

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY,

FEBRUARY 24, 2009

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Ruthanne G. Miller, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

RUTHANNE G. MILLER	Chairperson
MARC D. LOUD	Vice Chairman
SHANE L. DETTMAN	Board Member (NCPC)
MARY OATES WALKER	Board Member

ZONING COMMISSION MEMBER PRESENT:

MICHAEL TURNBULL, FAIA, Commissioner
(OAC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLEY BAILEY	Sr. Zoning Spec.
JOHN NYARKU	Zoning Specialist

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

PAUL GOLDSTEIN
MAXINE BROWN-ROBERTS

This transcript constitutes the
minutes from the Public Hearing held on
February 24, 2009.

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

2 10:17 a.m.

3 CHAIRPERSON MILLER: This hearing
4 will, please, come to order. Good morning,
5 ladies and gentlemen. This is the February
6 24, 2009 Public Hearing of the Board of Zoning
7 Adjustment of the District of Columbia.

8 My name is Ruthanne Miller. I am
9 the Chair of the BZA and to my right is our
10 Board's Vice Chair, Mr. Marc Loud, and next to
11 Mr. Loud is Mr. Michael Turnbull from the
12 Zoning Commission. And to my left is Mary
13 Oates Walker and Shane Dettman, Board Members.

14 And also joining us on the dias is Mr. Cliff
15 Moy from the Office of Zoning, Sherry Glazer
16 from the Office of Attorney General and Ms.
17 Beverley Bailey from the Office of Zoning.

18 Copies of today's hearing agenda
19 are available to you and are located to my
20 left in the wall bin near the door. Please,
21 be advised that this proceeding is being
22 recorded by a Court Reporter and is also

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1 webcast live. Accordingly, we must ask you to
2 refrain from any disruptive noises or actions
3 in the hearing room.

4 When presenting information to the
5 Board, please, turn on and speak into the
6 microphone, first, stating your name and home
7 address. When you are finished speaking,
8 please, turn your microphone off, so that your
9 microphone is no longer picking up sound or
10 background noise.

11 All persons planning to testify
12 either in favor or in opposition are to fill
13 out two witness cards. These cards are
14 located to my left on the table near the door
15 and on the witness tables. Upon coming
16 forward to speak to the Board, please, give
17 both cards to the reporter sitting to my
18 right.

19 The order of procedure for special
20 exceptions and variances is as follows: One,
21 statement and witnesses of the applicant.
22 Two, Government reports, including Office of

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1 Planning, Department of Public Works, DDOT,
2 etcetera. Three, report of the Advisory
3 Neighborhood Commission. Four, parties or
4 persons in support. Five, parties or persons
5 in opposition. Six, closing remarks by the
6 applicant.

7 Pursuant to Section 3117.4 and
8 3117.5, the following time constraints will be
9 maintained: The applicant, persons and
10 parties, except an ANC, in support, including
11 witnesses, 60 minutes collectively. Persons
12 and parties, except an ANC, in opposition,
13 including witnesses, 60 minutes collectively.

14 Individuals 3 minutes.

15 These time restraints do not
16 include cross examination and/or questions
17 from the Board. Cross examination of
18 witnesses is permitted by the applicant or
19 parties. The ANC within which the property is
20 located is automatically a party in a special
21 exception or variance case.

22 Nothing prohibits the Board from

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1 placing reasonable restrictions on cross
2 examination, including time limits and
3 limitations on the scope of cross examination.

4 The record will be closed at the
5 conclusion of each case, except for any
6 material specifically requested by the Board.

7 The Board and the staff will specify at the
8 end of the hearing exactly what is expected
9 and the date when the persons must submit the
10 evidence to the Office of Zoning. After the
11 record is closed, no other information will be
12 accepted by the Board.

13 The Sunshine Act requires that the
14 Public Hearing on each case be held in the
15 open before the public. The Board may,
16 consistent with it's Rules of Procedure and
17 the Sunshine Act, enter Executive Session
18 during or after the Public Hearing on a case
19 for purposes of reviewing the record or
20 deliberating on the case.

21 The decision of the Board in these
22 contested cases must be based exclusively on

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1 the public record. To avoid any appearance to
2 the contrary, the Board requests that persons
3 present not engage the Members of the Board in
4 conversation.

5 Please, turn off all beepers and
6 cell phones, at this time, so as not to
7 disrupt these proceedings.

8 The Board will now consider any
9 preliminary matters. Preliminary matters are
10 those which relate to whether a case will or
11 should be heard today, such as requests for
12 postponement, continuance or withdrawal or
13 whether proper and adequate notice of the
14 hearing has been given. If you are not
15 prepared to go forward with a case today or if
16 you believe that the Board should not proceed,
17 now is the time to raise such a matter.

18 Does the staff have any preliminary
19 matters?

20 MS. BAILEY: Madam Chair, Members
21 of the Board, and to everyone, good morning.
22 There is a request for postponement of one of

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1 the cases this morning. It is Application
2 17880, Application of Progressive National
3 Baptist Convention, Inc. And I believe the
4 representative for that case is present at
5 this time.

6 CHAIRPERSON MILLER: Thank you.
7 And come forward to the table. And if you
8 would introduce yourself for the record?

9 MR. WISE: Good morning. I'm Cason
10 E. Wise, Sr. and my home address is 20 Madison
11 Street, N.W., Washington, D.C. I'm the agent
12 and officer of Progressive National Baptist
13 Convention, Inc. And certainly we want to
14 come before you today in Case No. 17880 that
15 we might request a continuance because of the
16 fact that after meeting with the D.C. Planning
17 Board, we -- it was determined by the Board
18 and us that we weren't properly -- had
19 everything properly in order. And we think it
20 would be in the best interest of ourselves and
21 your time that we make this request.

22 CHAIRPERSON MILLER: Okay. And

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1 have you been conferring with the ANC at all,
2 at this point, or no?

3 MR. WISE: No, I have called
4 several times, but I haven't talked to her
5 personally. No, I have not. Yes, I have
6 spoken to her by phone, but not appeared
7 before her. That's what I mean.

8 CHAIRPERSON MILLER: Okay. And did
9 you let them know, by any chance, that you
10 were seeking this continuance?

11 MR. WISE: No, I just placed a
12 letter -- excuse me. I left a message on her
13 answering service, again, about four days ago.

14 It was last week I left a message that I had
15 written request. But I went by the office and
16 tried to find somebody there also.

17 CHAIRPERSON MILLER: Okay. So were
18 you seeking 60 days or more?

19 MR. WISE: Yes, I would like to
20 have -- actually, I've got to get a study that
21 we have not got completed yet and that's going
22 to take -- the person informed me that's going

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1 to take about 30 days to get out and get back.

2 We haven't get to him officially yet.

3 CHAIRPERSON MILLER: Okay. Well,
4 what is going to happen here is we have a
5 fairly full calendar for several months ahead.

6 So what we are going to do right now is just
7 take a look at our calendar and see where is
8 the next spot that we could fit you in.

9 MR. WISE: Yes, ma'am.

10 CHAIRPERSON MILLER: Okay.

11 MR. WISE: You're cooperate --
12 we're definitely going forward.

13 CHAIRPERSON MILLER: Okay. So just
14 hang in here and we'll take a look at our
15 calendar.

16 MR. WISE: Do you want me to
17 remain?

18 CHAIRPERSON MILLER: Yeah, yeah,
19 because then we want to make sure that that
20 date works for you, you know. All right. The
21 first spot that we have is June 9th in the
22 afternoon.

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1 MR. WISE: June 9th? I think that
2 will work for me.

3 CHAIRPERSON MILLER: Okay. Good.

4 MR. WISE: Yes, and thank you,
5 Madam Chair.

6 CHAIRPERSON MILLER: Okay. You're
7 welcome. And you know, look at the rules.
8 Pretty much you have like 14 days ahead of
9 time of that date to file your prehearing
10 statement or anything like that and confer
11 with the ANC.

12 MR. WISE: Certainly.

13 CHAIRPERSON MILLER: Okay. Thank
14 you very much.

15 MR. WISE: Thank you. Have a good
16 day.

17 CHAIRPERSON MILLER: You, too.
18 Okay. Ms. Bailey, so that case is being
19 continued until June 9th. All right. And are
20 we ready now to swear in witnesses?

21 MS. BAILEY: Yes, Madam Chair.

22 CHAIRPERSON MILLER: Okay. At this

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1 point, would all individuals who wish to
2 testify today, please, rise to take the oath?

3 And Ms. Bailey will administer it.

4 MS. BAILEY: Would you, please,
5 raise your right hand?

6 (Whereupon, the witnesses were
7 sworn.)

8 MS. BAILEY: Thank you. Madam
9 Chair, the first case this morning is
10 Application No. 17894, K. Krueger and J.
11 Lawson, pursuant to 11 DCMR 3104.1, for a
12 special exception to allow a one-story rear
13 addition to an existing one-family detached
14 dwelling under section 223, not meeting the
15 rear yard requirements of section 404. The
16 property is located at 3629 Windom Place, N.W.

17 It's Square 1819E, Lot 11. And the property
18 is Zoned R-2.

19 Mr. Lawson, please, have a seat at
20 the table.

21 CHAIRPERSON MILLER: And the ANC is
22 here in this case, also. You can come forward

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1 as well. I understand we have a preliminary
2 matter in that the ANC report was filed one
3 day late.

4 Oh, I'm sorry, why don't we start
5 with introductions and then we will get to
6 that. Morning.

7 MR. LAWSON: Good morning, Madam
8 Chair and Members of the Board. My name is
9 Joel Lawson. I'm the owner of the property at
10 3629 Windom Place, N.W.

11 MS. WISS: Okay. Good morning.
12 I'm Cathy Wiss, Commissioner for ANC-3F06.

13 CHAIRPERSON MILLER: Okay. As I
14 was saying, it's my understanding that the ANC
15 report was filed one day late. Is that
16 correct?

17 MS. WISS: Correct. We held our
18 meeting, at which we voted on a resolution, on
19 the evening of Tuesday, February 17th. Our
20 report was due by close of business on
21 February 17th, so we filed the next day,
22 because we had not voted on a resolution --

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1 CHAIRPERSON MILLER: Okay.

2 MS. WISS: -- before close of
3 business --

4 CHAIRPERSON MILLER: Got it.

5 MS. WISS: -- on the 17th.

6 CHAIRPERSON MILLER: And, Mr.
7 Lawson, do you have any objection to our
8 admitting the resolution into the record?

9 MR. LAWSON: Of course not.
10 Actually, the ANC was very supportive of our
11 application and the timing was based on our
12 ability to attend the ANC meeting. We weren't
13 able to attend the meeting in January when
14 they had originally asked us to attend, so the
15 lateness is to accommodate our timing and we
16 appreciate that.

17 CHAIRPERSON MILLER: Okay. All
18 right. Well, we can waive our records to
19 admit the record if we find good cause and no
20 prejudice to any party and I certainly think
21 that's the case here. Do Board Members have
22 any objection? Okay. Then the resolution is

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1 accepted into the record.

2 Well, it's a treat to have you
3 here, Mr. Lawson. For those that don't know,
4 Mr. Lawson, he's with the Office of Planning
5 and is an expert in planning. So I think
6 that's part of the reason the application is
7 so well put together. I don't think there's a
8 lot we need to do on it, but do you want to
9 make some statements at all about your
10 application?

11 MR. LAWSON: Not really. I think I
12 can keep it fairly short. It is for the
13 replacement of a small rear addition to our
14 house. We do have letters from our directly
15 affected neighbors in support. We have
16 contacted all of our other neighbors by email
17 and by letter and by personal contact and so
18 far nobody has objected.

19 As you know, the ANC has also
20 submitted its report in -- not objecting to
21 the application. We, again, very much
22 appreciate the ANC's attention to this matter

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1 on our behalf.

2 I think all those documents are in
3 your file and I think with that, I can
4 certainly answer any questions you may have.
5 Thanks.

6 CHAIRPERSON MILLER: Okay. Do
7 Board Members have any questions? Ms. Wiss,
8 do you have any cross examination?

9 MS. WISS: I do not.

10 CHAIRPERSON MILLER: Okay. Why
11 don't we go to Office of Planning then?

12 MR. GOLDSTEIN: Good morning, Madam
13 Chair and Members of the Board. For the
14 record, my name is Paul Goldstein. I'm a
15 Development Review Specialist with the Office
16 of Planning. I am substituting today for Matt
17 Jesick.

18 The Office of Planning recommends
19 approval of the relief requested pursuant to
20 section 223. And with that, we can rest, I
21 can rest on the record as well.

22 CHAIRPERSON MILLER: Okay. Thank

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1 you. And your report is excellent and quite
2 thorough as well. Do any Board Members have
3 questions for Office of Planning? Ms. Wiss,
4 do you have a question for Office of Planning?

5 MS. WISS: No, I do not.

6 CHAIRPERSON MILLER: Okay. And do
7 both of you have a copy of Office of
8 Planning's report?

9 MS. WISS: No.

10 CHAIRPERSON MILLER: Oh, well, you
11 should get it. Would you like one?

12 MS. WISS: Yes, I would.

13 CHAIRPERSON MILLER: Okay. Do you
14 have any extras or not with you right now?
15 All right. We will get one to you. Okay. As
16 we were stating earlier, the ANC did do a
17 resolution unanimously in support. I don't
18 know if I said that before that it was
19 unanimous, but I noticed that it was.

20 MS. WISS: It was unanimous.

21 CHAIRPERSON MILLER: Do you want to
22 add anything, at this point?

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1 MS. WISS: Basically, I did contact
2 or try to contact the neighbors that could see
3 this and would be most affected and I did hear
4 from two orally who said that they supported
5 this application. And we do have the letters
6 in the file.

7 There is one peculiarity about this
8 case, which is that this yard is a rear yard
9 only in that the front door happens to be on
10 Windom Place and not on Reno Road. It's a
11 corner lot. They have two requisite yards,
12 one that is 8 feet wide, which is adjacent to
13 another side yard. This is on the north side
14 of the house. It's the one where they wish to
15 build the addition.

16 They also have a larger yard
17 meeting the requirements of a rear yard on the
18 side of the house, which, in fact, is where
19 they -- which they use as a backyard. So that
20 effectively, this addition would be in what
21 would normally be a side yard.

22 I did look at the addition from the

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1 alley and it appears that most of it would be
2 adjacent to the next door neighbor's rear
3 yard, so that the windows would look out on
4 the rear yard and not directly into the house
5 next door, which is where often adjacent
6 homeowners have a problem with it taking the
7 addition closer to the house.

8 So that is something that I don't
9 think will have an impact and the next door
10 neighbor says it will not.

11 CHAIRPERSON MILLER: Okay. Any
12 questions? Mr. Lawson?

13 MR. LAWSON: No, thank you.

14 CHAIRPERSON MILLER: Okay. Thank
15 you very much. Is there anybody here in the
16 audience who wishes to testify in support of
17 this application? Anybody who wishes to
18 testify in opposition? Not seeing or hearing
19 from anyone, Mr. Lawson, do you have any final
20 statements?

21 MR. LAWSON: Nothing at all. Thank
22 you.

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1 CHAIRPERSON MILLER: Okay. Thank
2 you. Any final questions from Board Members?

3 Okay. Then do we have a motion in this case?

4 MEMBER DETTMAN: Madam Chair, I
5 would like to move for approval of Application
6 No. 17894 of K. Krueger and J. Lawson, Joel
7 Lawson, pursuant to 11 DCMR 3104.1, for a
8 special exception to allow a one-story rear
9 addition to an existing one-family detached
10 dwelling under section 223, not meeting the
11 rear yard requirements of section 404 and the
12 requirements of section 2001.3 in the R-2
13 District at premises 3629 Windom Place, N.W.

14 COMMISSIONER TURNBULL: Second.

15 MEMBER DETTMAN: Madam Chair, if
16 it's okay with yourself and my colleagues, I
17 would like to instead of going individually
18 through the provisions of section 223, given
19 how relatively straightforward this case is, I
20 would like for us to adopt the OP report and
21 their analysis.

22 And to just touch upon the

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1 highlights, with respect to impacts of this
2 rear addition to light and air on the
3 neighboring properties, we heard in the
4 testimony that there were two letters in
5 support of the application submitted from the
6 adjacent neighbors. Those are Exhibits 20 and
7 21 in our record.

8 Those letters indicate that they
9 don't believe that there will be adverse
10 impacts to light, air or privacy or enjoyment
11 and use of their properties.

12 With respect to the impacts of this
13 addition on the character of the neighborhood
14 and views from the streets or alleys, we heard
15 from the ANC in their testimony that they
16 conducted a site visit and that the views from
17 the alley and the streets would be in keeping
18 with the surrounding neighborhood.

19 They also noted that the placement
20 of the windows, the views would actually be
21 into the neighbors' rear yards and not into
22 their homes.

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1 So with that, Madam Chair, it
2 appears that the applicant has met the
3 requirements of section 223.

4 CHAIRPERSON MILLER: Thank you very
5 much. That was excellent. Anybody else?
6 Okay.

7 Then all those in favor say aye.

8 ALL: Aye.

9 CHAIRPERSON MILLER: All those
10 opposed? All those abstaining? And would you
11 call the vote, please?

12 MS. BAILEY: Madam Chair, the vote
13 is recorded as 5-0-0 to grant the application.

14 Mr. Dettman made the motion, Mr. Turnbull
15 seconded, Mr. Loud, Mrs. Walker and Mrs.
16 Miller support the motion.

17 CHAIRPERSON MILLER: Thank you.
18 And this would be a summary order as there are
19 no parties in opposition. Enjoy. We're ready
20 for the next case, Ms. Bailey, whenever you
21 are.

22 MS. BAILEY: Madam Chair, that's

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1 Application 17884. This is the Application of
2 NDC Home Again 22A LLC, pursuant to 11 DCMR
3 3103.2, for a variance from the lot area
4 requirements under section 401, a variance
5 from the off-street parking requirements under
6 subsection 2101.1, to construct a new flat.
7 The property is Zoned R-4. It is located at
8 1915 6th Street, N.W., Square 3091, Lot 818.

9 There is a matter associated with
10 this case, Madam Chair, prior to the Board
11 hearing merits of the project. And that is
12 the applicant did not post the property.

13 CHAIRPERSON MILLER: Good morning.

14 Why don't we start off with introductions and
15 then we can get to the preliminary issue?

16 MR. BROWN: Good morning. My name
17 is Kevin Brown. I'm with the Neighborhood
18 Development Company.

19 CHAIRPERSON MILLER: We also ask
20 for an address.

21 MR. BROWN: 4110 Kansas Avenue,
22 N.W.

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1 MR. PICHON: Good morning. My name
2 is Sean Pichon. I'm with PGN Architects, a
3 partner with PGN Architects. We are located
4 at 1817 M Street, N.W.

5 CHAIRPERSON MILLER: Okay. Ms.
6 Bailey has said that there doesn't seem to
7 have been a posting in compliance with our
8 regulations. Do you want to address that?

9 MR. BROWN: I would like to address
10 it. That was a miscommunication between our
11 two offices. The property is currently posted
12 with the Home Again sign. It has been there
13 for the last year letting the neighbors know
14 that there is a new property being built
15 there. But it did not get posted and that is
16 an error on our behalf.

17 CHAIRPERSON MILLER: Okay. And I'm
18 looking at the regulations. I guess 3113.14
19 says "The applicant shall give additional
20 notice of the Public Hearing by posting the
21 property with Notice of the Hearing at least
22 15 days in advance of the hearing.

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1 So there has been no posting about
2 the hearing. There is posting about the
3 initiative or whatever, right? Okay. Did you
4 present your application to the ANC?

5 MR. BROWN: Yes, and we have a
6 letter of support. We have a letter of
7 support from the ANC. It should have been
8 filed and it was noted in the OP report.

9 CHAIRPERSON MILLER: Okay. I'm
10 just taking a look at 3113.13, I'm not sure
11 how familiar you are with our regulations, but
12 they are the notice provisions. And one of
13 them certainly -- this office mails notice to
14 the ANC. It's not something that you do, but
15 the fact that you met with the ANC is an
16 indication that the ANC actually had notice,
17 even more notice than just of the -- from our
18 notice that was mailed.

19 You presented your whole
20 application. And you said that there is a
21 support letter in the record. Okay. Did you
22 have any other contact with immediate

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1 neighbors?

2 MR. BROWN: We had contact with the
3 neighbor to the north, but that was over a
4 year and a half ago.

5 CHAIRPERSON MILLER: Okay. Well,
6 this is our situation. The notice
7 requirements are to ensure that the public and
8 those who are most immediately affected are
9 aware of the hearing and the application, so
10 that they can participate, as they have a
11 right to.

12 Our rules provide for various forms
13 of notice. One is publishing the notice in
14 the D.C. Register. The next is mailing notice
15 to those within 200 feet, property owners
16 within 200 feet of the property, ANC and then
17 this is posted on our calendar of cases.

18 Okay. So the Board has to decide
19 whether we should waive the additional
20 requirement in 3113.14 posting. And we need
21 to decide whether we think that the public,
22 including the most impacted neighbors, got

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1 notice. Is there anybody here from the ANC?
2 No. Anybody here from the community? Okay.
3 So we can't ask them. Yeah?

4 MR. BROWN: But if -- there should
5 be -- we have met with the ANC at least three
6 times on this matter. There should be two
7 letters in the record. There was the initial
8 letter where we had come to the meeting on
9 several occasions and they didn't have a
10 quorum. And then there was a follow-up
11 meeting where they actually did have quorum
12 and voted on the matter. There should be two
13 letters from the ANC in the record.

14 VICE CHAIR LOUD: Madam Chair?

15 CHAIRPERSON MILLER: Yes? Oh, yes.

16 VICE CHAIR LOUD: Exhibit 16 and
17 exhibit -- there's another exhibit dated -- 16
18 is dated December 5 and then there is another
19 exhibit from October 15th. No vote was taken,
20 but the exhibit evidences the fact that the
21 applicant had been in consultation with the
22 ANC. I think it kind of makes a compelling

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1 case that the community was aware of what was
2 being proposed for the site, even without the
3 posting.

4 CHAIRPERSON MILLER: I'm looking at
5 Exhibit 16 now and it makes reference to the
6 LeDroit Park Citizens Association being in
7 support. Do you have anything in writing from
8 them or no?

9 MR. BROWN: No, that's from their
10 tenants at the ANC meetings.

11 CHAIRPERSON MILLER: Okay. Did you
12 meet with that group separately?

13 MR. BROWN: Not separately from the
14 ANC meeting.

15 CHAIRPERSON MILLER: Okay.

16 MR. BROWN: But the Single Member
17 District -- Single District Council -- the
18 Single District ANC Member was in contact with
19 them.

20 CHAIRPERSON MILLER: Let me just
21 ask Office of Planning to weigh in also before
22 we go forward. Why don't you introduce

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1 yourself again for this record.

2 MR. GOLDSTEIN: Sure. My name is
3 Paul Goldstein. I'm a Development Review
4 Specialist with the Office of Planning.

5 CHAIRPERSON MILLER: Did you have
6 any contact with the community on this case?

7 MR. GOLDSTEIN: I believe I had an
8 email exchange with the ANC Single Member
9 representative, who mentioned to me that they
10 were supportive of the proposal. I have not
11 had any contact with any other neighbors or
12 organizations. I did, like they mentioned,
13 notice there were two ANC letters in the
14 record and also mentioned the LeDroit Park
15 Historic Association or I may not have the
16 exact name, but I haven't had any other
17 communications with neighbors.

18 CHAIRPERSON MILLER: You had
19 communication with the Historic Association?

20 MR. GOLDSTEIN: I just saw the
21 reference to it that they were supportive.
22 The LeDroit Park -- I'm sorry, Neighborhood

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1 Association, I may not have the exact name.

2 CHAIRPERSON MILLER: That's LeDroit
3 Park Citizens Association.

4 MR. GOLDSTEIN: Citizens
5 Association.

6 CHAIRPERSON MILLER: Okay.

7 MR. GOLDSTEIN: Pardon me.

8 CHAIRPERSON MILLER: Okay. All
9 right. So then Board Members can just
10 deliberate on this for a minute. I would note
11 also that you had a sign up for a year that
12 said what?

13 MS. GLAZER: Madam Chair, is it in
14 the record when it was posted? I think if the
15 Board is considering a waiver, that that
16 should be clear. I didn't hear the date.

17 CHAIRPERSON MILLER: I think it was
18 not posted at all.

19 MS. GLAZER: I must have
20 misunderstood.

21 CHAIRPERSON MILLER: Is it?

22 MS. GLAZER: I thought he said he

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1 posted it, that it is posted now.

2 MR. BROWN: I did not say that.

3 CHAIRPERSON MILLER: So the hearing
4 notice wasn't posted. But now, we are looking
5 at a sign that has been up on the building for
6 how long?

7 MR. BROWN: It has been up there
8 for over a year.

9 CHAIRPERSON MILLER: Over a year.
10 And what does it say?

11 MR. BROWN: It's the -- it's just
12 the Home Again Initiative sign for the
13 property. And it's on the --

14 CHAIRPERSON MILLER: So it's on the
15 what?

16 MR. BROWN: It's on Image 3 on the
17 board. It's the Home Again Initiative sign.

18 CHAIRPERSON MILLER: What street
19 does it face?

20 MR. BROWN: It faces 6th Street.

21 CHAIRPERSON MILLER: Okay. And if
22 somebody were to ask you what does that mean,

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1 what's the Home Again Initiative, you just --

2 MR. BROWN: The Home Again
3 Initiative is a program by the District to
4 dispose of vacant and under-used property, so
5 that they are restored to productive use.

6 CHAIRPERSON MILLER: Okay. Thank
7 you. Do other Board Members have questions
8 before we deliberate on this? Okay.

9 I guess I'm inclined to let the
10 case go forward given that the rules provide
11 for several forms of notice. And all those
12 other notices apparently were made. And that
13 there was a sign up on this building for over
14 a year, so that if individuals were concerned
15 about what was going on, they knew something
16 was happening here.

17 And the ANC certainly took up this
18 application and is in support. And we don't
19 see any evidence of possible opposition. What
20 do others think about this?

21 VICE CHAIR LOUD: I think you
22 nailed it, Madam Chair. I agree. I don't

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1 think that there is a showing of prejudice to
2 anyone. And even the delay of the ANC meeting
3 means that the community had additional time
4 to learn about it and weigh in on it and still
5 there is no opposition. And the ANC has
6 submitted a letter of support. So I agree
7 with you.

8 CHAIRPERSON MILLER: Any opposition
9 to going forward?

10 COMMISSIONER TURNBULL: No, Madam
11 Chair. I think Exhibit 5 clearly shows in the
12 picture that there was a sign posted on the
13 site.

14 CHAIRPERSON MILLER: Okay. Then
15 the Board is agreeing to waive its rule with
16 respect to requiring that additional notice at
17 3113.14 finding good cause and no prejudice to
18 any party. So now, you can proceed with your
19 case.

20 MR. BROWN: Thank you. In our
21 application, we have requested approval of a
22 variance to the minimum lot area and to

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1 section 2101.1, number of parking spaces.
2 There has been an OP report filed, which we
3 concur with. I can go through the three part
4 test, if you would like, and walk you through
5 it or I could use the OP report to stand on
6 its own. And I just would like some direction
7 from --

8 CHAIRPERSON MILLER: I guess I
9 would say if you are going to follow the OP
10 report, I think we could let OP probably do
11 that. And we could just ask you any questions
12 that we might have, if that's all right with
13 the Board.

14 Could you talk about the parking a
15 little bit? I understand, you know, you are
16 seeking two variances. One goes to lot area
17 and one goes to parking.

18 MR. BROWN: The existing lot, there
19 is no alley. It's a pre-1958 lot. It is
20 landlocked on three sides. This is located
21 within the LeDroit Historic District. And we
22 have worked closely with HPRB to get the plans

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1 to a point where it is acceptable to them.

2 The only way we would be able to --
3 the only way we would be able to provide
4 parking is through a front-loaded garage,
5 which is against the historic character of the
6 neighborhood. And that's why we are unable to
7 -- well, not unable, that is why we are
8 seeking the relief.

9 CHAIRPERSON MILLER: Can you just
10 tell me what the parking situation is in
11 general? Is it hard to find a parking space
12 on the street?

13 MR. BROWN: The -- we have -- from
14 what -- this site is located close to the
15 Howard, I apologize, Shaw Metro Station. And
16 it is also less than -- I have the exact
17 numbers, in close approximation to several
18 Metro routes. And so it should not be an
19 issue on this site.

20 CHAIRPERSON MILLER: So I guess
21 that's a different issue. I mean, so I think
22 what other points you are making is someone

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1 might not need a car, because you are so close
2 to public transportation, right? But if
3 someone had a car, is there a problem with
4 parking?

5 MR. BROWN: I haven't found any
6 parking, but I have gone there during -- I
7 haven't found any issues with parking. I have
8 only been there during the day.

9 CHAIRPERSON MILLER: Okay. Others?
10 Okay. Mr. Goldstein?

11 MR. GOLDSTEIN: Thank you, Madam
12 Chair. For the record again, Paul Goldstein
13 with the Office of Planning. The Office of
14 Planning recommends approval of the
15 applicant's request for variance relief to
16 construct a new flat at 1915 6th Street, N.W.,
17 which is a vacant lot, 818 in Square 3091.
18 The subject property is Zoned R-4 and has a
19 substandard size and lacks alley access.

20 The lot area measures,
21 approximately, 1,224 square feet in a zone
22 that requires a minimum of 1,800 square feet.

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1 And the proposal does not provide an off-
2 street parking space. As a result, the
3 applicant needs relief from the minimum lot
4 area pursuant to section 403 -- 401.3 and
5 number of parking spaces pursuant to section
6 2101.1.

7 OP supports the applicant's request
8 for relief based on a review of the three part
9 variance test.

10 First, the property is unique. It
11 was created prior to the adoption of the 1958
12 Zoning Code. The lot size and lack of alley
13 access are inherited characteristics that do
14 not conform to the current R-4 Zoning
15 Requirements. And the lot presents an empty
16 gap in a row of attached dwellings.

17 Second, the lot area and parking
18 requirements create a practical difficulty
19 that is unnecessarily burdensome to the
20 applicant. Flats are a permitted use in the
21 R-4 District, but the lot area is too small to
22 conform to current zoning. That the property

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1 lacks alley access and is located in the
2 LeDroit Park Historic District where a curb
3 cut and a front-loaded garage would be out of
4 character creates a practical difficulty to
5 provide parking.

6 Without relief from lot area and
7 parking, the property would remain
8 undeveloped. Finally, granting variance
9 relief would not cause substantial detriment
10 to the public good or impair the intent,
11 purpose and integrity of the Zoning
12 Regulations. The proposal would bring a
13 vacant lot into productive use consistent with
14 the Zoning Code and its surroundings.

15 Further, the sites proximity to
16 public transportation mitigates the need for
17 any required parking. OP notes that ANC-1B
18 submitted a letter in support of the proposal.

19 To conclude, the Office of Planning
20 recommends approval of the requested variance
21 relief.

22 And that concludes my presentation.

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1 I am now available for questions. Thank you.

2 CHAIRPERSON MILLER: Thank you.
3 Excellent report. I just have a couple of
4 questions. One is you talked about front-
5 loaded garage being out of character. Would
6 it even be allowed under the regulations?

7 MR. GOLDSTEIN: I spoke to a member
8 of the Historic Preservation Office who
9 indicated to me that it would not have been
10 supported. Whether it is allowed, I would be
11 doubtful that it would be allowed. I haven't
12 seen the regulations, but I would think it
13 would not be.

14 CHAIRPERSON MILLER: How about
15 under the Zoning Regulations?

16 MR. GOLDSTEIN: Well, I guess that
17 would sort of depend on whether DDOT was
18 supportive of a curb cut. I don't think that
19 it would be prohibited by the Zoning
20 Regulations, but it would certainly not be
21 encouraged.

22 CHAIRPERSON MILLER: I thought

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1 there was a regulation that talks about no
2 parking between the building restriction line
3 and the front or something like that.

4 MR. GOLDSTEIN: Oh, I guess it
5 depends if we are discussing an interior
6 garage, I'm assuming it would be permitted
7 under the Zoning Regulations as opposed to
8 parking sort of in an open space in front of
9 the dwelling.

10 CHAIRPERSON MILLER: I see.

11 MR. GOLDSTEIN: But we would
12 certainly not encourage that, encourage the
13 front-loaded garage, interior garage design.

14 CHAIRPERSON MILLER: Okay. Thank
15 you. That clears up one of my questions. And
16 my other one I just wanted to know if you
17 wanted to comment on this, on the first page
18 of your report you talk about confirming with
19 the ZA that the remaining rear balcony is no
20 more than 4 feet above the grade at any point.

21 Do you have any comments on that?

22 MR. GOLDSTEIN: Yeah, this is a --

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1 it's kind of -- I haven't seen this particular
2 circumstance where the deck or I guess it is--
3 do you call it a deck or a balcony? I think
4 it's a balcony, but it's hard to say exactly.

5 It's about 4 feet above the natural grade,
6 but the finished grade it looks like it
7 exceeds 4 feet above.

8 Whether the Zoning Administrator
9 would say that that would then need relief, it
10 would be nonconforming. If it did count
11 toward lot occupancy and rear yard, it's
12 likely that it would actually need relief. I
13 don't have an interpretation of it from my
14 point of view, but so I wanted to point it out
15 in my report.

16 CHAIRPERSON MILLER: Others have
17 questions?

18 VICE CHAIR LOUD: Thank you, Madam
19 Chair. One quick question for OP and it's
20 sort of a hypothetical question. It's related
21 to this case, but not really, so to sort of
22 pick your brain since you are there in the

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1 chair very quickly.

2 And the question is this, if this
3 project were nonresidential of any sort, a
4 church or a commercial building, etcetera, and
5 the applicant was seeking to reduce the number
6 of parking spaces, in your opinion, would the
7 applicant be able to proceed as either a
8 variance under 3103 or a section 2108 special
9 exception or would the applicant have to
10 proceed under 2108?

11 MR. GOLDSTEIN: That's an
12 interesting question. I think I'm going to
13 punt that one. I don't have an immediate
14 answer for you.

15 VICE CHAIR LOUD: Okay.

16 MR. GOLDSTEIN: But I would
17 certainly be willing to try to find that out.

18 VICE CHAIR LOUD: Thank you. I
19 appreciate it. Thank you for taking a stab at
20 it. You don't have to take it on as an extra
21 homework assignment. All right.

22 CHAIRPERSON MILLER: Any other

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1 questions? Does the applicant have a copy of
2 the Office of Planning report?

3 MR. BROWN: Yes.

4 CHAIRPERSON MILLER: Do you have
5 any questions for the Office of Planning?

6 MR. BROWN: Um, no, we do not.

7 CHAIRPERSON MILLER: Okay. We made
8 reference that we have a letter from the ANC
9 in support of the application. I'll just ask
10 again for the record whether anybody is here
11 from the ANC? Not seeing anyone, I would like
12 to reference it more specifically. It is
13 Exhibit No. 16 in our record from ANC-1B
14 indicating that they voted 5-0-1 to support
15 the application.

16 And they stated that "Use as flats
17 is consistent with the current and historic
18 use in proximity to multiple types of public
19 transportation mitigates the need for required
20 parking. We have heard from the LeDroit Park
21 Citizens Association in support of this
22 application. We see no detriment to the

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1 public good, any adverse effect on the uses of
2 neighboring properties and see it as
3 consistent with the general intent and purpose
4 of the Zoning Regulations and Map and ask that
5 the Board support the variances."

6 Okay. That's the ANC report. That
7 was dated December 5, 2008. And it's a report
8 that we would give great weight to. It meets
9 all the requirements. They note that it was
10 at a publicly noticed meeting and a quorum was
11 present and they have given us the vote and
12 they have addressed the issues of the
13 application.

14 Okay. Anybody here in support of
15 the application who wishes to come forward to
16 testify? Anybody who wishes to testify in
17 opposition to this application? Not hearing
18 from anyone, any final questions from the
19 Board? Any final statements from the
20 applicant?

21 MR. BROWN: The only final
22 statement is that we will work with the Zoning

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1 Administrator to figure out the final question
2 he had with regards to the deck. And if it's
3 not permissible, then we won't put it on.

4 CHAIRPERSON MILLER: Okay. All
5 right. Anything else?

6 MR. BROWN: No.

7 CHAIRPERSON MILLER: Okay. Thank
8 you. Then the Board can deliberate on this
9 application, at this time, then. And do we
10 have a motion?

11 MEMBER WALKER: Madam Chair, I
12 would like to move approval of Application No.
13 17884 of NDC Home Again 22A LLC, pursuant to
14 section 3103.2, for a variance from the lot
15 area requirements of section 401, and a
16 variance from the off-street parking
17 requirements under section 2101, to construct
18 a new flat at 1915 6th Street, N.W.

19 CHAIRPERSON MILLER: Second?

20 VICE CHAIR LOUD: Madam Chair, I
21 would like to second Board Member Walker's
22 motion.

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1 CHAIRPERSON MILLER: Okay.

2 MEMBER WALKER: The property that
3 is the subject of this application is the only
4 vacant lot in Square 3091. It is Zoned R-4
5 and is in the LeDroit Park Historic District.

6 The applicant proposes to build a three-story
7 row house that will be used as a flat. Flats
8 are permitted as a matter-of-right in R-4
9 Districts, but the applicant needs variance
10 relief from the lot area requirements of 401
11 and the off-street parking requirements of
12 2101.1.

13 401 requires row dwellings and
14 flats to have a minimum lot area of 1,800
15 square feet and here the subject lot, which
16 was created prior to 1958, is approximately
17 1,224 square feet.

18 Section 2101 requires that flats
19 provide one parking space for every two
20 dwelling units and here the applicant proposes
21 to provide no parking because of the lack of
22 alley access.

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1 The facts here satisfy the three
2 prongs of the variance test in the interest of
3 efficiency. We can incorporate by reference
4 the variance analysis in Mr. Goldstein's
5 report. The OP report is at Exhibit 23. Just
6 to summarize, the property is unique in that
7 it is smaller than that that is required by
8 the Zoning Regs. It has no alley access. It
9 is in the Historic District. And it is an
10 empty gap in a row of attached dwellings.

11 The practical difficulty created by
12 the strict application of 401 is that the
13 property would remain undeveloped and the
14 strict application of 2101 would require
15 parking to be provided in the front of the
16 property, which is not feasible, because
17 having a curb cut for a parking pad or a
18 front-loading garage would be incompatible
19 with the style of the homes in the Historic
20 District.

21 The requested relief can be granted
22 without substantial detriment to the public

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1 good and without impairing the intent, purpose
2 and integrity of the Zoning Regulations and
3 Map. Flats are permissible in the R-4
4 District and the proposal is for a building
5 that is comparable to the other buildings in
6 the square.

7 In addition, the proposal would
8 bring a vacant lot into productive use. The
9 need for off-street parking is lessened
10 because of the proximity to public
11 transportation. We heard testimony that the
12 property is, approximately, four blocks to the
13 Shaw Howard University Metro Station and also
14 close to several bus routes.

15 There is no opposition to the
16 application. It has the support of ANC-1B,
17 which Madam Chair pointed out voted 5-0-1 to
18 support the application, and the ANC's letter
19 again is at Exhibit 16.

20 And we should also note that the
21 Office of Planning is in support.

22 CHAIRPERSON MILLER: Excellent.

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1 Anybody else have anything to add to that?
2 No, I think you covered it all. Thank you.
3 Okay.

4 Then all those in favor say aye.

5 ALL: Aye.

6 CHAIRPERSON MILLER: All those
7 opposed? All those abstaining? And would you
8 call the vote, please?

9 MS. BAILEY: Madam Chair, the vote
10 is recorded as 5-0-0 to grant the application.
11 Mrs. Walker made the motion, Mr. Loud
12 seconded, Mr. Dettman, Mr. Turnbull and Mrs.
13 Miller support the motion.

14 CHAIRPERSON MILLER: And this can
15 be a summary order as there is no party in
16 opposition.

17 MS. BAILEY: Madam Chair, the
18 graphics that are before the Board, I don't
19 recall if a copy -- okay, thank you.

20 CHAIRPERSON MILLER: Okay. So they
21 are being submitted as we speak. Okay. Then
22 your order will be available within a few days

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1 probably. So thank you very much. Good luck.

2 MR. BROWN: Thank you.

3 CHAIRPERSON MILLER: Ms. Bailey, do
4 we have anything else on the agenda for this
5 morning?

6 MS. BAILEY: No, Madam Chair.

7 CHAIRPERSON MILLER: Okay. Then
8 this hearing is adjourned and we will
9 reconvene at 1:00 for the afternoon session.

10 (Whereupon, the Public Hearing was
11 recessed at 11:06 a.m. to reconvene at 1:18
12 p.m. this same day.)

13

14

15

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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 1:18 p.m.

3 CHAIRPERSON MILLER: This hearing
4 will, please, come to order. Good afternoon,
5 ladies and gentlemen. This is the February
6 24th Public Hearing of the Board of Zoning
7 Adjustment of the District of Columbia.

8 My name is Ruthanne Miller. I'm
9 the Chair of the BZA. To my right is Mr. Marc
10 Loud. He is the Vice Chair. To my left is
11 Mary Oates Walker and Shane Dettman, Board
12 Members. And to Mr. Dettman's left is Sherry
13 Glazer from the Office of Attorney General and
14 Ms. Beverley Bailey from the Office of Zoning.

15 Also joining us on the dias is Mr. Cliff Moy
16 from the Office of Zoning.

17 Copies of today's hearing agenda
18 are available to you and are located to my
19 left in the wall bin near the door. Please,
20 be aware that this proceeding is being
21 recorded by a Court Reporter and is also
22 webcast live. Accordingly, we must ask you to

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1 refrain from any disruptive noises or actions
2 in the hearing room.

3 When presenting information to the
4 Board, please, turn on and speak into the
5 microphone, first, stating your name and home
6 address. When you are finished speaking,
7 please, turn your microphone off, so that your
8 microphone is no longer picking up sound or
9 background noise.

10 All persons planning to testify
11 either in favor or in opposition are to fill
12 out two witness cards. These cards are
13 located to my left on the table near the door
14 and on the witness tables. Upon coming
15 forward to speak to the Board, please, give
16 both cards to the reporter sitting to my
17 right.

18 The order of procedure for special
19 exceptions and variances is as follows: One,
20 statement and witnesses of the applicant.
21 Two, Government reports, including Office of
22 Planning, Department of Public Works, DDOT,

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1 etcetera. Three, report of the Advisory
2 Neighborhood Commission. Four, parties or
3 persons in support. Five, parties or persons
4 in opposition. Six, closing remarks by the
5 applicant.

6 Pursuant to Section 3117.4 and
7 3117.5, the following time constraints will be
8 maintained: The applicant, persons and
9 parties, except an ANC, in support, including
10 witnesses, 60 minutes collectively. Persons
11 and parties, except an ANC, in opposition,
12 including witnesses, 60 minutes collectively.
13 Individuals 3 minutes.

14 These time restraints do not
15 include cross examination and/or questions
16 from the Board. Cross examination of
17 witnesses is permitted by the applicant or
18 parties. The ANC within which the property is
19 located is automatically a party in a special
20 exception or variance case.

21 Nothing prohibits the Board from
22 placing reasonable restrictions on cross

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1 examination, including time limits and
2 limitations on the scope of cross examination.

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 Sunshine Act requires that the
13 Public Hearing on each case be held in the
14 open before the public. The Board may,
15 consistent with it's Rules of Procedure and
16 the Sunshine Act, enter Executive Session
17 during or after the Public Hearing on a case
18 for purposes of reviewing the record or
19 deliberating on the case.

20 The decision of the Board in these
21 contested cases must be based exclusively on
22 the public record. To avoid any appearance to

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1 the contrary, the Board requests that persons
2 present not engage the Members of the Board in
3 conversation.

4 Please, turn off all beepers and
5 cell phones, at this time, so as not to
6 disrupt these proceedings.

7 The Board will make every effort to
8 conclude the public hearing as near as
9 possible to 6:00 p.m. If the afternoon cases
10 are not completed at 6:00, the Board will
11 assess whether it can complete the pending
12 case or cases remaining on the agenda.

13 At this time, the Board will
14 consider any preliminary matters. Preliminary
15 matters are those that relate to whether a
16 case will or should be heard today, such as
17 requests for postponement, continuance or
18 withdrawal or whether proper and adequate
19 notice of the hearing has been given. If you
20 are not prepared to go forward with a case
21 today or if you believe that the Board should
22 not proceed, now is the time to raise such a

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1 matter.

2 Does the staff have any preliminary
3 matters?

4 MS. BAILEY: Madam Chair, to
5 everyone, good afternoon. Staff does not.

6 CHAIRPERSON MILLER: Okay. Then
7 let's proceed with the agenda. Would all
8 individuals wishing to testify today, please,
9 rise to take the oath? And Ms. Bailey will
10 administer it.

11 MS. BAILEY: Please, raise your
12 right hand.

13 (Whereupon, the witnesses were
14 sworn.)

15 CHAIRPERSON MILLER: Okay. Thank
16 you, Ms. Bailey. And we're ready for the
17 first case then.

18 MS. BAILEY: Madam Chair, the first
19 case is the Application of Jobs Partnership of
20 Greater Washington, and the Application No. is
21 17827. I just wanted to put on the record
22 that the applicant did amend this application.

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1 635 Park Road and Lot 82 is no longer a part
2 of the record for this case, so I will not be
3 reading those numbers.

4 Again, this is the Application of
5 Jobs Partnership of Greater Washington and
6 it's pursuant to 11 DCMR sections 3104.1 and
7 3103.2, for a special exception to allow a job
8 training program as a church program to be
9 housed in the new addition to the New
10 Commandment Baptist Church under section 216,
11 and a variance from the required number of
12 off-street parking spaces under subsection
13 2101.1. The property is located in the R-4
14 District and it is located at premises 625,
15 633 Park Road, N.W., Square 3038, Lots 81 and
16 831.

17 CHAIRPERSON MILLER: Good
18 afternoon.

19 MR. KADLECEK: Good afternoon.

20 CHAIRPERSON MILLER: Why don't we
21 start with introductions?

22 MR. KADLECEK: My name is Cary

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1 Kadlecek from the Law Firm of Pillsbury
2 Winthrop Shaw Pittman. With me is Maureen
3 Dwyer also of Pillsbury. To my right is
4 Reverend Stephen Tucker of the New Commandment
5 Baptist Church. And to his right is Jennifer
6 Marca, architect, from the Law Firm of -- or
7 architectural firm of Bonstra Haresign.

8 I would also like to offer Ms.
9 Marca as an expert in architecture. I believe
10 you have her resume in front of you and I
11 believe she has been admitted as an expert
12 before the Board before.

13 CHAIRPERSON MILLER: Did you submit
14 it with the prehearing statement?

15 MR. KADLECEK: No, I submitted it
16 today.

17 CHAIRPERSON MILLER: Today?

18 MS. BAILEY: Madam Chair, there are
19 two documents. One is the resume and the
20 other is a rendering of the project. And
21 those documents are in front of you.

22 CHAIRPERSON MILLER: Okay. Any

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1 concerns from Board Members? Okay. Yes, I
2 just see the resume now that was on the dias
3 here. Okay. Yeah.

4 MR. KADLECEK: Great. Thank you.
5 The subject property, as mentioned, is 625
6 Park Road, which is comprised of the New
7 Commandment Baptist Church and the adjacent
8 parking lot.

9 CHAIRPERSON MILLER: Can I
10 interrupt you just for one second?

11 MR. KADLECEK: Sure.

12 CHAIRPERSON MILLER: I just want to
13 get a preliminary issue out of the way.

14 MR. KADLECEK: Um-hum.

15 CHAIRPERSON MILLER: How this was
16 amended. Was it only amended to drop-off that
17 part of the property or was relief amended in
18 any way?

19 MR. KADLECEK: Relief was not
20 amended. I was actually just about to address
21 that.

22 CHAIRPERSON MILLER: Oh, okay,

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1 sorry.

2 MR. KADLECEK: The history as you
3 may or may not remember, our initial hearing
4 was scheduled for September 9th. And the
5 church was in the process of negotiating their
6 buy, the adjacent property, which is 635 Park
7 Road. By the time the first hearing came
8 about, they were not able to reach an
9 agreement.

10 We got a continuance to October
11 14th. We were still not able to reach an
12 agreement by that time. Shortly after October
13 14th, the church and the adjacent owner were
14 not able to reach an agreement. So the plan
15 then was to amend the application to just
16 reduce the size of the project and build on
17 those two lots.

18 CHAIRPERSON MILLER: Okay. And let
19 me ask this. Is anybody here from the ANC?
20 Okay. Did you serve revised plans on the ANC?

21 MR. KADLECEK: Yes, we did serve
22 revised plans on the ANC. And I know that

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1 Reverend Tucker has spoken to the ANC as well
2 and he will address that in his testimony.

3 CHAIRPERSON MILLER: Okay. Great.
4 Thank you.

5 MR. KADLECEK: As you know, the
6 application is for the Jobs Partnership of
7 Greater Washington. That's also in
8 partnership with the Neighborhood Development
9 Corporation to build an addition to the New
10 Commandment Baptist Church to house the Jobs
11 Partnership of Greater Washington Job Center.

12 As part of this application, we are
13 requesting two areas of relief. The first is
14 a special exception for a church program and
15 Reverend Tucker will address those aspects of
16 the application.

17 The second area of relief that we
18 are seeking is a variance from the off-street
19 parking requirements and for the size of off-
20 street parking. The application provides that
21 there will be 18 spaces. According to the
22 regulations, 34 spaces are required.

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1 Just as a preliminary issue with
2 respect to the variance, the property, as Ms.
3 Marca will demonstrate more, is, in fact,
4 unique and I just want to briefly outline the
5 unique aspects of the property. There are
6 five of them, as you will see beginning on
7 page 9 of the supplementary statement.

8 The first relates to the size of
9 the property relative to the uses on the
10 property, which is the church and the Job
11 Training Program. The second is the proximity
12 of the property to the patrons, who will use
13 property. Most of the church attendees and
14 job program attendees are from the
15 neighborhood.

16 The third is that it is directly
17 across the street from the Park Morton
18 Project, which is a large planned
19 redevelopment of a public housing complex.
20 And a component of that project will include
21 interactions with the Job Training Program.
22 Many of the residents of Park Morton will be

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1 using the Job Training Program.

2 The fourth is the proximity of the
3 property to Georgia Avenue and the number of
4 bus lines up and down that corridor. And then
5 finally, the proximity of the property to the
6 Georgia Avenue Petworth Metro Station, which
7 is, approximately, four blocks away.

8 It is also worth noting as an
9 introduction that this project has tremendous
10 support from the community. We have ANC
11 support, support from Council Member Jim
12 Graham, from Deputy Mayor Neil Albert and also
13 support from the neighbors, as well as support
14 from the Office of Planning.

15 With that, I would like to have
16 Reverend Tucker speak a little bit about the
17 program.

18 CHAIRPERSON MILLER: Okay.

19 REVEREND TUCKER: Good afternoon.
20 My name is Reverend Stephen Tucker. I'm the
21 senior Pastor at New Commandment Baptist
22 Church, that is located at 625 Park Road, N.W.

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1 The church is in its 19th year of operation.
2 And the Job Training Program that we have is
3 in its 12th year.

4 It is a faith-based program that
5 trains and mentors the unemployed, the under-
6 employed, the hard to serve and the ex-
7 offender. We are focusing our training on the
8 lower Georgia Avenue community. Over the last
9 12 years, we have assisted over 2,500 people
10 to obtain employment through the training
11 program, which addresses more than the human
12 resource needs of job training, but it focuses
13 in on the areas of authority and attitude and
14 conflict on jobs and communication and
15 integrity and stewardship and things like
16 that.

17 And the program started in Raleigh,
18 North Carolina back in 1996. We are the first
19 city outside of North Carolina to adopt the
20 Job Training Program. We actually wrote the
21 curriculum that is now being used nationwide.

22 The program is in about 88 cities now across

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1 the nation as either Jobs Partnership or Jobs
2 for Life with similar results that we are
3 having.

4 Our program -- we have been meeting
5 in different churches, because we didn't have
6 a location, a staple location, so we addressed
7 the pastors of various churches to see if they
8 would want the program in their church. They
9 did and we -- it has been in about 20
10 different churches.

11 We were trying to centralize it
12 with this job training center, because the
13 churches were various sizes and that limited
14 the number of people who could actually
15 participate in the program.

16 The Job Training Program has worked
17 with Court Services, Offender Supervision
18 Agency to assist those persons coming home
19 with job training skills. We have also been
20 very effective in our own community and the
21 Park Morton community with assisting persons
22 in our immediate community with jobs.

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1 Many of our members have gone
2 through the program themselves. I would say,
3 approximately, 60 to 75 have gone through the
4 program themselves. About 60 percent of our
5 congregation is from the immediate community.

6 And our desire is to enlarge the program so
7 that we can work with more people at one
8 particular time.

9 The program has, as its
10 foundational piece, the need for mentors, the
11 mentoring of each participant. And the
12 mentors come from the various churches that
13 are a part of the partnership. We also gather
14 mentors from persons who graduate out of the
15 program and come back into the program to
16 mentor the next group of participants.

17 Also, the number of people that we
18 like to work with at one time, because of the
19 restrictions of space, has been about 15. We
20 are looking to increase those numbers to 20 or
21 25 at a time. And also to enlarge the hours
22 that we work with them.

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1 Prior to the building or the
2 anticipated building of this program, we held
3 the classes from 6:00 to 9:00 p.m. in the
4 evening. This will allow us to enlarge our
5 hours from, approximately, 9:00 to 9:00. And
6 we could serve a greater number of people.

7 The community is in great support
8 of the program, primarily because many of the
9 community people have been assisted with job
10 training. We don't just do job training in
11 the community, however, we have a feeding
12 program. We have a food distribution program.

13 We have an HIV/AIDS Center and we have a
14 Newer Living Way Substance Abuse Center.

15 At one point, the 600 Block of Park
16 Road was the heaviest drug trafficking block
17 in the District. And we like to think that
18 because of some of the things that we have put
19 together over the last 18 years that has
20 assisted that transformation. And now we are
21 on the verge of a New Communities Initiative
22 and we think that what we are doing now will

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1 facilitate that transition to a new community
2 a lot quicker.

3 We do have support from our Council
4 Member Jim Graham, who has been on board with
5 this from ground zero. And we have the
6 support of our ANC Commissioners. And we also
7 have the support of community organizations,
8 the Orange Hat Patrol and those who work at
9 the Parkview Park, Morton Recreation Center
10 and also the resident council at the Park
11 Morton Public Housing Complex.

12 The transportation issue is one
13 that we are blessed to have the Metro right on
14 the corner of Park Road and Georgia Avenue.
15 The bus stop is right there and then there is
16 the New Hampshire/Georgia Avenue Metro just
17 three blocks up.

18 Most of our participants, because
19 of their condition and their situations, they
20 take public transportation and/or they are
21 dropped off or they carpool with people who
22 are coming to the program.

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1 Most of the mentors, as I
2 mentioned, come from the church. A lot will
3 come from our own particular church, but there
4 are several churches in the community that are
5 also in support of our center who have
6 volunteered mentors.

7 And I think that's about it.

8 CHAIRPERSON MILLER: Thank you. I
9 have a question and I don't know others may
10 have a few, but the Job Partnership Program
11 has been operating out of different churches
12 right now. Is it going to be more affiliated
13 with this church than the other churches? Is
14 this church going to take more ownership of
15 the program and it's an addition to this
16 particular church?

17 REVEREND TUCKER: Our church has--
18 actually, the property that the job training
19 center will be built on will remove the Job
20 Training Office. There is a small office
21 there that will be alleviated with the job
22 training center. The churches that we have

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1 held the training program in have been
2 churches that have actually requested that
3 they would like to try it in their church.
4 Because we didn't have a location, we,
5 obviously, moved it around.

6 CHAIRPERSON MILLER: Okay. But it
7 is pretty much your program, this church's
8 program?

9 REVEREND TUCKER: No, Jobs
10 Partnership has its own board. And there is
11 only one member of our church on that board.
12 The board consists of pastors and business
13 people from across the city.

14 CHAIRPERSON MILLER: Okay. So it's
15 going to be an addition. The building is
16 going to be an addition to your church. But
17 the Partnership Program is its own separate
18 entity?

19 REVEREND TUCKER: Yes, yes.

20 CHAIRPERSON MILLER: Okay. And
21 just to probably recap what you said, I mean,
22 is there now really a need for its own

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1 building because the program has been growing
2 so much over the years and the need has been
3 growing?

4 REVEREND TUCKER: Yes. There are
5 over 2,500 people returning out of
6 incarceration every year. And that's added to
7 the ones that are already out on the street
8 who are looking for employment. And that
9 number never goes down. It actually goes up.

10 And we work with -- also with persons from a
11 halfway house that is on Park Road as well to
12 assist them with job training. So we don't
13 feel that there will be a lack of people.

14 CHAIRPERSON MILLER: Thank you. It
15 sounds like you do a very great service.

16 REVEREND TUCKER: Thank you.

17 CHAIRPERSON MILLER: Are there
18 other questions at this time?

19 VICE CHAIR LOUD: Thank you, Madam
20 Chair. Good afternoon, Reverend Tucker. I
21 just have two quick questions for you. The
22 first is regarding the number of students at

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1 any one time or trainees or participants. I
2 think your pleading spoke to their being
3 around 50.

4 REVEREND TUCKER: Um-hum.

5 VICE CHAIR LOUD: And your
6 testimony spoke to their being 20 to 25. I
7 just wanted to give you a chance to clarify
8 the two different sets of numbers.

9 REVEREND TUCKER: 50 is the number
10 that would probably the most -- be the most
11 people in that building at any one hour. 20
12 is the ideal class size that we would like to
13 work with.

14 VICE CHAIR LOUD: Okay. Thank you.

15 And the second question that goes to -- this
16 is part of the -- what you would have to make
17 out under 216 case, and I think you have
18 spoken about it somewhat in your pleadings,
19 but again just give me a chance to support
20 that a little on the record is that the
21 program under 216.4 would need to be conducted
22 by persons at least 75 percent of whom are

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1 volunteers.

2 And I think you and your counsel
3 did a great job in your pleadings of sort of
4 setting forth that you would have 5 paid
5 staff, 15 volunteers. I just wanted to
6 confirm on the record that that is the case.

7 REVEREND TUCKER: Yes.

8 VICE CHAIR LOUD: Okay. Thank you.

9 Madam Chair, I don't have any further
10 questions.

11 CHAIRPERSON MILLER: Okay. Anybody
12 else? Okay. Not at this time.

13 MR. KADLECEK: Thank you, Reverend
14 Tucker. I would like to have Jennifer Marca
15 speak a little bit about the design of the
16 building and with respect to the variance
17 relief for parking.

18 CHAIRPERSON MILLER: I just want to
19 just ask you a question before you start --

20 MS. MARCA: Okay.

21 CHAIRPERSON MILLER: -- just to
22 think about. I know that we have heard that

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1 this is unique in many ways, but when you go
2 over the architecture with respect to the
3 parking, can you show us in which ways that it
4 is unique that gives rise to the practical
5 difficulty in complying with the parking?

6 MS. MARCA: Sure.

7 CHAIRPERSON MILLER: Thank you.

8 MS. MARCA: Okay. Good afternoon.

9 My name is Jennifer Marca. I'm with Bonstra
10 Haresign Architects and also Bill Bonstra is
11 here in the audience. This is our second
12 major project in Petworth with this particular
13 client. We have done a number of community-
14 based projects throughout the city, including
15 faith-based groups. We have dealt with AME
16 Church on 14th Street and Jubilee Housing.

17 This particular project site is at
18 625 Park Road and 633 Park Road. 625 Park
19 Road consists of the existing church and the
20 adjacent surface parking lot. 633 Park Road
21 is, as Reverend Tucker mentioned, where the
22 Jobs Partnership of Greater Washington office

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1 is located.

2 633 will be demolished to make way
3 for the new job training center. The new job
4 training center is roughly 15,000 square feet
5 above grade on two to three levels. It's a
6 publicly funded building and it has to be
7 LEED-silver.

8 Although it's an institutional
9 building, we designed the architecture to
10 relate both to the residential scale in
11 deference to the church building. So at the
12 side of the row houses, the job training
13 center is two stories. Its architecture
14 relates more to a residential vocabulary.
15 It's got smaller scale windows, more brick
16 detail.

17 At the job -- at the church side,
18 the building steps back and that's where the
19 job training center reaches its maximum height
20 of 40 feet. And the church building is about
21 45 feet.

22 We have entries to the job training

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1 center on Park Road and also on the church
2 courtyard side. Just to orient you quickly on
3 the plans, I don't know if you have had a
4 chance to review them, there is a parking
5 level below-grade with 14 parking spaces. The
6 parking is accessed from the rear of the site.

7 There is a ramp at the center.

8 There is also an additional four
9 parking spaces at grade. So right there. The
10 first floor of the job training center has the
11 more public functions. There is a lobby,
12 reception area, a large multi-purpose room, a
13 conference room, a small kitchen.

14 The second floor contains
15 administrative offices that -- where the five
16 paid staff will be located, two classrooms and
17 a computer room. And the third floor has two
18 classrooms, a conference room and a roof deck.

19 To get into the parking variance,
20 as was mentioned earlier, we are required to
21 have 34 parking spaces. 17 parking spaces are
22 grandfathered in to the church property. And

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1 based on the maximum occupant load, 17 spaces
2 are required for the job training center.

3 The uniqueness of the property, as
4 was outlined earlier, is the size of the site,
5 which is 16,654 square feet, relative to the
6 capacity of the complex. The complex can
7 house up to 400 total. And so that's what the
8 parking requirements are based on.

9 But given the fact that the church
10 hours and the days that it is used and the
11 hours and the days of use of the job training
12 center, are not -- never overlap. When the
13 church is in session on Sunday, they will have
14 18 parking spaces when 17 are required. When
15 the job training center is in use, it will
16 have 18 parking spaces when 17 are required.

17 The second was the location of the
18 center relative to the homes of participants.

19 Most of the participants or the majority of
20 the participants live in the neighborhood.
21 There is good access to public transit. There
22 is three bus lines on Georgia Avenue four

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1 blocks from the Metro. So there is many
2 options to get to the site without having to
3 drive.

4 The other uniqueness of the site is
5 the Park Morton Development, which will
6 greatly increase the density of residential in
7 that neighborhood. We think something like
8 477 new units are planned for the Park Morton
9 Development, which is a lot more dense than
10 what is there now.

11 And it is anticipated though a lot
12 of these new residents will also be
13 participants in the program. So to get to
14 your question, the feasibility of providing
15 more parking on this particular site. We have
16 a very narrow lot. As you can see in this
17 particular plan, that is showing the
18 underground parking.

19 And as you can see, it's very close
20 to the adjacent church. We have done the most
21 efficient layout we can and, in fact, the
22 parking level extends beyond the footprint of

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1 the building of, so it's already a more
2 expensive condition than just taking the
3 footprint of the building down.

4 So we have extended that parking
5 structure almost out to the property line and
6 we have a single center aisle with double-
7 loaded parking on each side. The only way to
8 get more parking in here would be to go down
9 another level, which we would have to do 180
10 degree turn with a ramp. And to do that, you
11 would lose about a half, at least a half row
12 of parking and gain a half row of parking.

13 In addition to the inefficiency of
14 that is the cost. I mean, right now, we are
15 having to excavate about 10 feet of soil. We
16 are underpinning on the row house side. We
17 won't have to underpin on the church side if
18 we go down another 10 feet. We will have to
19 underpin the church excavation. It just gets
20 very costly.

21 Since this is a publicly funded
22 building, we, frankly, don't have that kind of

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1 fee on this -- or have this kind of money
2 available.

3 So in conclusion, it's a publicly
4 funded building and it's not feasible to
5 overspend on the parking. We feel that the
6 offset hours in the two uses of the church and
7 the job training center allows for ample
8 parking at, you know, both times. There is
9 many alternative ways to get to the site
10 besides driving. There is walking, there is
11 public transit.

12 It's going to be a LEED building.
13 We have provided bike room. In the basement
14 there is on-site showers. And we would like
15 to promote SmartGrowth. And we hope this
16 variance will be approved as it does no harm
17 to the public good.

18 CHAIRPERSON MILLER: Thank you.
19 How is it publicly funded?

20 REVEREND TUCKER: Through the
21 Office of the Mayor of Planning and
22 Development.

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1 CHAIRPERSON MILLER: Also, could
2 you just lead us through just a little bit how
3 you came up with your parking requirement?

4 MR. KADLECEK: I can answer that
5 question.

6 CHAIRPERSON MILLER: Okay.

7 MR. KADLECEK: Two ways. First is
8 the parking provided on site is 17 legal
9 spaces in the adjacent parking lot. The
10 church building is --

11 CHAIRPERSON MILLER: Right now? Is
12 that what you are saying there is 17?

13 MR. KADLECEK: Yeah, right now.

14 CHAIRPERSON MILLER: Okay.

15 MR. KADLECEK: Yeah, on the surface
16 parking lot that exists now. The church is a
17 pre-1958 building and because of the 17 spaces
18 were provided in a pre-'58 building that's the
19 required parking that we have to replace. The
20 Job Training Program,
21 we --

22 CHAIRPERSON MILLER: What do you

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1 mean that you have to replace?

2 MR. KADLECEK: Um, it's under
3 section 2100.10(a). The church was
4 constructed prior to 1958.

5 CHAIRPERSON MILLER: Okay. You
6 could just humor me and --

7 MR. KADLECEK: Sure.

8 CHAIRPERSON MILLER: -- go through
9 it. I mean, go through 2100.10.

10 MR. KADLECEK: Sure.

11 CHAIRPERSON MILLER: And put in the
12 numbers that you are working with.

13 MR. KADLECEK: Just one second
14 here, I may look it up. The requirement in
15 the regulation is that, as you can see, if the
16 existing number of parking spaces provided are
17 less than or equal to the minimum number of
18 spaces now provided, the number of spaces
19 can't be reduced. So the requirement is based
20 on occupancy of the church.

21 Now under the current Zoning
22 Regulations it would require a lot more

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1 parking spaces than 17. I think the church
2 holds somewhere around 300 people, but because
3 this is a pre-1958 building, we can't reduce
4 the number of parking spaces, so we are
5 providing the 17 that already exist because
6 the church is a pre-1958 building.

7 CHAIRPERSON MILLER: Okay. For the
8 church?

9 MR. KADLECEK: For the church.

10 CHAIRPERSON MILLER: And then you
11 have the addition?

12 MR. KADLECEK: Right. For the
13 addition, we looked at -- I used the category
14 of other school when in the requirement for
15 other school was two spaces for every three
16 students. Two spaces for every three faculty,
17 plus one for every 10 seats. There are 125
18 seats at capacity for the building, which
19 calculated out to 13 spots. And then there
20 were 6 maximum faculty, full-time faculty in
21 the building and that calculated up to 4
22 spaces. So that equals 17. 17 plus 17 is 34.

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1 17 for the church, 17 for the job training
2 center, that equals 34 spaces.

3 CHAIRPERSON MILLER: Okay. Good.
4 So it's 34 total?

5 MR. KADLECEK: 34 total for the
6 entire complex, yes.

7 CHAIRPERSON MILLER: Okay.

8 MR. KADLECEK: And we are providing
9 18.

10 CHAIRPERSON MILLER: 18 total?

11 MR. KADLECEK: Yes. One of which
12 is a substandard space.

13 CHAIRPERSON MILLER: So the surface
14 parking lot that is there now is going to
15 disappear?

16 MR. KADLECEK: Yes.

17 CHAIRPERSON MILLER: Okay.

18 MR. KADLECEK: The job training
19 center will be built on top of that surface
20 lot.

21 CHAIRPERSON MILLER: Okay. And is
22 there a regulation that requires you to seek a

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1 variance for the compact space?

2 MR. KADLECEK: Yeah, the
3 regulations do require that spaces be of
4 standard size. I believe it's 9 feet wide by
5 19 feet long and the one space is not that
6 size.

7 CHAIRPERSON MILLER: But in some
8 instances, compact spaces are allowed, aren't
9 they?

10 MR. KADLECEK: I believe in some
11 instances they are. Yes, it's 2115.2. But
12 the garage doesn't contain 25 spaces as that
13 regulation provides.

14 CHAIRPERSON MILLER: Okay. So your
15 point is because you are not providing 25
16 spaces, you have to get a variance for a
17 compact space, because it's only allowed when
18 you already provide at least 25 spaces
19 pursuant to this reg, right?

20 MR. KADLECEK: Yes.

21 CHAIRPERSON MILLER: One other
22 question. You didn't advertise for this

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1 compact space variance relief, did you?

2 MR. KADLECEK: It was not in the
3 original advertisement, no.

4 CHAIRPERSON MILLER: Okay. Do you
5 see any issues with that with notice to the
6 community or anything like that?

7 MR. KADLECEK: I don't, because the
8 community has had notice with the initial
9 posting plus the continuances. I think that
10 the compact space still allows for almost
11 virtually any car to park in the space. I
12 don't think with respect to impact on the
13 community that would -- it would really make
14 any difference.

15 CHAIRPERSON MILLER: And let me ask
16 you, when you served your revised plans on the
17 ANC, did it contain the compact space?

18 MR. KADLECEK: Yes, the 14 day
19 filing that we served on the ANC contains the
20 compact space. The compact space arose,
21 essentially, because we had to revise the
22 plans to exclude Lot 82 from the prior

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1 application.

2 CHAIRPERSON MILLER: All right.
3 Okay. So you couldn't have advertised that
4 before.

5 MR. KADLECEK: Exactly.

6 CHAIRPERSON MILLER: Okay. Do any
7 Board Members have any concerns about that?
8 Is anybody here from the ANC? Okay. All
9 right. I don't have a concern about that. I
10 just wanted to air that issue though. Okay.
11 Any other questions?

12 MEMBER DETTMAN: Thanks, Madam
13 Chair. I actually have two questions. One
14 goes to whether or not you would need to
15 provide parking for this addition at all. I'm
16 just wondering if you looked at 2100.7 and
17 made a distinction as to you wouldn't be able
18 to come in underneath that? And essentially--
19 go ahead.

20 MR. KADLECEK: Yeah, we did look at
21 that. I think that the job program, the
22 training center itself is certainly such that

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1 it would be more than a 25 percent increase in
2 intensity and use, given how the -- given the
3 size of it and the number of people that would
4 be coming and going.

5 MEMBER DETTMAN: Okay. And my
6 second question goes to the schedule of
7 parking. And you had mentioned that you used
8 the requirement of two for every three teacher
9 plus an allocation for students, which I think
10 puts you under a school.

11 MR. KADLECEK: Yes.

12 MEMBER DETTMAN: What made you go
13 with that regulation as opposed to just
14 falling under all other uses as a church
15 program?

16 MR. KADLECEK: Well, I think the
17 program operates, essentially, as a school in
18 the sense that there is a category here for
19 other institution of higher learning.

20 MEMBER DETTMAN: Okay.

21 MR. KADLECEK: And I think it
22 certainly is an institution where students,

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1 people are going to learn and a pedagogical
2 setting and to be educated in such a way that
3 is very synonymous with the school. So I
4 think that that category really captures
5 better for the parking requirements. I think
6 there is obviously no parking requirement for
7 a church program. But because the church
8 program is operating most akin to a school, I
9 think that that category most closely aligns
10 with the parking requirement.

11 MEMBER DETTMAN: Thank you.

12 CHAIRPERSON MILLER: Any other
13 Board questions?

14 VICE CHAIR LOUD: Just one
15 question, Madam Chair. Counsel, when, and
16 Reverend Tucker, the project is said and done,
17 does the church simply become landlord or is
18 the church a partner with the nonprofit in the
19 overall addition?

20 REVEREND TUCKER: The church is a
21 partner with the overall project.

22 VICE CHAIR LOUD: So that you won't

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1 be charging rent for -- I'm assuming you are
2 contributing the land for the --

3 REVEREND TUCKER: Yeah.

4 VICE CHAIR LOUD: And once again,
5 once everything is said and done, you will or
6 you will not be charging rent to the
7 nonprofit?

8 REVEREND TUCKER: No, we won't be
9 charging rent.

10 VICE CHAIR LOUD: Thank you.

11 CHAIRPERSON MILLER: I just want to
12 follow-up on this. What makes this a church
13 program exactly? Is it founded by the church?
14 The churches are running it or what?

15 REVEREND TUCKER: The curriculum
16 that we use is called Keys and Steps to
17 Personal and Professional Success. And it is
18 a 48 hour curriculum that is divided equally
19 into human resource classes, such as
20 interviewing and dressing for success and
21 filling out resumes and applications.

22 And then the other part is it's a

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1 faith-based program that has classes that I
2 mentioned before that have to do with
3 integrity and authority and attitude.

4 CHAIRPERSON MILLER: Is that tied
5 in with the jobs program or is that a separate
6 program?

7 REVEREND TUCKER: It is the
8 program.

9 CHAIRPERSON MILLER: It is the
10 program. It's all one integrated program?

11 REVEREND TUCKER: It's all one,
12 yeah.

13 CHAIRPERSON MILLER: Okay. Thank
14 you. Any other questions? Okay. Do you have
15 any other witnesses or anything?

16 MR. KADLECEK: No other witnesses.

17 CHAIRPERSON MILLER: So I just want
18 to follow-up with Ms. Marca, you know, with
19 respect to what is unique or exceptional about
20 the property that leads to the practical
21 difficulty in complying with the Parking
22 Regulations. Is it the size of the lot?

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1 MS. MARCA: It is the size of the
2 lot.

3 CHAIRPERSON MILLER: Okay.

4 MS. MARCA: And there is also an
5 existing church on the lot which takes up a
6 portion of that lot which can't be used for
7 parking as well.

8 CHAIRPERSON MILLER: And I think
9 that you have showed when you were discussing
10 the underground parking that there is only so
11 far underground you can go, because of the
12 astronomical costs and the limited space for
13 ramps.

14 MS. MARCA: Yes.

15 CHAIRPERSON MILLER: Okay. Thank
16 you. Okay. So if there are no other
17 questions then and no other witnesses, we can
18 go to the Office of Planning, at this point.
19 Is that right? You don't have any other?
20 Okay. Do you have a copy of the Office of
21 Planning report?

22 MR. KADLECEK: Yes, we do.

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1 CHAIRPERSON MILLER: Okay.

2 MS. BROWN-ROBERTS: Good afternoon,
3 Madam Chair and Members of the Board. I'm
4 Maxine Brown-Roberts from the Office of
5 Planning. You have both our original
6 submission and we also submitted a
7 supplemental report dated February 17th. That
8 was pretty short. We believe that the changes
9 that were made were not significant to warrant
10 a whole additional report. So we just
11 addressed some of the -- especially the
12 parking space.

13 The special exception under 2016
14 provides specific criteria for the church
15 programs. And these are outlined in our
16 report and we think that the program, both the
17 program and the church, meets all the
18 requirements.

19 Regarding the variance for the
20 parking spaces, we think that the property is
21 unique because of the size of the lot, also
22 the lot accommodates two uses. And the

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1 parking that is proposed on the site we
2 believe that if the applicant were trying to
3 meet the 34 spaces, they would have to put in
4 a second level of parking.

5 We believe that that will be
6 prohibitive just because of the ramps and
7 additional structure that would be necessary
8 and may not be cost-effective to be done,
9 especially since this is a nonprofit
10 organization.

11 Based on that uniqueness, we think
12 that it is -- the strict application of the
13 requirement cannot be met. We do not believe
14 that the reduction of the parking would be a
15 substantial detriment to the public good or to
16 the community as the applicant stated that
17 most of people who will be attending the
18 program will be from the community and will be
19 taking public transportation or walking to the
20 building.

21 In addition to that, many of the
22 volunteers who tutor there will also be doing

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1 the same thing or will be using other modes of
2 transportation. We do not -- based on this --
3 based on all these alternative transportation
4 methods that would be used, we do not believe
5 that this will cause substantial detriment to
6 the public good.

7 And we think that it is consistent
8 with the Zoning Regulations and the Zoning Map
9 and recommend that both the variance and the
10 special exception be approved. Thank you,
11 Madam Chairman.

12 CHAIRPERSON MILLER: Thank you.
13 And they are great reports. I just have a
14 hypothetical kind of question for you and that
15 is even if the site could accommodate the
16 required parking, do you think that would be
17 too much parking? I know that DDOT is looking
18 at the issues of over-parking. I mean, given
19 who their clientele are.

20 MS. BROWN-ROBERTS: Right.

21 CHAIRPERSON MILLER: And where they
22 are now, near the Metro.

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1 MS. BROWN-ROBERTS: Yes, based on
2 that, I mean, the reduction in parking, we
3 don't have any problems with that. I mean, it
4 is three blocks, three to four blocks away
5 from the Metro. There are buses that pass
6 there. And we do encourage those modes of
7 transportation. So I think that, you know,
8 even if they tried, maybe if they tried to
9 meet the regulations, we would have said, you
10 know, can you reduce it.

11 CHAIRPERSON MILLER: Thank you.
12 Okay. Other questions? Does the applicant
13 have any questions?

14 MR. KADLECEK: No questions.

15 CHAIRPERSON MILLER: I asked
16 earlier if anyone was here from the ANC and no
17 one responded. Is anyone here from the ANC?
18 Okay. Not hearing from anyone, I believe we
19 do have an ANC report in the record. Is that
20 correct?

21 VICE CHAIR LOUD: Exhibit 34, Madam
22 Chair.

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1 CHAIRPERSON MILLER: Okay. Yes,
2 Exhibit 34 in our record is a resolution from
3 ANC-1A. I think that this one references
4 their meeting of July 9, 2008, but it's a
5 pretty extensive resolution in which it does
6 support the exception and variance sought by
7 the church in this case.

8 Okay. And it is one that we would
9 give great weight to, because it was publicly
10 noticed and a quorum was present and the
11 resolution addresses the issues in the
12 application and the vote is given, which was
13 unanimous. Okay.

14 Any other comments on that? The
15 applicant did meet with the ANC?

16 MR. KADLECEK: Yes, that's correct.

17 CHAIRPERSON MILLER: And since July
18 have there been further conversations with
19 respect to revision?

20 REVEREND TUCKER: Yes.

21 CHAIRPERSON MILLER: Do you want to
22 elaborate on that at all?

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1 REVEREND TUCKER: They are in total
2 support of what we do. I don't know how to
3 say that any stronger.

4 CHAIRPERSON MILLER: I'll just say
5 -- maybe I will read one, a couple paragraphs.

6 "Whereas, the proposed project is in harmony
7 with the general purpose and intent of the
8 Zoning Regulations and Zoning Map and relief
9 can be granted without adversely affecting
10 neighboring properties. Whereas, the program
11 is nonprofit and promotes the community's
12 social welfare, the program will be conducted
13 solely within the church addition. Nearly all
14 program staff will be volunteers. The program
15 will not create objectionable noise and
16 traffic and the church will not display any
17 signs for the program."

18 Okay. Is there anybody here who
19 wishes to testify in support of this
20 application? Anybody who wishes to testify in
21 opposition? Okay. Any final remarks?

22 MR. KADLECEK: I just have a couple

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1 quick final remarks. One, as has been quite
2 clearly noted, there is pretty strong
3 community support and citywide support for
4 this project. I think Ms. Marca has made it
5 quite apparent that providing any more parking
6 would be virtually impossible on the site.

7 And given the lack of opposition
8 and the strong support that this program does
9 have, we request a Bench decision and a
10 summary order.

11 CHAIRPERSON MILLER: Okay. Thank
12 you. I think that --

13 MR. KADLECEK: Thank you.

14 CHAIRPERSON MILLER: -- the Board
15 will deliberate on this momentarily.

16 VICE CHAIR LOUD: Madam Chair and
17 colleagues, I would be very happy to get us
18 started. And of course, if you see a place to
19 jump in and help out, please, do so.

20 First, I want to commend the
21 applicant on both your outstanding work in the
22 community over the last 13, 12 or 13 years, as

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1 well as the specific project that you have
2 come before BZA on.

3 Let me start with just a very brief
4 recap of the facts and then move through not
5 every element and every fact that tied to each
6 element under the variance test or 216, but
7 just lift up the pertinent parts. I think the
8 record is fairly full with the testimony
9 before us, the prehearing statements and the
10 Office of Planning's report and the ANC
11 report. So I won't be redundant.

12 But just by way of brief factual
13 summary, this is an application where the
14 nonprofit Jobs Partnership entity seeks a
15 15,324 square foot three-story addition. It's
16 in the R-4. The addition would be on an
17 existing parking lot as well as an existing
18 row house.

19 And the purpose of which is to
20 allow consolidation of the nonprofit's job
21 training center all on that site, a center
22 that I believe is currently spread out over

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1 about 120 churches, I think the Reverend
2 testified to. But nonetheless, however many
3 sites it is spread out over, the point is to
4 consolidate it on one site.

5 The application would also house
6 the job center's administrative office,
7 library, computer and provide 18 parking
8 spaces, including 14 underground spaces and 4
9 at grade. One of the undergrounds would be a
10 compact size.

11 According to the prehearing
12 statement and the testimony in the record here
13 today, the job center would be conducted by
14 five full-time staff at least who would be
15 joined by 15 volunteers, which would give you
16 a 75 percent/25 percent ratio.

17 The hours of operation, according
18 to the Reverend here in this testimony, would
19 be from 9:00 a.m. to 9:00 p.m., Monday through
20 Friday, and I believe the pleadings speak to
21 Saturday operations from 10:00 a.m. to 2:00
22 p.m.

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1 Most of the trainees will get to
2 the site either by public transportation or by
3 walking, because they live in close proximity
4 to the site. Some of the volunteers,
5 according to the prehearing pleadings, will
6 get there by shuttle, but overall there is a
7 picture emerging of very little automobile
8 transport taking the trainees or the
9 volunteers to the site.

10 The program will assist about 50
11 students at any one time and those students
12 the goal would be to get about 20 to 25
13 segregated into an individual class at one
14 time.

15 I think that's a brief recap of the
16 facts. There are probably some that I have
17 left out, but I think in the main I have
18 covered most of them. In order to get the
19 relief that the applicant seeks in this case--
20 Madam Chair, did I leave out any pertinent
21 facts?

22 CHAIRPERSON MILLER: No, not yet.

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1 VICE CHAIR LOUD: Okay. All right.

2 In order to get the relief that the applicant
3 seeks, he has to meet the -- it has to meet
4 the variance test as well as the requirements
5 of section 216.

6 With respect to the variance test,
7 we have heard that the property is unique
8 relative to its size, particularly in relation
9 to the overall use that can be accommodated at
10 the site in terms of the capacity of the
11 church. And that it is also a narrow lot and
12 that is directly tied to the practical
13 difficulty, because the small size of the lot
14 precludes the lot from yielding the total
15 amount of parking spaces that the regs would
16 require.

17 Specifically, in order to
18 accommodate the number of parking spaces
19 required of the regs, this applicant would
20 have to dig down an additional level of
21 parking. Creating the ramp alone would result
22 in a loss of a row of parking. You would add

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1 a row, but you would lose a row just to create
2 the ramp and then the costs are exorbitant,
3 stretching somewhere around \$500,000.

4 So the site is both unique for that
5 reason. There is a practical difficulty
6 associated with the smallness of the site.
7 The applicant is proposing some additional
8 factors that relate to uniqueness including
9 the proximity of the Park Morton Complex. The
10 Office of Planning throws in some additional
11 uniqueness. But I think when you sort of
12 scale back everything, really what makes the
13 project and the situation unique is the size
14 of the lot.

15 In terms of their being no
16 substantial detriment to the public good, we
17 have got the ANC report which is in favor of
18 the applicant. We have got Reverend Tucker
19 testifying about the Orange Hats, I believe,
20 supportive of it, the resident council at Park
21 Morton being in support of it. The Office of
22 Planning is in support of it as well. Council

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1 Member Graham is in support. The Deputy Mayor
2 is in support.

3 Because of the location of the job
4 training center, it is very close to both
5 Metrorail and Metrobus. And again, the target
6 population will not drive to this site,
7 according to the testimony in the record. So
8 there does not appear to be any substantial
9 detriment to the public good nor impairment to
10 the Zone Plan.

11 And again, referencing OP's
12 testimony here today as well as their report
13 at Exhibit 38. With respect to -- I believe
14 that sort of caps the variance test. And I'll
15 pause just to see if I have left anything out.

16 CHAIRPERSON MILLER: I guess I
17 would add that, in my view, the exceptional
18 condition is: No. 1, the exceptionally small
19 areas in which to put the parking, which is
20 what you, which is the main thing, already
21 talked about.

22 But I would also add that what

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1 makes it exceptional also is the fact that
2 there is already an improvement on the
3 property, which, obviously, is part of the
4 reason there is only -- is the reason there is
5 only that small area left.

6 And then also that this is a
7 nonprofit. So that if we are talking about
8 astronomical expenses, it rises to an even
9 greater level with a nonprofit. That's all,
10 otherwise, I think you did it, yeah.

11 VICE CHAIR LOUD: It makes sense.
12 And thank you, Madam Chair. Moving to the
13 special exception relief under section 216,
14 I'm not going to go through the entire test
15 for 216. It was covered fairly adequately by
16 the presentation from counsel this morning,
17 the testimony of Reverend Tucker, but most
18 significantly, the report by the Office of
19 Planning. I'm just going to lift up a couple
20 of quick components of 216.

21 First of which is 216.2, "The
22 church program cannot be organized for profit,

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1 but exclusively for the promotion of the
2 social welfare." We heard Reverend Tucker
3 talk about the program being organized for the
4 purpose of mentoring and working with trainees
5 around attitude and authority. And you get
6 the really clear picture that this is not a
7 program that is designed for profit, but one
8 for the benefit of the entire community.

9 There is also testimony that this
10 is a nonprofit organization that is coming
11 before us, but it is affiliated with the
12 church and it's a partnership of the church,
13 as I understand it. The curriculum is church
14 driven, church infused, faith-based, but also
15 there is a partnership of the church
16 contributing its land and the nonprofit
17 running the programs.

18 And this contribution of land is
19 something that is not reversible in a sense
20 that there, according to the Reverend, will
21 not be any rent charged for the addition that
22 occupies the church property. So it is a

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1 partnership in that sense. It's also a
2 partnership in the sense that this nonprofit
3 is a nonprofit made up of churches and made up
4 of churches partnered with businesses. So I
5 think it meets that element of our test, Madam
6 Chair and colleagues.

7 There is also a requirement that
8 the program be conducted by persons at least
9 70 percent of whom must be volunteers.
10 Reverend Tucker testified very clearly that
11 that would be the case with respect to the
12 applicant's project. And again just dealing
13 with the issue, there is some overlap between
14 the variance test and 216.5 with respect to
15 the project not likely to become objectionable
16 due to noise and traffic.

17 And we talked about the target
18 population living in very close proximity,
19 being able to walk there, get there by public
20 transportation, carpool, etcetera.

21 With that, Madam Chair and
22 colleagues, I think I'll pause and see if you

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1 would like to add anything to that.

2 CHAIRPERSON MILLER: I want to add
3 another. Just as I was sitting here, I was
4 thinking of others. We talked about the whole
5 growth of this program. And the courts often
6 recognize in a variance test as an exceptional
7 situation a nonprofit or a church's need to
8 expand their facilities to serve the public.
9 And I think that's another exceptional factor
10 in our analysis here.

11 And you know, I'm looking at the
12 applicant's five unique conditions. I just
13 would note that I didn't think they all did
14 fit into the uniqueness category. Like the
15 property's proximity to a high traffic
16 commercial corridor. I mean, to me, that goes
17 to maybe no adverse impact, because most
18 people will be walking to the facility. And
19 the same with the housing redevelopment
20 project.

21 But I think you have covered
22 everything pretty much thoroughly. So I don't

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1 think I have anything else to add. Do others?

2 Okay.

3 VICE CHAIR LOUD: Thank you, Madam
4 Chair. I think I'm ready to put forth a
5 motion, but I did want to also clarify that
6 the applicant initially came before us without
7 requesting relief for a compact car that in
8 the revised plans there is the request for
9 variance relief for the compact car.

10 For all of the reasons that the
11 variance test is met with respect to the
12 requested relief for reduced parking, I
13 believe it is also met with respect to the
14 compact car and I fully support the revised
15 plans inclusion of the compact car request as
16 well.

17 CHAIRPERSON MILLER: Yes, I think
18 it reflects that they tried to accommodate the
19 maximum number of cars that was possible. And
20 in this last instance that the only extra room
21 they had left was for compact. Anything else?

22 Okay. Do we have a motion?

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1 VICE CHAIR LOUD: Okay. Madam
2 Chair and colleagues, I would like to move
3 approval of Application No. 17827 for special
4 exception relief under section 216 of our regs
5 and for variance relief from sections 2101.1
6 and 2115.1.

7 CHAIRPERSON MILLER: Second.
8 Further deliberation?

9 All those in favor say aye.

10 ALL: Aye.

11 CHAIRPERSON MILLER: All those
12 opposed? All those abstaining? And would you
13 call the vote, please?

14 MS. BAILEY: Madam Chair, the vote
15 is recorded as 4-0-1 to grant the application
16 as amended. Mr. Loud made the motion, Mrs.
17 Miller seconded, Mr. Dettman and Mrs. Walker
18 support the motion. The Zoning Commission
19 Member is not present at this time.

20 CHAIRPERSON MILLER: I think I
21 would like to replace the motion, because I
22 think that Mr. Loud mentioned 2115.1 and I

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1 think it's 2115.2 that deals with compact
2 cars. So it's the same motion, just
3 substituting 2115.2 for 2115.1. Do you all
4 agree? Okay.

5 All those in favor then say aye.
6 Aye. All those opposed? Whoops, I'm sorry.
7 I'll do it again.

8 There is a motion on the table for
9 the same motion that we voted on except
10 replacing 2115.2 for 2115.1.

11 VICE CHAIR LOUD: Seconded, Madam
12 Chair.

13 CHAIRPERSON MILLER: Okay. All
14 those in favor say aye.

15 ALL: Aye.

16 CHAIRPERSON MILLER: All those
17 opposed? And all those abstaining? Okay.
18 Would you call the vote, please, Ms. Bailey?

19 MS. BAILEY: I think in this
20 instance Mrs. Miller made the motion and Mr.
21 Loud seconded the motion. Mr. Dettman and
22 Mrs. Walker support the motion and the Zoning

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1 Commission Member is not present. The vote is
2 4-0-1. It's granted as amended.

3 CHAIRPERSON MILLER: Okay. And
4 this can be a summary order as there is no
5 party in opposition. Thank you. I think we
6 will just take a 5 minute break before we
7 start the next case, so if any of you on the
8 next case want to take a quick walk anywhere,
9 feel free.

10 (Whereupon, at 2:26 p.m. a recess
11 until 2:45 p.m.)

12 CHAIRPERSON MILLER: Okay. Ms.
13 Bailey, we're ready for the next case when you
14 are.

15 MS. BAILEY: Madam Chair, I'm not
16 sure if all of the persons here -- is there
17 anyone who will be testifying today who was
18 not sworn in previously? Would you, please,
19 stand to take the oath?

20 (Whereupon, the witnesses were
21 sworn.)

22 MS. BAILEY: Thank you. You can

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1 give them to the recorder. Madam Chair,
2 Application No. 17789. This application was
3 postponed previously and it is now ready for
4 the Board to be deliberated before the Board.

5 The number is 17789, Application of Walgreens
6 Eastern Co., Inc., pursuant to 11 DCMR 3103.2,
7 for a variance from the off-street parking
8 requirements under subsection 2101.1, for a
9 new drugstore. The property is Zoned C-3-A.
10 It is located at 4225 Connecticut Avenue,
11 N.W., Square 2051, Lot 7.

12 There are three matters that I
13 believe, at this point, may be important to
14 focus the Board's attention. First of which
15 is the way the project was advertised. My
16 understanding is there is additional relief
17 that is required for this project.

18 Secondly, we do have two requests
19 for party status in opposition to the
20 application.

21 And last, the ANC does have come
22 comments concerning the Board not taking

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1 action on this application today.

2 CHAIRPERSON MILLER: What was the
3 last one?

4 MS. BAILEY: The ANC-3F has
5 recommended that the Board not take action on
6 the requested relief today.

7 CHAIRPERSON MILLER: Okay. Why
8 doesn't the applicant and the ANC come to the
9 table, please? Okay. Okay. Why don't we
10 start with introductions?

11 MR. ORLING: Okay. My name is Mark
12 Orling from Rust Orling Architecture.

13 MS. RODDY: My name is Christine
14 Roddy with Pillsbury Winthrop.

15 MR. CLARKE: Randall Clarke with
16 Mid-Atlantic Commercial.

17 CHAIRPERSON MILLER: I'm sorry, let
18 me -- I read the directions earlier. We also
19 ask for addresses, so let's back up and start
20 again.

21 MR. ORLING: Sorry.

22 CHAIRPERSON MILLER: That's okay.

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1 MR. ORLING: I'm from Alexandria,
2 Virginia.

3 MS. RODDY: 2300 N Street in
4 Washington.

5 MR. CLARKE: Actually Orchid
6 Street, N.W., in Washington.

7 CHAIRPERSON MILLER: I forgot your
8 name.

9 MR. CLARKE: Randall Clarke.

10 CHAIRPERSON MILLER: Randall
11 Clarke. And --

12 MR. CLARKE: With Mid-Atlantic
13 Commercial Properties.

14 CHAIRPERSON MILLER: Okay. Thank
15 you.

16 MS. PERRY: Karen Perry from ANC-3F
17 and I live in Van Ness. Van Ness South.

18 CHAIRPERSON MILLER: Okay.

19 MR. WHITELEY: ANC-3F04.

20 CHAIRPERSON MILLER: Thank you.
21 Okay. We have some preliminary matters to
22 start with. Why don't we start with -- I

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1 think the first one that Ms. Bailey mentioned
2 about additional relief. Is there additional
3 relief being sought?

4 MS. RODDY: I believe that was a
5 reference. When we first submitted this
6 application last February, we had asked for
7 solely parking relief. And then we had gone
8 back, based on comments that we heard from the
9 community and from OP and DDOT, redesigned the
10 entire thing and required additional relief.
11 So we had submitted requesting that additional
12 relief.

13 From viewing the notice that was
14 published in the Register, it looks like it
15 just refers to the parking variance. However,
16 when we posted the property, we included all
17 requests for variance relief. I would also
18 just like to update that. We are now only
19 seeking the parking variance.

20 We have since dropped the loading
21 variance that we had referenced. So a
22 complicated way of saying we are back to just

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1 seeking the parking variance relief. But like
2 the case before us, we are seeking under two
3 different sections, because we are providing
4 compact spaces without meeting that 25 space
5 threshold.

6 CHAIRPERSON MILLER: So it's the
7 same number of spaces and the compact --

8 MS. RODDY: It's -- there are
9 required to provide 57 spaces and we are
10 providing 31.

11 CHAIRPERSON MILLER: And the
12 compact spaces, how many?

13 MS. RODDY: That hasn't changed
14 either. I believe it is 20 regular sized
15 spaces and 11 compact spaces.

16 CHAIRPERSON MILLER: Right, okay.
17 So that was already in the initial
18 application?

19 MS. RODDY: No. The initial
20 application was a smaller building. We have
21 provided more surface parking and so that had
22 changed as of this last October. But in our

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1 subsequent submission in November or, I'm
2 sorry, December, we filed the request for the
3 variance from the 57 spaces.

4 So the information you have is
5 current, but it has changed since our filing
6 last February, if that makes sense.

7 CHAIRPERSON MILLER: When did it
8 change?

9 MS. RODDY: It changed in October,
10 but I believe the filing that you have that
11 first represents that was in December.

12 CHAIRPERSON MILLER: Okay. And you
13 posted it with this relief, seeking this
14 relief?

15 MS. RODDY: Correct. The correct
16 relief.

17 CHAIRPERSON MILLER: Did the ANC
18 consider this relief?

19 MS. RODDY: Yes.

20 CHAIRPERSON MILLER: Okay. And it
21 was changed as a result of conversations with
22 Office of Planning and the ANC in order to

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1 meet their concerns. Is that right?

2 MS. RODDY: It was actually with
3 the Single Member District representative,
4 DDOT and OP.

5 CHAIRPERSON MILLER: Okay. Okay.
6 All right. So I don't think we have a problem
7 with additional relief. Does anybody think we
8 do? Okay. So I don't think that's an issue.

9 Next, ANC, let's go there. Okay.
10 First of all, I haven't had a chance to read
11 this. I didn't know it was here until like
12 now.

13 MS. PERRY: I apologize. We have
14 been on a crunch with -- you know you have
15 seen quite a lot of us lately.

16 CHAIRPERSON MILLER: Yes. Okay.
17 We thought we would get a resolution from you
18 on this case. Okay. So we have a letter here
19 asking us to waive 3115.1 in order to receive
20 the ANC report, which was submitted to us
21 today as opposed to seven days in advance of
22 the hearing. Is that right?

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1 MS. PERRY: Excuse me, no, you --

2 CHAIRPERSON MILLER: Okay.

3 MS. PERRY: -- should have got --
4 this was faxed in last week. In fact, I think
5 you -- I think it is dated the 20th. It says
6 Office of Zoning February 20th that you got --
7 that you received it.

8 COMMISSIONER JEFFRIES: Wait. Are
9 we saying ANC-3F resolution? Are we -- is
10 that what we are talking about?

11 MS. PERRY: The resolution. And it
12 came with a letter requesting -- because we
13 filed it late. The filing date, I think --

14 COMMISSIONER JEFFRIES: Oh, here it
15 is.

16 MS. PERRY: -- was Tuesday, the
17 night of our meeting. Yeah.

18 COMMISSIONER JEFFRIES: I have it.
19 Yeah, February 19th.

20 CHAIRPERSON MILLER: Okay. We have
21 it. I don't think it got into our files
22 before today.

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1 MS. PERRY: Oh.

2 CHAIRPERSON MILLER: I thought that
3 it was before us because you just passed it
4 in. Okay. So --

5 COMMISSIONER JEFFRIES: It has an
6 exhibit number though.

7 CHAIRPERSON MILLER: So you are
8 saying it was late or not?

9 MS. PERRY: It was a couple of days
10 late.

11 CHAIRPERSON MILLER: A couple days
12 late, not as late as this.

13 MS. PERRY: Yes.

14 CHAIRPERSON MILLER: Okay, okay.
15 February 19th is the date of the letter. Okay.

16
17 MS. PERRY: And our, you know,
18 meeting was the night of the 17th.

19 CHAIRPERSON MILLER: Right. Okay.
20 Does anybody have a concern with waiving the
21 rules for requiring it to be submitted seven
22 days in advance? Okay. Does the applicant?

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1 Okay. All right. Then we will certainly
2 accept the ANC resolution into the record.

3 Well, next is party status.

4 MS. PERRY: Well, no.

5 CHAIRPERSON MILLER: No?

6 MS. PERRY: Before that, a couple
7 of items.

8 CHAIRPERSON MILLER: You're saying
9 we should consider postponing the hearing
10 before we do party status?

11 MS. PERRY: No, but I would like to
12 just --

13 CHAIRPERSON MILLER: Okay.

14 MS. PERRY: -- follow-up on
15 something.

16 CHAIRPERSON MILLER: Okay.

17 MS. PERRY: On the posting of the
18 property. The property was originally posted,
19 I think it was, June 13th and those signs were
20 up only for a couple of days, because the
21 applicant did request a postponement of the
22 case. And I think there were two

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1 postponements.

2 However, on this latest posting,
3 the signs were down for a whole week prior to
4 our ANC meeting on the 17th and they weren't
5 put back up until then. So it was not
6 actually -- we just want to be on record. We
7 are not contesting it or saying that we should
8 delay the hearing because of it, but we do
9 want it in the record that the signs were not
10 checked as they should have been and that they
11 were down.

12 MR. CLARKE: If I might, I actually
13 posted the signs myself. They were checked
14 every five days. I have pictures in evidence
15 to show that they were. They were down the
16 night of your meeting.

17 MS. PERRY: And they were down for
18 the --

19 MR. CLARKE: And they were down the
20 night before. I came in from out of town on
21 the 16th, the night your meeting was canceled,
22 and put the meeting -- put the signs up again

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1 at 10:00 at night and they were down the next
2 day. I'm not sure why, but the signs were
3 replaced every five days and we have photo
4 evidence of that.

5 CHAIRPERSON MILLER: Okay.

6 MS. PERRY: No, as I said, we are
7 not asking for a delay, but the posting was
8 not quite what it should have been. And I
9 don't know who took them down either, I mean.

10 CHAIRPERSON MILLER: Is that it?

11 MS. PERRY: Our ANC resolution
12 also, as Ms. Bailey said, recommended that you
13 not take up the variance on the garage,
14 because Public Space has yet to weigh in on
15 it. And I know the applicant is planning on
16 coming to you first to get the variances and
17 playing that divide and conquer, you know,
18 where you take -- then you get the variance,
19 you go to Public Space and say well the BZA
20 has already said we can have this variance,
21 so, you know.

22 But the garage is all located --

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1 the entrance and the exit is over the building
2 restriction line on Veazey Terrace and it is
3 also on public space on Veazey Terrace. So
4 you know, I don't -- we feel that public space
5 -- we should have an opportunity to have that
6 filed first before talking about the variance,
7 because parking is the big issue in this, the
8 garage.

9 One thing we have had happen to us
10 many times is that an applicant comes to the
11 BZA, gets approval for a project and then
12 takes this beautiful design to either DCRA or
13 public space and they say well, the Board has
14 already approved this. And it kind of puts
15 the other agency in a pickle as to, you know,
16 can they turn it down once you have approved
17 something. And that has been our experience
18 over the years.

19 CHAIRPERSON MILLER: So why is it
20 preferable for Public Space to approve it
21 first?

22 MS. PERRY: Because the whole

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1 garage is on public space and across a
2 building restriction line. The whole entrance
3 and exit to get into this underground garage,
4 you know, is all public space. In fact, there
5 is public space on the Connecticut Avenue
6 side, but it's more the garage and the
7 building restriction line that we have the
8 problem with and would like to have Public
9 Space weigh in first.

10 CHAIRPERSON MILLER: Okay. Does
11 the applicant have a response?

12 MS. RODDY: We don't feel it is
13 necessary to postpone this deliberation in
14 light of the public space application. We did
15 file a public space application, but seeing as
16 it really doesn't make sense to go forward
17 with that application without even knowing
18 whether the variance would be approved that
19 this building could be built as we are
20 proposing it, we would suggest going forward
21 with this application, at this time.

22 I think that this happens all the

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1 time. We have had cases before the Board that
2 had public space permits pending. We have had
3 cases where they go before HPRB or CFA and
4 those boards -- this Board has ruled on the
5 application prior to those boards ruling on
6 their applications.

7 I would also just like to note that
8 the public space issue really does not come up
9 until permit stage and we don't even get to
10 that stage without a BZA approval.

11 And one final thing, I know that
12 DDOT looked at this more in terms of traffic,
13 but they did submit a report, so it has been
14 to the District Department of Transportation.

15 But again, I just don't think it really makes
16 any sense to delay this and go forward with an
17 application when we would run the risk then
18 that this application wouldn't be approved.
19 It would render that application moot.

20 MS. PERRY: I would like to just
21 comment that the Public Space Administration
22 sends us -- after something is filed, we get

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1 requests all the time from Public Space and 30
2 days to comment. And its way -- it has
3 nothing to do with the permit stage.

4 I mean we get -- we do it as a
5 matter of routine course before -- you know,
6 it doesn't have to have a permit stage on a
7 public space application. We get them for
8 landscaping. We get them for everything.

9 CHAIRPERSON MILLER: Okay. Have
10 you filed an application?

11 MS. RODDY: Yes, we did file an
12 application for Public Space approval.

13 CHAIRPERSON MILLER: Does the ANC
14 get something once an application has been
15 filed with --

16 MS. RODDY: Yes, I believe they
17 will have every opportunity to weigh in on
18 that application.

19 MS. PERRY: If I may, we just -- I
20 just learned, as a matter of fact, that they
21 withdrew the public space application or they
22 -- somebody just told me that they haven't

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1 gone forth with the public space application,
2 so we have not been notified, because they are
3 waiting to hear what this Board has to say. I
4 was just told that 5 minutes ago.

5 MS. RODDY: We are holding the
6 application in abeyance to see what this Board
7 has to say.

8 CHAIRPERSON MILLER: Okay. Well,
9 why don't we just get a weigh in from Office
10 of Planning? Do you have an opinion? If you
11 have an opinion, Office of Planning, DDOT?

12 MS. BROWN-ROBERTS: I don't have an
13 opinion.

14 CHAIRPERSON MILLER: Does DDOT?

15 MR. JENNINGS: I don't think we do.

16 CHAIRPERSON MILLER: Okay.

17 MR. JENNINGS: Thank you.

18 CHAIRPERSON MILLER: All right.
19 Then why don't we just deliberate this point.
20 I mean, it has been our practice that we
21 don't wait for another agency before we take a
22 case, unless we really need their input in

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1 order to make our determination for some
2 reason. So I wouldn't be in favor of
3 postponing this case.

4 Okay. Anybody feel otherwise?
5 Okay. Not hearing from anyone, we will go
6 forward today with the hearing.

7 Next, we have request for party
8 status. Okay. I have two requests for party
9 status. One is our Exhibit 30 from Mr. Ted,
10 how do we pronounce this? I'm having trouble
11 reading the script.

12 MR. OCCHIALINO: Occhialino.

13 CHAIRPERSON MILLER: Occhialino?
14 Okay. Come on forward and you can correct me
15 up here. Yes, Occhialino. Okay. And then
16 Exhibit 32 from the Van Ness South Tenants
17 Association. Do we have someone here from
18 that? Okay. Why don't the two
19 representatives come forward and have a seat.

20 I'm going to deal, I think, in the order that
21 they are in the file.

22 So you will have to correct me.

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1 Could you tell me how to pronounce your name?

2 MR. OCCHIALINO: Occhialino.

3 CHAIRPERSON MILLER: Occhialino.

4 Okay. So Mr. Occhialino, could you introduce
5 yourself for the record giving your name and
6 address?

7 MR. OCCHIALINO: Ted Occhialino.

8 COMMISSIONER JEFFRIES: You're not
9 on the -- are you -- do you have your mike on?

10 MR. OCCHIALINO: It is now. Thank
11 you. My name is Ted Occhialino. I live at
12 3001 Veazey, N.W., which is -- my property
13 line is, approximately, 100 feet from the
14 Walgreens' property line.

15 CHAIRPERSON MILLER: You are here
16 though representing, am I correct, the
17 concerned citizens of Van Ness?

18 MR. OCCHIALINO: That is correct.

19 CHAIRPERSON MILLER: And how is it
20 that you are representing them? Are you --
21 were you voted to represent them?

22 MR. OCCHIALINO: They have asked me

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1 to represent them on their behalf.

2 CHAIRPERSON MILLER: How many are
3 they?

4 MR. OCCHIALINO: There are at least
5 15 active members of that organization, plus
6 several people who have filed petitions in
7 support. 146 petitioners in support of our
8 opposition to this and about 15 people who
9 regularly attend the meetings to organize
10 today.

11 CHAIRPERSON MILLER: Do we have
12 that petition in the file?

13 MR. OCCHIALINO: We do have the
14 petition with us.

15 CHAIRPERSON MILLER: You have it
16 with you?

17 MR. OCCHIALINO: I do.

18 CHAIRPERSON MILLER: Is Concerned
19 Citizens of Van Ness a group that was formed
20 just for this litigation here?

21 MR. OCCHIALINO: Yes, yes, it was.

22 CHAIRPERSON MILLER: Okay. Does it

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1 represent residents of the building or who are
2 they?

3 MR. OCCHIALINO: The Van Ness North
4 residents of the building who support the
5 opposition to the Walgreens' application.

6 CHAIRPERSON MILLER: So the Van
7 Ness North residents who are in opposition to
8 the building belong to this Concerned Citizens
9 of Van Ness?

10 MR. OCCHIALINO: That's correct.

11 CHAIRPERSON MILLER: Okay. And how
12 many people is that? Did you say 146 plus 15?

13 MR. OCCHIALINO: 146 persons have
14 support our position with the petition and
15 there are 10 to 15 active members of the
16 organization who are planning for this
17 opposition.

18 CHAIRPERSON MILLER: Are they
19 different? I mean, would I be correct to add
20 them up and say, okay, that's 161?

21 MR. OCCHIALINO: I think that would
22 be incorrect. It's 146 active members.

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1 CHAIRPERSON MILLER: 146 total.

2 MR. OCCHIALINO: And probably
3 petitioners as well.

4 CHAIRPERSON MILLER: Okay. And how
5 many residents are there in this building?

6 MR. OCCHIALINO: There are about
7 430 or so apartments and probably 500 to 600
8 residents.

9 CHAIRPERSON MILLER: Okay. So not
10 all the residents are opposed to this
11 application.

12 MR. OCCHIALINO: Not all the
13 residents have signed the petition.

14 CHAIRPERSON MILLER: Okay.

15 MR. OCCHIALINO: That's correct.

16 CHAIRPERSON MILLER: Okay.

17 COMMISSIONER JEFFRIES: But you are
18 -- you're not the president. Are you an
19 officer or are there officers?

20 MR. OCCHIALINO: I guess I'm an
21 officer. I was asked to become the
22 spokesperson for the organization that filed

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1 the application. The application called for a
2 person's name and so I filed my name, but I
3 would choose to represent Concerned Citizens
4 of Van Ness as their representative.

5 COMMISSIONER JEFFRIES: But you
6 don't have anything written, like any -- in
7 terms of that states that you are the
8 representative?

9 MR. OCCHIALINO: Do I have a
10 written statement?

11 COMMISSIONER JEFFRIES: From the
12 organization that effectively states that you
13 have been authorized to speak on their behalf.
14 You don't have anything like that?

15 MR. OCCHIALINO: I do not.

16 COMMISSIONER JEFFRIES: Okay.

17 CHAIRPERSON MILLER: Is there a
18 tenants association for this building?

19 MR. OCCHIALINO: The answer I heard
20 from behind me is no. I didn't know that.

21 CHAIRPERSON MILLER: Okay.

22 MR. OCCHIALINO: Van Ness, of

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1 course.

2 CHAIRPERSON MILLER: Other
3 questions from Board Members?

4 VICE CHAIR LOUD: Yes, Madam Chair.
5 Good afternoon, how are you?

6 MR. OCCHIALINO: Good afternoon.

7 VICE CHAIR LOUD: How is your name
8 pronounced?

9 MR. OCCHIALINO: Occhialino,
10 Occhialino.

11 VICE CHAIR LOUD: Occhialino. Good
12 afternoon, Mr. Occhialino. I'm looking very
13 briefly. I just want to orient myself to the
14 location of Van Ness South, right?

15 MR. OCCHIALINO: Van Ness North.

16 VICE CHAIR LOUD: Van Ness North.

17 MR. OCCHIALINO: Yes.

18 VICE CHAIR LOUD: And I'm looking
19 at Exhibit 34 for one and just putting my
20 hands on something quickly. But you -- Van
21 Ness North is south of the proposed Walgreens
22 one block --

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1 MR. OCCHIALINO: It's east and
2 north.

3 VICE CHAIR LOUD: East?

4 MR. OCCHIALINO: It's the building
5 that would be on the left of the traffic -- of
6 the circle you see at the dead end of Veazey
7 Terrace.

8 VICE CHAIR LOUD: Okay.

9 COMMISSIONER JEFFRIES: That's too
10 small.

11 VICE CHAIR LOUD: Okay. All right.

12 But I can sort of get a sense that it's at
13 the dead of Veazey Terrace. And okay, okay, I
14 understand that a little bit better now. I
15 thought you were actually on Van Ness Street
16 and you are not on Van Ness Street.

17 MR. OCCHIALINO: No, we're on
18 Veazey Terrace.

19 VICE CHAIR LOUD: Okay, okay.

20 MR. OCCHIALINO: Did I say Van
21 Ness?

22 COMMISSIONER JEFFRIES: No.

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1 VICE CHAIR LOUD: No, you didn't
2 say it. It's just I guess I was making some
3 assumptions, because you are Van Ness North.
4 Okay. Thank you.

5 COMMISSIONER JEFFRIES: You know,
6 one of the difficulties and it really ties to
7 what my colleague has just stated, you know,
8 with the party status. We are always trying
9 to figure out where everyone is in location to
10 the -- graphically through illustration. And
11 I'm trying to find a site plan. Does the
12 applicant -- is there --

13 MS. BUCK: Sir?

14 COMMISSIONER JEFFRIES: Okay.
15 You're going to have to get on the mike. Can
16 you -- can someone just --

17 MS. BUCK: Thank you. If you get
18 close to this, it's very grainy, but if you
19 are far away, you can see. Connecticut Avenue
20 goes here.

21 COMMISSIONER JEFFRIES: Can you
22 state who you are and everything?

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1 MS. BUCK: Oh, I'm so sorry. This
2 is my first testimony, so you'll forgive me
3 informality.

4 COMMISSIONER JEFFRIES: Oh, okay.

5 MS. BUCK: My name is Sharon Buck
6 and I live in Van Ness South.

7 CHAIRPERSON MILLER: Okay.

8 MS. BUCK: This is Van Ness South.
9 These two apartment buildings are Van Ness
10 South. This is Van Ness North.

11 COMMISSIONER JEFFRIES: Okay.

12 MS. BUCK: This is Van Ness East.

13 COMMISSIONER JEFFRIES: Ah, okay.

14 MS. BUCK: This is a condo. These
15 are co-ops. These are rental apartments.

16 COMMISSIONER JEFFRIES: Um-hum.

17 MS. BUCK: And this is the
18 property.

19 COMMISSIONER JEFFRIES: Okay.

20 MS. BUCK: Okay.

21 COMMISSIONER JEFFRIES: And the
22 circle --

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1 MS. BUCK: Veazey Terrace which
2 goes to a dead end here and Van Ness Street,
3 which goes to a dead end here.

4 COMMISSIONER JEFFRIES: And Mr.
5 Occhialino?

6 MR. OCCHIALINO: Occhialino.

7 COMMISSIONER JEFFRIES: Stated --

8 CHAIRPERSON MILLER: Thank you very
9 much that was --

10 COMMISSIONER JEFFRIES: Thank you.

11 CHAIRPERSON MILLER: I'm sure we
12 want to refer to that some more.

13 COMMISSIONER JEFFRIES: Bring that
14 thing back up here.

15 CHAIRPERSON MILLER: Actually, we
16 should.

17 COMMISSIONER JEFFRIES: So, Mr.
18 Occhialino, when you spoke of the circle,
19 that's the dead end?

20 MR. OCCHIALINO: That's the dead
21 end at the end of Veazey Terrace.

22 COMMISSIONER JEFFRIES: Mr. Perry,

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1 would you point to that dead end again while
2 you are up there?

3 MR. CLARKE: Clarke.

4 COMMISSIONER JEFFRIES: I'm sorry,
5 Mr. Clarke. I'm sorry, whew boy, that was
6 scary. Sorry about that, Ms. Perry. Okay.

7 MS. PERRY: We look alike.

8 MR. CLARKE: We've talked enough
9 over this. This is Veazey Terrace and this is
10 the dead end circle that they are on.

11 COMMISSIONER JEFFRIES: Ah, okay.
12 Great. Thank you.

13 CHAIRPERSON MILLER: While you are
14 there, could you show us again where Van Ness
15 North is and where the subject property is?
16 So we can see exactly how it fits in.

17 MR. CLARKE: Mr. Occhialino might
18 be better.

19 CHAIRPERSON MILLER: Okay.

20 MR. CLARKE: To have to point out
21 the individual buildings.

22 CHAIRPERSON MILLER: Okay. Thank

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1 you.

2 MR. OCCHIALINO: This is Veazey
3 Terrace, N.W., and it ends in a dead end. At
4 that dead end on the left is Van Ness North.
5 It has got a traffic circle around it, which
6 makes it easily identifiable. That's the
7 building that I am a resident in.

8 Below that is Van Ness South and
9 that is a closer area to the Walgreens
10 application than Van Ness North. It is
11 probably 20 or 30 feet from the Walgreens'
12 line. And then behind that is Van Ness East,
13 which is not on Veazey Terrace, but is on Van
14 Ness entrance, and that is a condominium
15 apartment. There is no one here who wants to
16 represent Van Ness East.

17 COMMISSIONER JEFFRIES: Mr.
18 Occhialino, what is the building that is to
19 the west of Van Ness North?

20 MR. OCCHIALINO: To the west would
21 be -- it's an -- what is it called?

22 MS. BUCK: Van Ness Center.

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1 MR. OCCHIALINO: Van Ness Center.
2 It's a commercial building with offices. It
3 has a giant supermarket and --

4 COMMISSIONER JEFFRIES: Okay.

5 MR. OCCHIALINO: -- near it it has
6 a CVS drugstore.

7 COMMISSIONER JEFFRIES: Okay.

8 CHAIRPERSON MILLER: And where is
9 the Walgreens' site?

10 MR. OCCHIALINO: The Walgreens'
11 site would be right here on Van Ness. It's a
12 gas station, that would be on the -- I'm sorry
13 on Veazey Terrace. It would be right on the
14 corner of Veazey Terrace and Connecticut on
15 the south side of Connecticut on the side --

16 COMMISSIONER JEFFRIES: Southeast
17 corner?

18 MR. OCCHIALINO: Southeast, that's
19 correct.

20 COMMISSIONER JEFFRIES: All right.

21 MR. OCCHIALINO: I will, yeah.

22 CHAIRPERSON MILLER: Okay. Thank

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1 you.

2 MR. OCCHIALINO: Okay.

3 CHAIRPERSON MILLER: Um-hum.

4 MR. OCCHIALINO: Thank you. Our
5 property line ends, as I said, about 100 to
6 110 feet from the back of Walgreens, but Van
7 Ness South is much closer.

8 CHAIRPERSON MILLER: Okay. I think
9 I want to back up and just say this in case
10 everyone here isn't familiar with what we are
11 doing with respect to party status. That the
12 rules provide that anyone can testify in an
13 application case for 3 minutes. And we don't
14 do any kind of scrutiny like we are doing now.

15 Party status is for an individual
16 or entity that would like to participate more
17 fully in the proceedings and have the
18 opportunity to cross examine and file
19 pleadings and answer motions and things like
20 that.

21 MR. OCCHIALINO: I realize that and
22 I am prepared to do that.

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1 CHAIRPERSON MILLER: Okay. So
2 therefore, the main criteria that we are
3 looking at is how, you know, you will be
4 impacted uniquely or distinctly more
5 significantly than the general public.

6 MR. OCCHIALINO: I think the quick
7 answer is that Veazey Terrace is a dead end.
8 It dead ends at Van Ness North at the traffic
9 circle. The existence of the curb cut and the
10 parking lot that will go into Veazey Terrace,
11 if the Walgreens' application and variances
12 are permitted, will seriously impact the
13 traffic on Veazey Terrace on the eastern side
14 of Connecticut.

15 And this will have a particularly
16 significant impact on Van Ness North, because
17 we are the farthest -- we are the last stop on
18 Veazey Terrace. We have private parking,
19 which is inevitably going to be taken over by
20 people who can't get into the parking lot.
21 The private property includes the traffic
22 circle, which people will use to make u-turns

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1 if they can't get into the parking area at
2 Walgreens.

3 And so I'm fairly -- I feel fairly
4 convinced that the Van Ness North people and
5 myself, as a resident of Van Ness North, do,
6 in fact, have a particularly significant
7 negative impact that will flow from the grant
8 of these variances.

9 CHAIRPERSON MILLER: Okay. Thank
10 you. Any other questions?

11 VICE CHAIR LOUD: Not a question so
12 much, I just want to be really clear that I
13 understand the nature of the interest, so that
14 if the Board grants party status as you
15 exercise the rights thereunder, you operate
16 within the framework of the reason for which
17 you were granted party status.

18 Now, in your party status
19 application you don't mention anything about
20 loss of parking spaces. But you just
21 testified that that was one of the real
22 concerns that you have, but that also sets you

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1 apart from the general public.

2 MR. OCCHIALINO: I --

3 VICE CHAIR LOUD: So if you could,
4 I just want you to go over again for me what
5 makes your interest unique and distinct from
6 the general public.

7 MR. OCCHIALINO: I would be happy
8 to.

9 VICE CHAIR LOUD: Okay.

10 MR. OCCHIALINO: Again, Veazey
11 Terrace East ends at Van Ness North Apartment
12 Complex. That means that there will be a lot
13 of traffic on Veazey Terrace that we think
14 will be queuing up and getting -- slowing down
15 traffic on Veazey.

16 VICE CHAIR LOUD: That much I got
17 from your party status application.

18 MR. OCCHIALINO: Okay.

19 VICE CHAIR LOUD: Our Exhibit 30.

20 MR. OCCHIALINO: We are equally --

21 VICE CHAIR LOUD: And I can see
22 that.

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1 MR. OCCHIALINO: -- convinced that
2 there will be people who will want to park in
3 what are now private parking spaces for
4 visitor parking that are on the traffic circle
5 that you see. We are worried about emergency
6 vehicles and the ability to access. And we
7 are also concerned about the fact that our
8 private property, the traffic circle itself,
9 will inevitably be used by people who try to
10 get into Veazey Terrace and are unable to get
11 in to the parking, unable to do so.

12 And they will continue down the
13 dead end into the private parking area and
14 around the circle, which is private property.

15 And they will then use our private property
16 as a means of sort of making a u-turn if they
17 can't get into the Veazey Terrace entrance of
18 the Walgreens' parking lot.

19 VICE CHAIR LOUD: Okay. Again, I'm
20 sure that the Walgreens' advocates will
21 respond, but I wanted to make sure that I had
22 captured a sense of what your concerns were,

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1 since they differed from what you had
2 submitted in writing.

3 MR. OCCHIALINO: I thank you.

4 VICE CHAIR LOUD: Thank you.

5 CHAIRPERSON MILLER: Any other
6 questions? Does the applicant have an
7 objection to granting party status to this
8 party status applicant?

9 MS. RODDY: We don't, no.

10 CHAIRPERSON MILLER: Okay. ANC?

11 MS. PERRY: No.

12 CHAIRPERSON MILLER: Okay. All
13 right. Board Members? Okay. I would suggest
14 that you meet the party status standard, but I
15 would request that you supplement the record
16 perhaps with authorization that you actually
17 represented these individuals. I mean, we
18 will take your word for it for now, we do, but
19 just to make the record complete.

20 MR. OCCHIALINO: I will be happy to
21 and I thank you for the opportunity and for
22 the waiver of the requirement right now.

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1 CHAIRPERSON MILLER: Okay.

2 MR. OCCHIALINO: I will fill out
3 the record.

4 CHAIRPERSON MILLER: Okay.
5 Terrific. Great. Is that the consensus? All
6 right. Let's go on to the other party status
7 application, which is our Exhibit No. 32, from
8 Van Ness South Tenants Association, Inc. Are
9 you Mr. Lederer? Yes. Would you introduce
10 yourself for the record, please?

11 MR. LEDERER: Brian Lederer.

12 COMMISSIONER JEFFRIES: You have to
13 turn your mike on.

14 MR. LEDERER: Brian Lederer. I'm a
15 resident of Van Ness South. I'm an officer in
16 the tenant association, Vice Chair. I live at
17 3003 Van Ness Street, N.W.

18 CHAIRPERSON MILLER: How many
19 people are in the Van Ness South Tenants
20 Association?

21 MR. LEDERER: We have about 340 out
22 of -- there are 600 units. We represent a

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1 clear majority of the building.

2 CHAIRPERSON MILLER: And did you
3 all have a vote on this application?

4 MR. LEDERER: Our bylaws -- we
5 didn't, but our bylaws didn't require us to do
6 it for this purpose. If we -- for other
7 purposes, they might if we were to, but there
8 -- this has been amply discussed among the
9 membership. And I believe at our last meeting
10 a while ago, you know, we knew this
11 application was coming and so we did discuss
12 it.

13 CHAIRPERSON MILLER: Well, how was
14 the decision made? How many people made the
15 decision?

16 MR. LEDERER: There was a vote of
17 the board.

18 CHAIRPERSON MILLER: A vote of the
19 board to submit this?

20 MR. LEDERER: Yes.

21 CHAIRPERSON MILLER: Okay. So do
22 you keep records or anything of that or no?

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1 Just informally you just take a vote?

2 MR. LEDERER: Well, we discussed it
3 and we had a vote of the board and we had a
4 majority of the board.

5 CHAIRPERSON MILLER: I mean, do you
6 keep minutes or anything?

7 MR. LEDERER: Excuse me, we have a
8 tape.

9 CHAIRPERSON MILLER: I guess I am
10 just expressing the same concern like how do
11 we know that this letter represents?

12 MR. LEDERER: Yeah, we have a
13 meeting and we have a tape of the meeting and
14 we can produce a record if it would be
15 necessary for the record. I mean, I'm
16 representing to you that we met and we decided
17 this and I'm Vice Chair of the board. I have
18 been on the board many years.

19 CHAIRPERSON MILLER: Okay. We just
20 want to get an understanding. So you are the
21 Vice Chair and how many board members are
22 there?

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1 MR. LEDERER: Um, seven.

2 CHAIRPERSON MILLER: Seven, okay.

3 And you had a quorum, I assume, and voted?

4 MR. LEDERER: Yes.

5 CHAIRPERSON MILLER: Okay. But
6 we're supposed to understand that this
7 represents 340 tenants or what?

8 MR. LEDERER: Well, actually, under
9 the landlord and tenant rules, we represent
10 all the tenants. We are a tenant association
11 once you have a majority of the tenants.

12 CHAIRPERSON MILLER: Okay. Okay.
13 So would you address then why your tenants
14 association is more distinctly and
15 significantly impacted than the general public
16 would be by the relief if granted in this
17 case?

18 MR. LEDERER: Well, I think it's--

19 CHAIRPERSON MILLER: You need to
20 take a mike over there. There you go.

21 MR. LEDERER: Since we have the
22 advantage of this picture, this is Veazey

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1 Terrace. This is where the building would be.

2 There Van Ness South, this is the west wing.

3 And there -- the alley that their trucks
4 would come down is right here. It has a
5 dogleg to the left. The trucks would come in
6 from Veazey -- I mean, from Van Ness, we
7 understand. Somehow they -- this is a very
8 traffic impacted area already.

9 So somehow they would come through
10 here, turn left, I don't know, onto the alley.

11 These are all Van Ness apartments. Go down
12 here and then do some maneuvers and end up
13 into the loading dock there. So as a traffic
14 matter as we indicate, we're separated by a 16
15 foot alley.

16 Our loading dock is more or less
17 across from their loading dock where it is
18 proposed to be. And so their trucks -- you
19 know, a lot of vehicles that come down there
20 with the existing traffic right now can't even
21 get through, even with cars without
22 trespassing on Van Ness South property.

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1 So the issue of the traffic, the
2 trucks, the use of the property, we're
3 concerned about additional noise, traffic
4 congestion, the passage of emergency vehicles,
5 which sometimes come up this way. Fire trucks
6 have to park right here, because they can't go
7 -- where is Veazey Terrace? Here. We have an
8 exit right here where our primary pedestrian
9 exit is right across from the property that
10 goes to the Metro.

11 Emergency vehicles often park here,
12 because they -- this is a deck of the parking
13 garage, so even if they are going to Van Ness
14 North, if they affect the emergency vehicles,
15 you know, they --

16 CHAIRPERSON MILLER: Okay. I think
17 I got it.

18 MR. LEDERER: You got that?

19 CHAIRPERSON MILLER: Yeah, I got
20 that, the flavor.

21 MR. LEDERER: Right.

22 CHAIRPERSON MILLER: Okay. Board

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1 Members have any more questions?

2 MR. LEDERER: Yeah, I mentioned and
3 our primary back door is right there.

4 CHAIRPERSON MILLER: Okay. Any
5 questions? Applicant have any opposition to
6 this party status application?

7 MS. RODDY: No. Generally we don't
8 oppose the application for party status. But
9 I would just like to say that we did drop our
10 variance for loading, so I just want to say
11 that we are here solely for the parking
12 relief, because they had based a lot of their
13 uniqueness on the loading issue.

14 CHAIRPERSON MILLER: Okay. So I
15 think they still have concerns with respect to
16 the parking.

17 MR. LEDERER: Well --

18 CHAIRPERSON MILLER: Is that right?

19 MR. LEDERER: Yes, but, you know,
20 yes, we do.

21 CHAIRPERSON MILLER: Okay.

22 MR. LEDERER: But the passage of

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1 the trucks is still an issue.

2 CHAIRPERSON MILLER: We will cross
3 that bridge when we get to it, but --

4 MR. LEDERER: That's right.

5 CHAIRPERSON MILLER: -- we may not
6 get into loading issues if they are not
7 seeking loading relief, but --

8 MR. LEDERER: So could they explain
9 exactly what they are seeking since they now -
10 - they are dropping their request to do what?
11 To have a variance for a 13 foot loading
12 dock? I mean, just so we understand what they
13 have done.

14 CHAIRPERSON MILLER: All right. Go
15 ahead.

16 MS. RODDY: We have dropped the
17 request for the vertical clearance. We
18 initially were proposing 13 feet where 14 feet
19 is required. And we have been able -- when we
20 met with you last week, we heard loud and
21 clear that that was a concern, so we went back
22 and looked at the plans and we are able to

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1 provide that 14 feet with some changes.

2 So today we are only seeking
3 variance relief for the number of parking
4 spaces that we are providing and the size of
5 those parking spaces.

6 MR. LEDERER: Are we going to see
7 the revised plans? We haven't seen the
8 revised plans.

9 MS. RODDY: Well, given the short -
10 - the nature of this, we have not prepared the
11 revised plans. They are very minor changes.
12 It will raise the height of the building, I
13 believe, 1 foot. We are well within the 65
14 foot height limitation for this zone. So that
15 does not create any need for relief in that
16 respect.

17 MR. LEDERER: Well, see, we are not
18 -- I mean, since they are just doing it
19 orally, we don't know that it's not a material
20 change.

21 CHAIRPERSON MILLER: They've --

22 MR. LEDERER: I've been in cases

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1 where it looked like it was a minor change and
2 then it turned out to be a material change.
3 So we haven't seen the plans and we are harmed
4 by not seeing what the existing plan is.

5 CHAIRPERSON MILLER: Well, maybe
6 they can show it to you here, but what they
7 are saying is what is at issue is a reduction
8 in parking, basically, and that is what the
9 hearing will be about. Are you impacted
10 distinctly by the reduction in parking?

11 MR. LEDERER: Yes, we are.

12 CHAIRPERSON MILLER: Because?

13 MR. LEDERER: People will park on
14 our property.

15 CHAIRPERSON MILLER: Okay. So that
16 will be -- that's not changing. Okay.

17 MR. LEDERER: No.

18 CHAIRPERSON MILLER: So that part -
19 - so what is changing is that we're not going
20 to be having a hearing dealing with loading,
21 because they are doing what is a matter-of-
22 right with respect to loading.

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1 MR. LEDERER: When might we see the
2 revised plans just as a matter of --

3 CHAIRPERSON MILLER: Yes, sir?
4 Yes?

5 MR. ORLING: Can I comment on that
6 just to make sure that everybody is clear on
7 what we are doing? We actually have a number
8 of different strategies. One very easy
9 strategy is to remove a portion of the second
10 floor and then have a canopy up above that, so
11 that we can relate -- raise the covered
12 loading dock up to a height that meets code.
13 Then that's probably the most probable.

14 CHAIRPERSON MILLER: So you haven't
15 decided? Aren't you going to decide with
16 respect before we approve plans?

17 MS. RODDY: What we will be doing
18 will be a matter-of-right. We are keeping, as
19 I understand it, the options that we do have
20 would basically and essentially just say that
21 we would have to raise the height of the
22 building 1 foot. And again, that's well

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1 within code.

2 If we are doing this as a matter-
3 of-right, plans would not be submitted
4 necessarily to the ANC for review. I
5 understand that we had asked for the loading
6 relief, but we have asked for some flexibility
7 to raise the height of the building. It's
8 really a very minor change to the plans that
9 we have submitted. And the rest of what you
10 see before you really it's a very small change
11 and the rest of the plans really have not been
12 altered at all.

13 CHAIRPERSON MILLER: Okay. So let
14 me just ask you this just for the -- this may
15 be the concern of the opposition. Is what you
16 are doing going to affect at all the truck
17 traffic?

18 MS. RODDY: Providing the extra
19 foot? No.

20 CHAIRPERSON MILLER: Um-hum.

21 MS. RODDY: No.

22 CHAIRPERSON MILLER: Okay.

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1 MS. RODDY: If I could just also
2 mention that the reason why we are changing
3 this is because they were concerned that the
4 13 foot vertical clearance was not going to be
5 enough to fit the trucks, if you will. And so
6 that's why we raised it. So if nothing else,
7 this actually alleviates the concern.

8 CHAIRPERSON MILLER: Ms. Perry?

9 MS. PERRY: I think our concern
10 with not seeing something is that we don't
11 know if that might generate another form of
12 relief that might be needed. You know,
13 without seeing something it does redesign --

14 CHAIRPERSON MILLER: Ms. Perry--

15 MS. PERRY: -- just a little bit.

16 CHAIRPERSON MILLER: -- if it
17 generates another form of relief that is
18 needed, then they are going to be back here.

19 MS. PERRY: Okay.

20 CHAIRPERSON MILLER: And you will
21 get your opportunity.

22 MS. PERRY: Okay.

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1 CHAIRPERSON MILLER: So okay. So
2 anyway, so now we are dealing with the
3 ramifications of a reduction in parking,
4 basically, and how that impacts on neighboring
5 properties. And we have decided already that
6 the first party status applicant is located
7 uniquely from the general public.

8 Do Board Members have any other
9 questions with respect to the second one?
10 Would you agree that the second one also is?
11 Yes, Mr. Dettman?

12 MEMBER DETTMAN: Well, if I could
13 just ask the party status applicant just to
14 reiterate very quickly how this project
15 impacts you with respect to parking?

16 MR. LEDERER: Just so people can
17 visualize it, this alley is a primary traffic
18 path as it is now. And what happens is when
19 you bring more cars in, you have cars parking
20 on our property, obstructing our parking. We
21 have -- there is a parking that is here. You
22 have parking that goes in here. And if you

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1 bring more cars in there, it affects our
2 parking. It affects our traffic flow, because
3 you are bringing more traffic in there.

4 Well, that's true, it's true now
5 that cars park on our back lot. But if their
6 lot is full, then we already have cars parking
7 on our property illegally and using it.

8 MEMBER DETTMAN: So it's surface
9 parking that you have?

10 MR. LEDERER: That's part of it,
11 yes.

12 MEMBER DETTMAN: It's surface
13 parking.

14 MR. LEDERER: Well, yeah, we have
15 our loading dock is here. This is Van Ness
16 South property. Cars from the public park on
17 it now. And if you bring more traffic in
18 there and they don't have enough parking,
19 there will be a greater tendency for public
20 cars to park on our property, to turn on our
21 property, to use our property and obstruct our
22 traffic flow.

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1 CHAIRPERSON MILLER: So do you have
2 underground parking for the tenants?

3 MR. LEDERER: Yes, we do as well,
4 yes.

5 CHAIRPERSON MILLER: So you have
6 parking, so they are not going to take your
7 parking spaces, because they are not going to
8 go into your --

9 MR. LEDERER: They park on our
10 property. They create danger. We have
11 primary -- we have foot traffic. This is our
12 primary entrance and access to a Metro that is
13 over here. So once you start obstructing the
14 parking, plus the trucks are coming down here,
15 and so there is a chance -- now, they say
16 that's not -- that's still a parking issue.

17 And I don't know how the public is
18 going to come in, but if you are bringing more
19 traffic this way, this is a two-way alley, you
20 know, to come into their parking there as
21 well, it can -- yeah. We have a rear parking
22 lot that is used and tenants use it.

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1 CHAIRPERSON MILLER: Okay. So you
2 are saying its an overflow of parking from
3 Walgreens. If they have inadequate parking,
4 it will overflow into your surface parking
5 lot?

6 MR. LEDERER: Yes.

7 CHAIRPERSON MILLER: Which may be
8 illegal, but that is what has been happening.

9 MR. LEDERER: Yes.

10 CHAIRPERSON MILLER: It will
11 increase that. Okay. All right. Okay. All
12 right. So the Board will grant Van Ness South
13 Tenants Association party status as well. But
14 the issue that we understand and I understand
15 that you all will be addressing will be
16 parking, increased traffic and noise, maybe
17 pedestrian impact. Okay.

18 All right. I think that that's it
19 for preliminary matters. Why don't we get the
20 case rolling? Thank you.

21 MR. LEDERER: Okay.

22 MS. RODDY: I do have one last

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1 preliminary matter. We have Mark Orling with
2 Rust Orling Architects and Jami Milanovich
3 with Wells and Associates and we would like to
4 have them qualified as experts. And we
5 submitted their resumes with our prehearing
6 statement.

7 CHAIRPERSON MILLER: You did. One
8 second. Okay. The resumes are in the record.

9 Does anybody have any problems with
10 qualifying these witnesses as experts in their
11 fields? Okay. We don't, so consider them
12 qualified.

13 MS. RODDY: Thank you. Good
14 afternoon. My name is Christine Roddy and I'm
15 an attorney with Pillsbury Winthrop Shaw
16 Pittman.

17 MS. PERRY: We have one other
18 preliminary matter, Christine.

19 MS. RODDY: Okay.

20 MS. PERRY: I just want to raise
21 one issue, because Walgreens does not own this
22 property. It is owned by, according to them,

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1 4225 Connecticut Avenue Associates and there
2 is a representation in there that Christine
3 and Shaw Pittman can represent them.

4 But we looked in the tax records of
5 the District of Columbia and we just want to
6 raise that the owners name is showing in the
7 tax records of the District as Texaco Refining
8 and Marketing.

9 So I just don't know whether they
10 have done a title search or whether the D.C.
11 records are wrong, which is possible. I mean,
12 I'm just raising that for the record.

13 COMMISSIONER JEFFRIES: Well, we--

14 MS. PERRY: Just to be on the safe
15 side.

16 CHAIRPERSON MILLER: Okay. Ms.
17 Perry, you have said the tax records show the
18 owner as Texaco?

19 MS. PERRY: Texaco Refining and
20 Marketing. And it has been showing that now
21 since the 1980s.

22 CHAIRPERSON MILLER: And you

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1 checked it last when?

2 MS. PERRY: Um, December 11, 2008.

3 CHAIRPERSON MILLER: Okay. Does
4 the applicant have a response?

5 MS. RODDY: It is true the tax
6 records still show that as the owner.
7 However, we -- it's not the owner and we
8 received the agent authorization from the
9 owner, which was submitted in our initial
10 application.

11 CHAIRPERSON MILLER: Okay. I don't
12 think there is sufficient evidence not to go
13 forward, at this point. Does any
14 Board --

15 MS. PERRY: No, we just wanted to
16 raise that.

17 CHAIRPERSON MILLER: Okay. Put it
18 on the record.

19 MS. PERRY: Yes.

20 CHAIRPERSON MILLER: Okay. Thank
21 you. Okay.

22 MS. RODDY: Okay. As you know, we

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1 are here this afternoon for relief for a
2 parking variance. This is for the property at
3 4225 Connecticut Avenue in Ward 3. Walgreens
4 is proposing a 20,000 square foot store of the
5 corner of Veazey Terrace and Connecticut
6 Avenue.

7 The property is, approximately,
8 15,400 square feet in size. It is located in
9 the C-3-A Zone District and it is adjacent to
10 the Van Ness Metrorail stop. You may remember
11 the site actually from previous BZA cases. I
12 believe the last time it was before you was
13 just a few years ago.

14 It's an existing gas station and
15 there were numerous appeals regarding the
16 Zoning Administrator's revocation of their
17 Certificates of Occupancy for operating a
18 service station. So the proposed Walgreens
19 will be replacing that use entirely.

20 The proposed --

21 CHAIRPERSON MILLER: Can you just
22 clarify, who is the owner now? Who bought

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1 them out? I mean, this was the famous Kuri
2 Brothers?

3 MS. RODDY: It's --

4 CHAIRPERSON MILLER: And so --

5 MR. CLARKE: My understanding is
6 Kuri Brothers was a tenant.

7 CHAIRPERSON MILLER: Right. Kuri
8 Brothers was a tenant.

9 MR. CLARKE: So we are dealing with
10 the property owner who was leasing or is
11 leasing. I don't know if Kuri Brothers --

12 CHAIRPERSON MILLER: What's the
13 name of the property owner? I know it's in
14 the files, but just so --

15 MR. CLARKE: The individual's name
16 or the LLC that it's in?

17 CHAIRPERSON MILLER: Company, the
18 LLC.

19 MR. CLARKE: It's 4225 Connecticut
20 Associates. Something like that.

21 CHAIRPERSON MILLER: Okay. Thank
22 you.

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1 MEMBER WALKER: And when did that
2 entity take ownership?

3 MR. CLARKE: My understanding is he
4 has owned that property for some time.

5 MS. RODDY: I believe the service
6 station has been there for maybe even 20
7 years, so during that time, but we can look
8 and see how far back the ownership goes.

9 CHAIRPERSON MILLER: Well, you can
10 go forward. I just wanted to hear a little
11 bit about, you know, when did this happen,
12 but, okay. So 4225 owns it now. There is
13 still a gas station operating at the site.
14 And Walgreens is going to be the tenant or the
15 buyer?

16 MS. RODDY: Yes.

17 CHAIRPERSON MILLER: The tenant.

18 MS. RODDY: Um-hum.

19 CHAIRPERSON MILLER: Okay.

20 MS. RODDY: The proposed store
21 generates a parking need for 57 spaces, as we
22 discussed earlier. However, we are only

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1 providing 31 spaces. Most of those will be
2 provided in a below-grade garage. Of those 31
3 spaces, 11 of them will be compact spaces.
4 Thus, we are seeking variance relief under
5 Chapter 21, sections 2101.1 and 2115.2, for
6 the number and size of the spaces.

7 The applicant had also requested
8 variance relief for the vertical clearance of
9 the loading. However, the applicant is no
10 longer seeking relief with regard to the
11 loading. We met with the ANC a week ago. As
12 I said, we heard numerous concerns about the
13 loading, so we took another look at the plans
14 and Mr. Orling will provide more detail in his
15 presentation, but we were able to make some
16 changes and provide the required clearance,
17 which rendered the variance unnecessary.

18 Accordingly, the relief the
19 applicant seeks today is solely with regard to
20 parking. Before beginning the presentation of
21 the application, I would like to provide a
22 little bit of background.

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1 We initially filed this application
2 in February 2008 with a completely different
3 proposed store design. The proposal included
4 8 surface parking spaces along Connecticut
5 Avenue. It also included two curb cuts and a
6 drive-through pharmacy. And the drive-thru
7 pharmacy was accessed from Connecticut.

8 We heard loud and clear from the
9 Single Member District representative, as well
10 as OP and DDOT, that they did not like the
11 surface parking along Connecticut and they did
12 not support the drive-thru pharmacy. So we
13 asked and the Board granted a continuance from
14 our July hearing date.

15 And we took some time, we went
16 back. We designed a completely different
17 store that we thought really responded to the
18 concerns that we had heard. So we had filed
19 that and had been given a November hearing
20 date.

21 The plans that we submitted to the
22 ANC, OP and DDOT, they seemed to alleviate the

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1 concerns that OP and DDOT had. But when we
2 met with the community, we understood that
3 they still had some questions about the
4 design. So we came back to the Board in
5 November and asked for another continuance to
6 give us an opportunity to work with the
7 community and try to come up with a mutually
8 agreeable proposal.

9 Over the course of our meetings
10 with the ANC, we had made changes to the
11 rooftop structures, landscaping, the proposed
12 pavers, proposed loading times. We provided a
13 point of contact for concerns. We retained an
14 arborist to look at a tree. We provided
15 information about Walgreens and about the jobs
16 Walgreens would provide.

17 In all, we had three meetings with
18 the ANC. We met with the Single Member
19 District representative on-site. Like I have
20 said, our latest meeting was one week ago
21 where in response to the concerns we heard, we
22 made one last change to the proposed loading.

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1 We believe that our request today
2 for the parking relief satisfies the three-
3 prong variance test. Our submissions detail
4 the uniqueness of this site as well as the
5 practical difficulty in complying with the
6 Zoning Regulations. We also retained a
7 traffic engineer to study the parking proposal
8 to ensure that there are no detrimental
9 effects on the community.

10 DDOT and OP have submitted reports
11 in support of this application and support the
12 conclusion that this site is appropriate for a
13 parking reduction.

14 I should also note that the Office
15 of Planning is currently studying the Zoning
16 Regulations with regard to parking and they
17 are thinking of providing -- eliminating the
18 minimum requirements and providing maximum
19 requirements for sites that are adjacent to a
20 Metrorail stop, such as this.

21 Again, our proposal is consistent
22 with the existing regulations and with the

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1 direction the Parking Regulations are heading
2 in the future. We will have three witnesses
3 testifying on behalf of Walgreens today and we
4 will try to keep our presentation brief, so we
5 can answer questions.

6 But let me introduce Randall Clarke
7 with Mid-Atlantic Commercial Properties, who
8 will give more detail, the developer of the
9 site. He is representing -- he is testifying,
10 I'm sorry, on behalf of Walgreens and he will
11 give more detail regarding Walgreens and the
12 project site.

13 MR. CLARKE: Okay. All right.
14 Thank you, Madam Chair, Members of the Board.
15 My name is Randall Clarke. I'm a commercial
16 development manager with Mid-Atlantic
17 Commercial Properties, the developer of the
18 subject property on behalf of the Walgreen
19 Company.

20 I'm particularly pleased to be here
21 today, as I'm a District resident, in Ward 4
22 who is excited about this opportunity to bring

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1 Walgreens to the District expanding our city's
2 retail base and promoting competition.

3 Our firm has worked with Walgreens
4 for several years in its Mid-Atlantic
5 expansion. With nearly 7,000 stores
6 nationwide, Walgreens is the largest pharmacy
7 chain by sales. It is clearly under-
8 represented in the District. Regionally,
9 there are, approximately, 93 Walgreen stores
10 in Virginia and 48 stores in Maryland. At
11 present, there is one Walgreens in the
12 District of Columbia at the corner of 22nd and
13 M in the west end and a second store under
14 construction in Cleveland Park that my firm is
15 working on with Walgreens.

16 Some of you may be aware of that
17 project. It did have to go through HPRB and
18 it was in the Historic District and we had to
19 meet with the Cleveland Park Historical
20 Society, the ANC there and the Department of
21 Planning's Historic Preservation Office.

22 And we were able to secure

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1 approvals from all of those groups, primarily
2 due to Walgreens willingness to engage
3 communities in a serious way and design their
4 stores in a manner that fits into the
5 neighborhoods they serve.

6 With respect to the proposed store
7 in Van Ness, Walgreen store made a similar
8 effort to listen to and incorporate, where
9 possible, the concerns and suggestions of the
10 community that this store will serve. It's
11 important to note here again that the plan
12 before you today is very different from our
13 original proposal that included several by-
14 right features, including surface parking
15 along Connecticut Avenue and a drive-thru
16 pharmacy window that utilized one of the
17 existing curb cuts on Connecticut Avenue,
18 which were removed from the proposal due to
19 community planning or DDOT opposition.

20 This was a major concession for
21 Walgreens that was not part of the original
22 sales forecast when a 75 year commitment was

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1 made to the landlord for the site. So it was
2 a major concession.

3 We communicated with residents
4 throughout the process starting with an
5 initial discussion with the Single Member
6 representative in February of last year,
7 multiple ANC presentations and a meeting with
8 Mrs. Cheh, the Council Member for Ward 3.

9 This is a unique site and location
10 and size for a pharmacy. The surrounding uses
11 include institutional uses with UDC across the
12 street and the Edmund Burke School about a
13 block to the south and the Howard University
14 Law School off of Van Ness Street.

15 There is high density residential
16 that we have heard about already today,
17 including the Van Ness South and North
18 properties as well as several other high
19 density buildings in the immediate area.
20 There are office uses in the immediate area,
21 including Intelsat and the uses above the
22 adjacent BS and Giant at the Van Ness Center.

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1 And there are single-family residential uses
2 to the north in the Forest Hills community.

3 Finally, we are in very close
4 proximity to the Metro which is actually just
5 across Veazey Terrace. There is an entrance
6 there and across Connecticut Avenue in front
7 of UDC.

8 In short, this store has a built in
9 customer base with the existing residences,
10 pedestrians and transit users with the trade
11 area serving people primarily within walking
12 distance. I think it's also important to
13 consider the existing use.

14 Currently, there is a 24 hour gas
15 and service station operating on the site with
16 two curb cuts on Connecticut Avenue and two
17 curb cuts on Veazey Terrace for four in total,
18 in addition to alley access.

19 Our proposal brings that down to
20 one single ingress and egress point on Veazey
21 Terrace, in addition to the loading and
22 ancillary parking off of the alley. I think

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1 that's all.

2 MS. RODDY: Now let me introduce
3 Mark Orling, who will walk through the
4 proposal.

5 MR. ORLING: Thank you very much.
6 I'm Mark Orling from Rust Orling Architecture.
7 And what I would like to do is read to you a
8 brief statement and then maybe walk you
9 through the plans and show you some of the
10 elements of the project.

11 In designing the Walgreens facility
12 for this site at 4225 Connecticut Avenue, we
13 were challenged with a series of circumstances
14 unique to the site. These circumstances have
15 impacted our design and that's why we are
16 before you today requesting relief.

17 The lot itself, which is just over
18 15,400 square feet, is an irregular-shaped
19 corner lot. Additionally, we have a required
20 15 foot building restriction line on Veazey
21 Terrace. Added to this, the existing grade
22 change on this site is not inconsequential.

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1 We have over 4 feet of height difference
2 between the high point located on the alley
3 and the low point at Connecticut Avenue.

4 Finally, in meetings with DDOT and
5 OP, we were informed of the number of city
6 policies that have additional important
7 requirements about the location of parking,
8 the location of loading, the location of curb
9 cuts and the desire to have the store front
10 located on the Connecticut Avenue property
11 line.

12 All of these unique circumstances
13 have had an impact on our overall design. Our
14 proposed plan is a two-story structure over
15 top of below-grade parking. Our proposed
16 building is, approximately, 20,000 square feet
17 of retail and ancillary space. We calculate
18 for this facility the code requires 57 parking
19 spaces, but because of conditions that I have
20 briefly described and because of what our
21 studies have told us in regards to actual
22 parking needs, we are requesting a variance

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1 from this requirement and ask to be allowed to
2 provide 31 parking spaces.

3 Additionally, we are requesting a
4 variance from the section of the code that
5 allows compact spaces only after providing 25
6 full size spaces. We are requesting to be
7 allowed 20 full size spaces and 11 compact
8 spaces.

9 Our practical difficulty in
10 complying with the Zoning Regulations has to
11 do with the lot characteristics that I have
12 previously mentioned, but it also has to do
13 with the city's desire to promote a project
14 that is urban in character and transit-
15 oriented.

16 The lot configuration and building
17 restriction line severely limit how parking
18 can be configured. To the greatest extent
19 possible, we have provided parking below grade
20 in the most efficient parking garage possible.

21 Given the aforementioned conditions, the size
22 of the garage is limited. Once the ramp is

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1 accounted for, there is virtually no
2 flexibility to increase our parking below
3 grade.

4 Providing a second level of parking
5 below grade is not economically feasible, but
6 it also may be technically unfeasible due to
7 our proximity to Metro.

8 We are requesting no other
9 variances for this project. As we have
10 discussed, at one point, we had considered the
11 request to reduce the height of the loading
12 dock due to the grade variation that we have,
13 but we have abandoned that request when we
14 learned that there may be concerns from the
15 community about the maximum trucks not being
16 able to access our loading space.

17 The available FAR on the site is
18 2.5. Our proposed FAR is, approximately, 1.4.

19 The height limitation is 65 feet. Our
20 building is predominantly 34 feet with a
21 corner element that is 45 feet.

22 Now, maybe we can show you a few

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1 things on the presentation boards. Actually,
2 it would be good if somebody else could just
3 go up there and point. You take this.

4 MR. CLARKE: Which one do you need?

5 MR. ORLING: Let's start with the
6 ground floor.

7 MR. CLARKE: Point me to it, Mark.

8 MR. ORLING: Okay. The ground
9 floor has the main entry to the sales area
10 located right on the corner of Connecticut and
11 Veazey. The ground floor includes a little
12 bit of receiving area and the pharmacy, also a
13 trash room.

14 The one required loading space that
15 we have has been pushed all the way back to
16 the alley, so it's on the back portion of the
17 lot, as is four additional surface parking
18 spaces. One of the things that we took into
19 consideration in terms of locating the loading
20 dock in that location was really how you
21 access it with a truck. It was very
22 difficult.

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1 So what we have done is we have
2 actually taken the back portion of the
3 building and moved it 16 feet off of the
4 property line. Actually, all of the elements
5 in the back are pushed off of the alley line,
6 which effectively makes the alley much more
7 usable. We have used templates and we have
8 determined that we can get a 30 foot truck
9 into that loading space without difficulty.

10 Maybe we can look at the second
11 floor. Oh, one additional thing on the first
12 floor is that again the access to the garage
13 is located on Connecticut and -- I'm sorry on
14 Veazey and it is pushed as far back from
15 Connecticut as is possible.

16 When we started out -- the existing
17 lot currently has four curb cuts. We have
18 reduced those four curb cuts to just one curb
19 cut.

20 CHAIRPERSON MILLER: Can I just ask
21 you a quick question?

22 MR. ORLING: Sure.

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1 CHAIRPERSON MILLER: Why is it
2 better that it is pushed as far back as
3 possible from Connecticut Avenue?

4 MR. ORLING: I think it was really
5 in discussions with DDOT that we talked about
6 the issue of queuing as you come out to
7 Connecticut.

8 MS. RODDY: And actually while we
9 are on that first floor plan, Randall, if you
10 could just point out the irregular-shape of
11 the lot?

12 MR. CLARKE: You see here it comes
13 back. It's not perfectly square at all. It
14 gets narrower as you get back away from
15 Connecticut Avenue coming toward us toward the
16 south as you go back along Connecticut Avenue
17 -- along Veazey Terrace. Also, the building
18 setback, that was referred to earlier is here
19 along Veazey Terrace. So it's getting
20 narrower and there is a building set-back
21 along Veazey Terrace.

22 MR. ORLING: Okay. Simply the

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1 second level contains an additional sales
2 area, which is connected to the ground floor
3 with both elevators and escalators.
4 Additionally, there are administrative offices
5 and some storage space which is located up on
6 the second level.

7 Maybe you could pull up the parking
8 garage. The parking garage again below-grade
9 included are parking spaces all but four which
10 are located at grade. And some mechanical
11 spaces, but really because of the
12 configuration of the lot and the requirement
13 of the ramp, we only are able to create one
14 double-loaded corridor.

15 And in that double-loaded corridor,
16 because of constrictions that we have, some of
17 our spaces really do need to be compact
18 spaces.

19 Maybe from there we will just take
20 a look at the exterior elevations and the
21 heights. To the greatest extent possible, we
22 are really compatible with the building that

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1 is next door to us. We figure that the
2 building next door to us is somewhere in the
3 neighborhood of 30 feet tall. And so again,
4 the majority of our building is between 34
5 feet, which is the height at Connecticut
6 Avenue, and on the alley it is down to 31
7 feet.

8 And the only thing that exceeds
9 that height is the corner tower, which is 45
10 feet, and our roof structure, which is --
11 which contains our mechanical equipment, and
12 is on the Connecticut Avenue side of the
13 building per the request of the ANC, but
14 pushed just slightly back from the facade.

15 I think that's it.

16 CHAIRPERSON MILLER: Where is the
17 roof structure?

18 MR. ORLING: There is a roof plan.

19 CHAIRPERSON MILLER: I mean, can we
20 see it?

21 MR. ORLING: Yeah.

22 CHAIRPERSON MILLER: If we are

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1 looking at these pictures, can we see the roof
2 structure or no?

3 MR. ORLING: You can see a single
4 line without any color on it, both in the
5 front elevation and the side elevation. Do
6 you want to point to it, Randall? Yes. We
7 figure that our mechanical equipment is going
8 to be between 4 and 5 feet, so that our screen
9 would be between 5 and 6 feet tall.

10 MR. CLARKE: And as a reference,
11 here is the roof plans. You see the roof
12 structures.

13 MS. RODDY: And, Randall, while you
14 are up there, could you just point out the
15 existing use and the curb cuts that are
16 currently there?

17 MR. CLARKE: Sure, sure. This
18 picture here, this board here shows the
19 existing gas station. There is a curb cut
20 right here along the adjacent building. There
21 is another in here. I think someone is
22 actually parked in front of it on this

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1 picture. And there is one here on Veazey
2 Terrace just off of Connecticut. This is the
3 crosswalk at Connecticut. And there is a
4 second one. I don't think we show it very
5 clearly here, but this is looking from the
6 rear. It is right here just off of the alley.

7 MS. RODDY: And now we introduce
8 Jami Milanovich with Wells and Associates.

9 MS. MILANOVICH: Good afternoon.
10 For the record, my name is Jami Milanovich
11 with Wells and Associates, 1420 Spring Hill
12 Road, McLean, Virginia.

13 Wells and Associates was conducted
14 to -- selected to conduct a Traffic Impact
15 Study for the subject application. The scope
16 of the study included analysis of the
17 following intersections: Connecticut Avenue
18 and Veazey Terrace; Veazey Terrace and the
19 alley behind the site; and Veazey Terrace and
20 the proposed site access.

21 Additionally, the study included a
22 parking evaluation to determine the required

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1 number of parking spaces for the subject
2 Walgreens.

3 As proposed, the redevelopment of
4 the site would reduce the number of access
5 points on Connecticut Avenue, which is a
6 principal arterial, from the two that
7 currently exist to zero. No access would be
8 provided via Connecticut Avenue.

9 The number of curb cuts on Veazey
10 Terrace would be reduced from two to one. The
11 reduction of curb cuts would minimize the
12 number of conflict points on the surrounding
13 roadway network.

14 Because the store's trade area is,
15 approximately, 1 mile to 1.5 miles, a large
16 percentage of the trips generated by the
17 Walgreens would be made by foot, particularly
18 given the proximity of the Metro Station. It
19 is, approximately, 50 feet from the front door
20 of the Walgreens store.

21 Accordingly, we have conservatively
22 estimated that the Walgreens would generate an

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1 additional 21 a.m. peak hour vehicle trips and
2 24 p.m. peak hour vehicle trips. At the
3 Connecticut Avenue Veazey Terrace
4 intersection, this additional traffic would
5 account for less than 1 percent of the total
6 traffic during the a.m. peak hour and,
7 approximately, 1.2 percent of the total
8 traffic during the p.m. peak hour. This
9 additional traffic would have no discernible
10 impact on the operations of this intersection.

11 In terms of parking, a total of 57
12 parking spaces would be required by code for
13 the proposed Walgreens. The applicant has
14 proposed to provide 31 parking spaces.
15 According to data published by the Institute
16 of Transportation Engineers, the average peak
17 hour parking rate for a pharmacy or a
18 drugstore without a drive-thru window would be
19 37 spaces for a store of this size.

20 This information though is based on
21 data from suburban areas with little
22 walkability and where virtually no public

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1 transportation is available. Given the
2 Walgreens urban setting, the proximity to a
3 Metro Station, it would require significantly
4 fewer spaces than what ITE predicts.
5 Therefore, we believe 31 spaces is more an
6 appropriate for this site.

7 In conclusion, we believe that the
8 traffic impacts associated with the proposed
9 redevelopment of the site would have no
10 discernible impact on traffic operations in
11 the vicinity of the site for the following
12 reasons:

13 The number of curb cuts would be
14 reduced from 4 to 1, thereby minimizing
15 conflict points on the surrounding roadway
16 network. The traffic generated by the
17 proposed Walgreens would account for,
18 approximately, 1 percent of the traffic at the
19 Connecticut Avenue/Veazey Terrace intersection
20 during peak periods. The number of parking
21 spaces proposed would adequately accommodate
22 the projected parking demand for the

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1 Walgreens.

2 And finally, I would also like to
3 note that in its February 17th report, DDOT
4 supports the parking reduction and has
5 indicated they believe the proposed
6 redevelopment would be an improvement over the
7 existing conditions.

8 MS. RODDY: And I think that
9 concludes our presentation.

10 CHAIRPERSON MILLER: We need to
11 stop the clock then. Somebody can.

12 MR. WHITEY: I would like to make
13 a couple of comments about the hearing that we
14 had on the 17th.

15 CHAIRPERSON MILLER: Okay. It's
16 not your turn yet.

17 MR. WHITEY: Hum?

18 CHAIRPERSON MILLER: It's not your
19 turn to make comments yet. We have a
20 procedure that I went through earlier, but I
21 can remind you. It's not your turn yet to
22 make comments. The applicant presents their

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1 case. Then the Board will ask some questions.

2 And then we will allow parties to cross
3 examine. And then we will go to Office of
4 Planning and then we will go to the ANC. And
5 then we will go to opposing parties. Then we
6 will go to people in support and then we'll go
7 to parties and people in opposition.

8 Okay? So you will have your
9 opportunity, but it's not right now.

10 MR. WHITELEY: Can I speak now or
11 not?

12 CHAIRPERSON MILLER: No. But you
13 will later.

14 MR. WHITELEY: Later?

15 CHAIRPERSON MILLER: I'll call you
16 at the right time. Um-hum.

17 MR. WHITELEY: Okay.

18 COMMISSIONER JEFFRIES: Just a
19 quick question for Ms. Milanovich. I'm
20 actually very familiar with Walgreens being
21 from Chicago, Northbrook and so forth. But I
22 mean, obviously, sort of the convenience

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1 quality of a Walgreens or a CVS, I mean, was
2 there any consideration for people who are
3 just making this turn onto Veazey and not
4 wanting to go down to the parking and just
5 will try to find a quick parking space? I
6 mean, was there any discussion around that
7 kind of customer that is making a really quick
8 trip and might look at, you know, parking
9 underground is just, you know.

10 MS. MILANOVICH: Yeah. I mean, we
11 have talked about that. You know, again, we
12 expect a very large percentage to be people
13 from the community, people getting off the
14 Metro Station, stopping by on foot.

15 In terms of, you know, people that
16 are coming by car that are looking to, you
17 know, quickly get in and out of the store, I
18 mean --

19 COMMISSIONER JEFFRIES: Yeah, like
20 people who live like 6 blocks, 5 blocks --

21 MS. MILANOVICH: Right.

22 COMMISSIONER JEFFRIES: -- away,

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1 you know.

2 MS. MILANOVICH: I mean, I think,
3 you know, there is existing parking on
4 Connecticut Avenue during certain times of the
5 day. The issue is going to be they could
6 potentially drive around, you know, longer
7 looking for a parking space than they would
8 just pulling into the garage, you know,
9 parking and going into the store.

10 MS. RODDY: I would also just like
11 to point out that there are four surface
12 parking spaces that are being provided on the
13 property, so that could be part of that issue
14 it that they could park in those surface
15 spaces if they are just doing a quick in and
16 out. I'm sorry.

17 MR. CLARKE: And just stepping a
18 little back -- further back, in our original
19 proposal there were more surface parking
20 spaces for that purpose exactly, that that's a
21 convenience for people who are coming in and
22 making a quick trip, who may not want to go

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1 into the garage. It was strongly suggested to
2 us that we lower the amount of those.

3 It was also the reason why the
4 original proposal had a drive-thru pharmacy,
5 which is for people who are either dropping
6 off or picking up a prescription who would
7 then not need to fill a parking space. They
8 would be able to do those things, do that
9 business without filling a parking space.
10 Again, it was strongly suggested to us that we
11 remove that from the proposal.

12 COMMISSIONER JEFFRIES: Okay. I
13 mean, I'm just speaking from personal
14 experience. You know, I mean, I have a CVS
15 and I'm like 2 blocks from it and Julie and I
16 walk, but every now and then, you know -- and
17 I was just sort of wondering, I guess I'm
18 really responding to some of the comments from
19 Mr. -- say it.

20 MS. RODDY: Occhialino.

21 COMMISSIONER JEFFRIES: Occhialino
22 in terms of the traffic that -- you know,

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1 because this is a dead end street. And it's a
2 very unique situation. And so that's why I
3 was very supportive of party status, because
4 this is a unique situation. And you know,
5 understanding, you know, sort of, you know,
6 how people treat these kinds of, you know,
7 pharmacies and Walgreens and CVS.

8 I just was interested whether there
9 was any thought and from what I hear you have
10 four parking spaces, but they was pushed back
11 from the community to provide any other sort
12 of surface anything, so that you didn't have
13 any overflow or spill-over traffic along
14 Veazey Terrace.

15 MS. MILANOVICH: Right. As Randall
16 had indicated, there was --

17 COMMISSIONER JEFFRIES: Yeah.

18 MS. MILANOVICH: -- initially
19 additional surface parking that was removed--

20 COMMISSIONER JEFFRIES: Right.

21 MS. MILANOVICH: -- by request.

22 COMMISSIONER JEFFRIES: Okay.

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1 Thank you.

2 CHAIRPERSON MILLER: Let me follow-
3 up on that. Is there legal parking on the
4 side streets as well as Connecticut?

5 MS. MILANOVICH: I don't believe
6 that there is any signed parking along Veazey
7 Terrace currently, but I have -- when I have
8 been out to the site, I have seen cars parked
9 there.

10 CHAIRPERSON MILLER: You said
11 there's not signed parking?

12 MR. CLARKE: There's no legal
13 parking on Veazey Terrace.

14 CHAIRPERSON MILLER: Okay.

15 MS. MILANOVICH: Yeah.

16 CHAIRPERSON MILLER: Is there going
17 to be validated parking in the garage for
18 Walgreens or have you thought that through?

19 MR. CLARKE: I think our
20 expectation is not to do that to start. If we
21 realize we are having a problem, Walgreens has
22 said that they will take another look at that

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1 either in validating or an attendant.

2 COMMISSIONER JEFFRIES: Have they
3 done that in other locations?

4 MR. CLARKE: Not to date, no. Not
5 in the -- in the District the --

6 COMMISSIONER JEFFRIES: Yeah, I
7 know you have another store.

8 MR. CLARKE: No.

9 COMMISSIONER JEFFRIES: Okay.

10 MR. CLARKE: But, no. Generally,
11 no.

12 CHAIRPERSON MILLER: Ms.
13 Milanovich, is that your name?

14 MS. MILANOVICH: Yes.

15 CHAIRPERSON MILLER: Okay. If
16 there weren't any parking regulations, say
17 there are no parking regulations, what do you
18 think the parking demand is for this location?

19 I mean, do you think -- I think what you all
20 have done is the maximum that you could given
21 the parking regulations, right?

22 MS. MILANOVICH: Um-hum.

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1 CHAIRPERSON MILLER: I mean, it's
2 57. You can only fit 31 because of the site
3 constraints, from what I hear. If there were
4 no parking regulations at all, I mean, would
5 you think -- I think I heard you make
6 reference to the projected parking demand, but
7 I didn't really know what that number is.

8 MS. MILANOVICH: Yeah. As I had
9 indicated, there is data available from the
10 Institute of Transportation Engineers, which
11 basically provides parking rates based on the
12 square footage for pharmacies and drugstores
13 without drive-thru windows. That data
14 suggests that for a store of this size, 37
15 spaces would be required.

16 The thing that we have to keep in
17 mind is that that data is based on suburban
18 locations where there is, you know, no public
19 transportation and no walkability. So what we
20 need to do is look at it and determine, you
21 know, what's the impact of being in an urban
22 setting and what's the impact of having, you

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1 know, prevalent public transportation.

2 What we have estimated, we think
3 conservatively, is that about 50 percent of
4 the trips will be made either by foot or by
5 some other mode of transportation, other than
6 a car. So if you apply that 50 percent to the
7 37 spaces, then, you know, 18 spaces would be
8 required using that logic.

9 Unfortunately, there is no hard and
10 fast data for urban pharmacies, so, you know,
11 we kind of have to make some assumptions in
12 terms of the mode splits.

13 CHAIRPERSON MILLER: So your answer
14 really is 18? You think the projected parking
15 demand would be met by 18 spaces?

16 MS. MILANOVICH: We have estimated
17 that 18 spaces would be adequate.

18 CHAIRPERSON MILLER: And you are
19 providing 31?

20 MS. MILANOVICH: We're providing
21 31.

22 CHAIRPERSON MILLER: Okay. So in

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1 some instances, DDOT might even think that's
2 over parking, but we'll hear from DDOT. But
3 you are operating under the current
4 regulations?

5 MS. MILANOVICH: Well, you know,
6 the sites viability is contingent upon people
7 being able to find a convenient parking space.

8 If people can't find a convenient parking
9 space, they are not going to go. So I
10 wouldn't necessarily say that, you know, we
11 should reduce the parking to 18. What we're
12 saying is what we have estimated is that 18
13 spaces would be adequate. Certainly 31 spaces
14 is adequate and should accommodate the
15 projected parking demand.

16 COMMISSIONER JEFFRIES: I mean, I
17 would imagine that Walgreens has information
18 on the amount of time people spend in the
19 stores and the traffic -- I mean, the parking
20 is, you know, rolling, I mean, moving rather
21 quickly I would imagine.

22 MR. HARRIS: If I could address

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1 some of these questions, I've been sworn in.
2 I'm Matt Harris with Walgreens.

3 COMMISSIONER JEFFRIES: Oh, okay.

4 MR. HARRIS: I'm a senior real
5 estate manager. I currently reside on
6 Hermitage Avenue in Chicago. Our typical
7 locations, even in a suburban setting, we
8 typically look at a suburban setting of
9 drawing customers from about 1.5 miles to 2
10 miles.

11 We look at most locations as,
12 approximately, plus or minus 30 parking
13 spaces, what we consider active parking, to
14 serve our customers at peak hours. That would
15 be typically the afternoon rush hour. This
16 particular case, as already stated, there is,
17 obviously, public transportation.

18 In this particular case, we
19 actually have analyzed this trade area as
20 being closer to a half mile to a mile at the
21 most for a number of reasons. Particularly,
22 we do have our location less than a mile to

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1 the south that we are currently under
2 construction with, so we don't expect to draw
3 beyond that. And to the north we have a
4 significant amount of competition.

5 So we anticipate most of our
6 customers at this particular location walking,
7 taking public transportation.

8 Some of the suburban locations that
9 provide more parking often times provide
10 parking for employees. In this particular
11 case, the amount of rent that we have to pay
12 to work on projects in the District in this
13 particular location, we can't afford to have
14 employees parking here.

15 So we do anticipate our employees
16 will be taking public transportation or
17 typically we hire people mostly within the
18 neighborhood. So I -- based upon that and our
19 analysis of a typical suburban location, as
20 well as we, obviously, have a number of
21 locations up in the city, the high dense areas
22 of Baltimore up and down the east coast,

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1 obviously, in Chicago that you are familiar
2 with that 30 parking spaces typically is more
3 than adequate for this type of location.

4 CHAIRPERSON MILLER: Mr. Clarke,
5 you mentioned the Cleveland Park Walgreens'
6 site. Is that going to be coming to the
7 Board?

8 MR. CLARKE: No, no, it's already
9 under construction. It was a by-right --

10 CHAIRPERSON MILLER: Okay.

11 MR. CLARKE: -- situation. It did
12 fall under Historic Preservation, so we went
13 through HPRB and had our approvals there and
14 that store is currently under construction.

15 CHAIRPERSON MILLER: Okay. So
16 that's another Connecticut Avenue site near
17 the Metro, right?

18 MR. CLARKE: It's at Connecticut
19 and Porter just about two doors from the
20 Cleveland Park Metro Station.

21 CHAIRPERSON MILLER: And how many
22 parking spaces are you -- do you know?

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1 MR. CLARKE: I would say it's 21.

2 MR. ORLING: Yeah.

3 MR. CLARKE: 21.

4 CHAIRPERSON MILLER: Oh, but it's
5 driven by the size of the store? Is that it,
6 it's a smaller store?

7 MR. CLARKE: It is a smaller store,
8 that's part of it. And also it was an
9 existing parking lot with the structure that
10 we are redeveloping. That was the former
11 Yenching Palace Restaurant. And so there was
12 an existing parking lot off of the alley.

13 CHAIRPERSON MILLER: Right.

14 MR. CLARKE: So we really didn't
15 have a lot of leeway there.

16 CHAIRPERSON MILLER: Okay.

17 COMMISSIONER JEFFRIES: Yeah, Madam
18 Chair, I mean, you know, given that these
19 stores are, you know, on top of Metro Stations
20 or close by, I mean, you know, the parking
21 issue, I mean, I don't have a problem with
22 like less parking. It's just, you know, what

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1 are the mechanisms in place to prevent people
2 from, you know, treating it as a very
3 convenient type store and just trying to, you
4 know, park quickly, run in, get something and
5 run out and whether that is going to cause
6 some level of congestion.

7 I mean, you know, you guys are the
8 experts here, but I just, you know, know how,
9 you know, sometimes people treat these types
10 of stores.

11 MR. CLARKE: No, I can appreciate
12 that. I think that also speaks to your
13 earlier question about validation.

14 COMMISSIONER JEFFRIES: Um-hum.

15 MR. CLARKE: Because any additional
16 barrier you put in at that garage is a reason
17 for someone not to use it. So that's why I
18 don't think our going in position would be to
19 do that, because that might be something that
20 motivates people to do exactly what you are
21 talking about.

22 MR. HARRIS: We have also analyzed

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1 possibly the four spaces, surface spaces in
2 the back of putting some sort of time limit on
3 that as a possibility. We do that again in
4 suburban locations where we are sharing
5 parking with shopping centers. We typically
6 limit it to 30 minutes, but in this type of
7 setting, we go as short as even 15 minutes.

8 Our typical customer spends about
9 15 minutes in our store.

10 COMMISSIONER JEFFRIES: Right,
11 right.

12 MR. HARRIS: It's a very quick
13 transaction.

14 CHAIRPERSON MILLER: Okay. I think
15 we are going to hear more specifically when we
16 hear the opposition about their concerns about
17 any spill-over parking or people avoiding lot
18 parking in the area. So I'm going to hold my
19 questions until then, because maybe you can
20 respond after you have heard specifically what
21 their concern is.

22 I have just another general

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1 question. Is there any study that talks about
2 compact cars versus regular sized cars? I
3 mean, what percentage, you know, are being
4 used, you know, showing up in the garages? I
5 mean, just some kind of data that the parking
6 spaces that you have say for compact cars,
7 which are 11, that that's actually -- you
8 know, there is not going to be a problem that
9 you get more regular sized cars needing
10 spaces?

11 MS. MILANOVICH: Yeah, I mean, are
12 you talking about for specific uses how many
13 compact spaces are typically provided for a
14 certain type of use versus regular size?

15 CHAIRPERSON MILLER: No, no, I
16 mean, like in your garage you are providing 11
17 compact spaces and 20 regular spaces. And I
18 guess my question is is there any data on the
19 demand for regular sized spaces over a
20 compact? Why did you do the 11? So you could
21 get more spaces in as opposed to --

22 MR. ORLING: The 11 was really

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1 based on what we could achieve in terms of the
2 configuration. And I'm not really aware of
3 any studies, but what I have noticed is if you
4 look at zoning codes around the country, they
5 seem to be increasing the amount of allowable
6 compact spaces.

7 CHAIRPERSON MILLER: Okay. Thank
8 you. And one last, when you are talking about
9 eliminating complex -- when you are
10 eliminating the curb cuts, are you talking
11 about vehicle and vehicle and vehicle and
12 pedestrian? Both those types of conflicts.

13 MS. MILANOVICH: Yeah, I mean,
14 specifically, I was referring to vehicle/
15 vehicle conflicts, but the proximity of two of
16 the existing driveways to the crosswalk would
17 also -- you would also be eliminating vehicle
18 and pedestrian conflicts as well.

19 CHAIRPERSON MILLER: Okay. Any
20 other questions from Board Members right now?
21 Okay. The ANC, Ms. Perry, do you have some
22 questions? Okay.

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1 MR. WHITELEY: Is she paying
2 attention? Yes, ANC, very briefly. I
3 attended the hearing that we had --

4 CHAIRPERSON MILLER: Wait, wait,
5 wait, sir?

6 MR. WHITELEY: -- on the --

7 CHAIRPERSON MILLER: Okay. I just
8 wanted to say one thing, okay? Because I know
9 you are not familiar with our rules. Right
10 now is the time for questions with respect to
11 the testimony that was just presented by the
12 applicant.

13 MR. WHITELEY: Well --

14 CHAIRPERSON MILLER: It's not the
15 time --

16 MR. WHITELEY: -- it's directly
17 related to it, so -- it's okay.

18 CHAIRPERSON MILLER: You can -- no.
19 I didn't know where you were going, but later
20 we will call you up for testimony. This is
21 just questions.

22 MR. WHITELEY: Well, it's directing

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1 to the testimony that has been given.

2 CHAIRPERSON MILLER: If it's a
3 question, that's great. If it's a statement,
4 it's not time.

5 MR. WHITELEY: Okay. I'll wait.

6 CHAIRPERSON MILLER: Okay.

7 CROSS EXAMINATION

8 MS. PERRY: Hi. Karen Perry from
9 the ANC-3F. You're proposing to bring the
10 trucks in on Van Ness Street, if I'm not
11 mistaken. Did you do any traffic counts on
12 Van Ness Street or the intersection of
13 Connecticut and Van Ness? And if not, why
14 not?

15 MS. MILANOVICH: No, we did not
16 because it was not included in the scope of
17 our study.

18 MS. PERRY: The alley though in
19 question where you are loading dock is and
20 your surface parking spaces in the back is
21 accessed -- isn't it accessed by a 16 foot
22 two-way alley?

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1 MS. MILANOVICH: Yes.

2 MS. PERRY: In other words from Van
3 Ness to Veazey and Veazey to Van Ness?

4 MS. MILANOVICH: That is correct.

5 MS. PERRY: Did you do a parking
6 survey of the area to see how many available
7 parking spaces there are in the surrounding
8 neighborhood for overflow?

9 MS. MILANOVICH: No, we did not.

10 MS. PERRY: From the intersection
11 of Connecticut and Van Ness to your loading
12 dock, how much space -- how long is that to
13 get to your loading dock, the truck route?

14 MS. MILANOVICH: Um, I don't know
15 the answer to that. I would have to scale it
16 off of a plan.

17 MS. PERRY: Okay.

18 MS. MILANOVICH: I would guess it
19 would be about 150 feet.

20 MS. PERRY: Okay. I noticed that
21 you provided in the -- in your application a
22 chart showing how a truck will come in on Van

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1 Ness Street. It's a drawing. It's Figure 5-
2 2.

3 MEMBER DETTMAN: Madam Chair? If I
4 could just interrupt for a second here,
5 because I'm hearing a lot of questions about
6 loading and trucks going in and out and what I
7 think you are trying to get at is impact to
8 the public good in the general neighborhood.
9 But it needs to be tied to how the parking
10 relief is going to have an impact on the
11 neighborhood not --

12 MS. PERRY: I'm going to --

13 MEMBER DETTMAN: -- trucks and the
14 loading.

15 MS. PERRY: Okay.

16 MEMBER DETTMAN: Parking and
17 loading.

18 MS. PERRY: If the truck can't turn
19 onto Van Ness Street, because Van Ness Street
20 is only 34 feet wide with parking on both
21 sides, where will the truck go?

22 MS. RODDY: Again, I think I just

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1 might object to the question, based on the
2 fact that this is not in regard to the parking
3 variance request.

4 MS. PERRY: Okay.

5 CHAIRPERSON MILLER: It's true that
6 activity is a matter-of-right.

7 MS. PERRY: But it does go to
8 parking in the neighborhood. If a truck can't
9 access the loading dock or the alley, where is
10 it going to park? And that does impact the
11 variance of the site as to whether they --
12 this is a proper design for this site.

13 CHAIRPERSON MILLER: I think the
14 parking spaces regulation goes to visitor and
15 employee parking, not truck parking.

16 MS. PERRY: Okay.

17 CHAIRPERSON MILLER: But is there
18 any other clarification the applicant wants to
19 make about that?

20 MS. PERRY: And it does go to the
21 public good and the impact on the
22 neighborhood, which is one of the tests, if

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1 I'm not mistaken for a variance.

2 MS. RODDY: I just want to --

3 CHAIRPERSON MILLER: It is if the
4 relief is granted, what would be the adverse
5 impact on the neighborhood, but we are talking
6 about parking relief.

7 COMMISSIONER JEFFRIES: Yeah.

8 CHAIRPERSON MILLER: I know there
9 is a fine line here. I understand where you
10 are coming from. What they are -- and if I
11 understand correctly, that if it's a matter-
12 of-right, then they are going to be able to
13 park, deal with their trucks.

14 MS. PERRY: Okay. We'll deal with
15 it in direct testimony maybe.

16 COMMISSIONER JEFFRIES: Yeah, but,
17 I mean, the relief that is being requested, I
18 mean, this is fairly narrow. I mean, it's
19 really about, you know, parking.

20 MS. PERRY: Okay.

21 COMMISSIONER JEFFRIES: So even in
22 your testimony, you know, it might not have

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1 any bearing on the decision made here.

2 MS. PERRY: No, I understand that,
3 but I think from the ANC and the neighborhood
4 perspective, you know, Walgreens did change
5 their plans, so we are caught off a little
6 guard. This is the first we are hearing about
7 that. And the biggest concern is to the
8 neighborhood and one of the concerns, I
9 shouldn't say it's the only concern, is a
10 letter that we received from Walgreens where
11 they basically say that they cannot control
12 their vendor trucks or the size of their
13 vendor trucks.

14 And our question, you know, goes to
15 the neighborhood where we don't have parking.

16 These are two dead end streets. It's to
17 where are these trucks going to park, if they
18 can't control the routes of them, the size of
19 them, etcetera? And they are going to be
20 having trucks in the neighborhood. But I
21 understand where you are coming from.

22 But from the public good and the

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1 design -- okay, I know we can't raise it, but
2 we did get a letter to that effect.

3 CHAIRPERSON MILLER: Maybe we could
4 just -- is there a quick way to put this to
5 rest? Do you know where the trucks are going
6 to park in the neighborhood? Not in the
7 neighborhood. Do you know where they are
8 going to -- hopefully they are not going to
9 park in the neighborhood.

10 MS. RODDY: No, with the dropping
11 of the variance request, we thought that we
12 had alleviated the concern that they couldn't
13 fit in the loading dock. We have raised the
14 vertical clearance so it's 14 feet. 30 foot
15 trucks can fit in there. Walgreens will have
16 30 foot trucks. And the loading dock, as
17 marked, Orling and I have gone through in his
18 testimony, is located from the alley. So they
19 will be using the loading dock.

20 CHAIRPERSON MILLER: Okay.

21 MS. PERRY: But --

22 MR. LEDERER: Your Honor, I --

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1 MS. PERRY: -- excuse me, Brian.
2 But in the letter to the ANC, you did indicate
3 that you could not control the size of your
4 vendor trucks. So I mean, I just want to make
5 it clear that there is different trucks here.

6 But I'm going to skip it for now. We will do
7 it in direct testimony.

8 MEMBER DETTMAN: But again, hold
9 on. I think the issue you raise is a very,
10 very good issue. I think it's a very good
11 issue. If the issue of loading was before us,
12 we could address it. If this was an
13 application for a special exception to get
14 this use there, we could look at the whole
15 operation.

16 MS. PERRY: I understand.

17 MEMBER DETTMAN: We need to keep it
18 to parking of cars.

19 MS. PERRY: Okay, okay.

20 COMMISSIONER JEFFRIES: I mean, if
21 you are making the case, Ms. Perry,
22 Commissioner Perry, that you think that 50

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1 foot trucks will be coming through rather than
2 30, I mean, they really should be here for a
3 loading variance. I mean, but you are not
4 making that case. I mean, you are just making
5 the case that if they can't get through --

6 MS. PERRY: We do know for a fact
7 that some of the vendor trucks that will be
8 coming are longer than 30 feet. And we have
9 done an analysis of the trucks that go to
10 Walgreens based on their 22nd Street store.

11 COMMISSIONER JEFFRIES: So you
12 think they will need a variance?

13 MS. PERRY: Well, I think that
14 something is going to have to be done, yes.

15 COMMISSIONER JEFFRIES: Okay.

16 MS. PERRY: And yeah, we can deal
17 with it in direct testimony, if you would like
18 us to.

19 COMMISSIONER JEFFRIES: Well, but
20 the problem -- but again, we go back to what
21 is in front of us.

22 MS. PERRY: I know.

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1 COMMISSIONER JEFFRIES: I mean,
2 unfortunately --

3 MS. PERRY: I know.

4 COMMISSIONER JEFFRIES: -- it's
5 very narrow. It's parking variance and --

6 MS. PERRY: I understand.

7 COMMISSIONER JEFFRIES: -- we
8 really would like for all of you, quite
9 frankly, I mean, to just keep a lot of your
10 testimony to that issue, because that's all
11 that is in front of us.

12 MR. LEDERER: May I speak for a
13 second? I have a --

14 CHAIRPERSON MILLER: You will be
15 called on. You will be called on.

16 MR. LEDERER: I have an objection.

17 CHAIRPERSON MILLER: You will be
18 called on.

19 MR. LEDERER: Right now.

20 CHAIRPERSON MILLER: Oh, you have
21 an objection?

22 MR. LEDERER: The objection is we

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1 are clearly prejudiced by this sudden change
2 in their case. And it is material to our
3 concerns as a neighborhood and we have been--

4 COMMISSIONER JEFFRIES: Move back
5 from the mike just a little bit.

6 MR. LEDERER: Okay. I'm sorry. So
7 we might need additional time to prepare,
8 because now they are trying to take the truck
9 issue out at the hearing telling us they have
10 dropped the variance. They may need a
11 variance. We don't know. This is unfair and
12 prejudicial.

13 CHAIRPERSON MILLER: Sir, it would
14 be unfair and prejudicial if they added
15 something to their application that you needed
16 to respond to. By removing something, it's
17 not prejudicial. They are going to be
18 complying with the regulations and therefore--

19 MR. LEDERER: Well, we beg to --

20 CHAIRPERSON MILLER: -- they are
21 not seeking a variance for the loading.

22 MR. LEDERER: It's a surprise

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1 change in the approach. And the fact is it's
2 a disingenuous -- I'm making an objection for
3 the record, because they know the vendors are
4 bringing in bigger trucks and they are going
5 to need a variance at some point and the
6 trucks can't navigate. They can't use the
7 loading dock. And they come in at the last
8 minute with a procedural maneuver to take the
9 issue off and we haven't had a chance to
10 prepare for that.

11 And I am lodging an objection and
12 saying it is materially prejudice to the case.

13 CHAIRPERSON MILLER: Okay. Your
14 objection is noted for the record. Ms. Perry?

15 MS. PERRY: If a car comes to your
16 parking lot and the lot -- how will they know
17 that it is full and not to drive down or if an
18 SUV comes and they drive down there and how do
19 they maneuver to get out?

20 MR. ORLING: We haven't really
21 developed plans, at this point, but we are
22 investigating and probably will need to

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1 install a car counting system. So it has a
2 sign that clearly indicates the garage is
3 full, at that point.

4 MS. RODDY: I would also just like
5 to reiterate Ms. Milanovich's testimony where
6 she said that really only 18 spaces would be
7 used. So cars could go down there and we
8 anticipate their being plenty of available
9 spaces. In addition, the fact that the
10 Walgreens' customers are really only in the
11 store for a very brief period of time.

12 MS. PERRY: Do you have a study to
13 indicate that? Because I know I spend a lot
14 of time in CVS just in the makeup department.
15 I mean, you can tell.

16 COMMISSIONER JEFFRIES: In between
17 your zoning analyses and so forth that you do,
18 land use issues.

19 MS. PERRY: In your parking
20 requirement --

21 CHAIRPERSON MILLER: Do you want an
22 answer to that?

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1 MS. RODDY: I can bring Mr. Harris
2 back up here, but that was based on his
3 experience in working with Walgreens and in
4 their other stores.

5 MS. PERRY: Okay. I believe you
6 said that in your -- on page 21 that the
7 average peak hour parking demand for a
8 pharmacy drugstore without a drive-thru window
9 is 1.83 vehicles per 1,000 square feet. This
10 equates to, approximately, 37 vehicles during
11 the peak hour. Yet, you are not going to have
12 37 spaces. You are anticipating, I guess, a
13 large turnover?

14 MS. MILANOVICH: Again, the data
15 that we use to arrive at the 37 spaces is
16 based on data collected at suburban stores
17 where there is virtually no public
18 transportation available and where there is
19 limited or no walkability to the site.

20 MS. PERRY: Okay.

21 MS. MILANOVICH: So based on those
22 two things, you know, being that this is an

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1 urban setting and that it is across the street
2 from a Metro Station, the 37 percent or the 37
3 spaces we believe is conservative and fewer
4 than 37 spaces would be required for this.

5 MS. PERRY: Okay. You have
6 suggested putting a "Do not block the
7 driveway" sign to be installed on Veazey
8 Terrace just east of the proposed driveway.
9 Isn't that on Van Ness South property, that
10 sign? Is there a reason you are not putting
11 it on Walgreens' property or the property you
12 propose to lease?

13 MS. MILANOVICH: I don't think the
14 intent was to put it on private property. The
15 intent was to put it in advance of the
16 driveway, so that people approaching would
17 know not to block the intersection.

18 MS. PERRY: So you are talking
19 about west of the alley and not east?

20 MS. MILANOVICH: No. I mean, it
21 needs to be seen before cars would get to the
22 alley.

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1 MS. PERRY: Okay.

2 MS. MILANOVICH: I would assume it
3 could be placed within existing rights-of-way.

4 MS. PERRY: Okay.

5 COMMISSIONER JEFFRIES: Excuse me,
6 Commissioner Perry, I'm going to take leave
7 here.

8 MS. PERRY: Go ahead.

9 COMMISSIONER JEFFRIES: And in my -
10 - I don't know whether the Board is going to
11 take any action tonight and if it does not, I
12 will certainly be reading the record, the rest
13 of the record and will be part of the decision
14 making for this case. Okay. Thank you.

15 CHAIRPERSON MILLER: Thank you, Mr.
16 Jeffries.

17 MS. PERRY: I think, you know, I'm
18 going to let the neighborhood, you know, or
19 the parties make -- get some questions,
20 because we really were not prepared for just
21 this one little thing.

22 CHAIRPERSON MILLER: The

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1 representatives of the other two parties can
2 come forward now. I have a quick question
3 about this underground parking. Is there
4 going to be any natural light coming into it
5 or is it going to be all --

6 MR. ORLING: No, we really don't
7 have the opportunity for natural light for the
8 site utilization.

9 CHAIRPERSON MILLER: Are you on
10 mike?

11 MR. ORLING: I think so.

12 CHAIRPERSON MILLER: Okay. I was
13 just curious. I didn't know how the grade
14 change affected this. Okay.

15 MR. OCCHIALINO: May we proceed?

16 CHAIRPERSON MILLER: Sure.

17 MR. OCCHIALINO: Mr. Orling, you
18 said that the square footage would be,
19 approximately, 20,000 square feet. Is it
20 possible it could be more?

21 MR. ORLING: No, it's more possible
22 that it will be less.

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1 MR. OCCHIALINO: If it were over
2 20,000 feet, would one loading dock be
3 sufficient?

4 MR. ORLING: No. If it was over
5 20,000 square feet, one would not, which was
6 why we would keep it under 20,000 square feet.

7 MR. OCCHIALINO: So you are exactly
8 at 20,000 feet and if it were 1 more foot, you
9 would have to have another loading dock?
10 You're going to be very busy then, in effect,
11 at least according to the regs.

12 MR. ORLING: Based on codes that is
13 true.

14 MR. OCCHIALINO: Thank you very
15 much. You are submitting this proposal, which
16 is 20,000 square feet. I was wondering if you
17 could tell me how many square feet in your
18 original proposal?

19 MR. ORLING: I believe it was
20 15,000 square feet. I'm not exactly --

21 MR. OCCHIALINO: And how many
22 square feet are -- I'm sorry to interrupt.

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1 How many square feet are there in the
2 Cleveland Park Walgreens?

3 MR. ORLING: That's, approximately,
4 9,000 square feet.

5 MR. OCCHIALINO: So the problem
6 here is one of the more square footage you
7 have, the more parking spaces you need, but
8 you could go down to as few as 8,000 or 9,000
9 square feet and then you would need fewer
10 parking spaces. Is that correct?

11 MR. ORLING: Well, that's true, but
12 one of the problems that we have with this
13 type of store, this is not a prototypical
14 store for Walgreens. This is quite a
15 different store. You know, they are moving
16 into urban areas and they are having to look
17 at different ways to do the stores.

18 But one of the things that they
19 have in this store that is atypical is they
20 have a significant amount of square footage in
21 vertical circulation.

22 MR. OCCHIALINO: In other words,

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1 two-stories?

2 MR. ORLING: Yes.

3 MR. OCCHIALINO: There is no need
4 for two-stories, however, is there?

5 MR. ORLING: Yes. If we didn't do
6 two-stories, I don't think they would have
7 enough to do one of their typical stores. It
8 would be too small.

9 MR. OCCHIALINO: Well, the typical
10 store, at least a small store, at Cleveland
11 Park is under 10,000 feet. Is that correct?

12 MR. ORLING: It's under 10,000
13 square feet, but, you know, it's very hard to
14 justify doing a one-story store over top of
15 structured parking.

16 MR. CLARKE: Oh, yeah, and at
17 Cleveland Park there were Historic District
18 and Overlay constraints as to why that's not a
19 full second floor. There is a mezzanine.
20 There is a partial second floor in that
21 building.

22 MR. OCCHIALINO: But the fact

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1 remains is it not true that you can, indeed,
2 build a store that would have fewer square
3 feet that would serve the neighborhood and
4 that would not require as much parking?

5 MR. CLARKE: I would question
6 whether you can put a blanket statement that
7 it would serve the neighborhood. The smaller
8 the square footage, that means there are
9 things that have to be taken out of the store
10 that are not able to be provided to the
11 consumer.

12 MR. OCCHIALINO: So this would be a
13 particular popular store. Is that correct?
14 Because it will be larger.

15 MR. CLARKE: I don't know why it
16 would be any more popular, but it will be
17 fully stocked.

18 MR. OCCHIALINO: Yeah, and that
19 will perhaps lead to more people using it.

20 MR. CLARKE: I can't possibly say
21 here, say on microphone that I don't want
22 people to use the Walgreens store.

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1 MR. OCCHIALINO: I understand.

2 MR. CLARKE: So --

3 MR. OCCHIALINO: Ms. Milanovich, if
4 I could ask you a few questions? The District
5 of Columbia is an urban area, is it not?

6 MS. MILANOVICH: It is.

7 MR. OCCHIALINO: And the District
8 of Columbia currently requires that there be
9 57 parking spaces. Is that correct?

10 MS. MILANOVICH: Correct.

11 MR. OCCHIALINO: And so why is it
12 that you think we are using suburban area
13 parking figures instead? Why shouldn't we be
14 using the District of Columbia's own figures
15 for this particular urban area?

16 MS. MILANOVICH: Well, you know, we
17 have done numerous studies in the District of
18 Columbia and the feedback that we are
19 receiving from DDOT is that they are looking
20 to reduce parking and provide fewer parking
21 spaces than required by code. Ms. Roddy had
22 said earlier that OP is currently reviewing

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1 the parking standards and contemplating going
2 to a minimum standard, rather than a maximum
3 standard. I'm sorry, I said that backwards.

4 A maximum standard instead of a
5 minimum standard. And so what we did was look
6 at some data that is available, specific to
7 drugstore uses, that might indicate how many
8 parking spaces would be required by drugstores
9 and pharmacies. Unfortunately, the data that
10 is available is based on suburban locations,
11 so, you know, you have to make some
12 adjustments to account for that.

13 MR. OCCHIALINO: You would prefer
14 to have a comparable urban location to be able
15 to do some data work with, would you not? I
16 know it would be better if we had urban data.

17 MS. MILANOVICH: Yeah, if the urban
18 data was similar --

19 MR. OCCHIALINO: Comparable?

20 MS. MILANOVICH: -- types of
21 stores, exactly.

22 MR. OCCHIALINO: I hope that we

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1 will be able to present some today. Thank
2 you. Mr. Jeffries was worried about people
3 going in and out. I would be worried about,
4 for example, UDC students going in and never
5 coming out until after their classes are over.

6 If there is not going to be an attendant,
7 what is going to stop people from using that
8 parking space all day?

9 MS. MILANOVICH: I think that Mr.
10 Clarke has already indicated that if parking
11 becomes an issue, they would look into
12 possibly providing an attendant. I mean, it's
13 to their benefit to have their parking
14 available for their patrons, so they would be
15 very mindful of that.

16 MR. OCCHIALINO: I would suggest
17 that parking is already in controversy and
18 doubt and maybe it would be silly not to have
19 an attendant full-time if the parking lot is
20 going to be open 24 hours a day, but
21 apparently that's not cost-efficient and so
22 there is going to be this problem, especially

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1 at the very beginning.

2 CHAIRPERSON MILLER: Okay. It's
3 not testimony time. Do you have a question?

4 MR. OCCHIALINO: I'm sorry. Yes, I
5 do have further questions. Thank you. In
6 doing your parking study, did you consider
7 people who have to take a left turn on
8 Connecticut when they are going south and have
9 to get on Veazey in order to get to this
10 single parking lot?

11 In other words, how long the que
12 will be for left turn signals and how long the
13 green arrow currently is?

14 MS. MILANOVICH: Yeah, we analyzed
15 that.

16 MR. OCCHIALINO: And do you expect
17 that there will be additional left turns from
18 Connecticut onto Veazey Terrace as a result of
19 having only a single cut on Veazey Terrace?

20 MS. MILANOVICH: Yes, there will be
21 additional left turns. Our analysis showed
22 again that there would be no discernible

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1 impact, based on the few cars, few additional
2 cars that we anticipate.

3 MR. OCCHIALINO: We will see.
4 Okay. Thank you. Another question. Have you
5 -- you have considered the fact that all of
6 these vehicles will go from Veazey Terrace
7 back onto Connecticut taking a left or a right
8 and you have thought about the problem of them
9 getting out with a short traffic light?

10 MS. MILANOVICH: We have analyzed
11 that, yes.

12 MR. OCCHIALINO: And did you take
13 into account the fact that pedestrians have
14 the right-of-way there and so though it might
15 be as few as 18 seconds, as many as 10 or 11
16 might be taken up by letting pedestrians get
17 through?

18 MS. MILANOVICH: Yes. Pedestrians
19 are modeled when we analyzed the intersection.

20 MR. OCCHIALINO: And you mentioned
21 that there are going to be four spaces outside
22 and that this would be a benefit. But it's

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1 difficult to think of it as a benefit, at
2 least for me. Would it not be the possibility
3 that when those spaces are full, people will
4 be backing out of the alley trying to get into
5 the parking lot or finding the parking lot
6 busy and will try to get into the alley and
7 find that the four spaces are also full? Have
8 you taken into account that problem?

9 MR. ORLING: I'm not sure, is he
10 talking about maneuvering?

11 MR. CLARKE: If you don't mind me
12 jumping in, I think in that question there is
13 also the -- taking into account the set-back.
14 The spaces are set-back off of the alley.
15 There is a portion of our property off of the
16 alley that is allowable for people to make a
17 turn. So if your question is people seeing
18 that and their only way back out is to back up
19 out of the alley, I would say that --

20 MR. OCCHIALINO: So they can make a
21 u-turn on the alley?

22 MR. CLARKE: They can make a turn

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1 out of our property.

2 MR. OCCHIALINO: I see, a 3-point
3 turn. Thank you very much. You estimate that
4 there will be about, approximately --

5 MR. CLARKE: I just want to make
6 sure I didn't say a 3-point turn.

7 MR. OCCHIALINO: No, I'm sorry. I
8 didn't mean to suggest anything at all by
9 that. I apologize.

10 11 of the first -- 11 out of the
11 first 15 or so of the spaces in the parking
12 lot are going to be for compact cars. So that
13 means that those spaces will not be available
14 for normal cars, full size cars or for SUVs.
15 Is that correct?

16 MR. ORLING: That's correct. 11
17 out of the -- 11 car compact spaces and 20 are
18 full size spaces.

19 MR. OCCHIALINO: And of the 20 that
20 are full size spaces, four of them will be
21 outdoors, so that there will only be how many
22 downstairs?

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1 MR. ORLING: How many?

2 MR. OCCHIALINO: How many full size
3 spaces downstairs?

4 MR. ORLING: 16.

5 MR. OCCHIALINO: And one of those
6 will be dedicated to handicapped persons?

7 MR. ORLING: That's correct.

8 MR. OCCHIALINO: So there will only
9 be 15 spaces for regular sized cars and under
10 no occasion would a regular size car try to or
11 expect to be fitting into a compact space?

12 MR. ORLING: I don't know if that's
13 true. The other thing that we have yet to
14 determine, which probably has some impact on
15 your question anyway, is that a lot of these
16 compact spaces are actually wider than the
17 required 8 x 16. With that additional width,
18 I think that full sized cars are going to be
19 able to access those spaces.

20 MR. OCCHIALINO: You are saying
21 that your particular compact spaces are wider
22 than the requirements?

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1 MR. ORLING: Not all of them, but
2 some of them are, yes.

3 MR. OCCHIALINO: But they will
4 still say compact, so people would not with a
5 full size or an SUV car use them, would they?

6 MR. ORLING: I think they would.

7 MR. OCCHIALINO: Oh, you do? Okay.
8 Then in other words, the compact signal
9 doesn't have any meaning to people?

10 MR. ORLING: I think the compact
11 signal also can be queued by a visual signal.
12 And if you have a space that looks wider than
13 a typical 8 foot compact space, especially
14 when you are not encumbered by columns, people
15 will pull in and use those spaces.

16 MR. OCCHIALINO: Thank you. And--
17 oh, I thank you. Those are my questions and I
18 appreciate the opportunity to ask them. Thank
19 you.

20 CHAIRPERSON MILLER: So that's
21 interesting, there are not going to be columns
22 next to -- with these compact spaces?

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1 MR. ORLING: Some of them will and
2 some of them won't.

3 CHAIRPERSON MILLER: Okay. And you
4 don't know how many are wider than the smaller
5 ones?

6 MR. ORLING: I didn't really do
7 that analysis. I just took a look at it and I
8 know we have a number of compact spaces that
9 are 9 feet wide.

10 CHAIRPERSON MILLER: Okay. Do we
11 have other cross examination? Mr. Lederer?

12 MR. LEDERER: Maybe a little bit,
13 bearing in mind they changed their case, so I
14 continue with my objection.

15 CHAIRPERSON MILLER: Okay. So --

16 MR. LEDERER: How many --

17 CHAIRPERSON MILLER: You don't have
18 to ask questions.

19 MR. LEDERER: No, I understand.

20 CHAIRPERSON MILLER: Okay.

21 MR. LEDERER: I want to talk to the
22 traffic consultant for a moment. Did you do

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1 any analysis of pedestrian traffic?

2 MS. MILANOVICH: With regard to
3 existing pedestrian traffic?

4 MR. LEDERER: With regard -- any
5 analysis. You have talked about you think
6 that there will be more pedestrian traffic,
7 because there is a Metro stop.

8 MS. MILANOVICH: Um-hum.

9 MR. LEDERER: But did you actually
10 analyze pedestrian traffic?

11 MS. MILANOVICH: We did a count of
12 existing pedestrian traffic currently crossing
13 at the intersection and that has been
14 incorporated into our model. We did not do a
15 detailed analysis of additional pedestrian
16 traffic across the intersection.

17 MR. LEDERER: Which intersection?

18 MS. MILANOVICH: Connecticut Avenue
19 and Veazey.

20 MR. LEDERER: Walking north and
21 south on the sidewalk, is that what you are
22 talking about?

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1 MS. MILANOVICH: We actually looked
2 at the --

3 MR. LEDERER: On the east side of
4 Connecticut?

5 MS. MILANOVICH: -- crosswalks at
6 the intersection and how many people were
7 crossing at the crosswalks.

8 MR. LEDERER: But I want to just be
9 clear. There are a bunch of crosswalks. So
10 you could walk north or south on Connecticut
11 on the east side and there is a crosswalk.

12 MS. MILANOVICH: Um-hum.

13 MR. LEDERER: There's a traffic
14 control signal at Veazey Terrace.

15 MS. MILANOVICH: Right.

16 MR. LEDERER: You looked at that?

17 MS. MILANOVICH: Correct.

18 MR. LEDERER: You did what you call
19 a pedestrian analysis?

20 MS. MILANOVICH: Correct.

21 MR. LEDERER: Did you look about
22 the crosswalk going across Connecticut from

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1 east to west where UDC is?

2 MS. MILANOVICH: Yes.

3 MR. LEDERER: And all their
4 thousands of students.

5 MS. MILANOVICH: Yes.

6 MR. LEDERER: Did you do an
7 analysis of that?

8 MS. MILANOVICH: We did a
9 pedestrian count of that, yes.

10 MR. LEDERER: Okay. And then did
11 you stand by the Metro and do a pedestrian
12 count of the Metro?

13 CHAIRPERSON MILLER: Excuse me, can
14 I -- just for the Board's benefit, so we can
15 assess this cross, what's the point of the
16 cross?

17 MR. LEDERER: The point of the
18 cross is they have assumed that we would need
19 fewer parking spaces, because there is going
20 to be pedestrian traffic. This will be --
21 compared to suburban, they are saying that
22 there will be more pedestrian traffic that

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1 will come in and use the store. 50 percent
2 reduction, the pedestrian traffic that they
3 are saying there will be will cause a 50
4 percent reduction in the number of actual
5 spaces required.

6 She said, in fact, we might only
7 need 18 based on pedestrian traffic. Well, I
8 don't know. That's what it's related to,
9 because we are entitled to test their analysis
10 of whether -- of that statement. Is the
11 pedestrian traffic that they are -- she
12 testified to the Board there will be enough
13 pedestrian traffic, so they don't actually
14 need all the parking spaces.

15 CHAIRPERSON MILLER: Are you going
16 to be contesting that there aren't a lot of
17 pedestrians in this area as a result of the
18 proximity to UDC and the apartment buildings
19 and the offices, etcetera?

20 MR. LEDERER: I am asking her to
21 explain her conclusion and what analysis --
22 not just people standing out there and seeing

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1 people walking around. We all concede that
2 there are a lot of people who walk around.
3 But did she -- she is a traffic expert. Did
4 she do an analysis that relates observable
5 pedestrian traffic to people likely to want to
6 use Walgreens and not drive there?

7 Because I'm getting to that next.
8 And she pointed out there is a Metro stop
9 there, which suggests that people might take
10 the Metro, well, I don't know what she means
11 by that, to come and use Walgreens. But we
12 are entitled to test her conclusion that
13 pedestrian traffic that is in that area will
14 be of sufficient magnitude to reduce and
15 mitigate the parking issue.

16 CHAIRPERSON MILLER: Okay. That
17 sounds like one question then.

18 MR. LEDERER: Well --

19 CHAIRPERSON MILLER: With respect
20 to the number of -- well, with respect to the
21 pedestrian traffic, how did you conclude that
22 it was sufficient to, what did you say, reduce

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1 the demand by 50 percent for parking?

2 MR. LEDERER: Yeah, well, I was --

3 CHAIRPERSON MILLER: Okay.

4 MR. LEDERER: -- trying to break
5 that down, rather than just say --

6 CHAIRPERSON MILLER: Well, I --

7 MR. LEDERER: -- this question.

8 CHAIRPERSON MILLER: -- don't think
9 we -- but isn't that your question? I mean,
10 that's the point. I mean, I don't think we
11 have to look at corner by corner by corner by
12 corner. I think your point is, you know, how
13 did you get to that point --

14 MR. LEDERER: Right.

15 CHAIRPERSON MILLER: -- where you
16 know it's enough to reduce it by 50 percent.

17 MR. LEDERER: But I'm asking her
18 what analysis did she do that she can make
19 that as an expert conclusion.

20 CHAIRPERSON MILLER: Okay.

21 MS. MILANOVICH: I mean, in terms
22 of estimating that 50 percent of the traffic

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1 would be made by some other mode of
2 transportation other than automobile? Is that
3 what you are getting at? I just want to make
4 sure I understand the question.

5 MR. LEDERER: You said pedestrian
6 traffic would be sufficient, your expert
7 opinion, to reduce the parking impact by 50
8 percent.

9 MS. MILANOVICH: Right.

10 MR. LEDERER: So I would like --
11 I'm asking you to explain the analysis by
12 which you came to that conclusion.

13 MS. MILANOVICH: Yeah, the 50
14 percent, what we did was actually -- again,
15 knowing that the trade area for this
16 particular store, I think I said a mile to a
17 mile and a half, I heard Mr. Harris say a half
18 mile to a mile, stands to reason that you
19 would have a significant percentage of people
20 walking.

21 But in terms of actually trying to
22 pinpoint a percentage and support that with

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1 the data, we actually looked at data that is
2 published by WMATA that looks at what
3 percentage of people coming to and from
4 developments in proximity to Metrorail station
5 would be coming by Metro or some other form of
6 transportation other than an automobile.

7 So we used WMATA's ridership survey
8 for retail. We looked at the retail component
9 and that's where the 50 percent came from.
10 Again, we think that's conservative. In
11 actuality, we think likely more people will
12 walk, but that's what the data that was
13 available to us showed.

14 CHAIRPERSON MILLER: So you looked
15 at --

16 MR. LEDERER: So --

17 CHAIRPERSON MILLER: Excuse me for
18 a second. But you looked at data, to make
19 that determination, you looked at WMATA's
20 data. You didn't even include UDC students?

21 MS. MILANOVICH: Right.

22 CHAIRPERSON MILLER: Okay.

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1 MR. LEDERER: The WMATA data is
2 that included in your study here?

3 MS. MILANOVICH: We reference it in
4 the study, I believe, but the actual -- I
5 mean, it's a pretty thick report. It's not
6 actually in -- the report itself is not
7 included in our study.

8 MR. LEDERER: So did you -- the
9 WMATA data was people using Metro to come to a
10 location?

11 MS. MILANOVICH: It's Metro and
12 other forms of transportation, including bus,
13 including walking, those types of things.

14 MR. LEDERER: Did the WMATA data
15 have any analysis of the Van Ness Metro
16 Station?

17 MS. MILANOVICH: I believe that
18 there were several stations included in the
19 data. I think we used sort of the average of
20 all the stations. I don't have the study with
21 me. I can't speak to specifically whether Van
22 Ness was included.

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1 MR. LEDERER: Okay. So you don't
2 know. Is it -- you have a -- you will have a
3 stop -- a station -- I mean a store down at
4 the -- in Cleveland Park where there is
5 another Metro stop in Cleveland Park.

6 MS. MILANOVICH: Correct.

7 MR. LEDERER: And the next Metro
8 stop on the other side is Tenleytown.

9 MS. MILANOVICH: Correct.

10 MR. LEDERER: Where there is a CVS.
11 Okay. All right.

12 MR. OCCHIALINO: If I could follow-
13 up and just ask two questions and I think they
14 are both short, I would appreciate it?

15 CHAIRPERSON MILLER: Okay. We'll
16 do it this time. As a pattern though, we
17 don't normally do that.

18 MR. OCCHIALINO: I thank you.

19 CHAIRPERSON MILLER: Go ahead.

20 MR. OCCHIALINO: I thank you for
21 your indulgence.

22 CHAIRPERSON MILLER: Okay.

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1 MR. OCCHIALINO: You are probably
2 aware that there is a pedestrian crossing that
3 is east of the Walgreens spot where Van Ness
4 South persons cross Veazey Terrace in order to
5 get to the Metro and the Giant Supermarket.
6 Did you take into account the pedestrian
7 traffic and the problems of safety that might
8 be incurred by having this one curb cut on
9 Veazey Terrace?

10 MS. MILANOVICH: We did not
11 specifically count the pedestrians crossing at
12 that location. I mean, there is -- there are
13 two existing curb cuts there currently and
14 what our analysis showed was that the
15 additional traffic generated by this Walgreens
16 will be minimal.

17 MR. OCCHIALINO: Thank you. And
18 you have said that 50 percent of the business
19 of Walgreens is likely to be pedestrian and,
20 therefore, there is not as much need for
21 traffic. But the figure 50 percent can only
22 be relevant to the question of how many

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1 customers you expect. Have you taken into
2 account the number of customers that Walgreens
3 expects in a day, so that we can see what 50
4 percent of them would be who would be coming
5 by car?

6 MS. MILANOVICH: When we estimate
7 the number of trips generated by a particular
8 development, we use data published by the
9 Institute of Transportation Engineers for that
10 particular land use. So we estimated the
11 number of trips coming to and from the site
12 during the peak hours and then took 50 percent
13 of that number.

14 MR. OCCHIALINO: Thank you.

15 MR. LEDERER: And I have one more
16 question, if I may, on what I was asking. I
17 just want to ask if her study actually has a
18 reference to the WMATA analysis. I'm looking
19 on page 28. There is a list of 16 -- 14
20 references that they have.

21 CHAIRPERSON MILLER: Okay.

22 MR. LEDERER: And I don't see WMATA

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1 as one of your footnoted references. Is that
2 correct? It's not there.

3 MS. MILANOVICH: That is correct.
4 I mean, I'm happy to provide the reference for
5 you. I'm not sure why it was not included in
6 this.

7 MR. LEDERER: Thank you.

8 CHAIRPERSON MILLER: Okay. Thank
9 you. Okay. Are there any Board questions
10 before we go to Office of Planning? Okay.
11 Let's go to Office of Planning.

12 MS. BROWN-ROBERTS: Good afternoon,
13 Madam Chairman and Members of the Board. Jeff
14 is here from the -- from DDOT and I'm asking
15 if you can let him go first, since a lot of
16 these questions he may be able to better
17 address than I am and then I'll do the Office
18 of Planning report following that. Okay.

19 MR. JENNINGS: Good afternoon,
20 Madam Chair, my name is Jeff Jennings, and
21 fellow Members of the Board, I work for the
22 District Department of Transportation. I have

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1 worked for DDOT for the past almost three and
2 a half years now.

3 We did, as the written testimony
4 states, begin looking at this site quite some
5 time ago, made some strong recommendations to
6 the applicant to do an overhaul as far as the
7 design of the site and we are happy with what
8 we have and what we see here today.

9 Since a lot of what we have heard
10 thus far and since the applicant has narrowed
11 the case down to a parking relief situation,
12 we would support or continue to support this
13 case. I think as you have remarked a couple
14 of times is DDOT trying to perhaps minimize
15 the parking or is this an appropriate amount
16 of parking?

17 This is probably a suitable amount
18 of parking for this site. What we are
19 projecting and we think that this is
20 relatively reasonable, because this retailer
21 sees an opportunity with Giant not having a
22 prescription pharmacy at the Van Ness

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1 location, you would have folks visiting the
2 Van Ness Giant taking care of their grocery
3 shopping.

4 Perhaps parking, if they need to,
5 underneath the Giant where there is validation
6 today. And then, if need be, traveling from
7 the Van Ness Giant, which is merely, I'm
8 guessing, 10 additional feet to the Metro
9 Station or maybe even less out to the location
10 where the Walgreens is proposed at 4225
11 Connecticut and picking up their script there,
12 returning to their automobile, if they brought
13 one, or if they drove one that day I should
14 say.

15 However, you know, if the applicant
16 were to put in some kind of better system for
17 monitoring the parking, we would certainly
18 support that as well. We do realize that in
19 this particular neighborhood with Connecticut
20 Avenue as busy as it is, especially at the Van
21 Ness neighborhood and land uses that include
22 UDC, the Intelsat Building, the HU Law School,

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1 retail obviously in this area is certainly an
2 impact on the parking, and then, of course,
3 you have parking restrictions that go into
4 effect during the morning rush and evening
5 rush, which makes it, I think as perhaps has
6 been discussed here, a little bit more of a
7 difficult scenario to park in the
8 neighborhood.

9 I do find validation with what the
10 representative from Walgreens testified to as
11 far as this being a neighborhood drugstore. A
12 half mile to a mile.

13 We have another case, Office of
14 Zoning case, in the general area involving the
15 Giant grocery store where that particular land
16 use, being a PUD, they are projecting a larger
17 parking lot than what this is. However, they
18 are also projecting somewhere in the ballpark
19 of 200,000 square feet of retail.

20 But I think the point I'm trying to
21 make is the transit option for this
22 neighborhood is certainly heavy. In other

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1 words, folks in this neighborhood do take
2 transit. The figure that we pulled at DDOT is
3 that usually car ownership in this
4 neighborhood is usually at least 1 car per
5 household.

6 However, we are experiencing
7 somewhere in the ballpark of 25 percent of the
8 folks who reside in this neighborhood, whether
9 it be called Van Ness, Cleveland Park, McLean
10 Gardens, 25 percent take transit. And again,
11 that was for the Giant, which is west and
12 south of this particular site.

13 So if we took that number and if
14 you kind of plug it into this location or took
15 that concept and plugged it into this location
16 realizing that there is a Metro Station
17 literally outside the front door of this
18 retailer, we would probably get a much higher
19 percentage of folks who are taking transit,
20 whether it be the bus or the train, since
21 there is an abundance of bus service in this
22 area, too.

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1 I'm happy to answer any further
2 questions, you know, as I think has been
3 discussed here, too, and probably some of our
4 comments talk about the loading, which
5 obviously is not part of the application any
6 more. But we certainly did want to take a
7 look at that initially, but we are happy to
8 answer any questions with regard to parking
9 today.

10 CHAIRPERSON MILLER: Okay. I just
11 have a couple of questions. You also address
12 delivery and I'm wondering is that only
13 related to loading or is that somehow an issue
14 that this Board should consider in your view
15 for some reason?

16 MR. JENNINGS: The way we see it is
17 it probably wouldn't hurt if it was something
18 included in the order. However, as I think
19 has been stated on numerous occasions here
20 today, we are here for the parking, but the
21 loading in this area can be problematic and
22 that's probably putting it lightly.

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1 CHAIRPERSON MILLER: If their
2 loading as a matter-of-right in accordance
3 with the regulations, do you still think it
4 could be problematic?

5 MR. JENNINGS: Perhaps.

6 CHAIRPERSON MILLER: Do you want to
7 elaborate a little bit?

8 MR. JENNINGS: I'll let Office of
9 Planning --

10 CHAIRPERSON MILLER: Okay.

11 MR. JENNINGS: -- probably handle
12 any additional questions on that.

13 CHAIRPERSON MILLER: I was --

14 MR. JENNINGS: I don't mean to put
15 too much of a burden on Maxine.

16 CHAIRPERSON MILLER: Okay. So
17 we'll get to that one. My other question goes
18 to, I guess, the references you were making to
19 the Giant that is being considered in the PUD
20 application. I just wasn't sure exactly what
21 the connection was. Is it that you are using
22 some of the figures that have come out in that

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1 application with respect to 25 percent of the
2 neighborhood taking transit?

3 MR. JENNINGS: Yes, sorry if that
4 was a little nebulous, but --

5 CHAIRPERSON MILLER: And it was a
6 large neighborhood that you were -- that the
7 25 percent figure goes to? I mean, does it go
8 to Cleveland Park, Tenley, Van Ness?

9 MR. JENNINGS: That particular
10 figure was pulled for the neighborhood around
11 the Giant. And the way we look at it, is that
12 that would mostly be bus service, since the
13 30s line and there is an X2 line that reaches
14 in that direction. In essence, there is four
15 bus lines in that area.

16 However, if you were to put a train
17 station, a Metro Station in that neighborhood,
18 I believe that number, in a similar instance
19 to what you have here, would rise
20 significantly. So I believe, you know, the 25
21 percent could be used as kind of a base point.

22 And then working off of that, I think, you do

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1 get into a lot higher number of folks in this
2 particular area that use this Metro Station.

3 CHAIRPERSON MILLER: Okay. So you
4 think that in this area, Van Ness, that's what
5 is before us, it would be higher because the
6 Metro is like right there. And in the Giant
7 location it's not right there, it's in walking
8 distance, but it's not --

9 MR. JENNINGS: Correct.

10 CHAIRPERSON MILLER: -- as
11 convenient.

12 MR. JENNINGS: Correct.

13 CHAIRPERSON MILLER: Okay. Other
14 questions? Okay. Does the applicant have any
15 questions?

16 MS. RODDY: No, we do not.

17 CHAIRPERSON MILLER: Do you have a
18 copy of the Office of Planning report?

19 MS. RODDY: Yes.

20 CHAIRPERSON MILLER: Ms. Perry,
21 does the ANC have any questions? Do you have
22 a copy of the Office of Planning report? Do

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1 the opposition parties have a copy of the
2 Office of Planning report? Does anybody have
3 extra copies, so that by the time -- in case
4 they want to do any cross examination, they
5 will have looked it over or the DDOT report?

6 MS. PERRY: I have the Office of
7 Planning one. I can let somebody read while
8 I'm up here.

9 CHAIRPERSON MILLER: Okay.

10 MS. PERRY: Because they haven't
11 made their report yet.

12 CHAIRPERSON MILLER: Okay. Thank
13 you. Oh, that's right, yeah.

14 MEMBER DETTMAN: Madam Chair, I
15 wonder if I could just ask a quick question of
16 Mr. Milanovich? I noticed on page 20 of your
17 report you make reference to this idea of
18 pass-by trips, but they weren't incorporated
19 into the numbers just to make sure that it was
20 a conservative estimate.

21 It seems to me that during the peak
22 hour trips, Connecticut Avenue is primarily a

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1 commuter route. These are people who are on
2 their way to doing something. So do you have
3 an educated guess as to what percentage of the
4 trips coming to this site are pass-by trips?

5 (Whereupon, at 5:00 p.m. the Public
6 Hearing continued into the evening session.)
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1 E-V-E-N-I-N-G S-E-S-S-I-O-N

2 5:00 p.m.

3 MS. MILANOVICH: I would need to go
4 back and check. I mean, there is data
5 available that indicates what it is. I want
6 to say it's something in the 30 to 40 percent
7 range, but I would need to verify that number.

8 MEMBER DETTMAN: Okay. And not
9 being a transportation person, the idea of a
10 pass-by trip is that they might stop, they
11 might not? Is that true?

12 MS. MILANOVICH: Well, a pass-by
13 trip is -- a primary trip is one in which you
14 leave your home, go to Walgreens and then go
15 back home. So you are a new trip on the
16 roadway. A pass-by trip is somebody that is,
17 say for example, leaving work on their way
18 home and they say oh, hey, there is a
19 Walgreens I need to run in and get whatever.
20 And so they just stop. They were already on
21 the roadway, they just stop at the Walgreens
22 on their way home, for example.

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1 MEMBER DETTMAN: And how -- by
2 incorporating pass-by trips into the study,
3 how does that decrease the demand on parking
4 and turnover?

5 MS. MILANOVICH: Well, it would
6 have no impact on parking, because those trips
7 are still going in the driveway into the
8 parking garage and parking. But what it would
9 do is actually reduce the number of trips that
10 we assume would be added to Connecticut Avenue
11 as new trips.

12 MEMBER DETTMAN: Thank you.

13 MS. MILANOVICH: Um-hum.

14 MS. PERRY: Me?

15 CHAIRPERSON MILLER: You. Go
16 ahead.

17 CROSS EXAMINATION

18 MS. PERRY: Hi, Mr. Jennings.

19 MR. JENNINGS: Hi, Commissioner
20 Perry.

21 MS. PERRY: How are you? Um, on
22 your original report, and we can't deal with

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1 trucks, you really mentioned quite a bit about
2 trucks, including the fact that the Zoning
3 Administrator should revoke the C of O, if
4 they don't adhere to a truck schedule.

5 So I know I can't raise it now, but
6 let me raise this. On page 2 of your report,
7 you said the proposal for a retail drugstore
8 will replace the gas station auto repair
9 facility and that the current land use has
10 significant negative impacts on the
11 transportation facilities in the vicinity.

12 DDOT views the land use proposal as
13 an improvement in comparison to existing
14 conditions. Can you explain why when the gas
15 station has four different points of entry and
16 exit, so that traffic is dispersed onto either
17 Connecticut Avenue into the alley or onto
18 Veazey Terrace, why putting all of the in and
19 out traffic on Veazey Terrace is better?
20 That's since Veazey Terrace is a residential
21 street.

22 MR. JENNINGS: I guess I would

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1 first want to check in with Madam Chair since
2 these are not related to parking and I presume
3 all of these questions will not be related to
4 parking, do you still want me to answer the --

5 MS. PERRY: It does relate to
6 parking, because the parking structure is all
7 on Veazey Terrace. So I guess when you say
8 land use, you know --

9 CHAIRPERSON MILLER: I think that
10 their concern is the overflow will go all on
11 Veazey Terrace.

12 MS. PERRY: Versus the existing
13 land use, which disperses traffic.

14 CHAIRPERSON MILLER: Right. I
15 think that's a good question, so go right
16 ahead.

17 MR. JENNINGS: Okay. Thank you.
18 The reason why we included those statements in
19 our comments is because we saw this area as
20 such a major pedestrian thoroughfare and I
21 guess that's also the reason why you see the
22 Walgreens designed the way it is today,

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1 because we initially told them that DDOT would
2 never approve the drive-thru operation.

3 So the fact that they are
4 minimizing the amount of curb cuts, ingress/
5 egress, slower vehicular traffic with respect
6 to a larger pedestrian population, to us that
7 makes perfect logic. That's perfect sense.

8 MS. PERRY: Okay. The -- in one of
9 your paragraphs you said that the applicant
10 has provided existing traffic counts for the
11 auto repair facility and that they generate 41
12 -- that the service station generates 41 a.m.
13 peak hour trips and 60 p.m. peak hour trips.

14 And then you say that the proposed
15 vehicle trips for the drugstore would only be
16 21 in the morning and 24 in the p.m. peak and
17 that you consider that an improvement.
18 However, I think you might be misinterpreted,
19 because what Walgreens has said is that the
20 new additional trips would be 21 more in the
21 a.m. peak and 24 more in the peak trips.
22 That's on page 21 of their report.

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1 So they are actually putting more
2 traffic on Veazey Terrace than the existing
3 gas station. So I think it is reversed in
4 your report.

5 MR. JENNINGS: I appreciate you
6 pointing that out. I think that is also
7 necessary to say is that the transportation
8 consultant for the applicant, as she has
9 stated on numerous occasions today, I think as
10 all traffic consultants use the Institute of
11 Traffic Engineers' numbers, it has got to be
12 said that these are very, very inflated
13 numbers. And that there is not much in the
14 way of transit, pedestrian use.

15 And you know, I do -- like I said,
16 I do appreciate you pointing out maybe the
17 difference in what we reported versus what the
18 applicant stated in their report, too.

19 MS. PERRY: Okay. You mentioned a
20 person driving into the complex where Giant is
21 and having Giant validate the parking sticker.

22 In the same center that Giant is in and owned

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1 by -- and in the same plaza, isn't there a CVS
2 drugstore?

3 MR. JENNINGS: You are absolutely
4 correct. And the CVS should be said, even
5 though you didn't ask this question, has no
6 parking.

7 MS. PERRY: The CVS also validates
8 parking.

9 MR. JENNINGS: Very well. But it
10 should be said, too, that the CVS has no
11 parking up underneath it.

12 MS. PERRY: Well, that's not
13 exactly correct. You go from the -- into --
14 from the Giant parking lot, you can get into
15 the CVS and also from the office building you
16 can get into the CVS. So I mean, but why
17 should Giant Food validate parking stickers
18 for people shopping in Walgreens?

19 MR. JENNINGS: I think that's for
20 Giant to more or less figure out.

21 MS. PERRY: But isn't that an
22 illegal use of another parking lot that Giant

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1 is paying for Walgreens' customers?

2 MR. JENNINGS: Commissioner Perry,
3 I think it has got to be said, too, that
4 underneath the Giant, the Van Ness Giant,
5 there is a glut of parking whereby it actually
6 encourages more vehicle trips than DDOT would
7 ever like to see.

8 MS. PERRY: Well --

9 MR. JENNINGS: And what we have
10 here before us is a parking scenario whereby
11 it is offering the patrons an opportunity to
12 quickly park their vehicle and get out of the
13 neighborhood as much as --

14 MS. PERRY: I agree with you. I'm
15 not, you know, questioning that. But I don't
16 think it is fair either to say that a
17 Walgreens' customer should park in another
18 parking lot and that is part of a large
19 complex, the Giant Food store, with two levels
20 or three levels of underground parking that
21 also support an office building that stretches
22 to Windom Place.

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1 CHAIRPERSON MILLER: Let's do
2 questions.

3 MS. PERRY: Okay. Are you familiar
4 with the Connecticut Avenue traffic study that
5 DDOT commissioned?

6 MR. JENNINGS: I didn't actually
7 assist with the transportation study. It was
8 before my time with DDOT.

9 MS. PERRY: But you are familiar
10 with it?

11 MR. JENNINGS: A colleague, Colleen
12 Hawkinson, I believe helped to author the
13 study. I'm vaguely familiar with it, yes.

14 MS. PERRY: Are you aware that --
15 well, it's a two-way alley between Van Ness
16 and Veazey. Am I correct?

17 MR. JENNINGS: You're absolutely
18 correct.

19 MS. PERRY: So cars could also pull
20 out of Walgreens' parking lot and go through
21 the alley --

22 MR. JENNINGS: Again, I --

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1 MS. PERRY: -- onto Van Ness
2 Street. Am I correct?

3 MR. JENNINGS: I'm going to be
4 deferential and ask, Madam Chair, if -- with
5 respect to --

6 MS. PERRY: I think we're trying to
7 determine, you know, traffic and parking.

8 MR. JENNINGS: Does it --

9 CHAIRPERSON MILLER: What about it
10 though?

11 MR. JENNINGS: What about parking?

12 CHAIRPERSON MILLER: Yeah, what's
13 the point of your question?

14 MS. PERRY: Because -- okay. I'll
15 forget it. Because the Connecticut Avenue
16 traffic study, because of pedestrian safety,
17 didn't it recommend that the alley be made a
18 one-way alley from Veazey Terrace to
19 Connecticut -- to Van Ness Street with speed
20 bumps because of the number of pedestrians?

21 MR. JENNINGS: Again, I'm going to
22 be deferential. How does that -- how is that

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1 relevant with the parking?

2 MS. PERRY: It isn't, but I think
3 that --

4 CHAIRPERSON MILLER: It isn't?

5 MS. PERRY: Yeah, I think you have
6 to realize that we have been caught totally
7 off guard today. You know, I agree that we
8 should have a delay.

9 CHAIRPERSON MILLER: Wait. You
10 knew there was going to be -- they were
11 seeking a reduction of parking, correct?

12 MS. PERRY: That's correct. But we
13 --

14 CHAIRPERSON MILLER: You knew that
15 the curb cut was where it is, right, on
16 Veazey?

17 MS. PERRY: Ms. Milanovich keeps
18 saying that there are two curb cuts on Veazey.
19 There is one, just to be clear.

20 CHAIRPERSON MILLER: But in the
21 application, is that what you are talking
22 about?

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1 MS. PERRY: There is one curb cut
2 on Veazey Terrace.

3 MR. JENNINGS: Are you referring to
4 currently?

5 MS. PERRY: Yes, currently.

6 CHAIRPERSON MILLER: That's not a
7 change in the application, is it?

8 MS. PERRY: No.

9 CHAIRPERSON MILLER: Okay.

10 MS. PERRY: But where is the second
11 one? Yeah, where is the second one?

12 CHAIRPERSON MILLER: You just need
13 a microphone for the Court Reporter to pick
14 you up.

15 MR. CLARKE: Okay. As I pointed
16 out, is that fine?

17 MS. PERRY: Where is it?

18 MR. CLARKE: There are two. The
19 first one is right here, which -- the first
20 one is right here just off of the crosswalk.
21 The second one, as you can see from the back,
22 is right here. Now, there are cars often

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1 parked there, so they often --

2 MS. PERRY: That's not a curb cut.

3 That --

4 MR. CLARKE: I think that's the
5 alley.

6 MR. JENNINGS: This thing here?

7 MS. PERRY: No, this is Veazey
8 Terrace.

9 MR. CLARKE: Actually, you know
10 what, you can see it right here. See that
11 curb cut No. 1, curb cut No. 2. There are two
12 curb cuts on Veazey Terrace.

13 MS. PERRY: Okay. I think I
14 understand the confusion now, but that is not
15 a curb cut. It leads to nothing. It just
16 leads to bushes. Okay.

17 MR. CLARKE: It's a cut. They
18 don't -- they may not use it, but --

19 VICE CHAIR LOUD: Madam Chair, I'm
20 struggling to follow the connection of the
21 line of inquiry to the parking variance. If
22 there were --

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1 MS. PERRY: I'm finished.

2 VICE CHAIR LOUD: -- 57 parking
3 spaces, one would still have to -- and if it
4 met the requirement, one would still have to,
5 under the logic of the question, come out,
6 make a right and go through the alley, if
7 that's what a person chose to do, even if
8 there was 57.

9 MS. PERRY: Yeah, no. I
10 understand.

11 VICE CHAIR LOUD: Perhaps if we
12 could move on and get back to the variance.

13 CHAIRPERSON MILLER: Are you
14 finished? Okay. I do have a question for Mr.
15 Jennings. It seems to be or is it a trend
16 that DDOT is recommending in many applications
17 that the curb cuts be on a residential street
18 as opposed to the main street. Can you just
19 say why that is for the benefit of this
20 community, who is new to it?

21 Because, I mean, I think there are
22 trade offs. I think if you are a member of a

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1 community, you question why do we have to have
2 that traffic, you know, on our residential
3 street? Why can't it be on the main street?

4 MR. JENNINGS: Yeah, no that's a
5 good point. The goal of the District
6 Department of Transportation is to move the
7 curb cuts onto residential streets for points
8 that include we want to encourage as much
9 pedestrian traffic on major thoroughfares,
10 whether it be Connecticut Avenue, Wisconsin
11 Avenue, 14th Street, Massachusetts Avenue.

12 When we place the curb cut on a
13 residential street, it encourages slower
14 vehicular speeds, less of the pressure for a
15 driver to maybe take that turn in a gap of
16 traffic. We often times see these brigades of
17 traffic coming through. I have a break in the
18 traffic, therefore, I'll get my turn and maybe
19 not pay attention to the pedestrian.

20 The driver is much more alert in
21 slower speed areas, like residential streets,
22 similar to Veazey or Van Ness. I think that

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1 kind of gets to your point. I mean, it's even
2 stated in the -- we hope to have our
3 pedestrian master plan published, it's final
4 draft, in the next 30 to 45 days. You will
5 see in that pedestrian master plan how we are
6 really encouraging in all aspects of new land
7 use applications, to get the curb cuts onto
8 slower speed streets, like the residential
9 streets.

10 CHAIRPERSON MILLER: Thank you.
11 Okay. The other two opposition parties, do
12 you have any cross examination for Mr.
13 Jennings? Okay.

14 CROSS EXAMINATION

15 MR. LEDERER: The only question I
16 have, Mr. Jennings, really is you had
17 expressed some level of concern, even though
18 it's not directly a parking issue, about the
19 trucks coming in. And your answer seemed to
20 be if you are depending on the representation
21 that there will only be 30 foot trucks, there
22 might not be a problem.

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1 But supposing there are 40 foot
2 trucks, I mean, would you have anything to say
3 to the --

4 CHAIRPERSON MILLER: Okay. Excuse
5 me for a second.

6 MR. LEDERER: -- BZA about that?

7 CHAIRPERSON MILLER: I thought Mr.
8 Jennings said that he wanted the Office of
9 Planning to deal with that issue. Is that
10 correct?

11 MR. JENNINGS: I'm happy to defer
12 to Maxine, but I really can't say as far as
13 DDOT Regulations are concerned. I mean, I did
14 have our -- we have a freight planner
15 coordinator that works in policy and planning
16 at DDOT with staff such as myself. I had him
17 look at the comments. He looked at the
18 loading berth. He seemed to think that this
19 was adequate.

20 I continued to kind of give him the
21 context of the neighborhood. He continued
22 with it should be adequate.

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1 MR. LEDERER: For 30 foot trucks or
2 did he qualify it? I'm just curious.

3 MR. JENNINGS: It's a Class 5
4 truck. You know, you are absolutely right, a
5 30 foot truck perhaps for this particular
6 retail use. You know, I think the applicant
7 has responded sufficiently.

8 MR. LEDERER: No, I'm just asking
9 you if there were 40 foot trucks, would your
10 person have had the same answer that that
11 loading situation was adequate? That's all.

12 MR. JENNINGS: I think you are
13 asking questions that are probably far out of
14 my league at this point.

15 MR. LEDERER: Okay.

16 MS. RODDY: I would also just
17 object seeing as we are here for a parking
18 variance and not here to discuss the loading.

19 MR. LEDERER: Well, you know, Your
20 Honor, this just underscores the prejudice
21 that I have been raising already, because they
22 materially changed the case. They have cut us

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1 off on something that is, in fact, going to
2 affect us. And we didn't have an opportunity
3 to prepare our case according to the case they
4 have now submitted.

5 And this is prejudicial in the
6 extreme. And we do request an opportunity to
7 be able to provide -- to have a supplemental
8 hearing, so we can address it. I am -- do not
9 think it is fair that we have to think on our
10 feet and figure out how to do the parking
11 cross examination when the -- while at the
12 hearing they tell us they have dropped a major
13 variance. That's not right.

14 CHAIRPERSON MILLER: Your objection
15 has been noted. Let's go on.

16 MR. OCCHIALINO: Mr. Jennings, I
17 have a report that you didn't sign. I just
18 want to make sure that we are working from the
19 same document. It is February 17, 2009 from
20 Karina Ricks.

21 MR. JENNINGS: That's correct.

22 MR. OCCHIALINO: Thank you. Are

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1 you saying the document that the idea of
2 reducing from 57 to 31 slots is actually
3 laudable and is logical? Why is it praise-
4 worthy to give fewer than the required parking
5 spaces in this very congested area?

6 MR. JENNINGS: The parking
7 congestion should not be necessarily spoken
8 about, even on kind of the same breath. The
9 congestion, I think, as you witness it every
10 day, as a resident who lives in the Van Ness
11 neighborhood, Connecticut Avenue is a major
12 cut through artery. It serves in excess of
13 30,000 vehicle trips on a daily basis.

14 Many of those vehicle trips are
15 from folks who live to the north in Ward 3,
16 sometimes to the north in Ward 4, who choose
17 to use Connecticut as a quick means to get
18 downtown. I would say that the parking here
19 because it is so near a Metro Station and this
20 is well-served by transit in general, not just
21 the Metro Station, but the bus service, too,
22 that's the reason why we put in our comments

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1 that the reduction in parking is laudable.

2 We don't necessarily see
3 applications come through our door every day
4 and I think OP can perhaps stand by what I'm
5 going to say, too. Whereby a retailer is
6 coming to us and saying we would like a
7 reduction in parking and that's the reason why
8 I think you read what you read.

9 MR. OCCHIALINO: But the reason
10 that they are requiring or requesting a
11 reduction in parking is simply because they
12 can't fit the parking on the existing area.
13 It has nothing to do with all of these other
14 wonderful thoughts.

15 CHAIRPERSON MILLER: I don't think
16 you can speak for the applicant.

17 MR. OCCHIALINO: Okay. Excuse me.
18 It would appear to me perhaps that -- I
19 apologize.

20 MR. LEDERER: Circumstantial
21 evidence?

22 MR. OCCHIALINO: Your basic premise

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1 then is that if we have enough slots, they
2 might actually be used and that would be bad?

3 MR. JENNINGS: I would beg to
4 differ. I live in a neighborhood where we
5 have a substantial amount of parking
6 underneath the brand new Target in Columbia
7 Heights. We have over 1,000 parking spaces.
8 I have 200 parking spaces at the Giant on Park
9 Road. When are those parking spaces ever
10 used? I don't know.

11 I visited your Giant grocery store
12 on a pretty frequent basis in Van Ness, when
13 do all those parking spaces, on a weekend when
14 it is busy, on a Sunday, when are those
15 parking spaces fully used? So I guess what
16 I'm saying is the 31 spaces is, once again,
17 adequate.

18 MR. OCCHIALINO: Even though it
19 violates the existing regulations?

20 MR. JENNINGS: The 1958
21 Regulations.

22 MR. OCCHIALINO: Ah, but they still

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1 are in effect, are they not?

2 MR. JENNINGS: And being restudied.

3 MR. OCCHIALINO: And they are still
4 in effect?

5 MR. JENNINGS: Hopefully not for
6 long.

7 CHAIRPERSON MILLER: Okay. Is
8 there anything else?

9 MR. OCCHIALINO: I understand. I
10 just have one further question really. And
11 the question is you said that there was a glut
12 of parking in the Giant parking lot. And can
13 you tell me what studies you have done on the
14 percentage of spaces that are fully available
15 all the time, so that it could support the
16 proposition you made?

17 MR. JENNINGS: I don't have those
18 numbers with me today, but I'm happy to get
19 them into the record, if that is what is
20 needed.

21 MR. OCCHIALINO: You do have the
22 numbers though?

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1 MR. JENNINGS: I can provide
2 numbers that include that location. But what
3 I would like to do for sake of the public
4 record, if it is going to remain open after
5 today, we have a parking specialist within
6 policy and planning at DDOT and he has taken
7 various retail locations in Ward 3, in Ward 6
8 and I think in Ward 4 and what he has done is
9 done the square footage versus the amount of
10 parking and broken it down into a ratio.

11 And it kind of reflects how there
12 is just an abundance of parking in the city
13 and it is ridiculous. And the fact that we
14 are still working off of these regulations, as
15 Maxine perhaps will talk to a little bit more,
16 it really just -- I think you know where I'm
17 going with this.

18 MR. OCCHIALINO: Let me ask you if
19 it's fair to sort of characterize your
20 conclusions about the Giant parking lot that
21 Walgreens need not build the required number
22 of 57 parking spots, because Giant and CVS can

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1 allow them to park there instead. Is that the
2 idea?

3 MR. JENNINGS: No, I don't think
4 that is the idea.

5 MR. OCCHIALINO: Well, could you
6 explain then again the reaction that you had
7 that Giant and CVS parking lot would be
8 adequate to take any overflow?

9 MR. JENNINGS: It's another option.
10 If there is an option out there for someone
11 to visit the area, take care of their grocery
12 shopping at the Van Ness Giant where there is
13 no pharmacy counter and then head over to
14 Walgreens where they may have to pick up a
15 script and then head back to their vehicle
16 underneath the Van Ness Giant, then so be it.
17 It's another option.

18 It's one of those things that I
19 threw out there as how there is an abundance
20 of parking in this area. We are okay with the
21 amount of parking that is being offered here
22 today.

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1 MR. OCCHIALINO: So it gets thrown
2 out just generally, as a general proposition?
3 You're not actually advocating it, are you?

4 MR. JENNINGS: Advocating?

5 MR. OCCHIALINO: Advocating that
6 Walgreens' parkers should park in the Giant/
7 CVS parking lot as a result that there need
8 not be 57 spaces in Walgreens?

9 MR. JENNINGS: I'm not going to
10 advocate that, no.

11 MR. OCCHIALINO: Okay. Thank you.
12 I'm finished. Thank you.

13 CHAIRPERSON MILLER: Okay. Thank
14 you very much.

15 MS. RODDY: Can I ask one question
16 of DDOT? I'm sorry.

17 CHAIRPERSON MILLER: Um-hum.

18 MS. RODDY: Mr. Jennings, if the
19 Giant did not exist, would you still feel that
20 the parking that Walgreens is proposing today
21 is adequate to serve its needs?

22 MR. JENNINGS: I would think it is

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1 adequate, yes.

2 MS. RODDY: Thank you.

3 CHAIRPERSON MILLER: Okay. That's
4 DDOT. Ms. Roberts, the Office of Planning?

5 MS. BROWN-ROBERTS: Good afternoon,
6 Madam Chairman and Members of the Board. I'm
7 Maxine Brown-Roberts from the Office of
8 Planning. What I'm going to do is just sort
9 of go through the variance test for the
10 parking.

11 Regarding the uniqueness of the
12 property, the property has a trapezoidal-shape
13 and there is a 15 foot building restriction
14 line along Veazey Terrace that also restricts
15 how -- the size of the building. And also,
16 the property slopes down from west to east.

17 The applicant has submitted an
18 application that requests the reduction in
19 parking. We think that because of the
20 trapezoidal-shape of the property and one of
21 the -- that the applicant also spoke about was
22 that as part of the overall development, the

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1 original development had the -- a number of
2 parking spaces along Connecticut Avenue.

3 Office of Planning was one of the
4 agencies that asked that these spaces be taken
5 out. And that was because of we looked at,
6 basically, the urban design. And along with
7 DDOT we also had concerns about the pedestrian
8 movement along Connecticut Avenue.

9 If you look at the -- how the
10 buildings are along Connecticut Avenue, not
11 only in this area, but in a lot of our major
12 thoroughfares where the buildings are placed
13 on the property line or close to the property
14 line, and that was sort of the urban design
15 feature that we wanted to continue along
16 Connecticut Avenue, why we disagreed with
17 having the -- having both the curb cut and
18 also having the parking spaces in front of the
19 building.

20 And so that was -- you know, I
21 think the applicant took that. That sort of
22 constrained the amount of surface parking that

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1 they could locate on the site. Again, because
2 of the shape of the property, along
3 Connecticut Avenue had the wider frontage
4 where more spaces could be located, if those
5 spaces were taken up, then they would have had
6 to go to the rear of the property.

7 That is sort of infeasible because
8 of the reduced length of the rear yard. And
9 then so the other option was to have the
10 access off of Veazey. Again, we thought that
11 in conjunction with DDOT and we agreed with
12 them on having the entrance of the curb cut to
13 the parking lot sort of recessed and not very
14 close to Connecticut Avenue.

15 Another thing that I want to make
16 note of is that there is a 15 foot building
17 set-back line along Veazey. It is not a
18 right-of-way. It is a building set-back.
19 And, therefore, the driveway for the -- or the
20 ramp to go down into the parking lot is
21 allowed. And I don't think that is something
22 that, I'm not sure, has to be approved by

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1 Public Space, but I'm not quite sure about
2 that.

3 But so these are some of the issues
4 that cause the -- cause some problems of
5 having the number of spaces on the site. Then
6 again, because of the shape of the property,
7 it impacted how many of the regular sized
8 parking spaces could be accommodated. If we
9 should eliminate the compact spaces, that, I
10 think, will further reduce the number of
11 spaces that are on the site, because those
12 would just be dead spaces that wouldn't be
13 able to be used since the regular sized spaces
14 would not be able to be accommodated there.

15 So I think that having the compact
16 spaces at least allows some additional spaces
17 on the site and I do agree with the applicant
18 that some of the spaces are a little wider
19 than what would be allowed under -- what would
20 be allowed by the regulations under compact
21 space sizes. So that gives a little
22 flexibility on the size of cars that can be

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1 accommodated there.

2 I think that with the problems that
3 car in the alley and to the rear of the
4 property, we would also want to minimize how
5 many spaces we have in the back. I think
6 everyone here has made some comments about the
7 situation in the alley. And therefore, I
8 think, that it is appropriate to have the
9 parking entrance off of Veazey.

10 We don't think that the variance
11 and the reduction in the parking will be
12 detrimental to the public good. Again, we
13 agree that the -- we want to encourage the use
14 of Metro and walking. There are a number of
15 apartment buildings, the university, office
16 buildings and so, I mean, we already know that
17 this is a fairly active area.

18 And we want to encourage people to
19 walk and, therefore, we believe that this --
20 the less parking we also provide, that this
21 will encourage people to walk to the pharmacy.

22 And again the reduction, the compact spaces

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1 allowing the compact spaces will allow some
2 flexibility into how many spaces the parking
3 lot can accommodate.

4 And I will stop there and take any
5 questions. Oh, I should say that the Office
6 of Planning recommends approval of the
7 variance.

8 CHAIRPERSON MILLER: I said before
9 that there is a fine line here, but it seems
10 to me that there -- and I'm not sure how we
11 are going to, you know, weigh this
12 information, but there has been this reference
13 to deliveries or trucks. And Mr. Jennings
14 mentioned it in his report. I think you did
15 as well, but the loading variance dropped out.

16 MS. BROWN-ROBERTS: Right.

17 CHAIRPERSON MILLER: I think when I
18 asked him did he still have a concern, he
19 seemed to indicate he might or something, but
20 wanted to refer to you.

21 MS. BROWN-ROBERTS: Yeah. And I'm
22 going to say something on the loading, but

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1 it's addressing loading, which is not a part
2 of this application right now, and so I don't
3 know what happens, but anyway, I just have a
4 statement about that.

5 We have found that, and not just at
6 this location, loading has become somewhat of
7 a problem. And because monitoring the trucks
8 at the times they come to their -- to make
9 drop-offs, a lot -- in a lot of cases, we find
10 that even when there is a loading dock, the
11 delivery trucks don't even use it.

12 And so that is something that we
13 have been, between the Office of Planning and
14 DDOT, trying to come up with some ways of how
15 really to address this problem. The main
16 thing is that it is basically an enforcement
17 problem.

18 What -- between us and DDOT, we
19 have had some discussions with DCRA and the
20 Zoning Administrator and -- you know, to get
21 some feedback to them on how to handle this.
22 And they have one person who does the

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1 enforcement and so that's a problem. We know
2 that in a number of occasions the communities
3 have representatives who have called DCRA to
4 try and get this addressed and it hasn't
5 worked.

6 But we have had -- you know, as we
7 have heard the concerns on just about all of
8 our projects coming in now, we have sat with
9 the Zoning Administrator and have sort of been
10 talking to him and saying look, you know,
11 there is little we can do when we have an
12 order done that if it's not enforced, there is
13 little we can do.

14 And so it's going to be up to your
15 shop to take care of this. DDOT has been
16 strongly in -- has been strongly advocating
17 that their, you know, permits be pulled. That
18 we want to see sort of as a last ditch effort,
19 you know, if somebody has been really not
20 working with them and hasn't been complying,
21 you know, over a period of time.

22 But I think I understand the

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1 concern of the community. And but I think
2 that, you know, if this was on the table, if
3 loading was on the table right now, I mean,
4 you know, we would be saying to them, look,
5 you need to have somebody there who is going
6 to monitor the hours in which the trucks come
7 in and, you know, work something out whatever
8 the time is with the community.

9 We would also -- you know, we have
10 been talking about, you know, putting up signs
11 at the front of a building to say, you know,
12 no loading from the front or, you know, having
13 something to say to the community, you know,
14 here is a number, you know, put it on the
15 building and say here is a number to call if
16 you see somebody who is not parking in the
17 loading dock and those sort of issues.

18 Again, I mean, this is an existing
19 problem there. And so you would have to work
20 with this applicant as well as the existing
21 commercial uses that have trucks coming in.
22 So I think that it's not a simple thing to --

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1 problem to solve right now, but we are working
2 on it. Thank you, Madam Chair.

3 CHAIRPERSON MILLER: Are there
4 regulations that govern what hours trucks
5 can't deliver?

6 MS. BROWN-ROBERTS: I don't know.
7 In a lot of cases that I have worked on, it's
8 usually something that is an agreement
9 between, you know, the community or between
10 DDOT and the applicant. And we try to see or
11 look at times. Again, it depends on sort of
12 the number of trucks that are coming to the
13 site and how that can be coordinated.

14 You know, if it's a thing like a
15 grocery store that has to have newspapers and
16 milk at 9:00 in the morning, you know, we kind
17 of ask them to come at 5:00. So there are a
18 number of things that has to come to an
19 agreement on the times.

20 CHAIRPERSON MILLER: Okay. Yeah,
21 we have had occasion to see where there is a
22 commercial use that abuts a residential

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1 neighborhood that this is an issue. That
2 doesn't seem to be that difficult to address.

3 I mean, as far as even being a good neighbor
4 with respect to, you know, the hours or the
5 number of deliveries, so the community has an
6 understanding of when it is going to be and
7 that it is not going to be, you know, at 6:00
8 in the morning or whatever.

9 MS. BROWN-ROBERTS: Yeah, I think
10 that it is something that can be worked out.
11 I mean, I sort of know that this applicant was
12 having that conversation. It's off the table
13 now, so, you know, I don't really want to say
14 much more about that.

15 CHAIRPERSON MILLER: And my other
16 point is, you know, for the most part, we are
17 looking at the specific variance and adverse
18 impacts from that. But you can look at it
19 very narrowly or sometimes you can look at it
20 in the broader context, which I hear from the
21 neighborhood, and that, you know, if this use
22 is going to be allowed and as long as they get

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1 the variance and then if the use is allowed,
2 it shouldn't have an adverse impact on the
3 neighborhood.

4 And so okay. Other questions for
5 Office of Planning from the Board? Okay.
6 Applicant, no questions? Ms. Perry?

7 CROSS EXAMINATION

8 MS. PERRY: Um, hi, Ms. Brown.

9 MS. BROWN-ROBERTS: Hello.

10 MS. PERRY: I think from an Office
11 of Planning standpoint, would you -- since you
12 want walkable communities, SmartGrowth, would
13 you suggest having two drugstores next to each
14 other in a neighborhood?

15 MS. BROWN-ROBERTS: That's not --

16 MS. PERRY: From a planning
17 standpoint.

18 MS. BROWN-ROBERTS: I don't think,
19 I mean, that's the -- you know, it's a
20 retainer to --

21 MS. PERRY: Okay.

22 MS. BROWN-ROBERTS: -- make that

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1 judgment, not us.

2 MS. PERRY: Okay. Unfortunately,
3 Mr. Jennings left, but in regard to trucks, is
4 it true that DDOT originally suggested that
5 deliveries occur before 6:00 a.m. or after
6 10:00 p.m., as they indicated in the letter
7 that the ANC received?

8 MS. BROWN-ROBERTS: Whatever their
9 report says.

10 MS. PERRY: Well, this is a letter
11 that was received by Ms. Roddy to our ANC that
12 said "The applicant proposed this time frame
13 to the District Department of Transportation
14 and they suggested that deliveries occur
15 before 6:00 a.m. or after 10:00 p.m."

16 MS. BROWN-ROBERTS: I would suggest
17 that you talk to the applicant about that,
18 because I cannot comment on that.

19 MS. PERRY: Okay.

20 MS. BROWN-ROBERTS: I was not a
21 part of that discussion.

22 MS. RODDY: I don't know if it's an

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1 appropriate time, but I can clarify something
2 with the timing of loading, if it's helpful.

3 MS. PERRY: No, not at the moment.

4 CHAIRPERSON MILLER: I would like
5 to hear it, but are you finished with your
6 questions?

7 MS. PERRY: I did have another
8 question and I just forgot what it was.

9 CHAIRPERSON MILLER: So hold that
10 thought.

11 MS. PERRY: Okay.

12 CHAIRPERSON MILLER: Okay. Did you
13 want to make a clarification about --

14 MS. RODDY: Yes. In meeting with
15 the ANC, we had heard from them that they
16 would like us to do loading in off-peak hours.

17 So we made a commitment to the ANC that we
18 would do loading between 10:00 and 4:00. In
19 proposing that to DDOT, Ms. Milanovich had
20 conversations with Jeff Jennings and he
21 initially indicated off-peak hours, but
22 overnight hours in an effort to avoid

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1 congestion, I believe was the thought.

2 We let him know that's not what we
3 heard the community wanted. And so it seemed
4 that he dropped that as an issue and was fine
5 with the 10:00/4:00 off-peak, which is what we
6 had committed to do when we spoke with the
7 ANC.

8 CHAIRPERSON MILLER: How many days
9 a week is 10:00 to 4:00?

10 MS. RODDY: I believe that was
11 seven days a week.

12 MS. MILANOVICH: Typically, the
13 off-peak occurs Monday through Friday, but I
14 think we were willing to do it seven days a
15 week, if that's what the ANC wanted.

16 MS. RODDY: Right.

17 CHAIRPERSON MILLER: Okay.

18 MS. RODDY: That's right.

19 CHAIRPERSON MILLER: So we're not
20 getting into too much detail on that, but,
21 okay. Ms. Perry, did you have one more
22 question?

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1 MS. PERRY: Um, how -- and again,
2 it's in regard to the trucks in the
3 neighborhood. If the -- since you did refer
4 to trucks not accessing loading docks, if a
5 truck is too big to get into the loading dock,
6 how does that impact the neighborhood? This
7 neighborhood that has two dead end streets?

8 MS. BROWN-ROBERTS: I don't know.
9 I didn't do that analysis. I'm sorry.

10 MS. PERRY: Okay. That's my
11 questions.

12 CHAIRPERSON MILLER: Thank you.
13 Okay. Opposition parties?

14 MR. LEDERER: Just one. Since I
15 was directed to ask you, Ms. Brown, this
16 question about concern -- this goes back to
17 trucks. Let's say there is 6 to 10 trucks per
18 week that are too large for the loading dock,
19 you know, and DDOT was about to have a concern
20 that that might need to be addressed, but I'm
21 asking you if there were say 6 to 10 trucks a
22 week not 30 foot trucks, but that go down that

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1 alley in addition to everything else, all the
2 other trucks that currently use it, would that
3 be any cause for a concern?

4 MS. BROWN-ROBERTS: I don't know.
5 I haven't done that sort of study.

6 MR. LEDERER: Okay.

7 CHAIRPERSON MILLER: She didn't
8 testify to that.

9 MR. LEDERER: Well, okay.

10 CHAIRPERSON MILLER: So you are --

11 MR. LEDERER: Well, I was just --

12 CHAIRPERSON MILLER: But your
13 questions --

14 MR. LEDERER: -- direct that
15 question to her.

16 CHAIRPERSON MILLER: Okay. But
17 basically, cross needs to be directed at what
18 an individual testifies to and then they will
19 be able to answer it.

20 MR. LEDERER: I know, but that was
21 a question they took off the table, because
22 they dropped the variance.

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1 CHAIRPERSON MILLER: Okay. Moving
2 along.

3 MR. LEDERER: Thank you.

4 CHAIRPERSON MILLER: Is your mike
5 on, sir? Okay.

6 MR. OCCHIALINO: You said that this
7 is a very unique property and that as a
8 result, there should be perhaps some give on
9 the parking problem. Isn't it true though
10 that every spot, every lot that you have is
11 limited by the square footage in any event so
12 that, in fact, if you have a small lot, you
13 should put up a small store and if you have a
14 big lot, you can put up a big store?

15 MS. BROWN-ROBERTS: Um, I didn't
16 talk about the -- whether it's a big lot. I
17 talked about the shape of the lot and also the
18 change in the topography of the lot.

19 MR. OCCHIALINO: How does that
20 affect the variance request for fewer parking
21 spaces?

22 MS. BROWN-ROBERTS: As you know

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1 that the Zoning Commission -- the Zoning
2 Regulation outlines what are by-right uses or,
3 you know, how to meet the requirement. It
4 also gives an applicant what you -- an
5 opportunity if they can prove that by the
6 three test that is aligned -- that is outlined
7 for a variance.

8 One of them goes to the uniqueness
9 of the property. And I think that in this
10 because of the trapezoidal change -- shape of
11 the property and with our -- and also goes
12 along with our -- the urban design issues,
13 that we would like to see not have parking
14 spaces along Connecticut Avenue.

15 Therefore, if that is removed, the
16 next option would be to the rear or on the
17 side. Because of the shape of the lot, the
18 rear area is much narrower than along
19 Connecticut Avenue, so, therefore, less spaces
20 would be able to be accommodated along the
21 alley than along -- so there is -- so that
22 causes a problem.

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1 MR. OCCHIALINO: If the lot were a
2 perfect square, but with the same square
3 footage, wouldn't the problem be the same with
4 regard to parking?

5 MS. BROWN-ROBERTS: Well, we can
6 have a perfectly square property that has
7 other unique attributes to it.

8 MR. OCCHIALINO: What exactly is
9 unique that would justify going from 57 to 31
10 slots?

11 MS. BROWN-ROBERTS: Pardon me?

12 MR. OCCHIALINO: What exactly is
13 unique about the property that would allow for
14 you to conclude that it is appropriate to go
15 from 57 parking spaces to 31?

16 MS. BROWN-ROBERTS: As I said, we
17 think it's unique because of the shape of the
18 property and --

19 MR. OCCHIALINO: But I'm asking you
20 -- I'm sorry to interrupt. But I was asking
21 you would it matter if it were square and it
22 had the same square footage?

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1 MS. BROWN-ROBERTS: I don't know,
2 because I haven't done that analysis, because
3 maybe there would be something different that
4 makes that square lot unique. I don't know.

5 MR. OCCHIALINO: And you did -- if
6 I understood you, you said that the loading
7 docks are not used often, even when they
8 exist. Is that a fair statement of what you
9 did say?

10 MS. BROWN-ROBERTS: I was talking
11 about generally. We have found that, you
12 know, in some areas, you know, I think it is
13 sort of a human tendency to go to the easiest
14 access you have. And just as, you know, I
15 mean, we certainly don't want people parking
16 along Connecticut Avenue.

17 MR. OCCHIALINO: We share --

18 MS. BROWN-ROBERTS: Which would be
19 sort of another option and we surely wouldn't
20 want that either, you know.

21 MR. OCCHIALINO: We share the sense
22 that --

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1 MS. BROWN-ROBERTS: Right.

2 MR. OCCHIALINO: -- if people don't
3 use the loading dock, they will, in fact,
4 cause traffic problems and parking problems,
5 because they will park illegally. And that's
6 what you were suggesting, weren't you?

7 MS. BROWN-ROBERTS: No, I'm not
8 suggesting that they go to Connecticut Avenue
9 to park, no.

10 MR. OCCHIALINO: Yeah, but that --
11 Veazey Terrace is no parking on either side.
12 The alley would be too small for any of those
13 large trucks.

14 MS. BROWN-ROBERTS: But you have
15 reduced the options of -- you know, hopefully
16 you have reduced the options and so, you know,
17 as I said, I mean, one of the things that we
18 would have encouraged -- if this was on the
19 table, we would have encouraged the applicant,
20 and we sure will still do that, to encourage
21 them to have a system where -- that encourages
22 all the loading, to make sure all their

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1 loading takes place from the rear.

2 MR. OCCHIALINO: But you did say
3 that there was really a big problem with
4 enforcement, did you not?

5 MS. BROWN-ROBERTS: Yes, I did.

6 MR. OCCHIALINO: So encouraging
7 them and trying to actually get them to do it
8 and to have someone enforce it would be
9 difficult?

10 MS. BROWN-ROBERTS: No, no. I
11 mean, we have been trying to -- you know, I'm
12 going to stop after this, because it's not on
13 the table. But we have been trying in all
14 instances where we have issues with loading to
15 get the applicants or the users of that space
16 to make sure that their delivery trucks do use
17 the loading docks.

18 MR. OCCHIALINO: In another part of
19 the report that you have submitted or has been
20 submitted by your department, you just note
21 that the garage is too shallow to accommodate
22 full sized parking spaces and this -- allowing

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1 the smaller spaces allows the applicant to
2 maximize the number of spaces on the site. Is
3 that the reason for increasing the number of
4 compact spaces, simply because they have no
5 room now for regular cars?

6 MS. BROWN-ROBERTS: Because of the
7 shape of the property, I think there are some
8 engineering things that -- well, because of
9 the shape of the property, you don't have,
10 along Veazey, a straight -- like a straight
11 line where all the spaces can be of equal
12 size.

13 And so there is a problem there in
14 addition to the engineering of it. And so
15 there is an option, there would be another
16 option of not having any parking spaces there.

17 But we have enough spaces where we can
18 accommodate the compact spaces. So I think
19 that's a reasonable thing to do.

20 MR. OCCHIALINO: I believe the
21 chair asked earlier whether or not there were
22 any studies that would support a percentage of

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1 compact parking spaces compared to full sized
2 spaces. Did you find one of those studies and
3 did you use it in your conclusion that it
4 would be appropriate to go from the smaller --
5 the larger number -- smaller number to the
6 larger number?

7 MS. BROWN-ROBERTS: Well, again, I
8 think the option would be not having those
9 spaces.

10 MR. OCCHIALINO: Precisely. And
11 then there would be even fewer spaces and, in
12 fact, there will be fewer spaces for full
13 sized cars, because of the decision without
14 any basis in terms of percentages of vehicles
15 that will use it.

16 CHAIRPERSON MILLER: Question?
17 Question?

18 MR. OCCHIALINO: I apologize.

19 CHAIRPERSON MILLER: Okay.

20 MR. OCCHIALINO: Thank you. I
21 understand that. I appreciate your response.
22 Did you say that less parking would provide

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1 that more people will walk? That the less
2 parking there is, the more people will walk?

3 MS. BROWN-ROBERTS: We have been
4 encouraging that a parking reduction in areas
5 and hopefully we get more people either
6 walking, carpooling, biking, all of those
7 options. We want to have all options for
8 transportation on the table.

9 MR. OCCHIALINO: Is it possible
10 that if you have less parking, there will be
11 more illegal parking, rather than walking?

12 MS. BROWN-ROBERTS: I don't know.

13 MR. OCCHIALINO: Is it possible?

14 MS. BROWN-ROBERTS: I don't know.

15 MR. OCCHIALINO: Well, you -- okay.

16 You don't know. Thank you. You said that
17 you envision that most of the patrons would
18 walk and that that would justify having fewer
19 parking spaces. How many patrons do you
20 expect per day in a 24 hour day?

21 MS. BROWN-ROBERTS: I don't have a
22 number.

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1 MR. OCCHIALINO: So then it would
2 be impossible, would it not, to conclude that
3 because half the people will walk, there won't
4 be a need for more parking spaces as required?

5 MS. BROWN-ROBERTS: We have
6 observed that along this thoroughfare there
7 are a number of high-rise buildings, a number
8 of office buildings, the Metro is right there,
9 there is the university, there is active
10 pedestrian movement along Connecticut Avenue
11 and we think that those users, I think the
12 applicant testified that people/users, are
13 projected to come from about half a mile to a
14 mile.

15 And so we think that we want to --
16 there is a base for people walking in this
17 area. And for those who don't, we want to
18 encourage them to do that.

19 MR. OCCHIALINO: By having fewer
20 parking spaces than are required?

21 MS. BROWN-ROBERTS: Yes, um-hum,
22 because --

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1 MR. OCCHIALINO: And you don't
2 see --

3 MS. BROWN-ROBERTS: -- what we want
4 to do is to instead -- because, I mean, it's
5 the thing where, you know, if you provide it,
6 then people will want to use it. If it's not
7 there, then that option is taken off the
8 table. And so they look for another option to
9 use.

10 MR. OCCHIALINO: And what is that?

11 MS. BROWN-ROBERTS: And hopefully
12 it's either by bike or walking or carpooling
13 or, you know, something alternative.

14 MR. OCCHIALINO: When you take the
15 option off of parking legally in a Walgreens'
16 parking lot, isn't it possible that the next
17 option will not be walking or taking the
18 Metro, but parking illegally?

19 CHAIRPERSON MILLER: I think you
20 asked that question already.

21 MS. BROWN-ROBERTS: And I said I
22 don't know.

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1 MR. OCCHIALINO: Okay. Thank you
2 very much. I appreciate your comments.

3 CHAIRPERSON MILLER: Okay. It is
4 5:50, so I think that we ought to assess where
5 we are and how much time is remaining and if
6 there are any individuals who want to testify
7 for 3 minutes who have time constraints. This
8 is sometimes what happens at this hour getting
9 back to babysitters or whatever.

10 So what? We have lost people and
11 that's unfortunate. Okay. I always feel like
12 if somebody has to go, sometimes they ought to
13 let the staff know and we can take them out of
14 order. So let me see if that's the case,
15 because the normal course of the case would
16 be, you know, the opposition parties. No,
17 it's actually people who want to testify in
18 support of the application.

19 Okay. I read the order of
20 procedure earlier in the afternoon. We have
21 gone through -- we didn't hear the ANC. Oh,
22 the ANC is -- okay, that's why you are looking

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1 at me like that. Okay. The ANC is next. But
2 do you have a time constraint or can I --

3 MS. PERRY: I would like to leave,
4 yeah. I mean, I have -- unfortunately, you've
5 had us very busy over the last few weeks. But
6 we have lost people and I think in light of
7 the change that the applicant made, I think we
8 could come back with a much better case and
9 more focused.

10 CHAIRPERSON MILLER: Okay. I --

11 MS. PERRY: It would help the
12 neighborhood and the ANC testimony without me
13 trying to sit here and dissect it.

14 CHAIRPERSON MILLER: I don't know
15 if other Board Members view it the same as I
16 do and if so, speak up, but --

17 MS. PERRY: Because we have lost
18 some --

19 CHAIRPERSON MILLER: -- we don't
20 see --

21 MS. PERRY: -- people.

22 CHAIRPERSON MILLER: -- a change

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1 that would require us to postpone the case.
2 We see -- when something drops out, that's not
3 really the reason to give people more of an
4 opportunity to respond, that is what I see
5 here.

6 MS. PERRY: Except that we have
7 lost some people that have already left,
8 unfortunately, that were part of the "party
9 case." And even from my testimony, a lot of
10 it was focused on the trucks, the loading, the
11 initial DDOT report. And, you know, I think
12 we could make it a lot shorter than -- if we
13 came back.

14 CHAIRPERSON MILLER: Okay. So --

15 MS. PERRY: Allow us to regroup is
16 what, I guess, I'm saying.

17 CHAIRPERSON MILLER: Okay. So your
18 request is that we -- you don't want to go
19 forward at this point --

20 MS. PERRY: I would prefer --

21 CHAIRPERSON MILLER: -- given --

22 MS. PERRY: -- not to.

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1 CHAIRPERSON MILLER: And it's also
2 5:50.

3 MS. PERRY: Because we have lost
4 people. Yeah.

5 CHAIRPERSON MILLER: And you would
6 like it to continue.

7 MS. PERRY: We have Mr. Obama
8 tonight and I got invited up there.

9 CHAIRPERSON MILLER: Oh, we're not
10 going to go that late.

11 MS. PERRY: No, but I got invited
12 to go to hear it.

13 CHAIRPERSON MILLER: Okay. Oh, you
14 have to get there early, huh? Oh, let me see.
15 What time do you have to get there?

16 MS. PERRY: Well, I'm not even
17 dressed for it yet.

18 CHAIRPERSON MILLER: Oh, okay. So
19 you've got to do your makeup and everything.

20 MS. PERRY: You got it.

21 CHAIRPERSON MILLER: All right.
22 Let me see, are there individuals here who

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1 wish to testify today, you know, who don't
2 want to come back for sure? Anybody in that
3 position? Okay. Well, let me -- I have a
4 request from the ANC that she not go -- that
5 you not go forward, at this time, and we stop.

6 Is that right? And what is the view of the
7 opposition parties?

8 MR. OCCHIALINO: I would not be
9 opposed to calling it an evening, but we are
10 prepared, if necessary, we could go forward.

11 CHAIRPERSON MILLER: Okay. And the
12 applicant?

13 MR. LEDERER: We could go forward.

14 CHAIRPERSON MILLER: Oh, I'm sorry.

15 Yes, sir?

16 MR. LEDERER: The Van Ness South
17 Tenants Association --

18 CHAIRPERSON MILLER: You're not on
19 the record. You've got to get on the record.

20 MR. LEDERER: Yes. The Van Ness
21 South Tenants Association supports -- oh,
22 sorry. The Van Ness South Tenants Association

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1 supports the ANC request. We think it will
2 produce a better record anyway and a better
3 case and shorten everything. We support it.

4 CHAIRPERSON MILLER: Okay.
5 Applicant?

6 MS. RODDY: We would just as soon
7 finish it this evening, seeing as we have had
8 two continuances in this case. We would like
9 to finish it. We are well into the case
10 already and we would like to have that
11 completed tonight.

12 CHAIRPERSON MILLER: Okay. Ms.
13 Perry, I'm not sure what time you have to
14 leave, but you are next, so --

15 MS. PERRY: I do have to leave.
16 Unfortunately, I have to get to get up there,
17 because of the security and all of that.

18 CHAIRPERSON MILLER: You are next
19 though, could you give your -- do your case
20 right now? How about your colleague who is
21 here? We have two people here from the ANC.

22 MS. PERRY: I think what -- you

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1 know, we need to --

2 CHAIRPERSON MILLER: We don't
3 really see that this case requires a
4 continuance based on their dropping one
5 variance request.

6 MS. PERRY: Yeah, but it's 6:00
7 already and, you know, it's -- we have lost
8 people and that's the problem.

9 CHAIRPERSON MILLER: You had
10 witnesses you were going to put on?

11 MS. PERRY: We did. I did.

12 MR. OCCHIALINO: I will confirm
13 that I have lost at least one person and two
14 expect -- another person expected to be lost.
15 I just want you to know that.

16 MS. PERRY: We understand that the
17 applicant has had to delays, but that was not
18 at the fault of the neighborhood or of the
19 ANC.

20 CHAIRPERSON MILLER: Okay. The
21 other issue is we have a very full calendar.

22 MS. PERRY: I understand. I was

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1 here last week and we have been here --

2 CHAIRPERSON MILLER: So --

3 MS. PERRY: I think our ANC has
4 three of your cases or four.

5 CHAIRPERSON MILLER: Well, you do
6 have an ANC resolution in the record which we
7 give great weight to.

8 MS. PERRY: I understand that, but
9 there is a difference when we want to argue
10 the uniqueness of the property, etcetera,
11 etcetera.

12 CHAIRPERSON MILLER: I don't
13 understand that. The applicant --

14 MEMBER DETTMAN: Can you clarify
15 that?

16 CHAIRPERSON MILLER: Yeah.

17 MS. PERRY: In order to get the
18 variances, you have to prove that this
19 property is unique, the trapezoid-shape,
20 etcetera. And we are -- that is something
21 that we would like to argue.

22 CHAIRPERSON MILLER: Why couldn't

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1 you have argued that? You are on notice about
2 that. Why wouldn't you be prepared to argue
3 that?

4 MS. PERRY: Well, it is in
5 testimony, but I just can't stay tonight,
6 that's my problem. And I -- my handwritten
7 notes cannot be transferred to somebody else,
8 unfortunately. Mr. Whitely has never done
9 this before or read my handwriting even, which
10 I can't read.

11 CHAIRPERSON MILLER: All right.

12 MS. PERRY: You know, we sympathize
13 with the applicant, but we have already lost
14 people, unfortunately.

15 CHAIRPERSON MILLER: Well, we do
16 have an ANC report which we give great weight
17 to. Would you like us -- I'm just considering
18 options at this point.

19 MS. PERRY: Yeah, no, I mean, our
20 ANC report is not always the same as
21 testimony. Now, we refer to something, but
22 then we elaborate when we come here. You

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1 know, the ANC resolution doesn't have
2 everything in it.

3 CHAIRPERSON MILLER: I would --

4 MS. PERRY: Starting with the
5 uniqueness or the size of the lot or the
6 history of the lot. I mean, they -- the
7 applicant put six points in there as to why
8 this property is unique, into their
9 application.

10 CHAIRPERSON MILLER: But they did
11 that and that was served on the ANC, wasn't
12 it?

13 MS. PERRY: Yeah, and we are
14 prepared -- you know --

15 CHAIRPERSON MILLER: Is that a
16 surprise?

17 MS. PERRY: -- we will be prepared
18 to testify on it and I am prepared, but I just
19 can't do it at this point tonight.

20 CHAIRPERSON MILLER: How about if
21 we leave the record open for you to submit --

22 MS. PERRY: I don't think that's

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1 ever the same as hearing something or being
2 able to ask questions. It doesn't really
3 suffice. And even the applicant --

4 CHAIRPERSON MILLER: But you did
5 ask questions, so it's only -- it would be the
6 applicant who would be deprived of the
7 opportunity to cross examine you.

8 MS. PERRY: Not -- no. I think
9 it's not fair to put us in this position at
10 6:00 at night, being honest, when we have lost
11 witnesses. The neighbors' case has lost their
12 witnesses and part of their case.

13 MS. RODDY: May I suggest if
14 Commissioner Whitely from the ANC is able to
15 stay, that perhaps he can testify --

16 MS. PERRY: Not to my testimony.

17 MS. RODDY: -- on behalf of the
18 ANC.

19 MS. PERRY: Ms. Roddy, he doesn't
20 even know what I have handwritten out. He has
21 never done one of these cases, so, you know,
22 I'm the one who has the testimony.

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1 Commissioner Whitely just came to view and to
2 see how this operates.

3 CHAIRPERSON MILLER: Yes, ma'am, do
4 you --

5 MS. BUCK: Can I speak?

6 CHAIRPERSON MILLER: Yes, come
7 forward. Yes, because that was my question
8 now if there are even individuals who want to
9 testify and not come back.

10 MS. BUCK: I do want to testify
11 very much, but I'm exhausted.

12 CHAIRPERSON MILLER: But you are
13 not on record.

14 MS. BUCK: I am really pooped,
15 because this has been a very engrossing
16 process. And I think that it would not be
17 fair of you people to try and make a decision
18 without hearing me and without hearing others.

19 CHAIRPERSON MILLER: Well, we --

20 MS. BUCK: So I encourage you to
21 come back tomorrow. Yes, there are -- there
22 is a great big --

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1 CHAIRPERSON MILLER: No, we don't -
2 - we only --

3 MS. BUCK: Okay.

4 CHAIRPERSON MILLER: -- come here
5 once a week.

6 MS. BUCK: Oh.

7 CHAIRPERSON MILLER: So what we are
8 going to try to do is just see if there is not
9 an unreasonable length of time before we have
10 an opening to continue the case, which is what
11 we would try to balance, you know, the
12 prejudice to the applicant, the prejudice to
13 the community. You need to get on the record
14 if you want to say something. And do identify
15 yourself. Yes, but go to the microphone.

16 MS. PERRY: Be on the microphone.

17 MS. BUCK: I'm not loud enough?

18 CHAIRPERSON MILLER: No, it's the
19 Court Reporter, this is on the record. But
20 unless you -- but you might want to use one of
21 the ones, you know, right on the table.

22 MS. BUCK: This is great. Thank

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1 you. I'm Sharon Buck from Van Ness South and
2 I would like to go on th record as saying I'm
3 too pooped to testify tonight, but I really,
4 really want you to hear what I have to say.
5 Thank you.

6 CHAIRPERSON MILLER: Okay. I just
7 want to take a look at the calendar and see if
8 there is not too long a period of time, if we
9 were to consider continuing this.

10 MS. RODDY: Can we just make one
11 point with the applicant?

12 CHAIRPERSON MILLER: Yeah.

13 MS. RODDY: It's a very pressed
14 schedule that the applicant has been dealing
15 with. And Randall is actually better suited
16 to let you know the specifics.

17 MR. CLARKE: There is an issue for
18 us if this continues to extend. I mean, we
19 feel like we have come in good faith and done
20 everything. And the fact that we have dropped
21 one of the issues is actually a benefit to the
22 community. We have taken that off the table

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1 for them.

2 There is an issue from a business
3 side for this if this extends, because as we
4 pointed out, my client is -- has a lease
5 agreement on the property and, you know, there
6 is an issue of certain dates when rent
7 commences without me being able to know for
8 sure that we can actually build the store.

9 And I think given -- you know, I
10 understand and I appreciate Ms. Perry's
11 personal schedule, we all have them. In our
12 case, we also, as you noticed, have Mr. Harris
13 here from Walgreens who has flown in from
14 Chicago. I think that's a little more
15 pressing or I wouldn't say more pressing, but
16 I think that demonstrates our own commitment
17 to hoping that we can resolve this matter
18 today and that's also part of the reason why
19 we took that one contentious issue off and
20 made another adjustment to the building, so it
21 wouldn't have to be a problem here.

22 So we would really hope that the

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1 Board would hear this case out today. I
2 appreciate that these people have some
3 personal commitments. Again, like I said, so
4 do I, but I think we have provided all the
5 information, presented the information and we
6 have all cleared our day to be here to get
7 this done. And I hope that that will be
8 considered as you think about what to do in
9 the next step.

10 CHAIRPERSON MILLER: Okay. Anybody
11 else want to be heard before the Board -- yes,
12 sir?

13 MS. PERRY: Mrs. Miller, we can't
14 speak to Walgreens' lease agreement, but it is
15 our understanding that Walgreens might -- this
16 is the first time we are hearing lease. We
17 had heard they were the contract purchaser of
18 the property at our ANC meeting. But that's
19 not neither here nor there.

20 But the gas station would have to
21 be razed. There would have to be an
22 environmental clean-up anyway. And you know,

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1 normally this Board does adjourn at 6:00.

2 CHAIRPERSON MILLER: I know, Ms.
3 Perry.

4 MS. PERRY: People have -- okay.

5 CHAIRPERSON MILLER: We have been
6 here --

7 MS. PERRY: I -- okay.

8 CHAIRPERSON MILLER: -- since 9:00.

9 MS. PERRY: We don't -- Mr. Harris
10 could fly back to Chicago tonight. I mean
11 that -- we don't know if he needs to be here.

12 CHAIRPERSON MILLER: Okay. Let me
13 hear from this gentleman who raised his hand.

14 MR. BRYAN: My name is Mark Bryan.

15 I live at Van Ness South. I think it's the
16 contention of most people here that the
17 applicant has actually dropped their variance
18 to skirt the objections of the community, not
19 to actually address the objections of the
20 community. We do actually have some evidence,
21 but we do need time to figure out how to
22 present that.

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1 But I feel like everyone here would
2 be willing to stay here until 10:00 at night
3 even, it's not necessarily a matter of
4 willingness of time. They just need to get --
5 they are just trying to push this through as
6 quickly as possible to get their decision over
7 the objection of the community.

8 CHAIRPERSON MILLER: Oh, okay. Did
9 you identify yourself for the record? i can't
10 remember.

11 MR. BRYAN: Mark Bryan.

12 CHAIRPERSON MILLER: Okay. Right.
13 Thank you. Okay. As we have heard from
14 everyone, I think the Board is going to take a
15 5 to 10 minute break and look at our calendar
16 and then decide whether there is a space that
17 is reasonably close enough or not. We are
18 going to consider prejudice to both sides. So
19 you can take a little break yourselves and we
20 will see you in about 5 or 10 minutes.

21 (Whereupon, at 6:04 p.m. a recess
22 until 6:27 p.m.)

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1 CHAIRPERSON MILLER: Okay. We are
2 back on the record. Okay. Just to explain,
3 part of what took us a while is that in
4 looking to see whether or not we could
5 continue this case to another day, we needed
6 to look at what cases were on other days and
7 how heavy we thought they might be.

8 And as I stated earlier, I think we
9 were trying to balance concerns that we have
10 heard from the ANC and the community that it
11 is late and people are tired and would
12 appreciate our continuing this versus any
13 imposition that this might cause on the
14 applicant, who is prepared and ready to go
15 forward and finish the case.

16 So I think it can be prejudicial to
17 the applicant if, you know, we're looking for
18 a long delay. But I think a short delay might
19 not be. And I wanted to let you know what we
20 are thinking about and then we can hear from
21 the parties.

22 But we looked at next week and saw

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1 that Ms. Roddy is going to be here next week
2 in the afternoon. And that case doesn't seem
3 to have any opposition, so we think that next
4 week's afternoon actually could handle this
5 case, if that can work for others.

6 So we know Ms. Roddy is available.

7 Ms. Perry, are you available next week in the
8 afternoon?

9 MS. PERRY: I'll make myself
10 available.

11 CHAIRPERSON MILLER: Okay.

12 MS. PERRY: We don't usually ask
13 for delays and I'm usually used to staying
14 here late.

15 CHAIRPERSON MILLER: Okay.

16 MS. PERRY: So better late than
17 unusual.

18 CHAIRPERSON MILLER: Right. Then
19 there is that unusual situation tonight, yes.

20 MS. PERRY: For me anyway.

21 CHAIRPERSON MILLER: For you.
22 Would you like to take all of us with you?

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1 Ms. Roddy?

2 MS. RODDY: We are still looking at
3 the -- our calendars, but just for the sake of
4 putting it on the record, I just wanted to say
5 that we would object to a continuance only
6 because we were prepared this evening. We
7 don't believe that there is any harm presented
8 to the ANC's easiness. We have alleviated a
9 situation. We are complying with the Zoning
10 Regulations in providing what would be
11 required for loading.

12 So we don't see that as anything
13 that would be prejudicial. But again, I just
14 wanted to say that for the record that we
15 would be ready to proceed tonight. But we are
16 looking to see our availability for March 3rd.

17 CHAIRPERSON MILLER: Okay. And I
18 think the Board is also of the view that that
19 is not the reason that we would continue it,
20 that there is actually one less area of relief
21 that you are seeking and that wouldn't be
22 cause for continuance.

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1 We are considering a continuance
2 primarily because of the hour. And we do stay
3 late often, but often in those cases the
4 parties all agree to stay late. So that's the
5 wrinkle here. But we will consider if there
6 is some, you know, great prejudice to the
7 applicant by continuing it.

8 MS. RODDY: For the most part, our
9 project team is available. Unfortunately, the
10 representative from Walgreens is not. But we
11 can go forward on that date.

12 CHAIRPERSON MILLER: Okay. And
13 what I would say is, I mean, he has been here
14 for your testimony and for the cross of your
15 witnesses, but if there is some -- if
16 something comes up, you know, when this is
17 continued and you feel like you would be
18 prejudiced because this was continued when he
19 could not be here, then the Board would
20 entertain leaving the record open for his
21 input or whatever. Okay.

22 Anybody else want to speak to this?

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1 Okay. So it will be the second case then in
2 the afternoon next week, March 3rd. Maybe in
3 the week or so you can work out some other
4 differences and, you know, address some of the
5 concerns even voluntarily.

6 You know, we did hear testimony
7 from the Office of Planning a little bit about
8 general concerns with loading situations, not
9 specific to this particular case, and I
10 understood that you even had some discussions
11 about agreeing on certain things, such as, you
12 know, hours and things like that.

13 So I would encourage you all to
14 continue any talks on that matter. We're not
15 ordering you to, but that's all I have to say
16 on that.

17 And then we know now that the
18 subject though of the hearing next week will
19 be primarily the parking variances. Okay.
20 Any questions? All right.

21 MR. LEDERER: Thank you, Your
22 Honor?

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1 CHAIRPERSON MILLER: Thank you and
2 we will see you next week. Ms. Bailey,
3 anything else on the agenda for this
4 afternoon?

5 MS. BAILEY: No, Madam Chair.

6 CHAIRPERSON MILLER: Okay. Then
7 this hearing is adjourned.

8 (Whereupon, the Public Hearing was
9 concluded at 6:33 p.m.)
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