

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

MARCH 12, 2013

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The Regular Public Hearing
convened in the Jerrily R. Kress Memorial
Hearing Room, Room 220 South, 441 4th Street,
N.W., Washington, D.C., 20001, pursuant to
notice at 10:06 a.m., Lloyd Jordan,
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
NICOLE SORG, Vice-Chairperson
S. KATHRYN ALLEN, Board Member
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Zoning Commission Chair
OFFICE OF ZONING STAFF PRESENT:
CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN GYOR

KAREN THOMAS

STEVEN COCHRAN

ARTHUR JACKSON

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF

PRESENT:

BRYON WHITE

The transcript constitutes the
minutes from the Public Hearing held on March
12, 2013.

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

WELCOME:

Lloyd Jordan. 5

PRELIMINARY MATTERS:

Applications 18514 and 18409 Rescheduled to
May 21, 2013. 5

RONALD J. AND KAREN K. THOMAS:

APPLICATION NO. 18512 - ANC 2E: 6

OFFICE OF PLANNING:

Arthur Jackson. 9

VOTE TO APPROVE 18512 (5-0):. 16

JOSHUA GLICKMAN:

APPLICATION NO 18513 - ANC 1A:. 16

OFFICE OF PLANNING:

Stephen Gyor. 23

PARTIES IN SUPPORT:

Cheryl Aston. 24

Charles Walthall. 26

VOTE TO APPROVE 18513 - (5-0):. 31

200 5TH STREET, S.E., LLC:

APPLICATION NO. 18515 - ANC 6B: 32

OFFICE OF PLANNING:

Karen Thomas. 38

CLOSING REMARKS:

Meridith Moldenhauer. 42

VOTE TO APPROVE 18515 - (5-0):. 43

FP PERSEUS 53-713, LLC:

APPLICATION NO. 18516 - ANC 6C: 44

PRELIMINARY MATTERS:

Withdrawal of Roof Structure Relief 45

Recognition of Expert Witness 46

OFFICE OF PLANNING:

Steve Cochran 47

DEPARTMENT OF TRANSPORTATION:

Bryon White 49

CLOSING REMARKS:

Leila Batties 67

VOTE TO APPROVE 18516 - (5-0):. 71

T-A-B-L-E O-F C-O-N-T-E-N-T-S (Continued)

JOS□ CONTRERAS:

APPLICATION NO. 18495 - ANC 4D: 72

Leroy Powell, Sr. 75

OFFICE OF PLANNING:

Karen Thomas. 88

ANC 4D:

Tina Thompson 90

PARTY IN SUPPORT:

Maria Webb Gomes. 92

VOTE TO APPROVE 18495 - (5-0):. 96

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

10:06 a.m.

BZA CHAIR JORDAN: You can call
the next one, please.

MR. MOY: Okay. Just a real quick
announcement before I call the next
application, Mr. Chairman. For the record,
the application No. 18514, this is the
application of Andrew Daly and Patty Jordan,
as well as application 18409, which is the
application of CAS, C-A-S, Rigler Companies --
those two applications were rescheduled to May
21st.

So with that, the next application
before the Board for public hearing is
application 18512 --

BZA CHAIR JORDAN: Mr. Moy, before
we go --

MR. MOY: Yes?

BZA CHAIR JORDAN: -- 18409, we
put it on for -- oh, May 21st?

MR. MOY: Yes.

1 BZA CHAIR JORDAN: Okay. Because
2 I don't want to keep -- that's the one we keep
3 rolling based upon --

4 MR. MOY: That's correct, from the
5 Council's action.

6 BZA CHAIR JORDAN: Do they have a
7 date? Is it calendared with Council?

8 MR. MOY: I haven't followed up
9 with that. I mean I was depending on the
10 applicant.

11 BZA CHAIR JORDAN: Okay. All
12 right. Let's just leave it there. Okay.

13 MR. MOY: Okay. So again, that's
14 application No. 18512. This is the
15 application of Ronald J. and Karen K. Thomas.
16 This is pursuant to 11 DCMR ^U 3104.1, for a
17 special exception for a rear screen porch
18 addition to a one-family semi-detached
19 dwelling under section 223, not meeting the
20 lot occupancy requirements under section 403,
21 side yard, section 405, and non-conforming
22 structure requirements under subsection

1 2001.3. This is in the R-3 District at
2 premises 3014 P Street, N.W. Property located
3 in Square 1257, Lot 841.

4 BZA CHAIR JORDAN: Will the
5 persons for this application please come
6 forward? And please identify yourself? Just
7 to make sure you're turned on, the button
8 should go bright green. Yes.

9 MR. THORPE: Bright green.

10 BZA CHAIR JORDAN: There you go.

11 MR. THORPE: Good morning, Mr.
12 Chairman, Commissioners, Director. My name is
13 Merle Thorpe. I'm agent for the owner and
14 occupant of 3014 P Street and I'm here to say
15 that the file that is before you is complete.
16 I have come prepared to show you photos of the
17 site and lead you through the project if that
18 is required.

19 BZA CHAIR JORDAN: Just give us
20 one second. You submitted your authorization
21 of representation in this matter?

22 MR. THORPE: Yes, it should be in

1 the file.

2 BZA CHAIR JORDAN: Just want to --

3 MR. THORPE: And there should be a
4 letter from the owner saying that.

5 BZA CHAIR JORDAN: Yes, just want
6 to make sure. Okay. Very good. Thank you.
7 I agree with you. I believe that this file is
8 very complete. It's just minor relief you're
9 seeking from a deck that's already existing.
10 Just going to screen it in, basically. Does
11 the Board have any questions or any issues
12 that we think we need to address with this
13 applicant?

14 (No audible response.)

15 BZA CHAIR JORDAN: Well, Mr.
16 Thorpe, I believe that the record is full and
17 the Board would have enough information to
18 make its decision. You have the opportunity
19 to present anything else you may want to, if
20 you think that you need to do so, but we
21 believe that the record is pretty full.

22 MR. THORPE: Right, I think in the

1 last week, two weeks I've filed letters of
2 approval for the Commission of Fine Arts
3 concept permit.

4 BZA CHAIR JORDAN: Yes.

5 MR. THORPE: And through the ANC
6 unanimous decision in favor of the applicant.

7 BZA CHAIR JORDAN: Correct. And
8 in conjunction with letters of support from
9 neighbors.

10 MR. THORPE: Yes.

11 BZA CHAIR JORDAN: Yes.

12 MR. THORPE: East and west of the
13 property.

14 BZA CHAIR JORDAN: Then I'm going
15 to turn to Office of Planning. We do have
16 your recommendation. If there's something
17 else you want to add to this?

18 MR. JACKSON: Arthur Jackson, D.C.
19 Office of Planning. Nothing to add, Mr.
20 Chairman. The Office of Planning is in
21 support of this application.

22 BZA CHAIR JORDAN: Does the Board

1 have any questions of Office of Planning?

2 MEMBER HINKLE: I do, Mr. Chair.

3 BZA CHAIR JORDAN: Yes, Mr.

4 Hinkle?

5 MEMBER HINKLE: Thank you. Within
6 your report you note that if the relief
7 requested above, which is from 403 and 405, is
8 approved, then relief from 2001.3 is not
9 required. Can you explain what you meant by
10 that?

11 MR. JACKSON: Well, 2001.3
12 addresses additions to non-conforming
13 structures and the nonconforming structures
14 would have to be in conformance.
15 Unfortunately, the nonconforming structure
16 that they're adding -- the expansion that
17 they're adding brings the property more out of
18 conformance with the lot occupancy and does
19 not respect the side yard setback either. So
20 it's actually extending or increasing the
21 nonconformance on the property. So under
22 2001.3 that's not allowed. So, but if --

1 BZA CHAIR JORDAN: Any relief?

2 MR. JACKSON: Yes.

3 BZA CHAIR JORDAN: So he does need
4 relief from two-thousand --

5 MR. JACKSON: Well, if you grant
6 the special exception relief, then you no
7 longer need the relief from 2001.3. So we
8 have gone back and forth in the office.
9 Sometimes we don't mention it. Sometimes we
10 thought it's not worth mentioning because
11 you're in essence address the issue by
12 granting the relief, but then I think as
13 you'll probably note that as a common practice
14 now we highlight it so you're aware that the
15 relief would normally be required and then to
16 just say however this is addressed by the
17 relief that you're granting.

18 BZA CHAIR JORDAN: And I think
19 that's been part of our debate and
20 conversations before. In fact, I think some
21 of your other colleagues recommend that we
22 grant the relief from 2001.3, but --

1 MR. JACKSON: Well, the main
2 reasons, Mr. --

3 BZA CHAIR JORDAN: -- we agree
4 with what -- I agree with what you're saying
5 right here, and I think we've talked about
6 that.

7 MR. JACKSON: Right, so we're
8 trying to figure out what's the best way to do
9 it. This time we put it right up in front so
10 you see it at the beginning and you can ask
11 that question.

12 BZA CHAIR JORDAN: Yes, we can
13 address it right away. Mr. Hinkle?

14 MEMBER HINKLE: Is this because
15 it's a special exception versus a variance?
16 Does that --

17 MR. JACKSON: No, well, if they
18 were coming in for a variance and then -- the
19 variance would be for the specific
20 construction that would be allowed, however,
21 since there is no practical difficulty, they
22 couldn't do a variance for this type of

1 addition. It has to be a special exception.
2 And as a special exception the regulations
3 allow you to provide relief from 2001.3
4 through special exception. We're just noting
5 that. Although we can list it, you've
6 actually addressed it by granting the other
7 relief.

8 BZA CHAIR JORDAN: We would have
9 granted. Okay. Any other questions of Office
10 of Planning?

11 (No audible response.)

12 BZA CHAIR JORDAN: Does the
13 applicant have any questions of Office of
14 Planning?

15 MR. THORPE: No, I do not. Thank
16 you.

17 BZA CHAIR JORDAN: Anyone here
18 from the Department of Transportation?

19 (No audible response.)

20 BZA CHAIR JORDAN: I don't think
21 we have the response from Department of
22 Transportation, do we? We do? All right. I

1 don't think there's going to be any real
2 impact on transportation.

3 Is anyone here from ANC 2E?

4 (No audible response.)

5 BZA CHAIR JORDAN: We do have a
6 letter recommending approval from ANC 2E,
7 which we'll give great weight to, in support
8 your application.

9 I don't think we have anyone here
10 from the Commission of Fine Arts, but we do
11 have their support letter with no objections
12 as our Exhibit 26.

13 Is there anyone here wishing to
14 testify in support of this application?

15 (No audible response.)

16 BZA CHAIR JORDAN: We do have
17 letters of support that's submitted in the
18 record from the neighbors regarding this
19 project.

20 Anyone here wishing to speak in
21 opposition?

22 (No audible response.)

1 BZA CHAIR JORDAN: Then let's turn
2 back to the applicant to see if there's
3 anything that you want to say in closing or
4 just --

5 MR. THORPE: No, I --

6 BZA CHAIR JORDAN: Ready for a
7 decision?

8 MR. THORPE: That would be nice.

9 BZA CHAIR JORDAN: You sure? No.
10 So then let's close this hearing based upon
11 what's been submitted in the record.

12 The Board ready to deliberate?

13 (No audible response.)

14 BZA CHAIR JORDAN: Then I would
15 move that we grant the relief requested by the
16 applicant from 403, lot occupancy, and 405 on
17 side yard and grant the special exception.

18 MEMBER ALLEN: Second.

19 BZA CHAIR JORDAN: Motion made and
20 seconded. Any unreadiness?

21 (No audible response.)

22 BZA CHAIR JORDAN: All those in

1 favor, signify by saying aye?

2 (Chorus of ayes.)

3 BZA CHAIR JORDAN: Those opposed,
4 nay?

5 (No audible response.)

6 BZA CHAIR JORDAN: The motion
7 carries. Mr. Moy?

8 MR. MOY: Staff would record the
9 vote as 5-0. This is on the motion of
10 Chairman Jordan to approve the application for
11 the relief requested. Second the motion, Ms.
12 Allen. Also in support, Mr. Anthony Hood,
13 Vice-Chairperson Sorg and Mr. Hinkle. So
14 again the motion carries 5-0, Mr. Chairman.

15 BZA CHAIR JORDAN: And a summary
16 order, please?

17 MR. MOY: Yes, sir. Thank you.

18 BZA CHAIR JORDAN: Thank you.

19 That concludes --

20 MR. THORPE: Thank you very much.

21 MR. MOY: The next application is
22 application No. 18513. This is the

1 application of Joshua Glickman, pursuant to 11
2 DCMR ^U 3104.1. This is for a special
3 exception for parking on an alley lot under
4 section 333, in the R-4 District at premises
5 the rear of 1015-1017 Irving Street, N.W.
6 Property located in Square 2846, Lot 114.

7 BZA CHAIR JORDAN: Okay. Could
8 applicant please come to the -- and be sure
9 that the mic is on and please identify
10 yourself.

11 MR. GLICKMAN: Hi, I'm Joshua
12 Glickman, owner of the property.

13 MR. SHOWELL: Hi, I'm Skyler
14 Showell, Mr. Glickman's counsel.

15 BZA CHAIR JORDAN: Did we take
16 care of the issue where the representation
17 letter was not signed for our file? If not,
18 let's make sure that the representation letter
19 has been executed by Mr. Glickman.

20 MR. SHOWELL: Yes, sir, it's my
21 understanding that that was taken care of in
22 the last few days.

1 BZA CHAIR JORDAN: Okay. Good.
2 This is a matter -- I think it's another very
3 straightforward matter seeking a special
4 exception with very minimum impact, if any.
5 The file I think is pretty full. The only
6 question I have, did you have contact with ANC
7 1A, and what was the result of that? Because
8 we have nothing in the file from ANC 1A. Was
9 this presented to the ANC?

10 MR. GLICKMAN: I tried to contact
11 them, but didn't hear anything back.

12 MR. SHOWELL: Your Honor, Mr.
13 Glickman tried to contact them and I believe
14 didn't hear anything back. I can tell you
15 that in addition to the proper posting and
16 affidavit Mr. Glickman has done a lot to reach
17 out to the neighbors on the block surrounding.

18 BZA CHAIR JORDAN: So you did try
19 to contact the ANC. How did you do that?

20 MR. GLICKMAN: My email.

21 BZA CHAIR JORDAN: By email? So
22 you're sure you had the right address to the

1 ANC chairperson maybe? Is that who you sent
2 it to?

3 MR. GLICKMAN: I received a
4 contact sheet from Stephen Mordfim and I
5 looked up the contact for my zone. And I did
6 double-check it.

7 BZA CHAIR JORDAN: Okay. Unless
8 the Board has some questions with this
9 application -- Ms. Sorg?

10 VICE CHAIR SORG: Thank you, Mr.
11 Chairman. I just have one question. We did
12 receive a letter from a neighbor who was
13 generally speaking -- wrote in support, but
14 did have a question; and I think this was
15 brought up in OP's report as well, though I
16 don't quite remember, about what kind of
17 surface or what kind of paving you're planning
18 for the lot. Can you describe that?

19 MR. GLICKMAN: I'm leaning towards
20 and I indicated on the documentation attached
21 to the application to use the mechanically-
22 reinforced grass.

1 VICE CHAIR SORG: Good choice.

2 MR. GLICKMAN: And one of the
3 advantages, one of the reasons why I want to
4 use that is because when it rains the water
5 will still pass through it and go into the
6 ground instead of running off into the alley.

7 VICE CHAIR SORG: Good.

8 BZA CHAIR JORDAN: Anyone? Mr.
9 Hinkle, go ahead.

10 MEMBER HINKLE: Yes, thank you. I
11 appreciate the proposal to put landscaping
12 around the edges, or three edges according to
13 your plan, and I understand that it's not
14 required. But because we approve these based
15 on the plans that we receive, you know, I
16 would like to see the landscaping there.
17 Would you open to a condition that you just
18 maintain he landscaping?

19 MR. GLICKMAN: I assumed that
20 would be the case.

21 MEMBER HINKLE: Okay. Thank you.

22 BZA CHAIR JORDAN: I believe

1 that's going to -- yes?

2 ZC CHAIR HOOD: I just want to
3 ask, Mr. Glickman, your counsel started to
4 allude to how you reached out to the
5 neighbors. Email and what else? What other
6 ways?

7 MR. GLICKMAN: Last night I
8 knocked on several doors and I got seven
9 signatures from neighbors in favor of the
10 parking lot.

11 ZC CHAIR HOOD: Well, I already
12 know the notices, but I was just curious.
13 Other than the email -- and I know Office of
14 Planning gave something to the ANC, but the
15 most affected neighbors whose properties abut
16 that lot, I was just wondering how you reached
17 out to them. So last night you knocked on
18 doors?

19 MR. GLICKMAN: Right, but also
20 when I filled out the application I made two
21 copies of each address in the 200-foot radius
22 and they sent out the letters for me, the BZA.

1 ZC CHAIR HOOD: Okay. All right.
2 Thank you. Yes, I know what our requirements
3 were. I was just wondering what initiative
4 you took to make sure that everyone was
5 notified. Thank you.

6 MR. GLICKMAN: And of course the
7 sign was up, yes.

8 ZC CHAIR HOOD: Right. Thank you.

9 BZA CHAIR JORDAN: It's an
10 interesting alley. It's a different
11 configuration for an alley. I think someone
12 said, okay, we're just going to put an alley
13 right here.

14 (Laughter.)

15 BZA CHAIR JORDAN: Haven't seen
16 anything like that.

17 Is there anything else that you
18 feel you need to provide us? I think the
19 Board's comfortable enough based upon the
20 questions to move forward, but you certainly
21 have the opportunity.

22 MR. GLICKMAN: I don't believe so.

1 BZA CHAIR JORDAN: Okay. Then
2 let's turn to the Office of Planning.

3 MR. GYOR: Good morning, Mr.
4 Chairman and Members of the Board. Stephen
5 Gyor with the Office of Planning. The Office
6 of Planning supports the applicant's request
7 for relief and we support the condition to
8 maintain the landscaping. Thank you.

9 BZA CHAIR JORDAN: How did you
10 guys plan to get an alley like this?

11 (No audible response.)

12 BZA CHAIR JORDAN: Okay. Does the
13 Board have any questions of Planning?

14 (No audible response.)

15 BZA CHAIR JORDAN: Does the
16 applicant have any questions of Planning?

17 MR. GLICKMAN: No.

18 BZA CHAIR JORDAN: Okay. Anyone
19 here from the Department of Transportation?

20 (No audible response.)

21 BZA CHAIR JORDAN: We do have a
22 letter of no objection from Department of

1 Transportation, which is their kind of support
2 letter, but not really a support letter, just
3 they're not objecting.

4 Is anyone here from ANC 1A? ANC
5 1A.

6 (No audible response.)

7 BZA CHAIR JORDAN: We have nothing
8 in our file in ANC 1A, which gives us some
9 concern, however, we know that notice has gone
10 from the Office of Zoning to the ANC and based
11 upon the representation by the applicant that
12 they have received at least some type of
13 notice and a request for you to meet with them
14 to discuss this matter.

15 Anyone in the audience wishing to
16 speak in support of this application? Wishing
17 to speak in support? Yes, please, come. Come
18 forward, please, if you wish.

19 MS. ASTON: Good morning.

20 BZA CHAIR JORDAN: Would you give
21 us your name, please?

22 MS. ASTON: My name is Cheryl

1 Aston, A-S-T-O-N, and I'm a neighbor of
2 Josh's. I'm kind in the corner house of --

3 BZA CHAIR JORDAN: Let me ask you,
4 Ms. Aston, did you give the court reporter a
5 witness card?

6 MS. ASTON: Yes.

7 BZA CHAIR JORDAN: Okay. Good.
8 All right.

9 MS. ASTON: Yes, the corner house
10 which would be Irving and 11th Street, and
11 Josh has allowed me to park in this lot since
12 July gratis. And it's really helpful to me
13 because neither myself nor Chuck have anywhere
14 in back of our homes to park, which means --
15 well, I'll speak for myself. I'm forced onto
16 the street, and Irving Street has gotten --
17 rather 11th has gotten very busy. There are
18 many restaurants and you're really competing
19 for parking.

20 BZA CHAIR JORDAN: Yes.

21 MS. ASTON: And as a senior it
22 makes me really uncomfortable to have to park

1 at night, you know, five blocks away from
2 home.

3 BZA CHAIR JORDAN: Okay.

4 MS. ASTON: So I hope he's able to
5 maintain this option.

6 BZA CHAIR JORDAN: Okay. Thank
7 you.

8 MS. ASTON: It's good for these
9 neighbors.

10 BZA CHAIR JORDAN: Good.
11 Appreciate your coming down and giving us
12 that. That was very helpful.

13 MS. ASTON: Very well.

14 BZA CHAIR JORDAN: Did you want to
15 testify?

16 MR. WALTHALL: My name is Charles
17 Walthall and I am a contiguous neighbor of
18 Josh. And I would like to just reiterate
19 basically the same idea, that most of the row
20 of houses on 11th Street have no parking
21 behind it because of the alley configuration,
22 and therefore this would be an allegation of

1 our inability to park. And it gets very
2 congested particularly on weekends on the
3 street with the restaurants, bars and soccer
4 playing field across the street. So I would
5 support the proposal.

6 BZA CHAIR JORDAN: Good. I thank
7 both of you for coming down and it was very,
8 very helpful. And we do have a letter of
9 support from Joshua Long, also another
10 neighbor who stands in support.

11 Is there anyone in the audience
12 wishing to speak in opposition to this
13 application? Anyone wishing to speak in
14 opposition to this application?

15 (No audible response.)

16 BZA CHAIR JORDAN: Then we will
17 turn back now to the applicant to see if
18 there's anything that they feel that they
19 really found necessary that they really
20 absolutely think they need to say to the Board
21 before we move on.

22 MR. SHOWELL: No.

1 BZA CHAIR JORDAN: Good choice.
2 So then let's close this hearing based upon
3 the record before us and see if the Board's
4 ready to deliberate. And I'm thinking they
5 are.

6 Ms. Sorg, I'm going to turn it to
7 you since you're keeping a list of the
8 conditions for us.

9 VICE CHAIR SORG: Okay. You know,
10 we heard through the hearing and the support
11 of the nice neighbors who came to town, as
12 well as OP and so forth, and I would agree
13 that I could be in support of the application.

14 I jotted down what I think will be
15 three appropriate conditions, the first
16 condition being the lot shall be surfaced
17 using a pervious paving system; the second
18 being parking shall be limited to rental of
19 approved spaces; and the third, landscaping
20 shall be maintained as shown in Exhibit -- I
21 don't have the number, but I'm sure we can
22 fill it in. It's the site plan.

1 BZA CHAIR JORDAN: Okay. That was
2 your motion?

3 VICE CHAIR SORG: That would be my
4 motion, to approve the application with the
5 conditions as I stated them.

6 MEMBER HINKLE: I'll second it.

7 BZA CHAIR JORDAN: Motion made and
8 seconded. Before we put it to a vote I'm
9 going to ask that you at the end of this
10 hearing submit the letter, the
11 seven-signature --

12 MR. GLICKMAN: Sure.

13 BZA CHAIR JORDAN: -- list to the
14 Board's secretary so we have it in our record
15 and our file.

16 So motion made and seconded that
17 we grant the relief with the conditions that
18 have just been specified. Any unreadiness?

19 ZC CHAIR HOOD: Chairman, I just
20 wanted to ask --

21 BZA CHAIR JORDAN: Too late.

22 ZC CHAIR HOOD: Okay. Well, so --

1 (Laughter.)

2 BZA CHAIR JORDAN: Go ahead, Mr.
3 Hood. Go ahead.

4 ZC CHAIR HOOD: That's all right.
5 I'm going to remember all this.

6 (Laughter.)

7 ZC CHAIR HOOD: I just wanted to
8 ask -- Ms. Sorg, the second condition I may
9 have missed. That went over me. The second
10 condition?

11 VICE CHAIR SORG: I just have
12 parking shall be limited to rental of approved
13 spaces, because he's asking for a specific
14 configuration of spaces and there was a little
15 bit of discussion in the application about
16 kind of packing cars in. And he's applying
17 for six actual legal spots. So that's why I
18 said that.

19 ZC CHAIR HOOD: Okay. Thank you.
20 Thank you for the clarification.

21 VICE CHAIR SORG: You're quite
22 welcome.

1 ZC CHAIR HOOD: Thank you, Mr.
2 Chairman.

3 BZA CHAIR JORDAN: You're welcome.
4 If it wasn't you, Anthony -- no. All those in
5 favor of the motion, signify by saying aye?

6 (Chorus of ayes.)

7 BZA CHAIR JORDAN: Those opposed,
8 nay?

9 (No audible response.)

10 BZA CHAIR JORDAN: The motion
11 carries. Mr. Moy?

12 MR. MOY: Yes, sir. Staff would
13 record the vote as 5-0. This is on the motion
14 of Vice-Chairperson Sorg to approve the
15 application per the three conditions as cited,
16 as well as including the letters of support
17 into the record, I believe. Also in support
18 on the motion, Mr. Hinkle, who seconded. Also
19 in support, Mr. Anthony Hood, Chairman Jordan
20 and Ms. Kathryn Allen. So the vote is
21 unanimous, Mr. Chairman, 5-0.

22 BZA CHAIR JORDAN: Summary order,

1 please?

2 MR. MOY: Yes, sir. The next
3 application before the Board is application
4 No. 18515. This is the application of 200 5th
5 Street, S.E., LLC, pursuant to 11 DCMR ^U
6 3103.2, for a variance from the lot occupancy
7 requirements under subsection 401.11, to
8 convert a structure from four residential
9 units and a dental office into a six
10 residential unit apartment house in the CAP,
11 or C-A-P slash R-4 District. This is at
12 premises 200 5th Street, S.E. Property
13 located in Square 843, Lot 18.

14 BZA CHAIR JORDAN: Good. Good
15 morning.

16 MS. MOLDENHAUER: Good morning,
17 Chairman Jordan and Members of the Board. My
18 name is Meridith Moldenhauer representing the
19 applicant Jeff Levin here on behalf of 200 5th
20 Street, LLC.

21 BZA CHAIR JORDAN: As usual your
22 applications are just well put together. I

1 think we have more than enough in the file.

2 Does the Board have any issues
3 that we need to have addressed before with
4 this particular application? We have a couple
5 of questions that we need to just fill in, but
6 I think everything that I would look for has
7 been presented in your documentation.

8 Ms. Sorg?

9 VICE CHAIR SORG: Thank you. So
10 this may be an effect of some missing exhibits
11 in my file, but we got some information from
12 our office that there's no historic district,
13 but there is a historic district, correct?
14 And I wanted to make sure. I believe I saw
15 approval from HPRB and I wanted to ask if you
16 had also talked to the Capitol Hill
17 Restoration Society. I was curious. I
18 checked the record yesterday and I don't
19 believe the letter of support was part of the
20 record, so I'll provide copies to Mr. Moy --

21 MS. MOLDENHAUER: Oh, okay.

22 VICE CHAIR SORG: -- but we did

1 present to the Capitol Hill Restoration
2 Society.

3 MS. MOLDENHAUER: So, yes, we did
4 present and they did submit a letter of
5 support, which is being provided to you right
6 now.

7 BZA CHAIR JORDAN: And the
8 question about HPRB?

9 MS. MOLDENHAUER: We did not
10 formally present to HPRB because the structure
11 on the outside is not being affected at all.
12 This is all internal.

13 BZA CHAIR JORDAN: So this letter
14 is not signed, and what was that?

15 MS. MOLDENHAUER: It was sent to
16 me via email by Gary Peterson. I personally
17 attended the meeting at Capitol Hill
18 Restoration Society, but this is all that I
19 was provided electronically and I was assuming
20 that it had been in the record by now. As I
21 said, we checked yesterday. It was not, so I
22 provided copies at least of what I had been

1 sent via email for the Board's record.

2 BZA CHAIR JORDAN: And it
3 indicated that they had voted in support and
4 this is what was going to be submitted, and
5 just giving you a heads up? Okay. All right.

6 Ms. Sorg, did you have any
7 additional questions or are those the two that
8 you had?

9 VICE CHAIR SORG: That was it.

10 BZA CHAIR JORDAN: Anyone else?

11 (No audible response.)

12 BZA CHAIR JORDAN: Then let me
13 turn to the applicant and see if there's
14 anything else that you believe needs to be
15 provided to the Board on this matter.

16 MS. MOLDENHAUER: I believe our
17 record is full. If there's no other
18 questions, we'll simply rest on the record.

19 BZA CHAIR JORDAN: Yes, one
20 additional --

21 VICE CHAIR SORG: I'm sorry, I do
22 have one other question. I know you provided

1 several letters of support from the
2 surrounding area. And so there are two
3 related questions. The first, I think I noted
4 that there were letters from the two adjacent
5 properties. Is that correct?

6 MS. MOLDENHAUER: Yes, there were.
7 I believe they were starred indicating that
8 they were the adjacent properties.

9 VICE CHAIR SORG: Oh, okay. I
10 missed that part.

11 BZA CHAIR JORDAN: There were 22
12 signatures.

13 MS. MOLDENHAUER: Yes.

14 BZA CHAIR JORDAN: Twenty-two
15 letters of support from everybody in the area.

16 VICE CHAIR SORG: And the adjacent
17 properties on 5th Street and Independence, are
18 they flats or multi-family, or are they
19 single-family residences? Do you know?

20 MS. MOLDENHAUER: I believe
21 they're single-family residences.

22 VICE CHAIR SORG: Yes. Okay.

1 MS. MOLDENHAUER: But Mr. Levin
2 can answer.

3 VICE CHAIR SORG: I wasn't quite
4 sure.

5 MR. LEVIN: It's an assortment.

6 VICE CHAIR SORG: Okay.

7 BZA CHAIR JORDAN: Yes, it's kind
8 of a --

9 VICE CHAIR SORG: But directly
10 adjacent, I was asking.

11 MR. LEVIN: Directly next door is
12 a multi-family.

13 VICE CHAIR SORG: Okay. On 5th?

14 MR. LEVIN: Right.

15 VICE CHAIR SORG: Okay.

16 MR. LEVIN: On one side. And then
17 on 5th actually is a single family. And I
18 have this -- on 5th is a multi-family. I was
19 mistaken.

20 VICE CHAIR SORG: Okay.

21 MR. LEVIN: On Independence is a
22 single family.

1 VICE CHAIR SORG: Gotcha.

2 MR. LEVIN: I have signatures on
3 both sides.

4 VICE CHAIR SORG: Okay. Thank
5 you.

6 BZA CHAIR JORDAN: It's an
7 interesting building. The configuration is
8 funny, to say the least.

9 MS. MOLDENHAUER: Quirky, to say
10 the least, yes.

11 BZA CHAIR JORDAN: Yes, to say the
12 least. Is there anything else we may need
13 from the applicant?

14 (No audible response.)

15 BZA CHAIR JORDAN: Then let's turn
16 to the Office of Planning.

17 MS. THOMAS: Good morning, Mr.
18 Chairman, Members of the Board. Karen Thomas
19 with the Office of Planning. We would rest on
20 the record of our report. We do see that this
21 building is unusual as stated due to its
22 internal configuration. It was a former small

1 office building in the Capitol Hill District
2 and subsequently converted in 1978.

3 BZA CHAIR JORDAN: Does the Board
4 have any questions for Office of Planning?
5 Mr. Hood?

6 ZC CHAIR HOOD: Ms. Thomas, could
7 you just help me understand this? And the way
8 your summary recommendation is here on your
9 first page, the second paragraph when you said
10 that OP normally does not support relief, can
11 you just help me understand why in this case?
12 We actually have it there, but I need just
13 further -- I'm a little slow on this, so help
14 me understand.

15 MS. THOMAS: Well, in this case we
16 really had to look as to why we would approve
17 adding more units to the property where it did
18 not meet that lot area requirement. We've
19 been very forceful in not trying to add more
20 units within the R-4, or even an existing
21 multi-family unit, because it does not meet
22 the lot area requirement, because it further

1 puts pressure on the R-4 to become something
2 that it should not, that was not intended by
3 the regulations.

4 So we wanted to make that clear
5 that this is not something that we would
6 normally do. But in this case there was clear
7 evidence that this building could not be
8 easily converted without probably changing the
9 doors or having some exterior configurations
10 which would not be permitted by HPRB. They
11 specifically said that they didn't want to see
12 any of the doors changed. If you did a total
13 gut job on this, you could possibly convert it
14 to probably a flat, but in this case they
15 wouldn't want to see any of the entrances or
16 exits changed on the exterior of the building
17 because it will affect the exterior and have
18 an impact on the historic character of the
19 building, and ultimately the block.

20 BZA CHAIR JORDAN: Okay. All
21 right. Are there any other questions from the
22 Board to Office of Planning?

1 (No audible response.)

2 BZA CHAIR JORDAN: Does the
3 applicant have any questions for Office of
4 Planning?

5 MS. MOLDENHAUER: No, we do not.

6 BZA CHAIR JORDAN: Then let's turn
7 to Department of Transportation. Anyone here?

8 (No audible response.)

9 BZA CHAIR JORDAN: No. We have a
10 letter of no objection to the requested
11 relief.

12 Is there anyone here from ANC 6B?

13 (No audible response.)

14 BZA CHAIR JORDAN: We do have a
15 letter from ANC 6B which recommends the
16 approval, which of course gets great weight by
17 this Board.

18 We do have at least 22 letters
19 signed by neighbors, etcetera, in the record,
20 but is there anyone else here wishing to speak
21 in support of this application? Anyone
22 wishing to speak in support?

1 (No audible response.)

2 BZA CHAIR JORDAN: Anyone wishing
3 to speak in opposition? Anyone in opposition?

4 (No audible response.)

5 BZA CHAIR JORDAN: Then let's turn
6 back to the applicant to see if there's any
7 rebuttal or closing that you believe you need
8 to say.

9 MS. MOLDENHAUER: Chairman Jordan
10 and Members of the Board, we believe the
11 record is complete. The property is
12 exceptional and we believe that we've
13 satisfied all three prongs of the test and
14 would request a bench decision at this time.
15 Thank you.

16 BZA CHAIR JORDAN: Good. Then we
17 will close the hearing based upon the record
18 that we have today. Is the Board ready to
19 deliberate?

20 (No audible response.)

21 BZA CHAIR JORDAN: Then I would
22 move that we grant the relief of the variance

1 as required from lot area on this property.

2 VICE CHAIR SORG: Second.

3 BZA CHAIR JORDAN: Motion made and
4 seconded. Any unreadiness?

5 (No audible response.)

6 BZA CHAIR JORDAN: All those in
7 favor, signify by saying aye?

8 (Chorus of ayes.)

9 BZA CHAIR JORDAN: Those opposed,
10 nay?

11 (No audible response.)

12 BZA CHAIR JORDAN: The motion
13 carries. Mr. Secretary?

14 MR. MOY: Yes, sir. Staff would
15 record the vote as 5-0. This is on the motion
16 of Chairman Jordan to approve the application
17 for the relief requested. Second the motion,
18 Vice-Chairperson Sorg. Also in support, Mr.
19 Hood, Ms. Allen and Mr. Hinkle. Motion
20 carries unanimous, Mr. Chairman.

21 BZA CHAIR JORDAN: Thanks. And a
22 summary order, please?

1 MR. MOY: Yes, thank you.

2 BZA CHAIR JORDAN: Thank you.

3 MR. MOY: The next application is
4 application No. 18516. This is the
5 application of FP Perseus 53-713, LLC.
6 pursuant to 11 DCMR ^U^U 3104.1 and 3103.2, for
7 a special exception from the roof structure
8 requirements under section 770.6(b), a
9 variance from the loading requirements under
10 section 2201.1, and a variance from the court
11 requirements under section 776. This is for
12 a mixed-use project with office, retail and
13 residential in the C-3-C District at premises
14 1005 1st Street, N.E. Property located in
15 Square 713, Lot 53.

16 BZA CHAIR JORDAN: Please identify
17 yourselves.

18 MS. BATTIES: Good morning, Mr.
19 Chair, Members of the Board. Leila Batties
20 with the law firm of Holland & Knight.

21 MR. NICOLAUS: I'm Michael
22 Nicolaus with the architectural firm of HKS.

1 MR. VANPELT: Dan VanPelt with
2 Gorove/Slade Associates.

3 MR. SHER: Steven E. Sher,
4 Director of Zoning and Land Use Services with
5 the law firm of Holland & Knight.

6 MS. BATTIES: And I'd also like to
7 note that the applicant is here represented by
8 Evan Weisman and Mark Adamo. They are
9 representative from First Potomac Realty and
10 Perseus Realty, respectively, which is the
11 joint venture that is the applicant in this
12 case.

13 BZA CHAIR JORDAN: And preliminary
14 matters, one, I think, Mr. Moy, you read about
15 the request for roof relief and I thought that
16 had been withdrawn. Roof structure setback
17 had been -- Mr. Moy?

18 (No audible response.)

19 BZA CHAIR JORDAN: Okay. It's my
20 understanding that the roof structure relief
21 had been withdrawn. Is that correct?

22 MS. BATTIES: That's correct.

1 BZA CHAIR JORDAN: Thought so.
2 Okay. Additionally I think you're proffering
3 Mr. Nicolaus as an expert and he's not
4 currently --

5 MS. BATTIES: That's correct.

6 BZA CHAIR JORDAN: Unless the
7 Board has an objection, I'm going to accept
8 him as an expert.

9 (No audible response.)

10 BZA CHAIR JORDAN: Okay. Then
11 we'll do that.

12 Okay. Does the Board have any
13 questions that we need to have particularly
14 addressed? I think the record in this matter
15 is pretty solid. And to try to horn in on any
16 more directed presentation by the applicant,
17 I'm asking the Board is there anything that
18 they want to hear particularly that's not been
19 addressed by the documents already filed?

20 (No audible response.)

21 BZA CHAIR JORDAN: Ms. Batties, is
22 there something that you believe that the

1 Board needs to hear in regards to this
2 application?

3 MS. BATTIES: I just want to
4 clarify one thing as it relates to the court
5 relief. We're seeking relief for both the
6 width and the area requirements. I don't know
7 that that was clear based on the Office of
8 Planning's report.

9 BZA CHAIR JORDAN: Okay.
10 Additionally the load management plan, did we
11 have the load management plan?

12 MS. BATTIES: Yes, it was included
13 in the traffic impact study that was submitted
14 as part of the record.

15 BZA CHAIR JORDAN: Okay. All
16 right. Then let's turn to the Office of
17 Planning and get its input.

18 MR. COCHRAN: Thanks, Mr. Chair.
19 As you know, we're recommending that you
20 approve all of the requested variances
21 including the 1,249 square foot reduction in
22 the court area relief. That's something that

1 we had not noted in our report.

2 We believe that the applicant has
3 demonstrated that there are several practical
4 difficulties related to providing all five of
5 the otherwise required 12 by 30 foot loading
6 berths. I can go into those reasons if you --

7 BZA CHAIR JORDAN: No, we're I
8 think --

9 MR. COCHRAN: -- would like.
10 Okay. And we do make our recommendation on
11 the loading berth relief. We recommend that
12 it be subject to the seven conditions that we
13 noted on pages 4 and 5 of our report, which
14 are taken right from the applicant's traffic
15 study and to which the applicant has agreed.

16 The application has been supported
17 by the ANC and by the developer to the south.
18 That's important with respect to the court
19 relief. DDoT does have some public space
20 concerns and they'll address that during their
21 testimony.

22 BZA CHAIR JORDAN: Okay. Does the

1 Board have questions for Office of Planning?

2 (No audible response.)

3 BZA CHAIR JORDAN: So you are
4 comfortable with the load management plan?

5 MR. COCHRAN: Well, we are, yes.

6 BZA CHAIR JORDAN: Okay. Does the
7 Board have any questions of Office of
8 Planning?

9 (No audible response.)

10 BZA CHAIR JORDAN: Does the
11 applicant have any questions of Office of
12 Planning?

13 MS. BATTIES: No, we don't.

14 BZA CHAIR JORDAN: Okay. Then
15 let's turn back to Department of
16 Transportation report, please.

17 MR. WHITE: Good morning, Mr.
18 Chairman. This is Bryon White with DDoT. We
19 reviewed the applicant's application and have
20 no objection to the loading. We agree with
21 the loading plan and the management.

22 And as OP noted, we do have some

1 public space concerns, but we believe those
2 can be addressed directly with the applicant.
3 Thank you.

4 BZA CHAIR JORDAN: Good. Does the
5 Board have questions of Department of
6 Transportation?

7 (No audible response.)

8 BZA CHAIR JORDAN: Does the
9 applicant have questions of Department of
10 Transportation?

11 MS. BATTIES: No, we don't.

12 BZA CHAIR JORDAN: Is there anyone
13 here from ANC 6C? ANC 6C?

14 (No audible response.)

15 BZA CHAIR JORDAN: We do have a
16 letter of support from ANC 6C.

17 Is anyone in the audience wishing
18 to testify in support of this application?
19 Anyone wishing to testify in support?

20 (No audible response.)

21 BZA CHAIR JORDAN: Anyone wishing
22 to testify in opposition?

1 (No audible response.)

2 BZA CHAIR JORDAN: Then let's turn
3 back to the applicant and let's take a second
4 to go over the conditions. You've had a
5 chance to look at the, what are there, one,
6 two, three, four, five, six conditions, I
7 believe.

8 MS. BATTIES: Yes, in the Office
9 of Planning's report, and we have no objection
10 to any of those conditions.

11 BZA CHAIR JORDAN: Okay. What we
12 would change is from "will" to "shall." In
13 most places where it's speaking in terms of
14 "will" we change to "shall" so that it would
15 be more enforceable.

16 Does the Board have any problems
17 or questions on the conditions that have been
18 set forth in the report?

19 (No audible response.)

20 BZA CHAIR JORDAN: These
21 conditions are fine with the Board?

22 (No audible response.)

1 BZA CHAIR JORDAN: Okay. Good.

2 Then we will -- did you have a question?

3 VICE CHAIR SORG: Yes, I will ask
4 a question. It turns out we were looking at
5 the plans for this project and perhaps wanted
6 to take one moment to get an idea of the
7 ingress and egress for the loading for the
8 trucks. So we're just noticing some potential
9 difficulty there and wanted to understand
10 better how that is working.

11 MS. BATTIES: Dan VanPelt, our
12 traffic engineer, will address that question.

13 BZA CHAIR JORDAN: It's a crazy
14 corner, too. It's how it's configured.

15 MR. VANPELT: I know I need to be
16 on mic, so I'm going to sit here and try to
17 describe it, or do you have --

18 BZA CHAIR JORDAN: I think we have
19 a cordless mic.

20 MR. VANPELT: All right. Thank
21 you.

22 BZA CHAIR JORDAN: Just don't

1 sing.

2 MR. WHITE: Oh, believe me, I
3 won't.

4 Access for the service vehicles
5 will be via the curb cut on 1st Street and the
6 trucks will come in off 1st, go down the ramp
7 to the loading which is on the lower level.
8 All of the service vehicles will exit out onto
9 L Street. What you see as kind of the solid
10 lines would be the routes for the 55-foot
11 trucks, because looking at the approaches and
12 the geometry of getting into the site, those
13 are the routes that those trucks would need to
14 take. There's also the limitation of the rail
15 overpass and the geometry to get underneath of
16 that.

17 The smaller 30-foot trucks, which
18 would be most of the trucks -- the only time
19 we would expect a larger 55-footer is there's
20 a grocery store that goes in here. Most of
21 the rest of the time it will be 30-foot trucks
22 and they would have much more flexibility as

1 far as which direction they'd be able to go
2 and how they'd be able to approach the site.

3 VICE CHAIR SORG: Oh, yes, so
4 they're going in on 1st Street and then they
5 back into the loading berth and then they head
6 straight out on L Street?

7 MR. VANPELT: Correct.

8 BZA CHAIR JORDAN: They back in?

9 MR. VANPELT: They back in -- no,
10 no, no. There's no backing in --

11 VICE CHAIR SORG: Just in the
12 loading berth area?

13 MR. VANPELT: Correct. So they
14 head in first off of 1st Street. They come
15 down the loading area, in the loading court.

16 VICE CHAIR SORG: And then --

17 MR. VANPELT: They back into the
18 angled loading berths and then they leave out
19 to L, exit out to L.

20 BZA CHAIR JORDAN: Out to L?

21 VICE CHAIR SORG: Okay. That
22 clears it up for me.

1 MEMBER HINKLE: Just could you
2 describe a little bit how the loading and I
3 guess garbage collection for the apartment
4 house is addressed? Like if you were to move
5 in and you had a moving truck, where do you go
6 and how is that connected?

7 MR. VANPELT: I'm going to let
8 Mike speak to that.

9 MR. NICOLAUS: Thank you. For the
10 resident building; I think you all know this,
11 but it's located along the western portion of
12 the site. This plan that we're looking at
13 combines the on-grade plan with the below-
14 grade plan. If you were to look at the below-
15 grade plan by itself, you'd see in a little
16 bit larger scale there's a loading area in the
17 bottom right corner of the plan. A truck
18 backs into its loading berth. The access to
19 residential elevators is, you know, within the
20 footprint of the residential building above.
21 So it's in the left portion of the plan. So
22 move-ins would occur with a truck parking here

1 and elevator access within the elevators for
2 that building. So you'd have to walk across
3 a little bit of the garage inside the garage
4 to access, you know, that elevator.

5 MEMBER HINKLE: And in terms of
6 garbage collection for the residential, how is
7 that done? Because I'm assuming there's a
8 chute or something within the building.

9 MR. NICOLAUS: Yes. Yes, exactly.
10 An apartment building would normally have a
11 trash chute. All of the trash collects down
12 at the bottom of the trash chute in a
13 compactor in a trash room. Then that
14 compacted trash is wheeled usually in a cart
15 to a trash truck or a compactor that would be
16 within the loading area itself.

17 MEMBER HINKLE: Okay. Great.
18 Thank you.

19 ZC CHAIR HOOD: I just had a
20 question. I'm glad the Vice-Chair brought
21 this up. I'm confused. I don't understand
22 how all that's working. Is it two-way, one-

1 way, when the trucks come in and load?

2 MR. NICOLAUS: Okay. This is
3 below grade, so a truck would come down a ramp
4 from the west side of the site, from 1st
5 Street, would pull across the site to the
6 eastern portion of the site, would turn
7 slightly and back up into a loading dock.
8 This area is shown. Behind the trucks is a
9 raised dock.

10 ZC CHAIR HOOD: Okay. I got that
11 part. What is the arrow going in the opposite
12 direction? What is that representing?

13 MR. NICOLAUS: I see. The green
14 arrows shown on the plan are --

15 ZC CHAIR HOOD: Let's use the
16 green arrow that's right by the trucks, where
17 the trucks are going to be backing back in --

18 MR. NICOLAUS: Right here?

19 ZC CHAIR HOOD: Yes, let's use
20 those green arrows.

21 MR. NICOLAUS: Yes. The green
22 arrows show automobile traffic. So a person

1 in a car; not really a service vehicle I don't
2 think, can move in and out of the project from
3 both access points to the site along L and
4 along 1st, but a truck can really only move
5 one way through the site.

6 ZC CHAIR HOOD: So it's the
7 possibility I'm having. The truck who's
8 coming. Meanwhile I have a car. What would
9 the car being doing on that same plane coming
10 around at the same time? What happens then?

11 MR. NICOLAUS: How does that work?

12 ZC CHAIR HOOD: Yes, who's going
13 to be managing that?

14 MR. NICOLAUS: Yes, well there
15 definitely needs to be management to that and
16 a dock master, a dock manager at that part of
17 the garage, if there were for some reason a
18 jam up with a truck and a car, to resolve, you
19 know, the traffic flow. So I think that's
20 going to be pretty rare that you'd have to
21 wait for 10 seconds for a truck to back up
22 into a space. It's a simple minor truck

1 movement. So we think the two uses are
2 compatible, kind of sharing drive lanes.

3 MS. BATTIES: Commissioner Hood,
4 our -- okay.

5 BZA CHAIR JORDAN: No, you -- yes?

6 MS. BATTIES: Oh.

7 ZC CHAIR HOOD: I'm just trying to
8 figure this out.

9 MS. BATTIES: No, well, and in our
10 traffic study it does contemplate a loading
11 dock manager to manage just space of the
12 parking garage to minimize any conflicts that
13 would occur.

14 MR. VANPELT: Yes, I mean the
15 loading management plans, that's one of the
16 conditions of the loading management plan and
17 that certainly will need to happen.

18 And I think one of the things I
19 wanted to point out is that the access to the
20 parking really is oriented more towards 1st
21 Street, so I think some of the friction that
22 you're concerned about will be monitored and

1 I think there will have to be a loading -- the
2 loading dock manager will monitor the activity
3 here and watch for those conflicts. But I
4 think the parking access is really oriented
5 more towards 1st Street, so I think we'll see
6 a lot more of that traffic there. And, you
7 know, so I think that we've thought about
8 that. I think it will have to be managed, but
9 I think from a traffic pattern standpoint I
10 don't know that there will be as much concern
11 overlap as we might think.

12 One thing, this is not totally
13 uncommon. The O Street Market was kind of
14 designed with the truck traffic and the
15 parking access to share the same ramp. So
16 that traffic happens that way and there's
17 other buildings in the city that have some of
18 this same sort of truck, service vehicles and
19 vehicular traffic sharing the same ramps and
20 the same space, but it just needs to be
21 managed.

22 ZC CHAIR HOOD: Well, I know the O

1 Street presentation wasn't like this. I voted
 2 on that. So in that concern right there is a
 3 major concern and I don't know how the Board
 4 goes, but I don't want to see us creating
 5 problems. So as long as we have a dock
 6 manager or somebody to help navigate and
 7 negotiate how that's going to operate, then
 8 that's not a problem. I don't know if we can
 9 make that a condition. I'm not sure, but --

10 BZA CHAIR JORDAN: It's already a
 11 condition.

12 ZC CHAIR HOOD: Okay.

13 BZA CHAIR JORDAN: It's one of the
 14 things that overall has been recommended and
 15 several of the conditions require the presence
 16 of the dock manager and that one be actually
 17 designated for this building.

18 ZC CHAIR HOOD: And was there a
 19 time on that? I don't see that. Was there a
 20 time frame on how long the dock master would
 21 be out there?

22 BZA CHAIR JORDAN: No, we didn't.

1 MR. VANPELT: Right now there's no
2 time on that.

3 ZC CHAIR HOOD: So, okay. All
4 right.

5 BZA CHAIR JORDAN: But I think it
6 begs the question how does the dock manager
7 operate? What's the operating procedures
8 for --

9 MS. BATTIES: And, Dan, can you
10 also speak to what are the normal heavy times
11 for the loading versus the, you know,
12 residential traffic coming in and out of
13 the --

14 MR. VANPELT: Well, I think the
15 one thing, too, is that we really only have I
16 think this concern that we're all concerned
17 about if there's a grocer that goes in here,
18 and I think that's how the site is certainly
19 being planned for that. If there's no grocer
20 here, then we have a lot less service vehicle
21 activity. I mean you're talking about, you
22 know, the residential move-ins and some

1 service activity related to the other retail
2 or whatever will go in here, but it's not
3 going to be to the same level if a grocer
4 doesn't go in here.

5 A lot of the service activity is
6 going to be coming in if a grocer is here is
7 inbound in the morning, which is also the same
8 direction with a lot of the office traffic is
9 going to be coming in. So they're all going
10 to be kind of going in the same direction.
11 And I think it's going to be oriented more
12 towards 1st Street as the way in, less so
13 towards L Street, I think just by looking at
14 the approach routes and the way the traffic is
15 going to come into the site.

16 VICE CHAIR SORG: One other thing
17 that may be helpful, and I'm looking at the
18 drawing, but I don't think it's noted on here,
19 is what are the width of those aisles going
20 into and out of the ramp? So that you can
21 understand, what's the space that these two
22 types of vehicles will have to navigate

1 together?

2 MR. NICOLAUS: Sure, the exact
3 width for that is still --

4 VICE CHAIR SORG: Of course.

5 MR. NICOLAUS: -- being
6 determined, but I think thinking about that
7 like a street, you know, that can accommodate
8 a truck or a car and, you know, a 12-foot
9 width is a very normal kind of width for that
10 sort of thing.

11 VICE CHAIR SORG: So you're
12 anticipating about 12 feet?

13 MR. NICOLAUS: Approximately, yes.

14 VICE CHAIR SORG: Is that what you
15 think?

16 MR. NICOLAUS: Yes. Per lane,
17 yes.

18 VICE CHAIR SORG: Per lane?

19 MR. NICOLAUS: So 24 feet --

20 VICE CHAIR SORG: So the ramp in
21 will be -- or the drive aisle or the alley or
22 the ramp in, or whatever you're calling it --

1 MR. NICOLAUS: Yes, you'd have --

2 VICE CHAIR SORG: -- is going to
3 be around 24 feet?

4 MR. NICOLAUS: Yes, for the ramp
5 specifically where it's, you know, a fixed
6 dimension, I think, you know, a 12-foot lane
7 down and another 12-foot lane up. Somewhere
8 at that approximate dimension is what we're
9 thinking, yes.

10 VICE CHAIR SORG: Okay.

11 BZA CHAIR JORDAN: We're good?
12 When you say in that dimension, can it be
13 less?

14 MR. NICOLAUS: Can it be less? I
15 don't think it should be much less, no.

16 BZA CHAIR JORDAN: Right. So it's
17 something we probably should hard wire here.
18 I'm trying to pick that up from the Board, Mr.
19 Hood or Ms. Sorg, that they would feel more
20 comfortable also that we maybe hard wire a
21 minimum here.

22 VICE CHAIR SORG: In terms of how

1 the vehicles would navigate is a good idea,
2 but I do think that there's on building code
3 that would probably talk to that.

4 MR. NICOLAUS: Yes, it does. Yes.

5 VICE CHAIR SORG: And then at the
6 same time if they're basically like in
7 schematic design, there's going to be probably
8 a good amount of --

9 BZA CHAIR JORDAN: I just didn't
10 want to give.

11 Okay. So where were we? All
12 right. So I think we just did conditions.
13 Does the Board have any other questions of the
14 applicant?

15 (No audible response.)

16 BZA CHAIR JORDAN: All right.
17 Then thank you.

18 VICE CHAIR SORG: I did have one
19 question, I'm sorry, to the counsel. Is this
20 the same site that we saw another application?
21 Has there been another application on this
22 site, like two years ago?

1 MS. BATTIES: I don't know the
2 answer to that.

3 VICE CHAIR SORG: Okay.

4 BZA CHAIR JORDAN: All right.
5 Then thank you. Does the Board have any other
6 questions before we move to close this
7 hearing?

8 (No audible response.)

9 BZA CHAIR JORDAN: All right. Ms.
10 Batties, I think we were doing your wrap up.

11 MS. BATTIES: Yes, I do want to
12 just note for the record that Mr. Sher has
13 looked at the regulation. The Zoning
14 Regulations do require a 12-foot wide drive
15 aisle for the parking garage. For the loading
16 berths, I'm sorry.

17 And that said, we have nothing
18 further to add into the record. I know the
19 relief that we're requesting is relatively
20 minor, but it is a significant project for
21 this area of the city given the retail
22 amenities that will be provided, as well as

1 the creation of public open space along L
2 Street. So with that, we have nothing further
3 and ask the Board to --

4 BZA CHAIR JORDAN: Let me ask a
5 question. Is there going to be any affordable
6 housing in this? Any affordable housing?

7 MS. BATTIES: It's not required
8 under the --

9 BZA CHAIR JORDAN: I'm not asking
10 what's required.

11 MS. BATTIES: Oh, the answer is
12 no. With that, we'd ask the Board's approval
13 of the application. Thank you.

14 BZA CHAIR JORDAN: Okay. Then we
15 will close the hearing based upon the record
16 gathered by the Board. Is the Board ready to
17 deliberate, or need some other thought?

18 (No audible response.)

19 BZA CHAIR JORDAN: Is the Board
20 ready to deliberate or need more time?
21 Anything?

22 VICE CHAIR SORG: I'd like to just

1 ask another quick question of the applicant
2 before we go all the way into deliberations.
3 And I'm sure this has something that you can
4 answer. Why is it that the project doesn't
5 come under IZ?

6 MS. BATTIES: Because of the
7 zoning classification.

8 VICE CHAIR SORG: Is it -- the
9 area.

10 MS. BATTIES: The zoning, that's
11 right.

12 VICE CHAIR SORG: Okay.

13 MR. SHER: Property in the
14 receiving zones is not subject to inclusionary
15 zoning.

16 BZA CHAIR JORDAN: You know, I was
17 getting more toward the voluntary aspect of
18 that. But anyway --

19 VICE CHAIR SORG: I thought it had
20 to do with the DER, but I just wasn't sure.

21 BZA CHAIR JORDAN: Yes. Okay. Is
22 the Board ready to deliberate?

1 (No audible response.)

2 BZA CHAIR JORDAN: Mr. Hood, was
3 that yes? Are we ready to deliberate?

4 (No audible response.)

5 BZA CHAIR JORDAN: All right.
6 Then let's move to deliberation. Does anyone
7 have a feel one way or the other about this
8 application that they want to espouse?

9 (No audible response.)

10 BZA CHAIR JORDAN: All right.
11 Don't all jump up at the same time. Based
12 upon the record in this matter and the
13 evidence deduced during this hearing, I think
14 this building should be granted the relief
15 requested. I think that the conditions
16 imposed for the load management operation is
17 very important and very key for this project.

18 Anybody else got anything they
19 want to say about this?

20 (No audible response.)

21 BZA CHAIR JORDAN: Then I would
22 move that we grant the requested relief with

1 the conditions imposed, changing the term from
2 "will" to "shall" in the conditions. That
3 would be my motion.

4 ZC CHAIR HOOD: I'll second.

5 BZA CHAIR JORDAN: Motion made and
6 seconded that we grant the motion as I have
7 just defined it. Any further unreadiness?

8 (No audible response.)

9 BZA CHAIR JORDAN: All those in
10 favor, signify by saying aye?

11 (Chorus of ayes.)

12 BZA CHAIR JORDAN: Those opposed,
13 nay?

14 (No audible response.)

15 BZA CHAIR JORDAN: The motion
16 carries. Mr. Moy?

17 MR. MOY: Yes, sir. Staff would
18 record the vote as 5-0. This on the motion of
19 Chairman Jordan to approve the application per
20 the two variance relief being requested.
21 Second the motion, Mr. Hood. Also in support,
22 Vice-Chair Sorg, Ms. Allen and Mr. Hinkle.

1 The motion carries, Mr. Chairman.

2 BZA CHAIR JORDAN: Summary order,
3 please.

4 MR. MOY: Yes, thank you.

5 MS. BATTIES: Thank you.

6 BZA CHAIR JORDAN: Thanks. Let's
7 take a five-minute break and come back and do
8 our last matter, please.

9 (Whereupon, at 11:02 a.m. off the
10 record until 11:12 a.m.)

11 MR. MOY: The next application
12 before the Board for public hearing is
13 application No. 18495. This is the
14 application of Jos, Contreras, pursuant to 11
15 DCMR ^U 3103.2. This is for a variance from
16 the use provisions to convert a one-family
17 dwelling into a flat, a two-family dwelling
18 under subsection 320.3 in the R-3 District at
19 premises 448 Emerson Street, N.W. Property
20 located in Square 3251, Lot 218.

21 BZA CHAIR JORDAN: Okay. All
22 right. Would you please identify yourselves?

1 MR. POWELL: My name is Leroy
2 Powell from Farmershi Consultant. I'm here
3 representing Mr. Jos, Contreras, and he's the
4 one he's putting in the request, living the
5 property.

6 BZA CHAIR JORDAN: Okay.

7 MR. POWELL: -- at 448 Emerson
8 Street.

9 BZA CHAIR JORDAN: What's
10 Palmershi Consultant? What is that? What
11 kind of -- you said Palmershi Consultant?

12 MR. POWELL: Farmershi Consultant.

13 BZA CHAIR JORDAN: Okay.
14 Farmershi?

15 MR. POWELL: Yes.

16 BZA CHAIR JORDAN: What kind of
17 consultancy is that?

18 MR. POWELL: Basically renovation,
19 construction.

20 BZA CHAIR JORDAN: Okay. And we
21 have your letter of authorization, I believe.
22 I think we've had this before us before.

1 MR. POWELL: Yes.

2 BZA CHAIR JORDAN: Did the
3 authorization get filed, because I remember it
4 was sent before and it had not been filed. We
5 still don't have -- do we have that letter of
6 authorization? I mean, because that was one
7 of the things we had before. You have
8 subsequently submitted, correct?

9 MR. POWELL: Yes.

10 BZA CHAIR JORDAN: Also have you
11 had a meeting with the ANC?

12 MR. POWELL: Yes, we did. We was
13 able to contact them and actually we have a
14 represented here.

15 BZA CHAIR JORDAN: Okay. From ANC
16 4D, because we have no letters in the file
17 from ANC 4D, but we'll get to that. Do we?
18 We have nothing from ANC 4D, correct?

19 (No audible response.)

20 BZA CHAIR JORDAN: Okay. And this
21 is your request -- this is a use variance
22 request?

1 MR. POWELL: Yes.

2 BZA CHAIR JORDAN: To convert this
3 from a one-family to a flat. Okay. I'm
4 trying to make sure this file is ready to go.
5 We do have a party status request, but that's
6 by yourself? You submitted a party status
7 request report in support. I don't think
8 that's what you wanted to do. Our file shows
9 that's what you have filed. And so I'm just
10 going to ignore that because you're
11 representing the applicant in this matter.

12 MR. POWELL: Yes.

13 BZA CHAIR JORDAN: And you're the
14 interpreter for Mr. Contreras, is it?

15 MR. POWELL: Yes.

16 BZA CHAIR JORDAN: Okay. All
17 right. Why don't you proceed and present to
18 the Board that which you think qualifies you
19 for a use variance?

20 MR. POWELL: Well, basically the
21 reason we're asking for this special exception
22 is because --

1 BZA CHAIR JORDAN: Is this a
2 special exception or a use variance? Use
3 variance.

4 MR. POWELL: Use variance, yes.

5 BZA CHAIR JORDAN: It is use or
6 area? I think it's a use variance.

7 Let me ask OP. What are you
8 considering this?

9 (Laughter.)

10 MS. THOMAS: -- in the air on
11 this. We did it as a use variance. Is it?
12 Yes, undue hardship.

13 BZA CHAIR JORDAN: Well, we're
14 taking it as what's been requested by the
15 applicant and what's been recommended here.
16 And I was looking for the soon-to-be-released
17 definition by -- the new term definition by
18 the Zoning Commission. Yes. So then we're
19 looking at this as a use variance.

20 So proceed, please.

21 MR. POWELL: The reason we was
22 asking for this use variance is that it poses

1 a hardship on Mr. Jos, because of originally
2 when he built the property he obtained
3 permission from DCRA and they approve that he
4 could use that as a rental unit in his house.
5 And when he went back to get an occupancy
6 permit, that's where this come up. Until then
7 he had no knowledge of it. And as part of him
8 purchasing the property and carrying the note
9 on it, he was, you know, thinking that he
10 could, you know, have a tenant in the property
11 to help, you know, carry the note of the
12 property. And when he found out that he
13 couldn't, then you know, it posed a hardship
14 on him in keeping the property.

15 BZA CHAIR JORDAN: Posed a
16 hardship. Okay. Do you understand what's
17 necessary to presented to the Board to get the
18 relief that's requested? Have you reviewed
19 those requirements and understand them?

20 MR. POWELL: Well, the requirement
21 was to show that he's having a loss of income
22 because of the rental he can't use in the

1 second unit that he had applied for originally
2 and found out later that he was not able to
3 use it for that purpose.

4 BZA CHAIR JORDAN: Go ahead,
5 please.

6 VICE CHAIR SORG: Hi. So I feel
7 like what's happening here is you're trying to
8 speak in a way that is sort of like a mounting
9 a case, but what might be more useful for me;
10 and this is what I felt when I was reading the
11 application, is if you just told us like it
12 was a story. You know, because I read in the
13 application in 2007 Mr. Contreras when to DCRA
14 to apply for a building permit. What was in
15 the building permit? What was his knowledge
16 then? You know, what was approved on the
17 building permit? When was it built?

18 If you just kind of help us
19 understand it like a narrative, then we can
20 better understand. You know, instead of using
21 jargon, for me I think it would be more
22 helpful to understand a timeline, first of

1 all. And then I think we can get to some of
2 the other things that may be required to be
3 able to try to meet the burden of proof that's
4 necessary for a use variance, which I how
5 agree that this is.

6 MR. POWELL: Okay. Sure. He
7 applied for a permit for a two-unit --
8 basically the basement to be used as a rental
9 property and it was granted, the permit, by
10 DCRA. And this was in -- was it in two-
11 thousand --

12 MR. CONTRERAS: 2006.

13 MR. POWELL: -- 2006.

14 BZA CHAIR JORDAN: So in 2006 DCRA
15 gave him a what?

16 MR. POWELL: A building permit to
17 allow him to do a two-story flat. And he went
18 forth with the work.

19 BZA CHAIR JORDAN: Okay. Go
20 ahead, please.

21 MEMBER ALLEN: Thank you, Mr.
22 Chairman. So was it for two stories or for

1 two units?

2 MR. POWELL: For two units, yes.

3 BZA CHAIR JORDAN: Do you have the
4 application, what was submitted, or a copy of
5 the permit?

6 VICE CHAIR SORG: Did you provide
7 a copy of the original building permit in your
8 application?

9 MR. POWELL: Yes.

10 VICE CHAIR SORG: That's what I
11 thought.

12 MR. POWELL: Yes.

13 BZA CHAIR JORDAN: It's already
14 been submitted?

15 MR. POWELL: Yes.

16 BZA CHAIR JORDAN: What exhibit is
17 that? Does anyone have that?

18 VICE CHAIR SORG: I think it --

19 BZA CHAIR JORDAN: Exhibit 8?

20 Okay. All right. Thank you. You can
21 proceed, please.

22 MR. POWELL: Yes, so it was

1 granted to him. And as I was saying, later
2 when he came back and tried to apply for an
3 occupancy permit, and this was the case, what
4 he found out, that he couldn't use it for that
5 purpose. He couldn't use it as a two-family
6 flat.

7 BZA CHAIR JORDAN: Okay. Go
8 ahead.

9 VICE CHAIR SORG: Okay. So we've
10 got to the part where he's got his building
11 permit. Then what happened?

12 MR. POWELL: Well --

13 VICE CHAIR SORG: He did the
14 construction, clearly.

15 MR. POWELL: He did the
16 construction. He used the property.
17 Basically his relatives was with him and --

18 VICE CHAIR SORG: For how long?
19 Did they live there?

20 MR. CONTRERAS: No, not right now.

21 VICE CHAIR SORG: For how long?
22 How many years?

1 MR. CONTRERAS: For about -- until
2 this year in January.

3 VICE CHAIR SORG: Okay. So you
4 started the construction in 2007?

5 MR. CONTRERAS: Yes.

6 VICE CHAIR SORG: And finished the
7 construction in what year, 2007 also?

8 MR. CONTRERAS: 2007, yes.

9 VICE CHAIR SORG: And then your
10 family moved in in 2007?

11 MR. CONTRERAS: Yes.

12 VICE CHAIR SORG: And then your
13 family moved out in 2012?

14 MR. CONTRERAS: Yes.

15 VICE CHAIR SORG: And then when
16 did you go to DCRA for the Certificate of
17 Occupancy?

18 MR. CONTRERAS: That's was last
19 year in July.

20 VICE CHAIR SORG: July 2012?
21 Okay.

22 BZA CHAIR JORDAN: And that's when

1 you were told that it was not a proper use in
2 this area?

3 MR. CONTRERAS: Yes.

4 MR. POWELL: Yes.

5 MR. CONTRERAS: That's correct.

6 MR. POWELL: Before that he had no
7 knowledge of it.

8 BZA CHAIR JORDAN: And you
9 purchased this building when, 2006?

10 MR. CONTRERAS: 2005.

11 BZA CHAIR JORDAN: 2005? What was
12 the use prior to that? What was it being used
13 for?

14 MR. POWELL: It was a single-
15 family dwelling.

16 BZA CHAIR JORDAN: Yes, and that's
17 the use that it has, a single-family dwelling.
18 Talk a bit about the economic impact. How
19 does it financially help or hurt him?

20 MR. POWELL: Well, as long as, you
21 know, the relative was there to help along
22 with the mortgage, you know, it was not a

1 problem. So now that they are no longer
2 there, it creates a hardship because he is not
3 allowed to rent the basement out to help with
4 the mortgage.

5 BZA CHAIR JORDAN: How much is the
6 mortgage?

7 MR. POWELL: How much is your
8 mortgage?

9 MR. CONTRERAS: Right now it's
10 \$1,500.

11 BZA CHAIR JORDAN: And you already
12 did the conversion for the flat? You've
13 already converted?

14 MR. CONTRERAS: Yes, I already
15 did.

16 BZA CHAIR JORDAN: How much did
17 you spend to do the conversion?

18 MR. CONTRERAS: It was about 264.

19 BZA CHAIR JORDAN: Two hundred
20 sixty-four thousand dollars?

21 MR. CONTRERAS: Thousand. To fix
22 the property completely.

1 BZA CHAIR JORDAN: How much were
2 you renting the other unit for?

3 MR. CONTRERAS: I can rent it for
4 1,300 or something.

5 BZA CHAIR JORDAN: Fifteen
6 hundred?

7 MR. CONTRERAS: Yes, if I get the
8 permission.

9 BZA CHAIR JORDAN: Oh, you didn't
10 rent? Oh.

11 VICE CHAIR SORG: He hasn't done
12 it yet. He was trying.

13 BZA CHAIR JORDAN: I thought he
14 had someone that was supplementing but they
15 couldn't live there any longer. But they were
16 supplementing the income.

17 MR. POWELL: Yes, his family
18 members.

19 VICE CHAIR SORG: By working on
20 jobs, I think, not by paying rent, correct?

21 BZA CHAIR JORDAN: Oh, okay.

22 MR. POWELL: Yes.

1 VICE CHAIR SORG: But that was the
2 impression I was getting.

3 MR. POWELL: Yes, just
4 participating with the family.

5 VICE CHAIR SORG: The family
6 expenses or whatever, not by paying rent
7 necessarily?

8 BZA CHAIR JORDAN: Oh, okay.
9 Gotcha. Yes. Okay. Let's continue to pick
10 teeth. So tell us something else about the
11 property that's -- let me see, what do we
12 claim was an exceptional situation is the fact
13 that I guess you're relying on detrimental
14 reliance is -- basically is what we're talking
15 about here, that he would not have gone
16 forward but for the fact that you didn't know
17 and then you were mislead by one aspect of
18 DCRA in that no one told you at that point in
19 time, but they did give you a building permit
20 saying that you can -- and your thought was
21 that it was giving you permission to convert
22 it and use it in a way you thought you can use

1 it. That was my understanding?

2 (No audible response.)

3 BZA CHAIR JORDAN: All right.

4 Does the Board have any other questions of
5 this applicant?

6 (No audible response.)

7 BZA CHAIR JORDAN: Okay.

8 ZC CHAIR HOOD: Actually, Mr.
9 Chairman, as we all know, the government
10 should be predictable, and the Interim
11 Director Lisa Morgan obviously granted a C of
12 O or a building permit, the section did at
13 that time.

14 BZA CHAIR JORDAN: Okay. Fine.
15 That was Patrick Canavan, too, and Linda Argo.
16 Well, let me say the directors hardly ever get
17 involved in this level of building permits.

18 (Laughter.)

19 BZA CHAIR JORDAN: These are form
20 letters.

21 ZC CHAIR HOOD: Well, it always
22 happens. Whoever the director is, the buck

1 stops there.

2 (Laughter.)

3 BZA CHAIR JORDAN: That's why I
4 had them not use my name on any document that
5 I didn't personally sign. But anyway, let's
6 then turn to the Office of Planning to see if
7 there's anything else that --

8 MS. THOMAS: Well, Mr. Chair, good
9 morning again. I would just like to highlight
10 in that regard with respect to the issuance of
11 that permit that the plans -- it was important
12 to say that the plans did specifically state
13 that it was going to be a conversion, that he
14 didn't try to do anything not knowing that you
15 couldn't do that in this zone. You know, he
16 put conversion to a flat. It was specific.
17 It was everywhere in the plans highlighted.

18 So if DCRA missed that and him not
19 being English speaking, fully English
20 speaking, you know, he should have been told
21 that at some point in the permit process.
22 Somebody should have caught it in that length

1 of time that, you know, a permit of this
 2 nature is not issued in a day. So, you know,
 3 it would have had to go through a series of
 4 steps, and it was plain on the plans that this
 5 was stated as a conversion to a flat in the R-
 6 3, which is not really permitted. And it did
 7 go to Zoning Review at DCRA, so this was --
 8 this to us is an exceptional situation that
 9 was --

10 BZA CHAIR JORDAN: Got it.

11 MS. THOMAS: -- brought on him.

12 BZA CHAIR JORDAN: Does anybody
 13 have any questions of Planning? I think we're
 14 all pretty straight now understanding where we
 15 are in this matter.

16 (No audible response.)

17 BZA CHAIR JORDAN: Does the
 18 applicant have any questions of Planning that
 19 you wish to ask?

20 MEMBER HINKLE: No.

21 BZA CHAIR JORDAN: Okay. Do we
 22 have any input from anybody else? DDoT,

1 letter of no objection. We don't have a
2 letter from ANC 4D, but I understand there's
3 someone here for ANC 4D.

4 MR. POWELL: Yes.

5 BZA CHAIR JORDAN: Good.

6 MR. POWELL: We have a witness
7 here, Ms. --

8 BZA CHAIR JORDAN: Does she
9 actually -- well, I'll wait until you get to
10 a microphone. Good morning. Would you make
11 sure your mic is on and state your name,
12 please?

13 MS. THOMPSON: Yes, I did a survey
14 of the neighborhood.

15 BZA CHAIR JORDAN: Give us your
16 name, please?

17 MS. THOMPSON: Oh, the name is
18 Tina Thompson. I'm representing Lisa Colbert.
19 I am the ANC emeritus and I was helping her.
20 And she was sick and --

21 BZA CHAIR JORDAN: Ms. Colberg
22 is --

1 MS. THOMPSON: Colbert.

2 BZA CHAIR JORDAN: And she's
3 the --

4 MS. THOMPSON: She is the ANC
5 commissioner. I am the ANC commissioner
6 emeritus and I was just helping her with this.
7 And I went around and got the okay from the
8 neighbors that he would -- you know, to
9 approve for him to do this.

10 BZA CHAIR JORDAN: Okay.

11 MS. THOMPSON: And I have the
12 signatures and everything of the people that
13 approved. There was no objections.

14 BZA CHAIR JORDAN: Okay. Was that
15 from the ANC board members or was this from
16 the neighbors?

17 MS. THOMPSON: The neighbors.

18 BZA CHAIR JORDAN: Okay. So we
19 will take your testimony and appreciate you
20 coming down to do this in regards to this case
21 as a support, a general support, as being
22 represented --

1 MS. THOMPSON: Okay.

2 BZA CHAIR JORDAN: -- by your
3 actions.

4 Is there anybody else in the
5 audience wishing -- and would you please
6 submit the letters to the Board Secretary,
7 please? Or if you have copies of them.
8 Signatures or --

9 MS. THOMPSON: I do, but I think
10 you already have a copy of this.

11 BZA CHAIR JORDAN: Do we have
12 those? Well, while we're looking, will you
13 please state your name for us, please?

14 MS. GOMES: Good morning. My
15 name's Marie Webb Gomes.

16 BZA CHAIR JORDAN: Maria Webb
17 Gotes?

18 MS. GOMES: Gomes.

19 BZA CHAIR JORDAN: Gomes.

20 MS. GOMES: G-O-M-E-S.

21 BZA CHAIR JORDAN: Okay. And
22 you're speaking in support of this

1 application?

2 MS. GOMES: I am.

3 BZA CHAIR JORDAN: Okay. Please?

4 MS. GOMES: I am Jos,'s only
5 direct neighbor. So I own 446 Emerson Street,
6 which is the property adjacent to his. He has
7 the end home. And I actually purchased the
8 property January 2005, so I remember the
9 original owners that were in the property that
10 Jos, purchased. And he's done a tremendous
11 job of not only improving that property, but
12 the block in general. He has the end home and
13 from every stage of the process, as his
14 neighbor, Jos, would come to me with not only
15 information of telling me what he was doing
16 next, but requesting my permission. And I can
17 remember giving my signature on several
18 documents that he presented to make sure that
19 I was clearly informed ahead of time and that
20 gave my approval. So I wanted to state that.

21 I also wanted to say that having
22 been there almost the same amount of time, you

1 know, not only do I see the before and after
2 and the improvements that he made, but there
3 hasn't been a negative impact, so to speak,
4 with parking or anything like that. He has
5 quite a large in-unit property where he has
6 converted a garage space, or I should say like
7 a parking space inside of his property. And
8 so therefore he's rarely taking up any space
9 on the street. I also have parking in the
10 back so that -- my husband and I only have the
11 two vehicles. So the space or parking spaces
12 is not negatively impacted by him having a
13 two-unit, which would probably be my I guess
14 most -- concern.

15 BZA CHAIR JORDAN: Okay. Well we
16 appreciate you also coming down and providing
17 that information. It's very helpful to us.

18 MS. GOMES: Certainly.

19 BZA CHAIR JORDAN: And being here
20 all this time and waiting for this case, I
21 noticed you all were here.

22 Is there anyone else wishing to

1 speak in support?

2 (No audible response.)

3 BZA CHAIR JORDAN: Anyone wishing
4 to speak in opposition? Anyone in opposition?

5 (No audible response.)

6 BZA CHAIR JORDAN: Then let's turn
7 back to the applicant. I don't think there's
8 anything else you want to contribute to this
9 conversation.

10 So then let's close the record
11 based upon what we already have. And is the
12 Board ready to move into deliberations on
13 this? Yes, Ms. Allen?

14 MEMBER ALLEN: (No audible
15 response.)

16 BZA CHAIR JORDAN: Oh, you're
17 ready to deliberate?

18 Based upon the evidence as deduced
19 during this hearing and what's been submitted,
20 it appears that this is a matter where the
21 detrimental reliance would be applicable to
22 this particular property and this application

1 and why the use variance should be given. It
2 created a unique situation and undue hardship
3 regarding this applicant. The fact that some
4 kind of way this went through all kind of
5 layers of DCRA and they didn't catch onto the
6 fact that this use was not permitted before
7 issuing a building permit several years ago in
8 which the applicant relied upon and spent at
9 least \$264,000-plus in regards to this
10 renovation.

11 Based upon that, I would move that
12 we grant the use variance as requested.

13 VICE CHAIR SORG: Second.

14 BZA CHAIR JORDAN: Motion made and
15 seconded. Any unreadiness?

16 (No audible response.)

17 BZA CHAIR JORDAN: All those in
18 favor, signify by saying aye?

19 (Chorus of ayes.)

20 BZA CHAIR JORDAN: Those opposed,
21 nay?

22 (No audible response.)

1 BZA CHAIR JORDAN: The motion
2 carries. Thank you.

3 MR. POWELL: Thank you, Mr.
4 Chairman --

5 BZA CHAIR JORDAN: Let's have a --
6 Mr. Moy. Let me get one second.

7 MR. POWELL: -- Commissioners.
8 Thank you all.

9 BZA CHAIR JORDAN: Just one
10 second. Mr. Moy, you want to do roll call?

11 MR. MOY: Yes, sir, I would.
12 Staff would record the vote as 5-0. This is
13 on th emotion of Chairman Jordan to approve
14 the application for the use variance. Second
15 the motion, Vice-Chairperson Sorg and also in
16 support, Mr. Hood, Ms. Allen and Mr. Hinkle.
17 Five to zero, sir.

18 BZA CHAIR JORDAN: And a summary
19 order would do.

20 MR. MOY: Yes, sir. Thank you.

21 BZA CHAIR JORDAN: Now we thank
22 you.

1 MR. POWELL: Okay. Thank you
2 again.

3 BZA CHAIR JORDAN: Is there any
4 other business coming before the Board?

5 MR. MOY: Not from the staff, sir.

6 BZA CHAIR JORDAN: Then we're
7 adjourned. Thank you.

8 (Whereupon, the hearing was
9 concluded at 11:37 p.m.)
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able 26:4 54:1,2 74:13 78:2 79:3 absolutely 27:20 abut 21:15 accept 46:7 access 53:4 55:18 56:1,4 58:3 59:19 60:4,15 accommodate 64:7 action 6:5 actions 92:3 activity 60:2 62:21 63:1,5 actual 30:17 Adamo 45:8 add 9:17,19 39:19 67:18 adding 10:16,17 39:17 addition 6:18 13:1 18:15 additional 35:7,20 Additionally 46:2 47:10 additions 10:12 address 8:12 11:11 12:13 18:22 21:21 48:20 52:12 addressed 11:16 13:6 33:3 46:14 46:19 50:2 55:4 addresses 10:12 adjacent 36:4,8,16 37:10 93:6 adjourned 98:7 ADJUSTMENT 1:4,16 advantages 20:3 affect 40:17 affidavit 18:16 affordable 68:5,6 agent 7:13 ago 66:22 96:7 agree 8:7 12:3,4 28:12 49:20 79:5 agreed 48:15	ahead 20:9 30:2,3 78:4 79:20 81:8 93:19 air 76:10 aisle 64:21 67:15 aisles 63:19 allegation 26:22 Allen 1:18 15:18 16:12 31:20 43:19 71:22 79:21 95:13 95:14 97:16 alley 17:3 20:6 22:10,11,12 23:10 26:21 64:21 allow 13:3 79:17 allowed 10:22 12:20 25:11 84:3 allude 21:4 amenities 67:22 amount 66:8 93:22 ANC 3:6,9,14,19 4:13,18 9:5 14:3,6 18:6,8,9,19 19:1 21:14 24:4,4,8,10 41:12,15 48:17 50:13,13,16 74:11 74:15,17,18 90:2 90:3,19 91:4,5,15 Andrew 5:9 angled 54:18 announcement 5:6 answer 37:2 67:2 68:11 69:4 Anthony 1:21 16:12 31:4,19 anticipating 64:12 anybody 70:18 89:12,22 92:4 anyway 69:18 88:5 apartment 32:10 55:3 56:10 appears 95:20 applicable 95:21 applicant 6:10 8:13 9:6 13:13 15:2,16 17:8 23:16 24:11 27:17 32:19 35:13	38:13 41:3 42:6 45:7,11 46:16 48:2,15 49:11 50:2,9 51:3 66:14 69:1 75:11 76:15 87:5 89:18 95:7 96:3,8 applicant's 23:6 48:14 49:19 application 3:6,9 3:14,19 4:13 5:7,8 5:9,10,11,14,16 6:14,15 7:5 9:21 14:8,14 16:10,21 16:22 17:1 19:9 19:21 21:20 24:16 27:13,14 28:13 29:4 30:15 31:15 32:3,3,4 33:4 41:21 43:16 44:3 44:4,5 47:2 48:16 49:19 50:18 66:20 66:21 68:13 70:8 71:19 72:11,13,14 78:11,13 80:4,8 93:1 95:22 97:14 applications 3:4 5:12 32:22 applied 78:1 79:7 apply 78:14 81:2 applying 30:16 appreciate 20:11 26:11 91:19 94:16 approach 54:2 63:14 approaches 53:11 appropriate 28:15 approval 9:2 14:6 33:15 41:16 68:12 93:20 approve 3:8,13,17 3:25 4:22 16:10 20:14 29:4 31:14 39:16 43:16 47:20 71:19 77:3 91:9 97:13 approved 10:8	28:19 30:12 78:16 91:13 approximate 65:8 Approximately 64:13 architectural 44:22 area 36:2,15 39:18 39:22 43:1 47:6 47:22 54:12,15 55:16 56:16 57:8 67:21 69:9 76:6 83:2 Argo 87:15 arrow 57:11,16 arrows 57:14,20,22 Arthur 2:12 3:7 9:18 Arts 9:2 14:10 asking 30:13 37:10 46:17 68:9 75:21 76:22 aspect 69:17 86:17 Associates 45:2 assortment 37:5 assumed 20:19 assuming 34:19 56:7 Aston 3:12 24:19 24:22 25:1,4,6,9 25:21 26:4,8,13 attached 19:20 attended 34:17 ATTORNEY 2:2 audible 8:14 13:11 13:19 14:4,15,22 15:13,21 16:5 23:11,14,20 24:6 27:15 31:9 35:11 38:14 41:1,8,13 42:1,4,20 43:5,11 45:18 46:9,20 49:2,9 50:7,14,20 51:1,19,22 66:15 67:8 68:18 70:1,4 70:9,20 71:8,14 74:19 87:2,6 89:16 95:2,5,14	96:16,22 audience 24:15 27:11 50:17 92:5 authorization 7:20 73:21 74:3,6 automobile 57:22 aware 11:14 aye 16:1 31:5 43:7 71:10 96:18 ayes 16:2 31:6 43:8 71:11 96:19 A-S-T-O-N 25:1 a.m 1:14 5:2 72:9 72:10
				B
				back 11:8 15:2 18:11,14 25:14 27:17 42:6 49:15 51:3 54:5,8,9,17 57:7,17 58:21 72:7 77:5 81:2 94:10 95:7 backing 54:10 57:17 backs 55:18 bars 27:3 based 6:3 15:10 20:14 22:19 24:10 28:2 42:17 47:7 68:15 70:11 95:11 95:18 96:11 basement 79:8 84:3 basically 8:10 26:19 66:6 73:18 75:20 79:8 81:17 86:14 Batties 3:24 44:18 44:19 45:6,22 46:5,21 47:3,12 49:13 50:11 51:8 52:11 59:3,6,9 62:9 67:1,10,11 68:7,11 69:6,10 72:5 beginning 12:10 begs 62:6

behalf 32:19 believe 8:7,16,21 18:13 20:22 22:22 31:17 33:14,19 35:14,16 36:7,20 42:7,10,12 46:22 48:2 50:1 51:7 53:2 73:21 bench 42:14 berth 48:11 54:5,12 55:18 berths 48:6 54:18 67:16 best 12:8 better 52:10 78:20 bit 30:15 55:2,16 56:3 83:18 block 18:17 40:19 93:12 blocks 26:1 board 1:4,16,18,19 5:15 8:11,17 9:22 15:12 19:8 23:4 23:13 27:20 32:3 32:17 33:2 35:15 38:18 39:3 40:22 41:17 42:10,18 44:19 46:7,12,17 47:1 49:1,7 50:5 51:16,21 61:3 65:18 66:13 67:5 68:3,16,16,19 69:22 72:12 75:18 77:17 87:4 91:15 92:6 95:12 98:4 Board's 22:19 28:3 29:14 35:1 68:12 bottom 55:17 56:12 break 72:7 bright 7:8,9 brings 10:17 brought 19:15 56:20 89:11 Bryon 2:18 3:23 49:18 buck 87:22 building 38:7,21	39:1 40:7,16,19 55:10,20 56:2,8 56:10 61:17 66:2 70:14 78:14,15,17 79:16 80:7 81:10 83:9 86:19 87:12 87:17 96:7 buildings 60:17 built 77:2 78:17 burden 79:3 business 98:4 busy 25:17 button 7:7 BZA 5:3,17,20 6:1 6:6,11 7:4,10,19 8:2,5,15 9:4,7,11 9:14,22 10:3 11:1 11:3,18 12:3,12 13:8,12,17,20 14:5,16 15:1,6,9 15:14,19,22 16:3 16:6,15,18 17:7 17:15 18:1,18,21 19:7 20:8,22 21:22 22:9,15 23:1,9,12,15,18 23:21 24:7,20 25:3,7,20 26:3,6 26:10,14 27:6,16 28:1 29:1,7,13,21 30:2 31:3,7,10,22 32:14,21 34:7,13 35:2,10,12,19 36:11,14 37:7 38:6,11,15 39:3 40:20 41:2,6,9,14 42:2,5,16,21 43:3 43:6,9,12,21 44:2 44:16 45:13,19 46:1,6,10,21 47:9 47:15 48:7,22 49:3,6,10,14 50:4 50:8,12,15,21 51:2,11,20 52:1 52:13,18,22 54:8 54:20 59:5 61:10 61:13,22 62:5	65:11,16 66:9,16 67:4,9 68:4,9,14 68:19 69:16,21 70:2,5,10,21 71:5 71:9,12,15 72:2,6 72:21 73:6,9,13 73:16,20 74:2,10 74:15,20 75:2,13 75:16 76:1,5,13 77:15 78:4 79:14 79:19 80:3,13,16 80:19 81:7 82:22 83:8,11,16 84:5 84:11,16,19 85:1 85:5,9,13,21 86:8 87:3,7,14,19 88:3 89:10,12,17,21 90:5,8,15,21 91:2 91:10,14,18 92:2 92:11,16,19,21 93:3 94:15,19 95:3,6,16 96:14 96:17,20 97:1,5,9 97:18,21 98:3,6	40:6,14 45:12 78:9 81:3 91:20 94:20 catch 96:5 caught 88:22 certainly 22:20 59:17 62:18 94:18 Certificate 82:16 Chair 1:21 5:3,17 5:20 6:1,6,11 7:4 7:10,19 8:2,5,15 9:4,7,11,14,22 10:2,3 11:1,3,18 12:3,12 13:8,12 13:17,20 14:5,16 15:1,6,9,14,19,22 16:3,6,15,18 17:7 17:15 18:1,18,21 19:7,10 20:1,7,8 20:22 21:2,11 22:1,8,9,15 23:1,9 23:12,15,18,21 24:7,20 25:3,7,20 26:3,6,10,14 27:6 27:16 28:1,9 29:1 29:3,7,13,19,21 29:22 30:2,4,7,11 30:19,21 31:1,3,7 31:10,22 32:14,21 33:9,22 34:7,13 35:2,9,10,12,19 35:21 36:9,11,14 36:16,22 37:3,6,7 37:9,13,15,20 38:1,4,6,11,15 39:3,6 40:20 41:2 41:6,9,14 42:2,5 42:16,21 43:2,3,6 43:9,12,21 44:2 44:16,19 45:13,19 46:1,6,10,21 47:9 47:15,18 48:7,22 49:3,6,10,14 50:4 50:8,12,15,21 51:2,11,20 52:1,3 52:13,18,22 54:3 54:8,11,16,20,21	56:19 57:10,15,19 58:6,12 59:5,7 60:22 61:10,12,13 61:18,22 62:3,5 63:16 64:4,11,14 64:18,20 65:2,10 65:11,16,22 66:5 66:9,16,18 67:3,4 67:9 68:4,9,14,19 68:22 69:8,12,16 69:19,21 70:2,5 70:10,21 71:4,5,9 71:12,15 72:2,6 72:21 73:6,9,13 73:16,20 74:2,10 74:15,20 75:2,13 75:16 76:1,5,13 77:15 78:4,6 79:14,19 80:3,6 80:10,13,16,18,19 81:7,9,13,18,21 82:3,6,9,12,15,20 82:22 83:8,11,16 84:5,11,16,19 85:1,5,9,11,13,19 85:21 86:1,5,8 87:3,7,8,14,19,21 88:3,8 89:10,12 89:17,21 90:5,8 90:15,21 91:2,10 91:14,18 92:2,11 92:16,19,21 93:3 94:15,19 95:3,6 95:16 96:13,14,17 96:20 97:1,5,9,18 97:21 98:3,6 Chairman 5:7 7:12 9:20 16:10,14 19:11 23:4 29:19 31:2,19,21 32:17 38:18 42:9 43:16 43:20 49:18 71:19 72:1 79:22 87:9 97:4,13 chairperson 1:15 1:17 19:1 chance 51:5
--	--	--	--	--

change 51:12,14 changed 40:12,16 changing 40:8 71:1 character 40:18 Charles 3:12 26:16 checked 33:18 34:21 Cheryl 3:12 24:22 choice 20:1 28:1 Chorus 16:2 31:6 43:8 71:11 96:19 Chuck 25:13 chute 56:8,11,12 cited 31:15 city 60:17 67:21 claim 86:12 clarification 30:20 clarify 47:4 classification 69:7 clear 40:4,6 47:7 clearly 81:14 93:19 clears 54:22 CLIFFORD 1:23 close 15:10 28:2 42:17 67:6 68:15 95:10 closing 3:16,23 15:3 42:7 Cochran 2:11 3:22 47:18 48:9 49:5 code 66:2 Colberg 90:21 Colbert 90:18 91:1 colleagues 11:21 collection 55:3 56:6 collects 56:11 COLUMBIA 1:2 combines 55:13 come 7:5,16 17:8 24:17,17 53:6 54:14 57:1,3 63:15 69:5 72:7 77:6 93:14 comfortable 22:19 49:4 65:20 coming 12:18 26:11 27:7 58:8,9	62:12 63:6,9 91:20 94:16 98:4 Commission 1:20 1:21 9:2 14:10 76:18 commissioner 59:3 91:5,5 Commissioners 7:12 97:7 common 11:13 compacted 56:14 compactor 56:13 56:15 Companies 5:11 compatible 59:2 competing 25:18 complete 7:15 8:8 42:11 completely 84:22 concept 9:3 concern 24:9 60:10 61:2,3 62:16 94:14 concerned 59:22 62:16 concerns 48:20 50:1 concluded 98:9 concludes 16:19 condition 20:17 23:7 28:16 30:8 30:10 61:9,11 conditions 28:8,15 29:5,17 31:15 48:12 51:4,6,10 51:17,21 59:16 61:15 66:12 70:15 71:1,2 configuration 22:11 26:21 30:14 38:7,22 configurations 40:9 configured 52:14 conflicts 59:12 60:3 conformance 10:14 10:18	confused 56:21 congested 27:2 conjunction 9:8 connected 55:6 considering 76:8 constitutes 2:20 construction 12:20 73:19 81:14,16 82:4,7 consultancy 73:17 Consultant 73:2,10 73:11,12 contact 18:6,10,13 18:19 19:4,5 74:13 contemplate 59:10 contiguous 26:17 continue 86:9 Continued 4:10 Contreras 4:12 72:14 73:3 75:14 78:13 79:12 81:20 82:1,5,8,11,14,18 83:3,5,10 84:9,14 84:18,21 85:3,7 contribute 95:8 convened 1:13 conversation 95:9 conversations 11:20 conversion 84:12 84:17 88:13,16 89:5 convert 32:8 40:13 72:16 75:2 86:21 converted 39:2 40:8 84:13 94:6 copies 21:21 33:20 34:22 92:7 copy 80:4,7 92:10 cordless 52:19 corner 25:2,9 52:14 55:17 correct 6:4 9:7 33:13 36:5 45:21 45:22 46:5 54:7 54:13 74:8,18	83:5 85:20 Council 6:7 Council's 6:5 counsel 17:14 21:3 66:19 couple 33:4 course 22:6 41:16 64:4 court 25:4 44:10 47:4,22 48:18 54:15 crazy 52:13 created 96:2 creates 84:2 creating 61:4 creation 68:1 curb 53:5 curious 21:12 33:17 currently 46:4 cut 53:5 C-A-P 32:11 C-A-S 5:11 C-O-N-T-E-N-T-S 3:1 4:10 C-3-C 44:13	95:18 defined 71:7 definitely 58:15 definition 76:17,17 deliberate 15:12 28:4 42:19 68:17 68:20 69:22 70:3 95:17 deliberation 70:6 deliberations 69:2 95:12 demonstrated 48:3 dental 32:9 Department 2:14 3:22 13:18,21 23:19,22 41:7 49:15 50:5,9 depending 6:9 DER 69:20 describe 19:18 52:17 55:2 design 66:7 designated 61:17 designed 60:14 determined 64:6 detrimental 86:13 95:21 developer 48:17 different 22:10 difficulties 48:4 difficulty 12:21 52:9 dimension 65:6,8 65:12 direct 93:5 directed 46:16 direction 54:1 57:12 63:8,10 directly 37:9,11 50:2 director 7:12 45:4 87:11,22 directors 87:16 discuss 24:14 discussion 30:15 district 1:2 2:14 7:1 17:4 32:11 33:12
---	--	--	---	--

33:13 39:1 44:13 72:18 dock 57:7,9 58:16 58:16 59:11 60:2 61:5,16,20 62:6 document 88:4 documentation 19:20 33:7 documents 46:19 93:18 doing 58:9 67:10 93:15 dollars 84:20 door 37:11 doors 21:8,18 40:9 40:12 double-check 19:6 drawing 63:18 drive 59:2 64:21 67:14 due 38:21 dwelling 6:19 72:17,17 83:15,17 D.C 1:14 2:2 9:18	enforceable 51:15 engineer 52:12 English 88:19,19 entrances 40:15 espouse 70:8 ESQ 2:4 essence 11:11 etcetera 41:19 Evan 45:8 everybody 36:15 evidence 40:7 70:13 95:18 exact 64:2 exactly 56:9 exception 6:17 11:6 12:15 13:1,2,4 15:17 17:3 18:4 44:7 75:21 76:2 exceptional 42:12 86:12 89:8 executed 17:19 exhibit 14:12 28:20 80:16,19 exhibits 33:10 existing 8:9 39:20 exit 53:8 54:19 exits 40:16 expansion 10:16 expect 53:19 expenses 86:6 expert 3:21 46:3,8 explain 10:9 extending 10:20 exterior 40:9,16,17	feel 22:18 27:18 65:19 70:7 78:6 feet 64:12,19 65:3 felt 78:10 field 27:4 Fifteen 85:5 figure 12:8 59:8 file 7:15 8:1,7 17:17 18:5,8 24:8 29:15 33:1,11 74:16 75:4,8 filed 9:1 46:19 74:3 74:4 75:9 fill 28:22 33:5 filled 21:20 financially 83:19 fine 9:2 14:10 51:21 87:14 finished 82:6 firm 44:20,22 45:5 first 28:15 36:3 39:9 45:9 54:14 78:22 five 26:1 48:4 51:6 97:17 five-minute 72:7 fix 84:21 fixed 65:5 flat 40:14 72:17 75:3 79:17 81:6 84:12 88:16 89:5 flats 36:18 flexibility 53:22 flow 58:19 followed 6:8 foot 47:21 48:5 footprint 55:20 forced 25:15 forceful 39:19 form 87:19 formally 34:10 former 38:22 forth 11:8 28:12 51:18 79:18 forward 7:6 22:20 24:18 86:16 found 27:19 77:12	78:2 81:4 four 32:8 51:6 FP 3:18 44:5 frame 61:20 friction 59:21 front 12:9 full 8:16,21 18:5 35:17 fully 88:19 funny 38:8 further 39:13,22 67:18 68:2 71:7	goes 53:20 61:4 62:17 going 8:10 9:14 14:1 21:1 22:12 28:6 29:9 30:5 35:4 46:7 52:16 54:4 55:7 57:11 57:17 58:12,20 61:7 63:3,6,9,9,10 63:11,15,19 65:2 66:7 68:5 75:10 88:13 Gomes 4:21 92:14 92:15,18,18,19,20 93:2,4 94:18 good 7:11 8:6 18:1 20:1,7 23:3 24:19 25:7 26:8,10 27:6 28:1 32:14,14,16 38:17 42:16 44:18 49:17 50:4 52:1 65:11 66:1,8 88:8 90:5,10 92:14 Gorove/Slade 45:2 Gotcha 38:1 86:9 Gotes 92:17 gotten 25:16,17 government 1:1 87:9 grade 55:14,15 57:3 grant 11:5,22 15:15 15:17 29:17 42:22 70:22 71:6 96:12 granted 13:9 70:14 79:9 81:1 87:11 granting 11:12,17 13:6 grass 19:22 gratis 25:12 great 14:7 41:16 56:17 green 7:8,9 57:13 57:16,20,21 grocer 62:17,19 63:3,6 grocery 53:20
E	F		G	
E 45:3 easily 40:8 East 9:12 eastern 57:6 economic 83:18 edges 20:12,12 effect 33:10 egress 52:7 either 10:19 electronically 34:19 elevator 56:1,4 elevators 55:19 56:1 email 18:20,21 21:5 21:13 34:16 35:1 emeritus 90:19 91:6 Emerson 72:19 73:7 93:5 emotion 97:13	fact 11:20 86:12,16 96:3,6 family 37:17,22 82:10,13 83:15 85:17 86:4,5 far 54:1 Farmershi 73:2,12 73:14 favor 9:6 16:1 21:9 31:5 43:7 71:10 96:18		garage 56:3,3 58:17 59:12 67:15 94:6 garbage 55:3 56:6 Gary 34:16 gathered 68:16 general 2:2 91:21 93:12 generally 19:13 geometry 53:12,15 getting 53:12 69:17 86:2 give 7:19 14:7 24:20 25:4 66:10 86:19 90:15 given 67:21 96:1 gives 24:8 giving 26:11 35:5 86:21 93:17 glad 56:20 Glickman 3:9 17:1 17:11,12,19 18:10 18:13,16,20 19:3 19:19 20:2,19 21:3,7,19 22:6,22 23:17 29:12 Glickman's 17:14 go 5:18 7:8,10 20:5 20:9 30:2,3 48:6 51:4 53:6 54:1 55:5 63:2,4 69:2 75:4 78:4 79:19 81:7 82:16 89:3,7	

ground 20:6 guess 55:3 86:13 94:13 gut 40:13 guys 23:10 Gyor 2:9 3:10 23:3 23:5 G-O-M-E-S 92:20 H happen 59:17 happened 81:11 happening 78:7 happens 58:10 60:16 87:22 hard 65:17,20 hardship 76:12 77:1,13,16 84:2 96:2 head 54:5,14 heads 35:5 hear 18:11,14 46:18 47:1 heard 28:10 hearing 1:6,12,13 2:21 5:15 15:10 28:2,10 29:10 42:17 67:7 68:15 70:13 72:12 95:19 98:8 heavy 62:10 held 2:21 help 39:7,11,13 61:6 77:11 78:18 83:19,21 84:3 helpful 25:12 26:12 27:8 63:17 78:22 94:17 helping 90:19 91:6 Hi 17:11,13 78:6 highlight 11:14 88:9 highlighted 88:17 Hill 33:16 34:1,17 39:1 Hinkle 1:19 10:2,4 10:5 12:13,14	16:13 20:9,10,21 29:6 31:18 43:19 55:1 56:5,17 71:22 89:20 97:16 historic 33:12,13 40:18 HKS 44:22 Holland 44:20 45:5 home 26:2 93:7,12 homes 25:14 Honor 18:12 Hood 1:21 16:12 21:2,11 22:1,8 29:19,22 30:3,4,7 30:19 31:1,19 39:5,6 43:19 56:19 57:10,15,19 58:6,12 59:3,7 60:22 61:12,18 62:3 65:19 70:2 71:4,21 87:8,21 97:16 hope 26:4 horn 46:15 house 25:2,9 32:10 55:4 77:4 houses 26:20 housing 68:6,6 HPRB 33:15 34:8 34:10 40:10 hundred 84:19 85:6 hurt 83:19 husband 94:10 I idea 26:19 52:6 66:1 identify 7:6 17:9 44:16 72:22 ignore 75:10 impact 14:2 18:4 40:18 47:13 83:18 94:3 impacted 94:12 important 48:18 70:17 88:11	imposed 70:16 71:1 impression 86:2 improvements 94:2 improving 93:11 inability 27:1 inbound 63:7 included 47:12 including 31:16 47:21 inclusionary 69:14 income 77:21 85:16 increasing 10:20 Independence 36:17 37:21 indicated 19:20 35:3 indicating 36:7 information 8:17 33:11 93:15 94:17 informed 93:19 ingress 52:7 initiative 22:3 input 47:17 89:22 inside 56:3 94:7 intended 40:2 interesting 22:10 38:7 Interim 87:10 internal 34:12 38:22 interpreter 75:14 involved 87:17 in-unit 94:5 Irving 17:5 25:10 25:16 issuance 88:10 issue 11:11 17:16 issued 89:2 issues 8:11 33:2 issuing 96:7 IZ 69:5 J J 3:5 6:15 Jackson 2:12 3:7 9:18,18 10:11 11:2,5 12:1,7,17	jam 58:18 January 82:2 93:8 jargon 78:21 Jeff 1:19 32:19 Jerrily 1:13 job 40:13 93:11 jobs 85:20 JOHN 1:24 joint 45:11 Jordan 1:14,17 3:2 5:3,9,17,20 6:1,6 6:11 7:4,10,19 8:2 8:5,15 9:4,7,11,14 9:22 10:3 11:1,3 11:18 12:3,12 13:8,12,17,20 14:5,16 15:1,6,9 15:14,19,22 16:3 16:6,10,15,18 17:7,15 18:1,18 18:21 19:7 20:8 20:22 22:9,15 23:1,9,12,15,18 23:21 24:7,20 25:3,7,20 26:3,6 26:10,14 27:6,16 28:1 29:1,7,13,21 30:2 31:3,7,10,19 31:22 32:14,17,21 34:7,13 35:2,10 35:12,19 36:11,14 37:7 38:6,11,15 39:3 40:20 41:2,6 41:9,14 42:2,5,9 42:16,21 43:3,6,9 43:12,16,21 44:2 44:16 45:13,19 46:1,6,10,21 47:9 47:15 48:7,22 49:3,6,10,14 50:4 50:8,12,15,21 51:2,11,20 52:1 52:13,18,22 54:8 54:20 59:5 61:10 61:13,22 62:5 65:11,16 66:9,16 67:4,9 68:4,9,14	68:19 69:16,21 70:2,5,10,21 71:5 71:9,12,15,19 72:2,6,21 73:6,9 73:13,16,20 74:2 74:10,15,20 75:2 75:13,16 76:1,5 76:13 77:15 78:4 79:14,19 80:3,13 80:16,19 81:7 82:22 83:8,11,16 84:5,11,16,19 85:1,5,9,13,21 86:8 87:3,7,14,19 88:3 89:10,12,17 89:21 90:5,8,15 90:21 91:2,10,14 91:18 92:2,11,16 92:19,21 93:3 94:15,19 95:3,6 95:16 96:14,17,20 97:1,5,9,13,18,21 98:3,6 Jos 4:12 72:14 73:3 77:1 93:4,10,14 Josh 25:11 26:18 Joshua 3:9 17:1,11 27:9 Josh's 25:2 jotted 28:14 July 25:12 82:19,20 jump 70:11 K K 3:5 6:15 Karen 2:10 3:5,15 4:17 6:15 38:18 Kathryn 1:18 31:20 keep 6:2,2 keeping 28:7 77:14 key 70:17 kind 19:16,17 24:1 25:2 30:16 37:7 53:9 59:2 60:13 63:10 64:9 73:11 73:16 78:18 96:4
--	--	--	---	---

96:4 Knight 44:20 45:5 knocked 21:8,17 know 20:15 21:12 21:13 22:2 24:9 26:1 28:9 35:22 36:19 47:6,19 52:15 55:10,19 56:4 58:19 60:7 60:10,22 61:3,8 62:11,22 64:7,8 65:5,6 67:1,18 69:16 77:9,10,11 77:13 78:12,16,20 83:21,22 86:16 87:9 88:15,20 89:1,2 91:8 94:1 knowing 88:14 knowledge 77:7 78:15 83:7 Kress 1:13	length 88:22 Leroy 4:14 73:1 letter 8:4 14:6,11 17:17,18 19:12 23:22 24:2,2 27:8 29:10 33:19 34:4 34:13 41:10,15 50:16 73:21 74:5 90:1,2 letters 9:1,8 14:17 21:22 31:16 36:1 36:4,15 41:18 74:16 87:20 92:6 let's 6:12 15:1,10 17:18 23:2 28:2 38:15 41:6 42:5 47:16 49:15 51:2 51:3 57:15,19 70:6 72:6 86:9 88:5 95:6,10 97:5 level 53:7 63:3 87:17 Levin 32:19 37:1,5 37:11,14,16,21 38:2 limitation 53:14 limited 28:18 30:12 Linda 87:15 lines 53:10 Lisa 87:11 90:18 list 13:5 28:7 29:13 little 30:14 39:13 55:2,15 56:3 live 81:19 85:15 living 73:4 LLC 3:14,18 32:5 32:20 44:5 Lloyd 1:14,17 3:2 load 47:10,11 49:4 57:1 70:16 loading 44:9 48:5 48:11 49:20,21 52:7 53:7 54:5,12 54:15,15,18 55:2 55:16,18 56:16 57:7 59:10,15,16 60:1,2 62:11	67:15 located 7:2 17:6 32:13 44:14 55:11 72:20 long 27:9 61:5,20 81:18,21 83:20 longer 11:7 84:1 85:15 look 33:6 39:16 51:5 55:14 looked 19:5 67:13 looking 52:4 53:11 55:12 63:13,17 76:16,19 92:12 loss 77:21 lot 6:20 7:3 10:18 15:16 17:3,6 18:16 19:18 21:10 21:16 25:11 28:16 32:6,13 39:18,22 43:1 44:15 60:6 62:20 63:5,8 72:20 lower 53:7	master 58:16 61:20 matter 7:21 18:2,3 24:14 35:15 46:14 70:12 72:8 75:11 89:15 95:20 matters 3:3,19 45:14 mean 6:9 59:14 62:21 74:6 means 25:14 meant 10:9 mechanically 19:21 meet 24:13 39:18 39:21 79:3 meeting 6:19 34:17 74:11 Member 1:18,19 1:20 10:2,5 12:14 15:18 20:10,21 29:6 55:1 56:5,17 79:21 89:20 95:14 members 1:16 23:4 32:17 38:18 42:10 44:19 85:18 91:15 Memorial 1:13 mention 11:9 mentioning 11:10 Meridith 3:17 32:18 Merle 7:13 mic 17:9 52:16,19 90:11 Michael 44:21 microphone 90:10 Mike 55:8 minimize 59:12 minimum 18:4 65:21 minor 8:8 58:22 67:20 minutes 2:21 mislead 86:17 missed 30:9 36:10 88:18 missing 33:10 mistaken 37:19 mixed-use 44:12	Moldenhauer 3:17 32:16,18 33:21 34:3,9,15 35:16 36:6,13,20 37:1 38:9 41:5 42:9 moment 52:6 monitor 60:2 monitored 59:22 Mordfim 19:4 Morgan 87:11 morning 7:11 23:3 24:19 32:15,16 38:17 44:18 49:17 63:7 88:9 90:10 92:14 mortgage 83:22 84:4,6,8 motion 15:19 16:6 16:9,11,14 29:2,4 29:7,16 31:5,10 31:13,18 43:3,12 43:15,17,19 71:3 71:5,6,15,18,21 72:1 96:14 97:1 97:15 mounting 78:8 move 15:15 22:20 27:21 42:22 55:4 58:2,4 67:6 70:6 70:22 95:12 96:11 moved 82:10,13 movement 59:1 move-ins 55:22 62:22 moving 55:5 Moy 1:23 5:5,17,19 5:22 6:4,8,13 16:7 16:8,17,21 31:11 31:12 32:2 33:20 43:14 44:1,3 45:14,17 71:16,17 72:4,11 97:6,10 97:11,20 98:5 multi-family 36:18 37:12,18 39:21
L				
L 53:9 54:6,19,19 54:20 58:3 63:13 68:1 Land 45:4 landscaping 20:11 20:16,18 23:8 28:19 lane 64:16,18 65:6 65:7 lanes 59:2 large 94:5 larger 53:19 55:16 late 29:21 Laughter 22:14 30:1,6 76:9 87:18 88:2 law 44:20 45:5 layers 96:5 lead 7:17 leaning 19:19 leave 6:12 54:18 left 55:21 legal 30:17 Leila 3:24 44:19		M		
		main 12:1 maintain 20:18 23:8 26:5 maintained 28:20 major 61:3 manage 59:11 managed 60:8,21 management 47:10 47:11 49:4,21 58:15 59:15,16 70:16 manager 58:16 59:11 60:2 61:6 61:16 62:6 managing 58:13 March 1:10 2:21 Maria 4:21 92:16 Marie 92:15 Mark 45:8 Market 60:13 MARY 2:4		Memorial 1:13 mention 11:9 mentioning 11:10 Meridith 3:17 32:18 Merle 7:13 mic 17:9 52:16,19 90:11 Michael 44:21 microphone 90:10 Mike 55:8 minimize 59:12 minimum 18:4 65:21 minor 8:8 58:22 67:20 minutes 2:21 mislead 86:17 missed 30:9 36:10 88:18 missing 33:10 mistaken 37:19 mixed-use 44:12
				N

NAGELHOUT 2:4	night 21:7,17 26:1	24:10 32:9 33:12	43:9 71:12 96:20	pass 20:5
name 7:12 24:21,22	nonconformance	38:16,19 39:1,4	opposite 57:11	Patrick 87:15
26:16 32:18 73:1	10:21	40:22 41:3 44:12	opposition 14:21	pattern 60:9
88:4 90:11,16,17	nonconforming	47:7,16 49:1,7,11	27:12,14 42:3,3	Patty 5:9
92:13	10:13,15	51:8 63:8 88:6	50:22 95:4,4	paving 19:17 28:17
name's 92:15	non-conforming	oh 5:21 33:21 36:9	option 26:5	paying 85:20 86:6
narrative 78:19	6:21 10:12	53:2 54:3 59:6	OP's 19:15	people 91:12
nature 89:2	normal 62:10 64:9	68:11 85:9,10,21	order 16:16 31:22	permission 77:3
navigate 61:6	normally 11:15	86:8 90:17 95:16	43:22 72:2 97:19	85:8 86:21 93:16
63:22 66:1	39:10 40:6 56:10	okay 5:5 6:1,11,12	oriented 59:20 60:4	permit 9:3 77:6
nay 16:4 31:8 43:10	note 10:6 11:13	6:13 8:6 13:9	63:11	78:14,15,17 79:7
71:13 96:21	45:7 67:12 77:8	17:7 18:1 19:7	original 80:7 93:9	79:9,16 80:5,7
NCPC 1:19	77:11	20:21 22:1,12	originally 77:1	81:3,11 86:19
necessarily 86:7	noted 36:3 48:1,13	23:1,12,18 25:7	78:1	87:12 88:11,21
necessary 27:19	49:22 63:18	26:3,6 28:9 29:1	outside 34:11	89:1 96:7
77:17 79:4	notice 1:14 24:9,13	29:22 30:19 33:21	overall 61:14	permits 87:17
need 8:12,20 11:3,7	noticed 94:21	35:5 36:9,22 37:6	overlap 60:11	permitted 40:10
22:18 27:20 33:3	notices 21:12	37:13,15,20 38:4	overpass 53:15	89:6 96:6
33:5 38:12 39:12	noticing 52:8	40:20 45:19 46:2	owner 7:13 8:4	Perseus 3:18 44:5
42:7 46:13 52:15	notified 22:5	46:10,12 47:9,15	17:12	45:10
53:13 59:17 68:17	noting 13:4	48:10,22 49:6,14	owners 93:9	person 57:22
68:20	number 28:21	51:11 52:1 54:21	O-F 3:1 4:10	personally 34:16
needs 35:14 47:1	NYARKU 1:24	56:17 57:2,10		88:5
58:15 60:20	N.E 44:14	59:4 61:12 62:3	P	persons 7:5
negative 94:3	N.W 1:14 7:2 17:5	65:10 66:11 67:3	P 7:2,14	pervious 28:17
negatively 94:12	72:19	68:14 69:12,21	packing 30:16	Peterson 34:16
negotiate 61:7		72:21 73:6,13,20	page 39:9	photos 7:16
neighbor 19:12	O	74:15,20 75:3,16	pages 48:13	pick 65:18 86:9
25:1 26:17 27:10	O 60:13,22 87:12	77:16 79:6,19	Palmershi 73:10,11	places 51:13
93:5,14	objecting 24:3	80:20 81:7,9 82:3	paragraph 39:9	plain 89:4
neighborhood	objection 23:22	82:21 85:21 86:8	park 25:11,14,22	plan 20:13 23:10
90:14	41:10 46:7 49:20	86:9 87:7,14	27:1	28:22 47:10,11
neighbors 9:9	51:9 90:1	89:21 91:7,10,14	parking 17:3 21:10	49:4,21 55:12,13
14:18 18:17 21:5	objections 14:11	91:18 92:1,21	25:19 26:20 28:18	55:14,15,17,21
21:9,15 26:9	91:13	93:3 94:15 98:1	30:12 55:22 59:12	57:14 59:16
28:11 41:19 91:8	obtained 77:2	one-family 6:18	59:20 60:4,15	plane 58:9
91:16,17	obviously 87:11	72:16 75:3	67:15 94:4,7,9,11	planned 62:19
neither 25:13	occupancy 6:20	on-grade 55:13	part 11:19 33:19	planning 2:6 3:6,10
new 76:17	10:18 15:16 32:6	OP 28:12 39:10	36:10 47:14 57:11	3:15,21 4:16 9:15
nice 15:8 28:11	77:5 81:3 82:17	49:22 76:7	58:16 77:7 81:10	9:19,20 10:1
Nicolaus 44:21,22	occupant 7:14	open 20:17 68:1	participating 86:4	13:10,14 19:17
46:3 55:9 56:9	occur 55:22 59:13	operate 61:7 62:7	particular 33:4	21:14 23:2,5,6,13
57:2,13,18,21	office 1:22 2:2,6	operating 62:7	95:22	23:16 38:16,19
58:11,14 64:2,5	3:6,10,15,21 4:16	operation 70:16	particularly 27:2	39:4 40:22 41:4
64:13,16,19 65:1	9:15,19,20 10:1	opportunity 8:18	46:13,18	47:17 49:1,8,12
65:4,14 66:4	11:8 13:9,13	22:21	PARTIES 3:11	88:6 89:13,18
NICOLE 1:18	21:13 23:2,5,5	opposed 16:3 31:7	party 4:20 75:5,6	Planning's 47:8

51:9 plans 20:15 52:5 59:15 88:11,12,17 89:4 playing 27:4 please 5:4 7:5,6 16:16 17:8,9 24:17,18,21 32:1 43:22 44:16 49:16 72:3,8,22 76:20 78:5 79:20 80:21 90:12,16 92:5,7 92:13,13 93:3 point 59:19 86:18 88:21 points 58:3 porch 6:17 portion 55:11,21 57:6 posed 77:13,15 poses 76:22 possibility 58:7 possibly 40:13 posting 18:15 potential 52:8 Potomac 45:9 Powell 4:14 73:1,2 73:7,12,15,18 74:1,9,12 75:1,12 75:15,20 76:4,21 77:20 79:6,13,16 80:2,9,12,15,22 81:12,15 83:4,6 83:14,20 84:7 85:17,22 86:3 90:4,6 97:3,7 98:1 practical 12:21 48:3 practice 11:13 predictable 87:10 preliminary 3:3,19 45:13 premises 7:2 17:4 32:12 44:13 72:19 prepared 7:16 presence 61:15 present 1:16,20,22	2:2,6,16 8:19 34:1 34:4,10 75:17 presentation 46:16 61:1 presented 18:9 33:7 77:17 93:18 presiding 1:15 pressure 40:1 pretty 8:21 18:5 46:15 58:20 89:14 prior 83:12 probably 11:13 40:8,14 65:17 66:3,7 94:13 problem 61:8 84:1 problems 51:16 61:5 procedures 62:7 proceed 75:17 76:20 80:21 process 88:21 93:13 proffering 46:2 project 7:17 14:19 44:12 52:5 58:2 67:20 69:4 70:17 prongs 42:13 proof 79:3 proper 18:15 83:1 properties 21:15 36:5,8,17 property 7:2 9:13 10:17,21 17:6,12 32:12 39:17 42:11 43:1 44:14 69:13 72:19 73:5 77:2,8 77:10,12,14 79:9 81:16 84:22 86:11 93:6,8,9,11 94:5,7 95:22 proposal 20:11 27:5 provide 13:3 22:18 33:20 80:6 provided 34:5,19 34:22 35:15,22 67:22	providing 48:4 94:16 provisions 72:16 public 1:6,12 2:21 5:15 48:19 50:1 68:1 72:12 pull 57:5 purchased 83:9 93:7,10 purchasing 77:8 purpose 78:3 81:5 pursuant 1:14 6:16 17:1 32:5 44:6 72:14 put 5:21 12:9 20:11 22:12 29:8 32:22 88:16 puts 40:1 putting 73:4 P-R-O-C-E-E-D-... 5:1 p.m 98:9	rains 20:4 raised 57:9 ramp 53:6 57:3 60:15 63:20 64:20 64:22 65:4 ramps 60:19 rare 58:20 rarely 94:8 reach 18:16 reached 21:4,16 read 45:14 78:12 reading 78:10 ready 15:6,12 28:4 42:18 68:16,20 69:22 70:3 75:4 95:12,17 real 5:5 14:1 really 24:2 25:12 25:18,22 27:19,19 39:16 58:1,4 59:20 60:4 62:15 89:6 Realty 45:9,10 rear 6:17 17:5 reason 58:17 75:21 76:21 reasons 12:2 20:3 48:6 rebuttal 42:7 receive 19:12 20:15 received 19:3 24:12 receiving 69:14 Recognition 3:21 recommend 11:21 48:11 recommendation 9:16 39:8 48:10 recommended 61:14 76:15 recommending 14:6 47:19 recommends 41:15 record 5:7 8:16,21 14:18 15:11 16:8 28:3 29:14 31:13 31:17 33:18,20 34:20 35:1,17,18	38:20 41:19 42:11 42:17 43:15 46:14 47:14 67:12,18 68:15 70:12 71:18 72:10 95:10 97:12 reduction 47:21 regard 88:10 regarding 14:18 96:3 regards 47:1 91:20 96:9 Regular 1:12 regulation 67:13 regulations 13:2 40:3 67:14 reinforced 19:22 reiterate 26:18 related 36:3 48:4 63:1 relates 47:4 relative 83:21 relatively 67:19 relatives 81:17 reliance 86:14 95:21 relied 96:8 relief 3:20 8:8 10:6 10:8 11:1,4,6,7,12 11:15,17,22 13:3 13:7 15:15 16:11 23:7 29:17 39:10 41:11 42:22 43:17 45:15,20 47:5,5 47:22 48:11,19 67:19 70:14,22 71:20 77:18 relying 86:13 REMARKS 3:16 3:23 remember 19:16 30:5 74:3 93:8,17 renovation 73:18 96:10 rent 84:3 85:3,10 85:20 86:6 rental 28:18 30:12 77:4,22 79:8
---	---	---	--	---

renting 85:2	respectively 45:10	45:15,16,20	senior 25:21	sir 16:17 17:20
report 10:6 19:15	response 8:14	room 1:13,13 56:13	sent 19:1 21:22	31:12 32:2 43:14
38:20 47:8 48:1	13:11,19,21 14:4	routes 53:10,13	34:15 35:1 74:4	71:17 97:11,17,20
48:13 49:16 51:9	14:15,22 15:13,21	63:14	series 89:3	98:5
51:18 75:7	16:5 23:11,14,20	row 26:19	service 53:4,8 58:1	sit 52:16
reporter 25:4	24:6 27:15 31:9	running 20:6	60:18 62:20 63:1	site 7:17 28:22
representation	35:11 38:14 41:1	R-3 7:1 72:18	63:5	53:12 54:2 55:12
7:21 17:16,18	41:8,13 42:1,4,20	R-4 17:4 32:11	Services 45:4	57:4,5,6 58:3,5
24:11	43:5,11 45:18	39:20 40:1	set 51:18	62:18 63:15 66:20
representative 45:9	46:9,20 49:2,9		setback 10:19	66:22
represented 45:7	50:7,14,20 51:1	S	45:16	situation 86:12
74:14 91:22	51:19,22 66:15	s 1:18 93:4	seven 21:8 48:12	89:8 96:2
representing 32:18	67:8 68:18 70:1,4	satisfied 42:13	seven-signature	six 30:17 32:9 51:6
57:12 73:3 75:11	70:9,20 71:8,14	saw 33:14 66:20	29:11	sixty-four 84:20
90:18	74:19 87:2,6	saying 8:4 12:4	share 60:15	Skyler 17:13
request 23:6 24:13	89:16 95:2,5,15	16:1 31:5 43:7	sharing 59:2 60:19	slash 32:11
42:14 45:15 73:4	96:16,22	71:10 81:1 86:20	sheet 19:4	slightly 57:7
74:21,22 75:5,7	rest 35:18 38:19	96:18	Sher 45:3,3 67:12	slow 39:13
requested 10:7	53:21	scale 55:16	69:13	small 38:22
15:15 16:11 41:10	restaurants 25:18	schematic 66:7	show 7:16 57:22	smaller 53:17
43:17 47:20 70:15	27:3	screen 6:17 8:10	77:21	soccer 27:3
70:22 71:20 76:14	Restoration 33:17	second 7:20 15:18	Showell 17:13,14	Society 33:17 34:2
77:18 96:12	34:1,18	16:11 28:17 29:6	17:20 18:12 27:22	34:18
requesting 67:19	result 18:7	30:8,9 39:9 43:2	shown 28:20 57:8	solid 46:15 53:9
93:16	retail 44:12 63:1	43:17 51:3 71:4	57:14	somebody 61:6
require 61:15	67:21	71:21 78:1 96:13	shows 75:8	88:22
67:14	Review 89:7	97:6,10,14	sick 90:20	soon-to-be-releas...
required 7:18 10:9	reviewed 49:19	seconded 15:20	side 6:21 10:19	76:16
11:15 20:14 43:1	77:18	29:8,16 31:18	15:17 37:16 57:4	Sorg 1:18 16:13
48:5 68:7,10 79:2	right 6:12 8:22	43:4 71:6 96:15	sides 38:3	19:9,10 20:1,7
requirement 39:18	12:5,7,9,13 13:22	seconds 58:21	sign 22:7 88:5	28:6,9 29:3 30:8
39:22 77:20	18:22 21:19 22:1	secretary 1:23	signature 93:17	30:11,21 31:14
requirements 6:20	22:8,13 25:8 30:4	29:14 43:13 92:6	signatures 21:9	33:8,9,22 35:6,9
6:22 22:2 32:7	34:5 35:5 37:14	section 6:19,20,21	36:12 38:2 91:12	35:21 36:9,16,22
44:8,9,11 47:6	40:21 47:16 48:14	17:4 44:8,10,11	92:8	37:3,6,9,13,15,20
77:19	52:20 55:17 57:16	87:12	signed 17:17 34:14	38:1,4 43:2,18
rescheduled 3:4	57:18 61:2 62:1,4	see 12:10 15:2	41:19	52:3 54:3,11,16
5:12	65:16 66:12,16	20:16 27:17 28:3	significant 67:20	54:21 63:16 64:4
residences 36:19	67:4,9 69:11 70:5	35:13 38:20 40:11	signify 16:1 31:5	64:11,14,18,20
36:21	70:10 72:22 75:17	40:15 42:6 53:9	43:7 71:10 96:18	65:2,10,19,22
resident 55:10	80:20 81:20 84:9	55:15 57:13 60:5	simple 58:22	66:5,18 67:3
residential 32:8,10	87:3	61:4,19 86:11	simply 35:18	68:22 69:8,12,19
44:13 55:19,20	Rigler 5:11	88:6 94:1	sing 53:1	71:22 78:6 80:6
56:6 62:12,22	roll 97:10	seeking 8:9 18:3	single 37:17,22	80:10,18 81:9,13
resolve 58:18	rolling 6:3	47:5	83:14	81:18,21 82:3,6,9
respect 10:19 48:18	Ronald 3:5 6:15	seen 22:15	single-family 36:19	82:12,15,20 85:11
88:10	roof 3:20 44:7	semi-detached 6:18	36:21 83:17	85:19 86:1,5

96:13 97:15 sorry 35:21 66:19 67:16 sort 60:18 64:10 78:8 south 1:13 48:17 space 48:19 50:1 58:22 59:11 60:20 63:21 68:1 94:6,7 94:8,11 spaces 28:19 30:13 30:14 94:11 speak 14:20 24:16 24:17 25:15 27:12 27:13 41:20,22 42:3 55:8 62:10 78:8 94:3 95:1,4 speaking 19:13 51:13 88:19,20 92:22 special 6:17 11:6 12:15 13:1,2,4 15:17 17:2 18:3 44:7 75:21 76:2 Specialist 1:24 specific 12:19 30:13 88:16 specifically 40:11 65:5 88:12 specified 29:18 spend 84:17 spent 96:8 spots 30:17 square 7:3 17:6 32:13 44:15 47:21 72:20 Sr 4:14 staff 1:22 2:6,14 16:8 31:12 43:14 71:17 97:12 98:5 stage 93:13 standpoint 60:9 stands 27:10 starred 36:7 started 21:3 82:4 state 88:12 90:11 92:13 93:20	stated 29:5 38:21 89:5 status 75:5,6 Stephen 2:9 3:10 19:4 23:4 steps 89:4 Steve 3:22 Steven 2:11 45:3 stops 88:1 store 53:20 stories 79:22 story 78:12 straight 54:6 89:14 straightforward 18:3 street 1:13 3:14 7:2 7:14 17:5 25:10 25:16,16 26:20 27:3,4 32:5,12,20 36:17 44:14 53:5 53:9 54:4,6,14 57:5 59:21 60:5 60:13 61:1 63:12 63:13 64:7 68:2 72:19 73:8 93:5 94:9 structure 3:20 6:22 10:15 32:8 34:10 44:7 45:16,20 structures 10:13,13 study 47:13 48:15 59:10 subject 48:12 69:14 submit 29:10 34:4 92:6 submitted 7:20 14:17 15:11 35:4 47:13 74:8 75:6 80:4,14 95:19 subsection 6:22 32:7 72:18 subsequently 39:2 74:8 summary 16:15 31:22 39:8 43:22 72:2 97:18 supplementing	85:14,16 support 3:11 4:20 9:8,21 14:7,11,14 14:17 16:12 19:13 23:7 24:1,2,16,17 27:5,9,10 28:10 28:13 31:16,17,19 33:19 34:5 35:3 36:1,15 39:10 41:21,22 43:18 50:16,18,19 71:21 75:7 91:21,21 92:22 95:1 97:16 supported 48:16 supports 23:6 sure 7:7 8:6 15:9 17:8,18 18:22 22:4 28:21 29:12 33:14 37:4 61:9 64:2 69:3,20 75:4 79:6 90:11 93:18 surface 19:17 surfaced 28:16 surrounding 18:17 36:2 survey 90:13 system 28:17 S.E 3:14 32:5,12 T take 17:15 51:3 52:6 53:14 72:7 91:19 taken 17:21 48:14 talk 66:3 83:18 talked 12:5 33:16 talking 62:21 86:14 teeth 86:10 tell 18:14 86:10 telling 93:15 tenant 77:10 term 71:1 76:17 terms 51:13 56:5 65:22 test 42:13 testify 14:14 26:15 50:18,19,22	testimony 48:21 91:19 th 97:13 thank 8:6 10:5 13:15 16:17,18,20 19:10 20:10,21 22:2,5,8 23:8 26:6 27:6 30:19,20 31:1 33:9 38:4 42:15 44:1,2 50:3 52:20 55:9 56:18 66:17 67:5 68:13 72:4,5 79:21 80:20 97:2,3,8,20 97:21 98:1,7 Thanks 43:21 47:18 72:6 they'd 54:1,2 thing 47:4 60:12 62:15 63:16 64:10 things 59:18 61:14 74:7 79:2 think 8:12,20,22 11:12,18,20 12:5 13:20 14:1,9 18:2 18:5 19:14 22:11 22:18 27:20 28:14 33:1,6 36:3 45:14 46:2,14 48:8 52:18 55:10 58:2 58:19 59:1,18,21 60:1,4,5,7,8,9,11 62:5,14,16,18 63:11,13,18 64:6 64:15 65:6,15 66:2,12 67:10 70:13,15 73:22 75:7,18 76:6 78:21 79:1 80:18 85:20 89:13 92:9 95:7 thinking 28:4 64:6 65:9 77:9 third 28:19 Thomas 2:10 3:5 3:15 4:17 6:15 38:17,18 39:6,15	76:10 88:8 89:11 Thompson 4:19 90:13,17,18 91:1 91:4,11,17 92:1,9 Thorpe 7:9,11,13 7:22 8:3,16,22 9:5 9:10,12 13:15 15:5,8 16:20 thought 11:10 45:15 46:1 60:7 68:17 69:19 80:11 85:13 86:20,22 thousand 79:11 84:20,21 three 20:12 28:15 31:15 42:13 51:6 time 12:9 42:14 53:18,21 58:10 61:19,20 62:2 66:6 68:20 70:11 86:19 87:13 89:1 93:19,22 94:20 timeline 78:22 times 62:10 Tina 4:19 90:18 today 42:18 told 78:11 83:1 86:18 88:20 total 40:12 totally 60:12 town 28:11 traffic 47:13 48:14 52:12 57:22 58:19 59:10 60:6,9,14 60:16,19 62:12 63:8,14 transcript 2:20 transportation 2:14 3:22 13:18 13:22 14:2 23:19 24:1 41:7 49:16 50:6,10 trash 56:11,11,12 56:13,14,15 tremendous 93:10 tried 18:10,13 81:2 truck 55:5,17,22
--	--	---	---	---

56:15 57:3 58:4,7 58:18,21,22 60:14 60:18 64:8 trucks 52:8 53:6,11 53:13,17,18,21 57:1,8,16,17 try 18:18 46:15 52:16 79:3 88:14 trying 12:8 39:19 59:7 65:18 75:4 78:7 85:12 TUESDAY 1:9 turn 9:15 15:1 23:2 27:17 28:6 35:13 38:15 41:6 42:5 47:16 49:15 51:2 57:6 88:6 95:6 turned 7:7 turns 52:4 Twenty-two 36:14 two 5:12 9:1 21:20 35:7 36:2,4 51:6 59:1 63:21 66:22 71:20 79:10,22 80:1,2 84:19 94:11 two-family 72:17 81:5 two-story 79:17 two-thousand 11:4 two-unit 79:7 94:13 two-way 56:22 type 12:22 24:12 types 63:22 T-A-B-L-E 3:1 4:10	underneath 53:15 understand 20:13 39:7,11,14 52:9 56:21 63:21 77:16 77:19 78:19,20,22 90:2 understanding 17:21 45:20 87:1 89:14 undue 76:12 96:2 Unfortunately 10:15 unique 96:2 unit 32:10 39:21 77:4 78:1 85:2 units 32:9 39:17,20 80:1,2 unreadiness 15:20 29:18 43:4 71:7 96:15 unusual 38:21 use 19:21 20:4 45:4 57:15,19 72:16 74:21 75:19 76:2 76:2,4,5,6,11,19 76:22 77:4,22 78:3 79:4 81:4,5 83:1,12,17 86:22 86:22 88:4 96:1,6 96:12 97:14 useful 78:9 uses 59:1 usual 32:21 usually 56:14 U^U 44:6	96:1,12 97:14 variances 47:20 vehicle 58:1 62:20 vehicles 53:4,8 60:18 63:22 66:1 94:11 vehicular 60:19 venture 45:11 versus 12:15 62:11 VICE 19:10 20:1,7 28:9 29:3 30:11 30:21 33:9,22 35:9,21 36:9,16 36:22 37:3,6,9,13 37:15,20 38:1,4 43:2 52:3 54:3,11 54:16,21 63:16 64:4,11,14,18,20 65:2,10,22 66:5 66:18 67:3 68:22 69:8,12,19 78:6 80:6,10,18 81:9 81:13,18,21 82:3 82:6,9,12,15,20 85:11,19 86:1,5 96:13 Vice-Chair 56:20 71:22 Vice-Chairperson 1:18 16:13 31:14 43:18 97:15 voluntary 69:17 vote 3:8,13,17,25 4:22 16:9 29:8 31:13,20 43:15 71:18 97:12 voted 35:3 61:1	40:15 46:18 47:3 61:4 66:10 67:11 70:8,19 95:8 97:10 wanted 29:20 30:7 33:14,15 40:4 52:5,9 59:19 75:8 93:20,21 Washington 1:14 wasn't 31:4 37:3 61:1 69:20 watch 60:3 water 20:4 way 12:8 39:7 57:1 58:5 60:16 63:12 63:14 69:2 70:7 78:8 86:22 96:4 ways 21:6 Webb 4:21 92:15 92:16 week 9:1 weekends 27:2 weeks 9:1 weight 14:7 41:16 Weisman 45:8 welcome 3:1 30:22 31:3 went 30:9 77:5 79:17 91:7 96:4 west 9:12 57:4 western 55:11 we'll 14:7 35:18 46:11 60:5 74:17 we're 12:7 13:4 22:12 47:5,19 48:7 52:8 55:12 62:16 65:8,11 67:19 75:21 76:13 76:18 86:14 89:13 92:12 98:6 we've 12:5 39:18 42:12 60:7 73:22 81:9 wheeled 56:14 White 2:18 3:23 49:17,18 53:2 wide 67:14	width 47:6 63:19 64:3,9,9 wire 65:17,20 wish 24:18 89:19 wishing 14:13,20 24:15,16 27:12,13 41:20,22 42:2 50:17,19,21 92:5 94:22 95:3 Withdrawal 3:20 withdrawn 45:16 45:21 witness 3:21 25:5 90:6 wondering 21:16 22:3 work 58:11 79:18 working 52:10 56:22 85:19 worth 11:10 wouldn't 40:15 wrap 67:10 wrote 19:13
Y				
yard 6:21 10:19 15:17 year 82:2,7,19 years 66:22 81:22 96:7 yesterday 33:18 34:21				
Z				
ZC 21:2,11 22:1,8 29:19,22 30:4,7 30:19 31:1 39:6 56:19 57:10,15,19 58:6,12 59:7 60:22 61:12,18 62:3 71:4 87:8,21 zero 97:17 zone 19:5 88:15 zones 69:14 zoning 1:4,16,20,21 1:22,24 24:10 45:4 67:13 69:7 69:10,15 76:18				

89:7	20001 1:14	42 3:17	92 4:21
	2001.3 7:1 10:8,11	43 3:17	96 4:22
\$	10:22 11:7,22	44 3:19	
\$1,500 84:10	13:3	441 1:13	
\$264,000-plus 96:9	2005 83:10,11 93:8	446 93:5	
	2006 79:12,13,14	448 72:19 73:7	
1	83:9	45 3:20	
1A 3:9 18:7,8 24:4	2007 78:13 82:4,7,8	46 3:21	
24:5,8	82:10	47 3:22	
1st 44:14 53:5,6	2012 82:13,20	49 3:23	
54:4,14 57:4 58:4	2013 1:10 2:22 3:4		
59:20 60:5 63:12	21 3:4	5	
1,249 47:21	21st 5:13,21	5 3:2,4 48:13	
1,300 85:4	218 72:20	5th 3:14 32:4,12,19	
10 58:21	22 36:11 41:18	36:17 37:13,17,18	
10:06 1:14 5:2	220 1:13	5-0 3:8,13,17,25	
1005 44:14	2201.1 44:10	4:22 16:9,14	
1015-1017 17:5	223 6:19	31:13,21 43:15	
11 6:16 17:1 32:5	23 3:10	71:18 97:12	
44:6 72:14	24 3:12 64:19 65:3	53 44:15	
11th 25:10,17	26 3:12 14:12	53-713 3:18 44:5	
26:20	264 84:18	55-foot 53:10	
11:02 72:9	2846 17:6	55-footer 53:19	
11:12 72:10			
11:37 98:9	3	6	
114 17:6	3 89:6	6 3:6	
12 1:10 2:22 48:5	30 48:5	6B 3:14 41:12,15	
64:12	30-foot 53:17,21	6C 3:19 50:13,13	
12-foot 64:8 65:6,7	3014 7:2,14	50:16	
67:14	31 3:13	67 3:24	
1257 7:3	3103.2 32:6 44:6		
16 3:8,9	72:15	7	
18 32:13	3104.1 6:16 17:2	71 3:25	
18409 3:4 5:10,20	44:6	713 44:15	
18495 4:13,22	32 3:14	72 4:13	
72:13	320.3 72:18	75 4:14	
18512 3:6,8 5:16	3251 72:20	770.6(b) 44:8	
6:14	333 17:4	776 44:11	
18513 3:9,13 16:22	38 3:15		
18514 3:4 5:8		8	
18515 3:14,17 32:4	4	8 80:19	
18516 3:19,25 44:4	4 48:13	841 7:3	
1978 39:2	4D 4:13,18 74:16	843 32:13	
	74:17,18 90:2,3	88 4:17	
2	4th 1:13		
2E 3:6 14:3,6	401.11 32:7	9	
200 3:14 32:4,12,19	403 6:20 10:7 15:16	9 3:7	
200-foot 21:21	405 6:21 10:7 15:16	90 4:19	

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This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 03-12-13

Place: Washington, DC

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