

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY
APRIL 9, 2013

+ + + + +

The Regular Public Hearing
convened in the Jerrily R. Kress Memorial
Hearing Room, Room 220 South, 441 4th Street,
N.W., Washington, D.C., 20001, pursuant to
notice at 10:52 a.m., Nicole Sorg, Vice
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

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

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN

STEVEN COCHRAN

ARTHUR JACKSON

PAUL GOLDSTEIN

BRANDICE ELLIOTT

DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

JAMIE HENSON

**The transcript constitutes the minutes
from the Public Hearing held on April 9, 2013.**

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10:52 a.m.

VICE CHAIRPERSON SORG: This hearing will please come to order. Good morning, ladies and gentlemen. We are still located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. This is the April 9th public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Nicole Sorg, Vice Chairperson. Joining me today still is Mr. Jeffery Hinkle, Board Member; Ms. S. Kathryn Allen, also a Board Member; and Mr. Chairman Anthony Hood of the Zoning Commission.

Copies of today's hearing agenda are available to you and are located in the wall bin near the door.

Please be advised that this proceeding is being recorded by a court reporter and is also Web cast live.

Accordingly, we must ask you to refrain from any disruptive noises or actions in the

1 hearing room.

2 When presenting information to the
3 Board, please turn on and speak into the
4 microphone, slower than I am, first stating
5 your name and home address. When you're
6 finished speaking, please turn off the
7 microphone so that it's no longer picking up
8 sound or background noise.

9 All persons planning to testify
10 either in favor or in opposition must raise
11 his or her hand and be sworn in by the
12 secretary. Also, each witness must fill out
13 two witness cards. These cards are located on
14 the table near the door and on the witness
15 tables. Upon coming forward to speak to the
16 Board, please give both cards to the reporter
17 sitting at the table to my right.

18 If you wish to file written
19 testimony or additional supporting documents
20 today, please submit one original and 12
21 copies to the secretary for distribution. If
22 you do not have the requisite number of

1 copies, you can reproduce copies on a machine
2 in the Office of Zoning across the hall.

3 The record will be closed at the
4 conclusion of each case except for any
5 material specifically requested by the Board.
6 The Board and the staff will specify at the
7 end of the hearing exactly what is expected
8 and the date when the persons must submit the
9 evidence to the Office of Zoning. After the
10 record is closed, no other information will be
11 accepted by the Board.

12 The District of Columbia
13 Administrative Procedure Act requires that the
14 Board hearing on each case be held in the open
15 before the public. Pursuant to section 405(b)
16 and 406 of that act, the Board may, consistent
17 with its Rules of Procedure and the Act, enter
18 into a closed meeting on a case for purposes
19 of seeking legal counsel on a case pursuant to
20 D.C. Official Code 2-575(b)(4) and/or
21 deliberating on a case pursuant to D.C.
22 Official Code 2-575(b)(13), but only after

1 providing the necessary public notice, and in
2 the case of an emergency closed meeting after
3 taking a roll call vote.

4 First let's say all individuals
5 wishing to testify today, if you have not
6 already, please rise and take the oath.

7 And the secretary will administer
8 the oath, please.

9 (Whereupon, the witnesses were
10 sworn.)

11 MR. MOY: Ladies and gentlemen,
12 you may consider yourselves under oath.

13 VICE CHAIRPERSON SORG: Thank you.
14 When you're ready, do we have any preliminary
15 matters that we want to deal with before we
16 start calling the cases?

17 MR. MOY: No, we don't, Madam
18 Chair, but I do want to announce for the
19 record that on the agenda application 18532 of
20 Michelle Hassine, that has been postponed to
21 May the 7th, 2013. And the appeal case,
22 appeal No. 18497 of 2115 N Street Condo

1 Association has been withdrawn. Okay?

2 VICE CHAIRPERSON SORG: Okay.

3 Thank you. Let us proceed then.

4 MR. MOY: Yes, so the first
5 application before the Board for public
6 hearing is application No. 18529. This is the
7 application of Maria B. Medrano, pursuant to
8 11 DCMR ^U 3104.1, for a special exception for
9 a child development center. This is 12
10 children and two staff persons under section
11 205 in the R-3 District at premises 4910
12 Kansas Avenue, N.W., Square 3213, Lot 98.

13 VICE CHAIRPERSON SORG: Thank you.
14 If the applicant can go ahead and come down to
15 the table, take a seat, and you can introduce
16 yourself.

17 MS. HEISEY: Hi, my name is
18 Colleen Heisey. I'm here on behalf of Ms.
19 Maria Medrano. Her residence is 4910 Kansas
20 Avenue, N.W., Washington. My personal home
21 address is 6024 Ricketts Walk, Alexandria,
22 Virginia.

1 VICE CHAIRPERSON SORG: Tell me
2 your name again? I'm sorry.

3 MS. HEISEY: Heisey, H-E-I-S-E-Y.

4 VICE CHAIRPERSON SORG: Heisey.
5 And are you representing Ms. Medrano, or are
6 you the interpreter?

7 MS. HEISEY: I am representing Ms.
8 Medrano. The interpreter is sitting beside
9 me --

10 VICE CHAIRPERSON SORG: I'm sorry.

11 MS. HEISEY: -- speaking and --

12 VICE CHAIRPERSON SORG: I
13 apologize.

14 MS. HEISEY: -- conferring --

15 VICE CHAIRPERSON SORG: Okay.

16 MS. HEISEY: -- relaying the
17 information to Ms. Medrano.

18 VICE CHAIRPERSON SORG: I'm sorry.

19 You are the one that submitted -- okay.

20 Great. So I think we've all reviewed the
21 filings in this case. I think that the record
22 is pretty full. I know that I personally have

1 two questions that I wanted to ask. It is of
2 course your right to give a full presentation
3 if you like, or you can rest on the record and
4 accept questions from the Board. It's up to
5 you.

6 MS. HEISEY: I will go ahead and
7 take questions, but I would like to make a
8 request for an oral modification based on some
9 feedback that was received from the Office of
10 Planning to go ahead and request up to five
11 staff members --

12 VICE CHAIRPERSON SORG: Okay.

13 MS. HEISEY: -- to be approved.

14 VICE CHAIRPERSON SORG: That was
15 going to be my first question. So that's
16 fine. So there was a little bit of confusion
17 of whether there was two staff members or five
18 staff members. So the request, you want to
19 amend for five staff members?

20 MS. HEISEY: For up to five,
21 please.

22 VICE CHAIRPERSON SORG: Up to

1 five? Okay. Well, that takes care of one of
2 my questions already.

3 MS. GLAZER: Madam Vice Chair?

4 VICE CHAIRPERSON SORG: Yes?

5 MS. GLAZER: The secretary and I
6 were just wondering whether or not there was
7 an authorization letter on file for the
8 representative, because --

9 MS. HEISEY: Yes. Indeed there
10 is, yes.

11 MS. GLAZER: Is there? Okay. We
12 didn't see one, but --

13 VICE CHAIRPERSON SORG: I saw it,
14 and it is in Exhibit 5.

15 MS. GLAZER: Exhibit 5? Thank
16 you.

17 VICE CHAIRPERSON SORG: You are
18 welcome.

19 Are there any other statements
20 that you'd like to make or presentation you
21 want to give?

22 MS. HEISEY: No.

1 VICE CHAIRPERSON SORG: Okay.

2 Does the Board have any questions for Ms.

3 Heisey, the representative in this case?

4 (No audible response.)

5 VICE CHAIRPERSON SORG: So I want

6 to ask -- one of the things that in addition

7 to clarifying the number of staff under the

8 request, I did notice that we didn't receive

9 a letter from ANC-4D. So if you could address

10 any outreach or interactions with them for the

11 record, that would be good.

12 MS. HEISEY: Absolutely.

13 Preliminarily we notified Ms. Lisa Colbert

14 that we were going to be submitting an

15 application. We let her know the day before

16 we came to the Board to make the submission,

17 did notify her and follow up the next day when

18 the submission was made to again advise her

19 that we were making the application. We

20 scheduled some time to chat about what the

21 application, what the special exception was

22 for, and you know, where Ms. Medrano was and

1 what sort of community outreach we'd like to
2 undertake.

3 That conversation was followed up
4 in early February with the provision of the
5 complete application so that Ms. Colbert could
6 digest the information. In a subsequent
7 telephone conversation with her she indicated
8 that -- and we made a request to go to her
9 next hearing. She indicated that she
10 preferred to do sort of a walkabout and talk
11 to individual members of the community. Of
12 course we deferred to her judgment. It's her
13 community. Ms. Medrano's community as well.
14 And so that's what she did.

15 We did do periodic updates, got
16 calls and answered questions from her. In
17 each instance we did offer to come and talk to
18 any community members who were interested in
19 discussing the issue with us. In addition,
20 Ms. Medrano went out to her own neighbors and
21 did a door to door to foster support for her
22 application.

1 VICE CHAIRPERSON SORG: Right.

2 And I do note that you have nine letters of
3 support that we've received in that.

4 MS. HEISEY: We have nine letters,
5 or eight letters previously and an additional
6 eight that were submitted today.

7 VICE CHAIRPERSON SORG: Oh, okay
8 then. Ah, and here they are. So you did not
9 make a formal presentation to the ANC?

10 MS. HEISEY: We did not have an
11 opportunity to present to the ANC.

12 VICE CHAIRPERSON SORG: Okay. And
13 so to your knowledge they did not take a vote
14 on the application?

15 MS. HEISEY: No.

16 VICE CHAIRPERSON SORG: Okay. But
17 your testimony of course to, you know, ongoing
18 conversation? Okay. If anybody else -- yes,
19 please, Ms. Allen?

20 MEMBER ALLEN: Thank you. Can you
21 just clarify for me the hours of operation?

22 MS. HEISEY: Her current hours of

1 operation are between 7:00 and 5:00, although
2 under the Home Occupation Permit she can
3 operate for less than 24 hours a day. Her
4 stated operations are from 7:00 to 5:00,
5 although there is time for pick up and drop
6 off that occurs at the beginning and the end
7 of that.

8 MEMBER ALLEN: Okay. Thank you.

9 VICE CHAIRPERSON SORG: And those
10 are the hours of operation that are under the
11 request?

12 MS. HEISEY: Correct.

13 VICE CHAIRPERSON SORG: Okay.

14 MS. HEISEY: Obviously with
15 general reasonability that, you know, people's
16 schedules can have some variation due to
17 commuting.

18 VICE CHAIRPERSON SORG: Sure.
19 Yes, that's understandable. Okay. If there's
20 no other Board questions for the applicant,
21 then we will turn to the Office of Planning.

22 MR. JACKSON: Good morning, Madam

1 Chair and Members of the Board. The Office of
2 Planning's report is before you. I just
3 wanted to clarify that the application is for
4 4910 Kansas Avenue, N.W. and that the
5 applicant, in discussions with the applicant
6 and their representative, did reveal that they
7 had more than enough parking to have
8 additional staff. And so we suggest that it
9 would be reasonable for them to have the
10 flexibility to add additional staff if
11 necessary since they have the parking
12 capacity.

13 And we also recommended that they
14 make the request formally to the Board to
15 clarify that at the hearing, which is what
16 they have done. We have no issues with the
17 proposal and we note that the Department of
18 Transportation was also very supportive. And
19 so as stated in the report, we recommend
20 approval subject to conditions outlined in our
21 report.

22 VICE CHAIRPERSON SORG: Great.

1 Thank you. Do any Board Members have
2 questions for the Office of Planning?

3 Seeing none, does the applicant
4 have any questions for the Office of Planning?

5 MS. HEISEY: No.

6 VICE CHAIRPERSON SORG: Okay. I
7 do not see a representative from DDOT here,
8 but they did submit a letter of no objection
9 in this case. As for other agencies, we also
10 have a letter from OSSE recommending approval.

11 As we mentioned, the applicant
12 testified to their interactions with ANC-4D.
13 Is there a representative from ANC-4D here
14 with us in the audience?

15 Seeing none. The Board did not
16 receive a letter, but as I mentioned did
17 receive testimony from the applicant regarding
18 their interactions with the ANC.

19 Now we'll move to see if there are
20 any persons in the audience who would like to
21 testify in support of this application.

22 (No audible response.)

1 VICE CHAIRPERSON SORG: As I
2 mentioned, we had in our record nine letters
3 of support and we have received this morning
4 eight additional letters of support for the
5 application.

6 Are there any individuals in the
7 audience who would like to testify in
8 opposition to this application?

9 Okay. Seeing none, we will turn
10 back to the applicant for any closing
11 statements that would like to make.

12 MS. HEISEY: Only that we
13 respectfully request that you approve our
14 application.

15 VICE CHAIRPERSON SORG: Okay.
16 Thank you. So we will go ahead and move into
17 deliberation on this application. I think
18 based upon the clarification of the request
19 for five staff and the outreach and support
20 from the surrounding community, despite not
21 having an ANC letter, although the applicant
22 had testified to their interactions with the

1 local ANC, I feel that we can be supportive of
2 this application. Is there any other
3 deliberation?

4 MEMBER ALLEN: My only question
5 was the conditions. Are we --

6 VICE CHAIRPERSON SORG: Yes, I was
7 planning to make a motion and then indicate
8 the conditions. And then of course if anyone
9 has any comments on the conditions, then we
10 can go ahead and comment on them.

11 So that being said, I will submit
12 a motion to approve application 18529 for the
13 relief requested with the following
14 conditions: (1) The approval shall be for
15 five years from the final date of this order;
16 (2) enrollment shall not exceed 12 children
17 age 15 or less; (3) the center shall have a
18 maximum of five staff; (4) the hours of
19 operation shall be from 7:00 a.m. to 5:00
20 p.m., Monday through Friday with drop off
21 hours shall be between 7:00 a.m. and 8:00 a.m.
22 and pick up hours shall be between 4:00 p.m.

1 and 5:00 p.m.; (5) the applicant shall reserve
2 two parking spaces on site for use by the
3 center's staff; and (6) the applicant shall
4 schedule the center's trash collection for at
5 least once per week.

6 MEMBER ALLEN: Second.

7 VICE CHAIRPERSON SORG: Okay.

8 Motion has been made and seconded. All those
9 in favor, say aye?

10 (Chorus of ayes.)

11 VICE CHAIRPERSON SORG: All those
12 opposed?

13 (No audible response.)

14 VICE CHAIRPERSON SORG: Mr. Moy,
15 can you please read back the vote?

16 MR. MOY: Staff would record the
17 vote as 4-0-1. This is on the motion of Vice
18 Chairperson Sorg to approve the application
19 with the six conditions as cited. Also in
20 support, or rather seconded by Ms. Allen.
21 Also in support, Mr. Hood and Mr. Hinkle. No
22 other Board Members participating. So again

1 the motion carries.

2 VICE CHAIRPERSON SORG: Thank you
3 very much. And if we can request a summary
4 order in this case?

5 MR. MOY: Yes, thank you.

6 VICE CHAIRPERSON SORG: Thank you
7 and good luck.

8 MS. HEISEY: Thank you.

9 MR. MOY: The next application
10 before the Board for public hearing is
11 application No. 18319. This is the request
12 for, as advertised, a modification of
13 condition No. 2 of the final order in the
14 application of Estelle Goldman on behalf of 7-
15 Eleven, Inc., pursuant to 11 DCMR ^U 3104.1,
16 for a special exception to allow the continued
17 operation of a retail grocery store with
18 basement storage as a nonconforming use under
19 ^U 2003.1, pursuant to the conditions
20 established in the BZA Order No. 17632,
21 including a five-year term with a one-year
22 trial period for 24-hour operations in the

1 FB/R-3 District at premises 912 New Hampshire
2 Avenue, N.W. Property located in Square 28,
3 Lot 122.

4 VICE CHAIRPERSON SORG: Hello. I
5 see the applicant has joined us. Can you
6 please identify yourself for the record?

7 MR. BROWN: Good morning, Chairman
8 Sorg and Members of the Board. Patrick Brown
9 from Greenstein, DeLorme & Luchs and I've been
10 representing this case since like 2001 as
11 we've gone through the various iterations of
12 the approvals.

13 With me is the franchisee whose
14 family operates the store. I'm not so sure
15 we're going to need a lot of testimony this
16 morning given the fullness of the record and
17 the support from the Office of Planning and
18 the ANC, the strong support from the ANC.

19 Just by way of background, this
20 has been operating as a grocery
21 store/convenience store since 1982. Five
22 different approvals, most recently in March of

1 2012. And as part of the 2012 there were a
2 series of conditions. One was the one-year
3 trial period for 24/7 operations. We've
4 successfully completed that one-year trial
5 period and are asking simply to modify the
6 order condition No. 2 to allow 24/7 operations
7 to continue through the duration of the
8 underlying order, which would be March 2017.
9 And again, OP and ANC support.

10 VICE CHAIRPERSON SORG: I thought
11 you were going to rest on the record. So if
12 those are the only statements --

13 MR. BROWN: Yes.

14 VICE CHAIRPERSON SORG: -- that
15 you have --

16 MR. BROWN: That's it.

17 VICE CHAIRPERSON SORG: -- then we
18 can open it up for any questions from the
19 Board, which I have none. I agree that the
20 record is very full and the only party that
21 was in the -- even I remember this case from
22 last year -- so that the ANC was the only

1 party --

2 MR. BROWN: That's right.

3 VICE CHAIRPERSON SORG: -- to the
4 case and was in support at that time as well,
5 I believe. So we will go on ahead and see if
6 the Office of Planning has anything to add to
7 their report.

8 MR. MORDFIN: Good morning. I'm
9 Stephen Mordfin and the Office of Planning has
10 nothing addition to add. Thank you.

11 VICE CHAIRPERSON SORG: Thank you.
12 Any Board Members have questions on the Office
13 of Planning report?

14 (No audible response.)

15 VICE CHAIRPERSON SORG: Does the
16 applicant have any questions for the Office of
17 Planning?

18 (No audible response.)

19 VICE CHAIRPERSON SORG: Okay. We
20 did not receive any other reports from other
21 District agencies. We did however receive a
22 letter from the local ANC, which is ANC-2A,

1 actually this morning, which we were happy to
2 get. And actually this is the first time that
3 I've ever seen an ANC letter that says that it
4 is happy to support this application. So as
5 the representative noted, it is strong support
6 from the ANC.

7 Is there a representative from
8 ANC-2A here today who would like to testify?

9 (No audible response.)

10 VICE CHAIRPERSON SORG: Okay.

11 Then we will take this report, which meets our
12 requirements, and we will give it great
13 weight.

14 Then I will ask if there are any
15 individuals in the audience wishing to testify
16 in support of this application.

17 Seeing none, we'll see if there's
18 anybody in the audience who would like to
19 testify in opposition.

20 And seeing none, I will turn back
21 to you, sir, for any closing that you would
22 like to give.

1 MR. BROWN: I'd appreciate a
2 summary order/bench decision obviously and
3 we'll see you in four years.

4 VICE CHAIRPERSON SORG: Okay.
5 Thank you. So we will go ahead and move into
6 deliberation here. I think that we've
7 received the resounding support from the ANC.
8 There are no issues in my mind in being able
9 to support the request for modification.

10 Do any other Board Members have
11 any deliberation that they would like to give?

12 ZC CHAIR HOOD: Madam Chair, if
13 that's a motion, I'll second it.

14 VICE CHAIRPERSON SORG: All right.
15 Well then it was a motion, as you say, and it
16 has now been seconded. And all those in
17 favor, say aye?

18 (Chorus of ayes.)

19 VICE CHAIRPERSON SORG: All those
20 opposed?

21 (No audible response.)

22 VICE CHAIRPERSON SORG: Thank you.

1 Mr. Moy, can you please read back the vote?

2 MR. MOY: Yes, staff would record
3 the vote as 4-0-1. This is on the motion of
4 Vice Chair Sorg. Seconding the motion, Mr.
5 Hood. Also in support, Ms. Allen and Mr.
6 Hinkle. No other members present today, so
7 the motion carries 4-0, Madam Chair.

8 VICE CHAIRPERSON SORG: Thank you
9 very much. Do we need a summary order? I
10 guess we have a new order.

11 MR. MOY: Yes.

12 VICE CHAIRPERSON SORG: Okay. So
13 let's do that.

14 MR. BROWN: Thank you very much.

15 VICE CHAIRPERSON SORG: Thank you.

16 MR. MOY: The next application
17 before the Board for public hearing is 18335.
18 This is the request for modification of
19 condition No. 1 of the final order in the
20 application of the Washington Ethical Society,
21 Trusting Hands Child Development Center,
22 pursuant to 11 DCMR ^U 3104.1, for a special

1 exception to allow a child development center,
2 40 children and 14 staff, under ^U 205 in the
3 R-1-A District at premises 7750 16th Street,
4 N.W. Property located in Square 2745F, Lot
5 81.

6 VICE CHAIRPERSON SORG: Thank you.
7 I'm just going to take one second and orient
8 myself to this case. And while I'm doing
9 that, if you can go ahead and identify
10 yourselves for the record?

11 MS. WILLIAMS: Good morning,
12 Chairman and Committee. My name is Tracie
13 Williams and my address is 7750 16th Street,
14 N.W. That's the address of Trusting Hands
15 Child Care Center.

16 MS. PARCELLI: And I'm Christine
17 Parcelli. I'm the administrator at the
18 Ethical Society. That's 7750 16th Street,
19 N.W., 20012.

20 VICE CHAIRPERSON SORG: Okay.
21 Thank you. So as this is a motion for a
22 modification of a condition, you know, you of

1 course, because it's a hearing, are welcome to
2 give any statements that you'd like, but you
3 know, obviously the record with regard to the
4 child care center itself is fairly full. And
5 I know that I just have a couple of questions
6 that I want to ask. So you're welcome to make
7 a presentation or you can rest on the record
8 and allow the Board to ask questions.

9 MS. WILLIAMS: Okay. We may need
10 to do a brief presentation --

11 VICE CHAIRPERSON SORG: Okay.

12 MS. WILLIAMS: -- because we
13 noticed an error with the condition that's
14 listed on here.

15 VICE CHAIRPERSON SORG: Okay.

16 MS. WILLIAMS: And it's actually
17 -- we requested a -- I mean I'm sorry we
18 requested a modification of condition No. 2 --

19 VICE CHAIRPERSON SORG: Yes.

20 MS. WILLIAMS: -- not No. 1.

21 VICE CHAIRPERSON SORG: Where does
22 it say No. 1?

1 MS. WILLIAMS: Well, on the sheet
2 that I have it says No. 1.

3 VICE CHAIRPERSON SORG: Oh, well
4 we're pretty clear that it's --

5 MS. WILLIAMS: Okay.

6 VICE CHAIRPERSON SORG: -- about
7 infants and it's No. 2.

8 MS. WILLIAMS: Okay.

9 VICE CHAIRPERSON SORG: How about
10 that?

11 MS. WILLIAMS: Okay.

12 VICE CHAIRPERSON SORG: Okay. But
13 so as I said, if you'd like to you can make a
14 presentation, but I also have a couple of
15 questions if you'd like to go forward in that
16 manner.

17 MS. WILLIAMS: Okay. We can go
18 forward.

19 VICE CHAIRPERSON SORG: Okay. Did
20 you see the supplemental report that was
21 submitted by the Office of Planning?

22 MS. WILLIAMS: I'm not aware of

1 that report, no.

2 VICE CHAIRPERSON SORG: Okay. So
3 basically what we're talking about here is
4 that the request to change the condition from
5 the youngest age of children being two-and-a-
6 half to that being infants. And if I can get
7 to the opinion report; sometimes it is good to
8 have pieces of paper, it's true, they do
9 indicate a couple of questions that would be
10 contingent on their thoughts on the request
11 for the infants, and I share those questions.

12 The first one is you didn't
13 indicate in your request for reconsideration
14 how many infants or what percentage of the
15 child population that you would be serving
16 would be infants. So if you can speak to that
17 as well as how would the operation be
18 different with regard to trash pick up, if
19 there's a greater amount of mess and waste
20 disposal for infants. We need a little bit
21 more information on the considerations
22 specific to that.

1 MS. WILLIAMS: Okay. Sure. I'll
2 start with the trash. I did submit a letter,
3 a brief letter to Mr. Steve Cochran addressing
4 if in fact trash does increase there due to
5 the decrease in age from toddlers to infants
6 that we would either ask for additional waste
7 management to come out, instead of once a
8 week, twice a week. And we also have
9 additional space in the back of the building
10 for an additional dumpster if need be. So
11 that's how the trash would be addressed, the
12 additional trash, or the implications of more
13 trash.

14 VICE CHAIRPERSON SORG: Okay. And
15 let's see, my first question, how many infants
16 do you imagine that you're going to be having
17 in the day care?

18 MS. WILLIAMS: Okay.

19 VICE CHAIRPERSON SORG: Or the
20 child development center.

21 MS. WILLIAMS: I'm not sure if the
22 Committee understands that in the center --

1 well, in the west building there are two child
2 care centers. So the space that I'm leasing
3 is right now -- I'm qualified for 15 slots.

4 VICE CHAIRPERSON SORG: Okay.

5 MS. WILLIAMS: I'm not quite sure
6 what that percentage is of the 40 students, or
7 the 40 children that the west building is
8 already approved for, but --

9 VICE CHAIRPERSON SORG: Okay. So
10 based on your certification you can have up to
11 15 infants?

12 MS. WILLIAMS: Right, based on the
13 space that I'm leasing.

14 VICE CHAIRPERSON SORG: Right.
15 Okay. Out of the 40 total?

16 MS. WILLIAMS: Yes.

17 VICE CHAIRPERSON SORG: Okay.
18 That is useful information. Do other Board
19 Members have questions for the applicant?
20 Yes, please, Ms. Allen?

21 MEMBER ALLEN: Thank you, Ms.
22 Sorg.

1 So, yes, I would appreciate just a
2 little clarification. So is that space vacant
3 now, or do you have children in there now?

4 MS. WILLIAMS: Well, not in my
5 space.

6 MS. PARCELLI: We have two day
7 care centers. They're just directly across
8 the hall from each other. The other one is
9 just starting to operate.

10 MEMBER ALLEN: Okay. And that's
11 the --

12 MS. PARCELLI: And they're
13 collecting -- yes, they're collecting their
14 enrollment right now.

15 MEMBER ALLEN: Got you. Thank
16 you. Just was trying to understand how it's
17 set up. Thank you.

18 VICE CHAIRPERSON SORG: Any
19 additional questions?

20 (No audible response.)

21 VICE CHAIRPERSON SORG: Okay.
22 Seeing now, maybe why don't we move to the

1 Office of Planning? I'm specifically
2 interested to hear, you know, obviously what
3 we've posed the two first questions that were
4 contained in your report and sort of what are
5 your thoughts on that.

6 MR. COCHRAN: Right. Just for the
7 record this was actually an OP report. I
8 think the applicant did receive the report and
9 it might have been confusing, that they might
10 not have known that they were looking at a
11 report, not a supplemental report.

12 VICE CHAIRPERSON SORG: Okay.

13 MR. COCHRAN: OP would like to
14 point out to the Board that the original
15 application and order was by the Ethical
16 Society and it applies to both day care
17 centers. This application is from Trusting
18 Hands. I would of course defer to OAG on
19 whether a change in the order should be in the
20 name of the Ethical Society or Trusting Hands,
21 but it seems to me that it would apply to both
22 day care centers, not just to Trusting Hands,

1 since that was how the Board evaluated the
2 original application and issued the order in
3 the name of the Ethical Society.

4 So if there's a total permitted
5 enrollment of children of 40, that would apply
6 to both day care centers, not just to Trusting
7 Hands.

8 MS. WILLIAMS: Yes.

9 MR. COCHRAN: And the same it
10 seems would apply to the permission to have
11 infants, that it wouldn't apply just to
12 Trusting Hands. It would apply to both. I'm
13 only putting that out.

14 VICE CHAIRPERSON SORG: Then we
15 can ask OAG that, but did you have any other
16 comments on --

17 MR. COCHRAN: Other than that, no,
18 no comments at all.

19 VICE CHAIRPERSON SORG: Okay.
20 So --

21 MR. COCHRAN: We stand on the
22 record.

1 VICE CHAIRPERSON SORG: Okay. But
2 so regarding the number of infants and the
3 trash, are you satisfied?

4 MR. COCHRAN: Absolutely.

5 VICE CHAIRPERSON SORG: Okay.
6 That is good. Any other questions for the
7 Office of Planning?

8 MS. WILLIAMS: No.

9 VICE CHAIRPERSON SORG: Seeing
10 none, does the -- you said no questions for
11 the Office of Planning?

12 MS. WILLIAMS: No.

13 VICE CHAIRPERSON SORG: Okay.
14 Because this is a request for modification, we
15 did not receive any additional reports from
16 other agencies. And so before we go to talk
17 to OAG about potentially the question of, you
18 know, who is this application under and who is
19 it affecting, which I feel fairly clear on
20 actually, I think.

21 Let's first see if there are any
22 persons in the audience in support of the

1 application who would like to testify.

2 Seeing none, we did have one
3 letter of support that was filed with our
4 additional information which we can note for
5 the record.

6 Are there any persons in the
7 audience who would like to testify in
8 opposition to this request?

9 Okay. Seeing none, I want to turn
10 to OAG, if you ladies have any thoughts on
11 this.

12 MS. NAGELHOUT: The applicant here
13 is the Washington Ethical Society as the owner
14 of the property. The use that's being
15 approved is for a child development center
16 regardless of who actually operates it. In
17 this case they have two operators. One of
18 them is here today authorized by Washington
19 Ethical Society to present this request for
20 modification. All they're asking to modify is
21 the age, the minimum age of the children, so
22 all the other conditions would remain in

1 effect. And so the maximum would be 40 and,
2 you know, all the other prior conditions would
3 remain in effect.

4 VICE CHAIRPERSON SORG: Yes, that
5 was my understanding, which is basically that
6 the Washington Ethical Society has a certain
7 -- you know, approval for a certain number of
8 children under the X, Y, and Z conditions and,
9 you know, if there's a different operator that
10 is over the infants or some part of that, that
11 the approval still goes to the property owner.
12 Correct?

13 (No audible response.)

14 VICE CHAIRPERSON SORG: Okay.
15 Does any other Board Members have any
16 unclarity about any of that fact?

17 (No audible response.)

18 VICE CHAIRPERSON SORG: Okay.
19 Now, okay. So we will turn back to the
20 applicant. If you have any closing statements
21 or other statements that you want to say about
22 your application or your request.

1 MS. WILLIAMS: No.

2 VICE CHAIRPERSON SORG: Okay.

3 Then we can go ahead and deliberate, I
4 believe, on this application. Here goes Mr.
5 Hood.

6 ZC CHAIR HOOD: Okay. Madam
7 Chair, I would move approval that we modify
8 condition No. 2 in BZA Order No. 18335 to
9 read, "The child development center shall
10 enroll no more than 40 students ages infant to
11 five years old," and ask for a second. Well,
12 that's my motion.

13 VICE CHAIRPERSON SORG: That's
14 fantastic. Thank you. I will second that
15 motion. And all those in favor of the motion,
16 say aye?

17 (Chorus of ayes.)

18 VICE CHAIRPERSON SORG: All those
19 opposed?

20 (No audible response.)

21 VICE CHAIRPERSON SORG: Mr. Moy,
22 can you please read back the vote?

1 MR. MOY: Staff would record the
2 vote as 4-0-1. This is on the motion of Mr.
3 Hood to approve the application with a
4 proposal as cited. Also seconded by Vice
5 Chair Sorg. Also in support of the motion,
6 Ms. Allen and Mr. Hinkle. No other members
7 participating, so the motion carries.

8 VICE CHAIRPERSON SORG: Thank you
9 very much and we'll have a summary order in
10 this case.

11 MR. MOY: Yes, thank you.

12 MS. WILLIAMS: Thank you.

13 VICE CHAIRPERSON SORG: Thank you.

14 MR. MOY: The next application is
15 application No. 18531. This is the
16 application of The Heritage Foundation,
17 pursuant to 11 DCMR ^U 3104.1, 3103.2 and
18 1202.1, for a variance from the floor area
19 ratio requirements under section 771, variance
20 from the roof structure height provisions
21 under subsection 1203.2(b), variance from the
22 nonconforming structure provisions under

1 subsection 2001.3, variance from the vehicle
2 location and lot line requirements for a
3 parking garage under subsection 2303.1(b), and
4 a special exception for accessory parking
5 under section 214, to allow a commercial and
6 residential project with below-grade parking
7 in the CAP/CHC/C-2-A and CAP/R-4 Districts at
8 premises 208, 214 and 236 Massachusetts
9 Avenue, N.E. and 426-430 3rd Street, N.E.
10 Property located in Squares 755, Lots 3, 26,
11 36, 836, 838 and 849. And this is as
12 advertised.

13 VICE CHAIRPERSON SORG: Thank you.
14 So this is sort of a tongue twister of an
15 application. I think I had to like make a
16 chart so that I could remember what building
17 was for what.

18 So if when you all are ready with
19 your PowerPoint or whatever, if you can please
20 identify yourselves for the record.

21 MS. NELSON: Jane Nelson with
22 Nelson Architects.

1 MR. KORSVALL: Eric Korsvall, The
2 Heritage Foundation.

3 VICE CHAIRPERSON SORG: I'm sorry,
4 can you say your last name again?

5 MR. KORSVALL: Korsvall.

6 VICE CHAIRPERSON SORG: Okay. Got
7 it.

8 MS. PRINCE: Allison Prince with
9 Goulston & Storrs.

10 MR. VANPELT: Dan Mr. VanPelt with
11 Gorove/Slade Associates.

12 VICE CHAIRPERSON SORG: Okay. So
13 certainly there were a lot of filings and
14 there is a fairly full record in many ways, I
15 think, in this application.

16 Oh, before we get to what kind of
17 presentation that you're going to make, I do
18 believe that we've got a couple of preliminary
19 matters regarding clarifying the relief that
20 you're requesting.

21 MS. PRINCE: Yes.

22 VICE CHAIRPERSON SORG: If you

1 want to speak that, you could go ahead.

2 MS. PRINCE: Sure. We had some
3 back and forth with the Zoning Administrator
4 about the relief required in connection with
5 the application. In the course of appearing
6 before the Advisory Neighborhood Commission
7 there were questions about whether certain
8 relief was or wasn't required, so we did go
9 back to the Zoning Administrator and confirmed
10 the areas of relief.

11 As they're laid out in the
12 original application they are correct. We had
13 thought that it might be necessary to add an
14 area of relief regarding the failure to set
15 back the penthouse on 236 Massachusetts Avenue
16 from a court. The Zoning Administrator
17 confirmed that he did not believe that such
18 relief was necessary. There is still
19 penthouse relief necessary however because in
20 the Capitol Interest District penthouses are
21 limited in height to 10 feet and the existing
22 penthouse is 12 feet. Therefore, when we add

1 onto it slightly, we need to maintain that
2 height for the uniformity of height, so that
3 results in a 12-foot penthouse.

4 VICE CHAIRPERSON SORG: Okay.
5 Cool. Was there then also a question about
6 whether or not you needed the relief from the
7 vehicle location and the lot lines? You still
8 need that?

9 MS. PRINCE: We do need that.
10 There was a question as to whether or not that
11 was required, and we do need that relief. We
12 also -- Cary has reminded me, we added relief
13 because there is some equipment in the rear
14 yard, the existing rear yard of The Heritage
15 buildings that is being relocated slightly
16 within that property. But because this
17 equipment exceeds a height of four feet, even
18 though it's already there, we've asked for
19 relief regarding the ability to place
20 structures in the required yard that is more
21 than four feet in height. But it's existing
22 equipment.

1 VICE CHAIRPERSON SORG: Yes, I
2 think once we got that application that was
3 already being discussed. So that's clear to
4 me. Okay. So it is what it is then.

5 MS. PRINCE: That's great.

6 VICE CHAIRPERSON SORG: And so
7 sort of conferred with the other Board Members
8 here and like I said there is a full record in
9 some areas.

10 MS. PRINCE: Yes.

11 VICE CHAIRPERSON SORG: But there
12 are some questions. You can give your full
13 presentation or we can make some suggestion as
14 to what kind of additional information we
15 would particularly be looking for.

16 MS. PRINCE: I think the case
17 would benefit from a pull presentation, but
18 before we start if we could hear your
19 particular areas of interest, then we can
20 target our presentation accordingly.

21 VICE CHAIRPERSON SORG:
22 Absolutely. That is perfectly fine. Actually

1 one of the things that we did want because
2 there are so many buildings and things you're
3 moving around and the site is kind of funny,
4 what we did want to request was a sort of
5 brief project overview --

6 MS. PRINCE: Yes.

7 VICE CHAIRPERSON SORG: -- where
8 somebody uses a pointer and points --

9 MS. PRINCE: Yes.

10 VICE CHAIRPERSON SORG: -- how
11 this is this building and so forth. So I
12 think that's what you're suggesting.

13 I think in addition for myself;
14 and then I'll see if other Board Members want
15 to make other comments, I'm curious about the
16 ownership of the two small buildings that are
17 not in this application --

18 MS. PRINCE: Yes.

19 VICE CHAIRPERSON SORG: -- that
20 are kind of contiguous with the site, and then
21 addressing specifically the aspects of traffic
22 and parking that are contained within the

1 opposition letter that was received as well as
2 the letter from the Architect of the Capitol.

3 MS. PRINCE: Yes.

4 VICE CHAIRPERSON SORG: So that's
5 my sort of general thoughts. Anybody else
6 have anything in addition that should be
7 highlighted in the presentation you think?

8 ZC CHAIR HOOD: Madam Chair, I
9 think you hit the -- I'm really concerned
10 about the letter from the Architect of the
11 Capitol. If they can hit it in their
12 presentation, and if not, they may need to do
13 some submissions depending upon how this moves
14 forward.

15 MS. PRINCE: Yes.

16 VICE CHAIRPERSON SORG: Okay.

17 ZC CHAIR HOOD: Okay.

18 VICE CHAIRPERSON SORG: Then the
19 floor is yours.

20 MS. PRINCE: One moment. Good
21 morning, Acting Chairman Sorg and Members of
22 the Board. My name is Allison Prince of

1 Goulston & Storrs, and with me here today is
2 Cary Kadlecek, also of Goulston & Storrs.
3 We're the land use attorneys for the applicant
4 in this case.

5 The Heritage Foundation has been
6 located in this square for 30 years. The plat
7 that's up on the screen depicts the current
8 property ownership of Heritage in the square.
9 Just to walk you through it very briefly at
10 the outset because for those who aren't
11 familiar with the property, I think a little
12 bit of an overview might be helpful.

13 Moving from west to east along
14 Massachusetts Avenue there's an existing
15 building at 208 Massachusetts Avenue. It is
16 a contributing building in the historic
17 district. It is about double the maximum
18 permitted FAR for any use in this zone, which
19 is the Capitol Interest District/CHC/C-2-A
20 Zone. It was acquired by Heritage several
21 years ago. It is used for a combination of
22 intern housing and office.

1 Then moving to the east is the
2 original Heritage Building at 214 Mass. Ave.
3 This building was the first building acquired
4 by Heritage in the square in 1983. It has a
5 relatively new limestone façade that you may
6 know about if you've been by the building
7 recently.

8 Moving further to the east there's
9 a very small building that we don't control
10 that contains an Armand's Pizza. We have been
11 in touch with that owner. We're not aware of
12 any concerns from that owner about this
13 application.

14 Moving farther to the east to the
15 corner is 236 Massachusetts Avenue. This is
16 a building that was constructed as an
17 apartment house. It's a contributing building
18 in the historic district. It was converted
19 over time to office, so now it's a series of
20 small offices and as part of this application
21 the goal is to return that property to
22 residential use.

1 Then turning the corner moving
2 north is a building owned by the Simrot family
3 and the Simrots support this application.
4 It's a small apartment house that is not part
5 of the application.

6 Then there's a surface parking
7 area, part of which formerly contained a
8 church that was in derelict condition and was
9 demolished by Heritage. Then a nonconforming
10 apartment house; we're now in the R-4 Zone
11 part of the property, and a vacant lot that
12 Heritage has acquired and cleaned up.

13 So that's the existing site. The
14 architects will go into the proposed plan in
15 greater detail, but I just wanted to orient
16 you to the property.

17 As I said, The Heritage Foundation
18 has been located in this square for 30 years
19 and the proposed project represents an
20 opportunity to focus the office component of
21 Heritage along Mass. Ave. while reinstating
22 and reinforcing a strong residential presence

1 along 3rd Street. This plan is the result of
2 many elements coming together at the right
3 time combined with a lot of hard work and
4 community interaction to make it a reality.

5 Over time Heritage has been an
6 excellent neighbor and careful steward of its
7 property. They've increased their presence in
8 the square such that the several buildings
9 they now operate function more as a campus
10 than as individual office buildings. They now
11 have an opportunity to improve both the
12 neighborhood and their operations.

13 The application before you will
14 allow Heritage to greatly streamline its
15 operations, remove an unsightly surface
16 parking lot and an unimproved vacant lot that
17 was a chronic nuisance to the neighborhood, as
18 well as a nonconforming apartment house in the
19 R-4 Zone with beautiful new town houses
20 returning 3rd Street to an all residential
21 use.

22 Though the nature of the requested

1 relief might seem complicated, most of the
2 areas are really technicalities for a
3 surprisingly simply plan of consolidating
4 uses, improving existing buildings,
5 constructing town houses and providing
6 underground accessory parking.

7 One recent change to the project
8 is worth noting: The original accessory
9 parking plan called for three-and-a-half
10 underground levels. After additional
11 consideration, we now expect that it is
12 unlikely that we will construct the lowest
13 half level. This change addresses many of the
14 concerns raised by some neighbors about the
15 increased presence of cars in the neighborhood
16 and the effects of the underground parking and
17 we have determined that the project can
18 function well with a half level less parking.
19 And that's a 15-space reduction.

20 Let me just go through the areas
21 of relief briefly. First we request a
22 variance from the FAR limits in section 771.

1 The zoning is very unusual for this site and
2 I'm not sure that this Board has dealt with
3 the Capitol Interest District recently, so let
4 me remind you that the maximum permitted FAR
5 for this location is 2.5 for all permitted
6 uses. In the CHC portion of the Capitol
7 Interest District there is no favoring of
8 residential over commercial. There's a 2.5
9 limit across the board.

10 The three buildings on Mass. Ave.;
11 208, 214 and 236, each already far exceed that
12 maximum. It's just it is what it is. By
13 swapping the residential use in 208 Mass. Ave.
14 and the commercial use in 236, 208 will be all
15 commercial and 236 will be almost entirely
16 residential with ground floor retail. In
17 addition, both 208 and 214 will very slightly
18 increase in density. And when I say very
19 slightly, it's about 1,000 feet.

20 Second, we request a variance from
21 the restriction on expanding a nonconforming
22 building that is devoted to a conforming use

1 under section 2001.3. As I mentioned, both
2 208 and 214 will increase very slightly in FAR
3 to accommodate the necessary upgrades and
4 egress stairs for the project.

5 Third, we request a variance from
6 section 2303.1 that prohibits lot lines from
7 crossing parking spaces. The underground
8 accessory parking will span the town house
9 lots, but it will be all below grade. So
10 there will be lot lines within the accessory
11 parking structure, some of which will
12 inevitably be crossed by the parking spaces.
13 So that is a real technicality.

14 Fourth, we request a variance from
15 section 2503.2 that restricts structures above
16 four feet in required spaces. And as I
17 mentioned at the outset, we're relocating some
18 existing equipment, so we've asked relief from
19 that section. But the equipment is equipment
20 that is already there.

21 And finally, we request a special
22 exception from section 214 for accessory

1 parking at the rear of the site. The parking
2 will be partially located in the R-4 Zone and
3 will serve 208 and 214 Mass. Ave. as well as
4 the town houses. And also as I mentioned at
5 the outset, we still need the relief to allow
6 the penthouse on 236 to be of uniform height,
7 12 foot height, because the existing penthouse
8 is 12 feet and we need to match that with our
9 slight addition to it.

10 With respect to the burden of
11 proof, as for the variance relief, this
12 project represents a truly unique series of
13 buildings and properties. It is a very
14 unusual zoning condition if you follow the
15 zone boundary line, the complicated series of
16 overlays, the fact that the existing buildings
17 already straddle lot lines, the existing lots
18 straddle lot lines. There are three buildings
19 that are controlled by Heritage that are all
20 very nonconforming as to density. They all
21 contribute to the historic district; they're
22 not going anywhere, yet they do represent

1 roughly double the amount of density that's
2 permitted in that district. And also this is
3 a campus-like condition which is not a common
4 occurrence, particularly in this neighborhood.
5 But Heritage has been a good neighbor and
6 they've grown gradually over time and they
7 really treat this property as a campus and
8 would like to continue to do so and
9 considerate it as a whole uniform presence.

10 In terms of practical difficulties
11 affecting the property, given this campus-like
12 condition the buildings need to relate to each
13 other in a way that makes sense and with the
14 opportunities presented by the acquisition of
15 236 Mass. Ave. there's really a chance to
16 orient the commercial uses to the west and the
17 residential uses to the east and then north
18 along 3rd Street. So there's an opportunity
19 to serve Heritage's need to put like uses
20 together while simultaneously restoring a
21 residential presence along 3rd Street. And
22 it's not often that a case presents a chance

1 to serve both the needs of an institution but
2 serve broader community objectives of
3 restoring residential use along 3rd Street.
4 And I think that's a lot of the reason why the
5 project has been so well received to date.

6 With respect to the parking
7 special exception I think we've addressed that
8 pretty exhaustively in our prehearing
9 statement, but I can go through that in
10 greater detail at some point in the future if
11 you would like.

12 As you'll hear from Mr. Korsvall,
13 Heritage has done a truly outstanding job
14 reaching out to the community about this
15 project. The outreach is heavily documented
16 in some items that we will share with you.
17 Heritage has listened to community feedback
18 and responded to concerns. The plans have
19 been changed to accommodate concerns from
20 neighbors and we're happy to report that most
21 of the community and most of the immediate
22 neighbors support the project. We also have

1 the support of the Capitol Hill Restoration
2 Society and the Planning and Zoning Committee
3 of the ANC which supported the project design
4 a few weeks ago.

5 One couple which resides
6 immediately across the rear alley from the
7 project submitted written opposition, but
8 Heritage has engaged these neighbors
9 repeatedly to hopefully address their
10 concerns. They've cited five major concerns,
11 all of which Heritage has been willing to
12 address, but now these neighbors appear to
13 have turned to more global concerns
14 questioning the parking at all.

15 But in terms of the five specific
16 concerns which Heritage was more than willing
17 to address, the neighbors questioned the
18 location of an air vent for the accessory
19 parking. We in fact moved that air vent.
20 They questioned the air quality coming from
21 the air vent. We commissioned an air quality
22 study which we'll put into the record today

1 that should provide appropriate assurance that
2 the air quality coming out of the vent will
3 not pose any kind of environmental problem.

4 I should note that this Board is
5 not the final word on matters environmental;
6 as you know there's a whole EISF process for
7 that, but since it was specifically raised and
8 since we have done additional work on it, we
9 thought it would be helpful to submit it for
10 the record. We are more than willing to
11 consider reasonable efforts to minimize
12 construction noise. We are more than willing
13 to consider long-term noise abatement in the
14 alley, and in fact we believe our plan will
15 accomplish that.

16 And we are more than willing to
17 conduct structural monitoring of this
18 residence, and we're going to monitor the
19 other nearby residences as well. That's for
20 our benefit and the benefit of the residences
21 as well. So we believe we've really done an
22 excellent job working with the neighbors. You

1 can't please all the people all the time, but
2 we have certainly tried.

3 We're pleased to have the support
4 of the Office of Planning, as well as letters
5 from several supportive neighbors. In
6 addition, we're pleased that DDOT does not
7 object to the application.

8 As the testimony will demonstrate,
9 the project is carefully thought out and each
10 element depends on another. The project
11 reflects a careful balance between Heritage's
12 goals and the satisfaction of concerns
13 expressed by the community in reaching these
14 goals.

15 Before I turn over to Eric
16 Korsvall to discuss the project background, I
17 would like to ask the Board to accept two
18 long-recognized expert witnesses as experts in
19 this case. One is Jane Nelson, an architect
20 who last appeared before this Board and was
21 qualified as an expert in 2011. We have her
22 r, sum, here for you, but she's been qualified

1 multiple times before. I don't know if there
2 are any questions about Ms. Nelson.

3 VICE CHAIRPERSON SORG: We'll
4 check and see if she's in our book, but I
5 think it sounds fine.

6 MS. PRINCE: All right. In
7 addition there's Dan VanPelt who was probably
8 most recently before this Board just weeks
9 ago, but certainly within the past several
10 months. Dan is a recognized expert in traffic
11 engineering with Gorove/Slade with probably
12 over 20 years of experience.

13 VICE CHAIRPERSON SORG: Now I know
14 he's in the book.

15 MS. PRINCE: He's in the book.

16 VICE CHAIRPERSON SORG: I don't
17 see Ms. Nelson, so if you can we'll submit her
18 CV and we'll put in here for next time, but I
19 don't see any issue in accepting her as an
20 expert.

21 MS. PRINCE: Thank you. We've
22 already submitted her CV.

1 VICE CHAIRPERSON SORG: Oh, good.

2 MS. PRINCE: So we can now proceed
3 with the testimony of Eric Korsvall.

4 MR. KORSVALL: My name is Eric
5 Korsvall. I'm the director of administration
6 for The Heritage Foundation. I've been in
7 this role overseeing Heritage's real estate
8 portfolio and facilities for 12 years and the
9 purpose of my testimony this morning is just
10 to give you background on our outreach to the
11 community and give you an idea of the efforts
12 that we've gone through for the last few
13 months. We are distributing a packet of
14 information outlining our support of the
15 community as well as a printed copy of the
16 PowerPoint slides you'll see today for your
17 benefit.

18 Heritage has had a major presence
19 on this block since 1983. We have worked hard
20 to be a strong member of the Capitol Hill
21 community. We've generously support the ANC,
22 the Capitol Hill BID, the Capitol Hill

1 Community Foundation, as well as CHAMPS and we
2 are proud of the neighborhood which we work in
3 every day.

4 Over the past 30 years we have
5 invested millions of dollars into our
6 facilities to improve the neighborhood
7 significantly. As a non-profit we're still
8 paying property taxes and we pay upwards of
9 \$550,000 a year annually in property taxes.
10 We've renovate our Pennsylvania Avenue
11 building recently. When we completed that
12 project the property taxes went up 417 percent
13 in the first year after completing that
14 project.

15 Heritage's location is strategic
16 to our mission. It's important that we grow
17 within walking distance of the Capitol Hill
18 complex. We also plan to continue to grow in
19 the years ahead. Last year we purchased
20 Congressional House, 236 Mass. Ave. as future
21 office space capacity, as well as the two lots
22 on 3rd Street we described previously, one

1 containing a multi-family apartment building
2 and the vacant lot. We are seeking this one-
3 time opportunity to provide sufficient off-
4 street parking for our staff to alleviate
5 pressures on the neighborhood streets and to
6 clean up our backyard with the stunning new
7 town houses.

8 On the plat before you what I
9 quickly want to describe on what we're asking
10 for today is to move the residential component
11 at 208 Mass., approximately 30,000 square
12 feet, to 236 Mass. Ave. and take this 30,000
13 square foot of office space and bring it back
14 to 208, to swap the density between these two
15 properties as well consolidating our
16 commercial office space between these two
17 buildings which are already connected on half
18 the floors internally and maintain the corner
19 property as the multi-family with ground-floor
20 retail.

21 Here's an example of the future
22 project with the commercial density within the

1 Heritage properties consolidated at the west
2 end of the site, the residential on the east
3 end of the site. What this also does is take
4 this square, which is two-thirds commercial
5 space already, which comes from here all the
6 way back here. And this corner here is the
7 residential component. It consolidates within
8 the square all the commercial density to the
9 west end of the square and maintains 3rd
10 Street as the transition neighborhood to the
11 residential neighbor of Capitol Hill.

12 To be clear, the proposed
13 accessory parking is not a commercial garage
14 in any prospective operation, zoning or impact
15 since Heritage and the town house residents
16 only will use it. It will not be open to the
17 public and once construction is completed, the
18 accessory parking will be completely hidden
19 from view.

20 As you see here in this
21 description of the town houses, this is the
22 entrance to the garage here. This is the only

1 entrance to the garage and if you're walking
2 up and down 3rd Street once this project is
3 complete, you'll have no idea that the size of
4 this parking facility or what it serves. It
5 looks as though it was designed to blend in
6 just with the town house here.

7 The project before you here is
8 years in the making. The stars are aligned on
9 what was once impossible. Now we have this
10 one-time opportunity to restore and revitalize
11 this block. The project objectives benefit
12 both Heritage and the neighborhood and that is
13 why we've received overwhelming support from
14 the neighbors, including the adjacent
15 neighbors and almost every neighbor on the
16 project on 3rd Street facing the project.

17 We have worked tirelessly to gain
18 the support that we present to you today.
19 We've canvassed the neighborhood and at the
20 beginning of the year we held a neighborhood
21 outreach meeting with almost 50 members of the
22 community present where we were able to

1 describe the merits of the project and walk
2 them through everything that was happening on
3 Mass. Ave. and 3rd Street. At that meeting we
4 did receive a round of applause from the
5 neighborhood for several specific components
6 of the project that they really liked.

7 When we opened up the plans and
8 walked the neighborhood through the project,
9 we held about two dozen one on one meetings
10 with the neighborhood at our property and over
11 the last three months. We schedule these
12 meetings off hours in the morning and in the
13 evening to accommodate neighborhood schedules
14 so that they weren't inconvenienced. And once
15 we walked through the plans, they
16 predominantly understood the project. Then
17 they also understood that the project with the
18 parking is completely married to the town
19 house.

20 It's very important to note that
21 the parking component makes this project
22 happen for The Heritage Foundation. The

1 parking is why we acquired these properties
2 and serves our growing staff and pulls
3 numerous vehicles off of the surrounding
4 neighborhood. We don't have sufficient
5 parking and our staff are out moving their
6 vehicles every couple hours and putting undue
7 pressure on the neighborhood. Without the
8 parking component the project is dead in our
9 mind.

10 The load of parking to complete
11 the project and to benefit the neighborhood is
12 the six residential town houses. The town
13 houses completely cover the parking component
14 and hide it from view but make the project
15 feasible. So again without the parking the
16 town houses don't occur. There's an existing
17 apartment house that would be to remain. So
18 if this project were not to be approved we
19 would -- to lease out or sell the vacant
20 apartment house, and we've received numerous
21 calls already from interested buyers wishing
22 to purchase that property.

1 We have unfortunately one neighbor
2 opposing the project outright. This neighbor
3 sent around a brief letter to the neighbors
4 asking if they support or oppose the
5 construction of the underground parking
6 garage. The letter only focused on the
7 parking facility itself and didn't talk about
8 the larger project, the row houses, or explain
9 how the parking is married to the town houses,
10 so naturally it created confusion within the
11 neighborhood. We believe that their
12 responses, they had five people that said that
13 they were opposed to the project. Two were
14 unsigned. And but again, after that occurred
15 we did follow up again with a letter to the
16 neighborhood which you see in the packet
17 before you today.

18 There's this outline of community
19 support. The second page is a copy of the
20 letter that we sent around to all the
21 neighbors that are on the first page that we
22 sent around on March 5th which clearly

1 explained what was occurring in the project,
2 where the row houses were being installed,
3 that the parking was tied to the row houses'
4 completion. Subsequent to sending that letter
5 around to the neighborhood we received
6 numerous calls and emails from the
7 neighborhood asking how they could get
8 involved and support the project.

9 And so we're happy to provide you
10 today with this map indicating where we've
11 received neighborhood support. Attached is a
12 petition outlining those that signed the
13 petition, as well as letters of support.
14 There's 40 individuals total that are outright
15 supporting this project. So for a project of
16 this magnitude we are very grateful for the
17 overflowing show of support from these 40
18 individuals that live within our community.

19 We have gained support by all the
20 commercial interests on the property including
21 Lot 34 which at the corner of 2nd and E
22 Street, which itself crosses the C-2-A/R-4

1 border and has 45 parking spaces below their
2 property.

3 VICE CHAIRPERSON SORG: What are
4 those 34, 848 and 33?

5 MR. KORSVALL: Those are the lot
6 numbers.

7 VICE CHAIRPERSON SORG: No.

8 MR. KORSVALL: I'm sorry.

9 VICE CHAIRPERSON SORG: I know
10 those are the lot numbers.

11 MR. KORSVALL: I'm sorry, what?

12 VICE CHAIRPERSON SORG: What
13 happens? Who owns those? What happens in
14 those properties?

15 MR. KORSVALL: So nothing happens
16 on those properties. The red indicates that
17 they support the project.

18 VICE CHAIRPERSON SORG: Right.
19 Okay. I'm not being clear. Is it a office
20 user?

21 MR. KORSVALL: Oh, sorry.

22 VICE CHAIRPERSON SORG: Is it

1 another foundation? Is it a --

2 MR. KORSVALL: Okay. So 34 is an
3 office. Eight-forty-eight is an office.
4 Thirty-three is the gas station. Eight-fifty,
5 that's between our two properties is the
6 Armand's Pizzeria. Eight-thirty-nine to the
7 north of 236 Mass. Ave. is a multi-family
8 apartment house.

9 VICE CHAIRPERSON SORG: Great.

10 MR. KORSVALL: The other ones at
11 the corner of E and 3rd Street are all single-
12 family residential.

13 VICE CHAIRPERSON SORG: Thank you.

14 MR. KORSVALL: Thirty-four, as you
15 see, does cross that C-2-A/R-4 line and their
16 property does contain 45 underground parking
17 spaces.

18 We have strong support from the
19 Capitol Hill Restoration Society. They have
20 overwhelmingly supported the historic
21 preservation components as well as the zoning
22 application. The Zoning Commission chairman

1 advised us that they voted to approve all
2 aspects of the zoning application and added
3 that they really liked the project.

4 HPRB unanimously supported the
5 staff report, and from the board we heard that
6 we've done a fantastic job knitting the
7 neighborhood together, that we've done a
8 spectacular job of working through all the lot
9 details and we did a nice job of unifying 3rd
10 Street.

11 We will go before the ANC tomorrow
12 evening. The ANC Planning and Zoning
13 Committee voted to support our application to
14 the full ANC on a vote of 5-1 and 2
15 abstentions. At the ANC meeting where they
16 reviewed the historic preservation application
17 we heard it was very attractive, it fits in
18 the neighborhood and a very good way of hiding
19 the underground parking facility.

20 In closing, The Heritage
21 Foundation is very excited to take on this
22 project and dramatically improve the block.

1 The renovated 236 Mass. Ave. will be stunning
2 and offer improved retail amenities for the
3 community. The office and residential space
4 swap will be more efficient for the long-term
5 growth of Heritage and the parking and the row
6 houses over toward 3rd Street. We have a one-
7 time opportunity to execute this project and
8 we appreciate your support.

9 MS. PRINCE: I'd like now to
10 proceed with the testimony of Jane Nelson.

11 MS. NELSON: I'll very briefly
12 just add a few points to the comments that
13 both Eric and Allison have addressed.

14 VICE CHAIRPERSON SORG: Can we do
15 lights, please?

16 MS. NELSON: The slide that is on
17 the screen right now shows you the broader
18 area of the site, Massachusetts Avenue to the
19 south, the commercial of Massachusetts then to
20 the west, and then to the north and to the
21 east are more of the residential town houses.
22 Again, the site in the aerial view, you can

1 see sort of the unusual shape of the 208, the
2 214 and the 236. As Allison stated, they're
3 all contributing buildings in the historic
4 district. They are nonconforming in both
5 height and FAR.

6 In addition, this diagram shows in
7 addition to identifying the existing uses.

8 I'd like to point out that one of the
9 inefficiencies of the 208 Mass. Avenue
10 building that currently has intern housing on
11 floors 1 through 4 and has office on 5 through
12 8, the upper floors, the offices are
13 interconnected to the 214 Mass. Ave. building.
14 On the lower floors with the intern housing it
15 requires essentially a different operating
16 system for those floors because the HVAC has
17 to be on 24 hours and 7 days a week.

18 Swapping moving the housing over
19 to 206 Mass. Avenue not only improves the
20 operations standpoint, but it also returns a
21 historic building that was built as
22 residential to residential and it also

1 consolidates all of the commercial spaces to
2 the west and along Mass. Avenue and then
3 allows us to make that transition from multi-
4 family housing on 3rd down to the single-
5 family residential town houses on 3rd Street.

6 These two diagrams are identifying
7 the existing lot divisions and the proposed
8 lot divisions. The 208 lot again takes on an
9 unusual shape. The 214 Mass. Avenue, the lot
10 actually extends over to 3rd Street and
11 incorporates the surface parking lot. The 236
12 lot borders basically property on line with
13 the footprint. And then this was a previous
14 church, institutional use. Then we have the
15 multi-family apartment building. And then at
16 the very north there's a 14-foot wide empty
17 lot, residential.

18 The proposed lots. We are not
19 changing the 208. Two-fourteen, this will be
20 the rear yard and the portion of the asphalt
21 parking lot will now become the town house
22 lots. All six of the town house lots are

1 conforming lots. They are matter-of-right
2 construction and minimum lot areas. Two-
3 thirty-six we would not be changing.

4 This diagram is trying to explain
5 the fact that the site is split zoned. Two-
6 oh-eight is all in the C-2-A. Two-fourteen
7 lot, the line of the C-2-A/R-4 cuts across the
8 parking lot and then down and then to the edge
9 of 236. So this multi-story apartment
10 building is in the R-4 Zone, as is the surface
11 parking lot.

12 In addition to switching the uses
13 from -- the residential use from Mass. Avenue
14 and to filling in the 3rd Street, this diagram
15 is showing you basically what the existing 3rd
16 Street image is. So we have the 236 Mass.
17 Avenue building and the apartment building.
18 This is what the back faces of the 214 and 208
19 Mass. And so here you look beyond the parking
20 lot and you see the back of those façades.
21 And then this is -- basically what's across
22 the street on 3rd Street are two and three-

1 story row houses.

2 So our proposed is to fill in that
3 parking lot and then to remove the non-
4 contributing apartment building and replace it
5 and complete 3rd Street with row houses. The
6 row houses also help on mitigating the density
7 and the height of Massachusetts Avenue and
8 basically marches down the street to the north
9 to the smaller row houses at the end of the
10 site.

11 And again the image of the row
12 houses. As you can see, this will now be the
13 experience of walking and driving on 3rd
14 Street and it basically is hiding all of the
15 back façades of the office buildings.

16 Part of the variances that we are
17 asking for are a result of existing conditions
18 in the rear yard, so these photographs are
19 showing those conditions. As you can see
20 right here, it's like a nine-foot drop from
21 the parking lot to the alley. And bordering
22 the 208 Mass. Avenue is an areaway that is a

1 service corridor that basically brings you
2 from the rear alley into the nook basically of
3 the 208 and between 214.

4 One of the things in our proposal
5 is to enclose that areaway to become a service
6 corridor, but because of the level change the
7 very beginning of that service corridor will
8 still be slightly above the four feet allowed.
9 And in addition, so it's hard to see on this
10 photograph, but you see there is a cooling
11 tower and a generator, and then on that
12 parking lot is where the trash dumpsters are.
13 So the new development will basically
14 eliminate those unsightly aspects.

15 I show this slide again to point
16 out, to identify where the garage is. So the
17 below-grade accessory parking is in this blue-
18 dashed line. And so the town house lot
19 backyard goes to here. All that we have that
20 is open to basically the sky of the below-
21 grade parking structure is that little area.
22 The practicality is we need egress stairs to

1 get to the parking area. And so those
2 elements are contributing to the tiny amount
3 of FAR that we are asking.

4 And so this is a rear addition to
5 the 214 Mass. that has the exist stair from
6 the parking facility and also continue to exit
7 one of the exits from the 214 Mass. Avenue.
8 This is the rear yard of the 214. Here you
9 see the entry of that enclosed service
10 corridor, and that is contributing to the FAR.
11 And then tucked away back here in the corner
12 of 208 and 214 is another exit stair
13 enclosure, just a one-story enclosure. That
14 exit stair serves 208 Mass. and it also serves
15 an auditorium in the 214 building.

16 Third Street is here. Our
17 entrance to the parking facility is to the
18 southern edge of the site. We have a
19 pedestrian walkway that brings you back to the
20 rear entrance of 214.

21 Let's see. Allison mentioned that
22 we have accommodated at the request of some

1 neighbors to relocate the parking vent. That
 2 vent was over here at the property line.
 3 We've now tucked it into the side of 208.

4 This is to demonstrate the parking
 5 crossing the lot lines. Each town house will
 6 have their own private parking garage
 7 basically. So they come down the ramp and
 8 they maneuver basically over to the east side.
 9 And so directly under their town house will be
 10 their parking garage. The lot of the town
 11 house above comes all the way over to here.
 12 Actually, yes, all the way over to here. So
 13 again, that would leave only this amount of
 14 garage to not cross those lot lines.

15 Here is just to explain the
 16 sectional quality. This is 3rd Street with
 17 the three-story town houses. You have the
 18 apartment building beyond, the 214 Mass.
 19 Avenue building and 208 Mass. Avenue building,
 20 and then the below-grade accessory parking.
 21 Here is the rear addition entry into 214.

22 VICE CHAIRPERSON SORG: Just to

1 interrupt for one second, that last section is
2 not updated I believe, right, to reflect the
3 removal of what I think --

4 MS. NELSON: That's correct.
5 Thank you for that. And so that would be this
6 level right here that we would eliminate.

7 VICE CHAIRPERSON SORG: Okay.
8 Just want to make sure. Thanks.

9 MS. NELSON: Yes. This is the
10 existing conditions and I show you this to --
11 again, the areas for relief is the mechanical
12 equipment in the rear yard. So we currently
13 have a cooling tower structure that is on top
14 of the areaway and we also have a generator --
15 I'm sorry, the generator is here on top of the
16 areaway and the cooling tower is here again
17 straddling the areaway.

18 The new locations, we are
19 replacing both of those. The generator will
20 be a new generator. The housing of it will
21 have the benefits of modern technology with
22 increased acoustic housing and also it's now

1 tucked away into the corner of the courtyard
2 between 208 and 214. The cooling tower again
3 will be replaced with new and will also
4 benefit from new construction of acoustic
5 enclosures. At the request of some of the
6 neighbors they've asked that we actually
7 visually enclose the cooling tower so there
8 will be a louvered screen that will wrap the
9 cooling tower.

10 And this is a -- to explain it,
11 this is a split plan. So this plan is showing
12 the entry into the service corridor and then
13 it basically goes underground. This is the
14 roof of the service corridor. This insert is
15 sitting on top of that service corridor.

16 I'll just go very quickly. It
17 doesn't seem like there's probably any
18 questions about the roof structure for the 237
19 Mass. This is the existing roof structure for
20 236 Massachusetts Avenue. It only houses the
21 elevator override and an exit stair to the
22 roof.

1 We, in renovating the building,
2 will put in all new HVAC systems. We have
3 located as much as we can on the first floor
4 level in the rear court, and most of that will
5 be used for the ground floor retail and one
6 floor of the residential floors. This is a
7 typical proposed residential floor. And then
8 the remainder would be on the roof.

9 And so here again is the existing
10 roof structure. And so we would screen the
11 equipment that would be needed on that roof.
12 We are able to set it back on these fronts by
13 the required one to one -- beyond the
14 required. They're actually -- if the
15 penthouse is 12 feet, we're setting it back 14
16 and 16 feet. And this is what Allison
17 described earlier, that a commissioner
18 requested that we ask if we needed relief from
19 the rear court setback. The existing height
20 is 12 feet. Our extension would match that
21 height for 12 feet. And there's the other
22 sides.

1 And then just in summary, we are
2 landscaping the 236 and we will extend the
3 beautiful landscape that they have at 214 and
4 208. But in doing so we will be eliminating
5 a neighborhood eyesore and a nuisance, which
6 is a circular drive in front of 236. And so
7 here you could see the circular drive at 3rd
8 Street and Massachusetts Avenue. This not
9 only is annoying from a pedestrian standpoint,
10 but it actually causes a lot of confusion at
11 that intersection driving.

12 And then these are the proposed --
13 that we will landscape 236. We will make the
14 building handicapped accessible. Basically
15 the entrance of the building is seven feet
16 above the sidewalk level. So we'll do that
17 through a series of sloped sidewalks. And
18 then the two retail spaces on either are
19 actually two feet above the building entrance.
20 And so we will handle that with ramps flanking
21 the main entry.

22 We also are intending to provide

1 outdoor seating for the ground floor retail.
2 And actually at the request of the
3 neighborhood, Heritage intends to expand the
4 retail into the lower level, which is
5 basically at grade and will have a terrace on
6 the side of 3rd Street.

7 And with that, I will pass it
8 over, unless you have any questions at this
9 time.

10 VICE CHAIRPERSON SORG: I don't
11 think that I do yet, but if other Board
12 Members do -- yes, I think what we'll do is
13 we'll keep going and hear about, you know, the
14 other things and then we can kind of come back
15 and ask other questions.

16 MS. PRINCE: Great. Well, our
17 final witness is Dan VanPelt from
18 Gorove/Slade, an expert in traffic
19 engineering.

20 MR. VANPELT: Good afternoon.
21 Please excuse my voice. With the cherry
22 blossoms also comes the seasonal allergies, so

1 I apologize if it's a little scratchy.

2 For the record, my name is Dan
3 VanPelt. I'm a principal at Gorove/Slade
4 Associates. We performed the transportation
5 study that supported this application. I'm
6 going to give you a brief overview of our
7 efforts, the resulting conclusions and our
8 DDOT interaction.

9 The plan presented in this
10 application was developed with quite a bit of
11 forethought. The plan included extensive
12 surveys of the existing population on site to
13 help right size the parking. Overall our
14 study for this project is significantly more
15 than we would typically perform for a BZA
16 application. The result is a uniquely-
17 tailored and thorough transportation review.

18 The amount of parking in the
19 project was based on the existing patterns of
20 Heritage employees that currently have a low
21 drive-alone mode split of just under 31
22 percent. Our parking demand recommendations

1 assumed that the same percentage of people
2 driving would hold steady and that Heritage
3 would maintain this very low driving mode
4 split through continued transportation demand
5 management measures. Our report details how
6 Heritage people and those currently in the 236
7 Massachusetts Avenue building are parking in
8 scattered locations in the area, and that
9 demand will now be accommodated on site and in
10 the annex lot across 3rd Street.

11 Although it may seem like a lot at
12 first; a total of what's now 145 spaces, 90 in
13 the new garage and 55 in the annex, it's not
14 a lot when you compare it to the proposed
15 employee population of slightly under 500
16 people plus the visitors and residents of the
17 new town homes that we use these spaces.

18 Additionally, according to D.C. zoning
19 requirements in the C-2-A Zone, the minimum
20 parking requirement for the project would be
21 229 spaces, and this helps illustrate that
22 Heritage is not providing excess parking.

1 Our study demonstrated that some
2 new traffic will be generated and also locally
3 there will be some traffic moved from
4 locations elsewhere and will be concentrated
5 toward the new garage entrance on 3rd Street.
6 The analysis concluded that this change in
7 traffic will increase volumes on 3rd Street a
8 bit, but it will not have an adverse impact,
9 and DDOT's staff report concurred with our
10 conclusion.

11 When you consider that the net
12 increase in parking for Heritage commuters
13 utilizing 3rd Street is about 60 cars; and our
14 survey showed that about half of those people
15 arrive and depart during a single peak hour,
16 which is pretty typical for office commuters,
17 the increase in traffic on 3rd Street would be
18 about 30 cars in the a.m. peak and also in the
19 p.m. commuter peak. On average this would be
20 about one additional car every two minutes.

21 Our engagement with DDOT for this
22 project started on January 25th when we met

1 with them to discuss the project and the scope
2 of the transportation study. We followed up
3 with DDOT by submitting a scoping document
4 that served as the framework for our study and
5 we confirmed their agreement before developing
6 our report. We've interacted with DDOT on
7 multiple occasions throughout the course of
8 their review of the application and prior to
9 the issuance of the April 3rd staff report.
10 We understand that DDOT policy generally
11 frowns on increasing neighborhood parking
12 supply, but we also understand that DDOT has
13 considered the merits of this application as
14 a whole and has no objection. This is based
15 on the multiple benefits this project will
16 afford the neighborhood.

17 The redevelopment will greatly
18 improve the pedestrian environment and
19 neighborhood fabric along the west side of 3rd
20 Street. The two existing curb cuts and semi-
21 circular drive in front of 236 Massachusetts
22 Avenue that Jane just described earlier will

1 be removed to significantly enhance the public
2 realm and remove pedestrian conflicts.

3 The new parking facility will take
4 Heritage-related activity off the street,
5 freeing up on-street parking for use by
6 neighborhood residents and retail activity on
7 Massachusetts Avenue. The weekday and Sunday
8 traffic and parking demands associated with
9 the church that used to exist on the site and
10 the eight-unit apartment building on the site
11 have been removed from the network with this
12 project.

13 And lastly, Heritage has agreed to
14 fund a new Capital Bikeshare station in the
15 immediate vicinity of the site at a location
16 to be determined through further coordination
17 with DDOT. The DDOT staff report cites the
18 mitigating benefits of a new Bikeshare station
19 that it will have for the surrounding
20 neighborhood and we understand DDOT believes
21 a new location here will be very successful.

22 So I appreciate your time

1 listening to my testimony. I'd be happy to
2 answer any of your questions.

3 MS. PRINCE: That completes our
4 presentation this morning. If you have
5 questions for the panel, we're here to help
6 you.

7 VICE CHAIRPERSON SORG: Great.
8 Okay. Do other Board Members want to go ahead
9 and address some of the questions? Ms. Allen?

10 MEMBER ALLEN: Thank you, Vice
11 Chairman Sorg.

12 I just have two quick questions,
13 I think. You talked a lot about or it came up
14 a few times about the parking lot that's there
15 now, you know, and you said it was sort of an
16 eyesore sort of thing. So do some of your
17 staff actually park there now, or is it just
18 vacant?

19 MR. KORSVALL: Our staff currently
20 park on the surface parking lot, so all those
21 cars would go to the underground facility.

22 MEMBER ALLEN: Okay. And about

1 how many, do you know?

2 MR. KORSVALL: There was 34.

3 MEMBER ALLEN: Okay. Thank you.

4 And then of the six town houses that you're
5 building, or proposing to build, are any or
6 what percentage of any of those are
7 affordable, if any?

8 MR. KORSVALL: None.

9 MEMBER ALLEN: Okay.

10 MR. KORSVALL: And none would be
11 for our use. They would all be fee simple
12 sales. We're not looking to expand on 3rd
13 Street.

14 MEMBER ALLEN: Right. Got it.
15 Thank you. I'm done.

16 VICE CHAIRPERSON SORG: Thank you,
17 Ms. Allen.

18 I think that, you know, you would
19 have read the letter from the Architect of the
20 Capitol. I think that you went to discussing
21 the specific concerns of the letter of
22 opposition from the neighbors, and I can see

1 that, you know, some changes have been made
2 there that address those.

3 I think in particular that the
4 letter from the Architect of the Capitol is
5 looking for sort of further comment on the
6 idea of moving what seems to be a fairly large
7 amount of parking intensity onto 3rd Street.
8 And I think in addition to that -- and this is
9 a question that I also shared, is, you know,
10 what I didn't see from the traffic study was
11 a sort of clear transportation management plan
12 and DDOT's agreement or not on that. I think
13 there was certainly, you know, pieces in the
14 letter from DDOT, which we'll get to, that
15 were in agreement with many of the efforts,
16 but is that something that the applicant has
17 submitted to DDOT in a sort of more formal
18 way?

19 MS. PRINCE: I can let Dan address
20 this, but just to give you a bit of an
21 overview I think the Architect of the Capitol
22 letter was written without the benefit of the

1 full traffic study that had been prepared by
2 Gorove/Slade. For example, the TMP is
3 specifically addressed in Gorove/Slade's
4 report on page 21 and acknowledged by DDOT.

5 Also, the Architect of the Capitol
6 very correctly raised the question of the
7 importance of right sizing any kind of garage
8 on this property. And that is why Heritage
9 made an investment in this TMP that one
10 doesn't often see at a BZA-level case, and
11 that is that Heritage surveyed these employees
12 exhaustively to really understand their
13 patterns, because the goal was not to provide
14 too little parking, but not to provide too
15 much parking. We knew it was a very, very
16 delicate balance.

17 So Gorove/Slade can go into the
18 survey for you, but the benefit that I saw in
19 this case of the survey is that we were
20 surveying the people that are actually going
21 to use the parking. We don't get to do that
22 all the time. So often we're talking about a

1 new building with new users and we don't know
2 what their patterns will be. So we've
3 confident in this data, and Dan can address it
4 further.

5 VICE CHAIRPERSON SORG: Before you
6 address that, if I could just ask a couple of
7 sort of kind of baseline questions. How many
8 employees are there of Heritage?

9 MR. KORSVALL: We have over 300
10 currently.

11 VICE CHAIRPERSON SORG: Three-
12 hundred? And so the results of the survey
13 were that about 30 percent drive in alone?

14 MR. KORSVALL: Thirty-one percent,
15 that's correct.

16 VICE CHAIRPERSON SORG: Thirty-
17 one? Sorry. Thirty-one percent. And then
18 not addressed in the request for relief is
19 another parking lot that exists available to
20 employees, is that correct?

21 (No audible response.)

22 VICE CHAIRPERSON SORG: Can you

1 just describe that a little bit? Where is it?
2 How many spaces does that accommodate?

3 MR. KORSVALL: We currently own
4 three lots of four in a -- four alley lots
5 between 3rd and 4th Street. We currently own
6 these three lots here between 3rd and 4th
7 Street that we're able to use during business
8 hours only. The neighbors are allowed to park
9 there on nights and weekends. So when we
10 talked about this project at the neighborhood
11 meeting, the neighborhood was concerned that
12 may go away and that we assured them that we
13 plan to maintain those lots, which they were
14 very excited to hear. The neighborhoods
15 definitely benefit from being able to come in
16 after hours and park, you know, off the alley.

17 VICE CHAIRPERSON SORG: Yes, that
18 sounds good.

19 MR. KORSVALL: Yes.

20 VICE CHAIRPERSON SORG: Where do
21 they enter that lot from?

22 MR. KORSVALL: There are several

1 entrances. There's an entrance off of 3rd
2 Street here and here. There's one off of E
3 Street here and off of 4th Street here.

4 VICE CHAIRPERSON SORG: I'm
5 looking at the site plan also down here, or
6 the aerial. They're not connected, those
7 lots?

8 MR. KORSVALL: No, they're not.
9 There's alleys between each lot. They're
10 actually three individual lots.

11 VICE CHAIRPERSON SORG: Okay.

12 MR. KORSVALL: I mean there's four
13 total on the site.

14 VICE CHAIRPERSON SORG: So each of
15 the lots are entered by individually by the
16 entrances that you're --

17 MR. KORSVALL: You can access any
18 four of those lots from any street. Third,
19 fourth or E Street --

20 VICE CHAIRPERSON SORG: Okay.

21 MR. KORSVALL: -- give you access
22 internally to any of the four lots.

1 VICE CHAIRPERSON SORG: And is
2 there one that's the predominant entrance?
3 I'm just trying to understand how the flow of
4 this traffic works. Is it on 3rd Street also?
5 Is it on E Street? Is it on 4th Street?

6 MR. KORSVALL: I believe it's on
7 3rd Street.

8 VICE CHAIRPERSON SORG: Okay. And
9 how many spaces is this? If you said it, I
10 didn't get it.

11 MR. KORSVALL: We have 55 spaces.

12 VICE CHAIRPERSON SORG: Okay.

13 MR. KORSVALL: The traffic study I
14 believe was talking about based on our
15 patterns how many vehicles pull in per minute.

16 MR. VANPELT: Right, I mean we're
17 talking about on the 55 spaces. Yes, I mean
18 most of that is serving the commuter parking.
19 So there's 55 spaces. About half of those
20 spaces are probably going to arrive during the
21 peak time, so that's probably what, 25, 27 of
22 those spaces are going to fill up during the

1 peak time. But that's going to be, you know,
2 probably biased more toward 3rd Street, but
3 distributed to those other access points too
4 into the core of that block.

5 VICE CHAIRPERSON SORG: Okay. Do
6 other Board Members have other questions at
7 this time for the applicant?

8 (No audible response.)

9 VICE CHAIRPERSON SORG: I might
10 have more on the traffic and parking, but I
11 think it may be wise to hear from DDOT also.
12 We can get all that information before then.
13 Mr. Hood?

14 ZC CHAIR HOOD: Yes, Madam Chair.
15 I know that they responded some to the letter
16 from the Architect of the Capitol, but as we
17 go along I may have something that I want to
18 say about that towards the end, how we can
19 follow up and kind of -- depending upon how we
20 move, how we can kind of follow up with the
21 Architect of the Capitol and see exactly where
22 they stand, that they have submitted the

1 report.

2 VICE CHAIRPERSON SORG: I agree,
3 yes. I agree. Thank you for saying that. So
4 then if there's not any other presentation
5 that you want to give --

6 MS. PRINCE: Our presentation is
7 complete.

8 VICE CHAIRPERSON SORG: Okay.
9 Good. Then we will go ahead and move to the
10 Office of Planning, please.

11 MR. GOLDSTEIN: Hi. Good
12 afternoon, Madam Chair and Members of the
13 Board. For the record, my name is Paul
14 Goldstein with the Office of Planning.

15 OP is happy to just rest on the
16 record. We're supportive of the project. I
17 think our report provided some depth into each
18 of the needed areas of relief, and happy to
19 take any questions that the Board might have
20 on a more specific basis. And that's good for
21 now.

22 I did want to point out there was

1 a mistake in our report. I hate to admit
2 things like this, and I hope it didn't add to
3 any confusion, but I --

4 VICE CHAIRPERSON SORG: Do tell.

5 MR. GOLDSTEIN: -- mislabeled one
6 of the addresses and said 216 Mass. instead of
7 236. So with all the moving pieces, I just
8 want to clarify that on the record. It should
9 say 236 Massachusetts instead of 216.

10 Thank you very much and let me
11 know if you have any questions.

12 VICE CHAIRPERSON SORG: Okay.
13 Thank you. I don't have any questions for the
14 opinion. Does any other Board Members?

15 (No audible response.)

16 VICE CHAIRPERSON SORG: Does the
17 applicant have any questions for the Office of
18 Planning?

19 MS. PRINCE: (No audible
20 response.)

21 VICE CHAIRPERSON SORG: No? Okay.
22 So let's go ahead and hear from our friends at

1 DDOT.

2 MR. HENSON: Good afternoon. I'm
3 Jamie Henson with the District's Department of
4 Transportation. I'll give a brief summary of
5 what we said in our report and maybe add one
6 or two brief pieces of information, but I'll
7 reaffirm what the applicant just mentioned.

8 We worked with the applicant to
9 identify an appropriate scope of work to
10 evaluate the transportation impacts of the
11 site. This evaluation is much more consistent
12 with a Zoning Commission case, a PUD case,
13 than a BZA case. The applicant in that
14 respect went above and beyond evaluating the
15 potential impacts of this case and did a full
16 study, where we tend not to see quite so much
17 on BZA-type cases.

18 So I'll try to sum up what we
19 found and then what we're asking for. So the
20 project we believe will generate some new
21 additional vehicle trips. It'll also shift on
22 the order of 40-ish to the site most likely

1 focused on 3rd Street. Also has the potential
2 to generate some backfilling of spaces in the
3 neighborhood, so it has the potential to
4 generate a few more trips in addition to the
5 folks that are actually coming to Heritage.

6 Travel delay will increase
7 slightly at the intersection of 3rd and Mass.
8 and D Streets in the p.m. peak period when
9 folks are exiting onto that intersection,
10 queuing, so the delay length on the southbound
11 approach of 3rd Street at Mass. and D will
12 increase. It will increase by about five car
13 lengths, which is on the order of 100 or so
14 feet. The travel conditions are not expected
15 to fail. Delay will increase but conditions
16 will not reach what's referred to as level
17 service F.

18 The day time curbside parking
19 supply in the adjacent neighborhood may
20 realize some lower utilization rates. It's
21 also possible that those lower utilization
22 rates could be backfilled by intrazonal

1 commuting. So it's not all that likely that
2 the neighborhood is going to experience a
3 significant change in the level of parking in
4 their neighborhood during the day.

5 And we do want to acknowledge that
6 the public realm will be significantly
7 improved, particularly focusing on removing
8 the circular driveway at one of the worst
9 points in the city where three roadways
10 converge. That's a real benefit to folks
11 using the area, walkers as well as drivers in
12 the area.

13 Now DDOT understands that the
14 applicant is proposing funding a Bikeshare
15 station to mitigate potential impacts. How we
16 see Bikeshare mitigating impacts is it gives
17 area residents and guests, as well as folks at
18 Heritage, another way to get around town.
19 Bikeshare allows residents to make trips which
20 otherwise might have been made by a car by a
21 bike. So filling out our Bikeshare network in
22 this area allows folks to more fully utilize

1 Bikeshare facilities.

2 It decreases the likelihood of
3 what I'm referring to as intrazonal travel.
4 One of the things we see in the District is
5 folks have a -- in this case a zone 6 sticker.
6 They feel free to go and park in areas like
7 where Heritage is located near Union Station
8 and get on a train to go somewhere else. So
9 we think that things like Bikeshare give folks
10 another way to make these same types of trips
11 as opposed to needing to drive to make those
12 trips.

13 And I'll pause there and I'm glad
14 to accept questions from the Board and
15 Commissioner.

16 VICE CHAIRPERSON SORG: Are there
17 any questions for --

18 MEMBER ALLEN: I -- okay.

19 VICE CHAIRPERSON SORG: Go ahead,
20 please.

21 MEMBER ALLEN: Thank you.

22 Somewhere I read that you actually had some

1 conditions or a specific request, but I didn't
2 hear any, or am I missing them?

3 MR. HENSON: So our non-opposition
4 is generally predicated on a Bikeshare
5 station.

6 MEMBER ALLEN: Okay.

7 MR. HENSON: So what we're saying
8 is that there will be more trips. What we
9 think can happen with a Bikeshare station is
10 that it can remove some of the short trips
11 that folks were using or were making by car to
12 an aggregate. There's probably still going to
13 be more trips in general, but not quite as
14 many more trips. Is that clear?

15 MEMBER ALLEN: Thank you.

16 VICE CHAIRPERSON SORG: So
17 regarding the Bikeshare, I mean I think it's
18 a good thing. The more Bikeshares, the
19 better. They're all empty wherever I go, so
20 that's good news for the biking population of
21 the District. But it sounds like what you're
22 indicating is that perhaps it will be utilized

1 by some of the people coming to work at The
2 Heritage Foundation, but that you actually
3 anticipate that including -- and I think it
4 was a 40 bike -- did you --

5 MR. HENSON: (No audible
6 response.)

7 VICE CHAIRPERSON SORG: Okay.

8 MR. HENSON: Forty foot. And I
9 can't remember how many stalls that -- I'm
10 thinking 16, but give or take.

11 VICE CHAIRPERSON SORG: Okay. So
12 the 40-foot Bikeshare would actually have an
13 effect on commuters. But I think this is
14 certainly not the closest Bikeshare to Union
15 Station, or any other Metro station for that
16 matter.

17 MR. HENSON: No, you're right.
18 And sorry, I'll try to clear up. I don't
19 think that the Bikeshare will have an
20 influence on Heritage commuters. Their
21 interns may use it as they're going across
22 from place to place. I would highly doubt

1 that it's going to have an influence on
2 commuters. That's why I was trying to focus
3 on I think the benefit in the trip reduction
4 ability is actually within the neighborhood,
5 folks who live within a block or two of there
6 who would normally get in a car to go say four
7 or five blocks up to H Street because they
8 just don't want to walk, or it's -- you know,
9 fill in the blank.

10 VICE CHAIRPERSON SORG: Or it's
11 cold or it's, you know --

12 MR. HENSON: Or it's cold.

13 VICE CHAIRPERSON SORG: Okay.

14 MR. HENSON: And Bikeshare allows
15 that trip to be made a little more easily.
16 You don't have to get in your car. You don't
17 have to leave your space. That's what we're
18 trying to say.

19 VICE CHAIRPERSON SORG: Okay. I
20 think one of the things that was brought up in
21 the letter from the Architect of the Capitol
22 and something that is a little bit more of a

1 larger issue has to do with, you know,
2 Heritage is currently providing X number of
3 parking spaces, fewer than what they're
4 proposing to provide by a fairly significant
5 amount. I don't know exactly what the number
6 is, but that would be good to know. And
7 there's one argument that goes if you provide
8 more parking, more people would drive and that
9 it is not correct to assume that you will just
10 take the people that are parking in the
11 residential areas or whatever and move them
12 into the garage. I wonder if you can sort of
13 specifically comment on that argument.

14 MR. HENSON: Sure. So we
15 generally agree with that argument. The way
16 we've understood it, there's approximately 40
17 employees that are driving from Heritage that
18 are parking either on the street or in a lot
19 somewhere in the general vicinity. So I think
20 it is fair to say that those folks would
21 indeed focus there. There's a delta, if I
22 remember correctly, between the 34, 35 on

1 site, those 40 of -- now 15, what was 30. I
2 assume that those would be filled, so that
3 would be an additional 15 vehicles that would
4 come on a daily basis. So yes, there will be
5 a net increase from our perspective in the
6 number of trips.

7 And like we were saying earlier
8 also, there's also the potential that you
9 increase a second-tier trip. So remove the
10 folks from Heritage that are now parking on
11 this site. You have the backfill of the other
12 spaces potentially. So in particular, in the
13 neighborhood the intrazonal -- there's
14 potential for intrazonal commuting. You open
15 up -- I don't know how many spaces there are.
16 I don't know exactly how it breaks down.
17 We'll say 20 as a round number. You open up
18 20 spaces in the neighborhood, my guess is
19 you'll find potentially up to 15 or 20 new
20 cars that are not necessarily related to
21 Heritage that may want to fill those spots.

22 Now that's presumptive, but that

1 tends to be how the District works. I can't
 2 prove that. I can't say that with 100 percent
 3 confidence. Maybe it doesn't happen. And
 4 that's why we want Bikeshare to address those
 5 specific trips. I think that Bikeshare goes
 6 a long way to address those types of
 7 intrazonal commuting trips that can be opened
 8 up. And maybe there are Heritage folks that
 9 would be willing to use the service, too. I
 10 hope so. I assume there are some Heritage
 11 folks that live in the neighborhood and we
 12 would love to have their memberships. But
 13 that's the target in my perspective.

14 VICE CHAIRPERSON SORG: And can
 15 you comment specifically on the TDM plan that
 16 the applicant just pointed out --

17 MR. HENSON: Yes.

18 VICE CHAIRPERSON SORG: -- on page
 19 21?

20 MR. HENSON: Let me look back at
 21 what we've said and try to go from there as
 22 opposed to memory. So generally we think the

1 applicant -- it's appropriate they're charging
2 a fee for parking. This is good and
3 sometimes, you know, I think that we'll always
4 argue to charge a higher fee is potentially
5 better. I think they're already enrolled in
6 Smart benefits. I'll defer to their program
7 as they've defined it and continue to support
8 that. They're putting in appropriate amounts
9 of bike parking both below grade related to
10 commuter parking, as well as guest parking
11 outside the entrances. So in that respect I
12 feel it's a very positive program.

13 VICE CHAIRPERSON SORG: Okay.

14 MR. HENSON: And then obviously
15 coupled with the Bikeshare, so I mean that
16 would be the key element.

17 VICE CHAIRPERSON SORG: Okay. Do
18 other Board Members have questions?

19 ZC CHAIR HOOD: Mr. Henson, you
20 don't have to necessarily to answer this right
21 now. It's not really germane to this case,
22 but since we're talking about Bikeshare, one

1 of the questions I'm going to be asking in the
2 very near future from the Commissioner's
3 meeting is notification of how Bikeshares
4 arrive on the side of business owner's
5 property or buildings, even though I know it's
6 in public space. So what's the notification
7 rule? How do we know that we're going to put
8 a Bikeshare station on the side of a building?
9 So that's something to come. You don't have
10 to answer today, but since all this talk about
11 Bikeshare, I'll just bring it up now.

12 MR. HENSON: I'll be glad to give
13 you anecdotal feedback, if you like.

14 ZC CHAIR HOOD: No, I'll wait so
15 we can have a dialogue, but I just want to be
16 ready.

17 MR. HENSON: Okay. Thank you.

18 ZC CHAIR HOOD: Okay. Thank you.

19 VICE CHAIRPERSON SORG: Any
20 additional questions?

21 (No audible response.)

22 VICE CHAIRPERSON SORG: Does the

1 applicant have any questions for --

2 MS. PRINCE: Just one quick
3 question for Jamie.

4 Jamie, do you believe the Heritage
5 interns might benefit from the use of the
6 Capital Bikeshare?

7 MR. HENSON: Absolutely.
8 Absolutely. I would actually go even further
9 to say that they would benefit, that folks
10 that are intern types tend to be the market
11 that use our services like Bikeshare at higher
12 rates than other more general commuters.

13 VICE CHAIRPERSON SORG: I'm trying
14 to do a little math over here. So I want to
15 understand the total number of parking spaces.
16 So you're going to continue to have the
17 surface parking lots between 3rd and 4th
18 Street that have 55 spaces, plus now you've
19 reduced half a level -- and this is for you to
20 correct me if I'm wrong -- plus now you've
21 reduced half a level of parking. So you're
22 providing 90 spaces underground minus 6, is 84

1 spaces for the use of Heritage Foundation. So
2 in total you've got 139 spaces for the use of
3 Heritage Foundation.

4 (No audible response.)

5 VICE CHAIRPERSON SORG: Okay. And
6 given the study that you completed, -- if 31
7 percent of the sort of overall office
8 population are currently driving, that's about
9 93 folks, give or take?

10 MR. VANPELT: Yes, there's 37
11 overall drive. There's 31 percent that just
12 drive alone.

13 VICE CHAIRPERSON SORG: I see.
14 Okay.

15 MR. VANPELT: So, yes.

16 VICE CHAIRPERSON SORG: That's
17 good clarification.

18 MR. KORSVALL: When we purchased
19 the 236 Mass., it didn't come with any
20 parking. And so part of this is just also
21 planning for the future. We know that our
22 team will continue to grow and although our

1 percentages are very good and we'll continue
2 to maintain that and continue to offer the
3 benefits, we do have on-site showers and other
4 amenities for our staff, this does, you know,
5 look ahead and solves this problem in advance.
6 We don't expect it to fill up on day one, but
7 it allows us to slowly grow into the site as
8 we grow our team there.

9 The surface lots also in Square
10 780 will be able to provide some relief for
11 the retail spaces as well at the corner
12 property. We'll have the restaurants that are
13 located there and expanded retail. And that
14 will just give an opportunity for their
15 employees if they need to park to have off-
16 street parking so they're not parking in the
17 neighborhood.

18 VICE CHAIRPERSON SORG: So the
19 retail tenants -- well, I guess because
20 they're in historic buildings you don't
21 require to provide parking, but they will be
22 eligible to pay their \$90 and park in --

1 purchase some -- or sorry, lease some spaces,
2 or --

3 MR. KORSVALL: No, they would be
4 able to lease space in the surface parking
5 lot --

6 VICE CHAIRPERSON SORG: Okay.

7 MR. KORSVALL: -- so that they're
8 not in the neighborhood, you know, moving
9 their car every couple hours, correct.

10 VICE CHAIRPERSON SORG: Are you
11 limiting the number of spaces that you're
12 going to make available for potential retail
13 tenants?

14 MR. KORSVALL: Not necessarily.

15 VICE CHAIRPERSON SORG: Okay.

16 MR. KORSVALL: And the rate that
17 -- the 90 is the current. We try to tag a
18 rate within operating costs and the market
19 rate, and obviously the cost of building this
20 structure will go up significantly, so the
21 parking cost to the staff will grow as well.
22 So we're not holding it flat, but it will

1 increase, you know, up towards market rate.

2 VICE CHAIRPERSON SORG: Okay. One
3 other comment that arose I believe in the
4 letter from the Architect of the Capitol is
5 whether or not the purchasers of the town
6 homes would be eligible for residential
7 parking permits.

8 MS. PRINCE: Each of the town
9 houses will get one spot. Presumably some
10 folks will have a second car, so we certainly
11 wouldn't want to limit responsibility for RPP.

12 Back to the alley lot, one thing I
13 think that's relevant for the parking on the
14 three alley lots is that those lots operate
15 pursuant to special exception approval from
16 this Board. And I've been back on these alley
17 lots probably five times in my career, and
18 we're coming back again in 2014.

19 VICE CHAIRPERSON SORG: Oh, okay.

20 MS. PRINCE: So this case has sort
21 of a nice benefit in that were the Board to go
22 forward with this project, they'll also get

1 another opportunity to look at traffic in the
2 neighborhood just a year from now when those
3 parking lots are renewed. And we'd be willing
4 to provide whatever updated traffic
5 information might be relevant or helpful for
6 the Board at that time. And in fact that
7 would normally be part of our renewal process.

8 VICE CHAIRPERSON SORG: Okay.

9 Thank you for noting that.

10 If there's not any other further
11 questions, then let us move onto -- we've not
12 received any other reports from agencies, so
13 we can go ahead and move onto ANC-6C. Is
14 there a representative for ANC-6C here?

15 Hi. Do you want to come down and
16 say hello? We did receive a letter from you
17 all, and so -- hi. If you can state your
18 name, please?

19 MS. WIRT: My name is Karen Wirt.
20 I'm the chair of ANC-6C. And we sent a letter
21 on March 18th, which I believe is in your
22 possession, requesting that the record be kept

1 open until April 15. Our monthly meeting is
2 tomorrow. The time we met in March we did not
3 have the benefit of the DDOT traffic study.
4 There are a number of commissioners of our
5 six, or two or three that had questions about
6 the traffic and the effect on that
7 intersection at 3rd and Mass. So we wanted
8 them to have the benefit of the DDOT study and
9 that's why we're asking the record to be kept
10 open. We did receive the study on the
11 afternoon of April 3rd, so we've had it for a
12 few days. We have not had a chance to discuss
13 it, which we'll do tomorrow.

14 VICE CHAIRPERSON SORG: Okay.

15 Yes, we did receive your letter and we are
16 more than happy to keep the record open and
17 wait for that to come in. It's not a problem.

18 MS. WIRT: And we did previously
19 approve the town houses, the six town houses.
20 It was a unanimous vote of 6-0-0. And we
21 haven't vote yet on the entire project, but
22 wearing my 6C-02 hat, which I am the

1 commission that represents this area, I must
2 say that Heritage has been a good neighbor.
3 I've lived in the neighborhood for 37 years.
4 They've done excellent outreach to the
5 community. I have every confidence that
6 they'll work with us through construction and
7 beyond to make this work.

8 VICE CHAIRPERSON SORG: Great.
9 Thank you very much for coming down.

10 Does anybody have any questions?
11 We're still waiting to hear of course from the
12 ANC in their official letter, but -- so thank
13 you.

14 MS. WIRT: Okay. Thanks.

15 VICE CHAIRPERSON SORG: Appreciate
16 it.

17 So now we will see if there are
18 any individuals in the audience who wish to
19 testify in support of the application. We do.
20 One, two. Come on down. You can go ahead and
21 give your witness cards to the court reporter,
22 the guy in purple. Yes, you can do that as

1 well. Okay.

2 MS. McNAUGHTON: Hi, I'm Charlotte
3 McNaughton. I live at 407 3rd Street, N.E.,
4 so pretty much directly across from where the
5 parking garage is going to be and all of that
6 development. I have lived in that location
7 for 33 years. I moved in in 1980, so I have
8 been there before The Heritage Foundation. I
9 have to say because of my politics I was not
10 thrilled to have them as a neighbor initially,
11 but I have been very pleased and surprised at
12 how well they have done in terms of their
13 development in the neighborhood. And I can
14 specifically say that about the lots that they
15 have talked about the, surface lots which are
16 right behind my house. Two of them are
17 directly behind my house and the third one is
18 catty-corner.

19 That area was a disaster area when
20 I moved in. There were dilapidated brick
21 buildings. There were rats. There were
22 weeds. There were drug dealers. There was

1 all kinds of trouble back there. There were
2 fires in those buildings at least twice. They
3 knocked them down, or when they bought them
4 they knocked them down. They put up nice
5 parking spaces with green space. They've kept
6 them paved. They've kept them -- you know,
7 snow removal, trash removal. You know, they
8 keep them very nice. They even have a
9 security guard back there, so that's pretty
10 much curtailed the crime during the day.

11 And generally speaking they have
12 been very, very helpful to the neighborhood in
13 that regard. When they plow the parking lots
14 for their people, they also plow the alleys,
15 which I have to say is more service than we
16 get from the city. And they have generally
17 tried to work with people and allow people to
18 park back there as been noted and so forth.

19 If you've lived in the area and
20 seen the way that they have actually developed
21 the properties that they've owned, they have
22 been meticulous about upgrading and improving

1 and making things better, obviously for
2 themselves, but it has the effect of making it
3 better for everybody in the neighborhood.

4 I had not heard until today about
5 this Bikeshare thing. I am thrilled with
6 that. I personally will be using it as part
7 of my commute and I appreciate their
8 willingness to add things like that to their
9 proposal.

10 I am in strong support of the
11 whole project really. It is the one way that
12 the most can be done to improve that
13 neighborhood with the least amount of
14 disruption to it. I'm not minimizing the
15 amount of disruption that it's going to be for
16 a couple of years while they're constructing
17 it, but what we're faced with is if they don't
18 do this, then a lot of little projects will
19 have to start springing up in that area, none
20 of which will be coordinated, none of which
21 will be necessarily backed by the kinds of
22 resources so that they can do the outreach and

1 really work with the neighbors in the way that
2 Heritage has done. So again I'm in strong
3 support and I hope that you also will support
4 the project. Thank you.

5 VICE CHAIRPERSON SORG: Thank you,
6 Ms. McNaughton.

7 Sir, please go ahead. You have
8 three minutes.

9 MR. GLASOW: Sure. My name is
10 Andrew Glasow. I live at 415 3rd Street, N.E.
11 I'm Charlotte's neighbor to the north, about
12 five houses away. We both front two of those
13 alleys that you're talking about that serve
14 the center parking area. Certainly you can
15 see from this entire thing that this has been
16 an impressive project from the get go. I
17 don't want to belabor the points, but I mirror
18 Charlotte's accolades to the neighbor-ism of
19 The Heritage Foundation in spades. They're
20 just an amazing neighbor.

21 There are dozens of instances
22 which have been outlined and dozens more that

1 you don't know about where The Heritage
2 Foundation has gone out, met with neighbors
3 and changed this to make it better fit this
4 unique Capitol Hill neighborhood and I'm proud
5 to say that they've done that.

6 Anecdotaly most of the traffic
7 that goes into that middle lot comes either
8 from 3rd Street or 4th Street. So there's two
9 alley entrances on 3rd, one on 4th. The E
10 Street one doesn't get too much use. It's
11 very skinny.

12 Earlier Heritage said stars align.
13 Sometimes stars align. And if you looked
14 across at the west side of 3rd Street and see
15 what it looks like today, that's a result of
16 the I would say malfeasance of the District of
17 Columbia over years past when none of you were
18 in charge of doing what you're doing today.
19 Today you guys have the ability to help right
20 that wrong and I'm strongly urging you to
21 consider that that is really your
22 responsibility, to help right this wrong

1 that's from years past.

2 There were town houses in that
3 long row. We can show you pictures that date
4 back to the 1880s. This is going to be the
5 only one chance that this small portion of a
6 greater vibrant neighborhood in Capitol Hill
7 will have to become once again a residential
8 neighborhood. With all due respect to your
9 discussions about 15 cars there, 10 cars
10 there, Bikeshares, of which I support even
11 though I can't ride a bike right now, I do
12 think that your overwhelming, overwhelming
13 thing has to be to look at the bigger picture
14 and to look at the redevelopment of this part
15 of a neighborhood that has one chance.

16 So with that I would say that I
17 strongly support it. I believe that our one
18 neighbor who does have reservations is a
19 reasonable person. I believe that the
20 Heritage folks are reasonable. I believe that
21 the neighbors who support it -- I've talked to
22 over 35 people in our neighborhood on 3rd

1 Street, E Street, 4th Street. All supportive.
2 I think we're all reasonable. We need you all
3 to give us the chance to make this a reality.
4 Thank you very much.

5 VICE CHAIRPERSON SORG: Thank you
6 very much, Mr. Glasow. Appreciate you both
7 coming down very much and sharing your
8 thoughts with us on this project.

9 With that said, if there are any
10 individuals in the audience wishing to testify
11 in opposition to this application, how is the
12 time to do so.

13 Sir, I think. If you can take a
14 seat. Make sure the mic is on glowing bright
15 green and introduce yourself for the record,
16 please. And then you'll have three minutes to
17 share your thoughts.

18 MR. GIBBONS: Thank you, Madam
19 Vice Chair. My name is Stephen Gibbons. I
20 live at 221« E Street, N.E. with my wife. Our
21 property essentially backs up to the proposed
22 project including the --

1 VICE CHAIRPERSON SORG: Can I just
2 interrupt you? So you had also submitted a
3 letter that we had in our filings, correct?

4 MR. GIBBONS: Yes, ma'am, I
5 believe I'm the --

6 VICE CHAIRPERSON SORG: Okay.

7 MR. GIBBONS: -- lone neighbor
8 that folks have been speaking of that
9 submitted a statement in opposition.

10 VICE CHAIRPERSON SORG: Great.
11 Thank you. Please continue.

12 MR. GIBBONS: I think that one of
13 our initial concerns is oftentimes in these
14 projects the back lots are forgotten, the area
15 that bumps up in the alley is forgotten, and
16 the focus is on the row houses in front and
17 the disruption and the increased noise in the
18 alley is sort of not given the attention it
19 deserves. And that in this case certainly is
20 one of the things that impacts us.

21 It sounds given the statement by
22 The Heritage Foundation, the presentation they

1 made, it sounds as though a lot has changed
2 since the last time that we spoke with The
3 Heritage Foundation. We certainly disagree
4 with the characterization of the survey that
5 we did. Although, having said that, I can
6 tell this Committee that we've been treated
7 with nothing but respect by The Heritage
8 Foundation, as well as all the folks working
9 for them in this project.

10 They've gone on record in their
11 opening here saying that they have moved the
12 exhaust vent to the southwest. That is the
13 sole exhaust vent for this parking garage.
14 That was reflected in the plans. They've
15 submitted an air quality study I understand
16 that shows that there will no harmful
17 emissions coming from this exhaust vent, this
18 vent that vents the parking garage.

19 They say that they'll work with us
20 in good faith as neighbors to minimize
21 construction noise of the duration of this
22 project and that they'll work to provide a

1 long-term noise abatement in the alley, which
2 is an issue oftentimes in the summer. And I
3 think the Heritage would agree in certain
4 instances it sounds like a very small aircraft
5 taking off in the alley constantly just
6 because the air-conditioning compressors are
7 running. So if we could have an improvement
8 on that, that would be fabulous and also work
9 with us to do structural monitoring of our
10 home which was built in 1890. And although
11 I'm not a structural engineer, I don't know
12 how it will react to a now three-level parking
13 garage having been built behind it.

14 As far as our concerns about the
15 traffic, the DDOT study that was released in
16 the interim between March 26th when we filed
17 our statement in opposition and today, it
18 appears that DDOT has signed off on the
19 project. They're going to add a Bikeshare.
20 And having heard the testimony of my 3rd
21 Street neighbors, Ms. McNaughton and Ms.
22 Glasow, it sounds like they will be the ones

1 that are most in -- sorry, Ms. Glasow and Mr.
 2 -- Mr. Glasow and Ms. McNaughton, it sounds as
 3 though they're on the 3rd Street side. They
 4 will be impacted mostly by the traffic. If
 5 they can live with it, well then so can we.

6 So I think that we'd essentially
 7 like to shift our opposition to more of a no
 8 opinion before this Board today. And thank
 9 you all for your time and for the
 10 consideration that you've given this project.

11 VICE CHAIRPERSON SORG: Okay.
 12 Thank you very much, Mr. Gibbons. If you have
 13 a second, if there's any Board Members -- I
 14 didn't ask if Board Members had questions for
 15 Mr. Glasow or Ms. McNaughton. I apologize.
 16 But they're still here and I'm sure they'd be
 17 happy to answer them. I don't have any. Do
 18 Board Members have any questions for Mr.
 19 Gibbons?

20 (No audible response.)

21 VICE CHAIRPERSON SORG: I'll just
 22 ask you. So you anticipate that you'll be --

1 you hearing about these changes with regard to
2 the exhaust fan and the, you know, upgrade to
3 the HVAC that will happen through the
4 renovation, which it sounds like is some of
5 your noise problem now. So you anticipate
6 meeting with The Heritage Foundation regarding
7 those things. And you have not yet< is that
8 correct?

9 MR. GIBBONS: We've actually had
10 two meetings with The Heritage Foundation and
11 for a good while we worked pretty well
12 together and staying in touch. And for
13 whatever reason; I don't know if it's been my
14 hectic travel schedule or whatever, we seemed
15 to have a breakdown in communication. So some
16 of these changes are new to us and we're very
17 pleased to hear about them. My sense is that
18 when the construction starts we'll probably
19 meet with them if we have issues and vice-
20 versa. When the construction is done, if we
21 think that for whatever reason the noise in
22 the alley is louder than it was before the

1 project started, my sense is that we'll have
2 further meetings with them. We don't have any
3 indication at this point that Heritage is
4 going to be unwilling to agree with us in the
5 future.

6 VICE CHAIRPERSON SORG: Okay.
7 Well, thank you very much.

8 MR. GIBBONS: Thank you.

9 VICE CHAIRPERSON SORG: If there's
10 no other individuals who wish to testify --

11 MS. BOYD: (Off microphone.)

12 VICE CHAIRPERSON SORG: So if
13 you'd like to come and testify, you can frame
14 that in the form of a question. That's okay.
15 But you should do so on the microphone.

16 Hi, if you could state your home
17 address, making sure that the microphone is
18 on. Take a seat, if you would like and if you
19 make sure that -- no, that's the light. If
20 someone -- thank you.

21 MS. BOYD: That? Okay. Thank
22 you. Hi.

1 VICE CHAIRPERSON SORG: Did you
2 get sworn in?

3 MS. BOYD: Not at all. Should I
4 be sworn in?

5 VICE CHAIRPERSON SORG: I don't
6 know.

7 MR. MOY: Probably should.

8 (Whereupon, the witnesses were
9 sworn.)

10 MR. MOY: Thank you.

11 MS. BOYD: Okay.

12 VICE CHAIRPERSON SORG: All right.
13 Go ahead, please. Share with us your name and
14 your home address.

15 MS. BOYD: Okay. My name is
16 Sherie Boyd and I reside at -- well I work at
17 236 Massachusetts Avenue, Washington, D.C. My
18 home address is 8863 Heathermore, Upper
19 Marlboro, Maryland.

20 My question more so than of
21 testimony is what is the time frame for the
22 project for The Heritage Foundation as far as

1 the residents that are currently there at 236
2 Massachusetts Avenue, the tenants? What time
3 frame do we have? We have a year, two years,
4 or what? And I thought I heard them give a
5 time frame, but just so we can know where we
6 stand.

7 VICE CHAIRPERSON SORG: I'll go
8 ahead and let the applicant answer.

9 MR. KORSVALL: I'm happy to
10 clarify. So it's an excellent question. We
11 have told the community that we would like to
12 phase this project and that we'd like to start
13 first with the 3rd Street component and deal
14 with the parking facility, and come onto the
15 grounds and do the row houses, and then turn
16 our attention to the corner property. So
17 we've told them that we're two years out, two-
18 three years out. So not specifically, but
19 we're not ready to start this project on the
20 corner immediately. And we have many tenants
21 that are leased there for the next 18 months
22 or 2 years, so we continue to maintain that

1 property as an income-producing property until
2 we're ready to break ground. But given the
3 nature of this whole entire project, we wanted
4 to be able to show the Board all the different
5 components that we're working together to make
6 this happen.

7 VICE CHAIRPERSON SORG: Of course.
8 And that is strictly a zoning-related
9 question, but you know, interfaced with the --

10 MS. BOYD: Thank you so much, and
11 thank you, Madam Chair and the Board. Thank
12 you.

13 VICE CHAIRPERSON SORG: Thank you.

14 MS. BOYD: Yes, sure.

15 VICE CHAIRPERSON SORG: Okay. So
16 if those are all the folks in the audience who
17 want to testify for this case, individuals for
18 and against, I'll also note that we have at
19 least 28 letters in support; I'm not sure if
20 I've counted them exactly right, and note that
21 the letter of opposition that we had received
22 has been addressed by Mr. Gibbons as now no

1 opinion.

2 So with that, if the applicant
3 would like to make any closing statements or
4 other statements in closing.

5 MR. KORSVALL: On the letter of
6 support, in addition to the specific letters
7 many neighbors would like to sign the
8 petition, so there's the additional names that
9 just signed the petition. So it's 40 total.

10 VICE CHAIRPERSON SORG: Okay.
11 Forty then. Thank you for filling that number
12 in. Are there any sort of questions that have
13 come up for the Board perhaps before you begin
14 any closing?

15 (No audible response.)

16 VICE CHAIRPERSON SORG: No,
17 nobody? Okay.

18 MS. PRINCE: Thank you. I just
19 have a few brief remarks in closing and I
20 thank you for your patience in working through
21 lunch.

22 I think the testimony of record

1 today demonstrates that Heritage has really
2 planned this project with a huge amount of
3 neighborhood input and thoughtfulness.
4 They're not trying to solve only their own
5 problems, but also the problems of the
6 immediate square and the immediate
7 neighborhood, and I think the project
8 successfully accomplishes that. And I think
9 that's why there has been a lot of positive
10 neighborhood support because of this extensive
11 exhaustive outreach that began many, many
12 months ago. And the 3rd Street neighbors
13 probably more than any will be most affected
14 by this project, so I was particularly
15 gratified to hear from the two 3rd Street
16 neighbors who have been quite involved all
17 along. And the petition also shows that many
18 of the other 3rd Street neighbors support the
19 project.

20 I just have a few final matters to
21 bring up in closing. As Eric alluded to, this
22 is a large project and the density swap along

1 Massachusetts Avenue really is a separate
2 phase from the town house/accessory parking
3 phase. So when we prepare a draft order we'll
4 be clear that these are two separate phases so
5 that one can proceed in advance of the other.
6 And in that way the 236 tenants will be able
7 to stay in place, you know, consistent with
8 their lease arrangements and whatever
9 arrangement is made with Heritage.

10 Second, with respect to the letter
11 from the Architect of the Capitol, we believe
12 that the traffic report fully addresses all of
13 the issues that were raised in that letter.
14 The Architect of the Capitol's office
15 unfortunately didn't have the benefit of the
16 traffic report from Gorove/Slade even though
17 it was in the record and it was sent to them
18 with the prehearing statement, but I do
19 believe that part of the approach to the case
20 in terms of the exhaustive level of traffic
21 engineering that was done was done to get at
22 the very issues that were raised in that

1 letter. So I hope that you can recognize
2 that.

3 Finally, on the removal of the
4 parking level, we are comfortable not going
5 forward with that final half level of parking.
6 As we stated at the outset, that's 15 spaces,
7 so we would flexibility in the order to not
8 include that half of a level. I think that
9 may be a good way to close the gap with
10 respect to any final parties who may be
11 concerned about parking, and again just
12 evidences Heritage's willingness to do
13 whatever it's going to take to get everybody
14 comfortable with this project.

15 I think the Bikeshare is a very
16 positive gesture in this community. There
17 really isn't a Bikeshare that close to this
18 exact location and I think it will greatly
19 serve the intern neighborhood moving around,
20 and there's a lot of that in this neighborhood
21 right now, particularly among the younger
22 population.

1 So in closing I would just like to
2 thank you for your time and your consideration
3 for a project that involves a lot of technical
4 variances and a special exception, but at the
5 end of the day is really just a good project
6 for the neighborhood and for Heritage's long-
7 term institutional needs. And I thank you for
8 your time.

9 VICE CHAIRPERSON SORG: Thank you
10 very much. So I don't think that we're going
11 to be deliberating today especially since
12 we've left the record open for the ANC to
13 weigh in and so forth. So I think that there
14 are a couple of additional items that we could
15 request in advance of setting this case for a
16 decision. I'll name what I believe has come
17 up throughout the hearing and then if other
18 Board Members have other items that would help
19 them in their thought process, then please
20 just say so.

21 No. 1, obviously we will be
22 expecting the ANC letter, and we'll leave the

1 record open for that.

2 In addition, regarding the changes
3 to the plans, the removal of the half level
4 and the moving of the air vent and the other
5 small changes that were indicated, an updated
6 set of plans reflecting those changes I think
7 would be good, as well as findings of fact and
8 conclusions of law, a proposed order and
9 proposed conditions that sort of driven from
10 what we've heard from DDOT as well as the TDM
11 plan that's contained in the traffic report,
12 and if we can get comment on those conditions
13 from DDOT and OP. Yes. I mean they'll be
14 mostly parking and traffic. But, yes, if we
15 can get a time for responses or weighing in on
16 those, any proposed conditions from those two
17 agencies, that would be good also.

18 Are there any other items that
19 would be useful?

20 (No audible response.)

21 VICE CHAIRPERSON SORG: No?

22 ZC CHAIR HOOD: Things that we'd

1 want?

2 VICE CHAIRPERSON SORG: Things
3 that we'd want, yes.

4 ZC CHAIR HOOD: Okay. I still
5 would like to get a response; I'm not sure how
6 you're going to work it out with the Architect
7 of the Capitol, then see the report, if they
8 had a report or whatever. Because the way I
9 read this letter, I don't think they had the
10 advantage of having the report, as least the
11 way the letter reads. So I'd like to go back
12 and make sure that they have that report. And
13 also, DDOT. You mentioned DDOT already,
14 right?

15 VICE CHAIRPERSON SORG: Yes.

16 ZC CHAIR HOOD: Okay.

17 VICE CHAIRPERSON SORG: To weigh
18 in on proposed conditions and so forth.

19 ZC CHAIR HOOD: Okay. All right.

20 VICE CHAIRPERSON SORG: You
21 mentioned that you have a Capitol Hill
22 Restoration Society letter and the HPRB staff

1 report. I think that would also not hurt to
2 include.

3 And given that, let us find a date
4 for a decision. Oh, yes, please?

5 MS. PRINCE: May I ask just one
6 question?

7 VICE CHAIRPERSON SORG: Sure.

8 MS. PRINCE: It's unusual to have
9 an ANC report filed after a hearing, so I
10 wondered if we would have an opportunity to
11 comment on the ANC report. We could just file
12 our comments with the findings of fact and
13 conclusions of law.

14 VICE CHAIRPERSON SORG: Yes, I
15 think that's fine.

16 MS. PRINCE: Okay. Thank you.

17 VICE CHAIRPERSON SORG: Mr.
18 Secretary?

19 MR. MOY: I'm sorry, I was just
20 thinking about that.

21 VICE CHAIRPERSON SORG: He's
22 having cherry blossom -- I don't know who said

1 cherry blossom problems, but --

2 MR. MOY: That's right.

3 VICE CHAIRPERSON SORG: -- he's
4 got allergies, too.

5 MR. MOY: But I don't like to make
6 excuses. Anyways, if all parties are
7 agreeable to the timeline, I'm looking a
8 decision on April the 30th, Tuesday, April the
9 30th. So if we're thinking of responses,
10 maybe responses by the -- we'll give a week
11 prior to that, which would be April the 23rd,
12 Tuesday. Today's the 9th, so if the applicant
13 can submit their supplemental information
14 by --

15 VICE CHAIRPERSON SORG: Can you do
16 it in a week?

17 MS. PRINCE: That's no problem.

18 VICE CHAIRPERSON SORG: Okay. So
19 if we say --

20 MR. MOY: Okay. That's 16th then.

21 VICE CHAIRPERSON SORG: -- the
22 applicant's information by the 16th, and then

1 any responses from agencies hopefully --
2 you're saying you'd like them by the 23rd? Is
3 that what you're saying?

4 MR. MOY: Twenty-third, yes.

5 VICE CHAIRPERSON SORG: Okay.

6 MR. MOY: Twenty-third. Let me
7 think. Let me think. Okay. And as I
8 understand it then, when the applicant files
9 on the 16th it will include any responses to
10 the ANC comments --

11 VICE CHAIRPERSON SORG: Correct.

12 MR. MOY: -- if any at all. So
13 the 16th, that would also include from all
14 parties findings of fact and conclusions of
15 law?

16 VICE CHAIRPERSON SORG: Yes.

17 MR. MOY: Okay.

18 VICE CHAIRPERSON SORG: As well as
19 the other items that we mentioned for the
20 applicant to submit.

21 MR. MOY: Okay.

22 VICE CHAIRPERSON SORG: And then

1 responses from DDOT and OP --

2 MR. MOY: DDOT, OP --

3 VICE CHAIRPERSON SORG: -- on the
4 proposed conditions.

5 MR. MOY: DDOT, OP --

6 VICE CHAIRPERSON SORG: Are we
7 following?

8 MR. MOY: Would the record be also
9 open for any of these --

10 VICE CHAIRPERSON SORG: Those are
11 the items that the record is open for.

12 MR. MOY: Okay. None from
13 Architect of the Capitol or --

14 VICE CHAIRPERSON SORG: Yes, that
15 was one of the items that Mr. Hood mentioned.
16 So if the applicant --

17 MR. MOY: The 16th is a holiday?
18 Well, then -- oh, that's right.

19 VICE CHAIRPERSON SORG: No, the
20 16th is not a holiday. The 15th is a holiday.
21 Oh, okay. Sorry.

22 MR. MOY: Well, for some of it's a

1 holiday.

2 VICE CHAIRPERSON SORG: Right.

3 Well, it's clearly not a holiday for me.

4 Someone should talk to my employer.

5 MR. MOY: Well, that's right. So

6 in that case then, we're looking at either

7 Monday the 15th or Wednesday the 17th.

8 VICE CHAIRPERSON SORG: Let's do

9 the 17th because I think the ANC meeting is --

10 they said that they will be -- it's tomorrow

11 and so that will give like an extra day.

12 MS. PRINCE: That's great.

13 VICE CHAIRPERSON SORG: So let's

14 say applicant is filing on the 17th.

15 MR. MOY: That's good. Good.

16 VICE CHAIRPERSON SORG: And the

17 items that we've listed are the items that the

18 record is open for. Yes, we got it?

19 MR. MOY: Good. I'm good.

20 VICE CHAIRPERSON SORG: All right.

21 Well, that concludes this hearing.

22 MS. NELSON: Thank you.

1 VICE CHAIRPERSON SORG: Thank you.
2 All right. We're going to take a 15-minute
3 break. Hey, we haven't had lunch yet. What
4 are you going to do? Come on. And we're not
5 going to have lunch. And so we'll take 15
6 minutes and then we'll go ahead and hear the
7 last case. Okay? Thank you.

8 (Whereupon, the above-entitled
9 matter went off the record at 1:09 p.m., and
10 resumed at 1:36 p.m.)

11 VICE CHAIRPERSON SORG: Okay. Mr.
12 Moy, whenever you're ready you can go ahead
13 and call this last case while we're settling
14 in.

15 MR. MOY: Yes, with pleasure.
16 Let's see. Oh, here we go. Okay. The next
17 and I believe the last application before the
18 Board for public hearing is application No.
19 18533. This is the application of Perseus
20 1827 Adams Mill Investments, LLC, pursuant to
21 11 DCMR ^U^U 3104.1 and 3103.2. This is for a
22 variance from the number of required parking

1 spaces under subsection 2101.1, variance from
2 the parking space location requirements under
3 subsection 2116.4(a), and a special exception
4 from the roof structure requirements under
5 subsection 411.11, to allow the construction
6 of a mixed-use retail, service and residential
7 building in the C-2-A District. This is at
8 premises 1827 Adams Mill Road, N.W., Square
9 2580, Lot 853, as advertised.

10 Other than that, Madam Chair, we
11 do have a filing that came in late this
12 morning, and I'll pass that out shortly to the
13 Board.

14 VICE CHAIRPERSON SORG: Okay. Is
15 that something that we are accepting?

16 MR. MOY: It's a comment letter
17 from the Kalorama organization.

18 VICE CHAIRPERSON SORG: Kalorama
19 Citizens Organization? Okay. I think that
20 the applicant discussed that in their
21 prehearing statement, so we can go ahead and
22 accept it.

1 Meanwhile, do you want to all
2 introduce yourselves for the record?

3 MR. COLLINS: Surely. My name is
4 Christopher Collins with the law firm of
5 Holland & Knight.

6 MS. MILANOVICH: Good afternoon.
7 I'm Jami Milanovich with Wells & Associates,
8 the traffic engineer for the project.

9 MR. GOINS: Good afternoon. I'm
10 Jeff Goins with PGN Architects.

11 VICE CHAIRPERSON SORG: Thank you.

12 MR. COLLINS: And also behind me
13 is Kevin Keuleman from Persius Realty.

14 VICE CHAIRPERSON SORG: Okay. I
15 think there are potentially a couple of
16 preliminary matters clarifying the relief
17 that's needed. From my side it looks like
18 you're no longer potentially requesting relief
19 from 2116.4. Is that correct?

20 MR. COLLINS: That's correct.

21 VICE CHAIRPERSON SORG: Okay. And
22 then what's the verdict on the rear yard

1 relief?

2 MR. COLLINS: The rear yard relief
3 we are prepared to go through that a part of
4 our presentation. I could do it now, if you'd
5 like.

6 VICE CHAIRPERSON SORG: No, from
7 your filings it sounded like you were kind of
8 still talking about it with --

9 MR. COLLINS: With the Zoning
10 Administrator?

11 VICE CHAIRPERSON SORG: -- the ZA.

12 MR. COLLINS: Yes, there's --

13 VICE CHAIRPERSON SORG: And is it
14 still up in the air? Do you want to include
15 it?

16 MR. COLLINS: No, the Zoning
17 Administrator has punted to you.

18 VICE CHAIRPERSON SORG: Oh,
19 awesome. Okay. All right. Well, okay. I
20 guess that means that --

21 MR. COLLINS: And I'll get into
22 that in more detail when --

1 VICE CHAIRPERSON SORG: Okay. So
2 that's fine. Just that will be one of the
3 things that we want to hear about it.

4 MR. COLLINS: But if you believe
5 that we do need a variance at that point,
6 we'll be happy to go through that test.

7 VICE CHAIRPERSON SORG: Okay.
8 That is fine. Again I think like the last
9 application, parts of the record are quite
10 full, I think. And so I think for me, sort of
11 focusing on a couple of key issues and
12 questions would be the most useful. And so
13 you can proceed with a full presentation if
14 you like, or we can identify first some areas
15 that would be good from the Board's
16 perspective to focus on.

17 MR. COLLINS: I think that we
18 should do the latter. But before that can I
19 just indulge you to review whether you would
20 accept the two witnesses as expert witnesses?

21 VICE CHAIRPERSON SORG: Oh, yes.

22 MR. COLLINS: We've included their

1 r,sum,s with their outlines of testimony.
2 They both have appeared previously before the
3 Board as expert witnesses.

4 VICE CHAIRPERSON SORG: Yes, they
5 are both in our book and so therefore are
6 accepted as experts.

7 MR. COLLINS: Thank you.

8 VICE CHAIRPERSON SORG: Thank you
9 for reminding me about that.

10 MR. COLLINS: Thank you.

11 VICE CHAIRPERSON SORG: Okay. So
12 moving forward I'll just indicate a couple of
13 areas that I'm interested. Then you can sort
14 of craft whatever it is that you want to
15 present around that.

16 MR. COLLINS: All right.

17 VICE CHAIRPERSON SORG: I
18 mentioned already that I think we need to sort
19 of get oriented with regard to the potential
20 rear yard relief so that we can I guess make
21 a determination on that later. So a
22 discussion on that I think is needed.

1 We'd received neither an ANC, or a
2 DDOT report. Yes, that is correct. Okay.
3 Unless I'm wrong, but I don't think I am.

4 MR. COLLINS: Madam Chair, I
5 noticed that this morning when we checked the
6 record that the ANC report was not in. I do
7 have 10 copies I'd be happy to submit.

8 VICE CHAIRPERSON SORG: Okay. So
9 let's do that. That's good news. And then
10 you're here, so you wouldn't be here if you
11 hadn't given a report, I feel like.

12 MR. HENSON: Correct. I have it
13 in front of me. I'm sorry, I thought that it
14 was submitted. I'll apologize.

15 VICE CHAIRPERSON SORG: Hopefully
16 I'm incorrect, guys. I don't think that we
17 had it in the file. Can you give it maybe to
18 Steve or somebody?

19 Okay. Well, that's good. That
20 fills two holes that I was noticing, so that's
21 nice.

22 And then I think, yes, we received

1 a couple of letters of opposition. And
2 because we hadn't received what we hadn't
3 seen, the DDOT report speaking about the
4 parking reduction and how that would be
5 supported by the neighborhood I think would be
6 good, with the understanding that we
7 understand that the required parking I think
8 is being provided for the residential, but how
9 does that interact in terms of retail and so
10 forth for those parking spaces?

11 MR. COLLINS: Yes.

12 ZC CHAIR HOOD: Also, just to
13 orient us with regard to the roof structure
14 setback I think would be good.

15 Anybody else? And then meanwhile
16 we'll quickly sort of skim and look over the
17 ANC and things like that and we'll see if we
18 have questions after that.

19 MR. COLLINS: All right.

20 VICE CHAIRPERSON SORG: Are there
21 any other issues that anybody else would like
22 to hear about aside from those?

1 (No audible response.)

2 VICE CHAIRPERSON SORG: No? Okay.

3 So the floor is yours.

4 MR. COLLINS: All right. Why
5 don't we go directly to Jeff who will go
6 through the parking relief and the roof
7 structure relief?

8 MR. GOINS: Yes. once again good
9 afternoon. I'll start real quick here with
10 the parking garage. The site is a wedge site
11 lot. It's right there at the intersection of
12 Lanier and Adams Mill Road. What makes the
13 site unique are we have two building
14 restriction lines, one that goes all the way
15 down the block of Lanier. You can see it
16 right through here. We are providing parking
17 spaces underneath that building restriction
18 line there. And then there's another
19 restriction line that goes along Adams Mill
20 here and then comes back out here. So it kind
21 of creates an interesting situation for the
22 parking and the building in general above

1 grade.

2 We're entering through the alley
3 here down a ramp. This is what we're calling
4 the rear yard right here. As you can see the
5 lot goes and makes a jog here. You can kind
6 of see the jog there. I'm highlighting it
7 here. It's at the rear of this property here
8 along Lanier. So this is what we're calling
9 the rear yard. I think Chris will get into
10 kind of some specifics on that.

11 Underground here we're required to
12 have 18 parking spaces for 36 units for the
13 residential component, which we are providing.
14 And then we have 19 commercial, because the
15 commercial floor above as you can see is a
16 large footprint of over 8,000 square foot.
17 We're required to have 19 parking spaces
18 there, and we're providing 6. That leaves a
19 variance of 17 parking spaces required for the
20 parking component to be met.

21 The other thing about the property
22 -- I'll go to a typical floor here and you can

1 kind of see the rear yard condition there.
 2 The wedge condition is not ideal for
 3 residential use above grade. We have these
 4 long deep units. It actually kind of forced
 5 us to kind of put a courtyard in the middle of
 6 the property. And we've kind of pushed the
 7 core back there. To put the core here in the
 8 middle created more less-desirable units. And
 9 we have one unit that kind of wraps around
 10 that courtyard there on the three residential
 11 floors. You can kind of see the building
 12 restriction line here along Adams Mill. And
 13 once again you can kind of see it along Lanier
 14 Place.

15 The roof structure, the special
 16 exception that we're asking for --

17 MEMBER ALLEN: Excuse me.

18 MR. GOINS: Yes?

19 VICE CHAIRPERSON SORG: Madam Vice
 20 Chair, may I ask a quick question?

21 VICE CHAIRPERSON SORG: Yes, go
 22 ahead.

1 MEMBER ALLEN: Thank you. Can you
2 just repeat the parking numbers again? I'm
3 sorry, I didn't catch all of them.

4 MR. GOINS: Sure. We're providing
5 24 total parking spaces, 18 of which --

6 MEMBER ALLEN: Residential, right?

7 MR. GOINS: -- is residential.

8 And six --

9 MEMBER ALLEN: And then six
10 instead of?

11 MR. GOINS: Nineteen.

12 MEMBER ALLEN: Nineteen?

13 MR. GOINS: Yes.

14 MEMBER ALLEN: Okay. Thank you.

15 MR. GOINS: So the variance is 13.

16 So along the roof structure here
17 what we're asking to do is to have -- we'll
18 have a common roof deck up on the roof. So
19 what we want to do is we want to build the
20 stairs at nine feet. We don't want to build
21 those at the elevator overrun, which is 15.9
22 feet, so we're asking for those to be of

1 varying heights and separated. And I'll go
2 back to this slide to kind of highlight our
3 issues with the setback requirement for the
4 elevator.

5 Right here there's a job in the
6 property line of three feet. This is the
7 elevator, which as I mentioned is 15.9 feet.
8 This stair, No. 1 here, is 9 feet, which we
9 exceed the one-to-one requirement at 17 feet
10 from Lanier place, which is along this side
11 over here. This setback here we do not meet
12 the one-to-one setback requirement for this
13 elevator height because of the three-foot job.
14 And this is a public alley there, since we're
15 calling that the rear yard. So that would be
16 the relief.

17 If you go back -- let me go back
18 to the --

19 MR. COLLINS: Can I --

20 MR. GOINS: Yes.

21 MR. COLLINS: Can I just clarify
22 something?

1 MR. GOINS: Sure.

2 MR. COLLINS: Actually the setback
3 that we are achieving there is a combination
4 of seven-and-a-half feet and three feet. So
5 our setback is ten-and-a-half feet.

6 MR. GOINS: Yes.

7 MR. COLLINS: And fifteen-and-
8 three-quarter feet is required.

9 MR. GOINS: Yes. And from the
10 public alley we're 70 feet. And then from
11 Lanier Place we're 30 feet. So it's just the
12 little jog in the property line where we don't
13 meet that definition.

14 VICE CHAIRPERSON SORG: I'm sorry,
15 can you say the numbers again?

16 MR. COLLINS: Sure. The Zoning
17 Administrator has confirmed that the way to
18 measure the setback from the elevator that you
19 see there is to add the -- where those two
20 arrows are it says elevator setback 10 feet,
21 6 inches. You add the 7 feet, 6 inches and
22 then the 3 feet.

1 VICE CHAIRPERSON SORG: So 10

2 feet --

3 MR. COLLINS: Yes.

4 VICE CHAIRPERSON SORG: -- six

5 inches is what you're doing and the

6 requirement is 15?

7 MR. COLLINS: Fifteen and --

8 MR. GOINS: Fifteen point nine

9 feet.

10 MR. COLLINS: Yes.

11 VICE CHAIRPERSON SORG: Fifteen

12 feet and -- okay. Thank you.

13 MR. COLLINS: Thanks.

14 MR. GOINS: So those are the

15 variances along the roof structure that we're

16 asking for. And I think those are the three

17 variances that we're asking for. Feel free to

18 ask any questions.

19 VICE CHAIRPERSON SORG: So just

20 with regard to the roof structure setback, the

21 portion that is not being provided in that

22 area of setback is along the public alley

1 or --

2 MR. GOINS: Well, you can kind of
3 see it in this slide. It's actually where our
4 rear yard is. And there is I guess that would
5 be an alley.

6 MR. COLLINS: No, it's not an
7 alley.

8 MR. GOINS: I mean not an alley.

9 MR. COLLINS: It's a rear yard.

10 MR. GOINS: It's a rear yard.

11 VICE CHAIRPERSON SORG: Okay.

12 MR. GOINS: It's our rear yard.

13 MR. COLLINS: We don't need it
14 from the rear yard.

15 VICE CHAIRPERSON SORG: Okay.

16 MR. COLLINS: The exterior wall at
17 the rear of the building --

18 VICE CHAIRPERSON SORG: Okay.

19 MR. COLLINS: -- is technically
20 what we're not meeting.

21 MR. GOINS: Yes, it's that
22 condition right there.

1 VICE CHAIRPERSON SORG: Okay.

2 MR. GOINS: But as mentioned, I
3 think approximately it's 35 feet from the face
4 to Lanier Place and 70 feet from the public
5 alley.

6 VICE CHAIRPERSON SORG: Yes, the
7 reason that I wanted to ask about it was just
8 because of that jog and what was the thing
9 that it was really being set back from and
10 what was the real sort of requirement there?
11 So that does clear it up. Okay. Go ahead.

12 MR. COLLINS: Do you have any
13 questions on the rear yard special exception?
14 I'm sorry, the roof structure special
15 exception?

16 VICE CHAIRPERSON SORG: I don't
17 think so. That clears it up for me. So if
18 you want to go ahead and continue then, that's
19 fine.

20 MR. COLLINS: Well, let me then go
21 to the rear yard issue, if I may. And if you
22 could just get to that, the slide before that,

1 if you could. The one before that or two
2 before that is a -- it's actually the last one
3 in yours, which is the survey. There you go.
4 Okay. Just bear with me a second.

5 When we met with Office of
6 Planning about this project, we learned that
7 they had spoken to the Zoning Administrator to
8 review their position that a rear yard
9 variance would be required here. And my
10 understanding from that discussion is that
11 they came away from that meeting with the
12 Zoning Administrator agreeing that a variance
13 would be required from the rear yard.

14 The position taken by OP in that
15 is that this lot actually has three rear lot
16 lines, this one along the -- we'll call this
17 the northeast abutting property there, which
18 is 72 feet. I'll refer to them by length.
19 The 72-foot line here, which is right next to
20 our driveway entrance. Then the 18-foot jog
21 there. And then this 70-foot line, which is
22 along the abutting town house property. And

1 their position was that the rear yard must
2 span the entire width of a lot, and therefore
3 we would have to set the building back
4 somewhere to this plane here as opposed to
5 setting it back there.

6 When I met with the Zoning
7 Administrator subsequent to that, I showed him
8 the documents that are in Exhibit H of our
9 written submission, and I'd be happy to go
10 through those with you. He had not seen
11 those, was not familiar with those. And after
12 we finished our discussion, he said I could
13 agree with you. And then he told me that --
14 you, meaning me.

15 VICE CHAIRPERSON SORG: Yes.

16 MR. COLLINS: Because we had self-
17 certified, he said bring it to the Board and
18 let me know what they say.

19 It's hard to prove a negative.
20 There are no BZA cases, or Zoning Commission
21 cases that say that no rear yard is required.
22 We've attached here in Exhibit H to the

1 booklet several rulings from prior Zoning
2 Administrators. There are four Zoning
3 Administrators who are represented in this
4 Exhibit H-1 and H-2.

5 H-1 is a letter from Mr. Bellow
6 when he was the Zoning Administrator. And I
7 just draw your attention; it's right after the
8 tab H, to the second page of that letter.
9 There's a check mark in the margin, and then
10 across from that is the plat of the property.
11 The property that's at issue there was a
12 property that fronted on 11th Street that went
13 actually back to 10th Street. And what he
14 ruled upon was that the rear lot line in that
15 configuration, kind of like an abbreviated-
16 wedding-cake-kind of effect, was the -- there
17 was one rear lot line. And every other lot
18 line other than the front was a side lot line.

19 And that's our position. Our
20 position is that this is the rear lot line
21 because this is the front. That's the rear
22 lot line. Every other lot line is a side lot

1 line. Side, side, side, side.

2 VICE CHAIRPERSON SORG: Yes.

3 MR. COLLINS: And I'm sorry for
4 the tedium here, but it's important I walk you
5 through. H-2 is the next Zoning Administrator
6 interpretation for a property at 2590 L Street
7 that I worked on many years ago for the
8 Egyptian Military Attach,. And the best way
9 to look at this is to turn to the back of that
10 exhibit. You'll see two plats. And maybe if
11 we can turn the lights on that might be easier
12 at this point, just to go through this and
13 then we can turn them back off again.

14 I'm holding up the last part of
15 the exhibit at tab H-2. And on the left-hand
16 side is color added to a Sanborn plat. And
17 what that project was, just so you have a full
18 understanding -- there's a building there now
19 that developed in two phases. The first phase
20 was totally on the C-2-C portion of the
21 building, of the property, And it's a mixed-
22 use building with office on the ground floor

1 and retail -- residential above. And in that
2 case these letters, which I'll go back and
3 refer you to, walk you through, confirmed that
4 in the C-2-C portion the rear yard for that
5 first phase could be all on the R-5-E portion
6 of the property.

7 So we developed a building that
8 occupied 100 percent of the C-2-C portion
9 except 80 percent of the residential portion
10 set back after the first floor along the east
11 lot line of where that No. 53 is. And when
12 they developed phase 2, they joined the
13 buildings together, developed phase 2, the
14 rear yard lot line became that easternmost
15 line.

16 So now that you have that as
17 background; I'm sorry if that's too tedious,
18 I can walk you through those letters. And
19 they are in reverse chronological order, so
20 the first letter has on page 2 at the bottom
21 where it talks about rear yard, and it talks
22 about the rear yard measurement begins at the

1 outermost portion of the balcony which extends
2 from the east side of the phase 2 building,
3 the location of the rear yard and the method
4 of measurement. The rear yard had been
5 confirmed by Mr. Boatner and Ms. Hicks
6 previously.

7 So if you turn to the next letter,
8 you'll see a check mark on page 2 which talks
9 about how that rear yard of that building was
10 determined. The rear yard for phase 1 will be
11 on the R-5-E -- I'm just paraphrasing from
12 paragraph No. 2 on page 2 of that letter. The
13 rear yard for the phase 1 will be on the R-5-E
14 portion. And then when phase 2 of the project
15 is constructed, the front of the building will
16 become 26th Street and the easternmost lot
17 line will become the rear lot line. In that
18 case the rear yard for the combined building
19 will be located entirely on the R-5-E portion
20 of the lot. We will not be prevented from
21 building on a phase 2 portion even though part
22 of the area was considered the rear yard for

1 phase 1. And Ms. Hicks confirmed that.

2 And then the third letter is the
3 earlier one from 1994. And on page 4 of that
4 1994 letter from Mr. Boatner, or confirmed by
5 Mr. Boatner, he confirms the very same thing.
6 This was for phase 1 of the building. So in
7 that case, that is -- and the agenda of the
8 meeting that I had in 1994 is attached. So in
9 that building they also confirmed, all three
10 of them confirmed that the rear yard line is
11 only one and it's the easternmost lot line of
12 that site that has a very similar shape to the
13 site we're talking about here because it has
14 kind of an L-shape to it.

15 VICE CHAIRPERSON SORG: Yes.

16 MR. COLLINS: So I will show you
17 -- and what we've done next is in Exhibit I,
18 which we have slides here as well, going
19 through and looking at these various sites.
20 Here you have a lot on 14th Street, N.W. It's
21 a mid-block site.

22 And can you go to the next slide?

1 You can see that -- go back and back and
2 forth. Just toggle back and forth view it.
3 So that's the lot. And then the building is
4 the next slide. You can see that had the
5 Office of Planning's interpretation of rear
6 yard applied, the rear lot line would have --
7 the rear face of the building would have been
8 somewhere in here and they would not have been
9 able to build out here.

10 Next slide. This is 2590 L, the
11 Egyptian Military Attach,, single building.
12 Here is the building. And if you can turn the
13 lights out for just this slide because it
14 makes it easier to see my point. This
15 building, similar to the building that's in
16 front of you today, you can see that right
17 there is the east lot line of the first phase
18 of the building. This first phase of the
19 building is C-2-C. It was 100 percent lot
20 occupancy for the commercial part and 80
21 percent lot occupancy for the residential
22 tower. And that's why there's that little

1 one-story thing there.

2 Go back, please. Going down that
3 lot line, you can see that the building does
4 turn that corner and come out. Go back,
5 please. And turn the corner. Come out into
6 here. Had that not been the case, the rear
7 requirement would have been somewhere along
8 here down north/south here or here, east/west.
9 But it wasn't. That's the way it was built.

10 Next one, please. Here's another
11 one. This is at 22nd Street and Ward Court.
12 A similar jog in the property. Next. And you
13 can see the jog in the property and the
14 building goes all the way out. And here's the
15 rear yard right here. Had that not been the
16 case, had Office of Planning's position been
17 upheld, the rear of the building would have
18 had to have been somewhere along here, 15 feet
19 set back from that jog.

20 Next, please. Here's two examples
21 mid-block on 20th Street and mid-block on 19th
22 Street.

1 Next, please. Okay. On this one
2 the rear yard would have had to have been
3 somewhere starting right here and not taken
4 these. And here's the rear yard in that one.
5 This one the rear yard would have had to start
6 somewhere in here instead of all the way back
7 here, and the rear yard is back in there.

8 Next, please. Seventeenth and K,
9 a building I know very well. I started my
10 zoning career in this building. Upside-down
11 version of what we're talking about today, an
12 L-shaped building.

13 Next, please. You can see here's
14 the rear yard. This building in front is on
15 K Street. Had the Office of Planning's view
16 been upheld, then the rear of the building
17 would have had to have been somewhere in here
18 or over here.

19 Next, please. I have 10 examples.

20 VICE CHAIRPERSON SORG: I know,
21 right, and we did review all of them.

22 MR. COLLINS: Okay.

1 VICE CHAIRPERSON SORG: I mean,
2 yes, I got it.

3 MR. COLLINS: Okay.

4 VICE CHAIRPERSON SORG: So the
5 point is that when you've got more than one
6 lot line, even if two are on the same plane,
7 if there's another perpendicular or other one,
8 that you're arguing that the whole plane is
9 not the rear yard.

10 MR. MOY: The rear yard is -- it's
11 been traditionally interpreted as the line
12 furthest from the front lot line and most
13 parallel to the front lot line.

14 VICE CHAIRPERSON SORG: Right.
15 And we had a very long discussion about this
16 very thing on corner lots with the Mount
17 Pleasant case and appeal.

18 MR. COLLINS: Yes.

19 VICE CHAIRPERSON SORG: I don't
20 know if you talked about that, too.

21 But I think, well, here's the
22 thing is -- regarding the question of the rear

1 yard and 404 relief is I tend to agree with
2 the interpretation that you're giving, but
3 after all your application is self-certified.
4 And so the comportment of the Board is
5 normally that, you know, we let the applicant
6 decide whether you want to seek relief from
7 that, whether you think it's necessary or
8 whether it's out of an abundance of caution or
9 whatever, unless we think it's really wrong.
10 So in this case I think it's up to you.

11 MR. COLLINS: Well we have the
12 situation here where the Zoning Administrator
13 has deferred to the Board.

14 VICE CHAIRPERSON SORG: Right.

15 MR. COLLINS: So, you know, I
16 think we're all looking for the Board to make
17 a decision here. If you believe that
18 notwithstanding these -- and we just picked 10
19 examples.

20 VICE CHAIRPERSON SORG: Sure.

21 MR. COLLINS: I could give you 100
22 more.

1 VICE CHAIRPERSON SORG: Well, I
2 can think of some even that --

3 MR. COLLINS: Yes. Yes, sure.
4 Sure.

5 VICE CHAIRPERSON SORG: So I got
6 you.

7 MR. COLLINS: And so if you
8 disagree with my position, please let me know
9 and we will make a case for a rear yard
10 variance.

11 VICE CHAIRPERSON SORG: Okay.
12 Well so here again I think that, you know, we
13 hear the argument and I think we understand
14 the argument. And I'll let other Board
15 Members ask questions about the rear yard and
16 then we can hold that until the end of the
17 hearing.

18 MR. COLLINS: Okay. I'd just like
19 to finish up just by --

20 VICE CHAIRPERSON SORG: Oh, yes.

21 MR. COLLINS: -- looking at -- on
22 this, just to make one final point, is that if

1 you look at the definition of yard, comma,
2 rear and yard, comma, rear, comma, depth of in
3 the Zoning Regulations, to say that a rear
4 yard has to be the full width of the lot,
5 that's correct. But the way that the rear
6 yard is defined, it's a yard between the rear
7 line of a building and the rear lot line.

8 And then the second sentence says,
9 "The rear yard shall be for the full width of
10 the lot." So it's the full width of the lot
11 behind the rear wall. So if you meet your
12 rear yard requirement, in this case 15 feet,
13 and it jogs like it does, then as long as the
14 rear yard is the entire width of that portion
15 of the lot where the rear wall of the building
16 is located and it doesn't -- you don't read
17 the second sentence first.

18 VICE CHAIRPERSON SORG: Yes.

19 MR. COLLINS: You don't say it has
20 to be the whole width of the lot from side to
21 side. It's the full width of the lot where
22 the rear wall is located. And that's our

1 interpretation and that's the way it's been
2 consistently interpreted. You know, I've
3 shown you a building from back in the '60s and
4 '50s.

5 MS. GLAZER: Madam Vice Chair, I'm
6 sorry to interrupt, but I feel I need to here
7 because I don't believe this case is in the
8 appropriate posture to resolve the issue of
9 whether that's the proper way to designate the
10 rear yard. There's no adverse party here.
11 It's not an appeal. And as you stated in the
12 library appeal, that was an entire case with
13 presentations by the Zoning Administrator, by
14 the property owner and by the neighborhood
15 opposition. And we don't have that here and
16 I think that perhaps the Zoning Administrator
17 may be sensitive because the Board reversed
18 him in that matter. But that's not before the
19 Board at this point.

20 And I really think you were
21 correct when you said that it's up to the
22 applicant in this one, unless the Board

1 strongly believes that they're wrong and that
2 the rear yard has to be interpreted based on
3 some other -- and based on the library case
4 for instance, but I don't know that that case
5 is applicable here. It's a slightly different
6 issue. But the point is that there was
7 precedent in the library case also to support
8 the Zoning Administrator's position. But the
9 Board heard from other parties and reversed
10 the Zoning Administrator, so I think it would
11 be dangerous.

12 And then I don't think the
13 applicant would be well-served either because
14 we would have to hold an entire hearing and do
15 research on that issue before making that
16 decision and it would certainly delay any kind
17 of an opinion in the variance case.

18 VICE CHAIRPERSON SORG: I mean I
19 think that's a good point, but I think let's
20 do this: Let's keep going with the merits of
21 -- you know, and the case with regard to the
22 relief that's on the table and the areas that

1 we've pointed out that we want to get some
2 more information or clarification on, and then
3 at the end we can finish up the discussion on
4 whether or not this is an appropriate thing.
5 I mean I take your comments very seriously
6 certainly, but let's go ahead and move forward
7 onto the next issue with the understanding
8 that we did, you know, read and understand the
9 points that you're making with the appendices
10 that you included, and also your discussion of
11 those.

12 MR. COLLINS: All right. Then the
13 next issue would be the parking relief that
14 Ms. Milanovich will discuss.

15 MS. MILANOVICH: I'm going to
16 shorten my presentation just a little bit in
17 the interest of time to focus on the parking
18 variance issue that you raised.

19 As Jeff noted, we are providing a
20 total of 24 parking spaces. Eighteen of those
21 will be designated for residential use and
22 eighteen spaces are required by code for the

1 residential component. Six of those spaces
2 would be designated as retail use. Nineteen
3 spaces are required by code, therefore we're
4 seeking a parking variance of 13 spaces.

5 In evaluating the parking variance
6 and the impact that it potentially could have
7 on the surrounding area, we took an inventory
8 of the available parking options that are
9 available in the study area, and this is
10 really a pedestrian-friendly and transit-
11 oriented area. The site is located within a
12 one-mile walk of three Metro stations. The
13 nearest Metro station is at Woodley Park,
14 which is about a 12-minute walk. The Columbia
15 Heights Metro station is about a 15 or 16-
16 minute walk from the subject site.

17 The site is also directly served
18 by Metrobus with a stop immediately in front
19 of the site on Adams Mill Road, and that bus
20 stop serves five Metrobus routes. There are
21 also two Zipcars that are stationed near the
22 site at the intersection of Adams Mill Road

1 and Columbia Road and there's a Capital
2 Bikeshare station that's located just south of
3 the site at Adams Mill and Columbia Road on
4 the northeast corner there.

5 There are also a variety of
6 amenities in the area within walking distance.
7 The amenities include grocery stores and
8 markets, restaurants, banks, barber shops and
9 hair salons, dentists' offices and other
10 retail stores. So there's a wide variety of
11 uses available in the nearby vicinity that
12 would not require residents or employees on a
13 lunch break or that type of thing to drive to
14 get to those various uses.

15 In order to enhance the available
16 transportation options and the amenities that
17 are near the site, the applicant has committed
18 to implement a transportation demand
19 management plan. As part of the TDM plan, a
20 member of the property management team or
21 condominium association will be designated a
22 transportation management coordinator. That

1 coordinator will be responsible for informing
2 tenants of the variety of transportation
3 options that are available nearby.

4 Links to transportation resources
5 will be provided on the property management or
6 condo association's Web site. Twenty bicycle
7 parking spaces will be provided in the garage
8 on site. Additionally, we will work with DDOT
9 through the public space process to identify
10 appropriate locations outside for visitors to
11 the site for additional bicycle parking.

12 Residents will be given a \$75 SmarTrip card or
13 a one-year membership to Capital Bikeshare or
14 a Zipcar service as part of the TDM plan.

15 And finally; it doesn't appear on
16 this slide, but I should note that the parking
17 spaces will be sold or leased separately from
18 the sale of the residential units, the idea
19 being that if residents can see the actual
20 price of a parking space and understand what
21 that parking space costs them, they'd be less
22 likely to own a car than if the price was

1 included in the sale of their condominium
2 unit.

3 We did conduct --

4 MEMBER ALLEN: Excuse me.

5 MS. MILANOVICH: Sure.

6 MEMBER ALLEN: Could you go back?
7 You said the TDM plan -- you were saying
8 something about the TDM plan and I just missed
9 what it was that you were providing.

10 MS. MILANOVICH: The \$75 SmarTrip
11 card? Is that what you're talking about?

12 MEMBER ALLEN: Maybe.

13 MS. MILANOVICH: Yes, so the
14 residents of the new building would be
15 provided a \$75 SmarTrip card or a one-year
16 membership to Capital Bikeshare, which is also
17 \$75, or they would be given a one-year
18 membership to a car sharing service such as
19 Zipcar. It would be their choice which one of
20 those options they would want.

21 MEMBER ALLEN: May I ask a
22 question or -- an actual question?

1 VICE CHAIRPERSON SORG: Yes.

2 MEMBER ALLEN: Okay. So I guess
3 I'm confused about this only -- I mean I think
4 it's a great plan and I think in general these
5 services that are provided are great, but
6 actually you have the required amount for the
7 tenants.

8 MS. MILANOVICH: Yes.

9 MEMBER ALLEN: I mean it's the
10 other folks that are -- I think was where the
11 issues are being raised. So I'm not sure if
12 these amenities, which I think are great,
13 really addresses the concerns that have been
14 raised by the businesses and the --

15 MS. MILANOVICH: Yes, that was
16 actually put in -- we had a request from the
17 ANC to do this, and DDOT also had requested
18 that we provide a Capital Bikeshare membership
19 for each resident of the new building. So we
20 kind of combined the two requests from the ANC
21 and from DDOT and decided we'd give the new
22 residents a choice which one of those they

1 wanted, which would be most beneficial to
2 them. So, yes, we recognize that we're
3 meeting the code requirements for the
4 residential component, but we wanted to
5 address the community concerns and DDOT's
6 concerns as well, so we provided that.

7 MEMBER ALLEN: Okay. Thank you.

8 MS. MILANOVICH: In assessing the
9 impact of the parking variance, we also did a
10 parking evaluation in the immediate vicinity
11 of the site. And you can see on this slide
12 the extent of the parking study that we did.
13 We looked at Lanier Place. We looked at
14 Adams Mill Road from approximately one block
15 west of the site down to Columbia Road. We
16 looked at one block of Columbia Road and we
17 looked at one block of Calvert Street.

18 And what we did, we went out and
19 did a survey of how many parking spaces were
20 occupied on a typical weekday evening.
21 Weekday evenings typically have the highest
22 parking demand in residential-type areas and

1 we felt that that would be the most
2 significant time of day that would be of
3 concern to residents when they're trying to
4 find parking spaces. And what we found was
5 what we heard from the community, that during
6 those times parking is virtually at capacity
7 during a typical weekday evening. So the fact
8 that the on-street parking supply is in demand
9 is really no surprise.

10 So what we did was look at, well,
11 what is going to be the actual parking demand
12 for this retail component? How significant of
13 a parking demand will they have? And to help
14 us determine that, we actually went out and
15 did a couple of surveys at a couple of similar
16 retail uses in the Adams Morgan neighborhood
17 and we surveyed the patrons there to find out
18 how many people are actually driving to those
19 retail establishments. We surveyed a bank in
20 the Adams Morgan neighborhood and we also
21 surveyed a restaurant in the Adams Morgan
22 neighborhood.

1 And what we found out was 75
2 percent of the bank patrons do not drive to
3 the bank. They're walking, they're biking,
4 they're taking a bus. And for the restaurant
5 90 percent of the patrons do not drive. Again
6 they're taking alternate modes of
7 transportation.

8 So we used that information from
9 the patron survey at those two locations and
10 we coupled that with parking information from
11 the Urban Land Institute, and what we found is
12 that the retail parking demand is expected to
13 be very minimal. Based on the bank use and a
14 restaurant use we determined that the
15 projected parking demand at its peak would be
16 10 parking spaces.

17 We're proposing six retail parking
18 spaces on site. Because it's going to be a
19 controlled garage, those retail spaces would
20 be slated for employee parking because they
21 would need to -- it would be controlled
22 access, and so it would not be open to the

1 public. So we would handle the portion of the
2 parking demand for employees on site and then
3 the very small component that's left over
4 would obviously need to find an on-street
5 parking space or park in a nearby off-street
6 parking location.

7 And there are a couple of off-site
8 parking options available within approximately
9 three blocks of the site. There is a surface
10 parking lot immediately south of our site,
11 adjacent to our site that's valet operated
12 that's open to the public. And there's a
13 parking garage on 18th Street near the
14 intersection of Belmont. You can see the
15 green dot on our map here. This is the other
16 parking garage locations that are open to the
17 public.

18 But I think the thing to keep in
19 mind about these types of retail uses, the
20 neighborhood community-serving retail uses,
21 they're largely convenient. And the reason we
22 found 90 percent of the people we surveyed at

1 the restaurant and 75 percent of the people we
2 surveyed at the bank aren't driving is because
3 they're neighborhood serving, they're
4 convenient, they're walking, they're biking,
5 they're taking a bus.

6 If they can't find a parking
7 space, they're not going to spend, you know,
8 10-15 minutes searching for parking spaces.
9 These are very much convenient-oriented
10 retail-type establishments that are -- you
11 know, if you're going to those types of uses,
12 you're simply not going to -- like I said, not
13 going to spend 15 minutes searching for a
14 parking space. You're going to go elsewhere.

15 And so given the minimum number of
16 parking spaces generated by the retail uses we
17 don't think that the parking variance for
18 retail would have a significant impact on the
19 on-street parking in the neighborhood.

20 VICE CHAIRPERSON SORG: Quickly
21 before you move on, you said that you
22 estimated the peak demand on site for the

1 retail uses would be 10 spaces.

2 MS. MILANOVICH: Correct.

3 VICE CHAIRPERSON SORG: And that
4 was including for employees?

5 MS. MILANOVICH: That's correct.

6 VICE CHAIRPERSON SORG: Okay.

7 Sorry. Go ahead.

8 MS. MILANOVICH: Sure. And just
9 to conclude, the proposed parking variance
10 would not have a measurable impact on the
11 surrounding area given the limited number of
12 people that will be driving to the site and
13 the limited parking demand generated by the
14 retail uses. The residential parking, as we
15 indicated, meets the code requirements. And
16 given the available transportation options
17 nearby, the implementation of the
18 transportation demand management plan, the
19 couple of off-street parking facilities that
20 are located nearby, again we don't think that
21 the requested parking variance would have a
22 significant impact or a detrimental impact.

1 VICE CHAIRPERSON SORG: There's
2 something that I have a little bit of trouble
3 getting around in the parking variance, which
4 is that this is Adams Morgan. This is a
5 stupid horrible place to try and find a
6 parking space. I know that because I used to
7 live there and I would rather, you know, like,
8 I don't know, crawl there or find a horse and
9 buggy rather than take my car there on a
10 Saturday night and try and park.

11 And so my issue with this is I
12 think, you know, good, okay, there's nothing
13 doing on the residential side because you're
14 providing all the parking there. So we have
15 to consider the retail components. And yes,
16 you know, it may be one more restaurant,
17 right, and almost no restaurants in this area,
18 Adams Morgan, Columbia Road, you know, provide
19 parking, not until you get down to like
20 Lauriol Plaza. I think that's the closest
21 restaurant, you know, that starts providing
22 parking.

1 And so I'm a little bit of two
2 minds: On one hand, it's like, okay, well
3 this is just, you know, one more retail
4 tenant, one more restaurant or one more, you
5 know, whatever. It looks like you've got
6 8,000 feet and so you're going to probably
7 have more than one tenant. On the other hand,
8 it's sort of like where does that balance come
9 from, because there certainly are people --
10 there are definitely people that are driving
11 to Adams Morgan. That's why, you know, like
12 the streets on, you know, Wyoming and Kalorama
13 and Champlain and all around Lanier, you know,
14 and Ontario Road and so forth are filled with
15 cars with license plates that say Maryland and
16 Virginia. And that's on a weekend evening.

17 All of that to say did you look at
18 those kinds of, you know, weekend evening
19 generation for this kind of use?

20 MS. MILANOVICH: No, our focus was
21 on a typical weekday. The types of uses that
22 we were anticipating at the outset of this was

1 a bank and a restaurant, more of a
2 neighborhood-type-serving restaurant as
3 opposed to a destination-type restaurant. So
4 we did not look at a weekend generation for a
5 destination-type restaurant.

6 VICE CHAIRPERSON SORG: Okay.

7 MEMBER ALLEN: May I?

8 VICE CHAIRPERSON SORG: Yes.

9 MEMBER ALLEN: I have a very
10 similar response when you were talking because
11 it's very difficult for me to get around -- I
12 mean when you said, you know, you look at --
13 and you did the survey and the folks said they
14 do it in the neighborhood. And my immediate
15 reaction is because there's nowhere to park,
16 nobody else can come to those sites, whatever
17 they are. And so, you know, I'm struggling
18 with how can we in good conscience frankly add
19 to this burden? And so I guess I need to know
20 more about how that decision was reached maybe
21 or what the impact -- I need something to help
22 me get beyond this.

1 MR. GOINS: Well, I mean at the
2 beginning when we looked at, I mean, the site
3 -- I can interject from an architect's
4 standpoint. We looked at multiple parking
5 scenarios. And to actually go down another
6 level, you lose eight spaces per floor. So
7 you end up losing 16 to provide the same
8 number of spaces by doing two levels. It
9 becomes a very inefficient process and it has
10 to do with the configuration of the site. And
11 you've got a 15-foot building restriction line
12 along Adams Mill and then the wedge condition.

13 Normally you have a parking garage
14 that lays out 20, 40 or 60. And we have a
15 wedge where at one point the drive aisle is
16 30-something feet. So to get that drive aisle
17 to come back down, you lose a row of parking
18 spaces. So it becomes a practical difficulty
19 that you lose eight to nine spaces to go down
20 another level to provide the same number of
21 spaces that you would provide in one level.
22 So we did look at that scenario from an

1 architect -- from just a constructability
2 standpoint and it became very difficult.

3 MR. COLLINS: And from a property
4 owner leasing standpoint -- the representative
5 from Persius who was to be here today is home
6 sick in bed. But they have talked about at
7 the ANC when -- we've been there three times
8 at the ANC. We talked about the type of uses
9 that would be in the building. They would be
10 targeting neighborhood-serving uses for that
11 very reason. They're not looking for
12 destination-type uses because they want to
13 make sure that whatever use is in there is a
14 successful use. And if people have to -- if
15 it's destination-oriented and people drive
16 there and they can't park, they can't find a
17 place to go, they won't come. So they're
18 looking for retail that is neighborhood-
19 serving.

20 We've had discussions with the
21 community about that and that's what the
22 intention of the applicant is here, to have

1 probably not one, but at most three
2 neighborhood-serving-type of retailer service
3 uses in the building.

4 VICE CHAIRPERSON SORG: Okay. Are
5 there any other questions on this portion of
6 the application?

7 (No audible response.)

8 VICE CHAIRPERSON SORG: No? Is
9 that the end of your presentation or did you
10 want to --

11 MR. COLLINS: That answers the
12 three questions that you raised --

13 VICE CHAIRPERSON SORG: Okay.

14 MR. COLLINS: -- unless you have
15 any other questions or, you know, we will
16 respond, you know, in our closing rebuttal if
17 we need to, but --

18 VICE CHAIRPERSON SORG: Okay.
19 Yes, I mean that satisfies the points that I
20 was looking for, and it sounds like it does
21 other folks. If you wanted to make another
22 statement, then you most certainly could, or

1 we can go ahead and move onto those folks.

2 MR. COLLINS: Whether I make it
3 now or later, there's just a point I think
4 that's worth making getting back to that rear
5 yard issue, that the Zoning Enabling Act does
6 allow the BZA to stand in the shoes of the
7 Zoning Administrator and make that decision.
8 And, you know, it would be an unfortunate
9 precedent for the Board to adopt a new
10 position of OP on how to calculate a rear yard
11 at this point. You know, I'm hesitant to
12 prove the case because that means that we
13 agree that that's how you calculate rear yard.

14 VICE CHAIRPERSON SORG: I hear
15 you.

16 MR. COLLINS: And but by not doing
17 that, we're forced to force a decision from
18 the Zoning Administrator and then take an
19 appeal if you don't like the decision, so
20 adding a lot more process. And if the Office
21 of Planning's interpretation is upheld, there
22 will be many, many cases before this Board for

1 irregularly shaped yards, lots having to come
2 here because they don't have a rear yard for
3 the full width from one side to the other
4 side, regardless of where the rear of the
5 building is.

6 VICE CHAIRPERSON SORG: I hear
7 you. So with that said, let's go to ahead and
8 move to the Office of Planning.

9 MS. ELLIOTT: Good afternoon. For
10 the record, my name is Brandice Elliott
11 representing the Office of Planning. The
12 Office of Planning is generally supportive of
13 this request, of the requests that have been
14 made concerning the variance for parking and
15 the special exception for the roof structures.
16 The analysis is provided in the staff report,
17 so I won't go into too much detail on those
18 items.

19 In terms of the rear yard setback,
20 Mr. Collins did describe my encounter with the
21 Zoning Administrator accurately, and working
22 under the guidance of the Zoning

1 Administrator, the issue of the rear setback
2 was brought up as a concern. Because Office
3 of Planning has actually consulted the ZA,
4 we're not in a position to make a different
5 interpretation or to offer a recommendation on
6 this because it hasn't been formally requested
7 as part of this application.

8 But I would be happy to answer any
9 other questions that you may have.

10 VICE CHAIRPERSON SORG: So if I'm
11 just clear on that, you brought up the concern
12 and you brought it to the Zoning
13 Administrator, but now you feel not able to
14 take a position because that's not your job?

15 MS. ELLIOTT: The direction that
16 OP has been provided by the Zoning
17 Administrator is that the rear setback would
18 be the length of the property line stretching
19 from Lanier Place to the alley, and Office of
20 Planning is not in a position to stray from
21 the Zoning Administrator's guidance.

22 VICE CHAIRPERSON SORG: Okay.

1 Other than that I think that your report is
2 very complete and I don't have any questions.
3 Do other Board Members have questions for the
4 Office of Planning on this or on the sticky
5 rear yard issue?

6 (No audible response.)

7 VICE CHAIRPERSON SORG: Okay.
8 Does the applicant want to ask any questions
9 of Office of Planning?

10 (No audible response.)

11 VICE CHAIRPERSON SORG: Okay.
12 Then let's move on to DDOT. And I guess you
13 have the job of briefing us on your report
14 since we just received it.

15 MR. HENSON: I'll try and bring up
16 yet another sticky situation.

17 VICE CHAIRPERSON SORG: Oh, good.

18 MR. HENSON: Sorry. Again, I'm
19 Jamie Henson. I'm a planner with the
20 District's Department of Transportation and
21 what I'll do is I'm going to go over the
22 summary section and try to highlight the area

1 of concern for us, which is vaulted space,
2 which is generally not relevant to the
3 proceedings of this body, but because of the
4 variance requested for the amount of parking
5 will be relevant.

6 So let me go through the findings.
7 The development project generally speaking is
8 going to generate almost no net new vehicle
9 trips because the existing vehicle trips with
10 the new ones, subtract them out, it's
11 basically a wash. So there's not generally
12 speaking any net new vehicle trips that are
13 going to be expected out of this development
14 as such travel conditions are not really
15 expected to change significantly.

16 As everybody knows and has been
17 alluded to, curbside parking in the area is
18 beyond capacity. Generally 85 to 90 percent
19 is considered full. This is at 100 percent,
20 so there's not spare supply in the area.
21 Bicycles and Bikeshare in particular are very
22 highly utilized in the area and the applicant

1 is providing more bike parking on their
2 private space in their garage than required.
3 This is where things get a little funny.
4 District law requires one bike space per three
5 units. The applicant is providing what in
6 essence is a little bit more than one per two,
7 so DDOT's very pleased with that.

8 We do have a few concerns. The
9 applicant has addressed some of them. The
10 major concern that we have is around the
11 parking in vaulted space. So on the
12 applicant's diagram if you'll look on the
13 space in Lanier, generally DDOT is opposed to
14 allowing parking in vaulted space. It's an
15 allowed use and it's behind a building
16 restriction line between our right of way line
17 and a building restriction line, so that makes
18 it a little different than normal. But
19 generally in areas like that we're opposed to
20 parking in vaulted space. And as it comes
21 through the permitting process, it's most
22 likely that we will actually oppose that

1 request.

2 The applicant has addressed our
3 desire for Bikeshare membership. We would
4 actually suggest that it's just Bikeshare and
5 Carshare and not necessarily SmarTrip. Be
6 glad to go into details if you want to ask
7 questions about that a little later.

8 And as the public space permitting
9 process comes, as Ms. Milanovich mentioned,
10 we're glad to have conversations with the
11 applicant on how much guest bike parking and
12 the location, and that sort of thing.

13 So with that, I'll pause. I don't
14 think that I've missed anything that's
15 important. The question that we have is
16 around how much parking should be in the
17 variance to allow for flexibility in the
18 future. That's the real question, because if
19 the vaulted parking is not allowed later,
20 somewhere, depending on how they could
21 rearrange their parking area, we could lose,
22 I don't know, probably not six or seven

1 spaces, but some amount, probably four-ish at
2 least. So with that, I'll pause. And I'm
3 sure there's going to be plenty of questions.

4 VICE CHAIRPERSON SORG: Okay.
5 I'll start. I mean the basic question to me
6 is to what extent does your opposition to the
7 parking in the vaulted space dovetail with the
8 relief that's being requested here, or with
9 the zoning issues particularly?

10 MR. HENSON: Right. So basically
11 what we're saying is that if the applicant
12 gets relief from what is it, 39 down to 24, it
13 may be that after they come through the
14 permitting process that they can only build 20
15 spaces. And so that would be where we would
16 advise that if there's the possibility for the
17 applicant to request a variance down to 20 or
18 whatever is necessary, that's what we would
19 suggest. That's where the authorities of
20 permitting and zoning begin to diverge a
21 little bit.

22 VICE CHAIRPERSON SORG: Well, I

1 mean the applicant asks for what they're going
2 to ask for and whether or not DDOT supports or
3 opposes the parking in the vaulted space later
4 on, at DCRA, you know, they're on the hook for
5 the number of spaces. And that's up them,
6 right?

7 MR. HENSON: Indeed it is. This
8 is just a suggestion of what our position is
9 going to be in the future. So one of the
10 things we try to do when we come to visit BZA
11 in particular, because there are certain
12 elements that we speak about here and not
13 necessarily the whole development program, we
14 want to make sure that folks understand in a
15 very open forum what our position is now,
16 because we're not opposed to the variance at
17 all, but what also our position is going to be
18 in the future. And the last thing we want do
19 is have to have an applicant come back to you
20 because it didn't work out later.

21 VICE CHAIRPERSON SORG: Right, I
22 hear you. So, but then my question is if

1 you're recommending that the applicant would
2 request a more significant variance for the
3 number of parking spaces provided and how you
4 rationalize that with the comments that you
5 made regarding the fact that the curbside
6 parking is 100 percent full almost 100 percent
7 of them, except maybe like during the week at
8 lunch when I drive over there from U Street
9 and can find a parking space, you know, and
10 sort of those kinds of elements that you did
11 mention were a strain on the parking and the
12 roadway and the transportation order.

13 MR. HENSON: So one of the things
14 we found in the transportation field in
15 particular, in fairly dense places, the more
16 parking you provide the more people will
17 drive. And so we provide a vast multi-modal
18 network. So this location is within 1,000-
19 1,500 feet of a Metro station. It has a
20 Circulator bus that goes by every 10 minutes
21 that gets you into the downtown area. It has
22 the 90s buses that operate every, I don't

1 know, five-ish minutes, give or take through
2 the area and then a few others that I'm not
3 thinking of. So what we do provide is a very
4 vast multi-modal network. And that doesn't
5 even count the things like Zipcar and taxis.
6 So there are other ways to get around.

7 One of the things that it's worthy
8 of noting is that the mayor has set a goal of
9 75 percent non-auto mode share. You know,
10 there's no secret, we like to see as little
11 parking as possible, but that's one of the
12 reasons, is that the mayor's agenda of pushing
13 driving to less than a quarter of the mode
14 share. But also we operate a network that's
15 constrained. There's no capacity. I mean,
16 you know, this is going to ultimately be your
17 decision. And we can put as much parking out
18 there as is desired, but people aren't
19 necessarily going to be able to move around
20 when we start aggregating these things
21 together at large.

22 Six spaces in this spot is not a

1 lot. I'm not going to pretend that it is.
2 But if we start aggregating all the projects
3 that are now going on down 14th Street, all
4 the projects along the U Street corridor, all
5 the projects that are going to go on up and
6 down Georgia Avenue, then it becomes a major
7 issue. So our position is the same. It
8 should be as minimal as possible. In
9 particular we're dealing with vaults in what
10 amounts to public space, even though it's not
11 public space. We're not opposed to allowing
12 parking in those locations. Sorry, that's a
13 long answer to try to give you a --

14 VICE CHAIRPERSON SORG: That was
15 also the answer to the question in the last
16 case. If you provide good things, then the
17 people will drive.

18 MR. HENSON: Right. That's right.
19 And that's the goal.

20 VICE CHAIRPERSON SORG: Okay. All
21 right. Well, that's all my questions.
22 Anybody else?

1 (No audible response.)

2 VICE CHAIRPERSON SORG: No? Okay.

3 Does the applicant have questions?

4 MR. COLLINS: Mr. Henson, would
5 DDOT support the parking variance if we were
6 to provide say only 19 parking spaces?

7 MR. HENSON: Well, that gets a
8 little bit into the nuance of support. We
9 tend not to support, but we would absolutely
10 not be opposed. We would have no problem with
11 that.

12 MR. COLLINS: Thank you.

13 VICE CHAIRPERSON SORG: If that is
14 all of your questions for DDOT, then we will
15 go ahead and move onto ANC-1C. Is there a
16 representative from ANC-1C in the audience?

17 I don't think so. We did receive
18 a letter just now, which I have taken a look
19 at from the ANC which does meet our
20 requirements in which they indicate that they
21 are supportive of both the special exceptions
22 and the parking variance provided a number of

1 conditions that are contained with an
2 appendix, which it looks like the applicant
3 has to one extent or another incorporated
4 those into the transportation management plan.
5 And we'll take some time to review once we've
6 had time to digest in greater detail the ANC
7 letter and requests to the extent to which
8 those things are in agreement. I'm sure that
9 they are.

10 So that being said, we'll go ahead
11 and see if there's any persons in the audience
12 who wish to testify in support of the
13 application, or if there's any persons who
14 would like to testify in opposition to the
15 application here today. I will note that we
16 did receive to letters in opposition that are
17 within our file and we have read those.

18 So I think what we'll do is if --
19 are there any other Board questions for the
20 applicant? Mr. Hinkle?

21 MEMBER HINKLE: Thank you. Just a
22 quick question. Just looking at the ANC

1 report in the conditions, No. 9, which is
2 provide a one-time contribution of \$2,000 to
3 the remediation of the Pueblo -- I'm not even
4 go to try that -- Mural, otherwise known as
5 the KoGiBow Bakery Mural. Do you agree with
6 that and can you explain to me just what that
7 is? I'm just curious.

8 MR. COLLINS: Sure. There is a
9 building across the alley to the south,
10 generally to the south, southeast of this
11 building that has a mural that is on a wall,
12 a blank wall, and apparently the wall suffered
13 some damage during the earthquake. And the
14 neighbor -- the immediate neighbors -- we've
15 had a lot of outreach and really good dialogue
16 with the community. And this kind of came out
17 of the blue and the neighbors said, well,
18 would you be willing to help restore that
19 since you're going to be a member of the
20 neighborhood? And so there is a fund raising
21 effort underway and the local BID is
22 spearheading that. They've got some

1 commitments. And we said, well, what's your
2 shortfall? And they said about 2,000. So we
3 said we can do that.

4 It is not a BZA condition. I mean
5 the BZA historically has taken the position
6 that its conditions can only relate to the
7 relief requested. And so I would respectfully
8 request that this not be included as a
9 condition. But by the same token we are
10 committed to do this just because we said we
11 would and we're not going to go back on our
12 word. And similar to the upkeep of a park out
13 front, item 1 on the ANC's thing, we've
14 committed to do that. It doesn't relate to
15 parking or to roof structure, but we've
16 committed to do it. So that I would also say
17 probably should not be in a condition of the
18 approval, but it is something we've agreed
19 that we would do.

20 MEMBER HINKLE: Great. I
21 appreciate it.

22 MR. COLLINS: Sure.

1 MEMBER HINKLE: And thanks for the
2 explanation.

3 MEMBER ALLEN: Excuse me, if I can
4 ask you one other question just as I was
5 looking at Mr. Hinkle's question. I also see
6 here that the ANC has requested that you allow
7 non-residents to rent available parking spots.
8 I didn't hear that come up at all, so I just
9 wondered if you had a -- I'm just interested
10 if you had a position on that.

11 MR. COLLINS: I'll tell you a
12 little bit about that. They asked if it was
13 feasible. The current intent is to make this
14 a secure garage for the building residents
15 only.

16 MEMBER ALLEN: That's what I
17 thought I heard you say.

18 MR. COLLINS: So we've heard some
19 people say there's not enough parking and
20 others say, well, you're going to have excess
21 parking, so can you rent it to outsiders?
22 We've told them that the plan is to make a

1 secure garage with a key fob or something for
2 building tenants only. It's not going to be
3 for retail customers because you just can't
4 control that. Once someone's in there, they
5 can't get out.

6 So, but we did commit to study it
7 to see if non-residents would be allowed to do
8 it. But of course that's really up to this
9 Board whether that's even something that you
10 would entertain allowing.

11 MEMBER ALLEN: And let me just ask
12 one more question, because I'm still grappling
13 with the whole parking issue. So the retail
14 that you are looking to have in the building,
15 I got your comment about it really is looking
16 for neighborhood service kind of
17 establishments. So and then I thought I heard
18 you say that the parking that you would
19 provide is primarily for the staff because it
20 would be part of the secured space. Is that
21 correct?

22 (No audible response.)

1 MEMBER ALLEN: So do you have any
2 idea at this point, and maybe it's too early
3 because you're not sure who's going to be in
4 there, but do you have any idea what the
5 employee base would look like there?

6 MR. COLLINS: In talking with
7 potential lessees of the space, typically what
8 we've found is that a lessee in negotiations,
9 they ask for two parking spaces. So we assume
10 that with this layout we're pulling in a
11 maximum of three retail users in there. And
12 if all three ask for two parking spaces, then
13 that gives you the six retail spaces that we
14 had talked about. It may be less. There may
15 be a retailer who doesn't need two parking
16 spaces. And what we've told the community is
17 that with a 24-space layout, if the retail
18 tenants don't need all six, that we would
19 entertain the option of making more spaces
20 available for residential. But that's how we
21 go to the six, because people are asking for
22 two.

1 MEMBER ALLEN: So I guess the
2 corollary to that would be that if in fact
3 they had more employees who needed
4 transportation, the concept is then they'd use
5 all the other modes of transport. I mean
6 that's the idea that they wouldn't then go
7 park in the neighborhood where there's already
8 no place to park, right?

9 MR. COLLINS: If you were an
10 employee, you couldn't park in there more than
11 two hours anyway because it's zoned parking in
12 the neighborhood.

13 MEMBER ALLEN: Right. I mean
14 that's part of the issues we keep hearing
15 about, yes.

16 MR. COLLINS: If someone needed
17 more than -- if they had to drive and there
18 was more than two allocated, or they had two
19 allocated and they needed three, there's a
20 parking garage on 18th Street just a four-
21 minute walk, three, four-minute walk.

22 MEMBER ALLEN: Okay. Thanks.

1 VICE CHAIRPERSON SORG: I have
2 actually one question that's just come up.
3 I'm reading a couple of the letters. You
4 know, I understand a lot of these letters of
5 concern are about the parking and are about
6 the sort of burden on street parking. Had the
7 applicant considered removing this address
8 from the residential parking permit
9 availability?

10 MR. COLLINS: Removing the ability
11 to get RPP?

12 VICE CHAIRPERSON SORG: Right.

13 MR. COLLINS: No.

14 VICE CHAIRPERSON SORG: It's
15 something that we've been seeing fairly
16 with --

17 MR. COLLINS: Yes, we haven't gone
18 there because we are meeting the residential
19 parking requirement. And that's why we just
20 didn't get into that issue.

21 VICE CHAIRPERSON SORG: Okay. Are
22 there any further questions for the applicant?

1 Then if you'd like to make any
2 closing statements, then that would be --

3 MR. COLLINS: Well, I would like
4 some guidance on the rear yard issue at this
5 point. I think that this body does have the
6 ability to stand in the shoes of the Zoning
7 Administrator and make a decision. I would
8 hate to walk away from this and have a
9 determination later that we need a rear yard
10 variance and we didn't ask for it. We don't
11 think it's necessary. We've shown you by
12 demonstrating by precedent rulings and real
13 world examples that in similar situations it
14 has not been necessary.

15 So we would respectfully request
16 that this Board make a decision as to whether
17 one is necessary. And if it is, we'd like the
18 opportunity just to go through the elements of
19 a rear yard variance if you think one is
20 necessary. We don't. The Zoning
21 Administrator says he could go either way.
22 You know, he told me he would agree with me.

1 He told the Office of Planning he agrees with
2 them. He told me just take it to the Board.

3 VICE CHAIRPERSON SORG: So, but if
4 you heard from your meetings with the Zoning
5 Administrator that he agrees with you, then
6 where does the lack of confidence come from
7 with regard to --

8 MR. COLLINS: Because he said I
9 can also see the point of Office of Planning
10 and he wouldn't make a decision. I mean I
11 don't mean that in a negative way. He just
12 said ask the Board. I scheduled another
13 meeting on another matter with him and I said,
14 oh, by the way, you know, here's some more --
15 he said, no, you know, just let me know what
16 the Board says.

17 VICE CHAIRPERSON SORG: Okay.
18 Fine. With that said, I think this is
19 something that we want to get a little bit of
20 guidance on from our OAG and it's sort of --
21 I'd rather have the conversation, so I'd like
22 to take a five-minute break on this.

1 MR. COLLINS: Sure.

2 VICE CHAIRPERSON SORG: And then
3 we will come back out.

4 MS. GLAZER: Madam Vice Chair,
5 then I think we have to make an announcement
6 under the Open Meetings Act under one of the
7 exceptions for emergency legal advice if you
8 want to meet with the entire Board together in
9 closed session briefly. If you want to meet
10 just you and I, then I don't know if that
11 would be necessary. That's not a quorum.

12 VICE CHAIRPERSON SORG: Okay. It
13 would very much be our preference that you
14 would make the determination of whether or not
15 you wanted to seek the relief yourself, but it
16 sounds like you're very interested in the
17 Board looking at this if possible. So what I
18 think we would like to do is give some time to
19 be able to get briefed by our representatives
20 as to whether or not we think not only is it
21 not necessarily -- you know, is this something
22 that the Board needs to decide and/or, you

1 know, is it right for us to make the
2 determination in this type of case on the rear
3 yard?

4 So what I think that we should do,
5 which I think is a good suggestion, is set
6 this for a very narrow scope hearing after we
7 have time to do that and --

8 MEMBER ALLEN: Madam Chair, what's
9 the hearing on?

10 VICE CHAIRPERSON SORG: We'll
11 continue this hearing to another date after we
12 have some time to get some of the other
13 elements and also after we have a little bit
14 of time to understand what we think is our
15 role in this type of decision making. So
16 we're not saying, you know, are we going to
17 decide this and we're not saying are we not
18 going to decide whether it's the Board's role
19 to indicate that this is necessary or not
20 necessary. But that will be part of what I
21 think we will be taking time to get advice on
22 and think about.

1 Yes, and so I think we'll set this
2 for April 30th. And the things that we would
3 request from the applicant to my mind include;
4 let me go back to my notes, any other briefing
5 materials that you -- I mean the filings that
6 you made on the rear yard I think are fairly
7 voluminous. If there are others that you
8 wanted to suggest on that area, you could feel
9 free to do so.

10 So that we don't hold the whole
11 case up for too long, I think what we'd also
12 like to see is proposed conditions with
13 comment from DDOT and OP.

14 And is it possible I'd like to ask
15 for a proposed order from you. Perhaps that
16 would have to be done in the alternate,
17 including the 404 relief and not including it.
18 That sounds cool to you?

19 MR. COLLINS: Yes.

20 VICE CHAIRPERSON SORG: Okay.

21 MR. COLLINS: Yes. Before you go
22 much further, I was wondering whether we were

1 going to have time for rebuttal on the DDOT
2 report today.

3 VICE CHAIRPERSON SORG: Oh.

4 MR. COLLINS: Or shall we --

5 VICE CHAIRPERSON SORG: Can you
6 submit the comments on the report? Because
7 since we've just received it, it would be
8 better to have your comments in writing, I
9 think, and to be able to digest the report
10 ourselves. We heard the comments obviously
11 and I think there were additional comments in
12 testimony. Is that suitable to you, that
13 we'll allow a written response to the DDOT
14 report?

15 MR. COLLINS: Yes. Yes, that
16 we'll do a --

17 VICE CHAIRPERSON SORG: Okay. It
18 will be helpful to us since we did just get it
19 and we haven't had a chance to really --

20 MS. GLAZER: Madam Vice Chair, if
21 I may, could I make a suggestion that if we're
22 going to go this route could we request the

1 applicant's counsel to also submit a brief
2 statement about why he believes the Board has
3 the authority to make this determination
4 regarding the rear yard in this posture of the
5 case and --

6 VICE CHAIRPERSON SORG: Yes.

7 MS. GLAZER: -- why this issue is
8 not -- why this would not be an advisory
9 opinion under the Board's rules? As I'm sure
10 everybody is aware, the Board is prohibited
11 from issuing advisory opinions.

12 VICE CHAIRPERSON SORG: Yes, I
13 think that would be very helpful and a good
14 suggestion.

15 MR. COLLINS: All right.

16 VICE CHAIRPERSON SORG: You've got
17 a long list, counsel.

18 MR. COLLINS: It is a long list.

19 VICE CHAIRPERSON SORG: But I know
20 that you can do it.

21 MR. COLLINS: Okay.

22 VICE CHAIRPERSON SORG: Okay. So

1 we will see everybody back here on April 30th.
2 And let's give a couple of interim deadlines
3 for submissions before we get out of here,
4 which I think we should do so that DDOT and OP
5 have enough time to respond to anything they
6 need to respond to. So if we're coming on the
7 30th, can you give your submissions on the
8 17th? That gives you a week and a day. Is
9 that enough time for you, Mr. Collins?

10 MR. COLLINS: Sure. Sure.

11 VICE CHAIRPERSON SORG: Okay. And
12 then we'll give Office of Planning and DDOT
13 until the 24th, same as the last one, before
14 our meeting on the 30th.

15 MR. MOY: Madam Chair, that would
16 be a public hearing, correct?

17 VICE CHAIRPERSON SORG: Right.

18 MR. MOY: Okay.

19 VICE CHAIRPERSON SORG: I meant I
20 suppose before the next time we meet.

21 MS. GLAZER: April 30th?

22 VICE CHAIRPERSON SORG: April

1 30th. Okay. Thank you very much.

2 MR. COLLINS: Thank you.

3 VICE CHAIRPERSON SORG: And that I
4 believe closes our hearing for today.

5 (Whereupon, the hearing was
6 concluded at 2:54 p.m.)

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