer any other questions you may have.

16 CHAIRPERSON MOLDENHAUER: Thank you, that
17 being said is there any questions now or we can
18 ask them at the end, are there any individuals in
19 the audience in support or in opposition of this
20 case? Seeing none, then we'll turn to the Office
21 of Planning for their report.

22 MS. THOMAS: Good evening Madam Chair,

1 Members of the Board, Kerry Thomas for the Office
2 of Planning and I will be brief. OP's
3 recommending approval of the relief required in
4 this application. In this case the property's
5 lot size and regular dimensions and combination
6 is an exceptional situation creating a practical
7 difficulty (inaudible) within the C-3-A area
8 provisions including a number of required off
9 street parking spaces, the size of the resulting
10 spaces, the drive aisle width and a small area of
11 the proposed garage and resulting design. We
12 agreed that an additional level for parking below
13 grade will not be practical due to the lots size
14 and required drive aisle and round width.
15 Similarly the compact size spaces are better
16 suited given the constraints to provide a
17 required drive aisle and width. The required
18 court of 24 feet would in fact affect the area
19 and ultimately the floor area of the residential
20 units in the area. With respect to the requested
21 special exception relief from the required depth
22 and set back we believe that they met the

1 standards for special exception relief and we
2 don't anticipate any light and air issues or any
3 other adverse issues with respect to the
4 requirements and the Office of Planning finds
5 that generally this application meets the
6 criteria for variance relief and special
7 exception and I will stand on the record with
8 that.

9 CHAIRPERSON MOLDENHAUER: Thank you very
10 much does the Applicant have any questions for
11 the Office of Planning?

12 MS. BROWN: Do any Board Members have any
13 specific questions for the Office of Planning?
14 Seeing none, thank you very much Ms. Thomas I
15 think it was a very thorough report and I
16 appreciate your time, that being said we will
17 turn to the ANC 1-B is somebody present from ANC
18 1-B? Seeing no one present from ANC 1-B I'll
19 reference that we have in our record "Exhibit No.
20 22" which is a letter form ANC 1-B indicating
21 that at a regularly scheduled meeting on December
22 2, 2010, with a quorum present they reviewed and

1 discussed this application and then voted
2 unanimously 8 to 0 to support the application,
3 Application No. 18157, they list all the required
4 relief that is being sought here and acknowledge
5 that. That being said I will turn back now to
6 the Applicant for any closing remarks.

7 MS. BROWN: Madam Chair we believe that
8 we have met the standard for a specific exception
9 variance relief as set forth in the very complete
10 record in our testimony and in the submissions to
11 the record and we would ask for your approval
12 from the bench today if appropriate with the two
13 conditions that we mentioned previously regarding
14 transit incentives and final design review for
15 HPRB, thank you Madam Chair.

16 MR. HOOD: Ms. Brown did you agree to one
17 or both of what DDOT had in their letter? Just
18 the Smart Trip?

19 MS. BROWN: We agree to both so it would
20 be the Smart Trip at \$100 and then either the \$75
21 or \$50 car share or bike share membership.

22 MR. HOOD: Okay thank you.

1 CHAIRPERSON MOLDENHAUER: Are there any
2 other questions from Board Members? Seeing none
3 then I thank you and that would then conclude
4 this hearing, we will enter into deliberation
5 right away but we're going to take just a quick
6 like 3 minute break and then we'll get started
7 under deliberation.

8 CHAIRPERSON MOLDENHAUER: Okay, we're
9 back on the record now and the current
10 application we have closed the hearing and we've
11 entered into deliberations on the current case
12 before us and so what I'll do is I'll start us
13 off with some of the review. I'll start off with
14 the special exception standard for the rear yard
15 and the roof structure set back and the height of
16 the roof structures, in that regard based on the
17 applicants statements and based on the Office of
18 Planning report the issue for the rear yard depth
19 I think there is sufficient information I the
20 record to reflect the need to have the property
21 set back and to need such relief so that no rear
22 yard has been provided in the subject property,

1 that there's really going to be no impact in
2 regards to the way the building is being
3 developed due to that relief that's being sought
4 and in addition to that I think there's in
5 determining the distance between the window of
6 the building facing other properties in regards
7 to any issues for light and air or privacy I
8 don't see any major impact in that regard or the
9 building plan how that would effect any adjacent
10 off street parking service functions. There was
11 testimony that in regard to how this is going to
12 be laid out and the issue of the majority of the
13 units seem to be designed to face 14th or Florida
14 Avenue and that the rear unit facing the one area
15 in the alley would provide for the structure in
16 the way the building is being laid out and that
17 regard is condition thus satisfied, I think those
18 proposed design requirements. In addition to
19 that I don't think that there's any negative
20 impact looking at the Office of Planning to
21 incorporate the review or reports on impacts in
22 that regard also referencing the DDOT and their

1 reference. In looking at the special exception
2 standard under 770.6 in the restructure set back,
3 there has been enough information in regards to
4 the Architectural diagram showing that the
5 setbacks are not going to be visible from Florida
6 Avenue or 14th Street, that they are trying to
7 provide enough foliage or type of Architectural
8 character on the roof so that its going to be
9 guarding any of the mechanical equipment that
10 will be on the roof or in regards to whether the
11 setbacks are going to have maybe two separate
12 levels which is the next standard in addition to
13 that, that the impracticality of actually
14 relocating that, I think there was sufficient
15 testimony in regards to the fact that the
16 elevator needs to be in that specific location at
17 it relates to the specific layout of the lot size
18 and the need for the overlay to have retail on
19 14th Street in addition to having the additional
20 units facing that street as I think HPRB had
21 encouraged and in addition to the issue of making
22 sure the drive aisle would be adequate and I

1 think all of these factors are combining to
2 provide the need for this relief so I don't see a
3 problem with that. That being said under the
4 special exception relief that's being sought is
5 the height of the roof structure in regards to
6 the ART Overlay District and incorporating the
7 different standards from the Office of Planning
8 Report, I don't see an issue with granting that
9 relief, I think that there were some questions we
10 had in regard to the Architectural design that
11 some of Board Members enquired about and I think
12 all those questions I think we're satisfied and I
13 think that relief has been satisfied and can be
14 granted in my view. That being said we also have
15 some additional, I don't see any major issues in
16 regards to the light and air or impact on the
17 neighborhood in regards to granting these two
18 different types of relief. I think that there is
19 a benefit to the community in regards to having a
20 currently unused lot be developed an I think
21 that's shown by the letters of support from the
22 ANC and the fact that we have nobody present

1 providing any concerns, in that regard we have
2 five different types of variance relief that's
3 being sought, four of those variances are related
4 to the parking. We have an area variance under
5 2101.1 to reduce the number of off street parking
6 from 15 to 10, so we're talking about a 5 parking
7 space reduction, in this area I think that with
8 the great number of mass transportation both
9 Metro, Metro Bus the question was asked and
10 answered during the hearing about whether or not
11 there is the new bike share program, there is one
12 located in that area. The Applicants counsel
13 confronted it as a very transit rich area which I
14 agree with. The Department of Transportations
15 report which is our "Exhibit No. 29" I think
16 indicates obviously they are in support of this,
17 they indicated that they give credit to the
18 Applicant for their reduction in the number of
19 private passenger vehicles on the property so I
20 don't see a major issue with that. I think at
21 the same time the Applicant has an agreed to two
22 conditions which will also mitigate that issue.

1 Other relief that's being sought is relief under
2 2115.1 to reduce the size of the required
3 standard space to compact spaces and I see really
4 no issue with that, I'd rather see more spaces
5 than have only a few standard spaces even that
6 being said I think the Architects testimony was
7 that based on the needed drive aisle and ramp
8 space it would probably be very challenging if
9 not impossible to get a couple of standard spaces
10 in that based on the current layout and some of
11 the other factors that are accounted for in this
12 property or on this lot that are unique to the
13 need for the layout that is currently has. That
14 being said there also then the relief for an area
15 variance under 2117.5 to reduce the required
16 width of the drive aisle from 20 to 18 feet in
17 one location and again I think that has to do
18 with the unique configuration of the lot, the
19 narrowness of the lot and some of the additional
20 factors in regards to the location of where the
21 court can go, where the drive aisle can be
22 located and so I think there is an exceptional

1 factor or uniqueness in regards to the lots
2 property and then a practical difficulty in
3 trying to locate or the lack of maneuverability
4 or additional options it's not a matter of, they
5 could put in, that and they are deciding not to
6 based on the design choice but rather the fact of
7 the side or the configuration of the lot are
8 making it particularly difficult. The last area
9 variance, I'm sorry this is also the area
10 variance that the Applicant amended under 2115.4
11 for contiguous spaces, five contiguous compact
12 spaces and the Architect I think addressed that
13 standard indicating again that based on the
14 required access and drive aisle in the rear of
15 the standard space there's really only one
16 location where it could be located and thus
17 because that was only location where that
18 standard space could be located you could not
19 then get the contiguous spaces and there were two
20 not compact spaces, non-contiguously located on
21 the lot. So I think that based on his testimony
22 even though we don't have it in the written

1 record I think it was sufficient to satisfy the
2 standard front area variance. Then the last is
3 for an area variance pursuant to Section 776.3 to
4 reduce the required court width in the area over
5 the garage entrance where 24.5 feet is required
6 and 18 feet is provided. Again I think we have
7 Office of Planning has adequately addressed this
8 in their report and they also have testimony from
9 the Architect Mr. Rosen in regards to the fact
10 that there was really only two locations in which
11 this could be located and thus the reduction. I
12 feel it was a necessity based on the narrowness
13 of the lot and these other factors all not in
14 conjunction created the need for that relief.
15 That being said I will open up the floor to
16 additional deliberation.

17 MS. SORG: Thank you Madam Chair I agree
18 with your analysis very, full analysis with
19 regard to the variance for the reduction in the
20 court width I also would add in note that the
21 Applicant is providing a green roof on top of
22 that area which should be a benefit not only

1 apparently to the environment but also to the one
2 unit, that I think is looking out on there. I
3 agree that for several of the area of relief that
4 are requested it seems like a kind of
5 constellation of factors relating to the tight
6 site and way in which the elevator and parking
7 seems to need to be organized, that seem also to
8 meet the standards for relief under that section.

9 As I mentioned in my earlier questions
10 regarding the materials and the treatment of the
11 facades facing not directly on Florida Avenue and
12 14th Street I think as you mentioned the Applicant
13 has given fairly good responses to those
14 inquiries and I don't know how the rest of the
15 Board Members feel I appreciate the Applicants
16 discussion about their intent to include a mural
17 that the interior, the façade that is actually on
18 the interior lot line even though it is at risk
19 and given that under the request for special
20 exception relief under 1902.1 within the ARCH
21 Overlay I wonder if just to throw this out there
22 other Board Members believe that it could be of

1 benefit to conditional relief in this area in
2 terms of helping to ensure that the design and
3 quality of this project fits well into it's
4 neighboring context that we also make mention of
5 that offering of a mural as well, especially
6 since the Applicant seems to directly intend to
7 accomplish that.

8 CHAIRPERSON MOLDENHAUER: Thank you Ms.
9 Sorg any other comments from Board Members or any
10 I guess responses to Ms. Sorg's recommended
11 condition?

12 MR. HOOD: I would whole heartedly concur
13 with Ms. Sorg. I think this Applicant has made a
14 commitment especially to try to not necessarily
15 replace what was there but to make sure, knowing
16 some of the players in there I don't think this
17 Applicant would survive in that area if he
18 doesn't hold up to his promise so I would agree
19 with you Ms. Sorg.

20 CHAIRPERSON MOLDENHAUER: Any other
21 comments from Board Members?

22 MR. HINKLE: Thank you Madam Chair, I'm

1 somewhat in agreement with your analysis I think
2 it was very thorough and I appreciate that. I
3 just wanted to note that I came in here with a
4 number of questions about this project and I
5 think I want to thank the Architect for doing a
6 very thorough job in terms of describing the
7 project and addressing a lot of the issues that I
8 had.

9 CHAIRPERSON MOLDENHAUER: The only other
10 comment that I would have or question that I
11 would have for Board Members would be right now
12 we have three conditions that the Applicant
13 agreed to, one condition that Ms. Sorg agreed to,
14 I wanted to address one of the questions, one of
15 the conditions that the Applicant requested and
16 throw that out for discussion. One of the
17 conditions was that the Applicant would agree to
18 provide any new resident, the first new resident
19 of building a transit incentive for Smart Trip
20 Card for up to \$100 and a car share or a bike
21 share up to \$75 or not to exceed \$75. The third
22 condition the Applicant indicated was to request

1 that the design could potentially be modified and
2 not require additional review from our Board
3 based on any changes from the HPRB so long as no
4 additional relief was requested. I just want to
5 throw that one out there to make sure that all
6 Board Members were accepting of that condition
7 providing the Applicant flexibility to modify
8 plans as HPRB sought fit so long as no additional
9 request was required?

10 MR. HINKLE: Madam Chair I think that,
11 that condition makes sense. They've been
12 apparently working hard with the HPRB on this
13 project and it seems like there might be some
14 additional work to do but as long as there's no
15 additional relief required I don't find it
16 necessary for it to certainly come back here.

17 CHAIRPERSON MOLENDHAUER: Any additional
18 comments or is everybody else in agreement? The
19 last would be the condition that Ms. Sorg
20 recommended and I'll turn to her to just address
21 that in maybe a little more detail.

22 MS. SORG: Thank you Madam Chair, with

1 regard to setting a condition on the installation
2 of the air on this half side of the building, I
3 think this condition can be imposed in an effort
4 to ensure that the project achieves the purposes
5 of the ARCH Overlay District and is necessary to
6 mitigate the possible effect of a blank wall open
7 to views from a major thoroughfare.

8 CHAIRPERSON MOLDENHAUER: Wonderful then
9 I think if we're all in agreement I set a motion,
10 a motion to approve Application No. 18157 for
11 area variance relief under 2101.1, 2115.5,
12 2117.5, 2115.4, and special exception relief
13 under 774.2, 770.6, and 1902.1. Based along with
14 the following conditions; one the condition that
15 the Applicant agrees to provide each initial
16 resident with a transit incentive Smart Trip Card
17 up to but not exceeding \$100, and second
18 condition to provide each initial resident of the
19 building car share of a bike share card up to \$75
20 and then to provide the Applicant the flexibility
21 to modify the design so long as the design does
22 not change only based on HPRB relief does not

1 create new relief as being sought and then to
2 provide, I'm sorry my condition should have been
3 no less than \$100 and no less than \$75. The
4 fourth condition would be to install or have a
5 mosaic installed on the Southside of the façade
6 which shall be visible so long as the blank wall
7 is visible and not covered by an adjacent
8 building to be constructed, as long as the mural
9 is then going to be covered or obstructed by an
10 adjacent building renovation, that being said a
11 motion has been made is there a second?

12 MR. HINKLE: Second.

13 CHAIRPERSON MOLDENHAUER: Motion has been
14 made and seconded, all those in favor say aye,
15 aye.

16 MR. MOY: The staff would record the vote
17 at 4 to 0 to 1 this on motion of the Chairperson
18 Ms. Moldenhauer to approve the application with
19 the multiple variance special exception relief as
20 well as the four conditions as stipulated by the
21 Board. Second of motion is Mr. Hinkle also in
22 support of the motion Ms. Sorg and Mr. Hood so

1 again the final vote is 4 to 0 to 1.

2 CHAIRPERSON MOLDENHAUER: Thank you very
3 much Mr. Moy seeing that there's no opposition in
4 this case the Board would like to waive the
5 requirement and ask for a summary order to be
6 issued.

7 MR. MOY: Thank you very much Madam
8 Chair.

9 **Application No. 18148**

10 MR. MOY: Good afternoon Madam Chair next
11 is Application 18148 this is Little Samaritan
12 Child Development Center pursuant to 11 DCMR
13 3104.1 and 3103.2 for a special exception to
14 continue the operation of an existing child
15 development center, this was last approved by BZA
16 Order No. 17338, dated June 29, 2005, for 50
17 children and 16 staff under Section 205 and a
18 variance from the off street parking requirements
19 under (Subsection 2101.1) in the R-3 District at
20 premises 5100 E. Street, S.E. property is located
21 in (Square 5315, lot 36).

22 CHAIRPERSON MOLDENHAUER: Thank you very

1 much Mr. Moy I will turn to the Applicant and
2 allow you to introduce yourself for the record.

3 MS. MAYSHEK: Yes, my name is Romeka
4 Mayshek.

5 CHAIRPERSON MOLDENHAUER: You can just
6 provide your relationship with the Applicant the
7 Little Samaritan Child Development Center.

8 MS. MAYSHEK: Yes I'm Director at the
9 Little Samaritan and an authorized agent of the
10 Application.

11 CHAIRPERSON MOLDENHAUER: Thank you very
12 much, and we're here today for the CDC
13 Application and we are also then here based on
14 the variance standard. So if you just want to go
15 through and address some of the standard for us
16 that would be great.

17 MS. MAYSHEK: The what we were seeking
18 for relief was for our off street parking which
19 the standard was for but with the unique size of
20 our building and buildings that we have directly
21 behind it and beside it we have no room to have
22 any kind of off street parking and then also with

1 the area we have abundant amount of public
2 parking around each area, each street of a
3 building E Street and 51st Street on both sides.
4 Other than that with the increasing amount of
5 children that we have in the units adjacent to us
6 we have a new development that has over 200
7 houses so we are constantly sought out for child
8 care and with this we will be allowed to provide
9 more childcare slots. Since our last approval
10 five years ago we have not had any kind of
11 opposition to increasing our size and we've never
12 had a problem with parking, so again we're asking
13 for that relief and our increase.

14 CHAIRPERSON MOLDENHAUER: I'm just trying
15 to look through it, because your initial special
16 exception for your CDC had expired because the
17 five year condition had expired on June 29, 2010,
18 probably have to actually go through the
19 different standards for the CDC so do you have a
20 copy of the Office of Planning report?

21 MS. MAYSHEK: Yes.

22 CHAIRPERSON MOLDENHAUER: Could you then

1 just kind of touch briefly on the different 205
2 special exception standards for CDC? Obviously
3 the CDC has been in existence for a while so it
4 should be fairly easy to go through and just
5 address some of those, it's not as though this is
6 a new application but we have to kind of handle
7 it as though it is a new application so if you
8 could just address those I would appreciate it.

9 MS. MAYSHEK: The first one was 205.2,
10 the center or facility shall be (inaudible)
11 applicable codes and license requirement. We are
12 addressing all license requirements, we are
13 licensed with no kind of dismay or anything, just
14 we have to go through BZA for the increasement
15 and we will still be in code once we have that
16 approval. We still go by the standard of the
17 adult child ratio as needed. To address 205.3
18 the Center and facility shall be located and
19 designed to create no objectionable traffic
20 conditions and no unsafe conditions for picking
21 up and dropping off children and person in
22 attendance. With this one to decrease any kind

1 of object able traffic conditions we do have a
2 person that is placed at the entrance of the
3 building to expedite the children coming in and
4 leaving out, that way no kind of traffic unsafe
5 conditions can be apparent and the drop off and
6 pick up time is expedited. 205.4 the Center or
7 Facility shall provide sufficient off street
8 parking to meet the reasonable needs of teachers,
9 other employees and visitors. With this one we
10 are asking for a variance for this because we do
11 not have off street parking and like I said
12 before we do have, the area is filled with
13 abundant parking up and down the street which is
14 accessible for the parents, even though most of
15 our parents do use public transportation as well
16 as our teachers and other employees. 205.5 the
17 Center or Facility including any outdoor play
18 space provided shall be located and designed so
19 that there will be no objectionable impacts on
20 adjacent or nearby properties due to noise,
21 activity visual or other objectionable
22 conditions. We use the playground located at our

1 sister center across the street, 51st Street. Our
2 hours are usually between 10 and 12 and then
3 again in the evenings from about 3 to 5.
4 Adjacent to the playground is two empty lots,
5 right behind it is an apartment we have our
6 teachers there to minimize the levels of noise
7 that may be created from outdoor activities.
8 About maybe the building beside it is the
9 residential home and that's probably about 25 or
10 50 feet away but again like I said we do have our
11 teachers there to minimize any kind of noise and
12 it is only from Monday to Friday and most of the
13 time the residents are at work at that time.
14 205.6 the Board may require special treatments in
15 the way of design, screen of buildings, planning
16 and parking areas, size and other requirements as
17 it deems necessary to protect the adjacent and
18 nearby properties. We do have slight planning in
19 front of our building but nothing that, we do
20 have a fence but it's no special design that we
21 saw needed for. 205.7 any off site play area
22 shall be located so as to not result in

1 endangerment to individuals in attendance at the
2 center and traveling between the play area and
3 the center and facility; again the playground is
4 located across the street at our sister center.
5 We do cross over one street, we do have adequate
6 staff to aid the children as they go across the
7 street and again it's usually about twice a day,
8 once in the morning after rush hour hours and
9 then about 3 to 5 for that transit. 205.8, the
10 Board may approve more than one child or elderly
11 development center and adult treatment facilities
12 in a square or within 1,000 feet of another
13 child, elderly development center or adult day
14 treatment facilities. Only when the Board finds
15 that the cumulative effect of these facilities
16 will not have an adverse impact on the
17 neighborhood due to traffic noise, operation or
18 other similar factors. Again we also own the
19 center across the street so there will be no
20 adverse actually it will actually enhance what
21 we're trying to do for the neighborhood. 205.9
22 before taking final actions of application for

1 the use of child, elderly development center or
2 adult day treatment facility the Board shall
3 submit the application to the D.C. Department of
4 Transportation who services D.C. office of aging
5 and the D.C. Office of Planning for reviews and
6 written reports. We have done that and we
7 received the report back. Did you need me to go
8 into the 3103 the relief that we are seeking?

9 CHAIRPERSON MOLDENHAUER: If there's
10 anything else, if we have your written statement
11 that we just received our "Exhibit No. 32" if
12 there's anything else you want to add in addition
13 to what you submitted for that variance?

14 MS. MAYSHEK: I believe we did submit
15 photos of the building showing each side and the
16 adjacent building so you can understand our
17 plight of not being able to supply the off street
18 parking. Also the neighborhood is quite
19 supporting us, the ANC Board I have talked with
20 and they also agree that within the five years
21 that we have done what we said we would do and
22 they too are in agreement that we should receive

1 the relief.

2 CHAIRPERSON MOLDENHAUER: Thank you, do
3 Board Members have any questions for the
4 Applicant.

5 MR. HOOD: I wanted to ask the applicant
6 how did you realize that you could move up with
7 the increase, I think your increasing staff and
8 the students correct?

9 MS. MAYSHEK: Yes.

10 MR. HOOD: Because I guess obviously I
11 think the record is complete I don't see any
12 objection, and you mention (inaudible) from the
13 ANC so obviously I'm just trying figure out how
14 do you figure that you could handle 50 I guess is
15 that the maximum you would have or could you
16 increase that at some point in time, I just want
17 to figure out how you got there?

18 MS. MAYSHEK: Well what we did was go by
19 the spacing we had, now it could go up a little
20 more but we're not using the upstairs space,
21 we're only using the downstairs space and that
22 includes the whole downstairs space and the

1 reason why we had to seek out relief too because
2 once we open the center, the R-3 Zone it only
3 allowed us to do 15 so by that you basically you
4 have to space out, you know, measure the spacing
5 and according to the measurements that we
6 received deducting equipment and structural units
7 that is the amount that's the maximum we can have
8 in there.

9 MR. HOOD: Again this, I'm not seeing
10 anybody in objection you obviously run a very
11 thorough center from what I see here because
12 normally we see at least one letter but obviously
13 you run a very thorough center, okay thank you.

14 MS. MAYSHEK: Thank you.

15 MR. HINKLE: Is the outdoor play area
16 across the street is that sufficient enough for
17 50 children?

18 MS. MAYSHEK: Not at one time, that's why
19 it's usually like 10 or 12 so each set of
20 children will have their own time space and then
21 in the afternoon because we have before and
22 aftercare it's 3 to 5 so they each has a time

1 slot where they use the outdoor time.

2 MS. SORG: I just would ask one question
3 following on from Mr. Hood's question, your also
4 anticipating a pretty significant increase in the
5 staff but by a third, you anticipate that that
6 staff is that available to you or rarely
7 available for you to find qualified staff?

8 MS. MAYSHEK: Yes the availability is
9 definitely out there just basically we have to
10 wait until we have the approval so we can
11 increase the children.

12 MS. SORG: Gotcha, thank you.

13 CHAIRPERSON MOLDENHAUER: I don't have
14 anymore questions I appreciate you going through
15 all the standards. What know what we do is
16 unless you have any additional comments for the
17 Board we'll turn to see if any audience is in
18 support or in opposition of this case. Seeing
19 none, then we'll turn to the Office of Planning
20 for their report.

21 MR. JACKSON: Good afternoon Madam Chair
22 and members of the Board. Since the Applicant

1 was so nice to give my report I'll just stand on
2 the record and note that the Office of Planning
3 does recommend approval of the special exception
4 and the variance and that we're actually taking
5 the same position that they did in 2005, because
6 the application basically mirrors that, it's just
7 that at that time the final order does not
8 reflect that the variance relief was granted. So
9 we wanted to make sure that was on the record so
10 there weren't any complications when they did go
11 for their final order, their (OxP permit
12 (phonetic sp) so that statement will conclude, we
13 rest our report and we're available to answer
14 questions.

15 MR. HOOD: Madam Chair, Mr. Jackson
16 obviously your report was very well done Mr.
17 Jackson I would probably do the same thing. Let
18 me just ask you also recommend that there be no
19 expiration date is that still a recommendation?

20 MR. JACKSON: Yes this was part of the
21 Applicant's original application and normally if
22 it was a new center we would ask for an

1 expiration more so to allow the center to get
2 settled and to see there uses about the way they
3 promised to operate the center, but seeing as how
4 it's been in operation for five years and there
5 aren't any comments to the contrary we would
6 support one change in the existing condition
7 which would be that in the report you figure one
8 it lists the conditions from the previous
9 approval we would support elimination of the
10 first condition of approval which is a five year
11 limitation on the approval.

12 MR. HOOD: Thank you Mr. Jackson.

13 MS. SORG: Actually Mr. Jackson I wanted
14 to ask you one question about that on figure one
15 on page two of the report, it's a little
16 confusing to me. The order number there is for
17 the previous order, right?

18 MR. JACKSON: Yes.

19 MS. SORG: But the conditions number two
20 and three are reflecting the increase from this
21 order?

22 MR. JACKSON: Well in reality the

1 previous order was for 50 students and 16
2 employees, so the previous order was for the size
3 that the Applicant is asking for now, but the
4 previous order was granted under, their zoning
5 changed between that time and this. The property
6 was previously zoned R-5-A but then in the
7 interim it was rezoned to R-5-C, so really, and
8 also the previous order expired so the actual
9 approval for the special exception will be under
10 a different provision than it was previously. So
11 at this point this action will clear up all the
12 inconsistencies that were created by the rezoning
13 that was approved and, but yes the previous order
14 was for the numbers of employees and students
15 that they are currently asking for.

16 MS. SORG: I see.

17 MR. JACKSON: That also is why we're very
18 comfortable recommending approval.

19 MR. HOOD: Mr. Jackson this area was not,
20 you know we changed some stuff back, was this in
21 that mass where we changed a lot of the R-5
22 rezoning to R-3 in which you get an (inaudible)?

1 MR. JACKSON: Yes and again this was in
2 line with the comprehensive plan recommendation
3 that some areas that were originally zoned for R-
4 5-A that didn't have the R-5-A character were
5 rezoned to something that's more consistent with
6 existing uses on site since they were going to
7 change.

8 MR. HOOD: But this is not an area that
9 we change back because we just did one about a
10 month or so ago.

11 MR. JACKSON: We changed this area back,
12 east of 51st Street, west of 51st Street remain R-
13 5-A and of course that's where they have the new
14 development of 200 units and all townhouses, so
15 the character east of 51st Street is more single
16 family dwellings, with 51st Street is much higher
17 density it's more consistent with R-5-A.

18 MR. HOOD: So the Zoning Commission
19 actually will not affect this Applicant at a
20 later date?

21 MR. JACKSON: No, well there is the
22 current special exception covering the currently

1 the child development center across the street is
2 operating as a matter of right use, will be a
3 matter of right use in R-5-A but it's got special
4 exception use in R-3 but there's no need at this
5 time to address that unless the Applicant decides
6 to increase the...because now it's just basically
7 new legally non-conforming use but it was
8 approved under R-5 as a matter of right use under
9 R-5-A it would be a special exception use though
10 for any expansion and they would come back and go
11 through the same process, their status is
12 unchanged as of Zoning.

13 CHAIRPERSON MOLDENHAUER: Mr. Jackson I'm
14 sorry I have one question; I'm just trying to
15 clear up some of the paperwork, so I understand
16 it. The C of O that I have which is our "Exhibit
17 7" which is dated MARCH 7, 2006, it references
18 the BZA Order 17338 but the numbers are different
19 than what you reference in your report, your
20 report says that the current C of O has 15
21 children and 4 staff but this C of O says that
22 it's 24 infants, 6 children so a total of 30

1 children and 9 staff and then that doesn't
2 obviously conform with what the actual order was
3 approving. I'm trying to mirror this, maybe the
4 Applicant can jump in as well to clarify this.

5 MR. JACKSON: Alright if you have a copy
6 of the original order, the 17338, the application
7 was to the expansion of the existing child
8 development center from 15 children and 4 staff
9 to 50 children and 16 staff. The CO was issued
10 essentially for the existing condition but that
11 condition has not changed. When I contacted the
12 Office of the Superintendent of Education they
13 indicated that, I asked the general question was
14 there any reason why this hasn't been increased
15 or anything like that, they were saying, they
16 didn't give me the reason why it hadn't been
17 increased but they said that they appeared to
18 agree that the capacity there to allow the size,
19 that's being allowed but that at the point when
20 their standards remit and they would allow the
21 increase, they accept the increase. But at this
22 point they reiterated that they did support this

1 approval such that the capacity increase would be
2 allowed. But they didn't give me any reason why
3 it hadn't been but that CO actually reflected his
4 condition that was in place at the time this
5 application was originally approved back in 2005.

6 MS. MAYSHEK: If I could.

7 CHAIRPERSON MOLDENHAUER: Please go
8 ahead.

9 MS. MAYSHEK: The zoning gave us that
10 approval for the 50, with that we had to go back
11 to building permits and things like that so what
12 we had needed was different plans with seal of
13 approval and all of those things, so we had the
14 approval but going through so much with the 50 we
15 had to for the 30 the amount of bathrooms and
16 things like that we had already had and it was so
17 much easier just to do the 50, I mean with the 30
18 and to go the 50 like I said we had to get new
19 plans because the plans that we had or the plans
20 that were on file did not cover the whole
21 building.

22 CHAIRPERSON MOLDENHAUER: I appreciate

1 that it provides clarification when we're looking
2 at all the documents in our record or if someone
3 was to come back and look at the documents and
4 make sense of it all it's best to have it on the
5 record and I appreciate that clarification that
6 makes sense. Thank you very much Mr. Jackson, I
7 don't have any other questions and I don't think
8 any of other Board Members have any other
9 questions, thank you for your report. That being
10 said we'll turn to the ANC for this area which is
11 ANC 7-E is anybody present from ANC 7-E, right
12 now the OP indicates that we have no resolution
13 from the ANC and no one is present from the ANC.
14 Has the Applicant spoken, did you speak at all
15 with anybody from the ANC?

16 MS. MAYSHEK: Yes I talked to Mrs. Rosa
17 Hamlet and again she was in approval of this,
18 previously when we came we had to do an amendment
19 to our application so when we came in December I
20 believe they had already submitted a letter of
21 approval for us but for this one I don't know if
22 they got to it because of the new year and things

1 like that but they were still in agreement and
2 approval of this.

3 CHAIRPERSON MOLDENHAUER: Okay thank you
4 I appreciate that. That being said do you have
5 any closing remarks?

6 MS. MAYSHAK: No I do not.

7 CHAIRPERSON MOLDENHAUER: You don't okay.
8 Are there any Board Members who have any final
9 questions from the Applicant?

10 MR. HINKLE: Yeah Madam Chair, I'm sorry,
11 I'm looking at, I'm not quite sure what the
12 (inaudible) it's a submission by the Applicant I
13 believe, "Exhibit 24" and it notes that there's a
14 fenced playground located on which is used daily
15 10am to 1130am and 3pm to 5pm are those the hours
16 that you are using that playground across the
17 street?

18 MS. MAYSHAK: Yes a morning time and
19 afternoon time.

20 MR. HINKLE: And you don't find that
21 there's no objection through the neighborhood in
22 terms of the noise and what comes out from the

1 playground.

2 MS. MAYSHAK: No when I talked to the ANC
3 Board because we also take the children on
4 neighborhood walks and she, you know she's like,
5 you know I look forward to seeing your kids, I
6 know about what time they come and you know they
7 do their walks. So the area is very supportive
8 with the children and again we always have our
9 staff to make sure that the noise is at a
10 minimum.

11 MR. HINKLE: Okay and if you were to
12 expand to 50 children and take them out to that
13 playground at different times of the day, those
14 times are sufficient enough?

15 MS. MAYSHAK: It may extend for like I
16 said another half an hour from like 10 to about
17 12 but it won't be all the children at one time,
18 they will vary times when they go out, one group
19 may go out this certain time and then when it's
20 time for them to come in the next group will go
21 out.

22 MR. HINKLE: Are there timeframes that

1 you could give me that would be sufficient enough
2 I'm hearing 10am to noon and then 3 to 5.

3 MS. MAYSHAK: Both of those times will be
4 needed because we need at least 2 hours a day for
5 the children, so when I say from 10 to 12, that's
6 the morning time and then 3 to 5 is the afternoon
7 time.

8 MR. HINKLE: Okay thank you.

9 CHAIRPERSON MOLDENHAUER: Thank you for
10 clarifying that. Are there any further questions
11 from the Board? Seeing none thank you very much
12 for coming down at this point in time we will
13 conclude this hearing and we'll enter into
14 deliberation. That being said based on the fact
15 of the case as we heard from Mr. Jackson and the
16 Applicant this is pretty much a mirror image of
17 the case that had previously been approved, Case
18 No. 17338 with the addition with the variance
19 which was not specifically articulated in the
20 order but based on Mr. Jackson's statement had
21 actually been discussed at the time of that case,
22 so for that reason I really see no need to go

1 into great length of deliberation I would
2 incorporate Mr. Jackson's Office of Planning
3 report for purposes of my deliberation and
4 reviewing all the 205 standards and indicate that
5 I think the Applicant satisfies the Variant
6 Standard under 3103.2, that being said I'll see
7 if any Board Members have any additional comments
8 that they would like to add?

9 MR. HINKLE: Thank you Madam Chair I
10 would like to add a condition to this that the
11 outdoor play is limited to some specific hours, I
12 believe 10am to noon as well at 3 o'clock to 5pm
13 would be appropriate.

14 MS. SORG: Thank you Madam Chair I see
15 where Mr. Hinkle is coming from in proposing this
16 condition and I agree that maintaining, you know,
17 peace and quiet and good relations in the
18 community are important but I think given that,
19 but in my opinion I think given that this child
20 development center has been in operation for over
21 five years and has come in today without a single
22 complaint to echo what Mr. Hood mentioned earlier

1 without a single letter of opposition and also
2 without any opposition in person as well as with
3 the full support, of you know, their community
4 groups. I personally think that we could do
5 without such a condition they seem to be managing
6 pretty well in the neighborhood and the
7 relationships with the neighbors on their own.

8 MR. HOOD: I would also agree Madam Chair
9 with Vice Chairpersons analysis, I do not agree
10 with my good friend Mr. Hinkle, I think the
11 record speaks for itself, I've been here a while
12 and if someone had an issue I think we would have
13 known by now. I think this organization or this
14 Applicant has done the good neighbor policy and
15 it's proven by the record so I don't see why we
16 would want to put in a restriction on the CDC
17 that's already actually been a model from what I
18 see here from the record, so thank you.

19 MR. HINKLE: I appreciate those thoughts,
20 again this is an application that doesn't
21 necessarily increase what would be allowed in
22 terms of the number of children out but it does

1 open up the door for an increase of children
2 based on the ticket of occupancy so that does
3 extend the time that the outdoor play area could
4 be used and I'm just concerned that, you know I
5 am very supportive of this application I'm just
6 thinking about the noise issue within the
7 neighborhood and concerned about the additional
8 time that children might be outdoors playing but
9 I guess, that's my thought.

10 CHAIRPERSON MOLDENHAUER: While I
11 definitely hear Mr. Hinkle's points and support
12 for that in regards to that this is an increase
13 from what currently is existing in my view there
14 was the first BZA case where there was no
15 concerns that wasn't something that the Fire
16 Board felt that they needed to add and now with
17 this hearing really no concerns from any
18 neighbors speaking to that effect I don't see any
19 support for putting a condition like that so I
20 think I'd have to unfortunately agree with the
21 other Board Members in that regard. With that
22 being said is there any additional deliberation

1 in regards to this application.

2 MR. JACKSON: Madam Chair just a point of
3 clarification...

4 CHAIRPERSON MOLDENHAUER: We're in
5 deliberation, we don't take additional testimony.

6 MR. JACKSON: This is not actually
7 testimony I wanted to make sure remember that the
8 Applicant requested a waiver of the first
9 condition number one I encourage to discuss that.

10 CHAIRPERSON MOLDENHAUER: We haven't
11 discussed that because I have thrown out the
12 conditions in general. So that being said if we
13 have no additional deliberation then I would
14 submit a motion, a motion to approve Application
15 No. 18148 for a CDC and a parking variance under
16 3103.2 conditioned upon conditions 2-6 in figure
17 one of the Office of Planning report. That being
18 said is there a second?

19 MR. HOOD: Second.

20 CHAIRPERSON MOLDENHAUER: Motion's been
21 made and seconded, all those in favor say aye.

22 CHORUS: Aye.

1 MR. MOY: Staff would record the vote as
2 4 to 0 to 1 this on the motion of the Chair
3 Person Ms. Moldenhauer to approve the Application
4 for special exception relief from Section 205,
5 CDC and the variance relief from the off street
6 parking requirements under 2101.1 to include also
7 to be conditioned, 5 conditions that's stated in
8 the OP Report, seconded the motion is Mr. Hood,
9 also in support of the motion Mr. Hinkle and Ms.
10 Sorg, so again the final vote for approval is 4
11 to 0 to 1.

12 CHAIRPERSON MOLDENHAUER: Thank you Mr.
13 Moy and seeing that we have no opposition in this
14 case we'd ask that we waive our requirements and
15 ask for a summary order to be issued.

16 MR. MOY: Yes thank you.

17 CHAIRPERSON MOLDENHAUER: Then that
18 concludes today's hearing and we will reconvene
19 in February.

20 Ended 4pm - 11z

21

22