

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY,  
FEBRUARY 26, 2013

+ + + + +

The Regular Public Hearing  
convened in the Jerrily R. Kress Memorial  
Hearing Room 220 South at 441 4th Street,  
N.W., Washington, D.C. 20001, pursuant to  
notice at 9:30 a.m., Lloyd J. Jordan,  
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD J. JORDAN	Chairperson
NICOLE SORG	Vice Chairperson
S. KATHRYN ALLEN	Board Member
JEFFREY HINKLE	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

PETER MAY, Commissioner  
OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
JOHN NYARKU	Zoning Specialist
STEPHEN RICE	Zoning Specialist
PAUL YOUNG	Zon. Data Specialist

STEVE VARGA                      Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN GYOR

STEPHEN MORDFIN

KAREN THOMAS

ARTHUR JACKSON

D.C. DEPT. OF TRANSPORTATION MEMBERS PRESENT:

ANNA CHAMBERLIN

This transcript constitutes the  
minutes from the Regular Public Hearing held  
on February 26, 2013.

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

1:08 a.m.

CHAIRPERSON JORDAN: Will the  
hearing please come to order?

Good afternoon, ladies and  
gentlemen. We are located in the Jerrily R.  
Kress Memorial Hearing Room here at 441 4th  
Street, N.W.

Today's date is February 26, 2013.  
We are here for the Public Hearing of the  
Board of Zoning Adjustment. My name is Lloyd  
Jordan, Chairperson. To my left is Nicole  
Sorg, Vice Chair. To her left is Peter May,  
Member of the Zoning Commission. To my right  
is S. Kathryn Allen, Member of the Board. And  
to her right is Jeffrey Hinkle, Member of the  
Board.

Please be advised that this  
proceeding is being recorded by a court  
reporter and also being webcast live, so,  
therefore, I'm going to ask you to refrain  
from any disruptive noises here in the hearing

1 room.

2 The Board's procedures and  
3 processes are contained in the document by the  
4 door to my left, so if you are not familiar  
5 with the Board's process, please, feel free to  
6 get that.

7 We are going to begin this  
8 afternoon's agenda. All those who are here to  
9 testify or to give a statement in a case that  
10 is on today's docket, would you, please, stand  
11 and take the oath or affirmation, which will  
12 be given to you by the Board's secretary.

13 Thereafter, I'm going to ask that  
14 each one of you who is going to provide us a  
15 statement to complete a witness card, two  
16 witness cards each, and give them to the court  
17 reporter prior to you presenting your  
18 testimony. Mr. Moy?

19 MR. MOY: Good afternoon.

20 (Whereupon, witnesses were sworn.)

21 MR. MOY: Ladies and gentlemen,  
22 you may consider yourself under oath.

1 CHAIRPERSON JORDAN: Ready

2 whenever you are, Mr. Moy.

3 MR. MOY: Yes, sir. Good  
4 afternoon, Mr. Chairman, Members of the Board.  
5 The first application for Public Hearing is  
6 Application No. 18504. This is the  
7 application of Marvin Lytle, Jr., pursuant to  
8 11 DCMR 3103.2, for a variance from the  
9 minimum lot area requirements under subsection  
10 401.3, to allow the construction of a new one-  
11 family semi-detached dwelling in the R-2  
12 District at premises 1030 Taussig, T-A-U-S-S-  
13 I-G, Place, N.E., property located in Square  
14 3890, Lot 35.

15 CHAIRPERSON JORDAN: Okay. Would  
16 you, please, introduce yourselves for us,  
17 please?

18 MR. SULLIVAN: Yes, thank you.  
19 Good afternoon, Mr. Chairman and Members of  
20 the Board. My name is Marty Sullivan with the  
21 Law Firm of Sullivan and Barros.

22 MR. TOPJIAN: Good afternoon,



1 Chair and Members of the Board. My name is  
2 Sevan Topjian, Brooklyn Homes, LLC. I'm the  
3 contract purchaser.

4 CHAIRPERSON JORDAN: Your name  
5 again?

6 MR. TOPJIAN: Sevan Topjian.

7 CHAIRPERSON JORDAN: All right.  
8 We can do an assessment. Let me ask, Mr.  
9 Sullivan, has this been presented to the ANC?  
10 Because we have no ANC --

11 MR. SULLIVAN: Right. We first  
12 contacted the ANC in November. We --  
13 actually, Mr. Topjian contacted them about 10  
14 days before we filed the application. And he  
15 actually met with the Single Member District  
16 rep or the oncoming Single Member District rep  
17 in early December.

18 Since that time, both myself and  
19 Mr. Topjian have requested to get on an agenda  
20 and for whatever reason, they have not put us  
21 on an agenda. We did go to an SMD meeting  
22 last week and we presented the application

1       there. And we didn't have any objections and  
2       three of the five commissioners were at that  
3       SMD meeting.

4                   CHAIRPERSON JORDAN: So there has  
5       not been a formal ANC --

6                   MR. SULLIVAN: There is -- no.

7                   CHAIRPERSON JORDAN: But you at  
8       least attempted to --

9                   MR. SULLIVAN: There hasn't been a  
10      vote.

11                  CHAIRPERSON JORDAN: -- do so?

12                  MR. SULLIVAN: We did, yes.

13                  CHAIRPERSON JORDAN: All right.

14      Let me defer to the Board. Does the Board  
15      have any particular issues with this  
16      application? I think the question that they  
17      need to have addressed -- yes, go ahead Mr.  
18      May.

19                  COMMISSIONER MAY: You just had  
20      questions about the case?

21                  MR. SULLIVAN: Yes, I prefer if  
22      there is something in particular that you want

1 addressed --

2 COMMISSIONER MAY: Yes.

3 MR. SULLIVAN: -- by the applicant  
4 in the presentation instead of having a full  
5 presentation, if you think it's necessary for  
6 a full presentation, then we will do that.

7 COMMISSIONER MAY: Got it. Okay.  
8 So I don't have anything in my file or in the  
9 file that I received that really indicates  
10 much about the site plan or the neighborhood  
11 site plan. And I'm curious about how this  
12 building relates to the rest of the context.

13 And particularly, I'm also  
14 interested in you having to address the issue  
15 of side yards, because it looks like you are  
16 building a face-on-line building and the way  
17 I read 405.3, you have to have a side yard on  
18 all sides, on both sides, or relief from  
19 405.3.

20 CHAIRPERSON JORDAN: And before  
21 you respond, does the Board have any other  
22 things that you want to address? Go ahead,

1 Mr. Sullivan.

2 MR. SULLIVAN: Thank you. I think  
3 the -- and maybe it just didn't come out in  
4 the copy as well, we put a plat showing Upshur  
5 Street and Taussig Place and you can barely --

6 COMMISSIONER MAY: Do you have an  
7 exhibit number?

8 MR. SULLIVAN: -- the outline.

9 COMMISSIONER MAY: Do you have an  
10 exhibit number?

11 MR. SULLIVAN: Not -- I don't have  
12 your exhibit number.

13 CHAIRPERSON JORDAN: Exhibit 10?

14 MR. SULLIVAN: It is --

15 COMMISSIONER MAY: Is it 10? This  
16 thing?

17 MR. SULLIVAN: No, that's the 1910  
18 plat.

19 COMMISSIONER MAY: No, but I mean  
20 is it part of this package?

21 MR. SULLIVAN: It is part of that  
22 same package, yes.

1 COMMISSIONER MAY: Okay. So --

2 MR. SULLIVAN: And it is basically  
3 just showing the square. And you can barely  
4 see the outlines of the houses. What is on --

5 CHAIRPERSON JORDAN: Wait. Before  
6 you go, we need to locate it or can you direct  
7 us there?

8 MR. SULLIVAN: Okay.

9 COMMISSIONER MAY: Are you talking  
10 about this?

11 CHAIRPERSON JORDAN: Are you  
12 talking about the overall plan with  
13 elevations?

14 VICE CHAIR SORG: Is it your  
15 Exhibit B-3? No?

16 COMMISSIONER MAY: Okay. So that  
17 shows the lots. It doesn't show any of the  
18 buildings.

19 MR. SULLIVAN: It just didn't come  
20 through well in the copy. If you look  
21 closely, you can see the lines of the  
22 buildings. There is three sets of semi-

1 detached homes on that side of the street.

2 COMMISSIONER MAY: Okay. Yes.

3 The Xerox copies that we have do not show that  
4 at all.

5 MR. SULLIVAN: Okay.

6 COMMISSIONER MAY: It did show in  
7 the original.

8 MR. SULLIVAN: It's all -- there  
9 is three identical sets of two of semi-  
10 detached houses on the lots to the west of the  
11 subject property. And then across the alley,  
12 the same thing. There is one, two, three,  
13 four, five sets of identical semi-detached  
14 houses.

15 COMMISSIONER MAY: Okay. All  
16 right. So that helps to see that, because I  
17 was seeing in some of the aerial views that  
18 there were other semi-detached homes.

19 And what you are proposing here  
20 is, essentially, a face-on-line building,  
21 which, again, as I read 405.3, requires  
22 relief.

1 MR. SULLIVAN: Regarding that,  
 2 this issue has been addressed by the Board.  
 3 It was addressed definitively in a case. I  
 4 don't have the number in front of me. It was  
 5 Southeast Citizens for Smart Development. It  
 6 was the second Boys Town case, if you remember  
 7 that.

8 COMMISSIONER MAY: Yes, I was on  
 9 that case.

10 MR. SULLIVAN: Okay.

11 COMMISSIONER MAY: And I don't  
 12 think it was decided any differently from the  
 13 prior case, which was Pritchard.

14 MR. SULLIVAN: No, it overturned  
 15 Pritchard.

16 COMMISSIONER MAY: No, I don't --  
 17 I'm not so sure about that.

18 MR. SULLIVAN: It's in the Office  
 19 of Planning report as well.

20 And the general rationale was that  
 21 the definition of a semi-detached dwelling is  
 22 a building that is on a lot line with one side

1 yard.

2 And in Southeast Citizens for  
3 Smart Development, what the Board decided is  
4 that provision, which was more specific,  
5 outweighed 405.3, in a sense taking the two of  
6 them together.

7 COMMISSIONER MAY: All right. My  
8 memories of that case are starting to come  
9 back. I think I was on that case and I lost.  
10 I was voted against.

11 MR. SULLIVAN: I did, too,  
12 actually.

13 COMMISSIONER MAY: I don't win or  
14 lose. I just voted against the --

15 MR. SULLIVAN: But I --

16 COMMISSIONER MAY: -- rest of the  
17 Board.

18 MR. SULLIVAN: That case was  
19 split.

20 COMMISSIONER MAY: Right.

21 MR. SULLIVAN: And I actually won  
22 that argument. And to the extent it affected



1 Pritchard, Pritchard was overruled. And there  
2 has been another case recently --

3 COMMISSIONER MAY: Yes.

4 MR. SULLIVAN: -- on this.

5 COMMISSIONER MAY: Well, I have to  
6 say I still don't agree with that  
7 interpretation. 405.3 is very, very specific  
8 in saying that when there is a free-standing  
9 wall that there should be a side yard. And I  
10 guess I'll ask the Office of Planning to opine  
11 on that and we need to get OAG as well. Well,  
12 I didn't agree with it then and I still don't  
13 agree with it.

14 MR. SULLIVAN: My recollection is  
15 that you did, but --

16 COMMISSIONER MAY: Yes, no, I  
17 think I actually advocated for a different  
18 solution. Maybe in the end I voted in -- with  
19 the rest of the Board, but I was advocating a  
20 different solution --

21 MR. SULLIVAN: Okay.

22 COMMISSIONER MAY: -- to the issue

1       there.

2                   MR. SULLIVAN:   But to view it any  
3       other way would mean you always have to build  
4       two houses and it would sort of negate the  
5       definition of a semi-detached dwelling and  
6       would negate the fact that it is permitted as  
7       a matter-of-right by itself.

8                   COMMISSIONER MAY:   I'm not sure of  
9       that.   I mean, yes, it's theoretically semi-  
10      detached dwellings have to be built in unison,  
11      but I think that was the intention of the  
12      Zoning Code.   I mean, whether it is an  
13      inconvenience at the moment from my  
14      perspective doesn't really make that much  
15      difference.

16                   It was -- it seemed to be very  
17      clear that the intention of the code is to  
18      allow two houses to be built together as semi-  
19      detached.   It was not the intention of the  
20      Zoning -- of the Code to allow semi-detached  
21      houses to be constructed essentially face-on-  
22      line with just single side yards.

1           The idea between having semi-  
2 detached is to give you that roomier feeling  
3 and when you get the side yards butting up  
4 against each other, you wind up with 16 feet  
5 at a minimum between homes.

6           And instead what you have here is  
7 -- I mean, in this circumstance it's  
8 unavoidable, but I just think that it requires  
9 relief to get there.

10           MR. SULLIVAN: It's -- the Board  
11 was very clear in Southeast Citizens.

12           COMMISSIONER MAY: Yes.

13           MR. SULLIVAN: I know that  
14 decision has been affirmed several times by  
15 the Board. I know the Zoning Administrator  
16 has written that in zoning determination  
17 letters. He has relied on that. I know the  
18 Office of Planning has commented on this.

19           So we believe we would be  
20 qualified for such relief and totally leave  
21 that up to the Board, of course. But it was--  
22 I thought it was very clear that that wasn't

1 the way to go and that's -- that is why the  
2 application is the way it is.

3 CHAIRPERSON JORDAN: As we move  
4 forward, let's decide what relief we are going  
5 to -- do you want the Board to consider that  
6 relief or not? It's on you and we have kind  
7 of battered this thing around for a bit.

8 VICE CHAIR SORG: Mr. Chair?

9 CHAIRPERSON JORDAN: Well, okay,  
10 let's start the -- let me defer to Office of  
11 Planning for -- and get his opinion.

12 MR. JACKSON: Good afternoon.  
13 Arthur Jackson with the D.C. Office of  
14 Planning. You have the Office of Planning's  
15 report before you. And we have one aerial map  
16 that shows all the blocks or properties in the  
17 square, if that be of any use.

18 But what we observed in the report  
19 is that the property -- we think the property  
20 does meet the standards for variance approval.  
21 We note that there is no undeveloped lot next  
22 to this property, that there are two other, at

1       least, undeveloped lots in this -- in the  
2       surrounding properties, but they are in  
3       similar circumstance, in that they don't have  
4       a vacant lot next to it.

5               So this property is undevelopable  
6       without the relief that is being requested.  
7       We noted the finding of the Board and the  
8       referenced Application No. 16935 of the --  
9       that was considered by the Board in 2003.  
10      However, if the Board's determination is that  
11      they would like to address the relief of the  
12      site from the side yard requirement -- from  
13      the provision requiring a side yard on all  
14      sides, we would support that in this case,  
15      because there really is no other option.

16             If -- because of the relief they  
17      are requesting due to the size of the lot,  
18      it's a minimum -- it's the minimum requirement  
19      for developing the site. If we do not -- if  
20      that relief is not approved and -- then they  
21      would then need relief from the lot size  
22      requirement for a semi -- for a detached

1 dwelling.

2 Right now, the lot is adequate  
3 size for a semi-detached dwelling, but I  
4 believe it is too small for a detached  
5 dwelling. So based on that, we thought this  
6 would be the appropriate relief for the site.  
7 And in that vein, it has to be semi-detached.

8 So we would support the -- if the  
9 applicant wanted to go for the -- to change  
10 the request, we would review this, but we  
11 think the relief that is being requested from  
12 -- is what is required. However, if the Board  
13 determines that the side yard relief is also  
14 required, we would support it in this case.

15 CHAIRPERSON JORDAN: Okay. All  
16 right. Does anybody have any questions for or  
17 does the Board have any questions for Office  
18 of Planning? Mr. May?

19 COMMISSIONER MAY: No, actually, I  
20 don't really have any questions. I don't  
21 disagree that there is a -- that the house --  
22 you couldn't reasonable build a single-family

1 detached home on this property without it  
2 looking completely out of character with the  
3 neighborhood.

4 So undoubtedly there is a strong  
5 case for relief from the Zoning Regulations.  
6 The only question for me is whether there  
7 needs to be relief from the side yard  
8 requirement, which, you know --

9 CHAIRPERSON JORDAN: All right.  
10 Let me --

11 COMMISSIONER MAY: Well, I guess--

12 CHAIRPERSON JORDAN: I'll defer to  
13 OAG on this for just a minute.

14 COMMISSIONER MAY: Yes.

15 CHAIRPERSON JORDAN: I see head  
16 shaking and let's -- just so we can move on.

17 MS. GLAZER: I'm just going to  
18 chime in here. OAG has taken the position  
19 that Southeast Citizens for Smart Development  
20 did overrule Pritchard. And I agree with Mr.  
21 Sullivan on that point.

22 And following that case, there

1       have been several other cases that have  
2       followed suit. And I don't have the names  
3       with me, but we could provide them, so I guess  
4       I concur with the applicant's position.

5               CHAIRPERSON JORDAN: And that  
6       relief from 405 is unnecessary. Is that my  
7       understanding of what you are saying?

8               MS. GLAZER: Yes.

9               CHAIRPERSON JORDAN: All right.  
10       Any other questions for Office of Planning?  
11       And let me just defer back to the applicant to  
12       see if the Board has any other questions of  
13       the applicant.

14               Okay. Now, let me ask the  
15       applicant, does the applicant have questions  
16       of Office of Planning?

17               MR. SULLIVAN: No questions, Mr.  
18       Chairman. Thanks.

19               CHAIRPERSON JORDAN: Do we have  
20       anyone here from the Department of  
21       Transportation? Do we have a transportation  
22       report here? Yes, we have a Department of



1       Transportation report that has no objections  
2       to the plan.

3                   Is there any other agency here?  
4       If not -- anyone here from ANC-5B?  Anyone  
5       from ANC-5B?  We don't have a letter in the  
6       file, but it has been represented to the Board  
7       by the applicant that attempts were made to  
8       have presentation before the ANC in a more  
9       formal way.

10                  However, there has been other  
11       community meetings in which members of the ANC  
12       were in attendance, but we don't have a letter  
13       in our file regarding this.

14                  Is there anyone in the audience  
15       here who wishes to testify in support of this  
16       application?  Is there anyone in the audience  
17       -- yes, please, come forward.

18                  Yes, if you could give it to the  
19       court reporter?  And, please, take a seat and  
20       be sure that the microphone is turned on.  You  
21       should have a bright glowing green light.  So  
22       push the button.  No, it should be really

1 bright.

2 MS. JELKS: Okay.

3 CHAIRPERSON JORDAN: There you go.

4 MS. JELKS: Yes, it's on.

5 CHAIRPERSON JORDAN: And could you  
6 give us your name, please?

7 MS. JELKS: Okay. My name is  
8 Clarencetta Jelks, J-E-L-K-S, and I live at  
9 1016 Upshur Street, N.E., Washington, D.C.  
10 20017.

11 I did receive a letter in December  
12 of 2012 in relation to this and --

13 CHAIRPERSON JORDAN: Excuse me.  
14 Are you testifying in support of the  
15 application?

16 MS. JELKS: Yes, uh-huh.

17 CHAIRPERSON JORDAN: Okay. Yes,  
18 go ahead.

19 MS. JELKS: That's right. And I  
20 am in support of the application, simply  
21 because I think that -- I wasn't in full  
22 understanding of what it was saying, but I am

1       now. But I was still in support for two  
2       reasons.

3                       Number one, that it was going to  
4       eliminate an eyesore, which was the vacant  
5       lot. And number two is that I felt that it  
6       would enhance the neighborhood and I do know  
7       the applicant just in passing, Mr. Lytle.

8                       So I am in support of what he  
9       wants to do to develop that particular vacant  
10      lot.

11                      I do have a concern. May I voice  
12      that?

13                      CHAIRPERSON JORDAN: Sure. Yes,  
14      please.

15                      MS. JELKS: Just a very minor one.  
16      And that is an environmental concern, because  
17      I find that when they are doing things in the  
18      neighborhood, sometimes on Sundays, people are  
19      working and it's a very quiet family-  
20      neighborhood and I wondered if there is some  
21      kind of requirement about working, doing  
22      construction on Sundays and starting before

1 8:00 in the morning?

2 CHAIRPERSON JORDAN: That's just  
3 not in our purview on the construction side.

4 MS. JELKS: Okay. Okay.

5 CHAIRPERSON JORDAN: But I'm sure  
6 that the applicant will work with you, with  
7 the neighborhood to assure that there is no  
8 encroachment on people's time and as required  
9 by law within when construction can be able to  
10 start.

11 MS. JELKS: Okay.

12 CHAIRPERSON JORDAN: But we really  
13 appreciate you taking time --

14 MS. JELKS: Okay. Thank you.

15 CHAIRPERSON JORDAN: -- to come.

16 MS. JELKS: I am in support of  
17 what he is trying to do in the neighborhood.  
18 Thank you.

19 CHAIRPERSON JORDAN: Really  
20 appreciate you taking the time and coming down  
21 to talk to us.

22 Does the Board have any questions

1 of this witness? Does the applicant have any  
2 questions of the witness?

3 MR. SULLIVAN: No, we don't.

4 CHAIRPERSON JORDAN: Thank you  
5 very much.

6 MS. JELKS: Okay.

7 CHAIRPERSON JORDAN: Is there  
8 anyone else here wishing to speak in support  
9 of this application? Is there anyone here to  
10 speak in opposition to this application?  
11 Anyone in opposition?

12 Then let's turn back to the  
13 applicant to close this up, please.

14 MR. SULLIVAN: Thank you, Mr.  
15 Chairman. I don't have anything else to add,  
16 unless there are any more questions about the  
17 issue of 405.3.

18 CHAIRPERSON JORDAN: Okay. Let me  
19 ask, does the Board have any questions of the  
20 applicant? I think not. Then we will  
21 conclude this hearing based upon the record  
22 already produced by the Board and move to

1 deliberations.

2 Based upon the record contained in  
3 this matter, I would move that we grant the  
4 relief requested by the applicant.

5 VICE CHAIR SORG: Second.

6 CHAIRPERSON JORDAN: All right.

7 The motion made and seconded. Any  
8 unreadiness?

9 COMMISSIONER MAY: Yeah.

10 CHAIRPERSON JORDAN: Yes?

11 COMMISSIONER MAY: I just want to  
12 state something about 405.3, which is that,  
13 you know, it had been a while since both of  
14 those cases had occurred that I participated  
15 in and I had heard there were subsequent  
16 cases, so it's of some comfort to know that  
17 there has been consistent action on this, even  
18 if I disagreed with that, which is that I  
19 don't think that the intention of the Zoning  
20 Code was ever to allow face-on-line buildings  
21 in this matter with that size of side yard.

22 Nonetheless, you know, I won't

1       insist on their being explicit relief here,  
2       but I do expect to take up the matter further,  
3       because I think there is a very clear  
4       contradiction in the Zoning Regulations  
5       between 405.3 and the definition of the semi-  
6       detached dwelling. And it should not be clear  
7       when the Zoning Regulations -- it should not  
8       be unclear when the Zoning Regulations are  
9       rewritten.

10               So then, of course, we can get  
11       into the issue of what the -- you know, how  
12       big the side yard should be when you have a  
13       face-on-line building. And I don't think it  
14       was the intention of the Zoning Code that it  
15       should only be 8 feet.

16               In this case, you have 12 feet.  
17       In this case, I don't think it's an issue. I  
18       think there would have been relief granted no  
19       matter what.

20               CHAIRPERSON JORDAN: Either way.

21               COMMISSIONER MAY: Because it made  
22       sense. But so another reason not to be

1       troubled by this, but it is a reason to have  
2       clarity in the Zoning Reg Rewrite.

3               CHAIRPERSON JORDAN: Yes, and put  
4       a checkmark by it so that we can -- so it can  
5       be revisited.

6               COMMISSIONER MAY: Yes.

7               CHAIRPERSON JORDAN: Okay.

8               COMMISSIONER MAY: Thanks.

9               CHAIRPERSON JORDAN: All right.  
10      Any other unreadiness?

11              All those in favor of the motion  
12      signify by saying aye.

13              ALL: Aye.

14              CHAIRPERSON JORDAN: All those  
15      opposed nay. The motion carries. Mr. Moy?

16              MR. MOY: Staff would record the  
17      vote as 5-0. This is on the motion of  
18      Chairman Jordan to approve the application for  
19      the request from the variance for the lot area  
20      requirement. Seconding the motion was Vice  
21      Chair Sorg. Also in support, Mr. Peter May,  
22      Mr. Hinkle and Ms. Allen. So again, the



1 motion carries.

2 CHAIRPERSON JORDAN: Thank you.

3 And I believe we are safe for a summary order.

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

5 MR. SULLIVAN: Thank you.

6 MR. MOY: The next application,  
7 Mr. Chairman, is application no. -- is a case  
8 that was carried over or postponed from the  
9 February 5th Public Hearing. And this is  
10 Application No. 18503. This is the  
11 application of Keystar Spring Place, LLC,  
12 pursuant to 11 DCMR 3103.2, for a variance  
13 from the off-street parking requirements under  
14 subsection 2101.1, and a variance from the  
15 loading berth and loading platform  
16 requirements under subsection 2201.1, to  
17 construct a 64-unit apartment building in the  
18 C-2-A District at premises 7000 Block of  
19 Spring Place, N.W., property located in Square  
20 3186, Lots 1 and 804.

21 Just a reminder to the Board that  
22 the next application is also an application of

1       Keystar Spring Place, but it is Application  
2       No. 18505, which is property at 1795 Bull  
3       Place, N.W., and 7051 through 7053 Spring  
4       Place, N.W.

5                   CHAIRPERSON JORDAN:   Okay.   Yes,  
6       there are a couple of preliminary matters we  
7       need to address before we proceed.

8                   I understand, Mr. Keys, you are  
9       making a request that we consolidate 18503 and  
10      18505.   Is that correct?

11                  MR. KEYS:   Yes, Mr. Chairman.   The  
12      cases really depend on a common set of facts  
13      and both DDOT and OP approached this as a  
14      single case in their reports.

15                  CHAIRPERSON JORDAN:   Now, are  
16      there different owners of the parcels?

17                  MR. KEYS:   No, the same underlying  
18      ownership.

19                  CHAIRPERSON JORDAN:   The same  
20      ownership.   And they are titled kind of  
21      Keystar Spring Place, LLC and then the other  
22      is Keystar Place, LLC.   Is that a typo

1        somewhere or is that different owners? What  
2        is that in our caption? Am I correct, Mr.  
3        Moy, that we have -- it's captioned -- two  
4        different names in the caption?

5                MR. MOY: Well, according to my  
6        documentation, it's the same name/title. I'll  
7        refer to that, but the addresses are  
8        different, of course.

9                CHAIRPERSON JORDAN: But there is  
10       -- one has the word "Spring" and the other  
11       does not, so I guess that's some type of typo  
12       or something. So we can move past that. I  
13       understand the same ownership group?

14               MR. KEYS: It's --

15               CHAIRPERSON JORDAN: And the  
16       owner? Who is the owner?

17               MR. KEYS: -- the --

18               CHAIRPERSON JORDAN: Who is the  
19       owner?

20               MR. KEYS: It's Keystar.

21               CHAIRPERSON JORDAN: Keystar?

22               MR. KEYS: Keystar Spring Place,

1       LLC.

2                   CHAIRPERSON JORDAN:   Keystar  
3       Spring Place.   Okay.   And also we have --

4                   MR. KEYS:   Mr. Chairman, just to  
5       clarify.   The ownership of the property is  
6       Keystar with respect to the land in Square  
7       3186, 18503.

8                   In 18505, the current ownership is  
9       Keystar Spring Place, LLC and Annabell  
10      Pestana.   The intent will be that Keystar will  
11      be the owner of the entire parcel.

12                  CHAIRPERSON JORDAN:   Okay.   Who  
13      owns 18503 now?

14                  MR. KEYS:   Keystar Spring Place,  
15      LLC.

16                  CHAIRPERSON JORDAN:   And 18505 is  
17      Keystar?

18                  MR. KEYS:   And Keystar Spring  
19      Place, LLC and Annabell Pestana.

20                  CHAIRPERSON JORDAN:   Okay.   And  
21      ultimately the ultimate owner is going to be  
22      Keystar --

1                   MR. KEYS: Will be solely owned by  
2                   Keystar Spring Place, LLC.

3                   CHAIRPERSON JORDAN: Does the  
4                   Board have any objection about consolidating  
5                   these cases? Seeing none, then we will  
6                   consolidate the cases and move accordingly.

7                   MR. KEYS: Mr. Chairman, I would  
8                   advise you now that we have two witnesses who  
9                   are not present, at this time.

10                  CHAIRPERSON JORDAN: Let me finish  
11                  handling the preliminary matters, if I may.

12                  We also have a party status  
13                  request for Mr. Warren Martin. Is Mr. Martin  
14                  here? Mr. Martin, would you, please, come  
15                  forward? Mr. Martin, you have submitted a  
16                  request for party status. Do you understand  
17                  what party status is in context?

18                  It means that you would have the  
19                  right as a party to participate in this action  
20                  by putting on witnesses, by doing a  
21                  presentation, presenting evidence to the Board  
22                  in support of your position, if you are

1 granted party status.

2 You also don't need party status  
3 to voice your opposition. You can do that as  
4 a person. We have a time on our -- in our  
5 proceedings where a person who is just in  
6 opposition has the opportunity to come forward  
7 and just make a statement.

8 So which do you prefer? Please,  
9 make sure your microphone is turned on,  
10 please. Yes.

11 MR. MARTIN: This is my  
12 livelihood, so I just -- I don't know which  
13 one I should take. I just want to --

14 CHAIRPERSON JORDAN: Do you have  
15 any witnesses you want to present? Do you  
16 want to cross-examine?

17 MR. MARTIN: A coworker right  
18 here.

19 CHAIRPERSON JORDAN: Does the  
20 coworker want to make a statement or --

21 MR. MARTIN: He can -- you know,  
22 he has a business as well.

1 CHAIRPERSON JORDAN: Well, he can  
2 make a statement.

3 MR. MARTIN: Okay.

4 CHAIRPERSON JORDAN: So I'm  
5 assuming you will be comfortable with being  
6 able to give your testimony just in  
7 opposition?

8 MR. MARTIN: That is correct.

9 CHAIRPERSON JORDAN: Okay. Then  
10 thanks. Then we will call you back up at that  
11 point.

12 Mr. Keys, would you identify the  
13 people at the table, please?

14 MR. KEYS: Yes, Mr. Chairman.  
15 Immediately to my left is Don Tucker, the  
16 project architect. We have identified Mr.  
17 Tucker as a witness and we would certainly  
18 like the Board to consider his rřsumř that was  
19 attached to the supplemental materials and to  
20 admit Mr. Tucker as an expert in this case.

21 Next to Mr. Tucker is Bruce Levin,  
22 who is a managing member of Keystar Spring

1 Place, LLC, and speaks for the ownership of  
2 the properties.

3 And next, also Mr. O.R. George,  
4 who prepared the transportation report for  
5 this project.

6 CHAIRPERSON JORDAN: All right.  
7 Thank you.

8 MR. KEYS: And his rŠsumŠ is also  
9 attached to the supplemental materials and we  
10 would ask the Board to consider Mr. George as  
11 an expert in transportation planning.

12 CHAIRPERSON JORDAN: Now, the  
13 Board has previously accepted Mr. George as an  
14 expert. I'm going to defer to the -- so we  
15 will accept him.

16 Regarding --

17 MR. KEYS: Mr. Tucker has been  
18 before this Board on several occasions and  
19 recognized as an expert in architecture.

20 CHAIRPERSON JORDAN: By this  
21 Board?

22 MR. KEYS: Yes.



1 CHAIRPERSON JORDAN: I don't --

2 Mr. Moy, do we have him as an expert?

3 MR. MOY: The applicant may be  
4 correct, but presently in our book we do not  
5 have them in there, but that's not to say that  
6 he has not been before the Board before.

7 CHAIRPERSON JORDAN: Does the  
8 Board have an issue with Mr. Tucker being  
9 declared an expert?

10 COMMISSIONER MAY: Mr. Chairman, I  
11 want to make a comment.

12 CHAIRPERSON JORDAN: Yes, sure,  
13 please.

14 COMMISSIONER MAY: I would just  
15 say in the Zoning Commission when we consider  
16 expert witnesses, we usually look for a rŠsumŠ  
17 that cites specific examples of relevant  
18 projects. I'm sure that since Mr. Tucker has  
19 been here before and they have testified that  
20 he has been admitted before as an expert,  
21 there is no reason not to give him that expert  
22 status.

1                   CHAIRPERSON JORDAN: But let's  
2                   have that answered.

3                   COMMISSIONER MAY: It would be  
4                   good to have something.

5                   CHAIRPERSON JORDAN: Mr. Tucker,  
6                   could you provide us --

7                   MR. TUCKER: A most recent  
8                   examples, actually, the closest one to the  
9                   site would be Takoma Village Cohousing, which  
10                  is on 4th Street, N.W., next to the Takoma  
11                  Theater. And also a more recent example would  
12                  be the 3Tree Flats Project on Georgia Avenue  
13                  where EDG Architects was the architect of  
14                  record and collaborated on that project with  
15                  Frank Schlesinger.

16                  A couple -- we have been doing  
17                  this for 40 years now, so there are quite a  
18                  few others. If you would like, we have two  
19                  properties that we worked with Mr. Keys on in  
20                  Southeast Washington, Royal Courts and  
21                  Savannah Heights, both affordable housing,  
22                  multi-family projects, new construction.

1                   CHAIRPERSON JORDAN: And you are  
2 being designated as an expert on what basis?  
3 For what? What's the area of expertise?

4                   MR. TUCKER: I'm an architect as  
5 well as a real estate developer. I'm a  
6 registered architect, member of the AIA and  
7 have -- my practice is celebrating its 40th  
8 anniversary this year. Our focus has been  
9 multi-family housing. EDG stands for  
10 Environmental Design Group and we have been  
11 that since 1974 doing sustainable design for  
12 the -- all that time.

13                  CHAIRPERSON JORDAN: And it's my  
14 understanding that you have testified before  
15 us and been qualified as an expert before  
16 before this Board?

17                  MR. TUCKER: That's correct.

18                  CHAIRPERSON JORDAN: All right.  
19 Does the Board have any --

20                  COMMISSIONER MAY: I don't have  
21 any problems. I'm familiar with the firm and  
22 I've seen the firm's work before on the Zoning

1 Commission.

2 CHAIRPERSON JORDAN: All right.

3 COMMISSIONER MAY: So the -- it's  
4 just a matter of what is in the record. And  
5 as I said, we -- the standard that we look for  
6 in the Zoning Commission is a rŠsumŠ that says  
7 something more specific about relevant work  
8 experience.

9 MR. TUCKER: Absolutely.

10 COMMISSIONER MAY: So we now have  
11 that, I think, in testimony.

12 CHAIRPERSON JORDAN: Okay. Then  
13 the Board would accept Mr. Tucker as an  
14 expert. And, Mr. Moy, make sure that the book  
15 represents accordingly, please.

16 MR. MOY: Yes, sir, I'll take care  
17 of that.

18 CHAIRPERSON JORDAN: Thank you.  
19 Do we have -- has the file been supplemented  
20 with a Letter of Authorization from Mr. Keys  
21 on this? That's just a formality. It may not  
22 be in the file. Mr. Keys, would you just

1       verify even after this hearing if we have it?

2                   MR. KEYS:   Mr. Chairman, I got a  
3       message from OZ staff that it was not in the  
4       file.   And I do have a copy of that letter to  
5       add to the file.

6                   CHAIRPERSON JORDAN:   Additionally,  
7       I think we have subsequently got the ANC  
8       letter that was done in support, I believe, in  
9       our exhibits.   Okay.

10                   Does the Board have any questions  
11       that we need to hear the applicant respond to  
12       or any deficiencies they believe that are in  
13       this application?

14                   Well, I'll just ask some specific  
15       questions, Mr. Keys.   I believe that based  
16       upon the nature of the property, it's  
17       uniqueness is shown by your -- by the evidence  
18       which has already been presented.   I just want  
19       to make sure the Board doesn't have any other  
20       issues they would like to have addressed by  
21       you.   Anyone?   Okay.

22                   COMMISSIONER MAY:   I mean, you

1 know, I'm very interested in the applicant  
2 addressing the various conditions that have  
3 been voiced by the Office of Planning and by  
4 DDOT. I mean, that's what I'm --

5 CHAIRPERSON JORDAN: Yes, let's  
6 talk. Let's go through the conditions. Thank  
7 you. Thank you for that reminder, yes.

8 There has been some conditions  
9 which have been presented to the Board that  
10 has been agreed upon. Would you discuss?

11 MR. KEYS: Yes. Mr. Chairman,  
12 before we turn to that, could I just ensure  
13 that the witnesses who were not sworn are  
14 sworn?

15 CHAIRPERSON JORDAN: Oh, they were  
16 not sworn? Okay. Yes, please. All right.

17 (Whereupon, witnesses were sworn.)

18 MR. MOY: Thank you.

19 CHAIRPERSON JORDAN: I didn't  
20 realize we had a request from DDOT for a  
21 waiver to accept their report out of time. We  
22 will do so.

1 All right. Please, proceed.

2 MR. KEYS: Mr. Chairman, Members  
3 of the Board, when you address conditions,  
4 there are three different sets of conditions.  
5 I think the Office of Planning --

6 CHAIRPERSON JORDAN: Well, let  
7 me --

8 MR. KEYS: -- and DDOT and ANC-4B  
9 and I think the most comprehensive is DDOT.  
10 I think it subsumes all of the others.

11 CHAIRPERSON JORDAN: Yes, go  
12 ahead, Mr. Keys.

13 MR. KEYS: And I would direct your  
14 attention to page 2 of the DDOT report that  
15 has set off in bullets in the middle of the  
16 page certain conditions. And I would ask Mr.  
17 Levin if he would address those and express  
18 the ownerships' ascent or disagreement with  
19 those conditions.

20 CHAIRPERSON JORDAN: All right.

21 MR. LEVIN: Hi. I'm Bruce Levin.  
22 We are -- these conditions we have already

1       agreed to some of these. The first one was  
2       the extending the multi-use trail. We are  
3       planning to complete the trail in front of and  
4       along our property. This one right here.

5               So when we acquired the property  
6       from WMATA we made an agreement to complete  
7       this trail. And we are doing so. We didn't--  
8       however, a new condition was added that we  
9       would extend the trail to Chestnut Street,  
10      which is north of the property, which we had  
11      not agreed to do.

12             COMMISSIONER MAY: I'm sorry, can  
13      you explain on the drawing what you are  
14      talking about or on the overview?

15             MR. KEYS: Yes, I think the -- it  
16      may be easier if you look at the supplementary  
17      materials in the fold-out. There is an  
18      enlargement of that. It is labeled A-1-1.  
19      And that shows with better contrast than what  
20      is being shown on the screen right now what he  
21      is talking about.

22             And what he is referring to is the



1 multi -- the trail that runs in front of the  
2 property along Spring Place and then the  
3 easement that the ownership is granting across  
4 its property for the path to curve along the  
5 southern parcel.

6 COMMISSIONER MAY: Can you hold  
7 that up, because I don't think I have the same  
8 piece of paper that you have?

9 MR. KEYS: It's --

10 COMMISSIONER MAY: Okay. So this  
11 is my version of it, which doesn't look very  
12 good. So maybe you should just show it to us  
13 up there.

14 MR. KEYS: Yes.

15 COMMISSIONER MAY: So everybody  
16 can see it and you need to be on microphones,  
17 so you can't walk over there and talk. Okay.  
18 Good.

19 MR. TUCKER: Along the --

20 CHAIRPERSON JORDAN: Wait just a  
21 second. Can we have the lights, please? Turn  
22 off the lights. And do we have the wireless

1       mike? Are you going to talk or are you going  
2       to talk? Okay. All right.

3               MR. TUCKER: Okay. So along the  
4       Spring Place frontage of our property, we have  
5       agreed to dedicate a 4 foot strip of land to  
6       widen Spring Place, so that it can accommodate  
7       both two lanes of traffic and the 8 foot wide  
8       multi-purpose path that becomes part of the  
9       Metropolitan Branch Trail as it goes in front  
10      of our property.

11              To the eastern side of the  
12      property, the trail pulls away from Spring  
13      Place behind the proposed parking, for what we  
14      call Building 1, and then would continue  
15      beyond our property behind the Cedar Crossing  
16      Building all the way to the Cedar Avenue right  
17      next -- it comes out -- it would come out  
18      right next to the entrance to the Metro.

19              So the part that we have agreed to  
20      is to dedicate the additional 4 feet to the  
21      street to accommodate the 8 foot trail along  
22      our property, as well as the easement to the

1 eastern portion of our site and to build that  
2 trail where it is along our property.

3 What we have not agreed to is to  
4 build the trail beyond our property going to  
5 the east over to Cedar Avenue. We have agreed  
6 to work with DDOT and the city to engineer it  
7 and to try to help implement it, because we  
8 want the trail to happen.

9 COMMISSIONER MAY: So what is the  
10 segment that you did not agree to? Point to  
11 it there. Okay. So it would be?

12 MR. TUCKER: From the end of our  
13 property behind the Cedar Crossing Condominium  
14 Project in WMATA land up against their  
15 embankment and it would go all the way out to  
16 Cedar where it would provide access to direct  
17 pedestrian and bicycle access to the Metro.

18 COMMISSIONER MAY: So that lower  
19 portion there, you did not agree to --

20 MR. TUCKER: That's correct.

21 COMMISSIONER MAY: -- provide  
22 somehow?

1                   CHAIRPERSON JORDAN:   And what's  
2   that lower portion again?

3                   MR. TUCKER:   The lower portion  
4   would be the extension of the multi-purpose  
5   path beyond our site to Cedar Avenue.

6                   CHAIRPERSON JORDAN:   What about  
7   the Blair Road?   Where is Blair Road?

8                   MR. TUCKER:   Okay.   So our site is  
9   -- has access, vehicular access from Blair  
10   Road via Chestnut and then down Spring.  
11   Spring dead ends at the end of our property.  
12   So right now that is the -- and that would  
13   continue to be the only vehicular access to  
14   the site.

15                  CHAIRPERSON JORDAN:   All right.  
16   Is there any other condition that you want to  
17   talk about that you are opposing?

18                  MR. KEYS:   Yes, there are  
19   certainly other conditions that we can  
20   discuss.   And just to clarify the testimony  
21   with respect to the extension of the multi-use  
22   trail south of the site, that the land in that

1 area is owned by the Cedar Crossings  
2 Condominium and WMATA. There is no public  
3 right-of-way. We have no ownership interest  
4 and control over that land.

5 CHAIRPERSON JORDAN: Okay.

6 MR. KEYS: Can we have the lights,  
7 please, so that we can return to the  
8 conditions?

9 CHAIRPERSON JORDAN: The other  
10 conditions that you are objecting to?

11 MR. TUCKER: The only other  
12 condition that we still have some, you know,  
13 problems with have to do with the loading  
14 area.

15 CHAIRPERSON JORDAN: And that is?

16 MR. TUCKER: We have been asked to  
17 redesign the loading area and if we can --

18 CHAIRPERSON JORDAN: I need you to  
19 be specific. I need to know what your  
20 objections are. Is it the fact that you are  
21 being required/asked that it's going to be a  
22 shared loading?

1                   MR. KEYS: I think if I could just  
2 backup for a moment and provide some  
3 clarifying terminology, so that we can be  
4 consistent when we talk about the property.

5                   We are going to refer to Case No.  
6 18503 and the building, which is located on  
7 Square 3186, as Building 1, that's the  
8 triangular-shaped building.

9                   The building that is the subject  
10 of Case 18505 is on Square 3185, that's to the  
11 north of the alleyway and that's Building 2.  
12 And that building is, again, an irregular-  
13 shaped building.

14                  And what we have indicated to the  
15 Board is that each building would be required  
16 to have both a 55 foot loading berth, a  
17 loading platform and a delivery space. But  
18 had these buildings been combined into one  
19 single building, they would only require one  
20 set of each.

21                  And so what we have, essentially,  
22 done is requested that the Board eliminate the

1 requirement for a duplicate set of loading  
2 facilities. And based on our conversations  
3 with DDOT and working with our own  
4 transportation engineer, we have reduced the  
5 proposal to what is before you in the  
6 supplementary materials and that is:

7 Behind Building 1, we would  
8 propose to locate the delivery space 10 x 20  
9 feet.

10 Behind Building 2, we would have  
11 the loading platform and loading berth. The  
12 loading berth would be 12 x 30 feet.

13 So we are asking for a reduction.  
14 Recognition that in this type of building with  
15 these type of units, you are unlikely to have  
16 the long furniture vans that would require a  
17 55 foot berth.

18 We have also adjusted the  
19 building, Building 1. If you notice, there is  
20 a difference between the original proposal and  
21 the application and the current set of  
22 drawings that we submitted with the

1 supplemental materials.

2 We chamfered the corner of  
3 Building No. 1 and as our transportation  
4 engineer can discuss further, if the Board  
5 wishes, we tried to provide a way in which a  
6 vehicle can safely head into that delivery  
7 space, that loading platform and also reverse  
8 and head out. And we believe that can be done  
9 safely.

10 The transportation engineer will  
11 also discuss the fact that the planning is for  
12 a 30 foot vehicle. The reality is much  
13 smaller vehicles will be servicing this site.

14 MR. TUCKER: Can I -- I would like  
15 to add something. I would like to add -- to  
16 quote a friend of mine, an architect, "In the  
17 case of design, every problem is an  
18 opportunity." And the site presents many good  
19 opportunities, triangular in shape, being next  
20 to the CSX embankment, which is almost two  
21 stories above the ground floor of our building  
22 and only, you know, are setback to the wall



1       that is 15 feet high along this embankment.

2               The Zone of Influence requirements  
3       for CSX and the fact that we are right up  
4       against our embankment for this loading area,  
5       the logical place for loading and service is  
6       at the end of this alley that dead ends at the  
7       wall.

8               But to accommodate that, we are  
9       having to take into account their structural  
10      Zone of Influence requirements and not to --  
11      there is also a 6 foot easement for the  
12      footing of that wall that extends in some  
13      places into our property.

14              So we have gone to great lengths  
15      to try to accommodate the loading requirements  
16      in their logical location back along the wall  
17      against CSX, but not to -- but to play within  
18      the rules that they establish for doing work  
19      next to their right-of-way. So a big  
20      challenge has been to minimize disruption of  
21      the law and its footing and the embankment.

22              And so we worked very hard to meet

1 both the requirements of the ordinance and to  
2 come up with something that is feasible in  
3 terms of building next to the CSX tracks  
4 right-of-way.

5 MR. LEVIN: I might add we believe  
6 strongly that we will be able to manage the  
7 loading and unloading in a safe and successful  
8 manner for this property. We are  
9 predominately one-bedroom units and small  
10 units and the size of truck that it will take  
11 to do that will be less than 30 feet.

12 Also, with trash, we will -- we  
13 have been in touch with several collectors  
14 that will use the smaller trucks to come back  
15 here, so we will accommodate it.

16 MR. LEVIN: I just want to point  
17 out we are 81 percent one bedrooms and  
18 efficiencies. So they are very --

19 CHAIRPERSON JORDAN: So on the  
20 trucks, the trucks won't be larger than --

21 MR. LEVIN: They will not be  
22 larger --

1                   CHAIRPERSON JORDAN:  -- 30 feet?

2                   MR. LEVIN:  They will not.

3                   MR. KEYS:  Mr. Chairman, if you  
4                   would like us to address that issue further,  
5                   I think Mr. George has some material that  
6                   might be relevant.

7                   CHAIRPERSON JORDAN:  I'm okay  
8                   unless the Board has something else.

9                   COMMISSIONER MAY:  I would like to  
10                  see --

11                  CHAIRPERSON JORDAN:  I'm sorry,  
12                  Mr. May?

13                  COMMISSIONER MAY:  I would like to  
14                  see more, because I still don't quite  
15                  understand how trucks are getting into the  
16                  loading berth.

17                  MR. LEVIN:  I'll just explain in a  
18                  little further detail while Osborne is getting  
19                  set up what our -- can everyone hear me?  
20                  Okay.  Just to clarify what we are talking  
21                  about, this is the dead end alley that we are  
22                  discussing.  And we have a very -- we have a

1 large wall with CSX/WMATA and then a large  
2 embankment in this area.

3 And we are very limited in what we  
4 can do here. So we have managed to fit a 30  
5 foot loading berth and platform here and a 20  
6 foot delivery berth here. And we have to  
7 build in, as we excavate this area, a  
8 retaining wall. And we just -- it's very --  
9 as you can see here, we are in this Zone of  
10 Influence with CSX. There are the outboard  
11 tracks. We are very limited in what we could  
12 do with the property.

13 And we are pushing the building  
14 back in order to make the dedication for the  
15 Met Branch Trail. That was the other  
16 condition from the street, the buildings are  
17 being pushed back. And we also increased our  
18 setbacks which I think it's important to this  
19 as well.

20 In this area, we pushed the  
21 building this way. We have the minimum  
22 setback here, but the neighborhood had

1 requested that we preserve the specimen oaks,  
2 so we pushed the building back and we also  
3 gave up the parking that we otherwise would  
4 have captured in this area, if we would have  
5 built to the 50 foot setback and not  
6 accommodated these two large trees.

7           So that would have been an  
8 additional six spaces or alternatively we  
9 could have pushed the building that way and  
10 created more room, but we were really  
11 constrained in both -- in all three  
12 directions. Being pushed back with the  
13 dedication of the trail, being pushed back  
14 away from the CSX embankment retaining wall  
15 and then pushed off from the neighbors here to  
16 accommodate both this historic street and to  
17 preserve these trees.

18           MR. KEYS: Mr. George, I would  
19 like to ask you to just address the geometry  
20 of the alley and the loading spaces and what  
21 types of vehicles would be able to negotiate  
22 that area.

1                   MR. GEORGE: Yes. Good afternoon,  
2                   Mr. Chairman. For the record, Osborne George.  
3                   Could I ask your indulgence in killing the  
4                   lights again?

5                   CHAIRPERSON JORDAN: Sure.

6                   MR. GEORGE: Mr. Chairman, as part  
7                   of our presentation, we intended to highlight  
8                   on this slide a couple of factors which  
9                   affects the -- both the loading and the  
10                  parking, but I'll focus on the parking.

11                  As Mr. Tucker mentioned, 80  
12                  percent of the units were --

13                  COMMISSIONER MAY: Mr. George?  
14                  Just for the sake of time, this is  
15                  Commissioner May speaking.

16                  MR. GEORGE: Yes.

17                  COMMISSIONER MAY: I think the  
18                  real question I was trying to ask had really  
19                  just to do with how trucks get in and out.

20                  MR. GEORGE: Okay.

21                  COMMISSIONER MAY: To go to DDOT's  
22                  condition. So I don't know if anybody else

1       wants to hear the rest of this --

2               MR. GEORGE:   Yes.

3               COMMISSIONER MAY:   -- but I was  
4       just focused on that.

5               MR. GEORGE:   Commissioner May, we  
6       have shown that a 30 foot truck can enter the  
7       site head-in, that was DDOT's major concern  
8       that a vehicle head-in.

9               MR. KEYS:   Mr. George, if you  
10      would just identify the street and identify  
11      the public right-of-way that leads back to the  
12      delivery space?

13              MR. GEORGE:   I will.   This is  
14      Spring Place running north/south here.   This  
15      has been identified as Bull Place running  
16      east/west toward the tracks.

17              MR. KEYS:   And what is the width  
18      of Bull Place?

19              MR. GEORGE:   Bull Place is 25 feet  
20      wide.   Loading dock to Building No. 2 is here.  
21      I think this was described as having the 30  
22      foot - 12 x 30 foot dock.   The loading space

1       10 x 20 is located within Building 1.

2               We have shown that a truck, a 30  
3       foot truck, which is the one that the request  
4       addresses can head-in, can back and do its  
5       loading and unloading operation, would back  
6       into the delivery space of Building No. 1 and  
7       then head out along Bull Place toward Spring  
8       Place.

9               COMMISSIONER MAY: So how many  
10       back and forth movements do you have there  
11       with the truck trying to jockey out of that?

12              MR. GEORGE: Well, two. There  
13       will be two turn movements. And I think we  
14       went through this in detail with Ms.  
15       Chamberlin. There is a generator pad located  
16       between the site. It is on a curbed platform  
17       between the site and the -- within the site,  
18       but between the roadway and the foot of the  
19       embankment.

20              COMMISSIONER MAY: Is that  
21       existing?

22              MR. GEORGE: No, that would be



1 placed there. It would be a generator pad  
2 that would be protected by bollards.

3 DDOT's concern was that in one of  
4 the backing movements, it comes close to the  
5 generator pad. We do not think that that is  
6 an issue. But, Mr. May, I would like to go on  
7 to present some other materials which I think  
8 is very germane to the issue.

9 So if you would go on? What we  
10 did was look at what I will call industry  
11 standards and practice with respect to moving.  
12 And so moving and loading into a development  
13 such as this.

14 And we looked at -- we collected  
15 information on the vehicle sizes and so on  
16 from all of the major players in this area, U-  
17 Haul, Hertz, Budget and so on.

18 And I think they present some very  
19 common sense factors and consideration. These  
20 show, and you may be able to read it on your  
21 screen, the types of vehicles that are  
22 recommended for servicing units of these

1 types. And interestingly enough, the big item  
2 is a 19 foot -- feet in total length. This is  
3 recommended as a vehicle that would service  
4 apartments up to two bedrooms. And that's  
5 pretty much the size of a standard full-size  
6 car or a cargo van. I'm sorry.

7 We got data regarding a number of  
8 other vehicles. There is a -- what's the --  
9 they determine as their 17 foot truck, which  
10 has a total length of 24 feet and that is  
11 recommended for moving in cases of up to two  
12 bedroom homes. And again, this is 24 feet.

13 The constraint that we have, Mr.  
14 Chairman, is that we have no devices that we  
15 can use to model these vehicles. So between  
16 the passenger car size vehicle and the 30 foot  
17 vehicle, there are about three or four  
18 different sizes, which we think would be the  
19 predominant user types that would be able to  
20 enter and leave much more easily and  
21 practically.

22 So again, tying back, we show the

1 same measurements for -- these represent the  
2 budget household moving trucks. And the next  
3 one, Hertz. And they are -- it's  
4 substantially the same.

5 And so we think that considering  
6 those practical factors when you superimpose  
7 them on the fact that you have -- of the unit  
8 types and sizes with over 50 percent of the  
9 units being designated as affordable income-  
10 related factors with the consideration --  
11 would come into consideration and into play to  
12 make the issue of truck size not a significant  
13 one.

14 MR. KEYS: Mr. George, would it be  
15 your conclusion that vehicles of this size,  
16 less than 30 feet, would make that loading  
17 space easier to access and to leave?

18 MR. GEORGE: Yes, sir, that's my  
19 assessment.

20 MR. KEYS: And by that I mean that  
21 they would be doing less than a two-point turn  
22 or perhaps no reversing at all in order to get

1 out beyond the backing into the delivery spot.

2 MR. GEORGE: Right. Well, as I  
3 pointed out, the vehicle that both U-Haul and  
4 the Budget recommend as the type they would  
5 use for moving into up to a two bedroom home,  
6 it's only 22 feet in length. That is just a  
7 couple feet longer than a cargo van. And  
8 that's the total width from front bumper to  
9 the rear tailgate. And so we think that that  
10 would be done in -- perhaps in one single  
11 movement. Back in from Building 2 into  
12 Building 1 and then head out.

13 Of course, we couldn't model that  
14 on the software, because that's not one of  
15 AASHTO or DDOT's designed vehicles.

16 CHAIRPERSON JORDAN: Do you have  
17 any other questions about the parking pad?

18 COMMISSIONER MAY: No. I mean,  
19 it's -- I guess I'm waiting -- I would wait to  
20 hear from DDOT if they find what has been done  
21 here as acceptable. It does still feel  
22 awkward and difficult, but --

1 MR. GEORGE: Commissioner May?

2 COMMISSIONER MAY: -- I'll sound  
3 off on it.

4 MR. GEORGE: Commissioner May, if  
5 I may, I apologize. DDOT -- the issue came up  
6 somewhat late and we did not share this  
7 information with them ahead of time. I would  
8 be happy to provide Ms. Chamberlin with a copy  
9 right now.

10 CHAIRPERSON JORDAN: All right. I  
11 don't know if she is going to have sufficient  
12 time to really look at it and properly  
13 evaluate it. Could we have the lights back  
14 on, please? Then let's also, Mr. Keys,  
15 discuss the TDM measures.

16 MR. KEYS: Yes, Mr. Chairman. I  
17 think we have adopted the -- we have agreed to  
18 all of the TDM measures that were recommended.

19 CHAIRPERSON JORDAN: All right.  
20 So that's the 75 long-term bicycle --

21 MR. KEYS: Oh, yes, yes. I should  
22 say that there is already provision. We had

1 already arranged for their to be two bicycle  
2 rooms in the buildings that will store at  
3 least 75 vehicles -- 75 bicycles and we have  
4 agreed to put the specified bicycle racks  
5 outside of each building.

6 CHAIRPERSON JORDAN: And designate  
7 a person for -- designate an instructional  
8 program for tenants, etcetera, in regards to  
9 that?

10 MR. GEORGE: I think that there  
11 would be an elaboration of a move-in/move-out  
12 procedure that would provide that information.

13 CHAIRPERSON JORDAN: Okay.

14 MR. KEYS: And the fact that the  
15 buildings will be operated in common with  
16 common management should simplify that type of  
17 coordination between buildings and the use of  
18 the moving spaces.

19 CHAIRPERSON JORDAN: All right.  
20 Any other questions of the applicant, at this  
21 time? Then let's turn now to the Office of  
22 Planning for their input.

1 MS. THOMAS: Good evening, Mr.  
2 Chairman, Members of the Board. The Office of  
3 Planning is supporting the approval of the  
4 variance relief. And we are conditioning the  
5 approval to recognize DDOT's concerns.

6 We would support an additional  
7 condition including a condition to deny future  
8 residents inclusion in to the residential  
9 permit parking system.

10 And I would be happy to turn over  
11 my -- any other comments related to this to  
12 DDOT, who is here with us today. Thank you.

13 CHAIRPERSON JORDAN: Does the  
14 Board have any questions of Office of  
15 Planning?

16 COMMISSIONER MAY: I do have one.  
17 I mean, the, you know, argument for variance  
18 relief, to me, seems to be a bit general. And  
19 with particular concern with particular -- and  
20 with regard to the parking relief, and, you  
21 know, the argument is made that while this is  
22 more in line with what the new Zoning

1 Regulations will require in terms of parking,  
2 I think the applicant made that argument.

3 And I'm just not seeing a really  
4 compelling case. You know, we don't see some  
5 of the things that we might normally see with  
6 regard to a parking variance where, you know,  
7 whereby the difficulties of the site lead  
8 directly to the shortage of parking, you know,  
9 difficulty in building a below-grade garage or  
10 what have you. And I'm not seeing a lot of  
11 that kind of stuff in this.

12 So I'm just wondering what the  
13 Office of Planning's opinion is on the  
14 variance relief and what really pushes it over  
15 the line into, you know, recommending that  
16 there be relief to the parking requirement.

17 MS. THOMAS: With respect to the--  
18 we did look at the option of underground  
19 parking, based on the shape of the site, let's  
20 see if we could put underground parking.  
21 Given that these were deemed to be affordable  
22 units, we thought that underground parking and



1 given the site constraints with the CSX right-  
2 of-way and the Zone of Clearance, we thought  
3 that that wasn't going to be -- the size of  
4 the lot wouldn't be -- wouldn't provide the  
5 adequate ramping that would be necessary to  
6 provide below-grade parking and would also  
7 send up the cost with respect to providing for  
8 affordable housing.

9 And so that was our nexus with  
10 respect to the variance relief.

11 COMMISSIONER MAY: Okay. And I  
12 just have one last question and maybe this is  
13 addressed somewhere, but will the residents of  
14 this building be eligible for residential  
15 parking permits?

16 MS. THOMAS: I just -- we are  
17 requesting that they be taken out of the --  
18 the lease agreement states that the future  
19 residents be denied RPP requests and the  
20 building be taken out of the RPP database,  
21 DDOT's RPP database.

22 COMMISSIONER MAY: Okay. So you

1 have requested that and has the applicant  
2 agreed to that?

3 MS. THOMAS: That was an initial  
4 conversation with the applicant.

5 COMMISSIONER MAY: Okay. Yes, I  
6 mean, maybe it was mentioned in the  
7 applicant's statement, but I just don't  
8 remember.

9 CHAIRPERSON JORDAN: But isn't  
10 this a question about our aspect of being able  
11 to add those conditions? And as I understand  
12 it, the way we might have done it before is  
13 that the applicant is, basically, agreeing to  
14 make that part of the lease or whatever  
15 covenant documents they have with their  
16 tenants or owners. Isn't that correct? Isn't  
17 that the way we have been doing it?

18 COMMISSIONER MAY: I'm --

19 VICE CHAIR SORG: Mr. Chairman, I  
20 believe we have done it both ways.

21 COMMISSIONER MAY: Yes.

22 VICE CHAIR SORG: We did get

1 information from DDOT, I think, on a similar  
2 question that they were able to take addresses  
3 out.

4 CHAIRPERSON JORDAN: Yes.

5 VICE CHAIR SORG: So that they  
6 wouldn't be allowed or that it could be done  
7 by a covenant of the building.

8 CHAIRPERSON JORDAN: But I'm  
9 talking about our ability as a Board to order  
10 that.

11 COMMISSIONER MAY: I'm trying to  
12 find out whether -- to confirm whether the  
13 applicant actually has agreed that the  
14 residents would not be eligible?

15 MR. LEVIN: We are agreeable to  
16 that.

17 COMMISSIONER MAY: Right. Okay.  
18 So whether -- you know, whatever means it  
19 takes. I don't know what the appropriate  
20 means are.

21 MS. GLAZER: Ms. Chair, I believe  
22 in the past the applicant has proffered that

1       they would include that in their documents,  
2       either the lease or some of --

3                   CHAIRPERSON JORDAN: Documents,  
4       that's what I thought.

5                   MS. GLAZER: -- their --

6                   CHAIRPERSON JORDAN: Okay.

7                   MS. GLAZER: -- condominium  
8       documents.

9                   CHAIRPERSON JORDAN: Thank you.  
10       All right. Any other questions from anyone  
11       for Office of Planning? Yes?

12                   VICE CHAIR SORG: Well, this isn't  
13       in reference to the statement from Office of  
14       Planning, but perhaps it's a question for the  
15       applicant.

16                   We did get information in your  
17       submissions that there is an affordable  
18       component, but I don't recall the level of  
19       affordability? Because if you are using that  
20       as a reasoning for variance, if you are  
21       providing, I mean, since we have got  
22       affordable housing on our brain from this

1 morning, units at 80 percent of AMI, it's not  
2 really going to be much different in terms of  
3 car ownership.

4 MR. LEVIN: We are going to be  
5 providing up to 80 percent of the unit at 60  
6 percent of AMI.

7 VICE CHAIR SORG: Oh, that's --

8 CHAIRPERSON JORDAN: So you are  
9 going from 60 to 80?

10 VICE CHAIR SORG: No, 80 percent  
11 of the units at 60.

12 MR. LEVIN: 80 percent of the  
13 units at 60 percent of AMI.

14 CHAIRPERSON JORDAN: Oh.

15 MR. LEVIN: Yes.

16 CHAIRPERSON JORDAN: Oh, 60  
17 percent, really? Okay.

18 VICE CHAIR SORG: Okay. That's  
19 useful.

20 CHAIRPERSON JORDAN: What's the  
21 number?

22 MR. LEVIN: The unit -- yes, 120,

1       yes.

2                   CHAIRPERSON JORDAN: 120, so  
3       you're doing 80 percent of that?

4                   MR. LEVIN: No. The total unit  
5       count is 150, so we will be providing 120  
6       units at 80 --

7                   CHAIRPERSON JORDAN: Oh, this is a  
8       tax credit deal?

9                   MR. LEVIN: Yes, it is.

10                  CHAIRPERSON JORDAN: Ah, okay. I  
11       appreciate that. All right. Any other  
12       questions of Planning, anyone? Then let's  
13       turn to the Department of Transportation.

14                  MS. CHAMBERLIN: Good afternoon.  
15       My name is Anna Chamberlin with DDOT. As we  
16       mentioned in our report, we are in support of  
17       the project. We had some concerns with the  
18       lack of accessible pedestrian access and the  
19       parking pressures along the RPP on Chestnut  
20       Street and the loading zone, the design of the  
21       loading area as has been previously discussed.

22                  We put down eight conditions that

1 we believe would address our concerns. It's  
2 not clear to me from the applicant's testimony  
3 30 minutes ago which ones they are objecting  
4 to. It sounded like they were objecting to  
5 the extension of the multi-use trail from  
6 Spring Place to Chestnut, but they are not  
7 objecting to the facilitation, which means  
8 which we have asked for, of the full  
9 engineering design and easements and  
10 cooperations with the property owners for DDOT  
11 to build the trail from the end of Spring  
12 Place to Cedar Avenue.

13 So I just wanted to clarify that  
14 they are not objecting to, I guess, Bullet  
15 Point No. 2. And what they are objecting to  
16 is No. 1.

17 MR. LEVIN: We are -- we were --  
18 well, just to clarify. On Point 1, we were  
19 agreeing. I think it is confusing with the  
20 conditions if we are being requested to build  
21 the trail to Chestnut. We were responding  
22 that we were prepared to build the trail in

1 front of and inside of our property, that's on  
2 Point 1.

3 And then on the second, we are  
4 agreeable with that point, although we do need  
5 some clarification about obtaining the  
6 easements as we don't -- we can design and  
7 seek to obtain the easements, but we can't  
8 guarantee WMATA or the private party will  
9 provide the easement. That is the  
10 clarification.

11 MS. CHAMBERLIN: Okay. The other  
12 -- I guess our fourth bullet, which is in  
13 regards to the TDM measures, we had asked that  
14 the proposed TDM measures be extended to all  
15 future residents and not just the initial set,  
16 as described, and that's not clear if that has  
17 been agreed.

18 MR. LEVIN: We agree to that.

19 MS. CHAMBERLIN: Okay. And then I  
20 guess the last item, if you guys could pull up  
21 the vehicle tracking diagram that Osborne  
22 showed for the 30 foot single unit truck



1 coming out of the outbound movement?

2 MR. LEVIN: Yes, go ahead.

3 MS. CHAMBERLIN: The next one. So  
4 we did see this tracking movement. We didn't  
5 see the analysis of the U-Haul. But in  
6 regards to this one, as you can see, it  
7 requires expert maneuvering. Essentially, the  
8 30 foot truck will back in to the loading area  
9 in the south and then they will have to pull  
10 up, back in again and then pull out.

11 Although, I don't know if you guys  
12 can see it, it's a little bit far, it is  
13 showing it's crossing into what looks like a  
14 fenced area for the generator pad, so it's not  
15 clear. It's not hitting the generator pad,  
16 per se, but it looks like the generator pad  
17 area has some type of wall or fence  
18 surrounding it, I'm assuming to keep it secure  
19 from, you know, unwanted access. And that  
20 wall is actually hit two or three times during  
21 that back-in maneuvering.

22 And so this to us is the big

1 concern that, you know, unexperienced drivers  
2 are not going to perform this maneuver, are  
3 not going to feel comfortable performing this  
4 maneuver and will actually just back all the  
5 way out of that alley, which is an unnamed  
6 alley. Bull Place was something that WMATA  
7 had put on the name, but Bull Place is not an  
8 official surveyor's recognized alley.

9               So that's our fear, especially  
10 given that the pedestrian access and the bike  
11 access will be along Spring Place, that  
12 unexperienced drivers are going to come --  
13 they are going to back all the way down the  
14 alley and then cross over that bike and  
15 pedestrian area, which is the main conflict  
16 zone and cyclists coming, you know, fast or  
17 they won't be able to stop in time or notice  
18 that there is a vehicle backing in that area  
19 and could cause an accident.

20               So that's what we have been  
21 requesting is that if there is any way they  
22 can maybe chip off the corner a little bit

1 more just to make that turn easier or it  
2 sounds like if they are confident that 30 foot  
3 trucks are not going to be accessing this site  
4 at all, for moving or for trash pickup, then  
5 there is some restriction on the size of  
6 trucks that are able to access that site at  
7 all times by anybody.

8 So that would be a condition we  
9 would be able to support.

10 In regards to the multi-use trail  
11 that we have requested to Chestnut Place, our  
12 concern is right now that site doesn't have an  
13 accessible pedestrian access in any direction.  
14 It's -- Spring Place is, essentially, a named  
15 alley, so it doesn't have enough room for a  
16 sidewalk.

17 Chestnut has substandard sidewalks  
18 and without the construction of the proposed  
19 path which, as pointed out by the applicant,  
20 is not District right-of-way that, you know,  
21 ADA residents won't be able to get in and out  
22 of the site through a safe path.

1                   And what we had asked was just to  
2                   bring that all the way up to Chestnut Street.  
3                   I know the ANC had asked them to do even the  
4                   Chestnut portion in order to provide access  
5                   and we feel that there should be some type of  
6                   access provided for residents on day one of  
7                   construction, given that the continuation or  
8                   the proposed Metropolitan Branch Trail in  
9                   between the building and the WMATA property  
10                  might or might never be built. So without it,  
11                  there would still be no access to the building  
12                  for pedestrians.

13                  CHAIRPERSON JORDAN: Yes, but what  
14                  if they don't own -- it's my understanding  
15                  they don't own the portion which you want them  
16                  to do relief.

17                  MS. CHAMBERLIN: Correct. What we  
18                  were asking was to help facilitate the  
19                  construction by DDOT. And what takes -- so it  
20                  would be for them to perform the full design  
21                  and engineering and help facilitate the  
22                  negotiations with WMATA and with the property

1 owners.

2 It's my understanding that 10  
3 years ago or so, before that building was  
4 built, there were some agreements that there  
5 would be some kind of trail there, some kind  
6 of path there, so we were just asking that  
7 they, I guess, facilitate that process in  
8 order to assist us in building this.

9 And if not, if they are not  
10 willing to help facilitate and design that,  
11 then at the very least we need -- we do need  
12 some pedestrian access somehow and that would  
13 have to be through Chestnut to Blair.

14 CHAIRPERSON JORDAN: Yes, but  
15 that's not what these recommendations say.  
16 It's giving them the responsibility of doing  
17 it.

18 MS. CHAMBERLIN: Correct.

19 CHAIRPERSON JORDAN: And that's --  
20 okay. So that's not something that this --  
21 well, we will cover it if we get to a point of  
22 deliberating on this today. But that's not

1 something that we -- that I would think would  
2 be appropriate for it to be a condition,  
3 hearing what your explanation is, what you are  
4 seeking for them to do.

5 The need may be there, but how do  
6 we get there because it seems like it's lot of  
7 things that are moving, that they don't have  
8 control over. Ms. Sorg?

9 VICE CHAIR SORG: This is a  
10 related comment. Thank you, Mr. Chairman. I  
11 mean, I think that the proposed condition,  
12 this proposed condition from DDOT does go to  
13 potentially mitigating, you know, a possible  
14 negative effect of not having proper  
15 pedestrian access to where the people are  
16 going to be walking.

17 This is where they are going to  
18 walk to the Metro period. Right? I mean, so  
19 I think that I also don't know specifically  
20 whether we have clarified that, you know,  
21 affirmatively whether or not we can, you know,  
22 impose conditions on it or not, on the

1 property, the subject property itself.

2 But I think -- and I know we can  
3 get into this later, but I think it is  
4 appropriate to think about this portion of the  
5 site, especially, perhaps from a reasonable  
6 effort or a coordination standpoint, if  
7 nothing else.

8 COMMISSIONER MAY: Yeah, I'm just  
9 curious. What is the actual walking time from  
10 this or walking distance from this building to  
11 the Metro by a path that you can actually  
12 walk?

13 MR. LEVIN: Okay. The -- I --  
14 this path here is currently in use and that is  
15 about a three minute walk to the Metro  
16 entrance, two minute walk. And then the  
17 alternative path is up Blair.

18 CHAIRPERSON JORDAN: When you say  
19 path, is that path -- there is actually a path  
20 there that people have kind of walked out  
21 and --

22 MR. LEVIN: It's a path that

1 people are walking on for --

2 CHAIRPERSON JORDAN: Okay.

3 Gotcha.

4 COMMISSIONER MAY: But I mean, is  
5 it paved?

6 MR. LEVIN: No, no.

7 COMMISSIONER MAY: And it's also  
8 private property?

9 MR. LEVIN: It's WMATA property.

10 COMMISSIONER MAY: It's WMATA  
11 property.

12 MR. LEVIN: Right. There is a  
13 little bit of history, if you would want it.

14 COMMISSIONER MAY: No.

15 MR. LEVIN: Okay.

16 COMMISSIONER MAY: Okay. So there  
17 is no public way that leads from -- I mean,  
18 the only public way that leads from this  
19 development to the Metro is out Spring Place  
20 walking in the roadway to Chestnut then to  
21 Blair down to Cedar?

22 MR. LEVIN: Correct.



1                   COMMISSIONER MAY:   Okay.   And so  
2   what is that distance?

3                   MR. LEVIN:   That's about a seven  
4   or maybe eight minute walk.

5                   COMMISSIONER MAY:   Has anybody  
6   actually measured it?   I mean, measured the  
7   distance, you know?

8                   MR. LEVIN:   I don't -- didn't  
9   measure it.   I have walked it.

10                  COMMISSIONER MAY:   It looks like  
11   it's a little bit more than that.   All right.  
12   Thanks.

13                  CHAIRPERSON JORDAN:   Any other  
14   questions for transportation?   Well, I do.  
15   I'm concerned about every time we have  
16   requests for relief from parking issues, we  
17   always put -- there is a lot of pressure on  
18   neighborhoods and residents already and we get  
19   these recommendations and they all seem like  
20   they are so cookie-cutter regarding the relief  
21   for a Traffic Management Plan.

22                  We are going to give one \$50 Smart

1 card and we are going to give a one time  
2 Bicycleshare and a one time this.

3 Does that really make an impact in  
4 doing it just one time? Why would we not  
5 consider, since this is an ongoing project,  
6 ongoing building that is coming here to the  
7 District for relief, that we make it something  
8 that is meaningful? And, to me, that would be  
9 at least buying the Smart -- giving the  
10 residents Smart cards, \$20 a month or  
11 something. Giving someone a Smart card, one  
12 \$50, how is that going to be ongoing  
13 protection for the neighborhood and community  
14 regarding parking? That's my question.

15 MS. CHAMBERLIN: I think we agree  
16 with you. There just hasn't been the push to  
17 put in some more expensive TDM measures long-  
18 term, indefinite TDM measures for the  
19 applicants. The idea is, essentially, this  
20 would be for people who are unfamiliar with  
21 the system and help facilitate those who are  
22 unfamiliar with the system.

1                   And once, I guess, you have the  
2           taste of what the options are, you would feel  
3           more comfortable using them in the future,  
4           that's where this comes from, but we do  
5           believe in support and not making this RPP  
6           available for the residents there, because  
7           that way they would have nowhere else to park  
8           and the incentive to own a vehicle would,  
9           essentially, be eliminated unless you got a  
10          parking spot within the building.

11                   CHAIRPERSON JORDAN: So after that  
12          first \$50 is gone, then the community has to  
13          bear the burden of the effect of the lack of  
14          parking. And I think the time that we have to  
15          get any concessions from any applicant doing  
16          this type of development is why they are here  
17          seeking a benefit from the Government.

18                   So I just -- let me turn to the  
19          applicant. What's your thought about this?  
20          How does giving one time a Smart card is going  
21          to grant the community relief from this  
22          parking burden?

1                   MR. TUCKER: Well, we are going to  
2                   be giving -- doing orientation at move-in and  
3                   the Smart card is a way of introducing a new  
4                   resident to the use of the Metro and the Smart  
5                   card system. So it's not just the initial  
6                   residents that move in, but as we have  
7                   turnover, new residents will be part of the  
8                   move-in package and orientation program.

9                   MR. LEVIN: We are going to have  
10                  Metro schedule displays in both buildings. I  
11                  mean, it's a Metro location, so we are not  
12                  asking for complete parking relief, so we are,  
13                  you know, asking 39 versus 75 spaces.

14                 CHAIRPERSON JORDAN: 39 versus 75?

15                 MR. LEVIN: 75 as of --

16                 MR. TUCKER: Right, yes.

17                 CHAIRPERSON JORDAN: And those  
18                  parking requirements by the regs are there so  
19                  we can help relieve the burden upon  
20                  neighborhoods and communities and residents  
21                  and people who are already living there,  
22                  right?

1 MR. LEVIN: Correct.

2 CHAIRPERSON JORDAN: Okay. So  
3 then you are getting, is it, 50 percent,  
4 almost 50 percent, relief? Just short of 50  
5 percent relief from your parking requirement.  
6 Isn't it better that you have some -- wouldn't  
7 more people in the building be more encouraged  
8 if they had a smaller allocation every month  
9 to continue the program than just the one  
10 time?

11 MR. LEVIN: Well --

12 CHAIRPERSON JORDAN: If you gave  
13 them something every month --

14 MR. LEVIN: -- our view is that as  
15 an affordable community, we think we are going  
16 to attract a tenant that can't or maybe  
17 doesn't want to have the expense of a car. So  
18 we are -- that's our whole orientation is to  
19 create a unique opportunity. There has been  
20 no affordable housing built in this part of  
21 the ward ever. Ever. This is generally  
22 contrary to what is built.

1                   We are taking a premier location  
2                   and we -- since we are mission-driven, we want  
3                   to do affordable housing. We could do a  
4                   market rate project.

5                   CHAIRPERSON JORDAN: Yes. And I  
6                   give you a lot of credit for the  
7                   affordability, but you are also receiving tax  
8                   credits, too, so there is a tax credit too.

9                   MR. LEVIN: Yes.

10                  CHAIRPERSON JORDAN: So you are  
11                  getting some other benefits. And I appreciate  
12                  it. I really do appreciate it. I'm just  
13                  saying philosophically, just doing this one  
14                  time, and maybe this is one building that --  
15                  there is going to be substantial affordable  
16                  housing, here that I might back off some on  
17                  that, but we get this all the time this one  
18                  time Smart card or this one year bicycle  
19                  thing. And then the community after that one  
20                  month or something, people have to scramble to  
21                  find parking and these people have been living  
22                  in these neighborhoods forever and a day.

1                   So I just wanted to hear from --  
2                   you don't have to respond. I just wanted to  
3                   hear from Office of -- transportation why that  
4                   was not something that was being requested on  
5                   these various -- as a matter of policy on  
6                   these various applications.

7                   Any other questions for Department  
8                   of Transportation, anyone?

9                   Then is there anyone here from  
10                  ANC --

11                  COMMISSIONER MAY: I'm sorry, Mr.  
12                  Chairman, I just want to get one thing  
13                  clarified, because thinking back on it, I'm  
14                  not completely clear on what DDOT agreed to.  
15                  I mean, are you -- as I understand it, the  
16                  applicant was offering to help out and work on  
17                  design and trying to get easements and all  
18                  that sort of stuff, but not committing to  
19                  completing the easements. And was that  
20                  acceptable to you?

21                  MS. CHAMBERLIN: Yes.

22                  COMMISSIONER MAY: Okay. So there

1 is agreement on that effort? Yes.

2 MR. TUCKER: Could I just make one  
3 point about the -- going back to the loading  
4 area again? The concern Ms. Chamberlin had  
5 about the backing into the wall, actually,  
6 what is shown probably reads like a wall on  
7 the drawing, but it's actually a curb. And  
8 then beyond the curb where the equipment is,  
9 we would have bollards to protect the  
10 equipment.

11 So the truck could overhang that,  
12 but still we would protect the equipment that  
13 is back there. It gives us a few more feet to  
14 work with.

15 COMMISSIONER MAY: I'm just  
16 picturing all the people who are going to be  
17 moving themselves into this building and  
18 navigating these trucks, even if they are the  
19 smaller ones. It isn't really that easy. And  
20 having, you know, bollards that they can bump  
21 into isn't going to help their security  
22 deposit on the van very much, you know.



1 MR. TUCKER: There is no question,  
2 it's a tight site and we have had to respond  
3 to a lot of constraints to make it work.

4 CHAIRPERSON JORDAN: Okay. Is  
5 there anyone here from any other Government  
6 Agency? Is there anyone here from ANC-4B?  
7 Yes, please. Who is the representative? Yes,  
8 please come forward.

9 And would you, please, be sure  
10 that your microphones are on? That's a  
11 glowing green light.

12 MS. GREEN: It is. I see it.

13 CHAIRPERSON JORDAN: Good. And  
14 would you identify yourselves, please?

15 MS. GREEN: My name is Sara Green  
16 and I'm the Chair of ANC-4B. And the project  
17 is located within my Single Member District  
18 which is 4B01, where I have lived for about 40  
19 years.

20 CHAIRPERSON JORDAN: Thank you.  
21 And to your left?

22 MS. WHEELER: Yes, I'm Faith

1       Wheeler. I'm Vice Chair of ANC-4B. And I  
2       live in the adjacent SMD 4B02. And I have  
3       lived there since 1978.

4                   CHAIRPERSON JORDAN: Thank you.  
5       Thank you both for coming. Yes?

6                   MS. GREEN: I wanted to just  
7       emphasize a couple -- you have seen our  
8       resolution. The thing that most concerns me  
9       is that this building looks like, at this  
10      point, unless there is some requirements made  
11      about the developer providing some safe  
12      access, this is an island. This project is  
13      going to be an island.

14                   And if you are in a wheelchair or  
15      crutches or if you have a baby carriage,  
16      you're going to have to walk in the middle of  
17      the street to get to a public sidewalk, you  
18      know, forget the Metro Station, you know, just  
19      to get to a safe sidewalk to walk anywhere.

20                   The problem is that the city has  
21      not been forthcoming in doing these projects.  
22      And what you will see is -- you know, in your

1 packet there is something right after the  
2 resolution, there is the Takoma Central  
3 District Plan, which is our master planning  
4 document for Takoma.

5 And this was done in 2002. And  
6 there were a number of commitments made. We  
7 were supposed to have, by 2004, sidewalks. We  
8 were supposed to have -- these are major  
9 safety issues.

10 The -- I don't know, it's a very  
11 interesting intersection at 4th, Cedar and  
12 Blair. A lot of people think it is dangerous.  
13 We have had accidents.

14 The city was supposed to be  
15 redesigning that intersection as of 2002. We  
16 still don't have a safe intersection. DDOT  
17 keeps postponing any of these things. So my  
18 concern is that this building is going to be  
19 built, the developer is not going to be  
20 responsible for providing any of this safe  
21 access and it's going to be built as an  
22 island.

1                   And the argument is that it's  
2 transit-oriented and it's, you know, all of  
3 these wonderful, you know, things that are so  
4 green, but, yet, people aren't going to be  
5 able to walk safely. And that's really one  
6 element of the ANC-4B resolution which I think  
7 is the most important, because it's a public  
8 safety issue.

9                   And since I know that your panel,  
10 you cannot order DDOT to spend money. You  
11 don't have access to the budget. You know,  
12 you are independent of the Mayor.

13                  I think the way to handle this is  
14 to require that the developer provide this  
15 stuff while he has his construction equipment  
16 out there. He can pour some concrete, put  
17 some safe sidewalks in and do it at his  
18 expense, so that when the building opens,  
19 anybody who, you know, wants to walk safely to  
20 a public sidewalk will be able to do it.

21                  We suggested, you know, going all  
22 the way out to Blair Road. You know, you go

1 Spring, Chestnut, Blair. And then you've got  
2 the path, which now people use that path all  
3 the time, but you couldn't do it if you were  
4 in a wheelchair. You couldn't do it if you  
5 were on crutches or anything like that.

6 So we just want a safe accessible  
7 building. That's really our bottom line. And  
8 we thank him very much for the parking issue,  
9 which is a big -- and I assume that has been  
10 resolved already that people will not have the  
11 residential parking permits. They will know  
12 that when they lease the building, so that  
13 will clear up, you know, any confusion.

14 You know, that way people won't be  
15 under a misunderstanding when they lease an  
16 apartment. So we thank him for that. We  
17 thank him for agreeing to that.

18 CHAIRPERSON JORDAN: We thank you  
19 for your comment. Just so you know, our  
20 conditions and what we can order the applicant  
21 to do, and we certainly would like to do that  
22 which you request, is that which they control.

1 And I'm at a loss for hearing that the part of  
2 the project which is in need of immediate  
3 control is that WMATA owns part of it and it's  
4 in WMATA's control and then DDOT is asking  
5 that the applicant talk to WMATA when I can't  
6 see why the two Government agencies are not  
7 having that conversation and the neighborhood  
8 does not end up being affected this way.

9 I just don't -- that is just  
10 bothering me. We will do all that we can to  
11 make sure that -- what we can control with the  
12 applicant in regards to what they own. I  
13 think that if something is taking back to the  
14 Department of Transportation, it ought to be  
15 that they ought to be having conversations  
16 with WMATA themselves and try to actually get  
17 this done.

18 MS. GREEN: In terms of the  
19 sidewalks on Chestnut Street and Spring Place,  
20 that's public property. There is a public --  
21 my understanding is there is a public right-  
22 of-way, you know, for sidewalks. And surely

1 the developer can simply be made either to do  
2 -- to put those sidewalks in on behalf of DDOT  
3 or pay DDOT some money.

4 I mean, I don't know the logistics  
5 of how that works, but that is public. That  
6 is DDOT. You know, not just something the  
7 taxpayers should be paying for that. And so  
8 in lieu of DDOT and the taxpayers paying for  
9 those sidewalks, I think it's something that--  
10 you know, this is what the ANC -- that's our  
11 resolution, that the developer should be doing  
12 that.

13 The issue with the bike path, I  
14 mean, the walk path, I understand that's a  
15 little more complicated, but I do think it  
16 boils down to money in some way. And that,  
17 you know, that if there is a design issue  
18 that, you know, there is some money could be  
19 set aside for DDOT that -- you know, again,  
20 taking the burden off the taxpayer.

21 CHAIRPERSON JORDAN: Yes, thank  
22 you. Any questions for Ms. Green? Anyone?

1 From the Board? Does the applicant have any  
2 questions? Thank you. We really appreciate  
3 you coming.

4 MS. GREEN: Thank you.

5 CHAIRPERSON JORDAN: And  
6 submitting the documents and the resolution  
7 and taking the time to do this. It means a  
8 lot to us.

9 MS. GREEN: Thank you.

10 CHAIRPERSON JORDAN: And certainly  
11 we give great weight to your testimony.

12 MS. GREEN: Thank you.

13 MS. CHAMBERLIN: Can I interject  
14 something?

15 CHAIRPERSON JORDAN: Yes, if --

16 MS. CHAMBERLIN: So in regards to  
17 the pedestrian access, I know there -- the --  
18 it has been thrown out that it should be the  
19 responsibility of the city to provide  
20 pedestrian access, but, in fact, the  
21 Transportation Impact Study took huge credit  
22 for this project stating that the majority of



1 people are going to be walking, they are not  
2 going to be driving.

3 If they are not going to be  
4 walking to the site, then they are driving to  
5 the site and the impacts to the network are  
6 huge and they would have to mitigate those  
7 impacts, traffic impacts.

8 Right now, there is a few of those  
9 intersections that are over-capacity and if  
10 people are not walking, as they are claiming,  
11 the credits in the transportation impact, then  
12 the impacts to the intersection would be huge,  
13 which would require them to do mitigation,  
14 traffic mitigation measures to those  
15 intersections. So you can't have it both  
16 ways.

17 CHAIRPERSON JORDAN: That's right.  
18 And we can't keep doing a circular argument  
19 and passing the ball. So let's then move to  
20 see if there is any other questions of ANC-4B?  
21 No.

22 Is there anyone in the audience

1       who wishes to testify in support of this  
2       application? Yes, come forward, please.

3                   MS. DRYBURGH: Hi. Good  
4       afternoon. My name is Connie Dryburgh and I  
5       own 7127 Chestnut Street, N.W., one of the  
6       houses that is going to be affected by the new  
7       construction.

8                   My main concern today is having  
9       decent sidewalks. They are absolutely not  
10      workable on Chestnut Street. I have spoken to  
11      Mr. Levin about it and he agreed that we  
12      needed not only sidewalks, but we also need  
13      pavement of Chestnut Street.

14                  I now -- the house is a rental  
15      property, although I have owned it for about  
16      30 years and I plan to move back there again.  
17      My tenants, as we speak, are having a lot of  
18      difficulty finding parking in front of the  
19      house. My driveway has been blocked many,  
20      many times by people who park in front of the  
21      driveway. I can't have access to my own  
22      house.

1                   So I would like to say that, first  
2                   of all, I am very happy about the project  
3                   going through, because it is a huge  
4                   improvement over what is back there now, but  
5                   I would love to see adequate parking and  
6                   especially to those of us who have owned these  
7                   properties for many, many years and decent  
8                   sidewalks and a decent place to walk, besides  
9                   walking on the street.

10                  And I thank you very much.

11                  CHAIRPERSON JORDAN:   You're  
12                  welcome.   Thank you for taking the time and  
13                  giving us your testimony and we do also have  
14                  your written testimony.

15                  MS. DRYBURGH:   Thank you.

16                  CHAIRPERSON JORDAN:   Thank you.  
17                  Yes.   Is there anyone else in the audience  
18                  wishing to testify in support of this  
19                  application?   Yes?

20                  MS. WHEELER:   Yes.   Thank you.

21                  CHAIRPERSON JORDAN:   Okay.

22                  MS. WHEELER:   Again, Faith

1       Wheeler, SMD-4B02, Vice Chair of ANC-4B.

2               A couple of comments in regard to  
3       our resolution, ANC-4B's resolution, etcetera.

4               Just to give kind of an analogy,  
5       accessibility is important for disabled  
6       people. It's -- without clear access to  
7       Metro, it's a little bit like an elevator that  
8       goes to the second floor if you are in a  
9       wheelchair, but not down, stairs down to the  
10      first. So it is really, I think, important to  
11      think that through and see just how it can be  
12      accommodated.

13              The discussion before I would like  
14      to make just a couple of -- the loading dock,  
15      I think it is important to provide a margin of  
16      error in driving. I have been driving since  
17      14, I was a little young, but anyway, and I  
18      like to drive, but driving a truck is  
19      difficult.

20              And I -- and we just -- sometimes  
21      just a little bit of margin really helps in  
22      driving something like that. So I think that

1 is something that is important to pay  
2 attention to. It doesn't take necessarily a  
3 lot of space, extra.

4 And as far as the parking, I would  
5 like just to say I have a bit of a different  
6 view and I'm glad it is basically settled, but  
7 I do want to point out just for future  
8 reference of folks here, the Zoning  
9 Commission, maybe I'll just wait until  
10 everyone is ready.

11 Okay. And that is that I think it  
12 might behoove anybody interested in the issue  
13 actually to inquire about the percentage of  
14 space that's actually used in these big large  
15 buildings, apartment buildings and condo  
16 buildings close to Metros. And I -- and also,  
17 the percentage of folks who park on the  
18 street.

19 I think that is data that would be  
20 very useful and very informative. We do have  
21 some, you know, standards referenced to over-  
22 built parking spaces down on 14th Street and

1       it is -- the city apparently spent a lot of  
2       money building way too many of these targets  
3       and insisted on it.

4               So I think we need to be really  
5       cognizant about that and really inquiring more  
6       that things are changing and some of these  
7       folks are college kids who come out with big  
8       debt, can't afford a car and so will be, you  
9       know, by -- not necessarily by their own  
10      choice, but simply won't be able to.

11             And so I think those are  
12      considerations that -- if it were possible to  
13      get more data just for everybody's own future  
14      reference and understanding that there are --  
15      there is a cultural change going on and we  
16      need to kind of think about how that works and  
17      how it evolves.

18             And it's a tough one, especially  
19      with the Zoning Regs coming through, the  
20      Zoning Reg Rewrite. It's a really tough  
21      issue.

22             CHAIRPERSON JORDAN: I don't know

1 if you have the opportunity to look at the  
2 Transportation Study, some of those things are  
3 in the Transportation Study. But I do  
4 appreciate your testimony and I think that you  
5 hit a lot of the points that we all have  
6 concerns about. And it's how do we get to it  
7 and what are those things within the Board's  
8 control that we can issue by order.

9 MS. WHEELER: Yes.

10 CHAIRPERSON JORDAN: And those  
11 things that we can do to help mitigate those  
12 situations, we will, I don't want to speak  
13 ahead of time, do that. It's just trying to  
14 find those parameters.

15 MS. WHEELER: Sure.

16 CHAIRPERSON JORDAN: But thank  
17 you.

18 MS. WHEELER: And I do appreciate  
19 the willingness of Bruce Levin and Don Tucker  
20 to accommodate and move in the direction. I  
21 think maybe just a little more discussion is  
22 a good idea.

1 CHAIRPERSON JORDAN: Got it.

2 Thank you. Any questions from the Board to  
3 any of the supporting witnesses? Does the  
4 applicant have any questions of any of the  
5 supporting witnesses? I was remiss in not  
6 asking. Do you have a question? Yes?

7 MEMBER ALLEN: I think it's to Mr.  
8 Keys. It's about this issue though.

9 CHAIRPERSON JORDAN: Okay.

10 MEMBER ALLEN: It's for the ANC.  
11 It says that you have the three conditions.  
12 Is that correct? The three are the residents  
13 of the subject property will not be eligible  
14 for residential parking?

15 CHAIRPERSON JORDAN: Permit.

16 MEMBER ALLEN: Permit, correct.  
17 The applicant will extend the bicycle path to  
18 Cedar. And the applicant will construct a  
19 sidewalk along Spring and along Chestnut to  
20 Blair. So I just want to make sure I  
21 understand, because I thought I heard that you  
22 were going to do part of that, but not both of



1       those things?

2                   CHAIRPERSON JORDAN:   I think --

3                   MEMBER ALLEN:   Or am I incorrect?

4                   CHAIRPERSON JORDAN:   -- let me --

5       if you give me liberty, I think we are maybe  
6       going to come back and revisit that at a  
7       point.

8                   MEMBER ALLEN:   Because I just  
9       wanted to know whether that is -- all three of  
10      those are your conditions that are allowing  
11      you to support this or if you are willing to  
12      negotiate that. That was really the point I  
13      was getting to.

14                  MS. GREEN:   There were a few more  
15      on the resolution. You know, we talked about,  
16      you know, outlets for Zipcars and some bicycle  
17      thing. You know, we had some of those other  
18      things in there. But the three main things  
19      that I think will have the biggest impact on  
20      the quality of life for the people in this  
21      building and in the neighborhood are those  
22      first three.

1                   And our support for the project  
2                   was conditioned on those three. Well, on  
3                   everything we mentioned, but I think the first  
4                   three.

5                   MEMBER ALLEN: That was my  
6                   question.

7                   MS. GREEN: Yes.

8                   MEMBER ALLEN: I was just trying  
9                   to find out if that was both of those. Okay.

10                  CHAIRPERSON JORDAN: All right.  
11                  Thank you. Is there anyone in the audience  
12                  wishing to speak in opposition to this  
13                  application? I know we have Mr. Martin. Yes,  
14                  Mr. Martin. And I think you had someone else  
15                  also who wanted to speak in opposition, too.

16                  Would those people wishing to  
17                  speak in opposition, please, come to the  
18                  table? If you are in opposition, please, come  
19                  to the table.

20                  And I want to ask the three, I  
21                  think, Mr. Martin and I didn't get your name,  
22                  what's your's?

1 MR. SERGEANT: Sergeant, Allen  
2 Sergeant.

3 CHAIRPERSON JORDAN: I think you  
4 were here to be sworn earlier, were you not?

5 MR. SERGEANT: Yes.

6 CHAIRPERSON JORDAN: And did you?  
7 Were you here, sir?

8 MR. MARTIN: I was sworn, yes.

9 CHAIRPERSON JORDAN: And have you  
10 all given two witness cards to the court  
11 reporter?

12 ALL: Yes.

13 CHAIRPERSON JORDAN: Good. Then  
14 let's proceed on. Mr. Martin, if you would  
15 lead us off? You get three minutes. No more  
16 than three minutes. And give us your name for  
17 the record.

18 MR. MARTIN: Okay. Hello, Board.  
19 Anyway, my name is Warren Martin and I'm a  
20 District of Columbia resident and I have lived  
21 here all my life. I have worked here all my  
22 life and I pay taxes here.

1                   And I'm in opposition to this  
2           because it's going to pretty much put me out  
3           of business, because I'm getting, you know, no  
4           help from nobody. I just got, actually, an  
5           eviction notice earlier this year after, you  
6           know, quite a many years.

7                   Anyway, there is concern among us,  
8           which is the five businesses which exist  
9           there, which is my shop, Mr. Williams Auto, at  
10          7053 Spring Place and that's -- I'm the  
11          proprietor. We have a Mr. R Tow, 7051 Spring  
12          Place, and that's next to O-J Rose's and we  
13          have Echelon Auto Service, 7051 Spring Place  
14          as well and that's Mr. McGale Grattles and we  
15          have A & N Transmission at 7051 Spring Place  
16          and the proprietor is Allen Sergeant. And we  
17          also have a Tech Auto Repair at 7051, that's  
18          Sergio Orellana.

19                   And there is concern among the  
20          businesses currently operating in the 7000  
21          Block of Spring Place that we will be  
22          displaced should this project get all

1       approvals. And those were the existing  
2       businesses.

3               If all approved, again, for these  
4       developments, it would create a hardship on  
5       myself and my business as well as the other  
6       mentioned proprietors and businesses as we  
7       will be displaced without any financial  
8       compensation, assistance, guidance, help or  
9       relocation assistance from the previous  
10      landlord and current landlord or the District  
11      of Columbia Government.

12             I have operated my business on  
13      this block for close to 18 years. And the  
14      other businesses have been in operation for  
15      multiple years as well, leasing at this  
16      location.

17             We ask that an agreement be worked  
18      out where the current businesses will be  
19      provided some type of assistance, direction,  
20      guidance and help in finding suitable business  
21      locations as a result of displacement should  
22      this project move forward.

1                   CHAIRPERSON JORDAN: Thanks.

2       Thank you. Does the Board have any questions  
3       for Mr. Martin? Anyone? Thank you, Mr.  
4       Martin. Appreciate you coming down. And you  
5       also submitted us a letter in regards to your  
6       concern.

7                   The Board is kind of limited in  
8       what it can and cannot do and ours is in  
9       regards to the relief that is sought for  
10      zoning. We don't necessarily approve the  
11      overall structure, because some things they  
12      can do as matter-of-right. And if they came--  
13      if they did everything that the regulations  
14      required, they wouldn't necessarily be here.

15                  So it's just kind of hard. You  
16      know, we could stop a displacement order in  
17      the development and those things, but those --  
18      the relief that they are requesting, would  
19      that directly affect you or not, you know,  
20      just becomes an issue whether or not if we  
21      grant them the parking relief, does that put  
22      you out of business? You see what I mean?

1 MR. MARTIN: Right, right.

2 CHAIRPERSON JORDAN: Yes. And so  
3 is it Mr. Spring?

4 MR. SERGEANT: Sergeant.

5 CHAIRPERSON JORDAN: Sergeant.  
6 Mr. Sergeant, would you want to give your --

7 MR. SERGEANT: I'm not going to  
8 say what --

9 CHAIRPERSON JORDAN: You just  
10 agree to it, the impact that it is going to  
11 have based upon putting you out of business,  
12 the fact that --

13 MR. SERGEANT: I've been there for  
14 13 years.

15 CHAIRPERSON JORDAN: Okay. All  
16 right.

17 MR. SERGEANT: That's all I do for  
18 a living.

19 CHAIRPERSON JORDAN: Okay. Does  
20 the Board have any questions for Mr. Martin or  
21 Mr. Sergeant? Does the applicant have any  
22 questions? Then let's go to the third

1 gentleman and give us your name, please.

2 MR. TAYLOR: My name is Stephen  
3 Taylor. I'm the general manager of American  
4 Filter and Steam. We are located at 7052  
5 Spring Place, N.W.

6 CHAIRPERSON JORDAN: I'm sorry,  
7 your name again?

8 MR. TAYLOR: Stephen Taylor.

9 CHAIRPERSON JORDAN: Okay. You  
10 have three minutes, Mr. Taylor.

11 MR. TAYLOR: Yes, I'm actually  
12 going to go up to the satellite image.

13 CHAIRPERSON JORDAN: Okay. We  
14 need to have the wireless mike, please.

15 MR. TAYLOR: There we go. Our  
16 building is located -- actually, you can see  
17 one of my vans is actually in front. This is  
18 our building right here. The intersection of  
19 Bull and Spring Place is here.

20 Their contention that 30 foot vans  
21 and moving vans and such will be able to  
22 easily navigate that intersection, is just



1 flatly wrong. I challenge them to come here  
2 on a Friday afternoon or a Saturday morning,  
3 as was exhibited by when The Gables was built  
4 and they had multiple large moving vans arrive  
5 at that building.

6 Also, there is currently a  
7 landscape company that stores some equipment  
8 in this lot here. In order for them to  
9 actually navigate to get their little trailers  
10 around, it takes four or five turns. And they  
11 are professional drivers. They are not  
12 renting Budget trucks.

13 I have a penned gate here that  
14 actually houses this van here, that has been  
15 struck numerous times by people trying to  
16 navigate this turn. There was a brand new  
17 sewage receptacle put in a couple years back  
18 when they built The Gables that has actually  
19 been run over so many times, it is actually  
20 sunk into the ground.

21 So I think there needs to be a  
22 little more study or thought put into this

1 intersection, this turn here, one, because of  
2 -- off topic a little bit.

3 My building or the Landis Building  
4 -- the only sidewalks on Spring Place are in  
5 front of our buildings and it's about a 15  
6 foot strip of sidewalk that's just extraneous  
7 information.

8 But this turn here, as it stands  
9 right now, that's actually a telephone pole.  
10 Unless that pole is going to be moved, it is  
11 going to be gone by college movers. So just  
12 my opposition is I don't think there has been  
13 enough study into this intersection right here  
14 as to how commercial or non-commercial  
15 vehicles, trash trucks and such, are going to  
16 be able to navigate that turn.

17 That's all. That's my comment.  
18 Thank you.

19 CHAIRPERSON JORDAN: Thank you,  
20 Mr. Taylor. I think that was very helpful.  
21 Does the Board have any questions for Mr.  
22 Taylor? Anyone? Does the applicant have any

1 questions of Mr. Taylor?

2 MR. LEVIN: I just have a comment.

3 CHAIRPERSON JORDAN: No. You can  
4 have a question.

5 MR. LEVIN: No.

6 CHAIRPERSON JORDAN: Okay. Thank  
7 you, Mr. Taylor. Is there anyone else wishing  
8 to testify in opposition of this application?  
9 Good. Then let's do this. Let's move back to  
10 a five minute rebuttal, if we could.

11 MR. KEYS: Mr. Chairman, could I  
12 ask for your indulgence for two minutes to  
13 speak to my client about --

14 CHAIRPERSON JORDAN: I'll tell you  
15 what we are going to do. We're going to take  
16 a 10 minute break.

17 MR. KEYS: Thank you.

18 CHAIRPERSON JORDAN: Okay.

19 (Whereupon, at 3:02 p.m. a recess  
20 until 3:15 p.m.)

21 CHAIRPERSON JORDAN: Okay. Mr.  
22 Keys, we had a five minute rebuttal coming

1 from you?

2 MR. KEYS: Yes, Mr. Chairman. We  
3 have got a brief response. And I would like  
4 to ask Mr. Levin to address the concerns  
5 expressed by the party -- person applying for  
6 party status. Just speak to the existing  
7 businesses on the site.

8 CHAIRPERSON JORDAN: Turn your  
9 mike on. Okay.

10 MR. LEVIN: We have six, actually,  
11 tenants, all but one are month-to-month. In  
12 respect to Mr. Martin and Mr. Sergeant's  
13 comments, we have been working and reaching  
14 out to the tenants to the extent they are  
15 willing to work with us and actually have --  
16 three of the tenants are in the process of  
17 relocating and have secured spaces for them  
18 and helped negotiate those leases and have  
19 offered to do the same for Mr. Sergeant and  
20 Mr. Martin, which I think they acknowledged.

21 And these are all month-to-month  
22 tenants by the way, sorry.

1                   MR. KEYS:   Okay.   Thank you, Mr.  
2   Levin.   There were several questions raised  
3   and comments made about the adequacy of the  
4   street, and I'm speaking of Spring Place, in  
5   relation to how one approaches the loading  
6   area.   And I would like Mr. Tucker to talk to  
7   the actual dimensions that we are speaking of  
8   when we talk about Spring Place.

9                   MR. TUCKER:   Yes, actually as part  
10   of our discussions and negotiations with DDOT,  
11   we have agreed to widen Spring Place by 4 feet  
12   from 25 to 29 feet.   And in addition, we are  
13   setting the building back at the ground floor  
14   an additional 4 feet, so we can have a  
15   landscape area along the -- between the multi-  
16   purpose path and the building at the base of  
17   the building.

18                   So at the intersection of Spring  
19   and the alley, referred to as Bull, the pole  
20   would be taken down.   We are going to be going  
21   to underground power along the length of the  
22   site.   And the width of Spring would go from

1       25 to 29 feet and then an additional 4 feet  
2       beyond that to the base of the building.

3               So we are making the intersection  
4       more -- we are widening Spring from 25 to  
5       effectively 33 feet.

6               CHAIRPERSON JORDAN: All right.  
7       Thank you. Does the Board have any other  
8       questions for the applicant? Yes, go ahead.

9               COMMISSIONER MAY: You know, we  
10       didn't talk about this at all, but in flipping  
11       through the various drawings that you have  
12       presented, I'm looking at the elevations, the  
13       elevations seem to indicate that for the two  
14       buildings, there may be multiple rooftop  
15       structures.

16              MR. TUCKER: That's correct.

17              COMMISSIONER MAY: Okay.

18              MR. TUCKER: We have an extensive  
19       green roof and several terraces at the roof  
20       level, which mirror some of the other  
21       buildings along Spring, namely the Landis  
22       Building and The Gables.

1                   COMMISSIONER MAY:   Okay.   So is  
2                   there relief needed for having multiple  
3                   rooftop structures?

4                   CHAIRPERSON JORDAN:   I think they  
5                   requested it.

6                   MR. TUCKER:   I do not believe so.  
7                   We have a stair that is extending beyond the  
8                   roof and then we have a combined elevator and  
9                   equipment area.

10                  COMMISSIONER MAY:   Oh, yes.

11                  MR. TUCKER:   The stair tower  
12                  that's going up and then the enclosed  
13                  mechanical --

14                  COMMISSIONER MAY:   The elevator  
15                  override and then a separate stair.

16                  MR. TUCKER:   Right.

17                  COMMISSIONER MAY:   Which is fairly  
18                  typical for a residential building to have it  
19                  separated, but they also -- I mean, I thought  
20                  typically they would need relief.   They are  
21                  enclosed?

22                  MR. TUCKER:   Yes, those are

1 enclosed structures. Are you talking about  
2 the --

3 COMMISSIONER MAY: Yes.

4 MR. TUCKER: -- terraces that are  
5 not at the high roof level?

6 COMMISSIONER MAY: No. I mean, if  
7 they are enclosed structures --

8 MR. TUCKER: Yes.

9 COMMISSIONER MAY: -- if there is  
10 a structure, if -- it's a rooftop structure or  
11 penthouse, right?

12 MR. TUCKER: Those are --

13 COMMISSIONER MAY: Multiple  
14 rooftop -- I mean, typically, they are  
15 supposed to be a single structure.

16 CHAIRPERSON JORDAN: What's  
17 Planning's view on that?

18 MS. THOMAS: I haven't looked at  
19 it in that regard. If I look at the site  
20 section, it seems as if it's within one  
21 enclosed structure. And I'm not sure if  
22 that's correct. Is that --



1                   COMMISSIONER MAY: The applicant  
2           just stated that there is a separate elevator  
3           override and stair enclosure. They are  
4           unequal height and they are separate  
5           structures.

6                   MR. TUCKER: Separate.

7                   COMMISSIONER MAY: So typically  
8           there is relief needed for both of those  
9           conditions. I mean, isn't that -- I mean, I'm  
10          remembering that right, right?

11                  MS. THOMAS: That's correct. But  
12          don't they have to be also enclosed by --  
13          within one structure and is that what I'm  
14          seeing in one of the elevations?

15                  COMMISSIONER MAY: Yes, I mean, we  
16          don't -- I mean, I guess, part of the problem  
17          is we don't even have a really, you know, good  
18          set of --

19                  MS. THOMAS: Plans.

20                  COMMISSIONER MAY: -- plans for  
21          the whole building.

22                  MR. TUCKER: And Building 1 we

1       have -- the building to the right when you are  
2       looking at the elevations, we do have a single  
3       elevator. And the stair structure that goes  
4       up, although it is not -- they are shown as  
5       separate, they are combined as a single  
6       element now on the roof with mechanical space.  
7       So there is a single penthouse.

8               In Building 2, we are showing --  
9       we have two elevators, so it is necessary to  
10      have a second, even though it's a low profile,  
11      elevator that penetrates the roof.

12             COMMISSIONER MAY: Just looking at  
13      what you show up there, each building seems to  
14      have two rooftop structures on equal heights.

15             MR. TUCKER: Right. Building No.  
16      1, the elevation that is shown there is not  
17      correct and that those two have been combined  
18      into a single --

19             COMMISSIONER MAY: Okay. So the  
20      one -- I'm sorry, which one? The one on the  
21      left?

22             MR. TUCKER: The one on the right.

1                   COMMISSIONER MAY: The one on the  
2 right is incorrect?

3                   MR. TUCKER: Yes.

4                   VICE CHAIR SORG: But it sounds  
5 like it -- I'm sorry to jump in, but it sounds  
6 like what you are also saying is that it is --  
7 well, it's one with the mechanical room. It's  
8 still on equal height.

9                   COMMISSIONER MAY: Okay.

10                  MR. TUCKER: They are equal  
11 heights.

12                  VICE CHAIR SORG: They are equal?

13                  MR. TUCKER: Yes.

14                  VICE CHAIR SORG: Okay.

15                  COMMISSIONER MAY: Okay. So I  
16 mean, you know, this is the problem with not  
17 having a complete set of drawings --

18                  MR. TUCKER: Right.

19                  COMMISSIONER MAY: -- in our  
20 submission. What seems to be clear to me is  
21 that there is relief needed.

22                  MR. TUCKER: Yes. We've got to

1 elevator shafts.

2 CHAIRPERSON JORDAN: All right.

3 Let me -- all right. Let's bring this to a  
4 head, because I don't think the Board is ready  
5 to deliberate on this anyway today. And so we  
6 are going to close this hearing and move this  
7 matter to be considered again at another  
8 decision meeting.

9 And at that time, unless -- at  
10 that time -- no, because we might have to get  
11 relief from the roof structure. We might just  
12 need to put this back on another hearing date  
13 instead of a decision date.

14 So let's do that. Give me a date.

15 MR. TUCKER: We are looking at a  
16 section of the code that does say that if you  
17 have two elevators, that you are allowed to  
18 have two --

19 VICE CHAIR SORG: One.

20 CHAIRPERSON JORDAN: All right. I  
21 have already -- we are not having this debate  
22 at this point, because we have kind of been

1 here a while on this. And the Board is not  
2 going to be ready to deliberate on this matter  
3 today anyway, because there are several things  
4 that we are going to want from you.

5 One, we need to get resolved. And  
6 we are going to move this to another date as  
7 soon as we get one from Mr. Moy. But let me  
8 tell you what we are going to need.

9 Is that we are going to need to  
10 resolve (1) this issue with the multiple  
11 roofs, unequal roofs.

12 (2) I would like to have further  
13 discussion in understanding the conditions  
14 that are acceptable by all parties, that is  
15 Planning, DOT and the ANC, in regards to what  
16 is going to be done. And I would like the  
17 applicant to be meeting with these groups to  
18 talk about what they are going to do.

19 (3) Also to take a look at this  
20 question in meeting with DOT regarding the  
21 loading accessibility and the safety issues  
22 there and take a hard look again and let us

1 know what the applicant is going to be able to  
2 do with DDOT and whoever else may need to come  
3 to the table to talk about extending these  
4 pedestrian-ways, sidewalks, etcetera, what can  
5 be done.

6 (4) And to see about strengthening  
7 your TDM measures before we come back here.

8 Is there anything else that the  
9 Board may want to hear about? Did the cover  
10 everything? Okay.

11 Mr. Moy, do we have some dates?

12 MR. MOY: Yes, sir, I have one to  
13 accommodate Mr. May. He is going to be  
14 sitting with the Board on Tuesday, March 26.

15 CHAIRPERSON JORDAN: All right.  
16 That's about --

17 MR. MOY: That's exactly a month  
18 from now.

19 CHAIRPERSON JORDAN: -- time to  
20 get that done.

21 MR. MOY: Do you want more time?

22 CHAIRPERSON JORDAN: Okay. No,

1       let's do March 26th. That's a decision or  
2       hearing?

3                   MR. MOY: Hearing.

4                   CHAIRPERSON JORDAN: Hearing.

5       Okay. So then we want to get your submission  
6       by March 12th and any responses to that by  
7       March 19th. Is that correct, Mr. Moy? Would  
8       that be appropriate?

9                   MR. MOY: Sure, yes.

10                  CHAIRPERSON JORDAN: And so then  
11       we would have it set on the March 26th docket.  
12       Okay. Is that agreeable with the Board?  
13       Okay. Then we will close this hearing for  
14       this particular session and then pick it up  
15       again on March 26.

16                  Thank you. Appreciate it.

17                  MR. MOY: The next application on  
18       the docket, Mr. Chairman, is Application No.  
19       18506. This is the application of 1700  
20       Columbia Road, LLC, pursuant to 11 DCMR 3104.1  
21       and 3103.2, for a special exception from the  
22       roof structure provisions under subsection

1 777.1, subsections 441.2, 441.3 and 441.5, a  
2 variance from the off-street parking  
3 requirements under subsection 2101.1, and a  
4 variance from the loading berth and delivery  
5 space provisions under subsection 2201.1.

6 This is all to allow a mixed-use  
7 residential and retail project in the C-2-B  
8 District at premises 1700 Columbia Road, N.W.,  
9 property located in Square 2565, Lot 52.

10 I believe there are preliminary  
11 matters in this application, Mr. Chairman.  
12 Also, my understanding is the applicant in  
13 District Properties, which follows this case,  
14 had a timing issue, but I'll leave that with  
15 the Board, as to how the Board wants to handle  
16 it.

17 CHAIRPERSON JORDAN: I don't  
18 understand what you mean.

19 MR. MOY: I was approached by the  
20 applicant in Case 18482 about possibly doing  
21 a chance in line-up, but I'm just mentioning  
22 it for the Board's desires.



1                   CHAIRPERSON JORDAN: Well, we have  
2 already called this case. I did not know that  
3 part, you calling this case. Okay.

4                   All right. We have a -- where are  
5 we on this thing? Preliminary matters? Okay.  
6 First, let's do this. I think we have a party  
7 status request on this matter?

8                   MR. MOY: Yes, sir.

9                   CHAIRPERSON JORDAN: And the party  
10 status request is being proffered by Chris  
11 Otten. Is that correct?

12                  MR. MOY: Yes, for Responsible  
13 Group.

14                  CHAIRPERSON JORDAN: Okay. Well,  
15 Adams Morgan for Responsible Development, are  
16 they here? Would you, please, come forward  
17 and identify yourselves? Let's deal with this  
18 issue first. Is the microphone on?

19                  MR. OTTEN: Yes.

20                  CHAIRPERSON JORDAN: Would you  
21 identify yourself, please?

22                  MR. OTTEN: Thank you,

1 Commissioners. My name is Chris Otten. I am  
2 the spokesperson for Adams Morgan for  
3 Reasonable Development.

4 CHAIRPERSON JORDAN: Okay. And I  
5 understand there is a request for party  
6 status. Who is Adams Morgan for Reasonable  
7 Development?

8 MR. OTTEN: Adams Morgan for  
9 Reasonable Development submitted a party  
10 status request. We are an unincorporated  
11 nonprofit association here in the District of  
12 Columbia founded in 2010. Our principal  
13 mission is to --

14 CHAIRPERSON JORDAN: Excuse me one  
15 second. There are two party statuses? There  
16 is another party status request and that  
17 person is Jeff -- Ms. Rasine, is it? White?

18 VICE CHAIR SORG: White.

19 CHAIRPERSON JORDAN: Is she here?  
20 No? Okay. A party status request, I guess,  
21 it was, yes. No, it's in support. It's a  
22 party status, but it's in request of support.

1       So still, okay, but they are not here.

2                   All right. I'm sorry, Mr. Otten.

3       How long has this organization been in  
4       existence?

5                   MR. OTTEN: We were founded in May  
6       of 2010.

7                   CHAIRPERSON JORDAN: May 2010?

8                   MR. OTTEN: Yes.

9                   CHAIRPERSON JORDAN: I don't see  
10       an authorization letter in regards to your  
11       representation.

12                   MR. OTTEN: I don't know what  
13       exhibit number it is, but there are at least  
14       10 authorization letters.

15                   CHAIRPERSON JORDAN: No, I mean,  
16       authorization from the unincorporated  
17       association that there was a properly called  
18       meeting that was held and that they voted,  
19       one, that you are the representative.

20                   MR. OTTEN: Well, there are  
21       several -- I mean, it's a non-hierarchical  
22       representative group and the authorization

1 letters specifically refer to me with Adams  
2 Morgan for Reasonable Development.

3 CHAIRPERSON JORDAN: Are you  
4 talking this document that was filed February  
5 25th?

6 MR. OTTEN: That's the subsequent  
7 filing with the authorization letters.

8 CHAIRPERSON JORDAN: Individuals  
9 can't authorize unincorporated associations,  
10 but for in a meeting of the association as any  
11 other organization voted upon, but where there  
12 is a meeting, a quorum and they vote.

13 MR. OTTEN: Yes.

14 CHAIRPERSON JORDAN: So we have --  
15 did that happen?

16 MR. OTTEN: Yes, last weekend.

17 CHAIRPERSON JORDAN: You had a  
18 meeting?

19 MR. OTTEN: Yes.

20 CHAIRPERSON JORDAN: And they  
21 voted you the representative?

22 MR. OTTEN: Yes. Through these --

1 and that's who has been identified through  
2 these letters.

3 CHAIRPERSON JORDAN: I guess maybe  
4 I'm not clear. Give me one second. Let me --

5 MR. OTTEN: Yes.

6 CHAIRPERSON JORDAN: -- look at  
7 your party status request.

8 MR. OTTEN: All right. And easy  
9 way to see it is if you look at the February  
10 25th submission, start at the back.

11 CHAIRPERSON JORDAN: Well, that's  
12 not before us yet.

13 MR. OTTEN: Oh.

14 CHAIRPERSON JORDAN: Because that  
15 has been proffered after the time of  
16 submission.

17 MR. OTTEN: Well, the initial  
18 submission was in. We had to wait until --

19 CHAIRPERSON JORDAN: Right. I  
20 understand.

21 MR. OTTEN: -- Planning --

22 CHAIRPERSON JORDAN: Let me take a

1 look at your initial submission.

2 MR. OTTEN: Okay. Thank you.

3 CHAIRPERSON JORDAN: See if that's  
4 the attached. Okay. I see it, but I don't  
5 see that there -- I don't see anything in this  
6 submission that there was a vote and you were  
7 voted the authorized representative of this  
8 group.

9 I see a letter standard by you --

10 MR. OTTEN: Yes.

11 CHAIRPERSON JORDAN: -- that  
12 declares your -- the issues and the party  
13 status request, but I don't see an  
14 authorization by the group.

15 MR. OTTEN: I am the spokesperson  
16 for the group. I have been for -- since the  
17 founding of the group. And subsequent to the  
18 Office of Planning and DDOT reports, we had a  
19 meeting and we discussed the key issues that  
20 came out from those reports. And so --

21 CHAIRPERSON JORDAN: Let me ask  
22 you very directly. So this organization met?

1 MR. OTTEN: Yes.

2 CHAIRPERSON JORDAN: They voted  
3 that you were going to be the representative.  
4 How many people were at the meeting?

5 MR. OTTEN: At least 10.

6 CHAIRPERSON JORDAN: And what's a  
7 quorum for the meeting?

8 MR. OTTEN: It's non-hierarchical,  
9 so it's not -- you know, it's not a quorum.

10 CHAIRPERSON JORDAN: But there are  
11 certain requirements under D.C. Law, so that's  
12 why I'm asking you what's the quorum for the  
13 meeting?

14 MR. OTTEN: Well, there -- the  
15 quorum is what we met. We met -- you know, we  
16 had a noticed meeting. We met with folks. We  
17 discussed the issues that the Office of  
18 Planning and DDOT raised. We reviewed those  
19 distinctly and decided that we need to move  
20 forward with this as a party.

21 CHAIRPERSON JORDAN: Okay. I  
22 understand the issues of everybody that lives

1 in close proximity. Are these people that is  
2 part of this organization, are they within 200  
3 feet?

4 MR. OTTEN: So the people we met  
5 with, yes, that's the key. We met with the  
6 participants who live within 200 feet.  
7 Literally the lot across the street and the  
8 lot catty-corner to the, I guess, east and  
9 north.

10 CHAIRPERSON JORDAN: And what  
11 issues are different than that from the  
12 general public?

13 MR. OTTEN: Well, there is --

14 CHAIRPERSON JORDAN: That the  
15 organization is representing?

16 MR. OTTEN: -- light and air  
17 issues to the surrounding neighbors,  
18 particularly. The noise issues that will  
19 affect them due to their proximity,  
20 particularly the lot to the south of this  
21 property.

22 CHAIRPERSON JORDAN: Isn't that



1 the same issues that the public around this  
2 area would have anyway?

3 MR. OTTEN: Certainly the  
4 proximity of these folks, they will be more  
5 uniquely impacted than the general public.  
6 There is also concerns about rent and land  
7 destabilization in terms of the value of this  
8 project with the proposed penthouse patios and  
9 also the commercial residents, commercial  
10 lessees that -- well, we have kind of a sister  
11 group that have been talking with us, Columbia  
12 Road Commercial and Friends.

13 CHAIRPERSON JORDAN: Okay.

14 MR. OTTEN: We didn't get their  
15 letter for this today, but the main focus was  
16 the residents that are in the surrounding lots  
17 that are participating with our group.

18 CHAIRPERSON JORDAN: Okay. Now,  
19 let me turn to the applicant and let me have  
20 those on the applicant's table identify  
21 themselves, the applicant side.

22 MR. TUMMONDS: Good afternoon, Mr.

1 Chairman. Paul Tummonds with Goulston &  
2 Storrs.

3 MR. PARANA: Jeff Parana with  
4 Potomac Development.

5 MR. FOTIU: Steve Fotiu with The  
6 Eisen Group of Architects.

7 CHAIRPERSON JORDAN: Okay. Does  
8 the applicant have a statement they want to  
9 make in regards to the party request or party  
10 status request?

11 MR. TUMMONDS: I think the  
12 applicant would state that we don't believe  
13 that Adams Morgan for Reasonable Development  
14 has satisfied the Party Status Request  
15 Guidelines. We think that the issues that  
16 they want to raise can be adequately addressed  
17 in the five minutes that is granted to persons  
18 or organizations in opposition.

19 CHAIRPERSON JORDAN: Yes, all  
20 right. Does the Board have any thoughts one  
21 way or the other regarding party status? All  
22 right. I'm a bit concerned about granting

1 party status here, because I don't see that  
2 there has been a proper -- I'm concerned that  
3 there is not a proper tender of the  
4 requirements under the law.

5 However, we have Mr. Otten's  
6 verbal statement that the things required by  
7 law has occurred. And so, you know, I would  
8 be willing to accept that if the Board is  
9 willing. Yes, Ms. Sorg?

10 VICE CHAIR SORG: Thank you, Mr.  
11 Chairman. Even though I'm tired, I would be  
12 inclined to accept the party status.

13 CHAIRPERSON JORDAN: Okay.

14 COMMISSIONER MAY: Mr. Chairman,  
15 assuming it's consistent with the sort of  
16 things that we have done in the past on the  
17 Zoning Commission where neighbors organize  
18 together in response to -- in some cases in  
19 response to one development and then they have  
20 a continuing life representing those issues,  
21 I do think that it would be helpful if Mr.  
22 Otten in the future would try to understand

1        what the requirements are for party status and  
2        even what is a legitimate issue in the case,  
3        because some of the things that were mentioned  
4        as issues in the case are really not zoning  
5        issues.

6                    I mean, neighborhood land values  
7        and things like that are really not our  
8        domain. So if that's what is the major driver  
9        for your party status, then there really isn't  
10       going to be much to be gained in the process  
11       from your participating as a party.

12                   But in terms of the other issues  
13       that are zoning issues, certainly those are  
14       relevant. And we appreciate the fact that you  
15       are representing a group. I think it is more  
16       efficient generally, but it is also important  
17       that you -- you know, if you are going to call  
18       yourself an unincorporated association, you  
19       need to understand what the rules are about  
20       unincorporated associations.

21                   MR. OTTEN: Right.

22                   CHAIRPERSON JORDAN: Exactly. And

1 I think in this matter, I agree with you. So  
2 based upon Mr. Otten's representation to the  
3 Board that there was a properly called  
4 meeting, which there was a quorum and he was  
5 elected to be the authorized representative  
6 and that that organization move forward and  
7 request to be granted party status, I would  
8 tend that we would grant party status.

9 There is an additional preliminary  
10 issue here. I think that there is additional  
11 relief required that was not requested, that  
12 being some minor relief from the compact -- I  
13 didn't see that in the application.

14 MR. TUMMONDS: Yes. We originally  
15 had asked for relief from ^U 2101.1. As we  
16 have gone through an refined and added more  
17 parking spaces, we are able to do that by  
18 grouping compact spaces in less than five  
19 contiguous spaces. So we think that is  
20 generally consistent with the relief we are  
21 requesting regarding the number of parking  
22 spaces provided in this project.

1 CHAIRPERSON JORDAN: So but you  
2 still do need the relief?

3 MR. TUMMONDS: Yes, we do from  
4 that rather arcane part of the Zoning  
5 Regulations that says when you provide  
6 parking, compact parking spaces they may be 5  
7 feet.

8 CHAIRPERSON JORDAN: If I remember  
9 the number, what's the five contiguous spaces,  
10 2101.4, I think it is. Yes, 2101.4.

11 MR. TUMMONDS: Okay.

12 CHAIRPERSON JORDAN: Very good.  
13 Okay. Then let's -- you are also proffering  
14 some experts for us?

15 MR. TUMMONDS: Yes, we have two  
16 experts that we submitted rŠsumŠs in our  
17 February 12, 2013 submission. Their rŠsumŠs  
18 are found at Tab G. The first is Steve Fotiu  
19 and his rŠsumŠ is the second page of Tab G in  
20 the project experience.

21 Learning what we had heard in the  
22 previous case, I will list those projects

1       which are mixed-use projects: Constitution  
2       Square, Washington, D.C.; North Bethesda  
3       Market, North Bethesda, Maryland; Legg Mason  
4       Tower and Four Seasons Hotel and Residential  
5       in Baltimore; 1005 1st Street, 625 H Street,  
6       501 H Street, and Accotink Village, those are  
7       all mixed-use projects that Mr. Fotiu worked  
8       on.

9                   CHAIRPERSON JORDAN: Okay. Does  
10       the Board have a concern or any question about  
11       accepting these experts, these proposed, these  
12       proffered experts? And what was the other --

13                   MR. TUMMONDS: And the other one  
14       is Mike Workosky, traffic engineer with Wells  
15       & Associates. Mr. Workosky has been admitted  
16       as an expert before the BZA.

17                   CHAIRPERSON JORDAN: Oh, he has,  
18       yes.

19                   MR. TUMMONDS: Yes.

20                   CHAIRPERSON JORDAN: I thought so.  
21       And the third person is?

22                   MR. TUMMONDS: And we don't -- Mr.

1 Eisen will not be here. Mr. Fotiu will be  
2 here on behalf of The Eisen Group, the project  
3 architect.

4 CHAIRPERSON JORDAN: All right. I  
5 think we -- unless there is an objection by  
6 the Board, then we will accept them as experts  
7 in this matter. Let's see, where are we?  
8 Okay. This is one with a lot of conditions.  
9 I think the Board is pretty much aware of your  
10 application, so we are not requiring a full  
11 presentation.

12 However, the Board probably has  
13 some questions and we would rather hit the  
14 specific issues that we need to have addressed  
15 for us to be able to make a decision.

16 Does the Board have any questions  
17 that they would want specifically addressed by  
18 the --

19 MR. TUMMONDS: There was one, Mr.  
20 Otten yesterday at 4:55 had filed a motion  
21 requesting postponement.

22 CHAIRPERSON JORDAN: Yes. Thank



1       you, counselor, for bringing that up. Okay.

2       What's your basis of postponement? Go ahead,  
3       what's the basis?

4                   MR. OTTEN: Okay. The  
5       postponement is based on the use of the rear  
6       yard. There would seem in this case that the  
7       rear yard would require a variance review as  
8       well due to the definitions of rear yard in  
9       the Zoning Regs. And the fact that a rear  
10      yard would -- is supposed to be unoccupied for  
11      the length of the lot.

12                  CHAIRPERSON JORDAN: Okay. So the  
13      argument, I don't want to hear all of that.

14                  MR. OTTEN: Sorry, yes.

15                  CHAIRPERSON JORDAN: Your argument  
16      is that you think additional relief is  
17      required?

18                  MR. OTTEN: Yes.

19                  CHAIRPERSON JORDAN: Okay. That's  
20      not a basis for granting a postponement. If  
21      they don't have enough relief necessary for  
22      them to move forward, then that's the jeopardy

1       that they have placed themselves in.

2                   MR. OTTEN:  Doesn't the Office of  
3       Planning have to weigh in on that relief?

4                   MR. TUMMONDS:  We're prepared to  
5       address that really quickly.

6                   CHAIRPERSON JORDAN:  All right.  
7       So what's your other basis of postponement?

8                   MR. OTTEN:  That the District  
9       agencies that review these sort of -- this  
10      type of relief for rear yard haven't yet  
11      weighed in, haven't looked at this issue.  It  
12      gets complicated because of the structures,  
13      all the structures that occupy the proposed  
14      rear yard.  There is a garage ramp that takes  
15      up more than half of the rear yard, at this  
16      point.

17                   There also are condensers, it  
18      would seem.

19                   CHAIRPERSON JORDAN:  So you want  
20      more time to be able to go after the  
21      credibility of the application?  That's what  
22      you are asking for, for the agencies to weigh

1 in?

2 MR. OTTEN: The agencies to weigh  
3 in --

4 CHAIRPERSON JORDAN: The agencies?

5 MR. OTTEN: -- in public. The ANC  
6 wasn't aware perhaps of this garage event.

7 CHAIRPERSON JORDAN: You're not  
8 representing the ANC, right?

9 MR. OTTEN: Well, they represent  
10 me and my -- the neighbors who are here. And  
11 they have not had a chance to look at the  
12 garage vent that is in the rear yard, as well  
13 as the -- it seems to be at least 10  
14 condensers that are occupying the rear yard.

15 This seems to us that it  
16 contravenes some of the Zoning Regulations.

17 CHAIRPERSON JORDAN: So you think  
18 that your argument for postponement is that  
19 the Government agencies had not had sufficient  
20 time to review these areas?

21 MR. OTTEN: Either to suggest this  
22 relief to the applicant that they would have

1 to ask for this or to -- and then subsequently  
2 then to review it.

3 CHAIRPERSON JORDAN: Okay. And  
4 let me turn to the applicant.

5 MR. TUMMONDS: Yes, we can dispose  
6 of this very quickly. Pursuant to 11 DCMR  
7 2503.2 it says "A structure, not including a  
8 building, no part of which is more than 4 feet  
9 above the grade at any point, may occupy any  
10 yard."

11 CHAIRPERSON JORDAN: I don't want  
12 the argument on the merits. I'm asking what  
13 is your response --

14 MR. TUMMONDS: The merits on --  
15 it's not required. Condensers less than 4  
16 feet can be provided in any required yard.

17 CHAIRPERSON JORDAN: Well, we are  
18 not --

19 MR. OTTEN: But the problem is --

20 CHAIRPERSON JORDAN: We are not  
21 going to give an exchange. The motion is  
22 denied. Let's proceed with the application.

1 Thank you very much.

2 MR. OTTEN: -- I didn't get a  
3 chance to respond to that.

4 CHAIRPERSON JORDAN: I didn't ask.  
5 You didn't have to.

6 MR. OTTEN: Okay. Okay. I'll  
7 take it as --

8 CHAIRPERSON JORDAN: It was way  
9 out of bounds anyway, so -- because the reply  
10 -- the response to your motion was out of  
11 bounds and we just moved on from there.

12 MR. OTTEN: Okay.

13 CHAIRPERSON JORDAN: Okay.

14 MR. OTTEN: We will have to appeal  
15 that then.

16 MR. TUMMONDS: I'll just give a  
17 brief --

18 CHAIRPERSON JORDAN: And let --  
19 nothing. Go ahead, please.

20 MR. TUMMONDS: I have a brief  
21 introduction and then we will open it up to  
22 answering any questions you may have.

1 CHAIRPERSON JORDAN: Yes.

2 MR. TUMMONDS: As was noted at the  
3 beginning of this hearing, we will be  
4 presenting a mixed-use residential project  
5 with ground floor neighborhood-serving retail  
6 and, approximately, 65 to 85 residential  
7 units.

8 CHAIRPERSON JORDAN: One more  
9 time. I think we are at the point where I was  
10 asking the Board is there specific --

11 MR. TUMMONDS: Okay.

12 CHAIRPERSON JORDAN: -- questions  
13 that we need to have addressed by you, so that  
14 we are not having you focus on things that are  
15 unnecessary for you to focus on.

16 MR. TUMMONDS: Perfect.

17 CHAIRPERSON JORDAN: Yes, Mr. May?

18 COMMISSIONER MAY: Yes. I mean,  
19 there are three issues that I had questions  
20 about and maybe they can be answered in your  
21 presentation.

22 One is I didn't see a good version

1 of the roof plan. It may be that I just don't  
2 have good copies of things.

3 Similarly, the east elevation, I  
4 don't have a good image of what that is. It's  
5 a little bit vague.

6 And then I'm interested in  
7 residential parking permits and whether this  
8 building -- occupants of this building would  
9 be eligible for RPP.

10 MR. TUMMONDS: First --

11 CHAIRPERSON JORDAN: Let me check  
12 again.

13 MR. TUMMONDS: Yes.

14 CHAIRPERSON JORDAN: Anybody else  
15 on the Board have an issue that we really want  
16 to have addressed, so we can get it down  
17 contiguously? You can proceed, please. Thank  
18 you.

19 MR. TUMMONDS: We are presenting a  
20 mixed-use residential project, a ground floor  
21 neighborhood-serving retail and,  
22 approximately, 65 to 85 residential units.

1       This project satisfies the matter-of-right C-  
2       2-B Zone District requirements for use,  
3       Inclusionary Zoning, height, FAR, lot  
4       occupancy and required yards.

5               There is a -- the special  
6       exception relief and variance relief are  
7       simple and straightforward and have been  
8       thoroughly reviewed by ANC-1C, OP and DDOT.  
9       After completing those reviews, each of those  
10      organizations made a decision to support this  
11      application.

12              We have two witnesses.   Steve  
13      Fotiu, the project architect, and Jeff Parana,  
14      a representative of the applicant.  If there  
15      are any questions regarding parking or  
16      loading, Mr. Workosky is here to answer those  
17      questions.  I'll now let Mr. Fotiu present his  
18      testimony.

19              CHAIRPERSON JORDAN:  We don't need  
20      all that.

21              MR. TUMMONDS:  Okay.

22              CHAIRPERSON JORDAN:  I need you to



1 hit the questions that were raised.

2 MR. TUMMONDS: Just that --

3 CHAIRPERSON JORDAN: We understand  
4 from the record what you have submitted and  
5 that you submitted it on the record based upon  
6 on telling us the truth in what is provided.

7 We have reviewed the record in  
8 this matter and we are very -- we know it's in  
9 the record. The Board has some issues and  
10 questions that they have asked you that we  
11 need you to supplement answers to, because we  
12 don't believe those parts of the record that  
13 has been submitted answers our questions.  
14 Okay?

15 MR. TUMMONDS: I apologize. We  
16 are ready.

17 MR. FOTIU: If I can direct your  
18 attention to the projection, I apologize if  
19 the copy that you received did not show the  
20 roof plan properly. I understand sometimes  
21 the copying isn't sufficient or adequate.

22 What you will see on the right

1 hand side of this image is the roof plan  
2 showing a series of --

3 CHAIRPERSON JORDAN: Which exhibit  
4 is that?

5 MR. TUMMONDS: Exhibit B, as in  
6 boy, of the February 12, 2013 submission.

7 CHAIRPERSON JORDAN: Okay. B, as  
8 in boy.

9 MR. TUMMONDS: It's referred to as  
10 the Penthouse Level Plan.

11 MR. FOTIU: Also on the following  
12 page, there is the roof level plan, but I  
13 believe that the penthouse plan shows more  
14 detail and is more relevant to speak to.

15 MR. TUMMONDS: It is the eighth  
16 page of Exhibit B.

17 CHAIRPERSON JORDAN: Okay. All  
18 right. Proceed.

19 MR. FOTIU: Thank you. The  
20 colored-in areas represent all of the enclosed  
21 spaces. These locations right here, they  
22 appear to be very small enclosures. These are

1        staircases that access the roof from some of  
2        the top floor units. Then there is one  
3        combined penthouse that includes the elevator,  
4        a stair and a small lobby to access a shared  
5        rooftop terrace.

6                    COMMISSIONER MAY: Okay. So I  
7        actually did have a good version of this. I  
8        must have missed it the first time around.  
9        And I was completely thrown by the Office of  
10       Planning saying that there were 18 rooftop  
11       structures.

12                   I'm not counting 18 here.

13                   MR. TUMMONDS: No. And I think--

14                   COMMISSIONER MAY: But it is more  
15        than a couple.

16                   MR. TUMMONDS: Yes. And I think--  
17        and we apologize. Originally, the initial  
18        application referred to an erroneous 17.  
19        Subsequently, we had this and there are, in  
20        fact, 10. And when you look at the OP report,  
21        on the first page of the OP report, the first  
22        18, but on later pages when it talks about the

1 specific relief, it refers to the correct 10.

2 COMMISSIONER MAY: Okay. So it is  
3 just 10. And then how tall are these  
4 structures? The little ones?

5 MR. FOTIU: Yes, understood. The  
6 little one are shown here. They are 10 feet  
7 tall.

8 COMMISSIONER MAY: They are 10  
9 feet tall. And are they actually connected by  
10 a trellis or something?

11 MR. FOTIU: There is a decorative  
12 trellis that attempts to combine them.

13 COMMISSIONER MAY: Okay. So and  
14 you are not arguing that that makes it into a  
15 single structure, Mr. Tummonds?

16 MR. TUMMONDS: No, we didn't. No.  
17 We think it gives us more flexibility to  
18 allow the distance between the trellis slats.

19 COMMISSIONER MAY: But they are  
20 connected?

21 MR. FOTIU: But they are connected  
22 and that's how --

1                   COMMISSIONER MAY: You would have  
2 to make them a much more dense --

3                   MR. FOTIU: Yes.

4                   COMMISSIONER MAY: -- grid.

5                   MR. FOTIU: A double connection.

6                   COMMISSIONER MAY: Right.

7                   MR. FOTIU: The trellis that is  
8 there.

9                   COMMISSIONER MAY: So in effect,  
10 it will be perceived as a single structure?

11                  MR. FOTIU: We think it says --

12                  COMMISSIONER MAY: If it is  
13 perceived at all, because it's only 10 feet  
14 high.

15                  MR. FOTIU: And it's setback 1:1.

16                  MR. TUMMONDS: We think it ties in  
17 visually. It's a nicer appearance.

18                  MR. FOTIU: Right.

19                  MR. TUMMONDS: So that we don't  
20 have just appendages, if you will, sticking  
21 up.

22                  COMMISSIONER MAY: Well, I agree.

1 I mean, I have seen a few apartment buildings  
2 from the 60s I think that really just, you  
3 know, a whole bunch of those rooftop, you  
4 know, I don't know what you call it, they look  
5 like something from outer space.

6 But this looks more in keeping  
7 with the rest of the architecture of the  
8 building.

9 And so to just understand the one  
10 at the very corner with the architectural  
11 embellishment, that's all going to be one  
12 person's private terrace on that top floor?  
13 That's not part of the communal one, right?

14 MR. FOTIU: That's correct. The  
15 views are actually, if I can point to the  
16 rooftop plan, quite nice to the south. And so  
17 we chose after some deliberation to put the  
18 communal deck there.

19 COMMISSIONER MAY: Okay. And then  
20 what is the -- it's probably shown elsewhere,  
21 but what is the height of the elevator  
22 override structure?

1                   MR. FOTIU: The elevator override  
2 structure is at 16 foot 6.

3                   COMMISSIONER MAY: 16.6. Okay.  
4 And it is setback 14?

5                   MR. FOTIU: At one pinch-point it  
6 is 14 foot 8, yes.

7                   COMMISSIONER MAY: Okay. Well,  
8 that's so close to complying.

9                   CHAIRPERSON JORDAN: A foot short.

10                  COMMISSIONER MAY: Yes.

11                  MR. FOTIU: And there has been  
12 some great -- a good deal of research in the  
13 type of elevator that might want to be used.  
14 Obviously, we want to maintain flexibility for  
15 making sure that the purchasing is -- we get  
16 the best price for elevators. So we don't  
17 want to specifically hone in on one  
18 manufacturer and that's why we have gone to  
19 the worst case scenario, unfortunately.

20                  COMMISSIONER MAY: Okay. All  
21 right. So now, I'm starting to see. I mean,  
22 this elevation that you show here, the version

1       that we have of that does not show any rooftop  
2       structure at all.  It's just complete white  
3       space.

4                   MR. FOTIU:  It may have been faded  
5       in the print.

6                   MR. TUMMONDS:  Right.

7                   MR. FOTIU:  Again, I apologize for  
8       that and that's why we --

9                   COMMISSIONER MAY:  Well, that's  
10      why it was --

11                  MR. FOTIU:  -- it was this, yes.

12                  COMMISSIONER MAY:  -- a little  
13      confusing.  Okay.

14                  MR. MOY:  Mr. Chairman?

15                  CHAIRPERSON JORDAN:  Yes?

16                  MR. MOY:  I do have handouts from  
17      the PowerPoint if you want, if you think it is  
18      better than the copies you have in the file?  
19      Okay.

20                  CHAIRPERSON JORDAN:  Okay.

21                  COMMISSIONER MAY:  So can you --  
22      do you have the eastern elevation?  Is that



1 the right one that I had a question about?

2 MR. FOTIU: This eastern --

3 MR. TUMMONDS: The 17th or  
4 Columbia?

5 COMMISSIONER MAY: 17th.

6 MR. FOTIU: In the submission,  
7 there is a -- in the application there was a  
8 CAD version of the elevation. We don't have  
9 a colorized version of that.

10 COMMISSIONER MAY: Okay. I mean,  
11 but do you even have the CAD one? Because the  
12 one I --

13 MR. FOTIU: Yes.

14 COMMISSIONER MAY: The one I'm  
15 looking at, I'm wondering if I'm missing  
16 anything in that. Well, can you bring it up  
17 on the screen anyway? I just have questions  
18 about it, put it that way.

19 MR. FOTIU: Actually, I don't have  
20 it in the screen.

21 COMMISSIONER MAY: Okay.

22 MR. FOTIU: But I have it in the

1 application.

2 COMMISSIONER MAY: All right. Got  
3 it. So at the far left, we are looking at a  
4 big --

5 MR. FOTIU: Do you have this?

6 COMMISSIONER MAY: Yes, I have  
7 that.

8 MR. FOTIU: Okay. Excellent.

9 COMMISSIONER MAY: So I mean, to  
10 the left for the building itself, there looks-  
11 - it looks like there is a wall with a  
12 vehicular opening and then a door opening.

13 MR. FOTIU: Actually, it is not a  
14 vehicular opening. It's an opening for a  
15 transformer to be serviced. So there is a  
16 transformer on a pad out in that yard. And in  
17 order to hide it from view and make it a  
18 little bit more attractive, it is behind a  
19 wall.

20 COMMISSIONER MAY: With a big  
21 opening in it?

22 MR. FOTIU: That opening would

1       have a --

2                   COMMISSIONER MAY:   A roll-up door?

3                   MR. FOTIU:   -- some sort of door,  
4       either a pivoting or roll-up, yes.

5                   COMMISSIONER MAY:   Okay.   Well,  
6       hopefully something that is good looking.

7                   CHAIRPERSON JORDAN:   How high is  
8       it?   How tall is that?

9                   MR. FOTIU:   The structure is 10  
10      feet.

11                  COMMISSIONER MAY:   And then what's  
12      that -- what we are seeing to the left of  
13      that, is that the ramp, the garage ramp?

14                  MR. FOTIU:   That's correct with  
15      guardrail height wall around it to prevent  
16      someone from --

17                  COMMISSIONER MAY:   Okay.   But what  
18      we are seeing is about a 7 foot wall on the --  
19      on each end and then a shallower wall at the  
20      back?

21                  MR. FOTIU:   That's a good  
22      question.   The wall on the left hand side is

1 at the property.

2 COMMISSIONER MAY: Yes.

3 MR. FOTIU: And then the wall that  
4 is shown on the right hand side is not  
5 actually a wall. If I can direct your  
6 attention to the ground floor plan, it is  
7 simply where we are trying to hide the rear  
8 yard. It is going to be a post there to pivot  
9 the door from. So that height is only at this  
10 location right here. It does not continue the  
11 full length.

12 COMMISSIONER MAY: Okay. And so  
13 then you are going -- you have a 7 foot wall  
14 along the back of the property? Is that what  
15 that -- what we are seeing?

16 MR. FOTIU: It's intended to be a  
17 fence, as there is a fence there now as well.

18 COMMISSIONER MAY: Okay.

19 CHAIRPERSON JORDAN: Is that going  
20 to be the same fence or --

21 MR. TUMMONDS: It will be a nicer  
22 fence.

1                   CHAIRPERSON JORDAN:   Okay.   But  
2       it's going to be the same footprint?

3                   MR. TUMMONDS:   Yes.

4                   CHAIRPERSON JORDAN:   But just a  
5       nicer fence.

6                   COMMISSIONER MAY:   Given the care  
7       that you have gone to in designing the rest of  
8       the elevation, the fact that you have this  
9       sort of blank wall with a couple of openings  
10      in it and a post that holds up the fence that  
11      covers the driveway, you know, I mean, it's --  
12      a little bit of thought into that would be  
13      advisable, although it is not critical for the  
14      relief.

15                  I was just trying to understand  
16      whether any additional relief is required, but  
17      clearly that's not the case.   I still want it  
18      to look better, that's all.

19                  MR. TUMMONDS:   And then the final  
20      question you had asked was with regards to RPP  
21      availability?

22                  COMMISSIONER MAY:   Yes.

1 MR. TUMMONDS: Yes, residents of  
2 this building will be eligible to participate  
3 in the RPP Program.

4 COMMISSIONER MAY: Okay. And the  
5 -- is that because 17th Street is residential  
6 parking? Because as I understand it, if it's  
7 -- if you are on a commercial street, which I  
8 assume Columbia is, you are not eligible kind  
9 of automatically, at least that's what DDOT  
10 has told me in the past. I don't know if  
11 there is anybody here from DDOT, but --

12 CHAIRPERSON JORDAN: Anybody from  
13 -- well, we will get --

14 COMMISSIONER MAY: Let's see.

15 CHAIRPERSON JORDAN: -- to that,  
16 I'm sure.

17 MR. TUMMONDS: Truthfully, the  
18 issue, and unlike a lot of other cases, of  
19 restricting RPP to this project was not raised  
20 during the process, I think, in part because  
21 we are providing the required amount of  
22 residential parking. So I think it is, you

1 know, we are not proposing an additional  
2 restriction. If the people in this building  
3 are allowed to get RPP, they can get it. If  
4 they are not --

5 COMMISSIONER MAY: They are not.  
6 I see. You are neutral on that.

7 MR. TUMMONDS: Oh, yes, correct.  
8 Let me just --

9 COMMISSIONER MAY: For future  
10 reference, Mr. Tummonds, RPP will always be a  
11 question for me. We see you often enough.

12 MR. TUMMONDS: Right.

13 COMMISSIONER MAY: It's always a  
14 question for me.

15 CHAIRPERSON JORDAN: So you are  
16 meeting all the residential parking  
17 requirements. You are just short on the  
18 commercial side?

19 MR. FOTIU: That's correct.

20 CHAIRPERSON JORDAN: Okay. Okay.  
21 Yes, because I was going over your TDM  
22 measures, but I guess we are okay, because you

1 are providing all the residential parking.

2 Okay. So I'm going to back off of that,  
3 because I think you heard earlier what my  
4 issues are with this --

5 MR. FOTIU: We did.

6 CHAIRPERSON JORDAN: -- token \$50  
7 and \$75 and -- all right. So we will deal  
8 with that. Now, the proposed conditions that  
9 there was about a million of them, are there  
10 any conditions that you -- well, one condition  
11 is that you provide the lessee or purchaser a  
12 SmarTrip card for \$75. Again, because you are  
13 meeting the residential parking requirement,  
14 I'm not going to jump on that, but that's  
15 something that you have already agreed to.

16 And then the membership in Capital  
17 Bikeshare that is agreed to. And is there  
18 anything on here that you did not agree to?

19 MR. TUMMONDS: No. Everything in  
20 Tab F of our prehearing statement we agreed  
21 to. Subsequently, DDOT had three conditions  
22 of approval in their report. We agreed to all



1 three of those conditions. They were:

2 (1) Providing more bicycle parking  
3 space in the P-1 level of the garage. We will  
4 agree to do that.

5 (2) Reducing the curb cut width  
6 along 17th Street from 24 feet to 20 feet. We  
7 will agree to do that.

8 And (3) providing more bicycle  
9 parking spaces in the public space. We agree  
10 to do that as well.

11 The OP conditions were included in  
12 our proposed conditions of approval as well.  
13 We have more than just the ones that OP  
14 provided. But all of the conditions you see  
15 in Tab F we agree to.

16 CHAIRPERSON JORDAN: Okay. So  
17 there are some that -- well, we will go  
18 through. There are some that we will probably  
19 reshape and change the language thereof. And  
20 then I think there is -- if we get to the  
21 point to grant the relief, if that's the  
22 desire of the Board, I think it is Request No.

1       9 that doesn't fall within the purview of this  
2       Board and that we don't have jurisdiction to  
3       do, if I'm not speaking out of turn.

4               And then No. 10, okay, but aside  
5       from that, those things you are in agreement  
6       with.

7               And does the Board have any other  
8       questions of this applicant, based upon, I  
9       think, a well put together application? I  
10      think the issues that we needed to address are  
11      done quite well by your presentation and the  
12      application process.

13              Does the Board have anything that  
14      they need to have addressed by the applicant,  
15      at this point, before we turn to Planning?

16              Well, let's not do that. Let's  
17      then give Mr. Otten the opportunity to cross-  
18      examine the applicant.

19              MR. OTTEN: Thank you, Chair.  
20      Good afternoon, Mr. Tummonds. I just want to  
21      look at the adverse impacts of the request and  
22      variances you are proposing to the Board

1       today. I was looking at the numbers on the  
2       Wells & Associates documentation that was put  
3       into the record from February of 2013 on page  
4       32.

5               There is a traffic trip generation  
6       numbering document there. It shows Ontario  
7       and Columbia Road and 17th and Columbia Road,  
8       correct? Do you have that?

9               MR. TUMMONDS: Typically, cross-  
10      examination is of information we have  
11      presented. If Mr. Otten has a concern about  
12      what is in the traffic study --

13              CHAIRPERSON JORDAN: I understand.  
14      If it's in the file, it's in the report, we  
15      have assumed we have taken those things as  
16      being correct for this hearing.

17              MR. TUMMONDS: Got it.

18              CHAIRPERSON JORDAN: So he has the  
19      opportunity, based upon that, to cross-examine  
20      the application.

21              MR. TUMMONDS: Okay. Great. Then  
22      I'll have Mr. Workosky, who prepared the

1 report, address that.

2 MR. WORKOSKY: Good afternoon.

3 I'm Mike Workosky. I'm with Wells &  
4 Associates.

5 MR. OTTEN: Thank you, Mr.  
6 Workosky. Page 32 of your report from  
7 February of 2013, it shows a diagram of  
8 traffic numbers, correct?

9 MR. WORKOSKY: That's correct.  
10 This is -- you are referring to Figure 11?

11 MR. OTTEN: Yes.

12 MR. WORKOSKY: Right? Page 32?  
13 Yep.

14 MR. OTTEN: And it has several  
15 intersections on that.

16 CHAIRPERSON JORDAN: Let me catch  
17 up with you.

18 MR. OTTEN: Oh, I'm sorry.

19 CHAIRPERSON JORDAN: What exhibit  
20 is that?

21 MR. TUMMONDS: This is Exhibit D  
22 to the February 12th --

1 CHAIRPERSON JORDAN: Okay.

2 Exhibit D. Okay. Gotcha. Yes. All right.

3 Proceed, please.

4 MR. OTTEN: Okay. It has the  
5 intersections of Ontario and Columbia Road in  
6 Box No. 1, correct?

7 MR. WORKOSKY: Yes.

8 MR. OTTEN: And then the  
9 intersection at 17th and Columbia Road in Box  
10 No. 2?

11 MR. WORKOSKY: Correct.

12 MR. OTTEN: And it shows traffic  
13 numbers heading east on Columbia Road,  
14 correct?

15 MR. WORKOSKY: Yes, it does.

16 MR. OTTEN: And I see in Box No. 1  
17 the traffic heading east, the numbers are 330/  
18 497, split mode, I guess, or between?

19 MR. WORKOSKY: One is the a.m. and  
20 one is the p.m.

21 MR. OTTEN: Got it. And then 17th  
22 and Columbia, it's 217/312.

1 MR. WORKOSKY: Correct, yes.

2 MR. OTTEN: Can you just explain,  
3 it just seems out of whack. These are two  
4 blocks within a block of each other. There is  
5 a dramatic drop-off between the traffic  
6 heading east. It doesn't seem to match up  
7 there. Can up explain that discrepancy?

8 MR. WORKOSKY: Well, some of that  
9 relates to curb side parking and other  
10 movements that occur in the field where cars  
11 pull over for one reason or another. Just my  
12 observations there are that some traffic  
13 actually, you know, drops people off and can  
14 U-Turn and those kinds of things in the  
15 street.

16 So these are physical counters  
17 that a person is actually counting for 15  
18 minute periods. So there is some -- a little  
19 bit of variation between those locations.

20 MR. OTTEN: I see by the turning  
21 numbers, some people are turning onto, for  
22 example, Ontario there and but the numbers

1 don't match up, because you are saying that  
2 some of those folks are also then parking on  
3 Columbia Road before they get to 17th and  
4 Columbia?

5 MR. WORKOSKY: Yes, some of them  
6 would be.

7 MR. OTTEN: And I'm looking at  
8 almost 200 in the p.m. and about a little more  
9 than 100 in the a.m.?

10 MR. WORKOSKY: That's correct. I  
11 was just checking the actual hour, because  
12 sometimes the hour, the actual hour, can be  
13 different for different intersections.

14 MR. OTTEN: Okay. Thank you for  
15 that. Now, you are asking for a variance to  
16 be relinquished from your loading berth  
17 requirements and that is being done, if I'm  
18 not mistaken, by taking up space on Columbia  
19 Road, correct?

20 MR. WORKOSKY: Correct. Extending  
21 the current loading area.

22 MR. OTTEN: And what is extending

1       it from 41 feet?

2                   MR. WORKOSKY: To 55 feet is the  
3       ultimate length.

4                   MR. OTTEN: Okay. So that's about  
5       15 feet. How many parking spaces does that  
6       take up?

7                   MR. WORKOSKY: Less than one.

8                   MR. OTTEN: Less than on?

9                   MR. WORKOSKY: The additional  
10      parking space is usually 22 feet, so it would  
11      be one more space, essentially, on the street.

12                  MR. OTTEN: A parking space is 22  
13      feet?

14                  MR. WORKOSKY: Correct.

15                  MR. OTTEN: Okay.

16                  MR. WORKOSKY: So 15 feet -- if we  
17      are extending it by 15 feet, it would be a  
18      loss of one space, roughly.

19                  MR. OTTEN: Okay. And then you  
20      also have a curb cut now on 17th Street that  
21      is approximately how wide of a cut there?

22                  MR. WORKOSKY: The -- I'm sorry,



1 the proposed?

2 MR. OTTEN: Proposed cut.

3 MR. WORKOSKY: It's 20 feet.

4 MR. OTTEN: 20 feet. So that's  
5 another loss of a public parking space?

6 MR. WORKOSKY: Yes, uh-huh.

7 MR. OTTEN: Okay. Is there any  
8 understanding of an enumeration to the public  
9 for the loss of that space?

10 MR. TUMMONDS: No, there is not.

11 MR. OTTEN: Okay. Thank you. Are  
12 you aware that the DDOT report, dated February  
13 19, 2013 on page 5, notes that there is no  
14 practical capacity for public parking at peak  
15 demand?

16 MR. WORKOSKY: I am aware of that.

17 MR. OTTEN: Okay. That relates to  
18 your request. We can't seem to find on the  
19 record a study of a second sublevel. You have  
20 one sublevel for the garage. Is there a  
21 reason why you didn't -- you haven't shown the  
22 Commission why you can't build a second level

1 to meet your required parking spaces?

2 MR. WORKOSKY: I'm sorry, I'm not  
3 the person that can answer that question.

4 MR. TUMMONDS: Mr. Parana will  
5 address that.

6 MR. PARANA: Yes. We have an  
7 irregular-shaped parcel, as you can tell from  
8 the plans in front of you. We initially  
9 looked at two levels to accommodate that need.  
10 When we do that, we find ourselves over-  
11 parking the site. We subsequently met with  
12 the folks at OP and that was strongly  
13 discouraged on our behalf. So we went in the  
14 direction that we went, which was one level  
15 and are seeking a waiver for the few number of  
16 spaces that you see in the application.

17 MR. OTTEN: Okay. To that  
18 testimony, clearly you have gotten one  
19 sublevel garage out of this irregular-shaped  
20 lot. You suggested to OP that you could do a  
21 second level? Is that what I heard?

22 MR. TUMMONDS: We looked at the

1 possibility of doing that. It is very  
2 expensive and not very efficient. And then  
3 weighing the balances of not over-parking the  
4 site, we believed that it was most appropriate  
5 to move forward with the application we are  
6 presenting today.

7 MR. OTTEN: Do you have any  
8 figures or anything to show the expense on  
9 that, as supporting your relief?

10 MR. TUMMONDS: We do not.

11 MR. OTTEN: Okay. To the retail  
12 component of this, am I correct in saying that  
13 there is no commercial component of this  
14 project? I mean, office space part of the  
15 commercial.

16 MR. TUMMONDS: That's correct.

17 MR. OTTEN: And the retail is a  
18 certain portion of the overall project?

19 MR. TUMMONDS: That's correct.

20 MR. OTTEN: Do you know what  
21 percentage that is, would you say?

22 MR. TUMMONDS: It is -- we are

1       proposing 9,403 square feet of the --

2                   MR. OTTEN:   60-some odd thousand.

3       Okay.  And we were looking at the Wells &  
4       Associates report from the, it looks like,  
5       7th, again, of 2013, February 7, 2013, page 7.  
6       It gets down to specifics.  It looks like you  
7       have on that page the fitness room layout down  
8       to the actual workout equipment and how that  
9       will be laid out in this space, correct?

10                  MR. TUMMONDS:  That's correct.

11                  MR. OTTEN:  And you also have a  
12       pretty clear layout of the residential  
13       component of this project, correct?  Like how  
14       many bedrooms or whatnot?

15                  MR. PARANA:  That is -- we  
16       continue to fine tune the unit mix on this  
17       building.

18                  MR. OTTEN:  Fine tune that.  Okay.  
19       But there -- from what we can tell in the  
20       diagrams, it doesn't in your latest submission  
21       of February, there is still no understanding  
22       of the retail component either.  Are you still

1 fine tuning that as well?

2 MR. PARANA: I think you are  
3 referring to what retail users would occupy  
4 those spaces.

5 MR. OTTEN: The actual -- or how  
6 the space would be occupied, like it -- you  
7 know.

8 CHAIRPERSON JORDAN: What do you  
9 mean? What do you mean by that question?

10 MR. OTTEN: So right now, we have  
11 the bedrooms, they are divided up, the fitness  
12 room is divided down to the workout --

13 CHAIRPERSON JORDAN: I thought you  
14 asked about retail?

15 MR. OTTEN: That -- I was leading  
16 to the retail. The retail seems to stand out  
17 that there is no differentiation of the layout  
18 of the retail. And where am I going with  
19 this?

20 CHAIRPERSON JORDAN: But right  
21 now, I don't know if that is relevant for the  
22 fact that the space is designated for retail.

1 MR. OTTEN: Yes.

2 CHAIRPERSON JORDAN: And how they  
3 do their internal breakout is not an issue.

4 MR. OTTEN: Well, okay. Well,  
5 then we would ask you can understand -- can  
6 you understand that the size, the numbers and  
7 the types of the retail businesses that go  
8 into this project have an impact on parking  
9 and public space use, like the sidewalks?

10 MR. TUMMONDS: The parking is  
11 determined by the overall amount of retail  
12 space.

13 MR. OTTEN: Okay.

14 MR. TUMMONDS: And that is set  
15 with the application we presented before.

16 MR. OTTEN: In your packet of  
17 testimony though, you say you are envisioning  
18 certain neighborhood-serving retail, correct?  
19 That's from your February submission.

20 MR. TUMMONDS: Yes, we envision as  
21 we said, the way that this space lays out,  
22 that there will be, approximately, three to

1 five retailers. We do not envision that this  
2 is going to be a neighborhood destination  
3 retail. So I think everything that we have  
4 said to date track with that as neighborhood-  
5 serving retail.

6 MR. OTTEN: There is a difference  
7 between we do not think and --

8 CHAIRPERSON JORDAN: No, no, no,  
9 no. You are going to ask questions.

10 MR. OTTEN: Okay.

11 CHAIRPERSON JORDAN: And you are  
12 not going to --

13 MR. OTTEN: Isn't -- when you say  
14 neighborhood destination retail, is that, for  
15 example, like a chain store like The Gap or  
16 some of the bigger multi-national chain  
17 stores?

18 MR. TUMMONDS: No, it would be a  
19 store of a larger size.

20 MR. OTTEN: Okay. And I'm hearing  
21 that you are not thinking about that, correct?  
22 But you could do that with this space?

1 MR. TUMMONDS: Right now, we  
2 anticipate that there will be three to five  
3 retailers in this 9,403 square feet.

4 MR. OTTEN: Did the city, in  
5 particular Office of Planning, ever discuss  
6 any Comprehensive Plan issues with you about  
7 business incentives for a small -- promoting  
8 a locally based small businesses?

9 MR. TUMMONDS: No.

10 MR. OTTEN: Okay. Okay. To the  
11 critical piece, the rooftop.

12 You showed us an earlier  
13 submission of the conceptual elevation of the  
14 rooftop structure. Is that the only  
15 submission on the record of rendering the  
16 rooftop structure? Renderings of the rooftop  
17 structure.

18 MR. TUMMONDS: I think I would say  
19 the rendering that we are showing today is the  
20 evolution. This is the rooftop structure that  
21 we are proposing and we are asking the BZA to  
22 approve.



1 MR. OTTEN: This rendering right  
2 here? I have it dated February 12, 2013. Is  
3 that the rendering, Concept Elevation?

4 MR. TUMMONDS: As I said, what is  
5 up there is --

6 MR. OTTEN: Okay.

7 MR. TUMMONDS: -- that with the --  
8 as Mr. May noted, this is a better depiction  
9 of what those roof structures will look like.

10 MR. OTTEN: And is there any  
11 renderings from say 17th Street say looking  
12 from the other perspectives of this building  
13 from where the neighbors are from the south,  
14 where the neighbors are to the west?

15 MR. TUMMONDS: No.

16 MR. OTTEN: Okay.

17 MR. TUMMONDS: I mean, we should  
18 look at the section showing the --

19 CHAIRPERSON JORDAN: Was that an  
20 answer or are you saying you are pulling back  
21 and answering --

22 MR. FOTIU: Deciding who to

1 address this issue or the question, excuse me.

2 The only image that we have that could speak

3 to that is a cross-section that is --

4 CHAIRPERSON JORDAN: What page is  
5 that?

6 MR. FOTIU: -- taken.

7 CHAIRPERSON JORDAN: What page is  
8 that?

9 MR. TUMMONDS: It is the last page  
10 of Exhibit B, as in boy, of our prehearing  
11 statement, which is taken north/south cross-  
12 section through the building, which shows the  
13 distance from the property line of the actual  
14 building and the relationship of the elevator  
15 override to that property line.

16 MR. OTTEN: And is this -- this is  
17 this one, right?

18 MR. FOTIU: Yes.

19 MR. OTTEN: It's called --

20 MR. FOTIU: That's correct.

21 MR. OTTEN: -- cross-section,  
22 proposed penthouse cross-section?

1 MR. FOTIU: That's correct.

2 MR. OTTEN: Okay. Looking at  
3 that, I am seeing a dotted line called sight  
4 lines from property line. Is that correct  
5 from both Columbia Road and 17th Street?

6 MR. FOTIU: Yes, there is one --  
7 there is a line that says that.

8 MR. OTTEN: And there is also site  
9 lines drawn on the longitudinal section, which  
10 is this one as well?

11 MR. FOTIU: Correct.

12 MR. OTTEN: And in these  
13 documents, are any of these sight lines?

14 MR. FOTIU: Actually, that's not a  
15 sight line.

16 MR. OTTEN: Oh.

17 MR. FOTIU: There is a 1:1 setback  
18 line.

19 MR. OTTEN: Oh, that's a 1:1?

20 MR. FOTIU: Which were those --  
21 those are representing.

22 MR. OTTEN: Oh, I see. So there

1       are no sight lines. I guess what I'm trying  
2       to get at here, is there any sight lines to  
3       the surrounding properties from the rooftop  
4       patios as proposed?

5                   MR. TUMMONDS: We believe that the  
6       penthouse cross-section that we are showing,  
7       which shows the person standing on the lot  
8       line --

9                   CHAIRPERSON JORDAN: What are you  
10      looking at?

11                  MR. TUMMONDS: This is the last  
12      page of Exhibit B. B. This is the penthouse,  
13      proposed penthouse cross-section. So there is  
14      a dark circle and then a dotted line, so that  
15      is if someone was 6 feet tall standing at the  
16      property line --

17                  CHAIRPERSON JORDAN: Oh, okay.

18                  MR. TUMMONDS: -- to the south,  
19      they look up, that is their line of sight. We  
20      did this to show that you would not be able to  
21      see that elevator override, because it is  
22      setback the distance.

1 CHAIRPERSON JORDAN: 14 feet plus.

2 MR. OTTEN: I see. Correct.

3 Right. I am not mistaken in stating that  
4 these sight lines, they seem to be drawing  
5 down to 17th Street on that cross-section down  
6 to the street level on 17th Street, correct?

7 MR. TUMMONDS: Yes, we have  
8 provided this because this was the one  
9 section, as Commissioner May noted, where we  
10 are not meeting the 1:1 setback.

11 MR. OTTEN: Yes.

12 MR. TUMMONDS: Along Columbia, we  
13 are meeting that 1:1 setback where we have a  
14 10 foot doghouse and an 11 foot setback.

15 MR. OTTEN: But is -- it is  
16 correct to say that none of these sight lines  
17 actually point down to the surrounding lots,  
18 the properties to the surrounding lots?

19 MR. TUMMONDS: That's because we  
20 are satisfying the 1:1 setback for the  
21 doghouses.

22 MR. OTTEN: Do you have any light

1 and air studies about -- for the rooftop  
2 structures, how they will cast shadows onto  
3 the surrounding properties?

4 MR. FOTIU: We do not have that.  
5 The belief is or the assumption, a logical  
6 assumption we made which was that we have  
7 requested relief from the one uniform height  
8 of the penthouse and actually want to reduce  
9 the height of the doghouses to 10 feet. And  
10 it would seem to reason, logic with reason  
11 that if they were 16 feet 6 foot tall  
12 consistently, they would cast a longer shadow  
13 than they do if they are 10 feet tall.

14 MR. OTTEN: These doghouses you  
15 are calling, you said that they were small,  
16 but they are 10 feet tall. They lot -- they  
17 go along the whole length of the building for  
18 the most part, right? They are --

19 MR. FOTIU: That's correct.

20 MR. OTTEN: You have seen them in  
21 the -- okay. But we are not -- let's see,  
22 just bear with me.

1                   CHAIRPERSON JORDAN:  Let's just  
2                   get to --

3                   MR. OTTEN:  I'm trying to get  
4                   through this.  In your testimony on -- in the  
5                   November 26th submission, the purpose of these  
6                   rooftop structures, as you stated, is to  
7                   provide the penthouse units a private entrance  
8                   to the roof, correct?

9                   MR. TUMMONDS:  That's correct.

10                  MR. OTTEN:  And to come and go as  
11                  they please and to create a unique experience  
12                  for the individual?

13                  CHAIRPERSON JORDAN:  Is that a  
14                  question?

15                  MR. OTTEN:  I'm asking, is this in  
16                  your testimony?

17                  MR. TUMMONDS:  I think you are  
18                  reading verbatim our statement.

19                  MR. OTTEN:  Okay.  Pointing to  
20                  that, you also go on to say if I'm not  
21                  mistaken --

22                  CHAIRPERSON JORDAN:  Let's ask a

1 question.

2 MR. OTTEN: If I'm not mistaken,  
3 you say that the new plane -- this will create  
4 a new plane of activity along Columbia Road,  
5 correct?

6 MR. TUMMONDS: You're reading my  
7 statement, so you know that's obviously what--

8 CHAIRPERSON JORDAN: He is saying  
9 what is in writing that you are repeating back  
10 is their statement?

11 MR. TUMMONDS: Yes.

12 MR. OTTEN: So the question is  
13 what about the plane of activity of these  
14 rooftop patios and structures along 17th  
15 Street, along the rear lot line and along the  
16 west lot line to the surrounding properties?  
17 When --

18 CHAIRPERSON JORDAN: Would you  
19 rephrase that question, please?

20 MR. OTTEN: In your testimony, you  
21 state that the new -- that these -- the  
22 request for relief, the exception to this



1 relief will create a new plane of activity  
2 along Columbia Road.

3 I'm asking what about the plane of  
4 activity -- wouldn't it also then create a  
5 plane of activity along 17th Street along the  
6 rear lot line and along the west lot line?

7 CHAIRPERSON JORDAN: So that's the  
8 question?

9 MR. OTTEN: Yes, exactly.

10 MR. TUMMONDS: Yes, absolutely.  
11 We are having those private roof decks for the  
12 units that face Columbia, as well as the units  
13 that are on the rear of the property.

14 MR. OTTEN: And these private  
15 entrances from the stairwells go up to these  
16 individual patios that are along the edge of  
17 the building, correct?

18 MR. TUMMONDS: That's correct.

19 MR. OTTEN: Were there any noise  
20 studies done to show how these patios --

21 MR. TUMMONDS: No.

22 MR. OTTEN: -- might -- okay. How

1       about the rooftop itself, now with these  
2       different patios, is there anything, any green  
3       vegetation or anything up there involved in  
4       this project for stormwater runoff,  
5       particularly?

6               MR. FOTIU:   This is a wood-frame  
7       structure building and so there is not a green  
8       roof contemplated, because of really weight  
9       carrying issues and drainage issues.

10              MR. OTTEN:   Okay.   The regulation  
11       says that we want a common rooftop entrance.  
12       I want to get your sense of why do you think  
13       this regulation exists?

14              CHAIRPERSON JORDAN:   Why does it  
15       exist?   Let's --

16              MR. OTTEN:   Okay.   I'm sorry.

17              CHAIRPERSON JORDAN:   -- have a  
18       question.

19              MR. OTTEN:   I'll strike that one.

20              CHAIRPERSON JORDAN:   Let's go to  
21       another question.

22              MR. OTTEN:   What -- part of the

1 merits to get this exception is that you have  
2 to show that by building a common rooftop  
3 stairwell and entrance, it would be unduly  
4 restrictive or unreasonable to your project.  
5 Is that correct?

6 CHAIRPERSON JORDAN: That's what  
7 the application says. I think that's why they  
8 are here.

9 MR. OTTEN: So what is unduly  
10 reasonable or restrictive about building a  
11 common stairwell, one stairwell up top?

12 MR. TUMMONDS: I mean, I think  
13 it's not one stairwell. It would be, in this  
14 case, there being one common roof. We could  
15 make all of these doghouses 16 feet tall,  
16 because then we would have one and we could  
17 pull them all together, we would have one  
18 common roof structure that was 16 feet tall.

19 What we are looking to do is  
20 minimize the visual impact by having these  
21 doghouses be 10 feet tall, rather than one  
22 large massive 16 foot 6 inch tall that is only

1       dictated by the height of the elevator  
2       override.

3               MR. OTTEN:   And that's the key,  
4       the visual impact, which we don't really have  
5       any light and air studies just yet.

6               But let me go to -- that's the  
7       rooftop.

8               CHAIRPERSON JORDAN:   You're going  
9       to get to your last --

10              MR. OTTEN:   Yes.

11              CHAIRPERSON JORDAN:   -- two  
12       minutes of questioning, because I think we  
13       have gone like twice as long as we have done  
14       on direct examination.

15              MR. OTTEN:   I'm sorry.   I'm just  
16       trying -- this is all new information that has  
17       come out in the last week.

18              Can you explain the -- are you --  
19       you are building bare minimum Inclusionary  
20       Zoning units required by law, correct?

21              MR. TUMMONDS:   That is correct.

22              MR. OTTEN:   And how many of your

1 units are IZ units?

2 MR. PARANA: We are building 5,721  
3 square feet of IZ units, that's exactly the  
4 number that is required.

5 CHAIRPERSON JORDAN: How many  
6 units is that?

7 MR. TUMMONDS: Well, I think,  
8 right now as we are looking at it, it will be  
9 roughly --

10 MR. PARANA: It will be roughly  
11 like somewhere between eight and nine.

12 MR. TUMMONDS: Yes.

13 MR. OTTEN: And that would be  
14 dictated as, you know, IZ requires us to have  
15 -- the IZ units need to be in proportion to  
16 the one bedroom studios.

17 CHAIRPERSON JORDAN: And what's  
18 the target of the median income?

19 MR. TUMMONDS: 80 percent AMI.

20 CHAIRPERSON JORDAN: Okay.

21 MR. OTTEN: Where are these units  
22 proposed to be located in the building?

1                   MR. PARANA: The units, according  
2                   to Inclusionary Zoning, have to be spread  
3                   throughout the building in a manner that is  
4                   put on the plans that are submitted to the  
5                   Building Department.

6                   MR. OTTEN: And how many of these  
7                   units will be three and four bedrooms for  
8                   families?

9                   MR. TUMMONDS: We have no three or  
10                  four bedroom units in the building.

11                  MR. OTTEN: And did you have a  
12                  conversation with the Department of Housing  
13                  and Community Development about that?

14                  CHAIRPERSON JORDAN: You are down  
15                  to your last minute, so you might want to use  
16                  it very wisely.

17                  MR. OTTEN: Okay. About covenants  
18                  for these units in relationship with the city?

19                  MR. TUMMONDS: As we have  
20                  discussed, this is going to be a matter-of-  
21                  right project, so we are pleased to note that  
22                  DHCD has got a more formalized process that

1 everyone who does an IZ project files the same  
2 DHCD affordable housing covenant. And during  
3 the building permit process, we will sign that  
4 covenant.

5 MR. OTTEN: Did you conduct any  
6 noise or air studies on the condensers and  
7 garage vent in the rear yard?

8 MR. TUMMONDS: No.

9 MR. OTTEN: Are you aware of the  
10 lot -- it would seem in the --

11 CHAIRPERSON JORDAN: Are you  
12 asking a question or are you making a  
13 statement?

14 MR. OTTEN: I'm asking a question.  
15 In the ground level plan of your latest  
16 submission, you testified today that there is  
17 going to be a 7 foot high wall between the  
18 ramp going down and the adjacent lot. There  
19 is no render -- is there -- is that -- that's  
20 what you testified to?

21 MR. TUMMONDS: We have spoken to  
22 the adjacent property owner, which is Christ

1 House, and talked to them and made them well-  
2 aware of our project. They, in fact, attended  
3 the presentation we made to Sarah's Circle,  
4 which is also located on 17th Street, and we  
5 talked to them about the issues that we know  
6 that we are going to need to address during  
7 construction as an adjacent property owner.

8 And one of the issues we talked  
9 about was when we are done creating a fence  
10 along their property line, that both Christ  
11 House and this project would be proud of.

12 MR. OTTEN: Did you show any  
13 renderings with that fence -- that barrier  
14 might look like right next to their building?  
15 I mean, it would be right up on their  
16 building.

17 CHAIRPERSON JORDAN: In my  
18 understanding, the applicant is saying that  
19 they had an agreement with that property owner  
20 that they were okay with whatever you are  
21 going to do there?

22 MR. TUMMONDS: Yes.



1 CHAIRPERSON JORDAN: Okay.

2 MR. OTTEN: But there are no  
3 renderings of that on the record, correct?

4 MR. TUMMONDS: The adjacent  
5 property owner is -- hasn't raised any  
6 concerns about that.

7 MR. OTTEN: Okay. Interesting.  
8 That's it. Thank you.

9 CHAIRPERSON JORDAN: All right.  
10 Thanks. Now, let's turn now to the Office of  
11 Planning.

12 MR. MORDFIN: Good afternoon,  
13 Chair, Members of the Board. I'm Stephen  
14 Mordfin with the Office of Planning.

15 And the subject property is in  
16 conformance with the criteria for the granting  
17 of variances to parking because the subject  
18 property is triangular in shape resulting in  
19 an inefficient layout of the garage resulting  
20 in areas that cannot be devoted to parking and  
21 groups of compact spaces of less than five.

22 The request for reduction would

1 not result in a detriment to the public good  
2 because all the residential parking would be  
3 provided. The compact spaces would be grouped  
4 together, even if not in groups of five, and  
5 a variety of transportation options exists for  
6 the retail use of the building.

7 No substantial harm to the Zoning  
8 Regulations would result because all of the  
9 residential parking would be provided and the  
10 site is well served by Metrobus, Metrorail,  
11 car-sharing services and bicycle facilities.

12 The subject property is in  
13 conformance with the criteria for the granting  
14 of variances to loading because the site has  
15 no alley access. 17th Street is too narrow to  
16 accommodate trucks and DDOT prefers not to  
17 establish a curb cut on Columbia Road  
18 resulting in a practical difficulty.

19 The applicant has worked with DDOT  
20 to establish a 55 foot loading space on  
21 Columbia Road to serve the building. And  
22 there would be no substantial harm to the

1       Zoning Regulations because the on-street  
2       loading space would serve the needs of the  
3       building.

4               The subject property is in  
5       conformance with the criteria for the granting  
6       of a special exception to roof structures  
7       because roof structures at two different  
8       heights would minimize the visibility of those  
9       roof structures from the street by not  
10      increasing the height of each stair access to  
11      match the elevator override.

12             Although, the elevator override  
13      would not be setback a distance equal to its  
14      height, it would be located in an area where  
15      the edge of the building would be setback off  
16      the property line minimizing its visibility.  
17      Therefore, the proposal would not adversely  
18      affect the use of neighboring property.

19             The Office of Planning recommends  
20      that the Board approve the subject application  
21      subject to the conditions contained within the  
22      staff report. Thank you.

1                   CHAIRPERSON JORDAN: All right.

2       Does the Board have any questions for Office  
3       of Planning? No. Does the applicant have  
4       questions for Office of Planning?

5                   MR. TUMMONDS: No questions.

6                   CHAIRPERSON JORDAN: All right.

7       Does the American -- Adams Morgan for  
8       Reasonable Development, Mr. Otten, do you have  
9       questions for Office of Planning?

10                  MR. OTTEN: Yes.

11                  CHAIRPERSON JORDAN: Okay.

12                  MR. OTTEN: Thank you for being  
13       here, Mr. Mordfin.

14                  Is it the case the Office of  
15       Planning uses -- is required to look at the  
16       Comprehensive Plan when suggesting zoning  
17       approvals?

18                  CHAIRPERSON JORDAN: That's not  
19       before us, before the Board of Zoning  
20       Adjustment, so it's not an issue that we will  
21       weigh in as a Board. So it would no be  
22       germane to this particular hearing.

1                   MR. OTTEN: The Board is required  
2 to take Comprehensive Plan policies --

3                   CHAIRPERSON JORDAN: The Board --

4                   MR. OTTEN: -- into consideration.

5                   CHAIRPERSON JORDAN: -- is not --  
6 move to your next question.

7                   MR. OTTEN: I think I need to  
8 clarify that, because my questions are based  
9 on -- largely on this stuff.

10                  CHAIRPERSON JORDAN: The  
11 Comprehensive Plan --

12                  MR. OTTEN: I have --

13                  CHAIRPERSON JORDAN: -- is not  
14 something that the Board takes in  
15 consideration when it grants its relief.

16                  MR. OTTEN: Well, I have 10-8205  
17 implementation of the Comprehensive Plan,  
18 which requires the Board of Zoning and other  
19 agencies of the District regulating land use  
20 to look at the District elements of the  
21 Comprehensive Plan when making decisions like  
22 this.

1                   CHAIRPERSON JORDAN:   Okay.   Then  
2                   that will be something else we will deal with  
3                   later, but let's move on to your next  
4                   question.

5                   MR. OTTEN:   Okay.   Well, let's go  
6                   right to the Zoning Regs.   Has the Office of  
7                   Planning looked at any studies or conducted  
8                   any studies of the at-risk windows to the  
9                   surrounding properties, namely to the  
10                  buildings to the south and west?

11                  MR. MORDFIN:   No, we did not.

12                  MR. OTTEN:   No, you did not.   Did  
13                  the Office of Planning request or conduct any  
14                  light and air studies and the impacts of  
15                  shadows from the rooftop structures to the  
16                  surrounding properties?

17                  MR. MORDFIN:   No.

18                  MR. OTTEN:   Did the Office of  
19                  Planning request or coordinate with DC Fire  
20                  and Emergency Services to review the efficacy  
21                  of the safety of having ten times the  
22                  allowable fire -- I mean --

1                   CHAIRPERSON JORDAN: That's not  
2                   germane to the issues before the Board.

3                   MR. OTTEN: This is about the  
4                   rooftop exception.

5                   CHAIRPERSON JORDAN: All right.

6                   MR. OTTEN: Yes. I'm asking him--

7                   CHAIRPERSON JORDAN: It's not a  
8                   zoning issue though.

9                   MR. OTTEN: It's not an issue?

10                  CHAIRPERSON JORDAN: It's not a  
11                  zoning issue.

12                  MR. OTTEN: Zoning is supposed to  
13                  protect people from fire and panic.

14                  CHAIRPERSON JORDAN: Okay. If it  
15                  -- it's not a zoning issue. Move to your next  
16                  question.

17                  MR. OTTEN: I asked if they had  
18                  coordinated with DC FEMS on this project. And  
19                  I'm hearing --

20                  CHAIRPERSON JORDAN: Okay.

21                  MR. OTTEN: No?

22                  MR. MORDFIN: No.

1                   MR. OTTEN:   Okay.   Okay.   How high  
2                   is this proposed building in comparison to the  
3                   surrounding properties?

4                   MR. MORDFIN:   How high is it in  
5                   comparison?   The proposed building is 70 feet,  
6                   which is what is permitted by the zoning.   The  
7                   zoning permits a height of 65 feet for  
8                   participating in the Inclusionary Zoning  
9                   provisions, an additional 5 feet is allowed,  
10                  which is 70 feet, which is what this building  
11                  is proposed to be.   This building is in  
12                  conformance with the Zoning Regulations for  
13                  height.

14                  MR. OTTEN:   And so but you are  
15                  saying that this building is taller than the  
16                  surrounding buildings?   It's a straightforward  
17                  question.

18                  MR. MORDFIN:   It's taller than  
19                  some of the surrounding buildings.   It  
20                  conforms to the Zoning Regulations.

21                  MR. OTTEN:   So the -- okay.   Did  
22                  the Office of Planning request or conduct any



1 needs assessment of the small businesses that  
2 may be impacted by the project?

3 MR. MORDFIN: No.

4 MR. OTTEN: This building, in  
5 theory, could have 100 percent commercial  
6 space by the Zoning Regs? It doesn't have to  
7 have a residential component.

8 MR. MORDFIN: The residential --  
9 all right. The building -- there is lot  
10 occupancy that is permitted. The  
11 nonresidential can occupy the entire building?  
12 Yes.

13 MR. OTTEN: Okay. Are you aware  
14 if there are any three or four bedroom units  
15 in this building?

16 MR. MORDFIN: I am not aware of  
17 any.

18 MR. OTTEN: Okay. Don't the  
19 Zoning Regulations speak to your coordination  
20 of reviewing this project, in particular 11  
21 DCMR 725?

22 MR. MORDFIN: That section is not

1 applicable to this application.

2 MR. OTTEN: Why is that?

3 MR. MORDFIN: Under 725 it says  
4 "The application for approval under ^U 726  
5 through 734," which then lists various special  
6 exceptions that are -- the applicant could  
7 have applied for.

8 MR. OTTEN: Yes.

9 MR. MORDFIN: However, the  
10 applicant did not apply for any of those.

11 MR. OTTEN: Oh, I see. Okay.  
12 I'll have to check that. When you are  
13 coordinating with other agencies, are you just  
14 coordinating with DDOT usually or do you  
15 coordinate with other District agencies when  
16 you review things, like projects like this  
17 asking for special exceptions?

18 MR. MORDFIN: It depends on what  
19 the application is, what the relief is that is  
20 requested.

21 MR. OTTEN: Okay. And did you  
22 request any sight line studies or conduct any

1 sight line studies from the windows of this  
2 building to the surrounding properties or the  
3 roof deck patios to the surrounding  
4 properties?

5 MR. MORDFIN: No.

6 MR. OTTEN: And let's see --

7 CHAIRPERSON JORDAN: Is that it?

8 MR. OTTEN: I want to understand  
9 just one more thing.

10 The applicant has provided a plat,  
11 the original plat to the project to this lot,  
12 I guess from DC's archives. It looks like it  
13 is on page 23 of the initial submission.

14 Isn't it correct that there is a  
15 rear yard that extends the entire length of  
16 that lot and allows for an access point behind  
17 the building? This is the original plat.  
18 Does that plat show that?

19 MR. MORDFIN: The original -- I  
20 don't understand your question.

21 MR. OTTEN: Looking at page 23 of  
22 the initial submission by the applicant, there

1 is a plat of surveys for Lot 52, Square 2565.

2 On that plat, if I'm not mistaken, the  
3 applicant has overlaid their foot -- the  
4 footprint of their building onto this lot,  
5 correct?

6 MR. MORDFIN: Correct.

7 MR. OTTEN: That initial lot, you  
8 know, without the applicant's proposed new  
9 structure shows a rear yard open space between  
10 -- from the -- running contiguous through the  
11 -- through most of that space there. And so  
12 it's -- is that access point to the sidewalk  
13 there? Do you see that? 17th Street where  
14 the lot ends, there is a space there.

15 MR. MORDFIN: It shows the  
16 existing building does not extend all the way  
17 south to the rear to the lot line.

18 MR. OTTEN: Okay. So there is an  
19 access -- there would be an access point there  
20 from the sidewalk to behind that building at  
21 that point?

22 MR. MORDFIN: It shows that

1       currently you could -- the building does not  
2       go to the south lot line.

3                   MR. OTTEN:   Okay.   Thank you.

4                   CHAIRPERSON JORDAN:   Okay?

5                   MR. OTTEN:   Thank you.

6                   CHAIRPERSON JORDAN:   All right.

7       Thanks.   Do we have here a representative from  
8       the Department of Transportation?   Oh, I'm  
9       sorry, we did ask for your cross, so the  
10      Department of Transportation?   I think not.

11                   We have a letter.   Do we?   Yes.  
12      Did we have a letter from the Department of  
13      Transportation?   We have a letter from the  
14      Department of Transportation that seeks --  
15      that agrees for approval with conditions.   And  
16      we will -- we have covered some of those and  
17      we will go back to those approval conditions.

18                   Is there anyone here from ANC-1B?  
19      1C?   Does the letter say from 1C or 1B?

20                   MR. TUMMONDS:   I think there is a  
21      typo.   It is ANC-1C.   The resolution you have  
22      is from 1C.   It's 1C.

1 CHAIRPERSON JORDAN: Okay. Yes,  
2 but it says 1B in the letter, hum. What's the  
3 letterhead say? Interesting. From ANC-1B or  
4 C? We have a letter that says approval with  
5 conditions and the vote 4-1. Is there anyone  
6 here from that ANC-1B or 1C or anyone? That  
7 they had a quorum and that there was a vote of  
8 4-1 with two Commissioners abstaining, seeking  
9 to -- agreeing for approval with conditions.

10 Is there anyone in the audience  
11 wishing to speak in support of this  
12 application? Then let's turn to Mr. Otten for  
13 his presentation on behalf of the Adams Morgan  
14 for Reasonable Development. And I think we  
15 have 13 minutes for your presentation, based  
16 upon what was used during the direct  
17 examination.

18 MR. OTTEN: Does the public get to  
19 speak before I do?

20 CHAIRPERSON JORDAN: No. They  
21 will follow you.

22 MR. OTTEN: Oh, they follow me.

1       Okay. Okay. Well, I have -- if I can give  
2       this to the secretary, we have a handout.

3               CHAIRPERSON JORDAN: You are on  
4       the clock, so just to let you know.

5               MR. OTTEN: Commissioners --

6               CHAIRPERSON JORDAN: Let me say  
7       this before you start. And I just took a  
8       gander at the first page here.

9               MR. OTTEN: Yes.

10              CHAIRPERSON JORDAN: As I said  
11       before, we are not dealing with the  
12       Comprehensive Plan, so I'm going to give you  
13       a suggestion not to do that and to save you  
14       time to hit more salient points. And anything  
15       dealing with fire, emergency, I see that also,  
16       so I just want to help you out to save you  
17       some time.

18              MR. OTTEN: Sure. If you can  
19       explain to me, the DC Zoning Regs talk about,  
20       you know, protecting the surrounding neighbors  
21       from fear from fire and panic and  
22       claustrophobic, you know, encroachment, light

1       and air issues.

2                   CHAIRPERSON JORDAN:   Yes, light  
3       and air, correct.

4                   MR. OTTEN:   Noise, destabilization  
5       of land values.

6                   CHAIRPERSON JORDAN:   You can talk  
7       about -- we will give you some leeway in  
8       regards to safety issues.

9                   MR. OTTEN:   Yes.

10                  CHAIRPERSON JORDAN:   But some --

11                  MR. OTTEN:   I mean, part of the  
12       deal with the rooftop structure is they are  
13       asking for ten times what is allowable.   And  
14       we all know that fires go up in the buildings.

15                  Now, when you have a common  
16       rooftop, there is --

17                  CHAIRPERSON JORDAN:   Go ahead with  
18       your presentation, because we're starting --

19                  MR. OTTEN:   I'm starting --

20                  CHAIRPERSON JORDAN:   We're going  
21       to start the clock.   And we will rule on it as  
22       you go through it, but I was just trying to



1 give you some heads up.

2 MR. OTTEN: Right.

3 CHAIRPERSON JORDAN: Okay.

4 MR. OTTEN: Thank you very much.

5 Just in particular the rooftop structures and  
6 I'll go kind of ad hominem, I mean, off the  
7 cuff on this for now. What we heard today was  
8 there was no real sense of the Office of  
9 Planning or the applicant providing studies  
10 about how these rooftop structures will  
11 adversely impact the neighbors.

12 The record just clearly does not  
13 have this in it. We are talking about basic  
14 planning studies that have been done since  
15 1938, since zoning was established. Light and  
16 air, shadow, noise, access and safety.

17 And, you know, there is a common  
18 Rooftop Entrance Zoning Regulation for a  
19 reason. Part of this is for safety issues.  
20 Now, when you have a common rooftop, you have  
21 many people using the door and making sure the  
22 door is closed. If these roof -- if these

1       stairwell doors stay open and there is a fire,  
2       then the fire will most expediently move  
3       through the building up through the stairwells  
4       to the roof.

5               Now, there is going to be 10 of  
6       these rooftop stairwells that are individually  
7       controlled from what we heard during the  
8       testimony for the convenience of the  
9       individuals. There is a difference in safety  
10      factor there by a multiple of 10.

11             Common use, there is many people  
12      going through. They can check to make sure  
13      the door is closed. If I go up to my patio  
14      and I am forgetful and I leave the door open,  
15      nobody else is going to go through there to  
16      make sure the door is closed.

17             If there is a fire in my  
18      apartment, it will race up through this  
19      stairwell to the roof. And that is a key  
20      issue and that's why I brought up whether or  
21      not OP -- this is a unique circumstance.

22             There are no other -- and I don't

1 believe the applicant has shown any other  
2 buildings in the surrounding area that has  
3 this sort of unique rooftop scenario.

4 The renderings are seriously  
5 inadequate for anybody to do a true balance of  
6 the equities here. We don't know how the  
7 light and air studies and the shadows are  
8 going to cast down on the surrounding  
9 neighborhood.

10 And there is this concern now that  
11 the access point behind this building is now  
12 closed by this underground ramp that we don't  
13 know how people will be protected in this  
14 building, let alone in the surrounding  
15 buildings in an efficient way. This is why I  
16 was asking about coordination with the Fire  
17 and Emergency Services.

18 Additionally, there are, you know,  
19 certain elements that they have to meet. I  
20 mean, they have not shown that if they were to  
21 have to build this common space up top that  
22 they would be unduly, and what's the exact

1 terminology, I think it is pretty restrictive.  
2 It is prohibitively costly, unreasonably or  
3 unduly restricted.

4 They have not proven that element  
5 of this Zoning Regulation. They are doing  
6 this as they state in their testimony for the  
7 convenience of their individual penthouse  
8 owner units.

9 Now, this, of course, makes these  
10 units more valuable. At the same time, it  
11 makes the area less safe. So there is a  
12 destabilization of land values, both in terms  
13 of upping the property values, taxes and  
14 subsequent rents of the surrounding properties  
15 and also the safety issues as I mentioned to  
16 the surrounding properties may destabilize or  
17 shrink the values of those properties.

18 They have not shown any evidence  
19 as to why they truly need these 10 rooftop  
20 structures. And that is 411.11 of the Zoning  
21 Regs.

22 There is also the point to the

1 rear yard. Now, I understand that we have a  
2 disagreement in terms of relief being sought  
3 here, but this rear yard is clearly being  
4 occupied by structures. We don't have any  
5 sense of what the garage vent, the size of the  
6 garage vent that is going to be spewing out  
7 toxic air from the garage into the surrounding  
8 properties. We don't know how big that is.  
9 That is a structure in the rear yard. It is  
10 clear that the Zoning Regs require that the  
11 rear yard is unoccupied.

12 Additionally, two DCMR 11 774.4,  
13 there really has not been any analysis of the  
14 sight lines between the surrounding properties  
15 and this property. And there are privacy  
16 issues here. There is no other building with  
17 rooftop structures right at the edge of the  
18 building.

19 And there is no evidence on the  
20 record to show that privacy concerns of the  
21 lower scale buildings in the surrounding  
22 properties, as Mr. Mordfin testified these are

1 smaller buildings around this property, what  
2 their privacy issues -- how those surrounding  
3 properties might be impacted by the sight  
4 lines from the patios and from the surrounding  
5 balconies and windows of this pretty large  
6 residential, mostly residential building.

7 We are not requesting -- we are  
8 requesting the Board either oppose these  
9 variance requests or postpone the hearing  
10 until several other District agencies and  
11 basic planning studies are conducted and  
12 analyzed and further renderings are on the  
13 record to show why they deserve -- why there  
14 is no adverse impacts to the requested rooftop  
15 and particular rooftop exception.

16 Now to parking and traffic, it is  
17 clear DDOT has put on the record that during  
18 the peak hours, a.m. and p.m., that this area  
19 is at full capacity. So the residential uses  
20 that are going to be brought on-line and as  
21 well as we are talking about 85 units. They  
22 are going to have 29 parking spaces.

1                   So that is an additional burden on  
2                   the surrounding buildings, although they are  
3                   saying well, we meet the residential  
4                   requirement. Well then the commercial, there  
5                   is nine spaces not being provided in this.  
6                   They have not shown why they cannot dig down  
7                   another level. They referred to an irregular  
8                   lot, but clearly they have dug down already  
9                   one level. They can go down another level,  
10                  but they have not shown this, why they deserve  
11                  this exception.

12                 Also important is the noise, air  
13                 and light and well, privacy impact studies.  
14                 They are just not on the record. This is  
15                 something that we should expect in the 21st  
16                 Century in terms of when developers ask for  
17                 variances and exceptions to the rules. The  
18                 rules are there in place to avoid such impacts  
19                 and adverse impacts.

20                 They have not shown that they --  
21                 they have not put this stuff on the record,  
22                 these important studies on the record or

1 reports. And the Office of Planning sadly has  
2 not pushed them to do so.

3 Particular to the noise and the  
4 environment, where are the studies on the  
5 toxic air coming out of the garage vent?  
6 Where are the studies of the noise coming from  
7 these individual rooftop patios and where are  
8 the studies about the safety?

9 Further, we have fire safety  
10 concerns at the rooftop. We are also quite  
11 surprised at this stage in the game we do not  
12 have a good understanding of the affordable  
13 units in this building. They are not  
14 attempting to attract families to our  
15 neighborhood, even though this is in the  
16 Comprehensive Plan as the key to the mid-city  
17 neighborhoods, including Adams Morgan.

18 We are losing those families at a  
19 dramatic rate, particularly our diverse  
20 families. And to not have a good  
21 understanding, as if this is like a secondary  
22 notion that they kind of figure out along the



1 way, IZ is a critical component of the Zoning  
2 Regs. And to not have that definitely does  
3 not show a mitigation of the land  
4 destabilization values of up-selling a  
5 penthouse units with these -- with their own  
6 individual stairwells.

7 So that's disappointing. And  
8 there is no three bedroom or four bedroom  
9 units planned for this project and that  
10 clearly is in contravention with some of the  
11 policies in our Comprehensive Plan.

12 They want everything. They want  
13 the incentives. They want -- this is an  
14 incentive they are asking for, but they have  
15 not put their reports and studies on the  
16 record. We simply want to stand up for  
17 appropriate planning in the 21st Century. We  
18 would like these studies in the record, so  
19 that we, at least and the surrounding  
20 neighbors can truly get a sense of, you know,  
21 what is going to happen here.

22 Sadly, this corner has stayed

1       vacant for a couple of years. And we wanted  
2       it reactivated, but the need to want that  
3       reactivation should not override basic  
4       planning impact studies to determine the  
5       adverse impacts of the requested exceptions  
6       and relief. Thank you.

7                   CHAIRPERSON JORDAN: Okay. Thank  
8       you. Mr. Otten, have you performed any light  
9       and air studies?

10                  MR. OTTEN: I have participated in  
11       several cases.

12                  CHAIRPERSON JORDAN: No, on this  
13       project.

14                  MR. OTTEN: If you want to give us  
15       a grant, we will do it.

16                  CHAIRPERSON JORDAN: Oh.

17                  MR. OTTEN: I mean, it costs  
18       money, right? That's what the -- it's on the  
19       developers.

20                  CHAIRPERSON JORDAN: I really  
21       wasn't trying to get smart with you. I was  
22       asking a very direct question.

1 MR. OTTEN: Oh, I'm sorry. I --  
2 no.

3 CHAIRPERSON JORDAN: Okay.

4 MR. OTTEN: I mean, part of --

5 CHAIRPERSON JORDAN: What about  
6 fire safety studies? Have you performed any  
7 fire safety studies?

8 MR. OTTEN: On this particular  
9 project? No, we don't have the money to do  
10 that.

11 CHAIRPERSON JORDAN: Okay. I'm  
12 just trying to help you move forward with your  
13 case to see if you had it, then you could  
14 present it, so we would have evidence in the  
15 record of the things that you said. That's  
16 why I'm asking.

17 MR. OTTEN: We were really hoping  
18 the Office of Planning would have pushed for  
19 it. We waited. I know the zoning rules allow  
20 for them to submit a week before the hearing,  
21 but we were waiting for them to do these sort  
22 of things or at least ask for them, basic

1 studies.

2 CHAIRPERSON JORDAN: Okay. Does  
3 the Board have any other questions or have any  
4 questions of the opposition party? Then I'm  
5 going to turn to the applicant.

6 MR. TUMMONDS: No questions.

7 CHAIRPERSON JORDAN: Okay. Thank  
8 you. Is there anyone else wishing to testify  
9 in opposition to this application? Okay. I  
10 see someone moving I think to the microphone.  
11 Okay.

12 MS. JOSEPH: Good afternoon.

13 CHAIRPERSON JORDAN: Yes, please,  
14 wait until you be seated and make sure your  
15 microphone is on. And you were sworn earlier  
16 and you provided your witness cards? Did you  
17 get sworn in today? I think not.

18 MS. JOSEPH: No.

19 CHAIRPERSON JORDAN: So then I'm  
20 going to ask you to stand and get sworn in by  
21 the Board's secretary. And then complete two  
22 witness cards for us, but we will wait until

1       you testify before you do that. Go ahead.

2                   (Whereupon, witness was sworn.)

3               MR. MOY: Thank you.

4               MS. JOSEPH: Thank you.

5               CHAIRPERSON JORDAN: All right.

6       Thank you. Would you -- is the microphone  
7       turned on there?

8               MS. JOSEPH: Yes, it is.

9               CHAIRPERSON JORDAN: Okay. And  
10       would you, please, give us your name?

11              MS. JOSEPH: My name is Cassandra  
12       R. Joseph. I am a simple resident of Adams  
13       Morgan and I truly believe that everything  
14       that I may have wanted to contest this  
15       afternoon has been duly said and done.

16              The residents, many of us as we  
17       are walking by the site and then we have -- we  
18       are wondering well, what is going on here and  
19       then when we begin to find out and make  
20       inquiries of such organizations as Mr. Otten's  
21       and the ANC and, you know, others, and I said  
22       well, how is this going to affect us, because

1       it's really so large to us?

2                   We don't know -- I don't know  
3       anything about zoning laws and so forth, but  
4       it just seems so big. And then we would --  
5       then we heard about the structures on the roof  
6       and we said okay, well then how is that going  
7       to impact us?

8                   When I talked to the senior  
9       citizens at the Sarah's Circle and I talked to  
10      the people at the Christ House, and we, you  
11      know, were just talking and some of the people  
12      across the street at some of the other  
13      buildings and some of the other buildings down  
14      the street and we were just wondering how much  
15      noise is this going to be?

16                  What they are really going to be  
17      doing up there late nights or entertaining or  
18      whatnot. And then the building down the  
19      street, you can actually see that they are  
20      going to be looking right into their homes, so  
21      there was the issue of privacy. And, you  
22      know, just ordinary things that people would

1 be talking about.

2 So but the thing that I think  
3 really upset us was -- and then I found out  
4 now they don't have to have permits,  
5 demolition permits and things, because when  
6 that thing began to come down a couple of  
7 weeks or so ago, there was a huge cloud of  
8 dust and debris.

9 It's an awfully old building, I  
10 think, built back in the 1800s or something  
11 and we were suspecting asbestos and perhaps  
12 lead-based paint and we just didn't see any  
13 reason for why this demolition was going on or  
14 was occurring.

15 So these are just basic questions,  
16 ordinary people like me had in mind. And then  
17 I found out there were going to be shops and  
18 I was wondering if there are going to be shops  
19 I'll be able to afford to shop in.

20 I'm seeing along, you know, 14th  
21 Street and some other places on 18th Street, I  
22 don't go in them, because when I go in, I find

1 out there is nothing in there I can afford.

2 I'm Section 8. So all these are questions  
3 that just some of the residents had.

4 CHAIRPERSON JORDAN: Well, we  
5 appreciate you taking the time and coming down  
6 and giving us your concern about the  
7 development. There are certain things that we  
8 are -- our hands are tied regarding structure  
9 of the buildings and what have you and then  
10 what this Board can do.

11 Matters regarding construction is  
12 not before us and a few others things that you  
13 talked about and there are certain things that  
14 they can do as a matter-of-right without even  
15 coming before the Board that would still have  
16 some of the effect that you are talking about.

17 But your input is certainly  
18 helpful to us and we do appreciate citizens  
19 getting involved and coming down and saying  
20 what is on their mind instead of after the  
21 fact.

22 So let me ask, does the Board have



1       any questions of Ms. Joseph? Does the  
2       applicant have any questions of Ms. Joseph?

3               MR. TUMMONDS: No.

4               CHAIRPERSON JORDAN: Does the  
5       party in opposition have questions of Ms.  
6       Joseph?

7               MR. OTTEN: Just one brief one.  
8       You talked about the concerns around the  
9       neighbors and the noise. Do you know of  
10      anything, any noise impact studies that were  
11      conducted for this project? Are you aware of  
12      anything?

13              MS. JOSEPH: No, not from the ANC  
14      meetings that I have been attending.

15              MR. OTTEN: And this is particular  
16      to what might be happening on the roof, along  
17      the edge or edge of the roof on it?

18              MS. JOSEPH: Yes.

19              MR. OTTEN: Okay. Thank you.

20              MS. JOSEPH: As far as I know.

21              CHAIRPERSON JORDAN: Okay.

22              MS. JOSEPH: I haven't seen any.

1 CHAIRPERSON JORDAN: Oh, we thank  
2 you for your testimony.

3 MS. JOSEPH: Thank you for hearing  
4 me.

5 CHAIRPERSON JORDAN: I'm just glad  
6 you came. We will turn back now to the  
7 applicant for any rebuttal, if they feel some  
8 is necessary.

9 MR. TUMMONDS: Just one issue I  
10 would like to address in rebuttal and then we  
11 will move to our closing statement.

12 On page -- and I think it is  
13 important to correct for the record, the first  
14 page of Attachment A to the Adams Morgan for  
15 Reasonable Development materials they  
16 submitted today includes references to ^U 725  
17 and 774. I think in both instances, these are  
18 inaccurate readings of what the Zoning  
19 Regulations really require.

20 ^U 725 lists what the Office of  
21 Planning is required to do in cases where  
22 certain special exception is relief, this is

1        what Mr. Mordfin talked about.  If you are  
2        requesting special exception relief for the  
3        uses noted in ^U 726 through 734, then you have  
4        to send the -- then the Office of Planning is  
5        required to send this to various agencies.

6                We are not requesting special  
7        exception relief from any of those sections.  
8        So that is why ^U 725 is not applicable.

9                Similarly, on this page, there is  
10       the stars for 774.2 through 774.4 and I think  
11       in addition, there is the underlining of the  
12       requested angle of sight lines and the  
13       distance.  Again, that's not applicable.

14               ^U 774.2 says "In certain Districts  
15       you can waive the rear yard requirement, if  
16       you show that you have satisfied 774.3 through  
17       774.6."  Again, that's not applicable to what  
18       we are here to.  We are not asking for a rear  
19       yard waiver.

20               So I think we have shown in both  
21       instances this is not applicable.

22               (Whereupon, at 5:00 p.m. the

Public Hearing continued into the evening  
session.)

1 E-V-E-N-I-N-G S-E-S-S-I-O-N

2 5:00 p.m.

3 CHAIRPERSON JORDAN: Let me ask  
4 you a question regarding one of the first  
5 conditions. Would the applicant be willing to  
6 provide the Smart card for any new resident,  
7 not just the initial residents?

8 MR. TUMMONDS: I think we looked  
9 at this. The issue is this is most likely  
10 going to be a for sale project, so then after  
11 there is that -- the sale of the initial unit,  
12 the applicant no longer has a relationship  
13 with when that first condo unit owner sells it  
14 to the next condo unit owner, there is no more  
15 privity, if you will, in title for the  
16 applicant.

17 CHAIRPERSON JORDAN: It could be  
18 if it's in the declaration and part of the  
19 condo bylaws, right?

20 MR. TUMMONDS: It could be, yes.

21 CHAIRPERSON JORDAN: The question  
22 still remains.

1                   MR. TUMMONDS: I think, yes. You  
2 know, we are not talking about a lot of money  
3 here. And so, yes, we would be amenable to a  
4 condition that we would -- and I suppose it  
5 would have to be we would put it in the bylaws  
6 that when someone sells this property, part of  
7 the contract purchase and sale when they sell  
8 it to the next person would be you have to  
9 also give them \$75 and they can use it for --

10                  CHAIRPERSON JORDAN: Right.

11                  MR. TUMMONDS: So, yes, we will do  
12 that.

13                  CHAIRPERSON JORDAN: Because our  
14 purpose here is trying to make sure that --

15                  MR. TUMMONDS: I agree,  
16 absolutely.

17                  CHAIRPERSON JORDAN: -- there is  
18 absolutely no impact upon the neighborhood.  
19 Okay.

20                  MR. TUMMONDS: Right.

21                  CHAIRPERSON JORDAN: So is there  
22 any other questions the Board may have that

1       they need to ask of the applicant? No? Yes,  
2       go ahead.

3                   MEMBER ALLEN: I know you probably  
4       spoke to this, but I do want to just make sure  
5       I understand about the parking. I know there  
6       are 29 for the residential. There is no  
7       parking anticipated or being added for the  
8       commercial? And you said why, but could you  
9       just repeat that for me?

10                  MR. TUMMONDS: I think our  
11       rational is that so based on the number of --  
12       the maximum number of units would require 28  
13       parking spaces. We are going to provide 29.  
14       We think in reality, for the type of the three  
15       -- the anticipated three to five retail uses,  
16       we don't think it is likely that someone is  
17       going to drive to this project and think that  
18       I would be able to park in a below-grade  
19       parking structure to go to those retail uses.

20                  I think most people would  
21       anticipate that that parking is probably for  
22       the residential above. And so we think and I

1 think DDOT believed, OP believed and the ANC  
2 believed that that probably makes sense. So  
3 we have conditioned upon that we would only  
4 provide parking for the residents of the  
5 building.

6 MEMBER ALLEN: Okay. Thank you.

7 CHAIRPERSON JORDAN: Then we will  
8 close this hearing based upon the evidence  
9 that has been deduced at this time in the  
10 record already before the Board.

11 I'm going to see if the Board is  
12 ready to deliberate or do we need -- I think  
13 we are. I see hands going up and down like  
14 yes, please.

15 I believe this matter is one which  
16 the applicant has shown that they should be  
17 granted the relief requested.

18 I think that the application and  
19 the evidence deduced here supports that, that  
20 the property has an exceptional situation and  
21 conditions that lead to practical difficulty,  
22 particularly in regards to the triangular-



1 shape of the property, the fact that, I think,  
2 there is no alley there, the issue about the  
3 ramp and how the ramp would be shaped going  
4 down the south side of the lot.

5 The issues with the garage and the  
6 effective -- and the efficient use of that  
7 space. I think we have a narrow pavement  
8 around 17th Street as has been indicated. The  
9 issue about the commercial corridor and then  
10 what DDOT's requirements are for you has  
11 actually put some additional conditions upon  
12 you.

13 The loading facility in the  
14 building has some issues with the way the  
15 shape of the building and how the design is  
16 and based upon the constraints that we already  
17 talked about. And the land is generally  
18 landlocked. That is one of the other major  
19 issues here.

20 I think that there is no  
21 substantial detriment to the public good.  
22 There has been some concessions and there is

1 conditions being imposed to reduce any other  
2 type of need to mitigate what little impact  
3 there may be to the neighborhood and I'll talk  
4 about those conditions.

5 Then I also believe that they have  
6 made the showing of why there should be a  
7 special exception for the roof structure. And  
8 then just very short regarding the setback  
9 requirement by about a foot and I don't think  
10 that is going to be impactful.

11 Additionally, ANC and OP has  
12 recommended that this application be granted  
13 with conditions and which this Board gives  
14 great weight to and DDOT also is in support of  
15 this with some conditions, which we recognize  
16 and support.

17 There was a party in opposition  
18 that presented -- they had a full right of  
19 cross-examination and discussion of this, but  
20 there was no evidence to show that there has  
21 been any adverse impact or that anything in  
22 the application or what we have had in

1 evidence was not true or factual before the  
2 Board.

3 There was no evidence being  
4 presented one way or the other. There was  
5 mostly conjecture and the alleged absence of  
6 various studies, but there was no affirmative  
7 studies the other way showing that there was  
8 adverse impact before the Board.

9 I would be willing to support, for  
10 those reasons, the application and include the  
11 conditions, and let me go over those:

12 That the applicant shall provide  
13 for each resident, lessee or purchaser either  
14 a Smart card of \$75, which I believe is  
15 acceptable in this situation because of the  
16 fact that you are meeting all your residential  
17 parking requirements. If it wasn't, then it  
18 would be a different issue for me.

19 And that there be first year  
20 membership to Capital Bikeshare and annual  
21 car-sharing service with a value up to \$75.  
22 The applicant shall coordinate with the car-

1 sharing service and determine the feasibility  
2 of locating the car-share and vehicles in  
3 adjacent public space. And that determination  
4 will be finally made by DDOT and the car-  
5 sharing company.

6 That the applicant shall provide  
7 some sufficient bicycle parking on-site for  
8 both retail employees and residents. Bicycle  
9 parking for retail employees shall be provided  
10 on the ground floor and bicycle parking for  
11 residents will be provided on the ground floor  
12 or in the garage.

13 Subject to Public Space approval,  
14 new bike racks shall be installed along  
15 Columbia Road.

16 The applicant shall not bundle  
17 costs related to the parking spaces in the  
18 sale price or lease amount of each residential  
19 unit.

20 The project shall include 29  
21 parking spaces in accordance with the attached  
22 Parking Level Plan and the parking spaces must

1 be reserved for the residential tenants or  
2 unit owners and their guests.

3 All loading for the building must  
4 be on Columbia Road in public space, subject  
5 to DDOT's approval and Public Space approval.

6 The applicant and DDOT shall  
7 establish a 55 foot loading zone on Columbia  
8 Road and the applicant shall agree to  
9 deliveries in public space along Columbia Road  
10 from 7:00 a.m. to 4:00 p.m., subject again to  
11 the governmental authority's approval.

12 The applicant shall designate a  
13 loading coordinator for site to coordinate  
14 residential move-ins and move-outs and require  
15 that there is the -- the loading coordinator  
16 certainly communicate this to the residents,  
17 that there should be -- no truck idling be  
18 permitted.

19 And that the applicant and owners  
20 of the building or residential condominium  
21 association shall maintain the planning and  
22 landscaping of the public space adjacent to

1 the property.

2 And that there is going to be an  
3 addition to the bylaws. Well, one, the  
4 declaration in the bylaws in regards to the  
5 first condition.

6 All right. Is there anything else  
7 that the Board wants to -- yes?

8 VICE CHAIR SORG: Mr. Chairman,  
9 the applicant also agreed to the three  
10 requested conditions by DDOT.

11 CHAIRPERSON JORDAN: I thought we  
12 added those, didn't we?

13 VICE CHAIR SORG: No, I don't  
14 think.

15 CHAIRPERSON JORDAN: Didn't I read  
16 those? That was included. There is an  
17 additional -- another three I missed?

18 VICE CHAIR SORG: Additional  
19 secure private bike parking increased to  
20 residential use.

21 CHAIRPERSON JORDAN: Okay. I had  
22 to make sure. Please. Go ahead.

1 VICE CHAIR SORG: I don't think  
2 that --

3 CHAIRPERSON JORDAN: I thought I  
4 included those in what I read.

5 For the three included from DDOT  
6 was in the ones that I just read.

7 MR. TUMMONDS: Yes, it was bike  
8 parking on-site and in the public space and  
9 then reduction of the width of the curb cut on  
10 17th Street from 24 to 20.

11 VICE CHAIR SORG: I'm sorry.

12 CHAIRPERSON JORDAN: Okay.  
13 Anybody else?

14 So I would move that we approve  
15 the requested relief with those conditions.

16 VICE CHAIR SORG: Second.

17 CHAIRPERSON JORDAN: The motion  
18 made and seconded. Unreadiness? Okay.

19 COMMISSIONER MAY: Mr. Chairman, I  
20 was going to comment on a couple of things.

21 I agree the case has been made  
22 pretty clearly on this for all of the

1 variance, the requirements of the variance and  
2 the special exception regarding roof  
3 structures.

4 And I think that, you know, we did  
5 hear a lot of additional testimony with regard  
6 to the project that might well have been  
7 helpful, but frankly was not because it was  
8 not directed to the zoning issues that we were  
9 taking under consideration. And we heard talk  
10 about fire requirements and, you know, studies  
11 of the light.

12 You have, we haven't -- how the  
13 building is going to be affecting the light in  
14 the neighborhood, air pollution, the  
15 Inclusionary Zoning, I mean, all of these  
16 things do touch zoning in some way. They  
17 simply weren't relevant in this case.

18 It's also -- I mean, I think that  
19 there is a distinction that the party in  
20 opposition doesn't seem to be aware of in that  
21 this is not a Planned Unit Development. Not  
22 everything is put into play in a case where



1       there are variances and special exceptions  
2       requested.

3                       So all of these other things are  
4       really extraneous to the decision making here.  
5       So I feel completely comfortable moving ahead.  
6       And I would hope that in the future, the party  
7       in opposition who seems to be here quite  
8       regularly now might direct his efforts more  
9       specifically at the zoning issues in play at  
10      the moment.

11                      It would be better use of this  
12      time and it will be more effective in  
13      representing the interests of the groups that  
14      he is working with.

15                      CHAIRPERSON JORDAN:   And I do  
16      appreciate the interest of the party in  
17      opposition for taking an interest in being  
18      here and to holding people accountable for  
19      making sure the I's are dotted and the T's are  
20      crossed.   Any other unreadiness?

21                      All those in favor of the motion  
22      signify by saying aye.

1 ALL: Aye.

2 CHAIRPERSON JORDAN: Opposed nay?

3 The motion carries. Mr. Moy?

4 MR. MOY: Staff would record the  
5 vote as 5-0. This is on the motion of  
6 Chairman Jordan to approve the application for  
7 their relief requested, as amended, as well as  
8 with conditions as cited. Seconding the  
9 motion Vice Chairperson Sorg. Also in  
10 support, Mr. Peter May, MS. Kathryn Allen and  
11 Mr. Jeff Hinkle. The motion carries, Mr.  
12 Chairman.

13 CHAIRPERSON JORDAN: Thank you.  
14 Okay. We are going to take a brief five  
15 minutes, five minutes, five minutes and we are  
16 back at it.

17 MR. OTTEN: Mr. Chair? I have one  
18 question.

19 CHAIRPERSON JORDAN: Yes.

20 MR. OTTEN: This order will be  
21 written and finalized?

22 CHAIRPERSON JORDAN: Yes.

1 MR. OTTEN: And all those  
2 conditions will be put in there?

3 CHAIRPERSON JORDAN: Yes.

4 MR. OTTEN: Is there zoning rules  
5 around time of how long that takes?

6 CHAIRPERSON JORDAN: No.

7 MR. OTTEN: Okay. Thanks.

8 CHAIRPERSON JORDAN: Good. Five  
9 minutes, a quick five minutes.

10 (Whereupon, at 5:12 p.m. a recess  
11 until 5:19 p.m.)

12 CHAIRPERSON JORDAN: Okay. Let's  
13 call 42 and I think we will still be  
14 accommodating.

15 MR. MOY: Okay. That would be  
16 Application No. 18482. This is the  
17 application of District Properties, LLC,  
18 pursuant to 11 DCMR 3103.2 for a variance from  
19 the lot width and lot area requirements under  
20 ^U 401, a variance from the side yard  
21 requirements under ^U 405. This is to  
22 construct a new one-family detached dwelling

1 in the R-1-B District at premises 5008 13th  
2 Street, N.W. The property is located in  
3 Square 2806, Lot 53.

4 CHAIRPERSON JORDAN: Okay. Then  
5 let's move forward. We have a party status  
6 request by Ms. Susan, is it, Reith?

7 MS. REITH: Reith.

8 CHAIRPERSON JORDAN: Reith?

9 MS. REITH: Susan Reith.

10 CHAIRPERSON JORDAN: Reith.

11 MS. REITH: R-E-I-T-H.

12 CHAIRPERSON JORDAN: Okay. I  
13 understand that you are here for party status  
14 and your issue is on the issue of ownership.

15 MS. REITH: Ownership, yes,  
16 correct.

17 CHAIRPERSON JORDAN: Okay. And,  
18 one, that's not necessarily an issue that we  
19 will -- we cannot determine that on the Board,  
20 but the owner has to be the proper party. And  
21 so we have seen what you have submitted in the  
22 record regarding ownership and we have also

1       seen what the applicant has submitted.

2                   Do you have anything else in  
3       addition to what you have submitted to the  
4       Board about ownership? Does this matter --  
5       have you filed a matter in Court regarding the  
6       ownership of this property?

7                   MS. REITH: I will need an  
8       extension of time to go ahead and get more  
9       legal counsel, if that's the direction you  
10      wish for me to go.

11                  CHAIRPERSON JORDAN: It's not for  
12      me to wish one way or the other. I just need  
13      to know what you have in your possession now.  
14      We have received from the applicant a tax deed  
15      and other documents in support of what has  
16      gone on in regards to ownership.

17                  We have received your documents.  
18      And so I didn't know if there was something  
19      more you wanted to present to the Board.

20                  MS. REITH: I'm contesting it  
21      because I never received anything from tax --  
22      the Department of Tax and Finance and Revenue.

1                   CHAIRPERSON JORDAN:   And I know  
2   you also said you --

3                   MS. REITH:   And I am --

4                   CHAIRPERSON JORDAN:   -- that you  
5   have made --

6                   MS. REITH:   -- the owner by heir.  
7   I lived in that house at 5008 13th Street my  
8   entire life.  I was born practically there.  
9   And also I am heir to it.  My driver's license  
10  displays --

11                  CHAIRPERSON JORDAN:   Yes, I  
12  understand everything that you have placed --

13                  MS. REITH:   -- is also 5008 13th  
14  Street, N.W., Washington, D.C.

15                  CHAIRPERSON JORDAN:   And you pay  
16  the taxes?  There has not been any years that  
17  taxes have not been paid is what you are  
18  saying?

19                  MS. REITH:   I paid taxes on --  
20  real property tax, yes.

21                  CHAIRPERSON JORDAN:   On this  
22  property consecutively?

1 MS. REITH: On that property.

2 Consecutively, yes, I did.

3 CHAIRPERSON JORDAN: Well, here is  
4 the problem we are having. I believe that --

5 MS. REITH: And any back taxes  
6 that are due, I would be more than happy, but  
7 I am contesting that this was an illegal --

8 CHAIRPERSON JORDAN: Okay.

9 MS. REITH: -- transfer, if you  
10 will.

11 CHAIRPERSON JORDAN: And you are  
12 here contesting the ownership issue?

13 MS. REITH: Yes, ownership issue  
14 because it was an illegal transfer.

15 CHAIRPERSON JORDAN: Okay. I am  
16 going to not allow you to be a party status  
17 here. I think we have enough documents to be  
18 reasonably clear on a substantial basis that  
19 the owner is the applicant, based upon the  
20 documents submitted.

21 We understand the issue that you  
22 are having and wish you luck. And I think

1       that you really need to go to the proper forum  
2       to get relief, because we can't grant you  
3       relief. Your relief has to, I'm going to  
4       guess at the bare minimum, be at the Court for  
5       relief. And I'm just saying that. And I'm  
6       not trying to give you any advice, but it's  
7       just to let you know that this is not the  
8       forum in which we can take care of the issue  
9       that you are having.

10               MS. REITH: This is why I was  
11       asking for an extension, so I can get legal--

12               CHAIRPERSON JORDAN: Okay.

13               MS. REITH: -- counsel.

14               CHAIRPERSON JORDAN: Okay.

15               MS. REITH: Is that a possibility  
16       that you could grant me an extension?

17               CHAIRPERSON JORDAN: I am not  
18       inclined to grant that, unless the Board is  
19       willing to do that. Anyone on the Board?

20               MS. REITH: Again, my address is  
21       proof on my driver's license that I am --

22               CHAIRPERSON JORDAN: Mr. May?



1                   COMMISSIONER MAY: Mr. Chairman,  
2           now, you know, given that we have received  
3           documentation that that seems to be in  
4           perfectly good order with regard to the  
5           ownership of the property that indicates that  
6           the applicant, in this case, has -- you know,  
7           does have legal title to the property, I --  
8           you know, while I may be sympathetic to the  
9           predicament that you are in, it really is not  
10          -- doesn't have any bearing on the case that  
11          we have, because we have documentation.

12                   If you are saying that the sale  
13          was illegal and this deed is -- was not  
14          properly issued by the city, then you need to  
15          take that up in a different forum and it  
16          doesn't really have any bearing on what we are  
17          doing.

18                   MS. REITH: I don't want a single-  
19          family dwelling on that property.

20                   COMMISSIONER MAY: It doesn't  
21          really matter to us, because what we have in  
22          front of us is documentation saying that the

1       applicant rightfully owns the property and is  
2       applying for this relief.

3               We are speaking only to that case  
4       and the facts that we have in front of us. I  
5       mean, we don't have any -- you know, we can't  
6       adjudicate whether or not you should be the  
7       legal owner of this or whether this deed is  
8       somehow inadequate.

9               So you will need to seek your  
10       relief elsewhere. I mean, I don't know when--  
11       where this is in the process of getting  
12       anything constructed, but you need to pursue  
13       that through other channels as quickly as you  
14       can.

15              MS. REITH: This was done very --

16              CHAIRPERSON JORDAN: All right.

17       Let me do this.

18              COMMISSIONER MAY: The sale  
19       occurred in 2009. The sale of the property,  
20       so this is not that --

21              MS. REITH: Oh, it -- I was told  
22       it was 2012 in October.

1                   COMMISSIONER MAY: The original  
2                   sale was 2009 from what I saw. I mean, the  
3                   fact that it was October 2012 was when the  
4                   deed was recorded. But this whole process--

5                   MS. REITH: I'm sorry, will you  
6                   repeat that?

7                   CHAIRPERSON JORDAN: Wait, wait,  
8                   wait, wait. Let's --

9                   MS. REITH: What was --

10                  CHAIRPERSON JORDAN: If I can --

11                  MS. REITH: What was the exact  
12                  date again? 2009?

13                  CHAIRPERSON JORDAN: Let me get in  
14                  control.

15                  MS. REITH: Mr. May, you said the  
16                  exact date was --

17                  CHAIRPERSON JORDAN: No, no, no.  
18                  Let me get back in control of this hearing.  
19                  And I really appreciate Mr. May trying to help  
20                  you, but this is not the forum and then we  
21                  need to proceed on and so we are going to  
22                  deny, unless the Board has any objection, your

1 party status. And then we are going to move  
2 on with this hearing.

3 MS. REITH: Well, I do want to be  
4 able to still be party to knowing and having  
5 knowledge of what is going on on the property.  
6 I do want that. Will I still be able to get  
7 that?

8 CHAIRPERSON JORDAN: Well, no.  
9 You have raised that your issue here and has  
10 been in effect is the ownership of the  
11 property and --

12 COMMISSIONER MAY: But you will be  
13 able to testify.

14 CHAIRPERSON JORDAN: You will be  
15 able to make a statement --

16 COMMISSIONER MAY: If that's what  
17 you want.

18 CHAIRPERSON JORDAN: -- if you  
19 wish. Yes, you will be able to sit and listen  
20 if you want and you will be able to make a  
21 statement at a certain point if you would  
22 like.

1 MS. REITH: Yes.

2 CHAIRPERSON JORDAN: Okay. Good.  
3 Then let's move into this hearing on this  
4 matter.

5 Based upon examining this record,  
6 I believe that we have substantial evidence  
7 already in the file that the request from the  
8 applicant meets the standard for relief that  
9 this is a lot that is a substandard lot that  
10 is -- there is the inability of the applicant  
11 to be able to expand this lot to be a  
12 conforming lot.

13 I'm using the term conforming to  
14 be able to meet the zoning requirements to  
15 order to build and that there is a practical  
16 difficulty.

17 Does anybody have any other  
18 questions they need the applicant to address?

19 COMMISSIONER MAY: I have just one  
20 quick one. You know, it looks like you have  
21 made some effort with the design of the  
22 property or the design of the house to make it

1 fit within the context of the neighborhood,  
2 right?

3 So I just have one question for  
4 you. Why would you choose to set the house  
5 back from the building line at the front the  
6 way every other house is on both sides of the  
7 street?

8 MR. SIKDER: No, we actually -- we  
9 are talking with the Planning Board. We are  
10 going to --

11 COMMISSIONER MAY: Move it  
12 forward? Very good. Thank you.

13 CHAIRPERSON JORDAN: All right.  
14 Anyone else have a question? Ms. Sorg?

15 VICE CHAIR SORG: I want to make a  
16 comment. I'm glad that Mr. May brought that  
17 up. I thought that was sort of one sort of  
18 clearing piece here and I actually would like  
19 to say that we have seen Mr. Sikder a number  
20 of times and it does seem that more effort has  
21 been taken with the design and sensitivity  
22 here.

1                   CHAIRPERSON JORDAN: And then this  
2                   time you did get with the ANC-4C, which  
3                   recommended approval, so that's a good thing.  
4                   So anybody else? So I don't believe that the  
5                   Board has any questions for you. You can make  
6                   a presentation if you want. You can waive  
7                   that and we can move on.

8                   MR. SIKDER: I can waive.

9                   CHAIRPERSON JORDAN: Okay. Then  
10                  let's go to Office of Planning and see if  
11                  there is anything in addition to what they  
12                  have already placed in their report that they  
13                  need to talk about here today.

14                 MR. GYOR: Good afternoon, Mr.  
15                 Chairman and Members of the Board. Stephen  
16                 Gyor with the Office of Planning.

17                 The Office of Planning supports  
18                 the applicant's request for relief and rests  
19                 on the record. Thank you.

20                 CHAIRPERSON JORDAN: Does the  
21                 Board have any questions of Office of  
22                 Planning? Does the applicant have any

1 questions of the Office of Planning?

2 Is there anyone here from the  
3 Department of Transportation? I don't know if  
4 we have a report. Oh, we do. We have a  
5 letter from Department of Transportation which  
6 has no objection to the application.

7 Is there anyone here wishing to  
8 speak in support of the application? Anyone  
9 wishing to speak in support?

10 Anyone wishing to speak in  
11 opposition? Mr. Reith, do you want to speak  
12 in opposition or do you have anything you want  
13 to say about this, other than what you have  
14 already said?

15 MS. REITH: No.

16 CHAIRPERSON JORDAN: No. Okay.

17 Then --

18 COMMISSIONER MAY: Mr. Chairman, I  
19 think she -- a little.

20 CHAIRPERSON JORDAN: Yes.

21 COMMISSIONER MAY: Do you want to  
22 speak to us and say something about the case?



1                   CHAIRPERSON JORDAN: Did you want  
2 to say anything more than what you have  
3 already said about the ownership issue or  
4 something else about this property?

5                   MS. REITH: Well, I do want to be  
6 privy to being able to listen in on the  
7 meetings.

8                   CHAIRPERSON JORDAN: Okay.

9                   MS. REITH: And be --

10                  CHAIRPERSON JORDAN: Okay.

11                  MS. REITH: -- as they say, a  
12 second party.

13                  COMMISSIONER MAY: I think what  
14 you need to understand is that we are hearing  
15 testimony right now. Once we are done hearing  
16 the testimony, we will most likely take this  
17 under consideration and make a decision today.

18                  MS. REITH: Okay.

19                  COMMISSIONER MAY: So if you have  
20 anything further to say, you need to say it  
21 now.

22                  MS. REITH: If I can say this, I

1       have a construction ownership friend who owns  
2       a construction site, a Mr. Steven Vargas. And  
3       he was -- I had planned on putting another  
4       beautiful Cape Cod-style home, this of course  
5       is in the process in the future, on the  
6       property is what I wanted to put on the  
7       property. So, you know, it's going to be a  
8       palatial Cape Cod-style home on the property  
9       futuristically.

10               CHAIRPERSON JORDAN: Okay. All  
11       right.

12               MS. REITH: I'm sorry, was that  
13       all right if I --

14               CHAIRPERSON JORDAN: No, that's --  
15       whatever you wanted to say you had. Okay.  
16       Appreciate it. Anything else you might want  
17       to say to us?

18               MS. REITH: In reference to  
19       ownership or --

20               CHAIRPERSON JORDAN: No, no, not  
21       the ownership issue. Okay. Then I'm going to  
22       take it that you have expressed that which you

1       wished to express about the property. You  
2       have the desire of doing something else with  
3       the property.

4               MS. REITH: Yes, that's what I do  
5       have a desire that I would like --

6               CHAIRPERSON JORDAN: Yes. And you  
7       will --

8               MS. REITH: -- a Cape Cod-style  
9       home on the property in memory of -- I would  
10      just like to have another Cape Cod-style home.  
11      Homes in that neighborhood are Cape Cod-style.  
12      There are some Cape Cod-style homes in that  
13      neighborhood.

14              CHAIRPERSON JORDAN: Yes.

15              MS. REITH: And I would like to  
16      put another one up.

17              CHAIRPERSON JORDAN: Sure.

18              MS. REITH: Is what I would like  
19      through Steven Vargas of this construction  
20      company.

21              CHAIRPERSON JORDAN: Then we will  
22      -- then anybody else in opposition to this

1 application? I'm not going to do that, no.  
2 Anyone else in opposition? Then we would  
3 normally turn back to the applicant for any  
4 rebuttal and closing. But I think you don't  
5 necessarily need to do it, unless you just  
6 feel you need to rebut something or make a  
7 closing.

8 MR. SIKDER: No, I don't.

9 CHAIRPERSON JORDAN: Okay. Well,  
10 then based upon what has been submitted in the  
11 record and based upon the recommendation of  
12 the ANC and the Office of Planning, which we  
13 give both great weight -- well, let me take  
14 one step back.

15 Are you familiar with the  
16 conditions that the ANC has proposed?

17 MR. SIKDER: Yes.

18 CHAIRPERSON JORDAN: And you  
19 accepted those conditions?

20 MR. SIKDER: Yes.

21 CHAIRPERSON JORDAN: Okay. Then I  
22 would move that we grant the relief requested

1 by the applicant with the conditions imposed  
2 in the record.

3 VICE CHAIR SORG: Second.

4 CHAIRPERSON JORDAN: Motion made  
5 and seconded. All those in favor signify by  
6 saying aye.

7 ALL: Aye.

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

10 MR. MOY: Staff would record the  
11 vote as 5-0. This is on the motion of  
12 Chairman Jordan to approve the application  
13 with the two conditions as stated in ANC-4C  
14 report. Seconding the motion is Vice  
15 Chairperson Sorg. Also in support are Peter  
16 May, Kathryn Allen and Jeffrey Hinkle. The  
17 motion carries 5-0, Mr. Chairman.

18 CHAIRPERSON JORDAN: And may we  
19 have a summary order, please?

20 MS. GLAZER: Mr. Chair? Would the  
21 Board consider doing a full order in this  
22 matter?

1                   CHAIRPERSON JORDAN:   Okay.   We can  
2   do a full order.   Yes, go ahead, go ahead.

3                   MR. MOY:   The next application  
4   before the Board is Application No. 18487.  
5   This is the application of Jonathan Grossman,  
6   pursuant to 11 DCMR 3103.2, for a variance  
7   from the floor area ratio requirements under  
8   ^U 402, a variance from the lot occupancy  
9   requirements under ^U 403, a variance from the  
10   rear yard requirements under ^U 404, a variance  
11   from nonconforming structure requirements  
12   under subsection 2001.3, to allow an addition  
13   to an existing row dwelling in the D.C./R-5-B  
14   District at premises 1751 18th Street, N.W.  
15   The property is located in Square 153, Lot 95.  
16   And this was the caption as originally  
17   advertised.

18                  CHAIRPERSON JORDAN:   All right.  
19   Thank you.   Would you, please, identify  
20   yourselves?

21                  MR. SHER:   Mr. Chairman, Members  
22   of the Board, for the record, my name is

1 Steven E. Sher, the Director of Zoning and  
2 Land Use Services with the Law Firm of Holland  
3 & Knight. To my left is?

4 MR. GROSSMAN: Jonathan Grossman.  
5 I'm the applicant.

6 MR. SHER: To his left is?

7 MS. GROSSMAN: Michelle Grossman,  
8 his wife.

9 MR. SHER: And to my right?

10 MR. BONSTRA: I'm Bill Bonstra,  
11 architect with Bonstra Haresign Architects.

12 MR. SHER: Two preliminary  
13 matters, Mr. Chairman. I don't believe either  
14 of our two witnesses were sworn at the  
15 beginning of the afternoon, so you may want to  
16 take that up, at this point.

17 CHAIRPERSON JORDAN: Okay. Let's  
18 do that, Mr. Moy.

19 MR. MOY: Yes. Good afternoon.

20 (Whereupon, witnesses were sworn.)

21 MR. MOY: Thank you, gentlemen.

22 CHAIRPERSON JORDAN: Thank you.

1 And the second preliminary matter?

2 MR. SHER: We have proffered Mr.  
3 Bonstra as an expert in residential  
4 architecture.

5 CHAIRPERSON JORDAN: Do we have  
6 him? Yes, okay.

7 MR. SHER: And this rŠsumŠ is in  
8 the prehearing statement, which Mr. Grossman  
9 filed, but he has appeared here as an expert  
10 before.

11 CHAIRPERSON JORDAN: I'm seeing  
12 heads nodding. We will accept him. Thank  
13 you. Well, he is already there, so he is  
14 accepted.

15 MR. SHER: Okay.

16 CHAIRPERSON JORDAN: Now, let me  
17 see here. This is a greatly improved  
18 application since the first time we saw this.  
19 I know that there are some issues that --  
20 there might be some issues that the Board  
21 wants to address and let's get those out  
22 first.



1                   Mr. May, Ms. Sorg, any issues you  
2                   want to raise?

3                   COMMISSIONER MAY:   You know, I'm  
4                   interested in seeing the additional package  
5                   that was just brought out, but we haven't seen  
6                   it yet.

7                   CHAIRPERSON JORDAN:   What was  
8                   that?

9                   COMMISSIONER MAY:   I don't know.

10                  CHAIRPERSON JORDAN:   Oh, more  
11                  drawings.

12                  COMMISSIONER MAY:   I'm curious  
13                  about it.

14                  MR. SHER:   There are two things.

15                  CHAIRPERSON JORDAN:   Some  
16                  additional drawings, yes.   Go ahead.

17                  MR. SHER:   We'll just state what  
18                  they are.

19                  CHAIRPERSON JORDAN:   Please,  
20                  please.

21                  MR. SHER:   Number one is a table  
22                  which explains numerically the relief that we

1 have requested of the Board in terms of the  
2 FAR and the lot occupancy.

3 And the second is a more legible  
4 set of plans than those that were in the  
5 prehearing statement. These are 11 x 17.  
6 They are darker and they are a little easier  
7 to read. And Mr. Bonstra can explain those  
8 quickly, if you need that.

9 CHAIRPERSON JORDAN: Why don't you  
10 give us a second and let us look at it? It  
11 might help you from getting beat up on it,  
12 because the plans we had before, we had some--  
13 well, I don't want to speak for anybody else,  
14 but --

15 COMMISSIONER MAY: So I'll start  
16 off. I mean, the real case here is that we  
17 have a recommendation from the Office of  
18 Planning, which recommends some relief, but  
19 not the specific relief that you have  
20 requested.

21 So I'm looking -- you know, I was  
22 looking for -- in the information that was

1 submitted since the last time we heard this  
2 case, for some compelling evidence that what  
3 you are proposing is what is really necessary  
4 to make use of the property.

5 So since you now have expert  
6 advice on hand, perhaps maybe you want to take  
7 another shot at that to enhance what was in  
8 the submission.

9 MR. SHER: Right. Just to quickly  
10 refresh. What we are seeking as not  
11 recommended by OP is to extend the back of the  
12 building 3 feet further out on the first floor  
13 and second floor.

14 The lot is 18 feet wide, that's 54  
15 feet per floor, 108 feet total. It doesn't  
16 sound like a lot, but Mr. Bonstra is going to  
17 tell you why that is important to the design  
18 of the house and what they are trying to  
19 accomplish.

20 COMMISSIONER MAY: Sorry, Office  
21 of Planning is only suggesting 3 feet  
22 additional.

1                   MR. SHER: They were suggesting  
2                   that we -- they were okay with our filling in  
3                   the court --

4                   COMMISSIONER MAY: Right.

5                   MR. SHER: -- at the back of the  
6                   house.

7                   COMMISSIONER MAY: Right.

8                   MR. SHER: We had asked to go 3  
9                   feet beyond that.

10                  COMMISSIONER MAY: Got it.

11                  MR. SHER: And Mr. Jackson, if I'm  
12                  stating it correctly, recommended that the  
13                  Board not approve the additional 3 feet.

14                  COMMISSIONER MAY: Right. Okay.

15                  MR. SHER: Okay?

16                  COMMISSIONER MAY: I  
17                  misunderstood. I thought you were talking the  
18                  Office of Planning was advocating 3 feet, but  
19                  I thought they were just advocating filling in  
20                  the court.

21                  MR. SHER: Well, they are okay  
22                  with our filling in the court.

1 COMMISSIONER MAY: Right.

2 MR. SHER: They do not like the 3  
3 foot extension.

4 COMMISSIONER MAY: The additional  
5 3 feet?

6 MR. SHER: Right.

7 COMMISSIONER MAY: Got it.

8 CHAIRPERSON JORDAN: Yeah, go  
9 ahead, if you want, Mr. Jackson.

10 MR. JACKSON: I'm sorry, I was  
11 just going to clarify. Arthur Jackson, DC  
12 Office of Planning. The applicant is also  
13 asking for an additional 3 feet.

14 CHAIRPERSON JORDAN: Yes, are you  
15 on your mike? Your mike?

16 MR. JACKSON: Oh, I'm sorry. The  
17 Office of Planning -- Arthur Jackson, Office  
18 of Planning.

19 I just want to clarify that the  
20 applicant is also asking for 3 feet on the  
21 second floor.

22 MR. SHER: Yes.

1 MR. JACKSON: But no change on the  
2 third.

3 MR. SHER: Right.

4 MR. JACKSON: So 3 feet on the  
5 second and --

6 COMMISSIONER MAY: I mean, I think  
7 the second floor is really not material to the  
8 case. This is really about the building  
9 footprint more than anything else. I mean,  
10 because on the second floor, it is above. I  
11 mean, it's still going to be -- the second  
12 floor is still going to be setback from the  
13 farthest point of the first floor.

14 So any of the arguments having to  
15 do with why it is necessary to expand the  
16 second floor are not really of great interest  
17 to me. It's just why is it necessary on the  
18 first floor?

19 I mean, maybe it's of interest to  
20 others.

21 MR. BONSTRA: I would like to  
22 address that, if I could, because I don't

1 exactly agree with that statement.

2 I have been working now with the  
3 Grossmans for some time and looking at the  
4 floor plans and understanding their space  
5 needs and what have you. And the extension of  
6 the second floor, we believe, is necessary to  
7 accommodate the master bathroom, which is a  
8 modest bathroom. This is a very modest house.

9 COMMISSIONER MAY: Can I just  
10 clarify? I am not suggesting that it is not  
11 necessary or not desirable. I'm just  
12 suggesting that that is not really what this  
13 hinges on. The real case is why it is  
14 necessary to expand more than -- I mean, those  
15 extra 3 feet that the Office of Planning  
16 doesn't support, that's kind of what I am  
17 focused on.

18 MR. BONSTRA: The tail wagging the  
19 dog.

20 COMMISSIONER MAY: Yes. I mean,  
21 the second -- I mean, but if you want me to --

22 VICE CHAIR SORG: I want to hear

1       why this type of bathroom --

2                   MR. BONSTRA:   It's -- you know,  
3       they are part and parcel to the expansion of  
4       the first floor as well.   There are many  
5       issues here.

6                   CHAIRPERSON JORDAN:   And he wants  
7       you to say why it is necessary for the  
8       expansion on the first floor.

9                   MR. BONSTRA:   Okay.

10                  CHAIRPERSON JORDAN:   Right?

11                  MR. BONSTRA:   Okay.   There are a  
12       number of things on the first floor.   The  
13       townhouse itself is not of great width.   It is  
14       18 feet wide, which requires the rooms to be  
15       oriented with a long dimension, front to back.  
16       We have provided some drawings that show the  
17       layouts of the first floor, the existing first  
18       floor on the left with some dimensions, A-102.

19                  And the proposed first floor,  
20       which has the modest kitchen, 9 feet 6, and it  
21       has a modest living and dining room to  
22       accommodate, eight people living room, that



1       number. And we have laid this out in my  
2       professional opinion. This is a modest floor  
3       plan.

4               Without that 3 feet, we do run  
5       into issues of size and problems with layouts  
6       of the rooms. This is 734 square feet. The  
7       other issue is access to light and air, which  
8       is a major feature of this kitchen. We are  
9       raising the kitchen ceiling and increasing the  
10      glass area on the rear, but the house to the  
11      south is extended 3 feet beyond where this  
12      house is extended.

13             As well, it has a deck that is on  
14      the second level. And that, given the fact  
15      that the sun moves in the southern sky from  
16      east to west, it casts shadow into the rear of  
17      this residence. So we would like to extend  
18      that line out to the neighboring house.

19             One of the unique circumstances  
20      that was no discussed in the earlier hearing  
21      was the fact that this property does not back  
22      up into the side face of another building, as

1 we see in many situations, but, in fact, is  
2 open space that is there.

3 So we don't feel like there is any  
4 detriment in allowing this 3 feet. And again,  
5 as was said before, it is not on all three  
6 levels. It is really only on the first level  
7 and the second level is setback considerably.

8 Architecturally, we feel like that  
9 sequencing of the rear facade is truly a  
10 positive to maintain light and air. And  
11 unlike the house to the south, which rises  
12 three floor straight up, this is adequately  
13 stepped and provides the modest space that the  
14 -- my client needs for this residence.

15 CHAIRPERSON JORDAN: Okay. Did  
16 you finish talking about the second floor?

17 MR. BONSTRA: The existing second  
18 floor has challenges, which are spelled out in  
19 the application, as far as safety of stairs  
20 and what have you.

21 It as well is a very modest floor,  
22 proposed at 555 square feet, about the size of

1 an efficiency apartment. And my client would  
2 like to have a bathroom that has a toilet, a  
3 tub and shower and two vanities. And we have  
4 shown that with as little impact on the rest  
5 of the floor as we can, so that we don't have  
6 to have wholesale demolition in that area.

7 And that 3 feet is necessary  
8 there. The beam -- it places the beam then at  
9 a point on the first level where the wings are  
10 shown, essentially the divider between the  
11 rooms, which is the appropriate place to have  
12 that beam and to handle that with the wing  
13 walls that are shown.

14 So I believe that those do kind of  
15 work together, those three factors, as well as  
16 the uniqueness of the site should allow this  
17 to be approved.

18 CHAIRPERSON JORDAN: What's unique  
19 about the site?

20 MR. BONSTRA: I mentioned before--  
21 Steve?

22 MR. SHER: That's my piece.

1       Within this square, it is about the smallest  
2       lot in the square and it is the smallest house  
3       on the smallest lot in the square. The lot is  
4       only 18 feet wide by 52 feet deep. It is 936  
5       square feet. It is an exceedingly small lot  
6       and, therefore, if you do almost anything to  
7       it, you're going to exceed FAR lot occupancy  
8       and not meet the rear yard requirements.

9               I would note that the Board over  
10       the last 10 or 12 years has had nine very  
11       similar cases all in R-5-B, all asking for  
12       variances from about the same stuff that is  
13       being asked for here, all granted by the Board  
14       with summary orders and no opposition.

15              And the basic reasoning, you don't  
16       get it out of summary orders, because they  
17       don't say much. But if you go back and read  
18       the transcripts, what came out of it was they  
19       are all exceedingly small lots. They are  
20       nonconforming to begin with because they  
21       didn't meet the requirements of the zoning  
22       when it was imposed back in 1958. And almost

1 anything you do with those is going to require  
2 something from the Board.

3 CHAIRPERSON JORDAN: Anyone else  
4 have any questions? All right. Let's -- any  
5 other questions of the applicant? Let's swing  
6 to the Office of Planning. And I understand--  
7 Mr. Jackson, let us understand why the 3 feet  
8 is an issue. And do you believe that they  
9 meet the uniqueness test?

10 MR. JACKSON: All right. Yes,  
11 Arthur Jackson, DC Office of Planning. You  
12 have the Office of Planning's report before  
13 you and nothing that the applicant has  
14 presented, at this point, would change the  
15 Office of Planning's report except for one  
16 issue.

17 CHAIRPERSON JORDAN: You speak  
18 softer than --

19 MR. JACKSON: I'm sorry. I need  
20 to speak up. Okay. You have the Office of  
21 Planning's report before you and there is one  
22 issue that was raised by the applicant that

1 calls for a minor change, but otherwise, we  
2 think the standards that are necessary for the  
3 relief -- the extent of the relief that they  
4 are requesting has not been met. And I'll  
5 briefly summarize why.

6 The existing lot, we think, is  
7 unique, because it is small. And we would say  
8 just looking at the existing lots on the  
9 square, that it is one of the three smallest  
10 lots on the square. But we also note that the  
11 property is fully developed with not only a  
12 residence, but a flat, which is functioning as  
13 -- potentially functioning effectively for --  
14 since the 40s.

15 We understand the existing use --  
16 so that there is no -- the uniqueness that is  
17 the size of the site has not -- does not  
18 prevent it from being put in productive use.  
19 It is a currently functioning flat.

20 Now, what the applicant would like  
21 to do would be they want more, which is  
22 understandable. And so but the more per se,

1 does not meet the standard for -- is not a  
2 standard for approval of a variance.

3 But we would digress. And let's  
4 just look at the existing property. And I  
5 appreciate that better plans have been  
6 presented. This really spells it out pretty  
7 clearly.

8 Looking at the -- well, actually,  
9 let's go back to the original submission by  
10 the applicant. There was a photograph. It is  
11 a rear photograph of 1751 18th Street. I  
12 think that was the original submission. It  
13 shows the rear of the house. It may be in the  
14 submitted photograph, too, but it shows the  
15 rear of the house.

16 You can see the -- and what I'm  
17 going to go through is existing conditions on  
18 the property.

19 You have -- can you find the  
20 photograph?

21 MR. GROSSMAN: It's in the  
22 supplemental filing, Exhibit D.

1                   CHAIRPERSON JORDAN:   Okay.

2                   MR. GROSSMAN:   As well.

3                   MR. JACKSON:   Okay.   What you have  
4                   is a rear -- an extension in the rear, which  
5                   is where the kitchen currently exists.   I'll  
6                   wait until you find it.

7                   CHAIRPERSON JORDAN:   Yes, I think  
8                   we're good.

9                   MR. JACKSON:   Okay.   All right.  
10                  An extension in the rear, but you will note to  
11                  the left of that rear elevation -- on the rear  
12                  elevation, I'm talking about this one, okay,  
13                  to the left of the rear where the garage --  
14                  I'm sorry, where the kitchen is, there is an  
15                  elevated skylight.

16                  CHAIRPERSON JORDAN:   Yes.

17                  MR. JACKSON:   And at the height of  
18                  the skylight, it's actually higher than the  
19                  rear step.   If you go to the next photograph  
20                  over, you see the rear -- the skylights in the  
21                  rear are higher than the step, the rear  
22                  landing.



1                   What this shows is that the -- and  
2           it's taller than the fence next to it. The  
3           reason I point that out is that as a result of  
4           that construction, the lot occupancy of the  
5           building was significantly increased, such  
6           that it is -- we estimate that the actual lot  
7           occupancy now is 78.8 percent and that's --  
8           the result of that addition, the changes of  
9           the skylight which were above-grade and high  
10          enough above-grade they count in lot  
11          occupancy.

12                   So what we are saying is the  
13          current floor area ratio allowable is 1.8.  
14          The existing is 2.02. The allowable lot  
15          occupancy is around 60 percent. They are at  
16          78.8, as a result of the elevated skylight.

17                   The rear yard required -- the  
18          existing rear yard of 10 feet is less than the  
19          required rear yard. So there is a function  
20          use on the site consistent with the Zoning  
21          Regulations, which is a flat, not just a  
22          dwelling, so again there is no practical

1       difficulty with regard -- related to the size  
2       of the property for it to being used in a  
3       productive manner.

4               Now, given we still think though  
5       that the size of the lot merits some  
6       consideration for relief, we note that since  
7       the lot occupancy with the elevated skylight  
8       is already 89.8 percent, they could built out  
9       over the skylight and not change anything.

10              So that's why we are supportive of  
11       them squaring off the rear of the property  
12       and, essentially, building across the back.

13              Now, let's go back to their  
14       submission A-102. A-102 shows the back room  
15       squared off. And I assume this was just to  
16       illustrate that there is a skylight there.

17              But what we are -- what Office of  
18       Planning is stating that we are in support of  
19       was, essentially, squaring off the back of the  
20       house. It's --

21              CHAIRPERSON JORDAN: The skylight?

22              MR. JACKSON: No, building over

1 the skylight, but then squaring -- building  
2 all the way to the rear of the house, because  
3 no -- the skylight is recessed from the rear  
4 wall about 2 feet. It's 2 x 8. So we are  
5 saying that that's a minimal increase in the  
6 size of the building.

7 It's not that it's a significant  
8 change, because the skylights are already well  
9 above the lot occupancy. So squaring off the  
10 rear of the building is not an issue.

11 During our discussions, after the  
12 hearing the applicant was kind enough to come  
13 by and show me their proposals for -- a  
14 refined proposal, including the ring in the  
15 stairs to the second floor. Bringing the  
16 stairs up to the deck level.

17 Their reason for asking for that,  
18 which I'm not sure if you would have -- the  
19 rest is in your presentation, but in the  
20 report, in the original submission, they noted  
21 the issue that they have with the rear yard is  
22 that is unusable because of a situation that

1 is beyond their control.

2 I will have to go back to that  
3 same photograph of the rear yard, the rear  
4 elevation of the building. You will note that  
5 the dumpsters from the neighboring property  
6 align the fence. And their concern was that  
7 the -- due to their not controlling the  
8 location of the dumpsters, their rear yard is  
9 basically unusable. That's why they created  
10 the deck.

11 And they also indicated that based  
12 on the photographs they presented, the way  
13 they are getting to the deck now is,  
14 basically, unsafe, it's rather unsafe and more  
15 particularly it's unsafe because their  
16 children are going on -- there is no landing.  
17 And, in fact, the stairs don't come to a full  
18 stop -- top step. You are basically skipping  
19 over a corner to get to the deck.

20 So the issue that they would like  
21 to be able -- so to mention the issue that  
22 they would like to be able to use the same

1 stair, the stair that goes up to the rear  
2 landing, the proposed stair to go up to the  
3 rear landing to the first floor, they would  
4 like to continue to the roof.

5 Now, what that does though is that  
6 changes the way you calculate the lot  
7 occupancy and the floor area. So we are not--  
8 so our current recommendation, we are changing  
9 the recommendation slightly. We are not in  
10 support of any additional expansion of the  
11 building, but because of taking the stair to  
12 the deck, to the roof, you have to include the  
13 area of the stair and the landing in the lot  
14 occupancy.

15 You also have to include the stair  
16 and the landing into the floor area. So we  
17 are in support of adding, essentially, 28 feet  
18 to the lot occupancy and the floor area of the  
19 building, which brings the lot occupancy up to  
20 -- from the allowable 1.8 and existing 2.02 to  
21 2.07. I'm sorry, that's the FAR.

22 And bringing the lot occupancy

1 from the allowable 60 percent to the existing  
2 78.8 percent to 83.8 percent. Since you are  
3 counting those stairs, you also have to  
4 include it in the rear yard. You have to  
5 measure the rear yard from the back of the  
6 stairs. So it goes down from 10 to 4, 10 feet  
7 to 4 feet.

8 And that is all because if you  
9 take the landing -- the landing two steps that  
10 go to the rear yard, it's not counted in rear  
11 yard. It's allowable construction in the  
12 required open space. The landing for -- that  
13 goes up above the ground -- the main floor has  
14 to be taken as part of the lot occupancy, the  
15 building per se and the floor area ratio.

16 So our recommendation in terms of  
17 the extent of the construction is the same.  
18 And the -- what we find the most compelling  
19 aspect of this is the fact they cannot use  
20 that rear yard, based on the fact of the  
21 proximity to trash.

22 And so we don't see any -- we

1 think it is appropriate to support their  
2 ability to use the second floor roof.

3 We would also note that if they  
4 got the relief that they were -- that amount  
5 of relief for -- to allow the construction of  
6 the building across the rear of the building,  
7 will allow for a larger deck, which is one  
8 thing they asked for. And I think they also  
9 asked for the ability to put -- well, that  
10 would also address some of the other concerns  
11 they raised in their previous application.

12 So that's the current -- that's  
13 how our recommendation has been revised and we  
14 are available to answer questions.

15 CHAIRPERSON JORDAN: Does the  
16 Board have questions for Mr. Jackson? Yes,  
17 Ms. Allen?

18 VICE CHAIR SORG: Do you? Go  
19 ahead.

20 MEMBER ALLEN: I understood from  
21 the presentation by the applicant that there  
22 is, I guess, woods or there is nothing behind

1       that this additional 3 feet would be  
2       affecting. Is there any adverse affect if it  
3       went out the 3 feet that they are asking for?

4               MR. JACKSON: It would just be  
5       inconsistent with the regulation.

6               MEMBER ALLEN: It would just be  
7       inconsistent.

8               MR. JACKSON: Right.

9               MEMBER ALLEN: But --

10              MR. JACKSON: No, there doesn't  
11       appear to be any impacts, because I think  
12       there is a parking area back there and then  
13       these trash containers. And there is no --  
14       this is strictly an extension of a lot that  
15       faces another street, so there is no vehicle  
16       circulation back there either, except for cars  
17       who are going back in that parking lot.

18              MEMBER ALLEN: Thank you.

19              CHAIRPERSON JORDAN: Ms. Sorg?

20              VICE CHAIR SORG: Thank you. I  
21       don't know if I agree with what I think,  
22       because you briefly mentioned it, but what I



1 think is your argument regarding the  
2 functioning flat.

3 Because my perception of that and  
4 I guess maybe I want to hear a little bit more  
5 of your thoughts, my perception of that is it  
6 has been a flat that has been functioning, as  
7 you said, since the 40s, which I didn't know  
8 from before, maybe I missed it.

9 And so my perception of this  
10 dwelling or this structure is that it is a  
11 flat on the cellar level and then a one-  
12 family, you know, above that on the first  
13 floor above-grade and then the next two  
14 floors. And that it functions that way.

15 And so to me, I'm not sure what  
16 import the fact of the flat has, unless you  
17 are suggesting that well, if they want to, you  
18 know, expand their living space, they should  
19 throw out their tenants, you know, from a  
20 functioning use that has been there for, you  
21 know, 80 years.

22 MR. JACKSON: No, I think the

1       operative word is a functioning use.

2                   VICE CHAIR SORG:   Okay.

3                   MR. JACKSON:   And that is --

4                   VICE CHAIR SORG:   But I just don't  
5 understand how it is really relating to the  
6 relief.

7                   MR. JACKSON:   The existing use on  
8 the property is functioning properly, which is  
9 to say that the fact that the lot is small  
10 does not prevent the lot from being used for  
11 an allowable use that is in the Zoning  
12 Regulations.

13                   At its core, the variance is  
14 really intended to be a safety valve for cases  
15 where you've got a property where you can't do  
16 anything in the Zoning Regulations and I think  
17 you have had -- the first case I had here  
18 tonight was a circumstance where the applicant  
19 had a lot. It was vacant. But because of the  
20 Zoning Regulations, he was unable to use it  
21 because of a particular standard that was  
22 applied, that was in there.

1                   And he needed the relief from that  
2                   standard by the variance, so it could be put  
3                   to any productive use.

4                   VICE CHAIR SORG: I understand  
5                   that.

6                   MR. JACKSON: This property is  
7                   being put to productive use. There is no --  
8                   productive use and actually the productive use  
9                   that is being requested by the applicant,  
10                  therefore, this does not appear to be a  
11                  practical difficulty.

12                  VICE CHAIR SORG: I mean,  
13                  obviously, I think I would -- the question to  
14                  me, a central question to me, is whether the,  
15                  you know, second flat or the single family or  
16                  the, you know, living space that the applicant  
17                  is occupying is, you know, functioning  
18                  correctly, you know, for, you know, the type  
19                  of dwelling that happens in there and not  
20                  related, to me, to the functioning of the  
21                  flat. But, you know.

22                  MR. JACKSON: I don't see there is

1 still any differences. The second floor  
2 reflects the second unit and the flat. The  
3 second unit and the first unit, apparently,  
4 are functioning pretty well, but that's --  
5 because there has been no evidence to the  
6 contrary.

7 VICE CHAIR SORG: Well, their  
8 arguments are about that it's not, you know,  
9 enough room for -- you know, not correctly,  
10 you know, oriented and you need this much  
11 room, this much, you know, light into the, you  
12 know, second and third floors and so forth.

13 MR. JACKSON: Well, okay. Again,  
14 that's --

15 VICE CHAIR SORG: So that is not  
16 part of --

17 MR. JACKSON: -- the case to make.

18 VICE CHAIR SORG: -- what you are  
19 seeing as compelling?

20 MR. JACKSON: Well, if they were  
21 saying that they cannot use it except for  
22 this, that that would be different than saying

1 I would rather have more.

2 VICE CHAIR SORG: Certainly.

3 CHAIRPERSON JORDAN: All right.

4 Anybody else questions for Office of Planning?

5 Does the applicant have questions for Office  
6 of Planning?

7 MR. SHER: No questions.

8 CHAIRPERSON JORDAN: Okay. Then  
9 let's move to the Department of  
10 Transportation. Do we have something from  
11 them? They have no objection.

12 And we had a letter from ANC-2B  
13 that recommended approval. No one is here  
14 from ANC-2B.

15 Is there anyone here in support of  
16 the application wishing to speak?

17 Anyone here in opposition to the  
18 application?

19 I do understand, too, that we do  
20 have seven letters now in support from  
21 neighbors of this application.

22 Then let's turn back to the

1 applicant for any rebuttal.

2 COMMISSIONER MAY: Mr. Chairman?

3 Can I have a couple of follow-up questions  
4 with the applicant?

5 First of all, the plans that you  
6 submitted today indicate that the neighbor to  
7 the north, to this side, that hatching seems  
8 to indicate that the building mass is -- you  
9 know, comes right up to the existing side wall  
10 here. But that doesn't seem to be what's in  
11 the photographs. I assume this drawing is  
12 incorrect?

13 MR. GROSSMAN: No, that -- you are  
14 correct. They -- that is the correct rear  
15 wall, but they have an L, they have a 19 foot  
16 wide house and 14 feet of it goes back to that  
17 point and 5 feet goes back to the same point  
18 that we do.

19 COMMISSIONER MAY: Got it.

20 MR. GROSSMAN: So you are --

21 COMMISSIONER MAY: Got it. All  
22 right. So it's just -- I've got it.

1 MR. GROSSMAN: Yes, that's right.

2 That --

3 COMMISSIONER MAY: Okay.

4 MR. GROSSMAN: -- you know, in our  
5 attempts to blow this up --

6 COMMISSIONER MAY: Right, that's  
7 fine.

8 MR. GROSSMAN: -- we may --

9 COMMISSIONER MAY: I understand.  
10 I just wanted to make sure I understood  
11 correctly.

12 So the next question I have is the  
13 -- you know, what you are doing is on the  
14 first floor you are pushing out kind of all  
15 the way. And then on the second floor you are  
16 pushing out a few feet. And the third floor  
17 stays the same, right?

18 So that means that you are going  
19 to need -- and I assume that this is all  
20 masonry construction, because that's what all  
21 the elevations are.

22 So you are going to have a new

1 masonry wall off the ground that goes up one  
2 story, that's easy enough to do.

3 But then you are going to have a  
4 new masonry wall that is going to be supported  
5 by a beam going over the head of the, I guess,  
6 passage point between the living room and the  
7 kitchen.

8 But then you are also going to  
9 have to support the third floor masonry wall  
10 with another piece of steel above that, right,  
11 because your wall is shifting in?

12 MR. BONSTRA: Yes, that's correct.

13 COMMISSIONER MAY: Okay. I mean,  
14 I only bring this up because it seems like an  
15 awful lot of gymnastics to make a relatively  
16 modest addition. I mean, you were almost  
17 within matter-of-right in terms of building on  
18 the footprint if you did what -- you know, I  
19 mean, you could build straight up from what  
20 was over the skylight and gain 90 percent of  
21 what you gain here.

22 Granted, you don't gain the second



1 floor, but there is a lot of closet space  
2 there. And, you know, having a full floor  
3 master bedroom suite is not modest. I mean,  
4 you keep talking about this as modest  
5 improvements. It is not modest.

6 It just seems like there is this--  
7 it's a lot of work for relatively little  
8 benefit. And what the Office of Planning is  
9 suggesting, actually, is a pretty reasonable  
10 and easy solution.

11 Anyway, so those are my comments.  
12 And now it's, I guess, up for your rebuttal.

13 MR. SHER: A couple of things.  
14 Number one, as the Chair noted, there are  
15 seven letters from the immediately surrounding  
16 neighbors to the north and the south all  
17 supporting the application.

18 Number two, there is unanimous  
19 support from the ANC.

20 Number three, as noted before,  
21 there is no property at the back that is  
22 improved other than with a parking area and

1       some trash cans, so pushing back to the rear  
2       doesn't have any adverse impact on anybody  
3       else.

4               The Grossmans have lived in the  
5       house for a while and have come to the  
6       conclusion that they need more space in order  
7       to effectively and efficiently function in  
8       that environment.

9               What they are asking for is a 3  
10      foot extension of lot occupancy or 3 x 18,  
11      which is 54 square feet, plus the 28 square  
12      feet that revolves from the circular staircase  
13      going up to the second floor. We are asking  
14      for 54 x 2 or 108 square feet additional in  
15      gross floor area plus the 28 square feet  
16      counted in the circular stair as well.

17              So the relative increases are  
18      relatively minor. Because the lot is so  
19      small, anything we do, even to just build over  
20      that skylight area is going to require a  
21      variance, because you can't make an addition  
22      to a nonconforming structure that is already

1 over lot occupancy. And 60 percent is the lot  
2 occupancy in R-5-B and we are over that today.

3 So we would be here one way or  
4 another asking for relief on that. We think  
5 that the --

6 COMMISSIONER MAY: Special  
7 exception or variance?

8 MR. SHER: It would be a variance,  
9 because it's --

10 COMMISSIONER MAY: Improvement to  
11 a nonconforming property?

12 MR. SHER: -- over 70 percent lot  
13 occupancy, so it could --

14 COMMISSIONER MAY: Yes, but we are  
15 not increasing it any more. It's just if all  
16 you were doing was making an improvement to an  
17 existing nonconforming property, is that a  
18 special exception or a variance?

19 MR. SHER: No, it's a variance.

20 COMMISSIONER MAY: Okay.

21 MR. SHER: It could not be a 223  
22 case, because it's over 70 percent, which is

1 the maximum under 223. So it would be a  
2 variance. So we would be here asking for  
3 relief under, essentially, the same sections.

4 If we are increasing the FAR, we  
5 are going to need a variance on the FAR as  
6 well, even if it is 1 square foot, because we  
7 are already over the 1.8. It is a  
8 nonconforming structure. It has been that way  
9 since 1958.

10 We believe that the relief that we  
11 are asking for is minimal and commensurate  
12 with decisions of the Board and the Court of  
13 Appeals that the standard, while not going  
14 away, needs to recognize that the quid pro quo  
15 is a relatively small addition.

16 So we believe that the Board can  
17 grant this application consistent with what it  
18 has done to other applications asking for  
19 similar relief on similar properties. Thank  
20 you.

21 CHAIRPERSON JORDAN: Okay. Thank  
22 you. Then let's close this hearing based upon

1 the record, unless the Board needs additional  
2 information? Seeing none, then let's close  
3 this hearing.

4 And is the Board ready to  
5 deliberate? Do they need something else in  
6 addition? Anybody want to take the lead on  
7 this one? Got a thought one way or the other?  
8 Ms. Sorg?

9 VICE CHAIR SORG: Thank you, Mr.  
10 Chairman. I have been thinking about this  
11 since lunchtime and here is what I think.

12 Taking into account the, you know,  
13 Office of Planning's report and suggestion  
14 that partial relief could be granted, to me,  
15 indicates something that I agree with, which  
16 is that there is a unique condition affecting  
17 this property.

18 And that as the applicant has  
19 explained and as OP, you know, notes in their  
20 report, that that does lead to a practical  
21 difficulty. Also, I think important to note  
22 is the comments that the applicant's counsel

1 just made, which is that they would not be  
2 here, but as a variance based on the current  
3 configuration and current lot occupancy.

4 So I do see and agree with the  
5 presence of a uniqueness that results in a  
6 practical difficulty. And certainly given the  
7 ANC Support and the seven letters of, you  
8 know, neighbors in support, I don't see that  
9 there is a substantial detriment to the public  
10 good.

11 And then regarding the third  
12 prong, which seems to be the hang-up for OP,  
13 I don't think that the addition that is being  
14 requested that is greater than filling in the,  
15 you know, hole that was being discussed, moves  
16 this application out of the same level of  
17 variance.

18 So, to me, I can be supportive of  
19 this application based upon seeing, you know,  
20 some of those compelling reasons for the  
21 practical difficulty and that the additional  
22 request, you know, leaves it in the same

1 category for me that does suggest to come over  
2 that fence.

3 MEMBER ALLEN: What she said,  
4 agree.

5 CHAIRPERSON JORDAN: Mr. May?

6 COMMISSIONER MAY: Mr. Chairman?

7 CHAIRPERSON JORDAN: Yes.

8 COMMISSIONER MAY: I completely  
9 agree with the sentiment in the Office of  
10 Planning's report. It makes perfect sense  
11 that they would be recommending what they  
12 recommend. And, in fact, if that is what had  
13 been proposed, this would have been a slam  
14 dunk. It would have been a very easy thing to  
15 make a decision on.

16 And, you know, part of my problem  
17 with this is that I just am not convinced that  
18 you are doing the right thing for the house,  
19 but that is not really what we are deciding  
20 here. I don't get to opine on the  
21 architecture in that manner, that's not my  
22 role here.

1 I think that the -- you can make  
2 the case that the variance is justified simply  
3 by the size of the property and the other  
4 constraints that you are dealing with. So I  
5 agree with Ms. Sorg that this is something  
6 that I can approve as it has been presented.

7 Although, I am, as I said, really  
8 sympathetic with the Office of Planning's  
9 arguments. I think they made the right  
10 argument and they had to do that.

11 CHAIRPERSON JORDAN: The only  
12 question I have about it is the 3 feet no  
13 harm, no foul. So does anybody else have a  
14 comment? Mr. Hinkle?

15 MEMBER HINKLE: Yes, I'll weigh  
16 in. Thank you.

17 CHAIRPERSON JORDAN: Yes.

18 MEMBER HINKLE: I agree, it is a  
19 small property. You know, I do recognize the  
20 argument that the Office of Planning is  
21 making. And, you know, when you look at the  
22 numbers of the lot occupancy, it looks like we



1 are, you know, looking at a big expansion, but  
2 in reality it's a minimal amount.

3 But as the applicant said, it is  
4 just really a few square feet that we are  
5 expanding. But I think what really helped me  
6 was the support of the neighbors as well as  
7 the ANC. I certainly appreciate their  
8 weighing in on this. It is a tight  
9 neighborhood. These houses are, you know,  
10 taking up a lot of the lots and the lots are  
11 small and everybody is close. So it's always  
12 good to get that support from the neighbors.

13 CHAIRPERSON JORDAN: Yes, okay.  
14 So I'm going to go out here on a limb here.  
15 And I move that the Board grant the relief  
16 requested by the applicant for all the reasons  
17 that has been stated here in deliberations.

18 MEMBER ALLEN: Second.

19 CHAIRPERSON JORDAN: Motion made  
20 and seconded. Any further unrest?

21 All those in favor signify by  
22 saying aye.

1 ALL: Aye.

2 CHAIRPERSON JORDAN: Opposed nay?

3 The motion carries. Mr. Moy?

4 MR. MOY: Yes, staff would record  
5 the vote as 5-0. This is on the motion of  
6 Chairman Jordan to approve the application for  
7 the variance relief being request. Seconding  
8 the motion is Ms. Allen. Also in support were  
9 Peter May, Nicole Sorg and Jeff Hinkle.

10 So again, the motion carries 5-0,  
11 Mr. Chairman.

12 CHAIRPERSON JORDAN: Thank you.  
13 Then we have a summary order and way to pull  
14 this out of the fire, Mr. Sher. Okay.

15 Before the Board goes, in  
16 accordance with Section 405(c) of the Open  
17 Meetings Act of DC Official Code Section  
18 257(c), I move that the Board of Zoning  
19 Adjustment hold closed meetings on Monday,  
20 March 4th, March 11th, March 25th. This would  
21 begin at 4:00 p.m. for the purposes of  
22 obtaining legal advice from our counsel and to

1       deliberate upon, but not voting, on cases  
2       scheduled to be publicly heard or decided by  
3       the Board on the day after the closed meeting.

4               Those cases are identified on the  
5       Board's public agenda for March 5th, 12th, and  
6       26th.

7               Is there a second?

8               VICE CHAIR SORG:   Second.

9               CHAIRPERSON JORDAN:   The motion  
10       made and seconded.   Will the secretary,  
11       please, take a roll call vote on the motion?

12               MR. MOY:   Yes, sir.   When I call  
13       the Member's name if you can respond by yes or  
14       no?

15               Peter May?

16               COMMISSIONER MAY:   Yes.

17               MR. MOY:   Vice Chairperson Sorg?

18               VICE CHAIR SORG:   Yes.

19               MR. MOY:   Chairman Jordan?

20               CHAIRPERSON JORDAN:   Yes.

21               MR. MOY:   Ms. Allen?

22               MEMBER ALLEN:   Yes.

1 MR. MOY: Mr. Hinkle?

2 MEMBER HINKLE: Yes.

3 MR. MOY: The motion carries, Mr.  
4 Chairman.

5 CHAIRPERSON JORDAN: I request  
6 that the Office of Zoning provide notice of  
7 these closed meetings in accordance with the  
8 Act.

9 Then we stand adjourned. We don't  
10 stand adjourned. We leave adjourned.

11 (Whereupon, the Public Hearing was  
12 concluded at 6:14 p.m.)  
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This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC Board of Zoning Adjustment

Date: 02-26-13

Place: Washington, DC

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
true and accurate record of the proceedings.



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Court Reporter

**NEAL R. GROSS**

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