

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

DECEMBER 4, 2012

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
NICOLE SORG, Vice Chairperson
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist
STEPHEN VARGA, Zoning Specialist

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
BRANDICE ELLIOTT
STEPHEN MORDFIN
STEPHEN GYOR
ELISA VITALE

D.C. DEPARTMENT OF TRANSPORTATION:

ANNA CHAMBERLIN
MURAT OMAV

The transcript constitutes the
minutes from the Public Hearing held on December
4, 2012.

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

2 9:41 a.m.

3 CHAIRPERSON JORDAN: All right.

4 Good morning. Would this hearing please come
5 to order.

6 We're located in the Jerrily R.
7 Kress Memorial Hearing Room at 441 4th Street,
8 N.W. Today's date is December 4th, 2012 and
9 we're here for the Board of Zoning Adjustment
10 hearings today.

11 My name is Lloyd Jordan,
12 Chairperson. To my right is Jeffrey Hinkle,
13 Board Member. To my left is Nicole Sorg, Vice
14 Chair. To her left is Robert Miller, Zoning
15 Commission Member.

16 Please be advised that this
17 proceeding is being recorded by a court reporter
18 and also being webcast live. Therefore, I'm
19 going to ask you to refrain from any disruptive
20 noises in the hearing room today and ask that
21 we turn off or silence our cell phones.

22 The Board's hearing procedures and

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1 processes are contained in a booklet next to
2 the door to my left in the back. Feel free to
3 get that.

4 Prior to anyone testifying today,
5 I'm going to ask those people who plan to testify
6 in any case to stand and take the oath or
7 affirmation from the Board's Secretary.

8 Additionally, I'm going to ask that
9 you complete two witness cards each and present
10 them to the court reporter prior to testifying.

11 With that, so, all those who plan
12 to testify in any hearing today please stand
13 and take the oath or affirmation from the Board's
14 Secretary.

15 MR. MOY: Do you solemnly swear or
16 affirm that the testimony you're about to
17 present in this proceeding is the truth, the
18 whole truth and nothing but the truth?

19 Ladies and gentleman, you may
20 consider yourselves under oath.

21 CHAIRPERSON JORDAN: Thank you, Mr.
22 Moy. We can begin. Any preliminary matters

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1 that we can't handle outside of a case?

2 MR. MOY: No, sir.

3 All right. The first application
4 before the Board in its morning session is
5 Application Number 18454. This is the
6 application of Hilary Sills pursuant to 11 DCMR
7 3104.1. This is for a special exception to
8 allow a one-story addition, deck and
9 second-story sleeping porch to the rear of an
10 existing one-family dwelling under Section 223
11 not meeting the side yard requirements under
12 Section 405 in the R-1-B District at premises
13 3812 Woodley Road, N.W. Property located in
14 Square 1816, Lot 35.

15 Would the parties and person who are
16 going to testify in this matter please come
17 forward. Take a seat at the witness table and
18 yes, please give the cards to the court reporter.

19 Would you please identify
20 yourselves please?

21 Make sure you push the button.
22 You'll see a bright glowing green light.

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1 MR. ROUSE: Good morning. I'm
2 Michael Rouse, an Associate at Hamilton Snowber.

3 CHAIRPERSON JORDAN: Your last name
4 was Rouse?

5 MR. ROUSE: Rouse R-O-U-S-E.

6 CHAIRPERSON JORDAN: Okay.

7 MR. SNOWBER: And my name is
8 Christopher Snowber. I'm a Principal at
9 Hamilton Snowber Architects.

10 MR. ROUSE: We're here this morning
11 --

12 CHAIRPERSON JORDAN: Before you
13 begin, let me do some housekeeping here and let
14 me -- before we begin, I need to get clear from
15 the Applicant and OP do we have an issue with
16 lot occupancy that we need to grant relief for
17 in this matter?

18 I understand that there might be a
19 question on lot occupancy. We have a
20 self-certification that there's, what, 33.6
21 percent, but I want to verify that OP has
22 verified that we don't need the relief.

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1 MS. VITALE: OP did not identify lot
2 occupancy as an item for required relief.

3 CHAIRPERSON JORDAN: Okay. And
4 are we -- is the Applicant comfortable that you
5 don't need lot occupancy relief?

6 MR. ROUSE: Yes.

7 CHAIRPERSON JORDAN: Because if you
8 do, this is the time to ask for it.

9 MR. ROUSE: No.

10 CHAIRPERSON JORDAN: Okay. And
11 did you provide a letter of authorization for
12 your representation here this morning?

13 MR. ROUSE: The client emailed a
14 person at the Zoning Board giving us permission
15 to present today.

16 CHAIRPERSON JORDAN: Do we have
17 that? Do we have that authorization letter?

18 Do you have a copy of the letter of
19 authorization?

20 MR. ROUSE: On me, I do not. We
21 were the ones that signed the self-certification
22 form.

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1 CHAIRPERSON JORDAN: So, you didn't
2 get a copy of that which someone's suppose to
3 have emailed?

4 MR. ROUSE: I have a copy of the
5 email. I do not have a printed copy of it, sir.

6 CHAIRPERSON JORDAN: Okay. All
7 right. Give us a second.

8 MR. MOY: Mr. Chairman, on the
9 record, the Applicant or representing the
10 Applicant's application is correct. There's
11 a Zoning self-cert under Exhibit 5. No letter
12 of authorization --

13 CHAIRPERSON JORDAN: Right. We'll
14 accept you today representing the Applicant
15 today here. However, I want the record to be
16 supplemented with the proper authorization
17 letter and file and need to have that verified
18 beforehand in the future.

19 MR. ROUSE: Thank you, sir.

20 CHAIRPERSON JORDAN: Some Board --
21 anything else? Good. The Board has examined
22 the filings in this matter in the record and

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1 believes that there's sufficient filings and
2 evidence to support the request for relief
3 that's been made. The Board doesn't have any
4 -- at this time, have any questions for you and
5 it's your right to do a presentation if you wish
6 to do a presentation. However, you can waive
7 that and we can move and proceed on since the
8 Board believes there is sufficient evidence to
9 grant the relief.

10 MR. ROUSE: Go ahead. Go right
11 ahead.

12 CHAIRPERSON JORDAN: Then let's
13 turn to Office of Planning and see if Planning
14 has anything in addition to the report that
15 they've already submitted. Any additional
16 information.

17 MS. VITALE: Good morning, Mr.
18 Chair, Members of the Board. For the record,
19 Elisa Vitale with the Office of Planning.

20 We'll rest on the record. I can
21 answer questions if you have any now. Thank
22 you.

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1 CHAIRPERSON JORDAN: Does any Board
2 person have a question for Office of Planning?

3 Does the Applicant have any
4 questions for Office of Planning?

5 MR. ROUSE: No, sir.

6 CHAIRPERSON JORDAN: Is any other
7 District of Columbia agency or department here
8 today? I don't believe we have anything from
9 OP. Do we? I mean, excuse me, DOT. Do we?
10 No.

11 Is anyone here from ANC-3C?
12 Representing ANC-3C?

13 We do have a letter of no objection
14 submitted by ANC-3C which we will consider
15 although they didn't meet the requirements in
16 their letter to be granted great weight.
17 However, we will strongly consider their
18 recommendation of having no objection to the
19 request being offered.

20 Is there anyone in the audience who
21 wishes to speak in support of this application?
22 Anyone in support?

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1 Anyone in opposition wishing to
2 speak against this application for relief? In
3 opposition going once, going twice, sold.
4 Okay.

5 Then we normally return back to the
6 Applicant to do a rebuttal or closing, but I
7 think you don't have anything that you really
8 want to rebut unless you want to rebut yourself
9 and your filings. But, I don't think you want
10 to.

11 MR. ROUSE: No, sir.

12 CHAIRPERSON JORDAN: So, good.
13 Then we will close this hearing based upon the
14 record before the Board and move into
15 deliberations.

16 It would be my motion that we grant
17 the relief requested by the Applicant in the
18 application.

19 VICE CHAIR SORG: Second. Second.

20 CHAIRPERSON JORDAN: Motion made
21 and seconded to grant the relief as requested.
22 Any unreadiness? Seeing none.

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1 All those in favor signify by saying
2 aye.

3 (Ayes.)

4 CHAIRPERSON JORDAN: Those opposed
5 nay. The motion carries.

6 Mr. Moy.

7 MR. MOY: Yes, sir, staff would
8 record the vote as 4 to 0 to 1. This is on the
9 motion of Chairman Jordan to approve the
10 application for special exception relief under
11 Section 223, not meeting the side yard
12 requirements Section 405. Second the motion
13 Vice Chair Sorg. Also in support of the motion
14 Mr. Rob Miller and Mr. Hinkle. No other Board
15 Members sitting on the Board.

16 So, again, the motion carries on a
17 vote of 4 to 0 to 1.

18 CHAIRPERSON JORDAN: Thank you, Mr.
19 Moy. May we have a summary order please?

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

21 CHAIRPERSON JORDAN: Thank you.

22 MS. GLAZER: Mr. Chair.

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1 CHAIRPERSON JORDAN: Yes.

2 MS. GLAZER: Pardon me. Is the
3 Board going to make that contingent upon filing
4 the authorization?

5 CHAIRPERSON JORDAN: Yes,
6 certainly. Thank you. Thank you for reminding
7 me. We definitely need the authorization in
8 this file.

9 MR. ROUSE: Absolutely. Thank
10 you.

11 CHAIRPERSON JORDAN: Okay. Thank
12 you.

13 MR. MOY: The next application
14 before the Board as advertised is Application
15 Number 18449. This is the application of Israel
16 Baptist Church and Israel Manor, Inc. pursuant
17 to 11 DCMR 3104.1 and 3103.2 for a variance from
18 the parking requirements under Subsection
19 2101.1, special exception under Subsection
20 2116.3. This is for a community health facility
21 and ancillary church social and recreation space
22 to be erected as an addition to the existing

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1 church building with required on-site parking
2 located elsewhere than on the subject property
3 in the R-5-A District at premises 1251 Saratoga
4 Avenue, N.E. Property -- or rather restate
5 that. At premises 1251 Saratoga Avenue, N.E.
6 and 2403, 2706, 2409 and 2411 12th Street, N.E.
7 Property located in Square 3939, Lots 31, 33,
8 34, 35 and 36.

9 CHAIRPERSON JORDAN: All right.
10 Yes, um-hum, 2116. Yes. Correct. Yes, we
11 need to get that straight. Okay.

12 Would the persons at the witness
13 table please identify themselves? Yes.

14 REV. SHEARIN: Morris Shearin.

15 CHAIRPERSON JORDAN: Let's make
16 sure you sit closer to that microphone and make
17 sure the bright green light is on for you.

18 REV. SHEARIN: Morris Shearin.

19 CHAIRPERSON JORDAN: Is that light
20 on? Try it now.

21 REV. SHEARIN: Morris Shearin.

22 MR. KEYS: Good morning, Mr.

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1 Chairman. George Keys on behalf of the
2 Applicant.

3 MR. BOTTICELLO: Andy Botticello
4 with DDG.

5 MR. GEORGE: Good morning, Mr.
6 Chairman. Osborne George, Transportation
7 Engineer on behalf of the Applicant.

8 CHAIRPERSON JORDAN: Mr. Shearin,
9 you're here to --

10 REV. SHEARIN: I am the Pastor of
11 Israel Baptist Church and serve as President
12 and CEO --

13 CHAIRPERSON JORDAN: Very good.
14 Thank you.

15 REV. SHEARIN: -- of Israel Manor,
16 Incorporated.

17 CHAIRPERSON JORDAN: Before we
18 begin, I want to try to find out if we have all
19 the necessary relief and issues taken care of.

20

21 Let me turn to Planning just to have
22 a brief discussion regarding 2116.4(a). I

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1 think there was reference in your report that
2 the special exception relief needed to include
3 relief from this provision.

4 MS. BROWN-ROBERTS: Yes, Mr.
5 Chairman.

6 CHAIRPERSON JORDAN: I'm asking you
7 --

8 MS. BROWN-ROBERTS: I'm not sure of
9 the question.

10 CHAIRPERSON JORDAN: The question
11 is that I believe your report recommended that
12 the application be amended to include relief
13 from 2116.4(a) and I'm asking is that correct.
14 What you believe needs to happen.

15 MS. BROWN-ROBERTS: That is
16 correct. That is correct.

17 CHAIRPERSON JORDAN: And so, let me
18 ask Mr. Keys. Have you had a chance to do that
19 or review the necessity for that?

20 MR. KEYS: Yes, we have, Mr.
21 Chairman, and just let me give you a little
22 context.

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1 We met with the Zoning Administrator
2 and had a preliminary design review meeting
3 concerning this application with the site plan
4 that was filed with the original application
5 which showed a parking area on the western side
6 of the property approximately where it is now,
7 the current location and the focus was all on
8 parking counts and how the church would be
9 allocated parking, what the required parking
10 for the new addition would be, what parking would
11 be credited in the Bryant Street right of way.

12 All of those issues were joined, but the issue
13 of 2116.4 was never raised at that time.

14 Perhaps it was because the
15 Commission had just recently, in September 2011,
16 adopted 2116.4 or modified 2116.4 in the way
17 they did.

18 The Office of Planning has been
19 engaged with this application, but we never were
20 informed of 2116.4 as a potential in this
21 application until the OP report came out. So,
22 we are somewhat at a disadvantage in not being

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1 able to respond in our official communication
2 with the Board regarding the 2116.4.

3 I would, however -- I mean I do have
4 an argument to make concerning its application.

5 I'm not sure if you want me to make it now.

6 CHAIRPERSON JORDAN: Let me ask you
7 simply do you believe -- do you need the relief
8 or not from in your opinion?

9 MR. KEYS: I do not believe we need
10 the relief.

11 CHAIRPERSON JORDAN: All right.

12 MR. KEYS: And my argument would
13 rest on the fact that the Commission when it
14 adopted 2116.4 and let me get that. In the
15 order, Zoning Commission Order Number 1101,
16 September 12, 2011, the Commission confirmed
17 that existing parking spaces that do not conform
18 to the location restriction or the distance
19 requirement would be grandfathered.

20 In this instance, I would ask you
21 --

22 CHAIRPERSON JORDAN: That's in the

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1 order?

2 MR. KEYS: That's in the order.
3 It's on page 4 at the bottom. I'd be happy to
4 show it to you.

5 CHAIRPERSON JORDAN: Yes, if you
6 would give it to -- and we can make copies and
7 we can -- and certainly, I would want counsel
8 to take a look at it for us please to advise
9 me properly.

10 Okay. All right. While we work
11 out that particular issue, we can proceed on
12 with the hearing and we can then come back to
13 that matter.

14 MR. KEYS: Yes, Mr. Chairman, the
15 Applicant would have a couple of preliminary
16 issues that I think the Commission should
17 address.

18 CHAIRPERSON JORDAN: All right.

19 MR. KEYS: Because of -- well,
20 there's several things. Number one, we did not
21 believe that we would require a transportation
22 expert to testify in this case until the final

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1 round of meetings with DDOT when it was requested
2 that certain questions be addressed and the DDOT
3 letter and report which was submitted in this
4 case make reference to the technical memorandum
5 prepared by O.R. George and Associates who we
6 had engaged for transportation planning.

7 Consequently, we didn't know Mr.
8 George was going to be a witness for us at the
9 time of the supplemental filing in this case
10 and we would like to introduce Mr. George's
11 report, the technical memorandum which is
12 referred to in the DDOT report into the record
13 in this case and also to submit Mr. George's
14 résumé because we'd like him recognized as an
15 expert and qualified as an expert to testify
16 in this case.

17 CHAIRPERSON JORDAN: Just one
18 second please. And your basis for believing
19 that you need to have his testify is based upon
20 DDOT's support of your application?

21 MR. KEYS: Well, there were certain
22 issues related to the impact of Unity Health

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1 on the site. It goes to --

2 CHAIRPERSON JORDAN: Excuse me one
3 second. So, are you taking exception to the
4 two or three kind of conditions or
5 recommendations of DDOT? Is that what I'm
6 understanding?

7 MR. KEYS: No. No, it is support
8 our request because we had to further reduce
9 the amount of parking that we were requesting
10 for the variance in this case. We wanted to
11 show that based on Mr. George's understanding
12 and observation of the site and of how Unity
13 operates that we're providing an adequate
14 parking arrangement.

15 CHAIRPERSON JORDAN: Okay.

16 MR. KEYS: So, that 45 would not
17 present a situation that would cause any
18 detrimental impact on the community.

19 CHAIRPERSON JORDAN: Sir, it's your
20 case to present whichever way you want to. You
21 can tender the résumé and the report and let
22 us take a look at it and decide whether or not

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1 we will -- well, if he's going to testify, let's
2 take a look at it. Whether or not the question
3 is -- you can always testify about the report.

4 Whether or not we add it to the record becomes
5 -- he has the opportunity to do that through
6 testimony. But, let us take a look at the
7 résumé. Let us do an evaluation if Mr. George's
8 -- I think he's already in the book as an expert.

9 Have you testified before as an expert?

10 MR. GEORGE: Mr. Chairman, yes.

11 CHAIRPERSON JORDAN: I think you
12 have. So, we --

13 MR. GEORGE: Yes, many, many times.

14 CHAIRPERSON JORDAN: -- so, we did
15 verify that? He did. Okay. So, you've
16 already been qualified as an expert.

17 Mr. Keys, Mr. George has already
18 been accepted by this Board as an expert and,
19 of course, we will do so in this matter.

20 MR. GEORGE: Thank you. Okay.
21 Thank you.

22 CHAIRPERSON JORDAN: You are aware

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1 that there are some letters in opposition to
2 this particular request.

3 MR. KEYS: Yes, Mr. Chairman, I am.

4 CHAIRPERSON JORDAN: I think the
5 Board -- I don't know if the Board has any other
6 particular direction that they want you to go
7 in and to recommend during your presentation.

8 However, definitely would like for you to talk
9 in regards to the traffic issue and those issues
10 raised in opposition to this application.

11 Does the Board have any other
12 specific need or we can just raise it at the
13 time? Anything that you want to really focus
14 on? Okay.

15 Mr. Keys, the question was raised
16 in regards to the need for 2116.4. It's my
17 understanding that you believe that you don't
18 have to seek that type of relief because there's
19 a grandfather provision in the Board's order.

20 MR. KEYS: That's correct and --

21 CHAIRPERSON JORDAN: But, aren't
22 these new spaces?

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1 MR. KEYS: Well, my argument would
2 be that there were 41 spaces located in the area
3 subject to the location restriction and those
4 spaces were on the northern side of the property,
5 northern and western side of the property.

6 CHAIRPERSON JORDAN: So, you're
7 saying those spaces are going to be the same
8 spaces.

9 MR. KEYS: No, those spaces have
10 been shifted, but I'm -- in looking at the --

11 CHAIRPERSON JORDAN: So, you're
12 trying to argue that the spaces can then -- if
13 they would have been grandfathered. Now,
14 they're moving and if they should carry with
15 the grandfather. Is that what you're saying?

16 MR. KEYS: That is my argument.

17 CHAIRPERSON JORDAN: Are you
18 serious?

19 MR. KEYS: I am. I'm going to make
20 that argument. Yes, sir.

21 CHAIRPERSON JORDAN: Okay. Well,
22 then you're -- all right. So, either you ask

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1 for the relief or not.

2 MR. KEYS: And alternatively, I
3 would ask leave to amend the application to --

4 CHAIRPERSON JORDAN: I think that's
5 probably your simplest, best route to go.

6 MR. KEYS: That's correct.

7 CHAIRPERSON JORDAN: Okay.

8 MR. KEYS: All right.

9 CHAIRPERSON JORDAN: And I take
10 that as your oral motion to amend your
11 application.

12 MR. KEYS: It is my request that the
13 application be amended to provide for special
14 exception relief under 2116.5.

15 CHAIRPERSON JORDAN: And we will
16 accept that. Thank you.

17 Okay. You can begin your --

18 MS. BROWN-ROBERTS: Oh, Mr.
19 Chairman.

20 CHAIRPERSON JORDAN: Yes.

21 MS. BROWN-ROBERTS: Just to make
22 sure we get the section correct. It's 2116.4.

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1 CHAIRPERSON JORDAN: .4(a). Yes,
2 .4. Correct. Your microphone needs to be
3 turned -- yes.

4 MR. KEYS: All right. Mr.
5 Chairman, Members of the Board, the application
6 initially came before you as a request for a
7 variance to reduce the parking requirement
8 related to the church and the new addition which
9 will be used as a community health facility and
10 a special exception under 2116.3 which would
11 have allowed for required parking to be located
12 off-site.

13 We had assumed erroneously that
14 spaces located in the Bryant Street right of
15 way could be credited for the parking and in
16 discussions with DDOT, with the Public Space
17 Committee and with the Office of Planning, we
18 were persuaded to drop this relief. So, we have
19 reduced our relief to a request that we provide
20 45 spaces to support the proposed construction
21 on the site.

22 The Board should know that the

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1 Applicant is still working with Public Space
2 to attempt to work out an arrangement that would
3 allow for as much parking in the Bryant Street
4 right of way as possible. We understand that
5 that's not going to be recognizable in this
6 proceeding, but we think that that was a useful
7 background for the Board.

8 We'd like to present our case with
9 three witnesses. Reverend Shearin who's the
10 Pastor of Israel Baptist Church and also
11 President and CEO of the Israel Manor, Inc.,
12 both of the Applicants in this case. With Mr.
13 Andy Botticello who is a Principal with District
14 Development Group. He's a developer for this
15 addition and Mr. George who we've previously
16 identified as our transportation consultant.

17 I would ask, Reverend Shearin, if
18 you would begin with your statement.

19 REV. SHEARIN: Yes. I am Pastor of
20 the Israel Baptist Church as was stated and serve
21 as President and Chief Executive Officer of IMI.
22 Which is Israel Manor Incorporated. It was

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1 an organization of nonprofit status that was
2 created after the retirement of the indebtedness
3 of the church in 1994.

4 And as a result of that, we sought
5 to develop a kind of community outreach and in
6 so doing, we discovered that there was
7 businesses in our community and in having --
8 upon having a meeting with the businesses in
9 the community, we were able to meet with Unity
10 Health and from that meeting, we move forward
11 in the development of our Life Learning Center
12 to have exercise facilities for seniors. We
13 do have seniors now as well as child development
14 center in our church as it is.

15 And in doing that, we sought to bring
16 on and offer the opportunity for Unity Health
17 to come in and be a part of our ministry at the
18 Israel Church and the Life Learning Center.

19 That is an outgrowth also of the
20 health ministry that we had in existence in the
21 church for a number of years. We were able to
22 join in with the school systems and with persons

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1 in the community, seniors especially,
2 immunizations and so, the health ministry and
3 Unit Health was an idea for us that we had long
4 been looking for.

5 And the Life Learning Center Project
6 will enjoy support of many community residents.

7 It enjoys the support of most elected officials
8 within our city and it has been approved for
9 partial financing in the amount of \$2.5 million
10 in loan from DHCD. For the remaining 13 million
11 of its financing in the early months of the new
12 year, 2013, we will be seeking market tax credit
13 allotments that will help us to complete this
14 project.

15 It will offer so much for our
16 community and we want to enhance the church,
17 its mission as well as the community by placing
18 the facilities there.

19 CHAIRPERSON JORDAN: And the
20 mission of the church, how does this fulfill
21 the need for the mission of the church?

22 REV. SHEARIN: How will we fulfill

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1 the --

2 CHAIRPERSON JORDAN: How does this
3 relief?

4 REV. SHEARIN: Our mission for the
5 church is that the church would be a --

6 CHAIRPERSON JORDAN: Part of the
7 church's mission is providing health care,
8 health advice --

9 REV. SHEARIN: Right.

10 CHAIRPERSON JORDAN: -- improve
11 lifestyle.

12 REV. SHEARIN: And all that for the
13 citizens within the community. Yes.

14 MR. KEYS: Reverend Shearin, if I
15 could ask you, would you describe the efforts
16 that the church has made to engage the community
17 regarding this application?

18 REV. SHEARIN: Yes, we have had a
19 total of six meetings altogether seeking to
20 inform the community as well as involving the
21 community in what we are doing and what we would
22 like to do within the community and over the

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1 past 24 years, most persons in the community
2 that's involved with our church is aware of the
3 kind of things that we have been doing over the
4 years.

5 We have been a church that has made
6 its facilities available for all and every
7 activity that we have been asked to do.

8 CHAIRPERSON JORDAN: And you
9 believe this activity or more so this relief
10 is a necessity for the church to have in order
11 to do its programming and its church mission?

12 REV. SHEARIN: Yes, I do. This is
13 -- matter of fact, Chairman, it is a new approach
14 in this area. There is a facility that is in
15 Cleveland, Ohio, a friend of mine, that has
16 something similar to this and we would be
17 classified in that facility as a clinic within
18 that area to serve the citizens of Ward 5.

19 CHAIRPERSON JORDAN: All right.
20 Thank you.

21 MR. KEYS: Reverend Shearin, could
22 I ask you of the six meetings that you mentioned,

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1 were some of those ANC-5B meetings?

2 REV. SHEARIN: Yes, we had a total
3 of two ANC-5B meetings and we have had meetings
4 of the community. We passed out more than 300
5 flyers in the community informing persons of
6 what we were doing and we've had response from
7 that and some letters of support as well.

8 MR. KEYS: Thank you, Reverend
9 Shearin.

10 If the Board has no questions of
11 Reverend Shearin, I'd like to move to our next
12 witness Mr. Botticello and I think he's going
13 to be more specific in talking about the site
14 plan and the relief requested.

15 MR. BOTTICELLO: Thank you. As the
16 Board previously mentioned, this relief is
17 requested for the parking. So, this
18 presentation will focus on the parking and site
19 issues as opposed to the building design issues.

20 First, just to get oriented, our
21 site is between New York Avenue and Rhode Island
22 Avenue off of Brentwood Road and just so people

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1 would know, it's directly north of the Home Depot
2 that's located off of Brentwood Road.

3 This gives you an idea of the
4 surrounding land uses. The site we're talking
5 about is outlined in --

6 CHAIRPERSON JORDAN: Excuse me just
7 this one second. A couple of things. One, what
8 was this distributed? Is it about this case?

9 MR. MOY: I'm sorry, Mr. Chairman.
10 These are letters of support that was submitted
11 by the Applicant George Keys.

12 CHAIRPERSON JORDAN: When did we
13 get these?

14 MR. MOY: Just a moment ago.

15 CHAIRPERSON JORDAN: I really don't
16 like getting documents at the time of hearing.

17 That's just not the way we go and if you want,
18 I think, Mr. Keys, you know the proper procedure
19 to ask for leave to file these type of documents
20 and also, when we're in the process, in the
21 middle of a hearing, it kind of is not the way
22 to go.

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1 Let me put to the side for a second.
2 We can come back to these.

3 Additionally, Mr. Moy, can we have
4 the lights dimmed please so we can see?

5 MR. BOTTICELLO: Thanks. That
6 helps. So, the site we're discussing is
7 outlined and shaded in red and this map gives
8 you an idea of what's around the site. So, south
9 of the site is commercial including as you can
10 see from this aerial the Home Depot, also the
11 Brentwood Square Shopping Center. East of the
12 site is multifamily development. Directly
13 north is institutional in the form of another
14 church and then on the western side we have
15 residential single family houses. Further west
16 is industrial and mixed-use development around
17 the Rhode Island Avenue Metro Station.

18 Also, shown in blue is the existing
19 location of Unity Health. So, this project
20 incorporates Unity Health and Unity Health is
21 what, in effect, drove the request for the
22 parking variance. The churches expansion did

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1 not require any additional parking spaces. It
2 was the inclusion of Unity Health in the
3 application that drove this. So, we kind of
4 focused on --

5 CHAIRPERSON JORDAN: Are you sure
6 you want to say that? Because it's my
7 understanding that this is part of the church's
8 mission and need for this to happen. Correct?

9 MR. BOTTICELLO: That's true and
10 the church looked at how to best provide health
11 care services and Unity performed that function
12 better than the church could do because they're
13 a federally chartered institution and they're
14 able to provide services. So, you're correct.

15 So, as part of the church's mission, Unity will
16 help them pursue that.

17 But, their existing location is
18 shown in blue on that site and now -- so, we
19 looked at where are the current clients of Unity
20 coming from to try and analyze the parking and
21 traffic requirements and how we would address
22 those. So, when you're looking at the site and

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1 then looking at Unity's distribution of clients,
2 you can see that 25 percent of them come from
3 the zip code that the facility is currently in
4 now, 50 percent are from Ward 5 and 61 percent
5 come from the four zip codes surrounding the
6 site. So, a lot of Unity clients are in close
7 proximity to the existing site and the new
8 facility that'll be constructed.

9 So, to try and serve those client,
10 we took at the public transportation network
11 and I know this is going to be hard to read at
12 this scale. So, we'll zoom in in a minute, but
13 this just shows there's good transportation
14 access including the red line running within
15 a half a mile of the site and the also local
16 bus lines that run along Rhode Island Avenue
17 and actually right by the site which I'll show
18 you here.

19 So, this is the Metro location and
20 the site again and it's about 2100 feet from
21 the Metro entrance to the proposed entrance to
22 the site which is about a nine-minute walk.

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1 So, good access by Metro and in addition to that,
2 a lot of clients from Unity are going to be using
3 the bus. So, we looked at the bus access and
4 the proximity to the Metro helps bus access
5 because there are a number of bus lines that
6 terminate at the Metro Station. But, in
7 addition to that, there's a D8 bus which actually
8 wraps around the site and there's three bus stops
9 in close proximity to the site and that bus line
10 goes north/south and picks up a lot of
11 residential areas that I think people will be
12 using the facility.

13 In addition to this, a lot of the
14 users are actually within walking distance and
15 Mr. George when he presents the traffic study
16 notes that a number of people walk to the
17 existing facility.

18 We now wanted to move on to an
19 overview of the site. So, this is a zoom of
20 that site. You can see the Home Depot below
21 the facility, the church directly north, the
22 single family houses here along 12th Street and

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1 multifamily on this side. Unity's existing
2 location is just off the map down there.

3 Just for some perspective, this is
4 the area of the church that the new addition
5 is connecting to. All the common areas of the
6 church meet at this location and that's where
7 the new building will be connected to the church.

8 This is the parking lot that we were
9 talking about. The existing parking lot.

10 This is where the new addition will
11 be and the parking spaces will be relocated.
12 The existing trees along that area will all be
13 saved.

14 So, when we look at the site, there's
15 a number of site constraints that limit the
16 amount of parking that we can fit on the site.
17

18 The site's outlined in red. This
19 dotted red line right here is actually the
20 property line for the site and we'll be able
21 to look at this in a little more detail on the
22 slides that are coming up next.

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1 But, as you can see from the shape
2 of this, we are having to deal with a number
3 of issues. We have an irregular shape down
4 here. We have an out parcel at this area that
5 pinches the site at this point and then we've
6 got a triangle at this end to try and deal with
7 which obviously is -- you know, it's hard to
8 fit buildings and parking into those type areas.

9 We also have slopes. So, on this
10 side of the site, additional parking is really
11 not possible because of the steep slopes that
12 exist there now.

13 So, in dealing with those, this is
14 the configuration that was derived. So,
15 there's a connection point to the church. This
16 is the new addition and this is the parking
17 that's been relocated.

18 MR. KEYS: Mr. Botticello, how many
19 parking spaces in that relocated parking?

20 MR. BOTTICELLO: There's 35 spaces
21 in the new parking configuration.

22 As Mr. Keys mentioned, there was an

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1 original plan submitted and then it was revised
2 and so, we just wanted to go through those
3 revisions. So, the original plan is outlined
4 here that was submitted maybe five or six months
5 ago and since that time, as the Reverend
6 mentioned, we've had a meeting with the
7 community. We had a number of community
8 meetings. We got input from the community and
9 a couple of things came up and they're outlined
10 here.

11 There was a request from the
12 community to try and reduce the amount of traffic
13 that was on 12th Street. The project originally
14 had a two-way entrance on 12th Street. Meaning
15 that most of the traffic for the project would
16 come down 12th Street and enter the project and
17 then when leaving, it would exit. Twelfth
18 Street is one way. Turn left and go back through
19 Bryant Street to go out.

20 We agreed that that wasn't the best
21 arrangement. So, that was modified and that
22 modification required as to modify the entrance

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1 to the project.

2 In addition, we looked at the
3 parking configuration over here which is
4 partially public parking and partially private
5 parking and made modifications to that to
6 improve access to surrounding properties and
7 to improve the efficiency of the parking.

8 So, this is the revised site plan.

9 So, as you can see, the 12th Street entrance
10 has been eliminated and in its place is a two-way
11 entrance off of the existing Saratoga entrance.

12 So, this new plan requires no additional curb
13 cuts, but it does require the use of public space
14 at this point right here to allow a two-way
15 entrance to the parking lot. So, this is before
16 the Public Space Committee for the use of about
17 72 to 8 feet of space on this side.

18 In addition, we modified the parking
19 in this area. First, we moved the parking as
20 far back on the church property as was feasible
21 so that we have some spaces which are behind
22 the building restriction line and fully on

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1 church property. Those are the ten spaces that,
2 in addition to the 35, create the 45 spaces that
3 are provided on-site.

4 We also revised the parking plan in
5 the public space that's before the Public Space
6 Committee to include an entrance to Lot 801 which
7 is a nearby property and to allow for better
8 utilization of the parking for church parking.

9 And I think with that if there's any
10 questions on -- I mean the intent of this plan
11 -- so, let me -- I'm sorry. Let me go on one
12 more slide here. I think this will help. So,
13 just zooming in on this so you can see how we
14 did this, this shows the entrance being
15 eliminated on 12th Street, the two-way access
16 on Saratoga creating 35 spaces on this side of
17 the site.

18 CHAIRPERSON JORDAN: Is that the
19 space where there's already parking?

20 MR. BOTTICELLO: This side is --
21 there's existing parking that's being
22 relocated. Correct.

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1 On this side of the site, this is
2 all existing paving except for this very edge
3 right here.

4 CHAIRPERSON JORDAN: That top arrow
5 there to the left, what is that arrow?

6 MR. BOTTICELLO: That's show the
7 new entrance that was created. So, these are
8 showing the changes to the plan.

9 So, the original plan did not have
10 access to Lot 801 and we realized that DDOT's
11 plan for the circle would probably not allow
12 another curb cut for Lot 801. So, the proposal
13 is to create an entrance that would use the
14 existing curb cut here and then enter Lot 801
15 right there.

16 We don't have a site plan from the
17 owner of Lot 801 to coordinate with, but when
18 they provide one, we'll coordinate this parking
19 arrangement with their site plan.

20 This arrow represents the shift in
21 the parking back towards the church. So, trying
22 to get as much parking as we could on the site,

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1 we moved the parking back as far as we could
2 to the edge of the church.

3 This plan shows both public parking
4 on this side of the property line and the private
5 parking on this side. In the parking count that
6 we provided, the blue spaces are the only ones
7 that are counted. Those are the spaces that
8 are fully on church property and also behind
9 the building restriction line. So, that's
10 another change from the original plan. These
11 were moved back so that these are now behind
12 the building restriction line.

13 CHAIRPERSON JORDAN: And that gives
14 you a total of 35?

15 MR. BOTTICELLO: Forty-five
16 spaces.

17 CHAIRPERSON JORDAN: Forty-five?

18 MR. BOTTICELLO: So, 35 on the other
19 side and ten on this side.

20 CHAIRPERSON JORDAN: Okay.

21 MR. KEYS: Mr. Botticello, before
22 you leave the parking issue, could you go back

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1 to the larger view of the revised site plan?
2 I think one more back. That's it.

3 Now, for the purposes of 2116.4,
4 that section would prohibit the location of
5 parking between a lot line abutting a street
6 and either the line of the building or the
7 building facade.

8 Now, this site is bounded by four
9 streets. Is there any place on the site that
10 parking could be located consistent with 2116.4?

11 MR. BOTTICELLO: We didn't see an
12 area that you could park. As a matter of fact,
13 this parking lot was designed to meet the
14 requirement that we thought we were under which
15 was to be behind the building restriction line.

16 So, this parking lot was moved back from the
17 street to be behind the building restriction
18 line, but, you know, if you apply that to this
19 site since this is actually a public right of
20 way, you would not be allowed to park here
21 although those would be grandfathered. The
22 same would be true on all sides of the site except

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1 for maybe this area right here obviously which
2 doesn't work. So, there is really no area on
3 the site that we would be able to put parking
4 applying that rule.

5 CHAIRPERSON JORDAN: And so, that's
6 why relief from 2116.4 is necessary?

7 MR. BOTTICELLO: Correct. We now
8 have a transportation summary from our
9 transportation engineer and I'll start that.

10 MR. GEORGE: Mr. Chairman, with due
11 respect for your timer and considering the fact
12 that Mr. Botticello touched on several aspects
13 of the transportation, I would like to say that
14 we concur -- we worked closely with DDOT. We
15 concur with their findings and I'm available
16 to answer any questions that the Board may have.

17 CHAIRPERSON JORDAN: Mr. Moy, can
18 we have the lights please?

19 Does the Board have any questions
20 for the Applicant or Mr. George or Mr.
21 Botticello? Any questions? Okay.

22 Mr. Keys, is there something else?

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1 We got a few seconds left. Anything else you
2 want to present to us.

3 MR. KEYS: No, Mr. Chairman. I
4 would simply reserve the time to make a closing
5 statement.

6 CHAIRPERSON JORDAN: Um-hum.
7 Sure. Thank you.

8 Are there any questions? Mr.
9 Miller.

10 ZC COMMISSIONER MILLER: Thank you,
11 Mr. Chairman.

12 So, Mr. George, you said that the
13 Applicant does agree with all the conditions
14 that were recommended by DDOT. Correct?

15 MR. GEORGE: Yes, sir, that's my
16 understanding.

17 ZC COMMISSIONER MILLER: And that
18 includes the requested pedestrian and bicycle
19 analysis with any needed mitigation members,
20 the inverted bicycle racks at the main entrance
21 of each building and a pedestrian entrance off
22 of 12th Street?

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1 MR. GEORGE: Yes, Commissioner
2 Miller. In fact, we're disadvantaged by the
3 light, but I would say that we already developed
4 that information which includes an inventory
5 and documentary of all of the pedestrian
6 facilities, sidewalks, crosswalks, pedestrian
7 ramps, special pedestrian signage, et cetera
8 within the immediate vicinity of the church that
9 would facilitate access particularly to the bus
10 stops and to the Metro Station.

11 We've notified Ms. Chamberlin that
12 we're prepared to submit this formally together
13 with a brief memorandum for the record.

14 ZC COMMISSIONER MILLER: And will
15 that also include a pedestrian -- showing the
16 pedestrian path from the Home Depot parking lot?

17 MR. GEORGE: Yes, shows all of the
18 pedestrian pathways.

19 I would just in summary say that the
20 roadway network was recently upgraded by the
21 city including the new around about adjacent
22 to the church. They're pretty much state of

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1 the art pedestrian facilities. Wide crosswalks
2 that are highlighted, striped. Pedestrian
3 ramps and good and effective signage.

4 There are sidewalks along all
5 sections of the street except for approximately
6 100 feet. We can't quite see, but along the
7 south side of Bryant Street and this does not
8 in anyway encumber access between the Metro
9 Station and the site or between the site and
10 the bus stops and the community in general.

11 MR. BOTTICELLO: Just could I
12 interject on that. Just one more point about
13 DDOT's request. There was a request for an
14 entrance from 12th Street. So, that's not shown
15 on the plan, but we definitely will incorporate
16 that. We want to work with the residents. We
17 are working on that side of the site as far as
18 making sure that there's a landscape buffer
19 between our existing parking and the 12th Street
20 and would want to incorporate into that the
21 design of the access point from 12th Street to
22 the parking lot and do that in cooperation with

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1 the residents is the best way that that would
2 happen.

3 MR. GEORGE: And Mr. --

4 ZC COMMISSIONER MILLER: Right.
5 The vegetative screening was one of the
6 recommendations of the Office of Planning in
7 their report. Between --

8 MR. BOTTICELLO: Right and the
9 community requested the same type of screening.

10 ZC COMMISSIONER MILLER: And just
11 finally, Mr. Chairman, the OP report indicates
12 that the Applicant or the church has been in
13 discussions with Home Depot regarding the use
14 of their parking lot for spill-over parking on
15 Sundays.

16 Can you inform us of what the status
17 of those parking arrangements are?

18 REV. SHEARIN: That's correct. We
19 are. Yes, they could not prepare us a statement
20 by today's meeting, but we're in contact with
21 Mr. John Downing who is in Delaware. But, they
22 are looking at the proposal that we had submitted

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1 to them.

2 There is land that's behind the
3 Giant supermarket and that's space that could
4 be used and we do have bus and vans for shuttle
5 transportation especially on Sundays and for
6 other events that we would have.

7 We inquired and sought parking on
8 Home Depot, next to Home Depot, that's adjacent
9 to the property that we own behind Bank of
10 America that we plan to do senior housing.
11 Well, we are going to do senior housing, but
12 Home Depot could not grant us permission to park
13 because the grounds there of Home Depot and Giant
14 is owned by another management company and the
15 manager's out of Delaware.

16 ZC COMMISSIONER MILLER: Thank you.

17 CHAIRPERSON JORDAN: Okay. Mr.
18 Hinkle, did you? No. Okay.

19 MR. GEORGE: Mr. Chairman, I would
20 be remiss as a transportation engineer and
21 planner if I didn't point out to the Board that
22 I think this is a classic case of a favorable

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1 working situation for shared parking.

2 The church has existed for a long
3 time. We know the usage pattern of the parking.

4 Unity is within the same block and so, we know
5 the usage pattern and demands and we were able
6 to quantify those levels of parking.

7 And looking forward, what we did was
8 took the parking demand of the clinic and the
9 church and we factored them up considerably.
10 The church parking we assumed a 50 percent
11 increase during daytime hours on weekdays when
12 there would be shared use of the facilities.
13 We assumed 50 percent increase in their parking
14 demand.

15 There are certain unknowns
16 regarding the clinic and so, we took their
17 parking supply, parking demand which we could
18 determine right now and we factored that by three
19 and combining the two, this shows the total
20 parking spaces on the site and we're talking
21 about weekdays because the clinic is only open
22 on weekdays. So, there would be 82 spaces on

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1 the site including the 37 spaces within the
2 public right of way.

3 CHAIRPERSON JORDAN: Eight-two
4 spaces on the site?

5 MR. GEORGE: On the combined site.
6 Forty-five within the site.

7 CHAIRPERSON JORDAN: On and off.

8 MR. GEORGE: Within the site.
9 Thirty-seven assuming that the church gets
10 permission by the Public Service Commission to
11 use that space.

12 CHAIRPERSON JORDAN: Now, I thought
13 that the health center had an 83 parking space
14 requirement by itself.

15 MR. GEORGE: Yes. Yes,
16 technically it does.

17 CHAIRPERSON JORDAN: Okay. And
18 then the church had a parking requirement of
19 53.

20 MR. GEORGE: Fifty-three. Yes.

21 CHAIRPERSON JORDAN: And so,
22 overall, we're going to provide how many?

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1 MR. BOTTICELLO: Forty-five are
2 going to be on-site.

3 CHAIRPERSON JORDAN: And then 37
4 are going to be off-site.

5 MR. BOTTICELLO: Correct. And we
6 think this is a good example of the shared
7 parking. I know there's no provision right now
8 in the District to apply under shared parking,
9 but it shows how these two uses can use the same
10 pavings. So, instead of paving more ground here
11 for a clinic that's going to use spaces during
12 the weekday and the church which needs them on
13 the weekend, I think this shows how you can
14 combine those two uses which operate at
15 different hours and use the same parking spaces.
16 So, we think that's why this is going to work.

17 MR. KEYS: Mr. George, would you be
18 a little more specific in terms of how you
19 derived Unity's parking needs?

20 MR. GEORGE: Yes, Unity, as was
21 stated, is within the 1200 block of Brentwood
22 Road. That facility would move one block north

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1 to the church and so, we were able to observe
2 the usage, the patron arrival and the departure
3 patterns as well as the mode splits and I would
4 mention that there is, indeed, a good mode split.

5 Only 40 percent of the patrons use vehicles.

6 Forty percent are dropped off and approximately
7 20 percent walk and so, with that -- assuming
8 that that type of travel mode pattern would
9 continue, it was able -- we were able to
10 determine the projected parking needs on the
11 site.

12 CHAIRPERSON JORDAN: Are there any
13 other questions that we have for the -- well,
14 let me just go back. I see from the report that
15 the only traffic impact is about 15 vehicles
16 during the peak hour.

17 MR. GEORGE: That is our estimate.

18 It's important to point out, Mr. Chairman, the
19 fact that the clinic is already within the area
20 that traffic is already on the road network.
21 So, technically, we're already adding
22 insignificant traffic to the network in general.

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1 CHAIRPERSON JORDAN: Reverend
2 Shearin, let me ask you a question. Presently
3 without this addition, do we have any parking
4 issues with the church? Are you handling
5 complaints or do you get complaints in regards
6 to parking?

7 REV. SHEARIN: We do not have any
8 complaints. There may be some complaints, but
9 it's not to my knowledge that we at the church
10 receive any kind of complaint.

11 However, on-site on Sunday, we have
12 security and persons who work the parking area
13 and we park cars utilizing all of our parking
14 lots. If you go in and park as the parking lot
15 is striped, you get a certain number in, but
16 when someone is out there working it, you can
17 put in a lot of cars.

18 We have enjoyed a lot of parking
19 space unlike a lot of other churches in our area.

20 CHAIRPERSON JORDAN: Now, you
21 conversation with -- well, is it Home Depot not
22 or another entity?

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1 REV. SHEARIN: No, it's another
2 management company that is handling the land
3 that Home Depot facilities are on and initially,
4 when Home Depot came there, we did get a letter
5 of agreement, but it was under a different
6 manager. So, that manager is no longer around.
7 So, we had to start the whole process all over
8 again.

9 Home Depot is in favor of what we
10 would like to do. However, they do not own the
11 land and so, the land is under a management
12 company out of Delaware.

13 CHAIRPERSON JORDAN: Are there any
14 other questions for the Applicant?

15 REV. SHEARIN: And they are real
16 leased with us in our effort to try to improve
17 the community.

18 CHAIRPERSON JORDAN: Okay. Does
19 that Board have any other questions of the
20 Applicant?

21 Let's turn now to the Office of
22 Planning please.

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1 MS. BROWN-ROBERTS: Again, good
2 morning, Mr. Chairman and members of the BZA.

3 For the record, this is Maxine
4 Brown-Roberts from the Office of the Planning.

5 Just to summarize, the Office of
6 Planning recommends approval of the requested
7 parking relief, variance parking relief as we
8 believe that they have met the three-prong test.

9 Regarding the special exception for
10 2116, that section outlines a number of
11 conditions that need to be met and from our
12 analysis, the Applicant has met each of those
13 conditions and, therefore, we recommend
14 approval of the application contingent on the
15 conditions that we have outlined and any that
16 may be submitted by DDOT.

17 Thank you, Mr. Chairman.

18 CHAIRPERSON JORDAN: Thank you.
19 Are there any questions the Board may have of
20 the Office of Planning? Anyone? Mr. Hinkle?

21 MEMBER HINKLE: Good morning.
22 Just a question. One of the conditions you

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1 state is a recommendation for a vegetative
2 screening --

3 MS. BROWN-ROBERTS: Yes.

4 MEMBER HINKLE: -- to some of the
5 views from the residential areas, but you don't
6 describe what type of screening you would be
7 looking towards. Could you?

8 MS. BROWN-ROBERTS: Well, I think
9 that the screening -- as I said, it's a
10 vegetative screening. So, I think we would
11 leave the up to the Applicant and, you know,
12 committee or the adjacent property to come up
13 with something to show us.

14 MEMBER HINKLE: Just speaking of
15 bushes that might mature to --

16 MS. BROWN-ROBERTS: Right. To a
17 certain height. Yes. Yes.

18 CHAIRPERSON JORDAN: Ms. Sorg.

19 VICE CHAIR SORG: Thank you, Mr.
20 Chairman. Just as a follow-on to Mr. Hinkle's
21 questions. Regarding the conditions that
22 you're proposing on the second one, I wonder

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1 if -- and maybe this is a question for somebody
2 else. Have you seen it before or is it customary
3 for the Board to condition upon approval of
4 Public Space Committee? I mean since we can't
5 consider the spaces in public space under the
6 request for relief, I'm not certain whether the
7 condition here would be appropriate.

8 Can you comment further on it?

9 MS. BROWN-ROBERTS: I tend to agree
10 with you a bit on that. I think what we wanted
11 to bring across was that, you know, there were
12 these additional spaces there that meant to be
13 -- that would be used.

14 I think maybe that it could have been
15 worded a little differently. You know, not
16 really indicating the Public Space Committee,
17 calling that out, but I think the intent is
18 there.

19 VICE CHAIR SORG: Okay. So, you
20 might instead require -- you might instead
21 propose a condition that says something like
22 the provision of 37 -- at least 37 --

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1 MS. BROWN-ROBERTS: The outside
2 spaces.

3 VICE CHAIR SORG: -- outside
4 spaces.

5 MS. BROWN-ROBERTS: Yes.

6 VICE CHAIR SORG: Kind of thing.

7 MS. BROWN-ROBERTS: Yes.

8 VICE CHAIR SORG: Okay.

9 MS. BROWN-ROBERTS: Yes.

10 VICE CHAIR SORG: Okay. That
11 clears it up for me.

12 MS. BROWN-ROBERTS: And also, you
13 know, I think this may also be caught more in
14 the recommendations coming from DDOT also.

15 VICE CHAIR SORG: Um-hum. Um-hum.
16 Okay.

17 MEMBER HINKLE: And if I could
18 follow up. I'm sorry. On my question, I just
19 noticed you highlight Lot 32 for the vegetated
20 screening, but is there a home on Lot 30? Is
21 there another home there to the north of the
22 property?

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1 MS. BROWN-ROBERTS: I'm not sure.
2 I'm not certain.

3 MR. BOTTICELLO: Yes, there is a
4 home there.

5 MEMBER HINKLE: Yes, there is.
6 There is a home there.

7 Would the Applicant be open to
8 screening both Lot 30 and Lot 31 -- 32? I'm
9 sorry.

10 MR. BOTTICELLO: Yes, well, the
11 church owns Lot 31 and so, the church parcel
12 between two existing houses and yes, we would
13 be open to screening both of those existing
14 residential and we're happy to work with either
15 fencing or landscape screening whichever the
16 residents prefer on those two sides of the
17 project.

18 MEMBER HINKLE: Okay. And there's
19 no fencing now between the church properties
20 and the homes or --

21 MR. BOTTICELLO: On one side,
22 there's a fence. On the homeowner's side of

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1 the property. The homeowner installed.

2 MEMBER HINKLE: Okay.

3 MR. BOTTICELLO: So, we would work
4 with the homeowner directly about how she would
5 want to deal with that property line.

6 MEMBER HINKLE: Great.

7 MR. BOTTICELLO: There's a grade
8 differential right now that's also a problem
9 which we are addressing. There's other issues
10 that we work with the residents on storm drainage
11 and such that occur at that point.

12 MEMBER HINKLE: Okay. Thank you.

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

17 MR. KEYS: No, Mr. Chairman.

18 CHAIRPERSON JORDAN: Then let's
19 move to the Department of Transportation.

20 MS. CHAMBERLIN: Good morning.
21 I'm Anna Chamberlin with the Department of
22 Transportation.

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1 CHAIRPERSON JORDAN: I'm sorry. I
2 didn't hear your name.

3 MS. CHAMBERLIN: Anna Chamberlin.

4 As already mentioned, DDOT's in
5 support of the parking variance request by the
6 church and we have put the conditions. We
7 wanted to see a pedestrian and bicycle facility
8 analysis directly surrounding the site just to
9 insure that they were compliant and up to
10 standard.

11 In addition, in order to support
12 further pedestrian activity and access to the
13 site and bicycle access to the site, we wanted
14 to see bike racks installed in the main entrance
15 and a pedestrian access off of 12th Street which
16 would help reduce the walking time from the Metro
17 Station to allow pedestrians to come down Bryant
18 into 12th Street instead of going up Rhode Island
19 over to the Saratoga entrance.

20 In regards to the parking, currently
21 the church provides 41 parking spaces on their
22 site and as we understand it, there are no

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1 changes or activities will be modified under
2 this application for the church activities and
3 we saw this as essentially an application for
4 the reduction of the requirements for the Unity
5 Health Care and we feel given the current
6 existing conditions for the Unity Health Care
7 that they can be accommodated in the proposed
8 parking set up that they have with the -- I guess
9 the 35 on the site. The ten that would be
10 accessed off of the Bryant Street right of way.

11 Which would then provide an additional 37 for
12 a total of 92. So, an increase in the existing
13 parking configuration.

14 CHAIRPERSON JORDAN: Let's go over
15 those numbers again. Right. On the numbers.

16 MS. CHAMBERLIN: Yes.

17 CHAIRPERSON JORDAN: Um-hum. Go
18 over that again.

19 MS. CHAMBERLIN: So, currently, the
20 church has 41 parking spaces on their property
21 accessed off of Saratoga Avenue and then the
22 Bryant Street right of way there are an

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1 additional spaces that's being currently used
2 by the church.

3 My understanding is then under the
4 redesign of the facilities they will have 35
5 spaces off of Saratoga where they originally
6 had 41 and then they're also able to provide
7 ten spaces on private property as discussed with
8 access off of Bryant Street and then the redesign
9 of the Bryant Street configuration would give
10 them another 37. So, it's 47 spots off of Bryant
11 Street plus the 35 off of the Saratoga.

12 CHAIRPERSON JORDAN: That comes to
13 82.

14 MS. CHAMBERLIN: Is that 82?

15 CHAIRPERSON JORDAN: Yes.

16 MS. CHAMBERLIN: Okay.

17 CHAIRPERSON JORDAN: I think you
18 said 92. I could be wrong, but I thought you
19 said 92.

20 MS. CHAMBERLIN: Yes. No, that's
21 correct.

22 CHAIRPERSON JORDAN: Right? So, I

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1 wanted to redo those numbers.

2 Does the Board have any questions
3 for the Department of Transportation? Does the
4 Applicant have questions or corrections to
5 Department of Transportation?

6 MR. KEYS: No, I think the
7 clarification was made on the record.

8 CHAIRPERSON JORDAN: Because it was
9 92 and now it's 82. Right?

10 MR. KEYS: Eighty-two is correct.

11 CHAIRPERSON JORDAN: Okay. That's
12 -- all right. Are there any other governmental
13 agencies that are present?

14 Let's move now to ANC. Do we have
15 a representative of ANC-5B?

16 MS. JAMES: Yes, sir.

17 CHAIRPERSON JORDAN: I don't
18 believe we have a letter from the ANC-5B. We
19 have a single member -- a letter from a single
20 member district, but not the ANC itself. Am
21 I correct, Mr. Moy?

22 MR. MOY: That's correct, Mr.

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1 Chairman.

2 CHAIRPERSON JORDAN: Okay. So,
3 then the ANC-5B can speak in regards to one of
4 the groups either in support or in opposition
5 when we get to that.

6 So, we have no letter from ANC-5B.
7 Okay.

8 Is anybody in the audience wishing
9 to speak in support of this application?

10 Let me say for the record we have
11 received and will receive for one time and one
12 time only late submissions of letters of support
13 that was tendered to the Board of several people
14 regarding this particular issue and the relief
15 that's being requested. I guess there's what?

16 One, two, three, four, five, six. I think six
17 letters.

18 Then I have a letter from Chairman
19 Phil Mendelson of the D.C. Council not speaking
20 necessarily toward the relief being granted,
21 but in support of the -- the Department of
22 Housing and Community Development to support

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1 the CBDG funding for this project.

2 So, anyone wishing to speak in
3 support? Yes, please. If you would come up
4 to the witness table. Yes. Um-hum.

5 Sit by one of the microphones. Any
6 of the microphones and just make sure the green
7 button is turned on. Is the green button lit?

8 No, I don't think so. Push the button that
9 say push. Yes. Say something now.

10 MS. BUNDY: Good morning.

11 CHAIRPERSON JORDAN: Okay. And I
12 think you were here to be sworn in. Correct?

13 MS. BUNDY: Yes, sir, I was.

14 CHAIRPERSON JORDAN: And you turned
15 in witness cards to the court reporter?

16 MS. BUNDY: Yes, sir, I did.

17 CHAIRPERSON JORDAN: Good. Very
18 good. Would you tell us your name please?

19 MS. BUNDY: Yes. Good morning.
20 My name is Michelle Bundy.

21 CHAIRPERSON JORDAN: Okay. Ms.
22 Bundy, you have three minutes to speak please.

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1 MS. BUNDY: Okay. Mr. Chairman and
2 Members of the Zoning Board, good morning.

3 My name is Michelle Bundy. I reside
4 at 2308 13th Place, N.E. and have done so for
5 57 years. In fact, four generations of my
6 family are native Washingtonians.

7 With the ongoing gentrification and
8 revitalization, it is paramount that the Israel
9 Life Learning Center application be approved
10 so that the neighborhood will indeed encompass
11 the ongoing changes within the District of
12 Columbia.

13 I have lived here in the ANC-5B03
14 area most of my adult life. This letter is to
15 express my enthusiastic support of the Israel
16 Life Learning Center project.

17 I support this project because I
18 believe it will create very desirable health,
19 social and civic facilities which will assist
20 the residents of Ward 5. To that end, I know
21 it will produce new jobs and economic
22 opportunity for local citizens and enable more

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1 faith-based led services to be made available
2 to low and moderate income residents of Ward
3 5 and the District of Columbia.

4 Please know I attended the 5B03
5 meeting at Israel Baptist Church on November
6 29th, 2012 and the September 24, 2012 meeting
7 sponsored by Israel Manor and Israel Baptist
8 Church.

9 In reference to the parking variance
10 issue, because this site is situated within
11 close walking distance of several public bus
12 lines and a Metro Station, I do not believe it
13 will create negative traffic or parking problems
14 within the immediate area.

15 I trust you will approve Israel's
16 parking variance request so that this project
17 can come to fruition for the benefit of our
18 community and the immediate neighborhood.

19 Thank you.

20 CHAIRPERSON JORDAN: All right.

21 Thank you.

22 Does the Board have any questions

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1 for Ms. Bundy? Does the Applicant have any
2 questions of Ms. Bundy?

3 MR. KEYS: No, Mr. Chairman.

4 CHAIRPERSON JORDAN: Ms. Bundy, we
5 appreciate it. Thank you very much.

6 MS. BUNDY: Thank you very much.

7 CHAIRPERSON JORDAN: Is there
8 anyone in the audience wishing to speak in
9 opposition to the application? Would you
10 please come to the microphone and I'm going to
11 ask -- yes, if you shift down. Yes. Thank you.

12 Would those people wishing to speak
13 in opposition please come forward and sit at
14 a microphone please and be sure that the
15 microphone is turned on. You should have a
16 bright glowing green light in front of you.

17 I'm going to ask have the five of
18 you been sworn in this morning? You weren't?

19 Okay. Let me -- you two have been sworn in.

20 Okay.

21 Would you please stand and take the
22 oath from -- Mr. Moy?

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1 MR. MOY: Oh, I'm sorry. Do you
2 solemnly swear or affirm that the testimony
3 you're about to present in this proceeding is
4 the truth, the whole truth and nothing but the
5 truth?

6 Consider yourself under oath.

7 CHAIRPERSON JORDAN: Have the two
8 of you prepared -- well, have the five of you
9 prepared witness cards, two each and give them
10 to the court reporter? All right. Thank you.

11 And each will have three minutes to
12 speak towards this. If we hear repetitive, the
13 same issues over and over again, then I'm going
14 to ask you to just say that my issues are the
15 same as a person who spoke and if you have
16 something different, certainly add into it.
17 Okay.

18 So, let's start to my left please.
19 Your name?

20 MR. HASKINS: My name is James. I
21 see the green light. Can you hear me?

22 CHAIRPERSON JORDAN: Is it glowing

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1 green? Okay.

2 MR. HASKINS: Yes. I believe I'm
3 that close.

4 My name is James Haskins.

5 CHAIRPERSON JORDAN: All right.
6 There it is. I can see it. Say something else.

7 MR. HASKINS: Okay. My name is
8 James Haskins.

9 CHAIRPERSON JORDAN: Okay, Mr.
10 Haskins.

11 MR. HASKINS: And I live at 2414
12 12th Street, N.E. right across from the proposed
13 parking lot.

14 And I guess I'm just here to, you
15 know, express my concern about our quality of
16 life in our neighborhood. You know, we strive
17 to maintain a certain quality of life, the
18 integrity in our neighborhood. It's a small
19 community. Basically, made up of senior
20 citizens and young families and it's basically
21 a one-way street and as you can see, it's
22 bordered by Home Depot and the church and Rhode

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1 Island Avenue.

2 So, we're small and we're kind of
3 boarded in, cornered in and most times, it's
4 fairly quiet there.

5 On Sundays, we do have a lot of
6 traffic from -- there are three or four churches.

7 Israel Church. There's the Isle of Patmos and
8 there's another Christian church up the street
9 and all of their parking does flow -- overflow
10 into our neighborhood and that causes parking
11 problems and, you know, we've not complained
12 publicly, but we tried to be tolerant of that
13 aspect of it.

14 And I guess basically we just want
15 your consideration in helping us maintain our
16 quality of life. This proposal of this facility
17 I think is a good one, but, you know, it does
18 bring more traffic into our neighborhood, you
19 know. Into our little section of Ward 5. It
20 may not impact other areas of Ward 5, but it
21 directly impacts our area and it will bring more
22 traffic in either from cars coming in or from

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1 people coming through from the Metro. To and
2 from the Metro through our area.

3 I am opposed to having access from
4 12th Street because that would be directly
5 across from my house.

6 I am concerned about the fence or
7 the vegetative barrier, whatever that would be,
8 because that would not prevent traffic from
9 coming in and through my area or our area of
10 12th Street and into our community, in and out
11 of our community.

12 We currently have problems with
13 people coming through there now and this will
14 bring more people through and we just ask for
15 your consideration in helping us maintain the
16 quality of our neighborhood, the quietness and
17 the security that we do enjoy now.

18 CHAIRPERSON JORDAN: Thank you, Mr.
19 Haskins.

20 MR. HASKINS: Thank you.

21 CHAIRPERSON JORDAN: Appreciate
22 it. Thank you for taking the time.

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1 Next please. Identify yourself.

2 MR. CHANDLER: Good morning. My
3 name is Raymond Chandler. I live at 1013 Bryant
4 Street, N.E. I am the former ANC Commissioner
5 5B03.

6 Today, I'd like to speak with
7 regards to the proposed Israel Manor,
8 Incorporated Life Center.

9 I have lived in the impacted
10 neighborhood for over 40 years as well as many
11 of many of my neighbors.

12 For the last 14 years, we have been
13 fighting against this project that clearly
14 affects our quality of life. As we come before
15 the BZA today, here are some of our strong
16 concerns voiced from our neighbors.

17 One, the site at 2400 block of Rhode
18 Island Avenue is surrounded by large
19 developments like the Rhode Island Avenue Metro,
20 the Home Depot Shopping Center and now the Rhode
21 Island Avenue Row. Each of these developments
22 daily bring in thousands of people from five

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1 other communities in Ward 5 such as Edgewood,
2 Eckington, Woodbridge and Brookland and Ivory
3 City.

4 We have not even factored in the
5 Maryland residents that use these as well.

6 We are closed in and being
7 overdeveloped and cannot handle the vast demand
8 of parking.

9 During the 27 years since Israel
10 Church has been our neighbor, we have watched
11 them buy and illegally tear down five homes in
12 the 2400 block of 12th Street and forever
13 affecting the continuity of our community.
14 We've endured fires, flooding and rodents
15 concerns that have accompanied the removal of
16 these homes.

17 Israel Manor has held meetings
18 within the last six months and not one of those
19 meetings has been held with the Single Member
20 District ANC-5B Commissioner Regina James or
21 the impacted neighbors until the Public Space
22 ordered a meeting on October 29th, 2012.

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1 As a registered votes and someone
2 who has lived in the impacted community, I have
3 never been made any information concerning their
4 community meetings. Within our community, some
5 residents have received letters and some do not.

6 Clearly, this is a sign of divide and conquer.
7

8 At the meeting ordered by Public
9 Space on November 15th, 2012 with the neighbors
10 to show the revised plan because BZA had one
11 plan and Public Space had another. A plan was
12 showed, but nothing was available to the
13 community considering the plans were just
14 submitted on that day to BZA.

15 Israel Manor was ordered to hold one
16 meeting by Public Space with the impacted
17 neighbors, but there was another meeting being
18 held with another group of members within that
19 community. This is clearly another sign, a red
20 flag to our community.

21 In conclusion, there seems to be a
22 strong conspiracy surrounding this project and

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1 certain people such as Carrie Thornhill, Cyril
2 Crockett who are no strangers to DDOT, Zoning
3 or the Office of Planning along with the newly
4 elected Ward 5 Councilmember Kenyan McDuffie
5 who's now attending Israel Manor.

6 With my community crying out their
7 concerns, they like to be heard and today, there
8 are laws put in place for people and for the
9 people to listen to our cares and concerns.

10 So, today, I'm putting my faith in
11 the BZA.

12 CHAIRPERSON JORDAN: I appreciate
13 it, Mr. Chandler. Thank you. Next we have?
14 Yes, please.

15 ANC COMMISSIONER JAMES: Good
16 morning. It's still morning. Good morning,
17 everyone. My name is Regina James, ANC
18 Commissioner of 5B03 and I've been the
19 Commissioner for 14 years.

20 I was born and raised in the
21 Brentwood community.

22 I submitted to Mr. Moy a five-page

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1 report of what our community is actually been
2 going through as it relates to Israel Baptist
3 Church.

4 CHAIRPERSON JORDAN: Mr. Moy, you
5 can go ahead and distribute that as part of the
6 testimony that's being presented here.

7 ANC COMMISSIONER JAMES: So, I
8 tried to comply with what was stated at the --
9 as it relates to the issues of Israel, we were
10 under three administrations. Anthony Williams
11 denied Israel's request to build this community
12 facility if he didn't have the support of the
13 ANC Commissioner and the community. Adrian
14 Fenty also denied the support of this building
15 if he didn't have the support of the community
16 and the ANC Commissioner. Now, we're under the
17 Gray administration and I'm kind of
18 flabbergasted.

19 Office of Planning nor DDOT has
20 reached out to us or me as the elected
21 representative to find out what plans are going
22 on and so, how they actually relate and talk

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1 to the community as a whole outside of Pastor
2 Shearin who also served as a newly appointed
3 Commissioner of the Judicial Sentencing
4 Commission for the District of Columbia.

5 This has been really a fight for 14
6 years and I'm going to be honest with you the
7 Brentwood community is really tired.

8 As an ANC Commissioner, I've only
9 held two meetings at Israel Baptist Church.
10 Well, three now in the 14 years. In that because
11 the pastor wants to charge me to hold an SMD
12 meeting.

13 Generally, we have all our SMD
14 meetings at Isle of Patmos Baptist Church where
15 the pastor actually believes in community and
16 supports us as a community.

17 When Paster Shearin and the other
18 representatives, he said this was for the
19 community I was listening in the back and trying
20 to figure out what community is he speaking of.

21 Because my leadership in the Brentwood
22 community consists of Brentwood Community

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1 Association President Earline Frazier, Chairman
2 Juanita Mercer, President Geraldine Washington
3 who actually does project activities for the
4 senior seeing that my population is 85 percent
5 seniors, Raymond Chandler and Ms. Patricia Gray.

6 He hasn't spoke to any of them. We
7 don't as a community have a lot -- there was
8 a lot of animosity before I even became the ANC
9 Commissioner between Brentwood and Israel
10 Baptist Church.

11 So, when he speaks that he is doing
12 this for the community, it's not Brentwood
13 community.

14 As it relates to the parking, it's
15 a mess and as Mr. Chandler stated, we don't have
16 an issue with Sunday. I think it's the Lord's
17 day and we are supported by three churches.
18 Because not only is it Israel, it's Isle of
19 Patmos and we have a latino community church
20 right across the street on Rhode Island Avenue.

21 So, we have three churches right in that little
22 cluster.

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1 As Mr. Chandler stated, we have been
2 at the Public Space committee hearing and that
3 was a mass confusion there because everybody
4 had two different plans. BZA submitted a plan
5 and Public Space was looking at a different plan
6 and I, as the Commissioner, had nothing to look
7 at. So, I really didn't know what was going
8 on.

9 I've only been invited to Israel
10 Baptist Church's meeting one time and that was
11 November the 20th and I was mandated by the Chair
12 of Public Space to hold an SMD meeting. I held
13 an SMD meeting on September the 24th because
14 I received in the mail BZA's application and
15 I went over it. I held an SMD meeting and we
16 met as a community with regards to BZA's
17 application that this Commissioner received
18 with regards to this project.

19 I feel there's something a little
20 bit more sinister going on here. The parking
21 that the pastor is speaking about is actually
22 on Bryant Street. For years, he has been

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1 parking there.

2 We did not know until we went to the
3 Public Space hearing that he was suppose to be
4 paying the District rent. We didn't know that.

5 So, for years, he's been parking there and he's
6 been parking there for free.

7 But, all of that parking from Israel
8 spills out into our neighborhood and I know my
9 time is running there because I'm watching you
10 --

11 CHAIRPERSON JORDAN: We gave you
12 two extra minutes because you represent an
13 organization.

14 ANC COMMISSIONER JAMES: Yes. Oh,
15 well --

16 CHAIRPERSON JORDAN: So you're --

17 ANC COMMISSIONER JAMES: Well --

18 CHAIRPERSON JORDAN: No, we already
19 did. So, you're --

20 ANC COMMISSIONER JAMES: Oh, well,
21 thank you, Mr. Chair.

22 CHAIRPERSON JORDAN: You're going

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1 four or five minutes.

2 ANC COMMISSIONER JAMES: I
3 appreciate it.

4 But, it's just that we're in
5 opposition. Totally opposition of any variance
6 that Israel Baptist Church is seeking.

7 The parking, I would like for my
8 residents to be able to park in front of their
9 homes without being inundated.

10 Israel did not tell you that the
11 first two floors of that building is going to
12 be Unity. So, even if their projections may
13 say oh, this may be required, that will inundate
14 my community with two floors of a clinic facility
15 which will house the two floors and the third
16 floor is suppose to be a rental hall where you
17 can rent it out and have parties which will cause
18 a further impact on the seniors in my community
19 and for them to have the inability to park in
20 front of their homes.

21 And I did submit a report. So,
22 hopefully, you will actually look at it because

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1 I kind of dug into the BZA's report and I
2 certainly do appreciate the BZA for notifying
3 me of this project.

4 CHAIRPERSON JORDAN: Thank you.
5 Thank you for your comments.

6 What we're going to do is going to
7 finish all the testimony in opposition. Then
8 I'll go back and have the Board ask questions
9 if necessary. Then give Mr. Keys the
10 opportunity to cross examine.

11 Next please.

12 MS. GRAY: Good morning. My name's
13 Patricia Gray.

14 I took my time and went downtown and
15 voted for the people that I wanted to represent
16 me. One person was Regina James.

17 When things happen in the community,
18 I think the ANC person's suppose to call a
19 meeting so we can all be there. This didn't
20 happen because she was never notified.

21 I think it's unfair that the traffic
22 people, it's unfair that the Office of Planning

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1 will plan things for our lives and don't have
2 a meeting with us. I ain't seen none of them.

3 The second thing is I live right
4 behind this church they're getting ready to do
5 this building to.

6 When they did the building over to
7 Home Depot, every home on Bryant Street was
8 affected. Walls was cracked and everything
9 else. Even my wall got cracked. We got no
10 help. My house is 93 years old. No, it's 97
11 years old. What's going to happen when they
12 start beating down in the ground doing this
13 project over there.

14 You have problems with the water
15 over there which they said they addressed. I
16 don't know about that.

17 Basically, it's 37 spots over there
18 and it's right behind me. I go over there and
19 look and count some cars. I ain't counted 37
20 cars yet because I can't see how 37 cars get
21 over there.

22 I think people ought to get out of

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1 their office, go out there and actually look
2 and measure the space for the cars so they can
3 tell the truth and not go behind what somebody
4 else says. I think they need to actually go
5 and see. Because clearly, somebody's not
6 telling the truth here.

7 And one more thing I want to say.

8 When the church enhanced that lot, that public
9 space back there, they put this stuff on top
10 of it. I had a six-foot fence. The land is
11 up so high my six-foot fence went to a four-foot
12 fence which allows people to come into my
13 property all the time, anytime they get good
14 and ready.

15 So, if they want to say that they
16 look at the community and are concerned, they're
17 not concerned about me and I'm right next door
18 and I don't think it's fair.

19 I think we should all respect each
20 other and let everybody know what's going on.

21 When I built my fence, I had somebody
22 from the church to come out to see what was going

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1 on. He even signed a paper to say it was okay
2 because we went around one tree. That's what
3 you're suppose to do. Respect people.

4 I don't feel like we get respect from
5 Israel. They want to dump anything on us
6 without us having something to say about it.

7 If they're going to build, a senior
8 citizen building would have been the perfect
9 thing to be on that street because the senior
10 citizens living there nobody would bother them.

11 You know, it would be like more safe than be
12 sitting in that lot over there with all those
13 people looking for work, fighting, the
14 immigration running through there locking
15 people up and you're going to put senior citizens
16 over there.

17 I don't understand people's
18 rationale. They're not concerned about people
19 and I think it's terrible and that's all I got
20 to say.

21 CHAIRPERSON JORDAN: Thank you.
22 Thank you. Thank you, Ms. Gray. Next please.

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1 MS. MITCHELL-BAYNES: Good
2 morning, Mr. Chairman, Members of the BZA Board.

3 My name is Kelly Mitchell-Baynes.

4 I reside at 1015 Bryant Street, N.E. I am a
5 resident that would be impacted by this
6 development.

7 As my colleagues have stated, I
8 would like to echo the quality of life,
9 additional increase in traffic that already
10 exists on our one-way street, parking that we're
11 having a challenge with as we speak now.

12 Also, everyone keeps emphasizing on
13 Unity Health. Unity Health currently only
14 services people in Maryland and Virginia. They
15 do not service the Brentwood community and how
16 I know that is because of my 21-year-old daughter
17 who has Unity Health for her 19-month-old child.

18 They wouldn't accept her on Brentwood Row.
19 She had to go to Children's Hospital.

20 So, I'm just curious as to if they're
21 not accepting people in the community, why would
22 we even have them in our neighborhood.

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1 And I'm against Israel's project.

2 CHAIRPERSON JORDAN: Thank you. I
3 really appreciate that.

4 Does the Board have any questions?

5 I think I certainly get the gist of
6 what your testimony is and what the issues and
7 certainly, I appreciate Ms. James. You have
8 written to us a couple of time, you know, we
9 already had in the record. Then this is
10 additional. You really get the sense.

11 And I'm also hearing something else
12 in regards to testimony being provided about
13 the outreach aspect of this.

14 Does the Board have any questions
15 they would like to ask any of the witnesses?
16 Mr. Miller.

17 ZC COMMISSIONER MILLER: Just
18 briefly, Mr. Chairman.

19 Ms. James, has the ANC as a whole
20 taken up this matter or scheduled to take up
21 this matter?

22 ANC COMMISSIONER JAMES: Mr.

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1 Miller, is it Councilmember, Board Member?
2 Board Member Miller. I really don't believe
3 the ANC would be able to feasibly take this up
4 until we become a new commission. Effective
5 January the 2nd, I believe, we become 5C05.

6 My commission has dysfunctional and
7 has been dysfunctional for that last two years.

8 Our chair stole \$30,000 and right now,
9 financially, we're not compliant. As it
10 relates to the District laws, we're not
11 compliant as a commission.

12 So, it is my hope that as we become
13 a new commission with a smaller group of people
14 that will focus on our -- am I okay?

15 CHAIRPERSON JORDAN: No. No. I'm
16 just trying to understand you. So, you mean
17 with the newly elected ANC members. Is that
18 what you mean?

19 ANC COMMISSIONER JAMES: Right.

20 CHAIRPERSON JORDAN: It's come in
21 January.

22 ANC COMMISSIONER JAMES: Right.

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1 In upcoming January. Maybe as a commission at
2 that time, we would be able to focus on it, but
3 right now, ANC-5B is dysfunctional and has been
4 dysfunctional since the chair stole 30,000.

5 ZC COMMISSIONER MILLER: Thank you
6 for that response.

7 Mr. Haskins, I see in the record your
8 August 28th memorandum to the Board regarding
9 this project and it expresses some of the same
10 concerns that you've expressed here today.

11 But, one of the points that you made
12 in the last paragraph was -- it seemed to be
13 the largest concern was what was then the
14 vehicular access that was going to be provided
15 off of -- in and out of -- on 12th Street and
16 I just wanted to make sure you're aware the
17 revised plan does not provide for that and just
18 to hear your quick reaction to the fact that
19 that revision was made I think partly in response
20 to your concerns and others.

21 MR. HASKINS: Yes, at the last
22 meeting that I attended, this gentleman here

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1 did make that proposal that he would consider
2 not having the vehicle access to 12th Street
3 and we certainly do appreciate that. Thank you.

4 But, also, what I'm hearing is that
5 the DDOT person wants to have access off of 12th
6 Street to the building.

7 That don't address the traffic that
8 would be coming through the community by foot
9 either. I don't think that the vegetative fence
10 would address that issue either.

11 I think what would happen in that
12 situation is that, you know, not so much the
13 people that are going to be going to the center,
14 but other people that come through the
15 neighborhood would be using, you know, a hedge
16 bush or access through the property, through
17 the center property, throughout the
18 neighborhood to do things like what they do now.

19 Snatch purses at the Metro and run through the
20 neighborhood and leave the purses and stuff in
21 the neighborhood. I mean I see that. I've seen
22 it and I continue to see that kind of stuff.

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1 Or just recently, someone stole the
2 tags off my car and I can't understand why they
3 did that, but, you know, things like that happen.

4
5 But, what this would do is give them
6 more cover to do things that they're already
7 doing with the wide open field and easy access.
8 Now, that's my concern.

9 You know, if you're going to have
10 a fence there, you put up a fence that nobody
11 can go through if that's what you're going to
12 do or if you're going to stop the traffic, that's
13 good, too, because that will eliminate the cars
14 from coming through.

15 What we're trying to do is maintain
16 the quiet and security as limited as it is now
17 that we have.

18 CHAIRPERSON JORDAN: Thank you.

19 MR. HASKINS: This will probably
20 eliminate the little bit that we do have.

21 CHAIRPERSON JORDAN: We appreciate
22 your response.

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1 Is there any other questions that
2 anyone has for the panel of witnesses?

3 Then, Mr. Keys, I'm going to ask do
4 you have any questions you would like to ask
5 the -- Mr. Keys?

6 MR. KEYS: Yes.

7 CHAIRPERSON JORDAN: Do you have
8 any questions you would like to ask any of the
9 people who just testified?

10 MR. KEYS: Mr. Chairman, if I could
11 have a moment.

12 CHAIRPERSON JORDAN: Okay. Ms.
13 James, when is the January ANC meeting?

14 ANC COMMISSIONER JAMES: Well, Mr.
15 Chair, we will be a new commission at that point.

16 So, I think in the first month of January that's
17 when we will do the business and, you know,
18 decide meetings and the ANC fund because ANC-5B
19 is not a part of the security fund. We have
20 not had any quarterly reports since last year.

21 CHAIRPERSON JORDAN: I got ya.

22 ANC COMMISSIONER JAMES: It's a

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1 mess right now. But, the first month is the first
2 month to take care of all the business of the
3 commission and that's it.

4 CHAIRPERSON JORDAN: Okay. Good.
5 Mr. Keys, going once. Going twice. Getting
6 ready to go the third time.

7 MR. KEYS: Mr. Chairman, just a
8 couple of question to hopefully clarify Ms.
9 James' testimony.

10 Ms. James, ANC-5B has met twice on
11 this subject in recent months. Have they not?

12 ANC COMMISSIONER JAMES: Sir, I
13 wouldn't know because the first time it wasn't
14 a quorum when I last spoke with the chair of
15 the commission.

16 She has sent me notices and the only
17 notice that I have was when you were suppose
18 to appear the first time and then she indicated
19 there was no quorum.

20 And currently, I'm in school.
21 Because as a matter of full disclosure, I am
22 a certified fraud examiner by profession as it

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1 relates to health care. I'm also a certified
2 biller and coding specialist. Certified. And
3 I currently attend UDC for the last -- it's not
4 even a year. From April of this year and my
5 last week of school is this week.

6 CHAIRPERSON JORDAN: Mr. Keys.

7 MR. KEYS: I'm referring to the
8 meetings on September 13th for ANC-5B that was
9 held at the 5D headquarters.

10 ANC COMMISSIONER JAMES: That's the
11 one that she notified me of and she indicated
12 there was no quorum.

13 MR. KEYS: And there was another
14 meeting on November 8th, 5B. Just your regular
15 meeting.

16 ANC COMMISSIONER JAMES: No, that
17 -- she didn't notify me of that meeting.

18 MR. KEYS: So, you really don't know
19 whether a meeting took place or not because you
20 were here.

21 ANC COMMISSIONER JAMES: I've been
22 in the commission and generally, because of the

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1 problems that this commission has had once the
2 chair stole the money, we meet the first Thursday
3 of each month. This --

4 CHAIRPERSON JORDAN: I really find
5 the line of questioning irrelevant. The bottom
6 line is that we don't have a letter one way or
7 the other from the ANC, Mr. Keys.

8 MR. KEYS: Well, I was going to go
9 --

10 CHAIRPERSON JORDAN: Why don't you
11 go to your next question?

12 MR. KEYS: Yes. You testified that
13 Israel Baptist Church wanted to charge you to
14 hold a meeting.

15 ANC COMMISSIONER JAMES: Yes, sir,
16 when I first became ANC Commissioner back in
17 the late '90s.

18 MR. KEYS: And what was the charge
19 for?

20 ANC COMMISSIONER JAMES: For -- for
21 the church. He didn't indicate -- well, they
22 did not indicate a charge to me. The person

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1 that I spoke to.

2 As you know, the ANC Commissioner,
3 this is all volunteer work. I use my own
4 personal money to support my neighborhood. So,
5 we've been having all our meetings ever since
6 I've been a commissioner at Israel -- I mean
7 Isle of Patmos Baptist Church.

8 MR. KEYS: No more questions, Mr.
9 Chairman.

10 CHAIRPERSON JORDAN: No other
11 panelist? No other panelist? Okay. Good.

12 Then I'm going to ask that -- Mr.
13 Keys, I'm going to ask the panelist if you will
14 go back into the audience. Thank you for much.

15 ANC COMMISSIONER JAMES: Thank you,
16 Mr. Chair. Thank you, Members of the Board.

17 MR. CHANDLER: Can I ask a question
18 to the Chairperson?

19 CHAIRPERSON JORDAN: It's not what
20 we normally do.

21 MR. CHANDLER: Just --

22 CHAIRPERSON JORDAN: Procedure or

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1 process you want me to hear?

2 MR. CHANDLER: Yes, just a process.

3 CHAIRPERSON JORDAN: Yes. Okay.

4 MR. CHANDLER: For future
5 reference, so during a hearing if I wanted to
6 submit a letter, I could come in and submit a
7 letter during a hearing like they did?

8 CHAIRPERSON JORDAN: For people who
9 are not parties, yes. If they're doing
10 testimony, they can submit a letter that backs
11 up their testimony.

12 MR. CHANDLER: If they're not here.

13 CHAIRPERSON JORDAN: Yes, can
14 always submit a letter. Yes, if you're not
15 here, too. Certainly. Um-hum. Oh, yes,
16 absolutely.

17 MR. CHANDLER: Okay. So, if I
18 wanted to submit what I just stated, I could
19 submit mine now?

20 CHAIRPERSON JORDAN: Well, if you
21 got it today, you could if you have it.

22 MR. CHANDLER: I have it. I have

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1 several copies.

2 CHAIRPERSON JORDAN: Well, we will
3 take it. We certainly will take it in the
4 record.

5 MR. CHANDLER: Sure.

6 CHAIRPERSON JORDAN: Absolutely.

7 MR. CHANDLER: I'd like to give it
8 to this young man here. Do I give it to him?

9 CHAIRPERSON JORDAN: Yes.

10 MR. CHANDLER: I sure will.

11 CHAIRPERSON JORDAN: Absolutely.
12 Yes. Um-hum. Well, that was what you wanted
13 to know. Could you submit your letter? Yes.

14

15 MR. CHANDLER: Um-hum.

16 CHAIRPERSON JORDAN: Absolutely.
17 All right. Mr. Keys, would you -- all right,
18 Mr. Keys. Do you have --

19 MR. KEYS: Mr. Chairman, I just have
20 one rebuttal witness. If I could briefly ask
21 --

22 CHAIRPERSON JORDAN: Okay.

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1 MR. KEYS: -- Reverend Shearin to
2 come up.

3 CHAIRPERSON JORDAN: We're putting
4 you on a five-minute rebuttal.

5 MR. KEYS: It'll be shorter than
6 that, Mr. Chair.

7 CHAIRPERSON JORDAN: Good. We'll
8 put you on two-minute rebuttal. No, go ahead.
9 Take what you need.

10 MR. KEYS: Reverend Shearin, you
11 heard the testimony of Ms. James regarding
12 Israel's hospitality to the community. Is
13 there any basis to her statement that you charge
14 for community meetings?

15 REV. SHEARIN: Not in 24 years.
16 Israel Church has not sought any kind of
17 compensation from anybody. ANCs, judiciary,
18 local government, no one. We have never ever
19 charged for a community meeting to be held at
20 Israel Church.

21 MR. KEYS: Thank you, Reverend
22 Shearin. No further questions.

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1 CHAIRPERSON JORDAN: Thank you.
2 Mr. Keys.

3 MR. KEYS: Yes, Mr. Chairman,
4 Members of the Board, I'd like to close this
5 case with a very brief statement.

6 The Applicant has applied for a
7 variance to reduce parking to 45. That variance
8 is based on the standards of 3102.3 and it
9 relates -- we're required to meet a test.

10 I've put evidence into the record
11 to show that the property has an exceptional
12 circumstance connected with it. The
13 topography, the shape of the property and now,
14 the interaction of the new regulation at 2116.4
15 really truly limits the ability to locate
16 parking on the site.

17 This would cause great hardship to
18 the church. It would make it impossible to
19 fulfill this project.

20 We think we've demonstrated that the
21 relief could be granted without any impact on
22 the community. We have adequate parking to fit

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1 the measured demand for parking based on Unity's
2 function and based on the church's function and
3 we've responded to the community by adjusting
4 access and I think that's a very important point.

5 Adjusting access to eliminate the movement of
6 vehicles through 12th Street onto the property.

7
8 We think that those points taken
9 together establish the entitlement of the church
10 to a variance from the parking requirements to
11 an authorized 45 spaces for the construction
12 of the new addition.

13 We have also based on an amended
14 application, amended today, asked the Board to
15 consider a special exception for the church
16 under 2116.5 and the standards there.

17 CHAIRPERSON JORDAN: Point 5?

18 MR. KEYS: Well, the exception is
19 2116.4, but the standards for that exception
20 are set forth in 2116.5 and we think we have
21 shown just as we have in the connection with
22 the variance that it's the peculiar

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1 circumstances of this site, its topography, its
2 shape and the fact that it's bounded by four
3 streets with an existing building that sits on
4 the interior of the site. It prevents
5 compliance with 2116.4.

6 We think that we can accommodate
7 parking in the area designated and it would not
8 have an adverse impact on the residents on 12th
9 Street.

10 And that, Members of the Board, Mr.
11 Chairman, concludes the Applicant's case. We
12 would request that you grant both special
13 exception and variance relief to the church.

14 CHAIRPERSON JORDAN: All right.
15 Thank you.

16 We'll close the record of the
17 hearing and testimony that's given. However,
18 I want to keep the record open for some
19 additional submissions and some additional
20 activity and we're going to cover that in just
21 one second, Mr. Keys.

22 Well, let me ask. Does the Board

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1 have any other questions of Mr. Keys before we
2 -- do you want to ask? Good. Do you want to
3 ask?

4 VICE CHAIR SORG: One question
5 going way back to the beginning, Mr. Keys.

6 I wanted to clear up whether or not
7 you amended your application with regard to the
8 request for 2116.3 or is that still being
9 requested?

10 MR. KEYS: Yes. No, it is not.

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

13 MR. KEYS: And if you look at --

14 VICE CHAIR SORG: For the record,
15 the request is 2101.1, 2116.4(a).

16 MR. KEYS: Correct.

17 VICE CHAIR SORG: And I just didn't
18 see it in the application. So, you've already
19 amended --

20 MR. KEYS: Well, it was done in the
21 filing, the supplemental filing --

22 VICE CHAIR SORG: Okay.

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1 MR. KEYS: -- filed on the --

2 CHAIRPERSON JORDAN: Okay.

3 MR. KEYS: -- 20th.

4 VICE CHAIR SORG: Just making sure.

5 CHAIRPERSON JORDAN: But, you're
6 actually asking for a special exception under
7 2116.5, too.

8 MR. KEYS: Correct. Correct.
9 But, we withdrew the 2116.3. My letter dated
10 November 20th.

11 CHAIRPERSON JORDAN: Right. It
12 goes with that. Okay. All right. So, where
13 are we? Okay. Who's on first?

14 Yes, there's some additional
15 information, but I'm certainly -- two things.

16 I want to keep this record open. I want to
17 find out what happens at the Public Space meeting
18 which is December 20th regarding your request.

19 We need to receive, and we have not
20 received unless we missed it, any of the
21 programming documentation of how the building's
22 being programmed with this new outreach

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1 including times of operation, et cetera.

2 Does the Board have anything else
3 that you may want to have --

4 VICE CHAIR SORG: Thank you, Mr.
5 Chairman. I want to expand on your last point.

6 One of the things that I felt was
7 significantly missing from the record in
8 testimony so far in this case has to do with
9 the intensity of use of the planned education.

10 Both the Unity Health Care program. I mean
11 are there -- what's happening in this place?
12 Are there, you know, five exam rooms, ten exam
13 rooms, 20/30 exam rooms? That way we can
14 understand more about that.

15 In addition, the recreation space,
16 what's the program and intended use of that?
17 Is it basketball games for the church members?
18 Is it rented out for weddings?

19 So, I think I would really need the
20 programming information which also would I think
21 necessarily include copies of the plans for
22 those spaces and the increase in the intensity

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1 of use. That's what we really need to be looking
2 at.

3 CHAIRPERSON JORDAN: Programming
4 and --

5 MR. KEYS: Yes.

6 CHAIRPERSON JORDAN: -- flows and
7 times.

8 Also, I'd like to see a
9 recommendation on how we're going to mitigate
10 the impact on the neighborhood. Particularly
11 in parking.

12 We know we're talking about the
13 issue of parking on your lot, but you're asking
14 us to give you some relief from parking. But,
15 there's clearly -- from testimony given here,
16 there's some parking impact and so, to recommend
17 some aspect of how parking issues in the
18 neighborhood can be mitigated. We know there's
19 overflow -- appears to be overflow that's going
20 into the residential area and so, we need to
21 talk about that.

22 The other thing I really would like

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1 to see because of the impact and this thing --
2 there's really -- I guess we've been talking
3 about this for 14 years. I'd like to have the
4 ANC weigh in on it. I would like the full body
5 of the ANC to weigh in on this.

6 MR. KEYS: Mr. Chairman, the ANC is
7 meeting Thursday. It's their regular meeting.

8 CHAIRPERSON JORDAN: Well, I don't
9 care when they meet. I would like to see the
10 ANC weigh in on it.

11 Now, if they choose to send a letter
12 saying they don't want to weigh in, that's
13 something else. Okay. Whether they're
14 meeting Thursday or they're meeting December
15 20th or whatever.

16 I tell you what we're going to do
17 with this. We're going to put this on our
18 decision calendar for February 12th.

19 So, that gives you enough time to
20 get this done and I also suggest to the Applicant
21 and everyone that working together is the best
22 way to get these things done because these

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1 neighborhoods are our neighborhoods and people
2 have to live together one way or the other and
3 we're all the same. I don't care how large your
4 institution is or if you're a single resident.

5 We have to live in these neighborhoods and we
6 got to be good custodians of the neighborhoods
7 and for the residents.

8 So, you got time to talk. You got
9 time to give outreach. You got time to give
10 notices of meetings to everyone. Whether or
11 not it's happened or not, I'm not even talking
12 about that. But, please it's best that people
13 try to work things out and come up with plans
14 and programs and ideas about how they work
15 together than for having us to rule and we
16 suggest that a lot.

17 Yes, Ms. Sorg.

18 VICE CHAIR SORG: Thank you, Mr.
19 Chairman.

20 Actually, just as a -- actually, to
21 tack on to what you're saying, I completely agree
22 with it. I think an example that it would be

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1 important for the Applicant to really drill down
2 and meet with the residents that will be directly
3 affected by some of the recommendations that
4 the agencies are making.

5 For example, you know, this proposed
6 12th Street walkway seems like a good idea on
7 plan. We heard some possible negative effects
8 of that. On the other hand, if you discuss,
9 I don't know, how that's lighted, that might
10 actually be a benefit.

11 You know, but that's something that
12 those specifically affected people I think need
13 to weigh on as one example of some of the things
14 that are being proposed that I think the Chair
15 is referring to.

16 CHAIRPERSON JORDAN: Mr. Hinkle.

17 MEMBER HINKLE: Yes. Thank you.

18 Just to follow up on that, what I
19 would like to see is a revised site plan that
20 would include or not include some of these
21 elements such as the pedestrian access on 12th
22 Street, any fencing, any proposed landscaping

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1 to help screen the view from the neighborhood.

2 So, that's something that I would like
3 included.

4 CHAIRPERSON JORDAN: And, Mr. Moy,
5 can we put this on the February 12th decision
6 date and can you give us the ball park for
7 submissions.

8 MR. MOY: Yes, sir. If the Board
9 is not requesting any responses --

10 CHAIRPERSON JORDAN: No.

11 MR. MOY: -- then I think to be sure
12 there's ample time if this could be submitted
13 by Monday, February the 4th.

14 CHAIRPERSON JORDAN: Mr. Keys, we
15 really appreciate it and the --

16 MR. KEYS: The date.

17 CHAIRPERSON JORDAN: February 4th
18 would be the submission.

19 MR. KEYS: Isn't that a Tuesday?

20 MR. MOY: That's a Monday.

21 CHAIRPERSON JORDAN: Yes, because
22 we actually have a decision meeting on February

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1 12th --

2 MR. MOY: That's correct.

3 CHAIRPERSON JORDAN: -- Tuesday.
4 So, the 5th should be a Tuesday and the 4th should
5 be a Monday. Okay.

6 I want to thank you. I want to thank
7 you all for being here and testifying and
8 bringing this to our attention.

9 MR. KEYS: Thanks.

10 CHAIRPERSON JORDAN: We'll take
11 five minutes and that's it. A five-minute
12 break. Thank you.

13 (Whereupon, at 11:36 a.m., a recess
14 was taken until 11:42 a.m.)

15 CHAIRPERSON JORDAN: Okay. Let's
16 do 451.

17 MR. MOY: Yes, sir, the next
18 application before the Board is Application
19 Number 18451. This is the application of
20 In-Sook Lee pursuant to 11 DCMR 3103.2. This
21 is for a variance from the use provisions to
22 allow a delicatessen, this is as advertised,

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1 under Section 350.4 in the R-5-B District at
2 premises 409 15th Street, N.E. Property
3 located in Square 4544, Lot 174.

4 CHAIRPERSON JORDAN: Please
5 identify yourselves please.

6 MR. LEE: Yes, sir. My name is Lee.
7 My name is Hal Lee. I'm here with my mom.
8 She doesn't speak English very well. So, I have
9 to translate for you guys between the Chairman
10 and my mom.

11 CHAIRPERSON JORDAN: Okay. And
12 let me ask. Have both of you taken the oath
13 and affirmation from the Board Secretary?

14 MR. LEE: Yes.

15 CHAIRPERSON JORDAN: You did? You
16 raised your hand and -- right. Did you do that
17 already? No?

18 MR. LEE: Do --

19 CHAIRPERSON JORDAN: Did you get
20 sworn in?

21 MR. LEE: This morning?

22 CHAIRPERSON JORDAN: Yes.

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1 MR. LEE: Yes, we did.

2 CHAIRPERSON JORDAN: Okay. Did
3 you provide two witness cards each to the court
4 reporter?

5 MR. LEE: No, I didn't.

6 CHAIRPERSON JORDAN: Okay. Well,
7 let's do that afterwards. Be sure to write two
8 witness cards each and give them to the court
9 reporter of your name.

10 MR. LEE: Okay, sir.

11 CHAIRPERSON JORDAN: Okay. But,
12 you've already sworn. So, you can put your hand
13 down. Right?

14 MR. LEE: Okay.

15 CHAIRPERSON JORDAN: Well,
16 regardless of the use, I think we're okay. Does
17 the Board have any questions or issues with this?
18 Okay.

19 I believe that the record is full
20 in order for us already to believe that you
21 should be granted the relief that you requested.

22 MR. LEE: Yes, sir.

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1 CHAIRPERSON JORDAN: You have the
2 right to proceed by doing a presentation.
3 However, we don't think that is necessary and
4 probably in this case particular recommend that
5 you waive that.

6 MR. LEE: Okay.

7 CHAIRPERSON JORDAN: And then we
8 could just go ahead and proceed. Is that okay?

9 MR. LEE: Thank you very much, sir.

10 CHAIRPERSON JORDAN: Does Planning
11 have anything that they need to add to their
12 report? I got to hear you. Okay.

13 MS. ELLIOTT: Sorry about that.

14 Good morning, Mr. Chairman, Members
15 of the Board. For the record, my name's
16 Brandice Elliott with the Office of Planning.

17
18 I have nothing to add to the staff
19 report at this time. So, we'll stand on the
20 record.

21 CHAIRPERSON JORDAN: Good. Is
22 there anyone here -- well, do you have anything

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1 from DDOT? No.

2 We do have a letter of support from
3 ANC-6A which we will give great weight to in
4 support of your application. That's
5 interesting.

6 Is anyone here wishing to testify
7 in support of this application? Anyone here
8 willing to testify in opposition to this
9 application?

10 Seeing none, then we will close this
11 hearing based upon the record and I would move
12 that we grant the relief requested by the
13 Applicant to allow for the delicatessen.

14 VICE CHAIR SORG: Second.

15 CHAIRPERSON JORDAN: Motion made
16 and seconded that we grant the relief requested.

17 All those in favor signify by saying aye.

18 (Ayes.)

19 CHAIRPERSON JORDAN: Those opposed
20 nay. The motion carries. Mr. Moy.

21 MR. MOY: Staff would record the
22 vote as 4 to 0 to 1. This is on the motion of

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1 Chairman Jordan to approve the application for
2 the relief being requested which is the use
3 variance under Section 350.4. Second the
4 motion Vice Chairperson Sorg. Also in support
5 of the motion Mr. Miller and Mr. Hinkle. No
6 other Board Member sitting. So, again, the
7 motion carries on a vote of 4 to 0 to 1.

8 CHAIRPERSON JORDAN: May we have a
9 summary order please?

10 MR. MOY: Yes, sir.

11 CHAIRPERSON JORDAN: Thank you and
12 thank you for coming.

13 MR. LEE: Thank you very much, sir.

14 I have one question for you, sir.

15 So, the new owner can go ahead and apply for
16 the license?

17 CHAIRPERSON JORDAN: Yes. Why
18 don't you talk to the Office of Zoning. They'll
19 tell you whatever you need to do.

20 MR. LEE: Okay. Okay.

21 MS. LEE: Thank you.

22 CHAIRPERSON JORDAN: Okay. Okay,

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1 18452.

2 MR. MOY: Yes, sir. The next
3 application is Application Number 18452. This
4 is the application of Linn Meyers pursuant to
5 11 DCMR 3103.2 for a variance from the lot area
6 requirements under Subsection 401.3. This is
7 to allow the continued use of an existing three
8 unit apartment house in the R-4 District at
9 premises 1741 Kilbourne Place, N.W. Property
10 located in Square 2602, Lot 103.

11 CHAIRPERSON JORDAN: Yes, thank
12 you, Mr. Moy.

13 We're ready for you to identify
14 yourselves.

15 MR. BROWN: Good morning, Mr.
16 Chairman. Patrick Brown from Greenstein
17 DeLorme and Luchs on behalf of Linn Meyers.

18 MS. MEYERS: Linn Meyers.

19 CHAIRPERSON JORDAN: Okay. Just
20 one second please. All right. Mr. Brown, you
21 have familiarized yourself with the Office of
22 Planning's report and recommendation of denial

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1 and one of the things that was raised is that
2 there's no uniqueness or exceptional situation
3 or circumstances with this property.

4 I think the other question is that
5 it's our understanding that Ms. Meyers was a
6 part of a group of owners initially that did
7 this conversion to this property and now, she's
8 a solo owner. Is that correct?

9 MR. BROWN: That's correct. She
10 was among several owners including her
11 ex-husband. For lack of a better term, she was
12 a minority non-participatory partner. The work
13 that occurred was not done at her behest with
14 her approval or with her knowledge.

15 CHAIRPERSON JORDAN: How was the
16 property owned? What kind of ownership was it?
17 Was it --

18 MS. MEYERS: We formed a
19 partnership with another couple who -- so, we
20 bought the property in foreclosure and formed
21 a partnership with another couple who originally
22 was going to live there as their primary

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1 residence.

2 CHAIRPERSON JORDAN: So, as joint
3 tenants or tenants in common or was there
4 actually a formal creation of a partnership?

5 MS. MEYERS: There was no -- yes,
6 it was informal.

7 CHAIRPERSON JORDAN: So, you all
8 got together and put your money in.

9 MS. MEYERS: Exactly. Yes, and at
10 the time, I lived next door with my husband.

11 CHAIRPERSON JORDAN: Okay. Okay.
12 Mr. Brown, you can proceed.

13 MR. BROWN: Well, just
14 housekeeping. Just a moment ago, I submitted
15 two items. One an affidavit of maintenance of
16 posting which is in order and two, I also --
17 and I've given your colleague with the Office
18 of Planning a copy of a letter from an architect
19 indicating some of the costs involved in
20 reestablishing the internal staircase between
21 the main level and the lower level unit and some
22 -- the costs and also the other issues involved

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1 which goes to the practical difficulty test in
2 the three-part variance test.

3 If I could go back to, Mr. Chairman,
4 your question and my client is -- for the term
5 I've used is the accidental owner of this
6 property.

7 CHAIRPERSON JORDAN: So, first,
8 you're asking us leave to accept the affidavit
9 and the maintenance. Is that what I understood
10 you to --

11 MR. BROWN: If it's necessary. The
12 affidavit of posting was filed in a timely
13 manner. The affidavit of maintenance just
14 indicates that --

15 CHAIRPERSON JORDAN: It's still up.

16 MR. BROWN: -- the posting was
17 maintained on a daily basis and there was no
18 re-posting required.

19 CHAIRPERSON JORDAN: Okay. Good.

20 MR. BROWN: So, it's form over
21 substance I believe.

22 But, going to the three-part test,

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1 as I said, my client is, the term I use, the
2 accidental owner of this property and it is now
3 her, as well, one unit residence.

4 I liken this to a situation where
5 she inherited the property from somebody else
6 or she bought the property in its current state.

7 She was not the moving force or the active force
8 or the one who made these changes. Which I'll
9 be the first to admit should not have occurred
10 without this process. They did occur.

11 She now owns the property and she's
12 under the obligation to bring the property into
13 compliance. That requires this process.

14 She also as a landlord is required
15 to go through a whole host of regulatory filings,
16 register with the Rental Accommodations
17 Division, obtain a basic business license in
18 order to regularize the leasing of this property
19 to residential tenants.

20 She can't do that without a
21 Certificate of Occupancy. That's the -- one
22 of the primary requirements of this process is

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1 to be able to produce a Certificate of Occupancy
2 which in the current situation which exists she
3 needs this Board's approval.

4 And then we've laid out in more
5 detail in the written form the practical
6 difficulties that would result if she were not
7 able to continue to use this property and one,
8 as this letter from an architect references,
9 substantial costs of reestablishing a staircase
10 between the lower level and the main level to
11 create a single unit and the domino effect in
12 the interior and structure and plumbing and
13 electrical that would occur. So, that the
14 number here is kind of the tip of the iceberg
15 and would involve a substantial amount of work
16 which, to be honest, my client can't afford.

17 And also as a practical matter,
18 returning this to two units would require her
19 and her son to leave. There would no longer
20 be space for her or she would no longer be able
21 to afford to live in one of the two units that
22 were reestablished and I think we've tried to

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1 lay that out in some detail in the filings.

2 Ms. Meyers is here and she can
3 obviously testify directly.

4 I would point out that the Office
5 of Planning and I was not surprised by their
6 report because they, as a matter of policy, want
7 the strict adherence to the 900 square foot rule
8 in these conversion cases and as a matter of
9 policy, I accept that and the Board's task and
10 challenge and the courts have said that you need
11 to look at each case individually on the merits
12 of that particular case and not in the context
13 of a strict policy. Because the whole purpose
14 of a variance is to --

15 CHAIRPERSON JORDAN: Obtain the
16 variance.

17 MR. BROWN: -- to diverge from the
18 strict interpretation of the regulations and
19 I think on the last test we have ANC support.

20 No opposition that I'm aware of that's in the
21 record and a track record of not only this
22 property.

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1 But, a general sense, good sense,
2 in the neighborhood that these multiple
3 dwellings which I've pointed out in my brief
4 exist. Most of which probably without the
5 benefit of -- or the Board of Zoning Adjustment.

6 Still has a stable, well inhabited and
7 desirable neighborhood a couple of blocks off
8 Mt. Pleasant.

9 So, I don't see that there's any
10 detriment to the neighborhood or the integrity
11 of the Zoning Regulations which in the R-4 Zone
12 provide for the conversion of units to apartment
13 buildings subject to this requirement.

14 CHAIRPERSON JORDAN: Does the Board
15 have any questions of the Applicant?

16 Let me ask. Go ahead, Ms. Sorg.

17 VICE CHAIR SORG: No, that's okay.

18 CHAIRPERSON JORDAN: The letter we
19 have from Alan Meyers is that any relation?

20 MS. MEYERS: Yes, my father is an
21 architect.

22 CHAIRPERSON JORDAN: Okay. Ms.

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1 Sorg.

2 VICE CHAIR SORG: Thank you, Mr.
3 Chairman. Sorry. Trying not to be rude with
4 my clementine.

5 Can you tell me, I'm looking at the
6 plans that were submitted with the prehearing
7 statement, where was the stair that lead to the
8 basement?

9 MS. MEYERS: So, actually, if you
10 look at the basement plan, the staircase came
11 down in the area in which the washer/dryer is
12 pictured.

13 VICE CHAIR SORG: And also the
14 mechanical room?

15 MS. MEYERS: Partially the
16 mechanical room. It wasn't the original
17 staircase to the house. I know those houses
18 simply because I lived in one that had not been
19 renovated and so, it's --

20 VICE CHAIR SORG: It's a weird side
21 for it to have been on.

22 MS. MEYERS: It was weird. Yes,

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1 and I don't even know if it was structurally
2 sound. It looked to have been put in in the
3 '70s or '80s.

4 VICE CHAIR SORG: So, when you
5 purchased the property, the stair on the east
6 side was existing down to the basement?

7 MS. MEYERS: Yes. Yes, east.

8 VICE CHAIR SORG: Okay. Thank you.

9 CHAIRPERSON JORDAN: Does anyone
10 else have questions of the Applicant?

11 Then let's turn to the Office of
12 Planning please.

13 MR. GYOR: Good morning, Mr.
14 Chairman, Members of the Board. Stephen Gyor
15 with the Office of Planning.

16 The Office of Planning cannot
17 support the Applicant's request for relief and
18 we do not find sufficient evidence that the
19 Applicant has satisfied the test for the
20 requested variance including what unique
21 property characteristics create a practical
22 difficulty in this case or how this would not

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1 impact the integrity of the Zoning Regulations.

2 OP sympathizes with the Applicant's
3 situation in this case, but typically, the
4 Office of Planning does not support increases
5 in density beyond that anticipated by the R-4
6 Zone.

7 Thank you.

8 CHAIRPERSON JORDAN: So, how does
9 Office of Planning recommend that she bring this
10 property into compliance?

11 MR. GYOR: Presumably the property
12 was in compliance prior to 2008 and we would
13 recommend it be converted back to a two-unit
14 structure with the required 900 square foot
15 minimum per unit. Which would adhere to R-4
16 Zone requirements.

17 CHAIRPERSON JORDAN: And in order
18 to do that, they would have to do what?

19 MR. GYOR: I believe that they would
20 have to install -- they'd have to construct the
21 staircase to the lower level in order to have
22 two units that met the minimum required square

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1 feet.

2 CHAIRPERSON JORDAN: Okay. Does
3 the Board have any questions of Office of
4 Planning?

5 ZC COMMISSIONER MILLER: Yes, Mr.
6 Chairman.

7 I've only been here a couple of
8 months, but this already has come up more than
9 once.

10 CHAIRPERSON JORDAN: The R-4?

11 ZC COMMISSIONER MILLER: The R-4.
12 Is there -- this isn't really pertinent to this
13 -- this really isn't pertinent to this case
14 particularly. But, generally in terms of the
15 policy, the 900 foot, calling three units in
16 an R-4 District somehow converts that to an
17 apartment house district. Is that being looked
18 at all or considered at all in the Zoning
19 Regulations review? I know -- I don't think
20 it is right now, but has there been any internal
21 discussions about looking at whether the 900
22 makes sense?

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1 When we're trying to -- you know,
2 we have a limited amount of land. We're growing
3 a thousand a month in the City. This seems like
4 such an easy place where it should be maybe at
5 least looked at or put out there for discussion
6 as to what the harm is and what -- if you reduced
7 that 900 to 600, you know.

8 MR. GYOR: To answer you question,
9 there definitely have been discussions about
10 it. As far as specific proposals in the Zoning
11 update, I'm not aware of any specific proposals.

12
13 I think we -- you know, the Office
14 of Planning, yes, we typically do require --
15 we do support -- not support cases where the
16 900 square foot minimum is not adhered to. We
17 do look at each case individually of course in
18 looking at the practical difficulties involved
19 in each case. So.

20 ZC COMMISSIONER MILLER: Well, Mr.
21 Chairman, just borrowing a phrase that I've
22 learned from the Vice Chair of the confluence

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1 of factors that help create sometimes an
2 exceptional situation, I would personally be
3 inclined to try to find those confluence of
4 factors in this particular case.

5 CHAIRPERSON JORDAN: Okay. Does
6 the Applicant have any questions of the Office
7 of Planning?

8 MR. BROWN: No.

9 CHAIRPERSON JORDAN: Then do we
10 have a representative of the Department of
11 Transportation? No. Do we have a letter from
12 Transportation? I think not.

13 Is there anyone here from ANC-1D?
14 We do have a letter of recommendation for
15 approval from ANC-1D and which we will give great
16 weight to in support of this particular
17 application.

18 Is there anyone here who wishes to
19 speak in support of this application? Anyone
20 here wishing to speak in opposition to the
21 application?

22 Then that brings us back to the

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1 Applicant for any closing that you may want to
2 do or any questions the Board may want to have.

3 Is there anything additional you
4 want to --

5 MR. BROWN: I'll stand on Mr.
6 Miller's remarks.

7 CHAIRPERSON JORDAN: Okay. Then
8 we'll close the record on this application.

9 Is the Board ready to deliberate?

10 Yes, I believe the Board is ready to deliberate.

11 I think this is one which I'm going to -- Mr.
12 Miller, do you want to take the lead on why we
13 should or should not do?

14 ZC COMMISSIONER MILLER: I will
15 defer to the Vice Chair and supplement, if any,
16 to any of her comments.

17 VICE CHAIR SORG: Thank you, Mr.
18 Miller and Mr. Chairman.

19 This was a really tough one for me
20 I have to say. I would say that going into the
21 hearing there was a big hill for this Applicant
22 to climb for me.

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1 You know, we have seen several of
2 these cases in the recent past and there are
3 a few things which I think started to percolate
4 in the prehearing submissions of evidence and
5 I think were brought out a little bit further
6 particularly by the cost estimate that was
7 submitted.

8 I would note that what to me is
9 compelling about that is that the architect is
10 presenting estimates from two outside
11 contractors who agree with the high cost of
12 re-instituting the connection between the
13 basement and the first floor.

14 I think that in a case similar to
15 this I think it may have even been last week,
16 you know, I think we hashed out a little bit
17 about the self-imposed hardship question.

18 Here, of course, we're dealing with
19 the practical difficulty standard and I'll tell
20 you I have not seen a case like this. The
21 Applicant, while involved during the purchase
22 of the property based on what we heard in

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1 testimony, was not in control, not in the
2 driver's seat at all with regard to what
3 potentially was conversions outside of what is
4 allowable and then was saddled with the
5 financial burden of maintaining this property
6 subsequent to the dissolution of her marriage.

7 I do find that to be a unique situation.

8 And I think based on the precedent,
9 we can look at, as Mr. Miller mentioned, a
10 confluence of factors that does include a look
11 at both the -- actually strange configuration
12 of the home with the historical location of the
13 stair probably already having been moved to the
14 east side of the home and then the subsequent
15 institution of significant, you know, HVAC,
16 mechanical, plumbing equipment that would then
17 have to be moved for the re-institution of that
18 stair.

19 And I think based on that and based
20 on the -- for the second and third prong, I think
21 the fact that this is an existing use of existing
22 tenants and also that parking would be

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1 sufficient for a three-unit flat here, I
2 wouldn't see the detriment to the public good.

3 And for those reasons, in this very
4 specific case, it just squeaks over the
5 threshold for me and I could be in support.

6 CHAIRPERSON JORDAN: Wow. I say
7 wow because I guess the hearing really helped
8 on this list as you say.

9 VICE CHAIR SORG: It really did
10 actually.

11 CHAIRPERSON JORDAN: Because yes,
12 it was -- and I can agree with the things that
13 you and Mr. Miller have said myself.

14 Anyone else have any other comments?

15 Mr. Hinkle.

16 MEMBER HINKLE: Yes, thank you, Mr.
17 Chair.

18 You know, this is a difficult case
19 I think and I agree with Ms. Sorg and I'm trying
20 to, you know, really think what the remedy is
21 here if we don't approve it. I mean there's
22 been, you know, over \$40,000 or \$45,000 to create

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1 an extra large unit for this neighborhood or,
2 you know, have a unit remain empty. I mean I
3 don't think that serves the District in any way.

4
5 You know, it's this issue. We do
6 see these and we're seeing more and more of these
7 and, you know, I have concern about that. I
8 understand the Office of Planning's concerns
9 in terms of density and, you know, why this is
10 zoned R-4 and, you know, the importance of
11 preserving some larger units for larger
12 families.

13 But, you know, across the City, we
14 do have these large homes that historically may
15 have been single-family homes, but over time
16 have been, you know, used for multiple families
17 or a number of people and they're sitting on
18 small lots and, you know, I appreciate Board
19 Member Miller's or Commissioner, I should say,
20 Miller's comments in terms of, you know, is the
21 measurement correct in terms of how we look at
22 these and, you know, lot area related to the

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1 size of the structure and can it accommodate,
2 you know, certain sizes of units.

3 I know I'm babbling, but, you know,
4 I think it's a question that the Office of
5 Planning really needs to look into and, you know,
6 it's related to the market. It's related to
7 where these places are located within the City,
8 but it is an issue and, you know, we do keep
9 getting these requests and, you know, it's
10 something that really needs to be addressed by
11 the District I think.

12 In terms of this case, you know, we
13 do have an existing structure with three units
14 with three different tenants and some difficulty
15 in terms of converting it back to what would
16 be a matter-of-right use and I think the hearing
17 helped me to support this as well and that's
18 where I'm at.

19 CHAIRPERSON JORDAN: Okay. See
20 the benefit of having a hearing.

21 Then based upon what's already been
22 said, I would move that we approve the

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1 application's request for relief.

2 ZC COMMISSIONER MILLER: I would
3 second that.

4 CHAIRPERSON JORDAN: Motion made
5 and seconded that we approve the Applicant's
6 request for relief.

7 Any additional conversation?
8 Unreadiness?

9 Seeing none, all those in favor
10 signify by saying aye.

11 (Ayes.)

12 CHAIRPERSON JORDAN: Those opposed
13 nay. The motion carries. Mr. Moy.

14 MR. MOY: Yes, sir, staff would
15 record the vote as 4 to 0 to 1. This is on the
16 motion of Chairman Jordan. Second the motion
17 Mr. Robert Miller. Also in support of the
18 motion, Vice Chairperson Sorg and Mr. Hinkle
19 and there's a Board seat vacant. So, again,
20 the motion carries, Mr. Chairman, on the vote
21 of 4 to 0 to 1.

22 CHAIRPERSON JORDAN: And a summary

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1 order would be in order, Mr. Moy.

2 MR. MOY: Very good. Thank you,
3 sir.

4 MR. BROWN: Thank you.

5 CHAIRPERSON JORDAN: All right.
6 Thank you.

7 MR. BROWN: All right. I'll see
8 you next week. That's a heavy burden for the
9 Board.

10 CHAIRPERSON JORDAN: Right.

11 MR. MOY: The next application
12 before the Board is Application Number 18430.

13 This is the application of Jomo Oludipe
14 pursuant to 11 DCMR 3103.2. This is for a
15 variance from the lot area and lot width
16 requirements under Subsection 401.3 and a
17 variance from the side yard requirements under
18 Section 405 to allow the new construction of
19 two semi-detached dwelling in the R-2 District
20 at premises 154 and 156 Forrester Street, S.W.

21 The property is located in Square 6239, Lots
22 11 and 12.

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1 If you'll recall, Mr. Chairman, the
2 Board postponed this application at its previous
3 hearing on November the 2nd, 2012.

4 CHAIRPERSON JORDAN: Okay. And
5 we've done some massaging with this particular
6 application a couple of times.

7 Would you please identify
8 yourselves please?

9 MR. OLUDIPE: My name is Jomo
10 Oludipe. I'm the Applicant.

11 CHAIRPERSON JORDAN: Yes.

12 MR. AKAME: My name is Aziz Akame.

13 CHAIRPERSON JORDAN: Would you make
14 sure that your microphone is turned on please?

15 MR. AKAME: Yes, sir. Aziz Akame.

16 CHAIRPERSON JORDAN: Akame?

17 MR. AKAME: Yes, Akame. I'm the
18 architect associated with the project.

19 CHAIRPERSON JORDAN: Okay.

20 MR. AKAME: And Mr. Jomo.

21 CHAIRPERSON JORDAN: All right. I
22 know we've had this before us couple of times.

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1 Let me -- did we get the new drawings? Have
2 we got the new drawings?

3 Yes, Mr. Moy, we need copies of the
4 drawings.

5 MR. MOY: Okay. Full size?

6 MR. AKAME: Yes, I got some more
7 copy if you want, sir.

8 CHAIRPERSON JORDAN: You have
9 copies?

10 MR. AKAME: Yes, right now.

11 CHAIRPERSON JORDAN: Yes. Yes,
12 bring them forward. How many do you have? Let
13 me --

14 MR. AKAME: I got I think four.

15 CHAIRPERSON JORDAN: Okay. Bring
16 those forward. Would you please? Let us look
17 at them please.

18 MR. AKAME: You want this?

19 CHAIRPERSON JORDAN: Yes. Did you
20 submit an affidavit of posting?

21 MR. OLUDEPE: Oh, yes.

22 MR. AKAME: Yes.

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1 CHAIRPERSON JORDAN: Do we have
2 that in our record?

3 Here is the problem that I'm having.
4 You know, we just got these plans in and they
5 should have been in some time ago and the Board
6 hasn't had a chance to really look at them and
7 digest them and then what we try to do is get
8 them out as quickly as we could electronically.

9 MR. AKAME: I brought some copy last
10 week. The guy said he was going to make some
11 --

12 CHAIRPERSON JORDAN: Yes, we're
13 making copies. But, still it takes a
14 requirement for us to digest them and we'll take
15 a look at them here, but I -- let's take a look
16 at them.

17 Mr. Moy, did you have enough of the
18 drawings to spread around? I know we're making
19 some copies of them.

20 MR. AKAME: Okay. Well --

21 CHAIRPERSON JORDAN: Just one sheet
22 of -- have we missed any -- did you have a chance

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1 -- have you had any communication with the ANC
2 and understand that they said that they need
3 more information on the --

4 MR. AKAME: Yes, I spoke to them and
5 they say they was going to be -- they're going
6 to email me a letter of support, but they haven't
7 done that.

8 CHAIRPERSON JORDAN: They sent a
9 letter requesting that we deny it. Not support.

10 MR. AKAME: Huh?

11 CHAIRPERSON JORDAN: I believe.
12 ANC-8D. Didn't we receive a 8D letter?

13 MR. AKAME: I got the number of
14 commissioner I spoke to several times, several
15 occasions.

16 CHAIRPERSON JORDAN: Yes, we got a
17 letter from -- we got it yesterday, late last
18 night and they sent it December 3rd and it's
19 recommending that -- with the quorum not being
20 present. Oh, that was October 30th. That was
21 October 25th. Then they had something else.
22 If you can kind of work your way through it.

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1 It talks about recommending denial at some point
2 in here. It's in the -- well, no, that was in
3 the October 25th meeting. They had another
4 meeting. Didn't they? No, but they had
5 another meeting I think. They had a -- okay.
6 They met November 8th.

7 I think what we wanted was
8 additional plans. I think we have that. I
9 think we have enough information to go forward.
10 Okay.

11 OP's not here?

12 Yes, this is one which I believe that
13 we can go forward and recommend the approval
14 finally. That we have a decent set of plans.

15 I think the lot speaks for itself. The lots
16 are substandard and they've been sitting there
17 awhile and has been indicated, the only way that
18 these could become viable place for use is that
19 these lots needs to be combined.

20 Again, we go back to the situation
21 of having vacant lots sitting there that's been
22 there for awhile. I know it's taken us awhile

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1 to massage this, but this is what I would move
2 that we go ahead and grant the request of this
3 Applicant.

4 VICE CHAIR SORG: Second.

5 CHAIRPERSON JORDAN: Motion made
6 and seconded that we grant the request for relief
7 requested by this Applicant. Any unreadiness?

8 Seeing none, all those in favor
9 signify by saying aye.

10 (Ayes.)

11 CHAIRPERSON JORDAN: Those opposed
12 nay. The motion carries. Mr. Moy.

13 MR. MOY: Staff would record the
14 vote as 4 to 0 to 1. This is on the motion of
15 Chairman Jordan to approve the application.
16 Second the motion Vice Chairperson Sorg. Also
17 in support Mr. Robert Miller and Mr. Jeffrey
18 Hinkle. There's a Board Member seat vacant.
19 So, again, the motion carries on a vote of 4
20 to 0 to 1.

21 MR. AKAME: Thank you.

22 MR. OLUDIPE: Thank you very much.

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1 MR. AKAME: Thank you.

2 CHAIRPERSON JORDAN: And may we
3 have a summary order, Mr. Moy.

4 MR. OLUDEPE: I appreciate that.

5 MS. GLAZER: Mr. Chair.

6 CHAIRPERSON JORDAN: Yes.

7 MS. GLAZER: I believe the ANC is
8 opposed and we would need a full order in this
9 case because of that.

10 CHAIRPERSON JORDAN: All right.
11 Then let's just do a full order. Fine. We do
12 a full order. Let's do a full order.

13 MS. GLAZER: The is if the Board is
14 giving great weight to the ANC letter. I'm not
15 sure whether that was done or not.

16 CHAIRPERSON JORDAN: Certainly we
17 gave great weight and we had a discussion --
18 a little bit of discussion about that. So, yes.

19 Okay. Thank you.

20 MR. OLUDEPE: Thank you so much.

21 MR. AKAME: Thank you, Mr.
22 Chairman.

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1 CHAIRPERSON JORDAN: Thank you.

2 We stand in recess until 1:00

3 (Whereupon, at 12:21 p.m., the

4 hearing was recessed to reconvene this same day

5 at 1:00 p.m.)

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1:17 p.m.

CHAIRPERSON JORDAN: Let's come back on the record for our afternoon docket and come back into session.

All those who are going to testify on any case on this afternoon's docket please stand and take the oath or affirm of office being given by the Board's Secretary and additionally, I'm going to ask that you complete two witness cards each and hand them to the court reporter prior to testifying. Thank you.

MR. MOY: Do you solemnly swear or affirm that the testimony you're about to present in this proceeding is the truth, the whole truth and nothing but the truth?

Ladies and gentlemen, you may
consider yourself under oath.

CHAIRPERSON JORDAN: Mr. Moy, when you're ready.

MR. MOY: Yes, good afternoon, Mr. Chairman, Members of the Board.

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1 The first application before the
2 Board in its afternoon session is Application
3 Number 18453. This is the application of Clark
4 Associates and Perseus Realty, LLC pursuant to
5 11 DCMR 3103.2. This is for a variance from
6 off-street parking requirements under
7 Subsection 2101.1 and the loading berth, loading
8 platform and service delivery loading space
9 requirements under Subsection 2201.1 to allow
10 the construction of a mixed-use
11 retail/service/office building in the
12 ARTS/C-3-A District at premises 1728 14th
13 Street, N.W. Property located in Square 207,
14 Lot 120 as advertised.

15 CHAIRPERSON JORDAN: All right.
16 Thank you, Mr. Moy.

17 Would the parties introduce
18 themselves please or persons at the witness
19 table please?

20 Are you on? The green button.
21 There you go. You're on now.

22 MR. COLLINS: Good afternoon. My

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1 name is Christopher Collins with the law firm
2 of Holland and Knight here on behalf of the
3 Applicant.

4 CHAIRPERSON JORDAN: Yes.

5 MS. MILANOVICH: Good afternoon.
6 My name is Jami Milanovich with Wells and
7 Associates, the traffic consultant for the
8 project.

9 MR. BONSTRA: Good afternoon. My
10 name's Bill Bonstra, Bonstra Haresign
11 Architects. We're the architects for the
12 project.

13 CHAIRPERSON JORDAN: Thank you.
14 This file. We have everything. I believe we
15 do. Okay.

16 Mr. Collins, we believe that the
17 record's quite full in this submission for
18 relief. I believe that everything that's
19 necessary to grant the relief has been submitted
20 on the record and I think the Board is
21 comfortable unless the Board has any questions
22 specifically that they need. I think the record

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1 is pretty full.

2 You have the opportunity to do a
3 presentation if you want. However, we believe
4 there is sufficient information already in the
5 record and the Board doesn't have any questions
6 on this application at this point.

7 MR. COLLINS: Thank you, Mr. Chair.

8 I would like to make a couple of housekeeping
9 points.

10 First of all, as explained in the
11 statement of the Applicant, we have requested
12 additional relief for the roof structure for
13 a special exception to allow roof structure of
14 unequal heights. This did come up after the
15 time that the case was advertised and the
16 rationale for that is explained in the statement
17 of the Applicant.

18 We could as a matter of right build
19 a roof structure with equal heights, but we're
20 actually asking for permission to build less.

21 CHAIRPERSON JORDAN: But, I think
22 we're already comfortable with your filings.

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1 MR. COLLINS: Good.

2 CHAIRPERSON JORDAN: Just to let
3 you know that.

4 MR. COLLINS: I just wanted to make
5 sure that that was on the record.

6 Secondly, as explained in the
7 statement, the name of the Applicant has changed
8 since the application. It's now the
9 application of 1720 14th Street, LLC and a letter
10 of authorization's been submitted to the record
11 as well.

12 And we also did submit to the record
13 at Mr. Moy's place before he walked in this
14 afternoon several documents: A revised sheet
15 A18 of the Applicant's drawings. It's marked
16 A18A to differentiate from the A18 and what this
17 shows is a one-foot additional height of the
18 elevator penthouse.

19 The Applicant is doing pricing at
20 this point and there are three vendors. One
21 of whom would have an elevator penthouse. It's
22 one foot higher than the others. So, we would

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1 -- we just put that in the file just so that
2 you have it. This is still within the 1 to 1
3 setback. We wanted to make sure that the record
4 was complete on that in case the Applicant does
5 go with that particular vendor.

6 We've also submitted proposed
7 conditions of approval which incorporate -- and
8 I've done it in a way that copies and attaches
9 thereto our proposed conditions that are
10 contained in the traffic report by Wells and
11 Associates. As well as item number 3 of those
12 proposed conditions which is a kind of
13 restatement of the DDOT condition that they
14 requested that we include. So, that is complete
15 on that.

16 I've also submitted the PowerPoint
17 slides that Ms. Milanovich would have gone
18 through had this been -- had you requested us
19 to do so.

20 CHAIRPERSON JORDAN: Just give me
21 a moment. I want to --

22 MR. COLLINS: Sure.

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1 CHAIRPERSON JORDAN: -- verify
2 these most recent filings.

3 VICE CHAIR SORG: Okay. I'll ask
4 one sort of preliminary question which came up
5 for me in the prehearing statement.

6 How do you propose to structure
7 potential relief with the three options? Are
8 you really looking for relief from the maximum
9 or you know?

10 MR. COLLINS: We are asking for the
11 maximum relief that would be necessary under
12 --

13 VICE CHAIR SORG: Okay.

14 MR. COLLINS: -- any of the three
15 alternatives.

16 For instance, the loading relief is
17 only necessary under scheme 2.

18 VICE CHAIR SORG: Sure.

19 MR. COLLINS: The parking relief is
20 necessary under all three, but the required
21 amount of parking differs under all three
22 scenarios. So, we're asking for a maximum up

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1 to 56 parking spaces and one 30-foot loading
2 berth, one 100 square foot loading platform,
3 one 12-foot service loading space, 12 by 20
4 service loading space.

5 VICE CHAIR SORG: Okay. That's
6 what I thought, but I didn't know whether because
7 of the way that you structured the discussion
8 that there was a different way that you wanted
9 to go about it. But, that's good and simple.

10 MR. COLLINS: Thank you.

11 CHAIRPERSON JORDAN: Okay. Now,
12 you submitted this, as you said, list of
13 conditions that you want applied to the order.

14 MR. COLLINS: Yes, sir.
15 Conditions 1 and 2 are those which we proffered
16 in the transportation report that went to DDOT
17 as well as to this Board and DDOT's report
18 recognized that we had submitted those as draft
19 conditions. They're transportation, TDM
20 measures, transportation coordinators,
21 coordinating the loading as well as parking,
22 providing alternative -- information on

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1 alternative modes of transportation. Things
2 of that nature.

3 And then in addition to those that
4 DDOT recognized, they asked for an additional
5 condition which we've also included in our draft
6 conditions.

7 CHAIRPERSON JORDAN: Presupposing
8 that the Board was going to accept those things
9 from DDOT to be put into your order.

10 MR. COLLINS: They're there. If
11 you don't accept them, then we will not.

12 CHAIRPERSON JORDAN: That's --

13 MR. COLLINS: We're fine without
14 them, but we wanted to be complete on the record.

15 CHAIRPERSON JORDAN: Okay. That's
16 okay. I just want to make sure we're on the
17 same page. Okay. All right. Thank you.

18 Does the Board have any questions
19 of the Applicant? Yes, Mr. Miller.

20 ZC COMMISSIONER MILLER: Thank you,
21 Mr. Chairman.

22 The HPRB is scheduled to -- are they

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1 scheduled to consider the roof structure aspect
2 of this at some point or --

3 MR. COLLINS: I'd ask Mr. Bonstra
4 to address that issue.

5 MR. BONSTRA: We have received HPRB
6 approval and the approval has been delegated
7 to staff. The penthouses were shown in some
8 form. We met with Steve Calcott actually on
9 Friday and went back through the current
10 drawings and reviewed that with him. But, our
11 understanding is that'll be done on a staff
12 level. So, not going back to the Board.

13 ZC COMMISSIONER MILLER: Thanks.

14 CHAIRPERSON JORDAN: Okay. Are
15 there any additional questions of the Applicant?

16 Then let's move to the Office of
17 Planning please.

18 MR. MORDFIN: Good afternoon. I'm
19 Stephen Mordfin with the Office of Planning and
20 the Office of Planning has no additional
21 comments on this and stands on the record.

22 CHAIRPERSON JORDAN: Thank you.

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1 Does the Board have questions of the Office of
2 Planning? Ms. Sorg? No?

3 Okay. Does the Applicant have
4 questions of the Office of Planning?

5 MR. COLLINS: No, sir.

6 CHAIRPERSON JORDAN: Is anyone here
7 from the Department of Transportation? We have
8 a report of the Office of Transportation which
9 -- let me look at this date, 29th/30th. That
10 we got last night.

11 So, we received last night the
12 Department of Transportation plan in that --
13 I mean letter which has voiced no objection to
14 the plan and finds negligible impact on the
15 transportation system.

16 There are some -- I don't even want
17 to use condition. Some things that they would
18 like the Applicant to do and I'm understanding
19 from the Applicant you're willing to do these
20 things.

21 MR. COLLINS: The way we've stated
22 it in our condition number 3 of the proposed

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1 conditions is slightly different than what DDOT
2 has requested. We understood DDOT's request
3 was to provide some assistance to all employees
4 of the building to mitigate parking impacts and
5 that would be parking impacts from commuting
6 and so, we would -- our offer is to give each
7 employee at the time of occupancy of the building
8 a choice of one of those three alternatives.
9 Not more than one, but one depending on their
10 method of commuting and frankly, if they walk,
11 they really wouldn't need any of those.

12 CHAIRPERSON JORDAN: Okay.

13 VICE CHAIR SORG: That would only
14 apply to the initial tenant.

15 MR. COLLINS: I'm sorry.

16 VICE CHAIR SORG: That would only
17 apply to the initial tenant.

18 MR. COLLINS: That's correct.

19 CHAIRPERSON JORDAN: Okay. Is
20 anyone -- do we have the ANC? The ANC, I think,
21 submitted a letter here. Catch up. These last
22 minute submissions is something that kind of

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1 throws us for a loop because we spend time going
2 ahead and looking at these files and making our
3 notes and what have you and last minute
4 submissions kind of pull us back trying to catch
5 up on newly filed documents.

6 That's why the Board is really
7 trying to hold tight on late submissions. Some
8 of you who have appeared before us before know
9 that we get -- we're trying to clamp down on
10 late submissions even by governmental agencies
11 also.

12 MR. COLLINS: We were also hampered
13 by the late DDOT report and that's why our
14 response --

15 CHAIRPERSON JORDAN: I understand.
16 That's part of the whole scenario also.

17 All right. Is anyone here from
18 ANC-2F? We do have a letter of support from
19 ANC-2F that recommends approval and we would
20 give great weight. It was unanimously by a vote
21 of 4 to 0.

22 Is anyone in the audience here who

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1 wishes to speak in support of the application?

2 Is anyone here who wishes to speak
3 in opposition to the application?

4 Then we will turn back to the
5 Applicant to see if there's something that you
6 want to say in closing.

7 MR. COLLINS: Thank you for your
8 time and we respectfully request a decision at
9 the earlier possible date. Thank you.

10 CHAIRPERSON JORDAN: And does the
11 Board have any additional questions they would
12 like to ask anyone?

13 VICE CHAIR SORG: Thank you, Mr.
14 Chairman.

15 Just one more question. As the
16 Chair mentioned, we are kind of catching up on
17 the DDOT report ourselves having received it
18 last night.

19 The other thing that they indicate
20 in their final paragraph is that the Applicant
21 should redesign a loading area so that no portion
22 of the service vehicle extends into the public

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1 alley. So on and so forth.

2 Has the site plan been revised to
3 show that?

4 MS. MILANOVICH: Actually, the plan
5 as presented does accommodate a 30-foot truck
6 entirely in private property. It does not
7 protrude. The berth itself is, I believe, 30
8 feet 2 inches. So, there is sufficient room
9 for a 30-foot truck to be back into the loading
10 berth and not extend into the public right of
11 way.

12 I have a diagram if you'd like to
13 see it on my PowerPoint presentation.

14 VICE CHAIR SORG: Why do you think
15 they said that then?

16 MS. MILANOVICH: The truck turning
17 diagrams that we submitted with our study showed
18 how the truck would maneuver to get in there
19 and there's a lot of lines and we were really
20 trying to illustrate that they can, in fact,
21 negotiate the turn to back into the dock and
22 I think there was a little bit of confusion in

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1 terms of, you know, where the truck would stop.

2 There's a drain that's shown on the plan that
3 might not have been understood to be a drain
4 and something that you can actually drive over.

5 It might have been misinterpreted as a wall
6 or something of that nature. So.

7 VICE CHAIR SORG: Okay. Well, for
8 me, if the Applicant is indicating that their
9 plan complies, then it's fine. I just thought
10 it worth bringing up.

11 CHAIRPERSON JORDAN: Right.
12 Right. Thank you.

13 Any additional questions of the
14 Applicant or anyone from the Board? Okay.

15 With that, then we will close this
16 hearing. Based upon what's already been
17 submitted in the record, is the Board ready to
18 deliberate?

19 Based upon the record which has been
20 submitted to the Board I believe the
21 documentation in evidence obtained here and
22 subsequent filings in this matter that there's

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1 sufficient evidence to grant the relief
2 requested by the Applicant and I would recommend
3 that the Board do so.

4 So, I would move that the Board grant
5 the request for relief as requested by the
6 Applicant and include the conditions set forth
7 by the Applicant that's been passed out today,
8 number 1, 2 and 3, to be incorporated into the
9 record. That being the Transportation Demand
10 Plan that's contained in Exhibit 25 be made part
11 of the condition as well as the load management
12 Plan that's contained in Exhibit 25 and the third
13 condition being upon the issuance of the
14 Certificate of Occupancy, the initial tenant
15 occupancy of the rental space and office space
16 in the building the Applicant would make
17 available at the time of each tenant/employee
18 \$100 SmartCard or \$50 car sharing membership
19 or \$75 Capital Bikeshare Membership depending
20 upon the method of commuting to and from work.

21 That would be my motion.

22 VICE CHAIR SORG: Second.

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1 CHAIRPERSON JORDAN: Motion made
2 and seconded. Any additional discussion or
3 unreadiness?

4 Seeing none, all those in favor
5 signify by saying aye.

6 (Ayes.)

7 CHAIRPERSON JORDAN: Those opposed
8 nay. The motion carries. Mr. Moy.

9 MR. MOY: Yes, staff would record
10 the vote as 4 to 0 to 1. This is on the motion
11 of Chairman Jordan to approve the application
12 per the three sets of conditions as stated and
13 submitted today. Seconded by Vice Chairperson
14 Sorg. Also in support of the motion Mr. Robert
15 Miller and Mr. Jeffrey Hinkle. We have a Board
16 seat vacant. So, with a retile of the
17 application to 1728 14th Street, LLC, staff
18 records the vote as 4 to 0 to 1. Motion carries,
19 sir.

20 CHAIRPERSON JORDAN: Thank you, Mr.
21 Moy. May we have a summary order please?

22 MR. MOY: Yes, sir.

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1 CHAIRPERSON JORDAN: Thank you.

2 Thank you.

3 MR. COLLINS: Thank you.

4 MR. MOY: The next application
5 before the Board is Application Number 18456.

6 This is the application of West End Residential
7 Properties, LLC on behalf of the District of
8 Columbia pursuant to 11 DCMR 3104.1 and 3103.2
9 for a variance from the public space
10 requirements under Section 633, a variance from
11 the court requirements under Section 638, a
12 variance from the off-street parking
13 requirements under Subsection 2101.1 and a
14 variance from the loading requirements under
15 Subsection 2201.1 and special exception
16 approval from the roof structure provisions
17 under Subsections 411.5 and 630.4. This is to
18 allow a mixed-use project that consists of a
19 new fire station at the ground level,
20 recreational or commercial use and an apartment
21 house in the CR District at premises 2225 M
22 Street, N.W. Property located in Square 50,

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1 Lot 822 as advertised.

2 CHAIRPERSON JORDAN: Thank you, Mr.
3 Moy.

4 Would the persons at the witness
5 table please identify themselves and their role
6 in this application?

7 MS. BATTIES: Good afternoon,
8 Chairman Jordan. Leila Batties with the law
9 firm of Holland and Knight on behalf of the
10 Applicant.

11 MR. SANKARAN: Senthil Sankaran,
12 Director of Development at the Office of the
13 Deputy Mayor for Planning and Economic
14 Development on behalf of the Applicant.

15 MS. BATTIES: And we have other
16 members of the project team here if you guys
17 want to --

18 CHAIRPERSON JORDAN: I don't really
19 care to meet everybody on a project team. Those
20 who are at the witness table who are going to
21 speak today.

22 MS. WHITE: Hi, Nicole White,

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1 Principal with Symmetra Design Transportation.

2 CHAIRPERSON JORDAN: And you, sir.

3 OPERATOR: Just operating the slide
4 show.

5 CHAIRPERSON JORDAN: Oh, just
6 operating the slide show.

7 We do have a -- is it Susan -- where's
8 my notes. Susan Haight is it?

9 MS. BATTIES: Haight.

10 CHAIRPERSON JORDAN: Haight is it?
11 Request for party status. Is Ms. Haight here?
12 Are you -- could you come forward please to
13 -- Haight.

14 Ms. Haight, would you be sure your
15 microphone is on? Okay. Push the button.
16 Make sure it glows.

17 MS. HAIGHT: Yes.

18 CHAIRPERSON JORDAN: You submitted
19 a party status request and you did a party status
20 request in support.

21 MS. HAIGHT: Yes.

22 CHAIRPERSON JORDAN: Usually --

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1 well, not usually. You have a right to submit
2 a party status. Usually those in support don't
3 request party status. If want to make a
4 comment, they have an opportunity to comment
5 with a three-minute period.

6 As a party, then you're not
7 required, but you have the opportunity to
8 participate, cross examine, put on a
9 presentation, et cetera.

10 So, I don't know if you still want
11 to maintain that status or just have the right
12 to speak.

13 MS. HAIGHT: I think just the right
14 to speak please.

15 CHAIRPERSON JORDAN: Okay. That's
16 what I wanted to get clear. All right. Thank
17 you and so, you withdraw your party status
18 request and certainly have the right to speak
19 as a person in support of the application.

20 MS. HAIGHT: Yes, sir.

21 CHAIRPERSON JORDAN: Thank you.
22 All right.

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1 MS. BATTIES: Chairman Jordan.

2 CHAIRPERSON JORDAN: Yes.

3 MS. BATTIES: Steve Sher. We'd
4 like to also proffer him as an expert witness
5 in land use and zoning if we're going down the
6 --

7 CHAIRPERSON JORDAN: That's a tough
8 lift. Very tough lift. I'd bet -- certainly,
9 we'll accept Mr. Sher.

10 MS. BATTIES: And then the
11 architect for the project Mr. Chris Glass.
12 Where is Chris?

13 CHAIRPERSON JORDAN: Well, we have
14 -- what's his name?

15 MS. BATTIES: He's not being
16 proffered as an expert, but he will be available
17 to answer any questions on the plans.

18 CHAIRPERSON JORDAN: Okay. Thank
19 you. Thank you.

20 All right. Board. I just want to
21 know we're going to play squash now. Anyway
22 just joking.

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1 We believe that the record's full.
2 It's a very full record here regarding the
3 request for relief. The Board is very familiar
4 with the documents and evidence which has been
5 submitted prior to this hearing and believe that
6 the request for relief can be granted based upon
7 what's in the record.

8 Certainly, it's your opportunity if
9 you wish to do a presentation and present
10 anything else to the Board.

11 However, as we've known and also in
12 the last hearing, that sometimes you can talk
13 yourself into situations which you might not
14 want to have. So, it's up to you whether or
15 not you want to go forward and put forth a
16 presentation or you can stand on the record or
17 whatever you want to do.

18 MS. BATTIES: We'll stand on the
19 record. Thank you.

20 CHAIRPERSON JORDAN: Does that
21 Board have any questions for the Applicant?

22 Then we'll turn to Office of

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1 Planning to see if there's anything in addition
2 the Office of Planning wishes to submit.

3 MS. BROWN-ROBERTS: Good
4 afternoon, Mr. Chairman. Maxine Brown-Roberts
5 of the Office of Planning.

6 And we stand on the record also.
7 We have nothing else to add.

8 CHAIRPERSON JORDAN: Does the Board
9 have any questions for the Office of Planning?
10 Does the Applicant have questions for the
11 Office of Planning?

12 MS. BATTIES: No.

13 CHAIRPERSON JORDAN: All right.
14 Then let's move on to any other D.C. agency.
15 Department of Transportation, is there a
16 representative here? Do I have --

17 MR. OMay: Yes.

18 CHAIRPERSON JORDAN: Yes. Go
19 ahead.

20 MR. OMay: Murat Omay with DDOT.

21 CHAIRPERSON JORDAN: Do we have a
22 report from you? Maybe I missed it.

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1 MR. OMay: We do have a report.

2 CHAIRPERSON JORDAN: I'm talking
3 about in our file. Do we have a DDOT report?

4 MR. OMay: Sure.

5 CHAIRPERSON JORDAN: That's no.
6 Mr. Moy, that's a no. This means a no. So,
7 Mr. Moy did this. That means no. So, we don't
8 have a report from you.

9 MR. OMay: We have a statement
10 saying that we received the Applicant's
11 transportation study late and we didn't get an
12 opportunity to actually review the study in its
13 entirety and, however, after that
14 correspondence, they filed supplemental reports
15 with us and we have been in communication and
16 there are some issues that were unresolved and
17 they're taken care of. So, I'm willing to kind
18 of state DDOT's opinion on the case if --

19 CHAIRPERSON JORDAN: You're
20 willing to what now?

21 MR. OMay: To state DDOT's opinion
22 on the case.

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1 CHAIRPERSON JORDAN: Okay.

2 MR. OMay: And then file a report
3 as a follow up later on.

4 CHAIRPERSON JORDAN: All right.
5 So, DDOT's opinion is?

6 MR. OMay: We actually reviewed the
7 study that was submitted to us. It was a
8 preliminary study and the Applicant also worked
9 with us to file some supplemental information
10 regarding the squash court and in general, we
11 concluded that there's not going to be a
12 significant impact, traffic impact, due to this
13 proposal.

14 However, we wanted to get a better
15 understanding of the squash court and the trips
16 and the parking demand that is associated with
17 that type of land use because it's quite unusual.

18 And other than that, as far as the
19 loading operations, our opinion is that the
20 requested 30-foot loading berth is adequate for
21 this type of facility, for this type of
22 development and as far as parking, they're

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1 proposing to provide no parking for the
2 residents and we also think that it's
3 appropriate for this type of development because
4 of its proximity to the high-quality transit
5 and the quality of pedestrian and bicycle
6 facilities in the area.

7 CHAIRPERSON JORDAN: Thank you.

8 Does the Board have any questions
9 for Department of Transportation?

10 Does the Applicant have questions
11 for Department of Transportation?

12 MS. BATTIES: No, we don't have any
13 questions.

14 CHAIRPERSON JORDAN: Okay. Then
15 let's move to the -- are there any other
16 governmental agencies that wishes to weigh in?
17 Okay.

18 Then let's -- is there a
19 representative from ANC-2A here to testify or
20 to bring comments?

21 We do have a letter from ANC-2A which
22 recommends approval to which we will give great

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1 weight in support of this application.

2 Is there anyone in the audience who
3 wishes to speak in support? Ms. Haight.

4 MS. HAIGHT: Yes.

5 CHAIRPERSON JORDAN: Yes. You
6 have three minutes and let me -- if you give
7 me one second, I'm going to have Mr. Moy give
8 us three minutes on the clock and we do have
9 your letter of support, but you certainly have
10 three minutes if you wish to --

11 MS. HAIGHT: I think I'm going to
12 waive that. Thank you.

13 CHAIRPERSON JORDAN: Okay. And we
14 do have your letter in the record in support
15 of this application.

16 Is there anyone else who wishes to
17 speak in support?

18 Is there anyone in the audience who
19 wishes to speak in opposition to the
20 application? Okay.

21 Then we will turn back to the
22 Applicant, but there's no need to rebut because

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1 there's nothing there to rebut.

2 There's no need to close because we
3 kind of closed for you.

4 So, I believe -- unless you have
5 something you really want to say.

6 MS. BATTIES: No.

7 CHAIRPERSON JORDAN: Okay. So,
8 then we will close this hearing based on upon
9 the previously submitted record and that will
10 has been adduced here at this hearing.

11 Is the Board ready to deliberate?
12 You sure? Okay.

13 Then I would move that we grant the
14 relief requested in this application.

15 ZC COMMISSIONER MILLER: I will
16 second.

17 CHAIRPERSON JORDAN: A motion and
18 seconded that we grant this relief.

19 All those in favor signify by saying
20 aye.

21 (Ayes.)

22 CHAIRPERSON JORDAN: All those

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1 opposed nay. The motion carries. Mr. Moy.

2 MR. MOY: Yes, sir, before I can --
3 did you make the motion and who seconded it?

4 CHAIRPERSON JORDAN: I made the
5 motion. Mr. Miller seconded.

6 MR. MOY: Oh, thank you very much.

7 Okay. Here we go. Staff records
8 the vote as 4 to 0 to 1. This is on the motion
9 of Chairman Jordan. Seconded by Mr. Robert
10 Miller. Also in support of the motion Vice
11 Chairperson Sorg and Mr. Hinkle. We have a
12 Board seat that is vacant. So, again, the
13 motion carries on the vote of 4 to 0 to 1.

14 CHAIRPERSON JORDAN: To 1?

15 MR. MOY: The one that's vacant.

16 CHAIRPERSON JORDAN: But, if it's
17 vacant, it's vacant. Right? Anyway, we'll
18 work that out.

19 I know that's something you guys
20 have been doing for awhile, but anyway, thank
21 you so very much and can we have a summary order,
22 Mr. Moy?

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1 MR. MOY: Yes, sir.

2 CHAIRPERSON JORDAN: Thanks.

3 Thanks a lot. Thank you all for coming.

4 MS. BATTIES: Thank you.

5 CHAIRPERSON JORDAN: Sorry to make
6 it so rough for you, but it's a bad day. No.

7 MR. MOY: The next application
8 before the Board is Application Number 18429
9 or rather 18432. This is the application of
10 John C. Hines pursuant to 11 DCMR 3104.1 and
11 3103.2 for a variance from the rear yard
12 requirements under Section 404 and a special
13 exception under Subsection 2516.1 to permit an
14 addition to an existing flat two-family dwelling
15 where there are more than principal structure
16 on a single lot in the R-4 District at premises
17 1618 5th Street, N.W. Property located in
18 Square 477, Lot 845 as advertised.

19 As the Board will recall, this
20 application was originally scheduled at its
21 public hearing session on October 23rd and the
22 Board granted the request to reschedule to

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1 today, December 4th, the hearing date.

2 CHAIRPERSON JORDAN: We wanted to
3 reschedule. Why was that? What did I miss?

4 Will the parties come to the witness
5 -- will the persons or parties, the people who
6 are going to participate in this come to the
7 table? Witness table. 18432.

8 Will you please identify yourself
9 for us please?

10 MS. REED-FRIMPONG: Sure. Good
11 afternoon. My name is Dianna Reed-Frimpong and
12 I represent my client John Hines, the owner of
13 the property at 1618 5th Street, N.W.

14 CHAIRPERSON JORDAN: Okay. Just
15 give me a second.

16 MS. REED-FRIMPONG: Sure.

17 CHAIRPERSON JORDAN: Okay. Where
18 are we Board? Board, are you okay with this
19 one? I don't see any issues. Okay. Good.
20 All right.

21 We believe that the record is full
22 in regards to what's necessary to grant the

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1 relief and you have the opportunity to do a
2 presentation if you wish or you can waive that.

3
4 So, it's up to you. Which do you
5 prefer?

6 MS. REED-FRIMPONG: Well, there
7 were two conditions on the Office of Planning
8 memo. I just wanted to address those and then
9 other than that, I would be open to questions
10 from the Board.

11 CHAIRPERSON JORDAN: Okay.
12 Um-hum.

13 MS. REED-FRIMPONG: One of the
14 concerns was the unclear floor plan or wondering
15 what would be used of the space once the addition
16 was there if it were granted. The addition is
17 not for the purposes of making the already
18 existing two-family flat have additional units.

19 It's only to make the rear portion of the units
20 larger.

21 There's a kitchen area in the back
22 that would be effected most closely by the

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1 addition and here I have a cross section.

2 Also, I have a site plan that shows
3 the setbacks as well as where the area of
4 disturbance would be in relation to the existing
5 carriage house in the rear of the property.

6 I wanted to make it clear that there
7 was no work to be proposed for the existing
8 carriage house in the rear of the property.

9 Other than those two concerns, I
10 have nothing else to present.

11 CHAIRPERSON JORDAN: Okay. Board,
12 any questions of the Applicant?

13 All right. Let's turn now to Office
14 of Planning.

15 MS. BROWN-ROBERTS: Again, good
16 afternoon, Mr. Chairman, Members of the Board.
17 Maxine Brown-Roberts.

18 I think we will -- we'll stand on
19 the record for the Office of Planning and as
20 the Applicant stated, we had two conditions and
21 we still have -- I haven't seen the plan. So,
22 you know, I --

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1 CHAIRPERSON JORDAN: I understand.

2 MS. BROWN-ROBERTS: But, I just
3 think that it should be -- it's something that
4 should be in the record.

5 CHAIRPERSON JORDAN: Right.
6 Exactly. We will agree with that, too.

7 MS. BROWN-ROBERTS: Okay. That's
8 all. Thank you.

9 CHAIRPERSON JORDAN: Any other
10 questions of Office of Planning, anyone?

11 Does the Applicant have any
12 questions of Office of Planning?

13 MS. REED-FRIMPONG: No.

14 CHAIRPERSON JORDAN: Okay. Then
15 is there a DDOT report here. Yes, there's a
16 DDOT. Anyone from Department of Transportation
17 here?

18 Then we have a Department of
19 Transportation letter that recommends -- that
20 makes no objection to the plan. They're usual
21 dialogue.

22 Is there anyone here from ANC-2C?

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1 ANC-2C?

2 We do have a letter from ANC-2C which
3 we would grant great weight to that certainly
4 recommends the approval of the application.

5 Is there anyone in the audience who
6 wishes to speak in support of this application?

7 Anyone here wishing to speak in
8 opposition to the application?

9 Then we would turn back to the
10 Applicant if there's something that you need
11 to say, but let me ask if the Board has any
12 additional questions of anyone?

13 VICE CHAIR SORG: Mr. Chairman, you
14 know, I don't have specific questions on this
15 application, but I really do not feel that it's
16 appropriate to vote on an application without
17 plans and site plans that show this is an
18 addition to an existing dwelling. It's just
19 not customary and I think that the Applicant
20 should submit what is required under the relief
21 that they're requesting.

22 Thank you.

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1 CHAIRPERSON JORDAN: Anybody else
2 have anything they need to say? Anybody? No.
3 Okay.

4 Is there anything you need to say
5 further on the --

6 MS. REED-FRIMPONG: Yes, there were
7 actually plans as well as a site plan supplied
8 with the application at the onset of submission
9 to the Board and it actually made it through
10 the first line of review and had I know that
11 there was something that was required of the
12 Board that was not a part of that package, I
13 would have gotten that to you timely and the
14 plans that I have blown up are the same ones
15 that were submitted with the application
16 initially prior to use paying the fee to the
17 Board.

18 CHAIRPERSON JORDAN: What are you
19 calling the site plan? What's the exhibit
20 number?

21 MS. REED-FRIMPONG: I'm not sure
22 which exhibit number it is. The site plan that

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1 I'm referring to is a plat from the D.C.
2 Surveyor's Office that shows all of the lot lines
3 as well as the dimensions and it also denotes
4 where the addition would be proposed.

5 The plans that were submitted were
6 a cross section to show each floor which was
7 affected and what is existing and what is
8 proposed.

9 MR. MOY: If I can assist, Mr.
10 Chairman. The Applicant's referring to the
11 Surveyor's Plat which is Exhibit Number 2 and
12 then there are a series of drawings on Exhibits
13 10 -- I had it here a moment ago. I think it
14 was 10 and 11, but let me double check.

15 Yes, there are floor plans under
16 Exhibit 10 and Exhibit 11 is what appears to
17 be an elevation drawing. It's a south
18 elevation.

19 CHAIRPERSON JORDAN: Okay. Then
20 let's close this hearing based upon what we have
21 in the record right now, but I'm going to keep
22 the record open for a supplement submission.

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1 MS. REED-FRIMPONG: Thank you.

2 CHAIRPERSON JORDAN: And the
3 supplemental submission will require that the
4 Applicant produce both the site plan and floor
5 plans drawn as required for the file.

6 Put this on for a decision, Mr. Moy.

7 MR. MOY: Just a second. Okay.
8 Depending on -- well, the first decision meeting
9 for the Board is the afternoon of December
10 18th. If that's too soon, then we're --

11 CHAIRPERSON JORDAN: Go to another.

12 MR. MOY: Then we're looking at --
13 well, we do have a special public meeting on
14 the morning of January 8th.

15 CHAIRPERSON JORDAN: What do we
16 have on that?

17 MR. MOY: It's the --

18 CHAIRPERSON JORDAN: Special
19 public meeting.

20 MR. MOY: -- special public
21 meeting. Yes, that was a variance case. As
22 a matter of fact --

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1 CHAIRPERSON JORDAN: We have that
2 in the morning?

3 MR. MOY: That's the one -- that's
4 in the morning with -- as a matter of fact, Mr.
5 Miller is going to be present for that.

6 CHAIRPERSON JORDAN: Okay. Then
7 let's do it for that date.

8 But, again, what you have submitted
9 is not sufficient for the Board or Office of
10 Planning. So, I don't know how to say it any
11 differently than finding out what's necessary
12 to be filed. Okay. And in a proper manner and
13 what have you. Okay.

14 So, if you can get it in, Mr. Moy,
15 we're going to put this on January --

16 MR. MOY: January 8th.

17 CHAIRPERSON JORDAN: -- January 8th
18 for a decision. We need your submission --

19 MR. MOY: By -- well, this is 2013.
20 Okay. By I was going to say January 1st, but
21 let's say December the 31st. Which is a Monday.

22 CHAIRPERSON JORDAN: That should be

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1 plenty of time. Okay. Well, good. Then
2 that's closes this particular hearing based upon
3 December 31st. Was that, Mr. Moy?

4 MR. MOY: For filing. Yes, sir.

5 CHAIRPERSON JORDAN: For filing.
6 Then it goes on a decision for January 8th.

7 MR. MOY: Correct.

8 CHAIRPERSON JORDAN: Okay.

9 MS. REED-FRIMPONG: May I ask a
10 question?

11 CHAIRPERSON JORDAN: Go ahead.

12 MS. REED-FRIMPONG: Thank you.
13 Just to make sure that we're properly prepared,
14 the drawings were prepared by an architect that
15 draws by hand and so, when they're photocopied,
16 they may not be as clear. Is there something
17 that we could do in a more simplistic fashion
18 that would satisfy the Board's requirement for
19 floor plans?

20 CHAIRPERSON JORDAN: Why don't you
21 meet with the Office of Planning and/or Zoning
22 and have a conversation with them about what's

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1 necessary support and sufficient details.

2 MS. REED-FRIMPONG: All right.

3 Thank you.

4 CHAIRPERSON JORDAN: They need to
5 be in those plans.

6 Okay. Thank you. All right.
7 That concludes this hearing.

8 MS. REED-FRIMPONG: Thanks.

9 MR. MOY: The next and final action
10 for the Board is Appeal Number 18429. This is
11 the appeal of Edward V. Hanlon pursuant to 11
12 DCMR 3100 and 3101 from an April 10th, 2012
13 decision by the Department of Consumer and
14 Regulatory Affairs to issue a building permit,
15 Building Permit Number B -- B as in Bravo 1206336
16 allowing the construction of a roof deck in the
17 DC/R-4 District at premises 1530 Swann Street,
18 N.W. Property located in Square 191, Lot 76.

19 Mr. Chairman, Members of the Board,
20 we do have two filings from the Appellant that
21 were submitted today.

22 CHAIRPERSON JORDAN: And what are

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1 those?

2 MR. MOY: I believe they were
3 filings stating the Appellant's opposition to
4 the motion to dismiss.

5 CHAIRPERSON JORDAN: Today? We
6 have -- this motion to dismiss has been pending
7 awhile. Let me see what we have, Mr. Moy,
8 please.

9 I thought we had -- if I remember
10 correctly, this motion to dismiss has been
11 pending at least even at our last setting.

12 MS. GLAZER: Mr. Chair, I believe
13 that maybe I can clarify. I think there are
14 two motions to dismiss.

15 CHAIRPERSON JORDAN: Are there?

16 MS. GLAZER: Yes, the first one was
17 filed with respect to failure to state a claim
18 of zoning error and the second one was filed
19 about being aggrieved. It had to do with
20 whether or not. That was the more recent
21 motion.

22 CHAIRPERSON JORDAN: All right.

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1 The first thing, let's do this. Let's have the
2 parties identify themselves and I want to come
3 back and do some housekeeping.

4 So, starting to the left, would you
5 identify yourself?

6 MR. HANLON: Good afternoon. My
7 name is --

8 CHAIRPERSON JORDAN: Would you make
9 sure that your microphone is on please?

10 MR. HANLON: Oh, I apologize. Good
11 afternoon. My name is Edward Hanlon. I am the
12 Appellant. I live at 1523 Swann Street, N.W.
13 across the street from the Applicant's house.

14 CHAIRPERSON JORDAN: Okay. Next,
15 Mr. Sullivan.

16 MR. SULLIVAN: Good afternoon. My
17 name is Marty Sullivan with the law firm of
18 Sullivan and Barros representing the property
19 owner, Mr. Darren Binder, who probably will not
20 end up testifying, but he hasn't taken the oath
21 if you want to get that out of the way first.

22 CHAIRPERSON JORDAN: And, Mr.

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1 Hanlon, have you taken the oath?

2 MR. HANLON: Yes, I did.

3 CHAIRPERSON JORDAN: Okay. All
4 right. Then we're come back to that. Yes.

5 MR. LEGRANT: Good afternoon,
6 Members of the Board. Matthew LeGrant. I'm
7 the Zoning Administrator at DCRA.

8 MR. SURABIAN: Good afternoon.
9 Assistant Attorney General Jay Surabian on
10 behalf of DCRA and the Zoning Administrator has
11 not taken the oath as well. So.

12 CHAIRPERSON JORDAN: Okay. Let's
13 do some oath giving. Those who need to be sworn
14 in if you're going to testify in any shape, form
15 or fashion, please stand.

16 MR. MOY: Do you solemnly swear or
17 affirm that the testimony you're about to
18 present in this proceeding is the truth, the
19 whole truth and nothing but the truth?

20 Thank you.

21 CHAIRPERSON JORDAN: Thank you and
22 have you completed witness cards and given them

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1 to the court reporter?

2 MR. HANLON: Yes, I did.

3 MR. SURABIAN: Yes, we have.

4 CHAIRPERSON JORDAN: And your name
5 again?

6 MR. BINDER: Darren Binder.

7 CHAIRPERSON JORDAN: Binder.

8 Thank you. Okay. Let's find out where we are
9 and who's on first and who's on second.

10 There's been -- what motions do we
11 have that are still pending in front of the
12 Board?

13 MS. GLAZER: Mr. Chair, I'm sorry.
14 We were discussing whether Mr. Hanlon
15 should --

16 CHAIRPERSON JORDAN: He said he
17 already did.

18 MR. HANLON: I took the oath. I
19 stood in the room and raised my hand earlier.

20 CHAIRPERSON JORDAN: Yes, he was in
21 the back. Back there. Um-hum.

22 MS. GLAZER: Sorry.

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1 CHAIRPERSON JORDAN: That's okay.
2 No, better safe than sorry.

3 So, what motions do we have pending?
4 Let me -- what motions do we have pending that
5 we need to resolve?

6 MS. GLAZER: Mr. Chair, there are
7 two motions to dismiss. One is a motion to
8 dismiss for failure to properly file and state
9 a claim of zoning error.

10 The second motion to dismiss is a
11 motion to dismiss because the Appellant is not
12 an aggrieved party under the Zoning Act.

13 There's also one other motion which
14 I'm not sure whether the Board acted on it last
15 time. This was a motion to waive the time
16 requirements for filing of some exhibits.

17 CHAIRPERSON JORDAN: Okay. Are
18 these three motions still pending? Is that what
19 we have by the parties? These three motions.

20 MR. HANLON: I believe so.

21 CHAIRPERSON JORDAN: Um-hum.

22 MR. SULLIVAN: Yes.

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1 CHAIRPERSON JORDAN: Okay. All
2 right. So, let's handle these matters.

3 I believe these matters have been
4 sufficiently briefed. These preliminary
5 motions. Let's do the easier one first.

6 The motion to waive the date for
7 filing. We will accept the filing and grant
8 that waiver.

9 Regarding the failure to properly
10 complete the appeal form and provide --
11 actually, it goes to providing sufficient notice
12 of the zoning error. I'm inclined to deny that
13 motion. Does that Board has any other thoughts,
14 any other way?

15 Then that motion will be denied.

16 Regarding the motion to dismiss
17 regarding the aggrieved party, again, the Chair
18 is inclined to deny that motion based upon what's
19 been filed in accordance with case law, too,
20 regarding the administrative review of appeals
21 and the standard that's used. Any other
22 feeling? Okay.

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1 Then those motions to dismiss will
2 be denied.

3 So, then let's move into the -- is
4 that clear? All of our issues that we need to
5 do preliminarily.

6 Then I'm going to grant to the
7 parties, we have been well read and read and
8 read in this matter. So, I'm going to provide
9 each party ten minutes to speak toward their
10 issues in this and everybody's going to be on
11 the clock for this.

12 Yes.

13 MR. HANLON: I'm sorry. As a
14 housekeeping matter, Mr. Chairman, is that the
15 correct, I made print, paper copies of -- should
16 I stand while I speak?

17 CHAIRPERSON JORDAN: No. No. No,
18 fine.

19 MR. HANLON: I made paper copies of
20 the exhibits that are already on Isys that have
21 been accepted. I thought it might be easier
22 if the Board had physical copies while --

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1 CHAIRPERSON JORDAN: We would
2 already have them in our files.

3 MR. HANLON: I would note one other
4 thing as a housekeeping matter. I also made
5 a -- edited a docket sheet copy of Isys because
6 some of my exhibits carry exhibit numbers up
7 in the corner of the exhibit. That exhibit
8 number is different sometimes from the exhibit
9 number for Isys and so, I made a cross-reference
10 chart if the Court would like it. I mean the
11 Board would like it. When the Board is looking
12 at something such as Exhibit Number 1 and Number
13 2, I made a cross reference --

14 CHAIRPERSON JORDAN: Using a
15 different exhibit. Okay. Have you given it
16 to --

17 MR. HANLON: No.

18 CHAIRPERSON JORDAN: -- the other
19 parties so that they can look at it and I think
20 that might be helpful if we can do that.

21 And I'm going to turn back to the
22 Appellant and the Agency Counsel to see if we

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1 have any problems with that listing of the cross
2 reference before we accept it.

3 MR. SURABIAN: No problems with it.

4 CHAIRPERSON JORDAN: Mr. Sullivan?

5 MR. SULLIVAN: No, Mr. Chairman.

6 CHAIRPERSON JORDAN: Okay. Then
7 let's proceed beginning with the Applicant to
8 present their case and again, remember now we
9 have -- I would suggest that you -- you can
10 present what you want. You got ten minutes to
11 do so. But, we're well briefed. We've read
12 these briefs over and over again for several
13 weeks.

14 MR. HANLON: Thank you, Mr.
15 Chairman.

16 I live across the street from the
17 Applicant's house at 1523 Swann. Except for
18 Swann Street between us, my house would touch
19 his house. We are adjacent properties. We
20 would touch each other house in the corner
21 closest to 16th Street.

22 I've lived in my house for over 17

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1 years. I moved into my house in 1995.

2 In 1995, this close of Swann Street
3 was not part of the historic area. There was
4 different zoning at that time. My house was
5 zoned R-5.

6 This block became part of the
7 historic area in the middle of the last decade.

8 The zoning also changed in the middle of the
9 last decade.

10 The zoning change and the historic
11 designation as an historic area took place
12 before Mr. Binder bought his house in roughly
13 2009.

14 Now, I've raised a number of issues.

15 I believe that the deck is too high.

16 While standing on this -- I have no
17 privacy anymore in my house because of this deck.

18 I provided some of the exhibits in which the
19 Board can see the problems. The people standing
20 on the deck can see into my bedroom on the third
21 floor.

22 I took pictures and the pictures are

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1 in this package that show workmen standing on
2 the deck building the deck. I was sitting on
3 my bed in my bedroom on the third floor. I was
4 going to take a picture from my bed out the window
5 showing what could be seen and the two workmen
6 stopped working, came over. It's labeled
7 Exhibit Number 16. Came over, stopped working
8 and were watching me through my window at about
9 11:00 in the morning taking pictures of them.

10 I have no privacy in my own bedroom
11 anymore. My roof slants backwards on the top
12 floor. Slants backwards. So, the windows
13 slant backwards. The Applicant's desk is
14 higher than my bedroom window. So, standing
15 on the deck, the Appellant can see down into
16 my bedroom all the way to the floor. They can
17 see me on my bed. They can see whether I have
18 slippers on or I don't have slippers on.

19 About three weeks ago around quarter
20 of -- I'll say about quarter of 8:00, 7:30/7:45
21 at night, I came into my bedroom. I was still
22 partially -- and I was -- I had my two dogs by

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1 my feet and I was in the middle of the bedroom
2 about 12 feet away from the window. At that
3 point, I happened to look up and out the window
4 and somebody was standing on the deck staring
5 at me in my bedroom even though I was 12 feet
6 away from the window. It was the other person
7 who lives in the house with Mr. Binder.

8 He looked at me.

9 MR. SULLIVAN: Objection, Mr.
10 Chair. You've given him a lot of rope and he's
11 talking about things.

12 CHAIRPERSON JORDAN: You want to
13 state your objection.

14 MR. SULLIVAN: Yes, it's completely
15 irrelevant to the issue at hand.

16 CHAIRPERSON JORDAN: Yes, but we're
17 giving him ten minutes. He can use his ten
18 minutes basically --

19 MR. SULLIVAN: Understood.

20 CHAIRPERSON JORDAN: -- what he
21 wants to use it for. So, go ahead.

22 MR. SULLIVAN: Okay.

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1 MR. HANLON: He looked at me, stared
2 at me for perhaps five/six/seven seconds. Made
3 sure I knew that he could see me and he made
4 a hand gesture and walked away from the railing.

5 Now, I was 12 feet inside my bedroom at that
6 point and he could see me.

7 This deck is not an ordinary deck.

8 This deck is a three-level deck. Looks more
9 like a fortress from the rear of the public
10 alley. I have pictures. It looks like a
11 stockade fortress.

12 The Appellant has raised the wall
13 in the rear some 17 feet high from where it was
14 before because he's constructed a deck upon a
15 deck and then a third-level deck. He's raised
16 the party wall between him and 1532 some 17 feet
17 in some places into the air.

18 This deck on the third floor sits
19 in some places as much as 5 feet above the roof
20 line. The floor of the deck.

21 This is not a deck laid upon the roof
22 with a simple railing around it. Safety railing

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1 around it. This is a massive deck.

2 I cannot find another deck in the
3 Dupont Overlay District for a flat or single
4 family residence that is three levels. None
5 that has been built since it became an historic
6 area.

7 So, if you look at the pictures,
8 you'll see there's a wall in front. You'll see
9 there's a large wall in back. You'll see a
10 massive wall on the west side some 17 feet in
11 the air.

12 The roof line has been extended out
13 from the third floor about 10 feet.

14 The wall on the west side rises up
15 some 17 feet. Comes up and completely covered
16 that west side of the second floor. There is
17 now a -- looks like to be 3 to 4-foot wall in
18 the front. The stairway in the -- that's been
19 built in the open court.

20 If I may direct -- Exhibit -- what's
21 labeled Exhibit Number 24 is one of the plats.

22 I marked in blue what was the open court before

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1 this construction began. There was an open
2 court about 42 feet wide and more than 10 feet
3 deep.

4 Following construction, the open
5 court has not been eliminated. The open court
6 has been reduced to about 8 or 9 inches. This
7 is easy enough to see from a couple of aspects.

8 First, I included, if I may for a
9 moment, a second exhibit.

10 CHAIRPERSON JORDAN: Which exhibit
11 did you make reference to?

12 MR. HANLON: It's called -- my
13 exhibit is labeled Number 24.

14 CHAIRPERSON JORDAN: Thirty-four
15 is ours.

16 MR. HANLON: It has the blue open
17 court.

18 CHAIRPERSON JORDAN: I'm going to
19 ask you to do the work and not have us do the
20 work.

21 MR. HANLON: Oh.

22 CHAIRPERSON JORDAN: So, when you

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1 need to reference an exhibit, reference the
2 Zoning Office exhibit if you would please.

3 MR. HANLON: It looks like to be
4 Number 44.

5 CHAIRPERSON JORDAN: Forty-four.

6 MR. HANLON: There is a second
7 picture that shows in red --

8 CHAIRPERSON JORDAN: Pictures.
9 That's 44.

10 MR. HANLON: -- what remains of the
11 open court now that the construction has
12 finished and I'm trying to find that exhibit
13 number. I'm sorry. I apologize. I thought
14 it may have been labeled Number 24 or 25 or 26.
15 I apologize.

16 CHAIRPERSON JORDAN: Okay. So, on
17 our Exhibit 24, you'll making reference in
18 regards to --

19 MR. HANLON: The red --

20 CHAIRPERSON JORDAN: Thirty-four
21 rather. Our Exhibit 34 is your Exhibit 24 and
22 you indicate on that I guess the area in blue

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1 is the court that you said has 8 inches.

2 MR. HANLON: Yes, and I actually put
3 an exhibit into the record where I colored in
4 in red what remains of that open court.

5 If I may, I have a blow up of Isys
6 Number 32. If I may show the blow up to make
7 my point.

8 CHAIRPERSON JORDAN: As long as you
9 give it to counsel, that's -- this is what?
10 Oh, what is that? Thirty? It's our 32. Is
11 this -- okay. Our 32. All right. Thank you.

12 MR. HANLON: This is already in the
13 record. I simply blew up a piece of it.

14 CHAIRPERSON JORDAN: It's our 32.
15 Okay.

16 MR. HANLON: Yes, and in Number 32,
17 the red is what remains of the open court after
18 the construction.

19 Now, the exhibit I have here -- well,
20 first, if we go to Exhibit Number 32, one can
21 see that the lot is 17 feet wide, but the
22 construction including the stairway is only 15.7

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1 feet leaving about a 1.3 foot open court on the
2 east side.

3 CHAIRPERSON JORDAN: One point
4 three. Um-hum.

5 MR. HANLON: Yes, what I have on the
6 board here is not currently in evidence. I
7 thought it was. It's an architectural diagram
8 submitted by the homeowner as part of the
9 application process and stamped in by DCRA.

10 What you can see here on this
11 architectural diagram submitted in June of this
12 year as a revision of the current permit. The
13 open court is clearly indicated. The stairway
14 ends and there is about 9 inches of open court
15 left on the architectural diagram that was
16 submitted.

17 This diagram was submitted as a
18 revision to the previous diagram June 5, 2012
19 stamped in by DCRA and submitted by the
20 homeowner.

21 I would like to have, if possible,
22 the 14 day period waived for admission of that

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1 exhibit. I thought it was in. It was a
2 different architectural diagram actually in the
3 record.

4 But, because the homeowner himself
5 submitted it and it's been part of the
6 application process along, it's in the DCRA
7 files, I would move to have it submitted because
8 it also shows clearly that in furtherance of
9 the permit, there was going to be about a 9 inch
10 open court left on the east side. It is not
11 completely covered it.

12 CHAIRPERSON JORDAN: So, you want
13 to admit what document?

14 MR. HANLON: This particular
15 document which is the architectural diagram
16 submitted by the homeowner.

17 CHAIRPERSON JORDAN: What's our
18 exhibit number for that? It's already in the
19 record.

20 MR. HANLON: This would be --

21 CHAIRPERSON JORDAN: It's already
22 in our record.

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1 MR. HANLON: I believe -- I did not
2 believe this part was in the record here. I
3 think there might be a slightly different one
4 in the record. There were two of --

5 CHAIRPERSON JORDAN: So, you want
6 to submit that document?

7 MR. HANLON: Yes, I can have it
8 reduced and it also folds. It folds up into
9 something approximately 82 by 11.

10 CHAIRPERSON JORDAN: We'll reserve
11 that because you're going to have to get it,
12 reduce it and then submit it to the parties so
13 they can review it to make sure.

14 MR. SURABIAN: Mr. Chair.

15 CHAIRPERSON JORDAN: Yes.

16 MR. SURABIAN: I submitted that
17 document.

18 CHAIRPERSON JORDAN: It's in there.
19 It's in our -- okay. It's already in our
20 record. All right. It's already in the
21 record.

22 MR. HANLON: Oh. Thank you.

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1 This open court, I would also --

2 CHAIRPERSON JORDAN: Mr. Hanlon,
3 I'm going to give you two minutes to wrap up
4 because you're in borrowed time now.

5 MR. HANLON: Thank you. This open
6 court I would note if one looks at the other
7 pictures had a couple of windows in it that are
8 now being covered over by this stairway. There
9 is a third-floor window being covered over
10 almost completely. It appears to have no other
11 venting or of light.

12 CHAIRPERSON JORDAN: Are we picking
13 him up?

14 MR. HANLON: Oh.

15 CHAIRPERSON JORDAN: You are
16 getting him. Okay. Thanks.

17 MR. HANLON: I apologize.

18 CHAIRPERSON JORDAN: Thanks.
19 Well, we need the projection. Go ahead.
20 That's good. Go ahead. Go ahead.

21 MR. HANLON: There is at least two
22 windows in this open court which is being covered

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1 up plus the flue to the gas burners which comes
2 from the basement.

3 I don't know how this could be
4 possibly completely covered up as was suggested
5 in the DCRA record.

6 I have a blow up again of another
7 exhibit that was attached to the original appeal
8 which shows these windows and this gas flue.
9 It's already in the record. I don't know
10 whether the Board would like to see the blow
11 up.

12 CHAIRPERSON JORDAN: No, if it's in
13 the record, just point us to the exhibit you're
14 making reference to and we're okay.

15 MR. HANLON: With respect to
16 Exhibit -- this deck can be seen at night. I
17 have put what's been labeled Appellant Exhibits
18 19, 20 and 21 into the record which is Isys Number
19 26.

20 This deck changes color at night.
21 They have installed lighting to change from
22 purple to blue to orange to white. I've taken

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1 pictures from my house. I've taken pictures
2 standing outside my house. I've taken pictures
3 from the public alley all in the record. Which
4 show a change in color. The whole deck changing
5 color easily seen from the streetscape below.

6 It looks like changing colored mushrooms or
7 something and it stays on. It's been on until
8 1:30 in the morning.

9 CHAIRPERSON JORDAN: Okay.

10 MR. HANLON: I've also put a picture
11 in the record which shows what it looks like
12 in daylight. You can see standing in the public
13 alley on the other side of the street. You can
14 see the front wall of the deck. You can see
15 this decorative wall which looks like to be 62
16 to 7 feet high. You can also see the decorative
17 wall while walking down the street. This would
18 be Isys Number 42.

19 I have a circled copy of Isys Number
20 42, but you can be walking half a block away
21 on Swann Street on the other side and see this
22 deck.

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1 CHAIRPERSON JORDAN: Right.

2 MR. HANLON: And I have it circled.

3 CHAIRPERSON JORDAN: All right.

4 Thank you. Mr. Sullivan, please, two minutes.

5 MR. SULLIVAN: Thank you, Mr.
6 Chairman.

7 For the property owner, it's kind
8 of hard to see what the alleged issue is in that,
9 but he talked about courts and I believe the
10 Zoning Administrator has determined that the
11 open court is gone because of the replacement
12 of the stairway in there and just calling it
13 an open court doesn't make it an open court.

14 Regarding other issues that he's
15 alleged in his statements, I believe regarding
16 height which he didn't -- noticeably didn't
17 bring up, I think the Zoning Administrator's
18 Counsel will tell you he used the wrong measuring
19 point for that.

20 And regarding whether or not this
21 is an addition, the BZA precedent is very clear
22 that a roof top deck is not an addition.

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1 Lot occupancy was mentioned in his
2 filings is also not an issue because it's not
3 an addition and at any rate, there was a special
4 exception case seven or eight years ago on this
5 property which determined that it was less than
6 70 percent.

7 And I think that's all I'd have.
8 I'm not -- so, I think we're talking about the
9 court. That whole emotional presentation was
10 about a court that he can't even see that's 7
11 inches wide and you wouldn't know that he has
12 a rough deck that's higher than my client's roof
13 deck from that presentation as well. Not that
14 either one of those things is relevant either.

15 So, that's all I have unless there's
16 any questions for the property owner.

17 Thank you.

18 CHAIRPERSON JORDAN: No. Is there
19 a question by the Board? Anyone? Okay.

20 Then DCRA please.

21 MR. SURABIAN: Thank you. As the
22 Board knows, there was a lot of different filings

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1 in this case and each one had different issues
2 and so, I'll just try to -- and some of them
3 weren't raised in Mr. Hanlon's presentation,
4 but I'll just try to hit all the bullet points.

5 There's a 40-foot height limit in
6 this district under 400.1, but in measuring the
7 height, the regulations, if you look at the
8 definition of building height, state that you
9 measure from the finish grade at the middle of
10 the front of the building to the ceiling of the
11 top story and the plans reflect that that's about
12 31 feet approximately. So, it's well within
13 the height limit.

14 So, the complaints about the
15 decorative wall are really not relevant to the
16 400.1 standard.

17 A roof deck is permitted on a
18 nonconforming building. I believe that the
19 building's nonconforming as to lot occupancy,
20 but Appeal 17971, the Board indicated that roof
21 decks were permitted as a matter of right on
22 nonconforming buildings. So, I think that

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1 should be pretty straightforward.

2 At one point, Mr. Hanlon argued that
3 the deck because it is -- it's built on piers
4 that are about 2 feet high of the roof. That
5 that created a new story or something to that
6 effect and that's just not accurate. There's
7 about 2 feet of space underneath that's -- it
8 has no utility. It's not used as living area.

9 It doesn't create a new story by any reading
10 of the Zoning Regs.

11 At one point, Mr. Hanlon was
12 complaining about a -- this is not related to
13 this roof deck, but a stairwell in the rear of
14 the property that went down to the cellar and
15 again, that work if it was even done recently
16 was not allowed by either permit. That's being
17 appealed. So, I don't think it's relevant to
18 this case.

19 Then as to the issue of the court,
20 what Mr. Hanlon was calling the open court, the
21 Zoning Administrator has reviewed that. He's
22 been to the site. He's looked at the conditions

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1 there and the fact is that the stairwell was
2 constructed in such a way so that it -- the court
3 eliminated that -- was eliminated by the
4 placement of the stairwell.

5 To the extent that there's a few
6 inches between the stairwell and the neighboring
7 building, I mean the fact of the matter is the
8 Zoning Administrator, you know, makes a judgment
9 call as to compliance and in his eyes, even if
10 it's not perfectly flush, he's saying it's
11 eliminated.

12 And with that, I'll take any
13 questions that Board might have.

14 CHAIRPERSON JORDAN: Okay. Thank
15 you.

16 Does the Board have any questions
17 of any of the parties? Did you have a question?

18
19 VICE CHAIR SORG: I did, but --

20 CHAIRPERSON JORDAN: So, you
21 answered the question. You guys, you read Vice
22 Chair Sorg's mind and answered the question.

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1 Well, good.

2 Then we will close this hearing on
3 this appeal.

4 Yes.

5 MR. HANLON: May I ask a question
6 of the last person who testified?

7 CHAIRPERSON JORDAN: Give me one
8 second here. Well, there wasn't any testimony.
9 Just arguing particularly their brief. So.

10 MR. HANLON: I'm concerned because
11 then he argued that the deck sits on piers only
12 2 feet above the roof which is clearly not
13 accurate. It's sits 4 to 5 feet about the roof.
14 I don't know where he's getting the --

15 CHAIRPERSON JORDAN: We'll give you
16 three minutes to do a rebuttal and anybody else
17 who wants to rebut the rebut of the rebut. But,
18 go ahead.

19 MR. HANLON: If the Board looks at
20 what's been labeled Exhibit Number 6 which would
21 be found at Isys Number 17(e), one can see
22 workmen standing next to the deck as the deck

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1 is being constructed. The floor of this deck
2 is coming up underneath this man's shoulders.

3 This is not 2 feet above the roof. This is
4 4 feet plus above the roof. The man is leaning
5 on the deck with his underarm on the 2 by 12
6 that's holding the deck.

7 If one looks at all the
8 architectural diagrams and the permit and the
9 other diagrams in the record, one will see that
10 the piers in front set 4 feet above the roof
11 and the roof slopes backwards towards the rear.

12 So, at one point, if one looks carefully at
13 the architectural diagram, one will see that
14 one of the other piers farther back sits almost
15 5 feet above the roof line not two.

16 I would also point out that this is
17 just inconsistent with the historic district
18 we're in.

19 The house next to this house is
20 registered as an historic landmark 1528. There
21 are at least two houses on the street that are
22 registered as historic landmarks and have

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1 conservation easements.

2 This is just totally -- this deck,
3 size, mass is totally out of character with this
4 historic district and this block.

5 CHAIRPERSON JORDAN: Thank you. I
6 was in error. Our rules don't allow for
7 additional comment. It does give the applicant
8 the right to rebuttal and we have provided that.
9 Good.

10 We will conclude this hearing based
11 upon the documents that are in the record and
12 those which we have accepted today.

13 I'm going to ask each party to
14 provide the Board findings of facts and
15 conclusions of law, proposed findings of facts
16 and conclusions of law.

17 MR. SURABIAN: Mr. Jordan.

18 CHAIRPERSON JORDAN: Yes.

19 MR. SURABIAN: If I could just
20 respond to that because Mr. Hanlon insinuated
21 that I made a misrepresentation. If I --

22 CHAIRPERSON JORDAN: No, that's not

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1 necessary. It's taken for what it's taken for.

2 MR. SURABIAN: Okay.

3 CHAIRPERSON JORDAN: So and I am --
4 so, we would like for you to --

5 MR. HANLON: Mr. Chair, but I was
6 not -- I'm sorry. I was not --

7 CHAIRPERSON JORDAN: We're not
8 going to have that.

9 MR. HANLON: Okay. I apologize.

10 CHAIRPERSON JORDAN: We're just --
11 that's why I'm not getting into it.

12 So, if the parties would submit
13 proposed findings of facts and conclusions of
14 law and submit it to the Board.

15 Mr. Moy, when can we put this on --
16 are we working on that February date? Is what
17 we're working on?

18 MR. MOY: Well, we could. I mean
19 at the latest, the February date which would
20 be February the 12th.

21 CHAIRPERSON JORDAN: February
22 12th. So, that's -- so, then we need to have

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1 submission by each party by February 4th. Filed
2 by February 4th please.

3 Might as well get all the
4 information while we're here. We have another
5 question. We didn't close out completely, but
6 go ahead.

7 ZC COMMISSIONER MILLER: Mr.
8 Chairman, thank you.

9 To the owner and the District, is
10 this property within a designated historic
11 district of the District?

12 MR. SULLIVAN: It is. Yes, and it
13 has Historic Preservation Office approval.

14 ZC COMMISSIONER MILLER: That was
15 -- that answered my second question.

16 Thank you.

17 CHAIRPERSON JORDAN: So, February
18 4th would be your submission of the proposed
19 findings of facts and conclusions of law and
20 then we will put this down for a decision on
21 February 12th. Okay.

22 Very good. I really appreciate

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1 everybody's participation here and keeping the
2 time limits as set forth and we will then
3 conclude this hearing. Thank you.

4 MR. HANLON: Thank you very much.

5 CHAIRPERSON JORDAN: Thank you.

6 Is there any other business needing to come
7 before the Board at this time, Mr. Moy?

8 MR. MOY: Not to my knowledge, sir.

9 CHAIRPERSON JORDAN: Okay. Does
10 the Board has any other business that it needs
11 to address at this time?

12 Seeing none, then we will stand in
13 adjournment. Thank you.

14 (Whereupon, at 2:34 p.m., the
15 hearing was adjourned.)

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