

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY  
JANUARY 15, 2013

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson  
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

MARCIE COHEN, Zoning Commissioner

PETER MAY, Zoning Commissioner  
ROBERT MILLER, Zoning Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN GYOR

MAXINE BROWN-ROBERTS

ARTHUR JACKSON

ELISE VITALE

BRANDICE ELLIOTT

PAUL GOLDSTEIN

The transcript constitutes the  
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January 15, 2013.

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

9:45 a.m.

CHAIRPERSON JORDAN: This meeting will please come to order. We're here at the Jerrily R. Kress Memorial Hearing Room, 441 4th Street, Northwest. Today's date is January 15th for the Public Hearing and the Public Meeting of the Board of Zoning Adjustment for the District of Columbia.

My name is Lloyd Jordan, Chairperson. To my right is Jeffrey Hinkle, Board Member. To my left is Robert Miller, Member of the Zoning Commission.

Please be advised that these proceedings are being recorded by a Court Reporter and also Webcast live. I'm going to ask that you refrain from any disruptive noises today.

Today is the first day of our rolling docket agenda in an effort to be a little bit more effective and efficient in the operation of the Board of Zoning Adjustment.

1                   One problem we have with today's  
2                   agenda is that in the future agenda you will  
3                   see a dotted line in between what we will  
4                   suspect will be afternoon cases and morning  
5                   cases. However, those people who may have  
6                   matters on the opposite side, the later part  
7                   of the broken line be cognizant that you need  
8                   to probably either stay abreast of where we  
9                   are on the webcast or call down to the Office  
10                  of Zoning to try to assess where we may be in  
11                  regard to what we would normally consider the  
12                  morning docket. And it gives the Board the  
13                  opportunity to accommodate more cases and to  
14                  accommodate those who are wishing to testify  
15                  in a more effective way.

16                 With that, I'm going to first  
17                 start and take an afternoon public meeting  
18                 case a little bit out of swing for the fact  
19                 that we have Mr. Robert Miller, Member of the  
20                 Zoning Commission who has one case on today's  
21                 docket for a decision and Robert Miller is  
22                 here this morning. So, we're going to do

1       that. And then we'll come back to process the  
2       other matters.

3               Mr. Moy, would you call this case  
4       please.

5               MR. MOY: Yes. Good morning, Mr.  
6       Chair and Members of the Board.

7               The decision meeting case is  
8       Application Number 18436. This is the  
9       application of David Benson, pursuant to 11  
10      DCMR 3103.2. This is for a variance from the  
11      lot area requirements under subsection 401.3  
12      to allow the conversion of a flat two-unit  
13      dwelling to a three-unit apartment house in  
14      the R-4 District at premises 2703 11th Street,  
15      Northwest. Property located in Square 2858,  
16      Lot 17.

17              As the Board will recall on  
18      November 7th, 2012, the Board completed public  
19      testimony, closed the record, scheduled this  
20      decision on January 15th, 2013. The Board  
21      requested additional information to supplement  
22      the record by Monday, January the 7th.

1                   Mr. Chairman, in your case folder  
2                   the Applicant did file his post-hearing  
3                   document. It's untimely because it was  
4                   submitted electronically on Wednesday, January  
5                   9th, so two days late.

6                   So, what you have in your case  
7                   folder, Mr. Chairman, are Exhibits 33, 34 and  
8                   35, 35 which was submitted on Monday, January  
9                   14th. And with that, the Board has asked for  
10                  the merits of the request for the variance  
11                  relief from the lot area requirements.

12                  And that completes the staff  
13                  briefing, Mr. Chairman.

14                  CHAIRPERSON JORDAN: All right.  
15                  Thank you.

16                  If any other member of the Board  
17                  has problems with accepting the late filing?  
18                  No. Then we'll accept the late filing.

19                  Let's move into deliberation if  
20                  the Board's prepared to move into deliberation  
21                  on this case.

22                  This is one that kind of

1       perplexed me in the sense of the evidence that  
2       was presented. I believe our hearing in this  
3       matter the Applicant was talking in regards to  
4       apartment or rental units and we received in  
5       support of his application financial  
6       information that talked in regards to condo  
7       and condo sale prices so that kind of confused  
8       me going forth taking a look at the document  
9       that he had in support.

10               On its face, it's questionable  
11       whether or not this project really meets our  
12       standard to grant the relief in my estimation.

13               During the hearing Ms. Sorg asked  
14       about the conditions or the circumstances of  
15       the other properties around it and both on the  
16       left and on the right side of the property the  
17       condition of the property was about the same  
18       exactly. So, I'm just going to get feedback  
19       from other Board Members in this case.

20               Anybody else have a feel one way  
21       or the other they need to say about this case?

22               ZC COMMISSIONER MILLER: Thank



1       you, Mr. Chairman. I appreciate you moving  
2       this ahead for my schedule.

3               I went back and looked at the  
4       hearing transcript and, yes, we were talking  
5       about rental. The Applicant was talking about  
6       rental units so that's why you had an  
7       expectation that you were going to see  
8       economic data regarding renting out the units  
9       as opposed to condo sales.

10              I don't know if you want to defer  
11       to another decision date to get the rental  
12       unit information. I would like to be able to  
13       support the application. As I said at the  
14       hearing, I'm concerned about the overall  
15       policy in the Zoning Regulations that  
16       prohibits conversion of two units to three  
17       units in the R-4 Districts unless they have  
18       900 square feet of lot area for each unit. I  
19       think that an apparent concern is that that  
20       converts an R-4 District into an apartment  
21       house district. I don't think it does. I  
22       think the 900 is outdated. It's a different

1 time and era than when that probably was  
 2 adopted by the Zoning Commission. And we're  
 3 trying to -- we're gaining 1,200 people a  
 4 month in this city and we need to accommodate  
 5 them and in this particular case, the ANC is  
 6 unanimously in support of the application.  
 7 There are 15 letters of support from neighbors  
 8 in support of the application. So, I would  
 9 like to be able to support it.

10 We wanted to be able to have the  
 11 economic data to justify the confluence of  
 12 factors that would lead to the uniqueness and  
 13 the exceptional circumstances.

14 CHAIRPERSON JORDAN: I think, Mr.  
 15 Hinkle, I think we could do that. I think we  
 16 could pass and seek the Applicant to provide  
 17 the data that we were looking for might be  
 18 what I'm hearing.

19 ZC COMMISSIONER MILLER: That  
 20 would work for me.

21 CHAIRPERSON JORDAN: Mr. Hinkle.

22 MEMBER HINKLE: I'm in agreement.

1 I mean, I'm certainly in agreement with all  
2 the comments that Mr. Miller has made and we  
3 did speak about rental units in the hearing  
4 and if the Applicant is able to provide some  
5 additional information in terms of that  
6 aspect.

7 ZC COMMISSIONER MILLER: I would  
8 say that I think the economic case has been  
9 made if they're going to be marketed for  
10 condominium units, but I guess we just need  
11 to have the record more complete since the  
12 discussion previously had been about rental.

13 CHAIRPERSON JORDAN: Then I would  
14 offer the motion that we continue the decision  
15 on this matter and request the Applicant to  
16 provide the supporting documents based upon  
17 the testimony given during the hearing that  
18 the units are going to be -- the economics on  
19 the rental unit in order to meet his burden  
20 regarding the exceptional circumstances and  
21 practical difficulties. So, that would be my  
22 motion.

1                   A motion made and seconded. Any  
2 further discussion?

3                   All those in favor, signify by  
4 saying aye

5                   (AYE)

6                   CHAIRPERSON JORDAN: Opposed, nay.

7                   Then, Mr. Moy, let's talk about a  
8 date for that.

9                   MR. MOY: Mr. Chairman, there's no  
10 schedule hearing on January 22nd and the  
11 following which would be two weeks from now  
12 would be January 29th, if you feel that's  
13 sufficient.

14                  CHAIRPERSON JORDAN: Don't really  
15 have time to get the report.

16                  MR. MOY: Oh, okay. Well, after  
17 two weeks then. The next time the Board meets  
18 would be February the 5th.

19                  CHAIRPERSON JORDAN: Right.  
20 That's for a public, February 5th?

21                  MR. MOY: That's for a public  
22 hearing. We can do the 5th, do a special

1 public meeting where the regular public  
2 meeting is scheduled for February the 12th.

3 CHAIRPERSON JORDAN: Let's make it  
4 the 12th.

5 MR. MOY: Okay. Good enough.

6 CHAIRPERSON JORDAN: And, Mr. Moy,  
7 record the vote for us, please.

8 MR. MOY: Sir?

9 CHAIRPERSON JORDAN: Record the  
10 vote for us.

11 MR. MOY: Oh, I'm sorry.

12 The staff will record the vote as  
13 three to zero for the vote of Chairman Jordan  
14 to move the Board's decision to February 12th  
15 for a decision with the request for additional  
16 information intended to the rental units.

17 Second the motion of Mr. Robert  
18 Miller also supported the motion. Mr. Jeffrey  
19 Hinkle. No other Board Member present to,  
20 again, the motion carries, Mr. Chairman.

21 CHAIRPERSON JORDAN: All right.  
22 Thank you.

1                   ZC COMMISSIONER MILLER:

2       Appreciate it.

3                   CHAIRPERSON JORDAN:   Didn't want  
4       you to have to sit around all day.

5                   We're doing the shuffling of the  
6       Zoning Commission members.   Another  
7       Commissioner is assigned to hear today's  
8       cases.

9                   Good morning.   The Board welcomes  
10       Peter May, a member of the Zoning Commission  
11       as a member of the Board of Zoning Adjustment  
12       for this morning's hearing.

13                   Mr. Moy, would call 18486.   I want  
14       to pull that out to have some discussion, a  
15       status of this matter, so we can determine how  
16       we will proceed for today.

17                   MR. MOY:   Yes, sir.   That  
18       application is Application No. 18486.   Yes,  
19       18486.   This is the application of AG  
20       Georgetown Park Holding I LLC, pursuant to 11  
21       DCMR 3104.1.   This is for a special exception  
22       to allow a bowling alley under subsection

1       908.1, in the W-1 and W-2 Districts at  
2       premises 3222 M Street, Northwest. Property  
3       located at Square 1200, Lot 868.

4               CHAIRPERSON JORDAN: Okay. I need  
5       to have counsel for the party in opposition  
6       and the Applicant counsel to come to the  
7       witness table.

8               Well, Ms. Prince, what we are  
9       trying to do is to find out where we are.  
10       One, do we still have a party in opposition  
11       and then if we do, we want to find out what  
12       level of proof by experts to be presented  
13       because I understand there are two experts  
14       that the party in opposition wants to submit  
15       and I have not seen the report.

16               The other question -- well, I  
17       guess we need to wait until -- have we heard  
18       anything from -- I'm sorry?

19               MS. PRINCE: Allison Prince with  
20       Goulston & Storrs here on behalf of the  
21       Applicant.

22               Marty Sullivan, counsel for the

1 condominium association is on the premises.  
2 We're just trying to locate him. I think I  
3 can represent on behalf of my client and the  
4 condo association, there are representatives  
5 of the condo association here in the audience,  
6 that we had an extremely productive meeting  
7 last night. We have a drafted agreement that  
8 is circulating for final comment as we speak.  
9 We are both very optimistic that we will have  
10 a signed agreement by the time of our hearing.  
11 We're fourth on the morning agenda so we have  
12 a little bit of time just to get it executed.

13 CHAIRPERSON JORDAN: Well, see  
14 we're kind of assuming that.

15 MS. PRINCE: Party.

16 CHAIRPERSON JORDAN: Okay. That's  
17 one of the reasons why I wanted to call this  
18 case first because I need to make sure that we  
19 were clear on some of the preliminary matters,  
20 expert reports and then give you the chance to  
21 go do what you needed to do to put it in its  
22 proper perspective.



1                   Mr. Sullivan has joined us.

2                   We're trying to ascertain the  
3                   status of this matter. Are you still seeking  
4                   party status, your clients, Mr. Sullivan?

5                   MR. SULLIVAN: Likely not. I  
6                   would like to defer that to the agenda. We're  
7                   very close to an agreement, all but finishing  
8                   up some of the language. So, we're got an  
9                   agreement in principle. It's not signed. So,  
10                  in that agreement the exchange is that we  
11                  withdraw the party status in exchange for  
12                  their committing to certain conditions. So,  
13                  it's part and parcel of the agreement.

14                  CHAIRPERSON JORDAN: Okay.

15                  MR. SULLIVAN: It's a 98 percent  
16                  chance that within 90 minutes or so whenever  
17                  you call us we'll be here to withdraw --

18                  CHAIRPERSON JORDAN: Okay.

19                  MR. SULLIVAN: -- our application  
20                  for status.

21                  CHAIRPERSON JORDAN: We will move  
22                  this toward the latter part of what would

1 normally be our morning session, so sometime  
2 after 11:00. But that's good to hear. I  
3 didn't know whether or not you had expert  
4 reports that you anted to submit and that was  
5 one of the reasons why we wanted to have this  
6 as kind of a preliminary matter to have  
7 discussions and whether or not the various  
8 documents would have --

9 MR. SULLIVAN: We would not and  
10 even if we still had our party status  
11 application in, we would not be submitting any  
12 expert witnesses.

13 CHAIRPERSON JORDAN: Okay. Well,  
14 you would. You actually proffered two  
15 experts.

16 MR. SULLIVAN: We did but we have  
17 decided not to go forward with those experts.

18 CHAIRPERSON JORDAN: Got it. All  
19 right. Well, then please go work it out,  
20 bring that two percent within the 100 and  
21 let's get this one done.

22 MS. PRINCE: Thank you.

1                   CHAIRPERSON JORDAN: Thank you and  
2 I appreciate your work on this.

3                   Mr. Moy, you can call our first  
4 case on the docket now.

5                   MR. MOY: All right.

6                   CHAIRPERSON JORDAN: Let me take  
7 one step back.

8                   Those who are here for hearing  
9 cases this morning would you please stand and  
10 take an oath or affirmation from the Board's  
11 secretary, if you plan to testify or give a  
12 statement regarding any of the matters on  
13 today's docket. If you're planning to testify  
14 or give a statement regarding any case on  
15 today's docket, please stand and take the oath  
16 or affirmation being given by Mr. Moy, the  
17 Board's Secretary and then thereafter please  
18 complete two witness cards and give them to  
19 the Court Reporter each. Each person must  
20 complete two witness cards.

21                   Thank you, Mr. Moy.

22                   MR. MOY: Thank you, sir.

1                   Do you solemnly swear or affirm  
2                   that the testimony you are about to present in  
3                   this proceeding is the truth, the whole truth  
4                   and nothing but the truth.

5                   Ladies and gentlemen, you may  
6                   consider yourself under oath.

7                   CHAIRPERSON JORDAN: As far as  
8                   preliminary matter, Mr. Moy, is there an  
9                   announcement that we need to make today?

10                  MR. MOY: Yes, sir. I believe we  
11                  do have an announcement, as a matter of fact,  
12                  it would have been the first application on  
13                  your docket which is Application No. 18482 of  
14                  District Properties.

15                  CHAIRPERSON JORDAN: Yes.

16                  MR. MOY: And, I believe, that the  
17                  Board has rescheduled that application to  
18                  Tuesday, February 26th at 1:00.

19                  CHAIRPERSON JORDAN: That was  
20                  based upon a request by the ANC.

21                  MR. MOY: That's correct, sir.

22                  CHAIRPERSON JORDAN: To continue

1 the matter.

2 MR. MOY: That's correct.

3 So with that, that leaves  
4 Application No. 18487 and this is the  
5 application of Jonathan Grossman, pursuant to  
6 11 DCMR 3103.2 for a variance from the floor  
7 area ratio requirements under Section 402,  
8 variance from the lot occupancy requirements  
9 under Section 403, a variance from the rear  
10 yard requirements under Section 404, and a  
11 variance from the nonconforming structure  
12 requirements under subsection 2001.3. This is  
13 to allow an addition to an existing row  
14 dwelling in the DC/R-5-B District at premises  
15 1751 18th Street, N.W. Property located in  
16 Square 153, Lot 95.

17 CHAIRPERSON JORDAN: Would the  
18 parties come to the witness table please.

19 Would you please identify  
20 yourselves.

21 MR. GROSSMAN: Good morning, Mr.  
22 Chairman. My name is Jonathan Grossman.

1 MS. GROSSMAN: I'm Michelle  
2 Grossman.

3 CHAIRPERSON JORDAN: I'm sorry?

4 MS. GROSSMAN: I'm Michelle  
5 Grossman. We're married. We own the house.

6 CHAIRPERSON JORDAN: Okay. So  
7 that's why we don't have a representation  
8 letter. Okay.

9 MS. GROSSMAN: Yes.

10 CHAIRPERSON JORDAN: All right.  
11 You're self-represented. You're representing  
12 yourself.

13 MS. GROSSMAN: Yes.

14 CHAIRPERSON JORDAN: That was my  
15 next issue. Didn't have an authorization/  
16 representation letter. What is this document  
17 that was being given?

18 MS. GROSSMAN: Jonathan, can you  
19 explain the document.

20 CHAIRPERSON JORDAN: What is this  
21 document?

22 MR. GROSSMAN: This is just a

1     PowerPoint presentation. We since submitting  
2     our initial application to be perfectly  
3     candid, we've learned a lot and so we wanted  
4     to take an opportunity to walk through and  
5     address some of the issues that we think that  
6     the folks might be concerned about. So, we  
7     thought we'd just take a few minutes and walk  
8     through why we believe that these variances  
9     should be granted.

10           CHAIRPERSON JORDAN: And you have  
11     seen the Office of Planning's recommendation  
12     and concerns about this --

13           MR. GROSSMAN: We have.

14           CHAIRPERSON JORDAN: And we want  
15     you to address that. We don't need a lot of  
16     bells and whistles. We need you to hit the  
17     elements required to grant relief.

18           MS. GROSSMAN: Okay.

19           CHAIRPERSON JORDAN: And certainly  
20     make a response to what the Office of Planning  
21     has. And my initial review is that your  
22     application is very borderline regarding the

1       exceptional condition and practical  
2       difficulty.

3               MS. GROSSMAN:   Quite honestly --

4               CHAIRPERSON JORDAN:   So, in your  
5       presentation, we would want you to really hit  
6       that requirement for us.

7               MR. GROSSMAN:   Absolutely.

8               CHAIRPERSON JORDAN:   I don't know  
9       if the Board Members have anything else in  
10      particular that they really want o hit other  
11      than --

12              MS. GROSSMAN:   The questions Mr.  
13      Jackson asked really helped us to refine our  
14      argument and I think putting it in perspective  
15      it's going to be more convincing.   Okay.

16              CHAIRPERSON JORDAN:   Okay.

17              MS. GROSSMAN:   Because we're  
18      married.

19              CHAIRPERSON JORDAN:   I know.   All  
20      right.   So, then let's proceed.

21              MR. GROSSMAN:   So, let me just  
22      introduce ourselves briefly.



1 Jonathan Grossman, my wife,  
2 Michelle Grossman. I live in Dupont Circle  
3 for 20 years. I originally lived in the house  
4 next door to this house which may become  
5 relative as we move on here.

6 We got married in 2005 and  
7 literally bought the house next door which is  
8 the current property that we're talking about.

9 We now live there with our two  
10 kids who attend D.C. public schools. Ross  
11 Elementary which is just around the corner.  
12 We live with our dog. We do have a rental  
13 unit that we use to help us support the place.

14 If you could go to the building  
15 plan.

16 There are some practical problems,  
17 however, with our house. This is, as you can  
18 see on the screen, and this is also on page  
19 four of the presentation that I have in front  
20 of you. There are some real practical  
21 problems with the layout as it exists.

22 As you can see, there is no living

1 room. I'm sorry, there is no dining room.  
2 There's only the space up front for a  
3 breakfast nook. That comfortably seats four  
4 adults but we can't really even have a dinner  
5 party at our house with more than one other  
6 couple because of the layout.

7 The living room is also quite  
8 small. There's room for a couch and a  
9 recliner. And can really only accommodate  
10 four people.

11 Very limited natural light from  
12 the rear which is the east and the reason is  
13 as you can see the windows that are adjoining  
14 to the living room are -- have walls on both  
15 sides of them. So, there's pretty limited  
16 light that comes in.

17 The kitchen, small galley kitchen,  
18 unfortunately, in between the breakfast nook  
19 and the living room which minimizes  
20 flexibility.

21 Another problem we have is very  
22 poor outdoor space. We do have a deck that is

1 built on top of this little L extension here  
2 in the back but that deck is really too small.

3 CHAIRPERSON JORDAN: Excuse me  
4 just one second.

5 MR. GROSSMAN: Do you want me to  
6 continue?

7 CHAIRPERSON JORDAN: Just a  
8 second. I'm going to let the Board Secretary  
9 make an announcement.

10 MR. MOY: Yes, I'm sorry, Mr.  
11 Chairman and guests.

12 I just want to make a quick  
13 announcement because I realize there are  
14 residents in the audience who came to listen  
15 to the Board's deliberation on the Benson case  
16 which was for public decision. And I just  
17 want to announce for them if they clearly had  
18 missed it, the Board had deliberated and made  
19 a decision to actually move or defer its  
20 decision to February 12th for additional  
21 information for the record.

22 And since that's a decision case

1 and public meeting, there's really no  
2 engagement with the audience. All the  
3 deliberation is among the Board Members on the  
4 dais.

5 CHAIRPERSON JORDAN: Thank you,  
6 Mr. Moy. Would you proceed?

7 MR. GROSSMAN: Sure. So, another  
8 problem is that that back room there that you  
9 can see there that's unlabeled is practically  
10 useless to us. It's only nine feet wide. As  
11 you can the access to it is really blocked by  
12 the powder room.

13 CHAIRPERSON JORDAN: What are you  
14 pointing to?

15 MR. GROSSMAN: The back -- the  
16 back room there. The L shape in the back.  
17 That's extremely narrow. It's only -- it's  
18 nine feet on the outside which means it's 7'  
19 feet on the inside. And with the access  
20 blocked by the powder room and the rear door,  
21 it's almost useless space. We haven't been  
22 able to figure out anything to do with it.

1 The people who lived there before us reported  
2 the same.

3 As I started to say before,  
4 another problem is poor outdoor space. There  
5 should be a great opportunity for outdoor  
6 space and there isn't for two reasons.

7 Number one, currently the deck is  
8 only above that very small L-shaped space that  
9 exists now. Again, that's a very small space  
10 to, you know, put a table and a barbecue and  
11 things that you would normally have on your  
12 deck.

13 The other problem is that the  
14 patio that currently exists out there on the  
15 ground floor abut a commercial building that  
16 puts its garbage there.

17 MS. GROSSMAN: It abuts a parking  
18 lot for a commercial building, not a  
19 commercial--

20 MR. GROSSMAN: Yes. And they put  
21 their garbage literally against our back  
22 fence. That creates rats and flies. Creates

1 a problem with both rats and flies and makes  
2 that ground floor space a lot less pleasant  
3 than it could otherwise be and that's why we  
4 really want to have this -- be able to have  
5 this deck.

6 Finally, we -- our master bathroom  
7 is quite small, about 55 square feet. At this  
8 point only a stall shower. We'd like to be  
9 able to expand that to be more typical with  
10 the master bathroom.

11 So, now let's talk about what we  
12 propose to do. What we'd like to do is we'd  
13 like to -- this proposed is to fill in the L  
14 that we had previously that you can see in the  
15 previous diagram and move the wall back three  
16 feet. This would allow us as you can see from  
17 the diagram, it would allow us a moderately  
18 sized kitchen in the back. That kitchen would  
19 have a depth of 9.5 meet. It would have  
20 informal dining in the back -- an island. It  
21 would allow a moderately sized living room  
22 that could comfortably seat six adults and

1       then up front it would allow a dining room  
2       where you could actually have a dinner with  
3       six or eight adults comfortably.

4               In addition, in the back in order  
5       to solve the light problem, we intent to vault  
6       that ceiling an additional four feet to allow  
7       more light to flow in from the rear.

8               On the second floor, which we  
9       don't show on the diagram, the plan is simply  
10      to move the wall back three feet in order to  
11      be able to expand the master bath tub. And  
12      then we would, now that the ground floor would  
13      go all the way across. The deck would also go  
14      the entire 18 feet of the building. So, we  
15      solve that problem as well by having a deck  
16      that is the full 18-feet wide.

17              Any questions on that?

18              CHAIRPERSON JORDAN: We'll ask the  
19      questions when we have them.

20              MR. GROSSMAN: Okay.

21              CHAIRPERSON JORDAN: Do your  
22      presentation and let me know when you're

1 finished or we will ask you the questions.

2 MR. GROSSMAN: Okay. Fantastic.

3 So, Mr. Moy read the variance that  
4 we're seeking, increasing the lot occupancy,  
5 the FAR, reducing the rear setback to seven  
6 fee where the wall is and 2001.3 which I  
7 understand goes along with it because it's  
8 increasing the already nonconforming aspects  
9 of the house.

10 So, now let's talk about the  
11 three-part test. The first test is  
12 uniqueness. That's something that the Office  
13 of Planning I think agreed that there's a  
14 unique situation, but just to briefly review  
15 that. You can see the map. This is the map  
16 of our neighborhood as a whole so you can see  
17 the most common orientation is that  
18 north/south orientation of 90 foot lots. And  
19 that's on our square and also the general are  
20 and I'll get to our square more specifically  
21 in a second.

22 You can see this is our house.



1       You can see even though -- even some of the  
2       east/west orientation though like along 19th  
3       Street there and places along 18th Street have  
4       the 90 foot lot with the alley in the back.  
5       So, that's overwhelmingly the typical lot size  
6       in the neighborhood.

7                   CHAIRPERSON JORDAN:   Show your  
8       property again please.

9                   MR. GROSSMAN:   Our property is 95.  
10       It's one of those short ones there.   And you  
11       can get a better one.   Michelle, why don't you  
12       show the next slide.

13                   This is just our square.

14                   CHAIRPERSON JORDAN:   I see 96, 94.

15                   MR. GROSSMAN:   Yes, this was the  
16       limits of the program, the D.C, program when  
17       I hit print.   It's right in between.   But if  
18       you go to the next -- the next page --

19                   CHAIRPERSON JORDAN:   Square 153,  
20       page 10?

21                   MR. GROSSMAN:   Yes.   You can see  
22       95.   We're in between 94 and 96.

1                   CHAIRPERSON JORDAN:   And it  
2                   appears the squares 96 and 94 are the same.

3                   MR. GROSSMAN:   The lot size is the  
4                   same, that's right.

5                   Now, if you look at our square, I  
6                   didn't get a chance to go out there and  
7                   measure the odd-shaped diagonal ones at the  
8                   end, 60 and 140.   But I believe that our lot,  
9                   our three lots there are the smallest three  
10                  lots on the square.   But they're certainly  
11                  much smaller than the typical 90 foot lots  
12                  with our 52 foot lots.

13                  MS. GROSSMAN:   And we have the  
14                  smallest house --

15                  MR. GROSSMAN:   Right.

16                  MS. GROSSMAN:   -- on the small  
17                  lot.

18                  MR. GROSSMAN:   Right.   So, in  
19                  addition, not only on the smallest lot, we're  
20                  the smallest house.

21                  You can see the odd-shapes 811, 60  
22                  and 140.   They're all at basically 100 percent

1 occupancy.

2 Now, let's talk about R-3, 94, 95,  
3 96. Nine-four is our neighbor to the south.  
4 They already have lot occupancy equal to what  
5 we are requesting a variance for.

6 Furthermore, they have it -- they  
7 -- they have built up all four floors or all  
8 three, you know, the ground plus the three  
9 floors, all the way out. We're not requesting  
10 to build all the way out. We're requesting a  
11 step design where the third floor would stay  
12 unchanged. The fourth floor would only move  
13 three feet. I'm sorry, the second floor would  
14 move three feet and the ground floor would  
15 fill in the L and move three feet. So, we  
16 would have an FAR less than what 94 has, which  
17 is our immediate neighbor.

18 Ninety-six which is our neighbor  
19 to the north where I formerly lived, also  
20 currently has lot occupancy and FAR in excess  
21 of what we have today and that's because  
22 unlike, remember I showed you that L shape

1       which was nine feet, our L shape is nine feet  
2       which gives you 7« liveable feet. Their L  
3       shape is 13 feet which gives them 11« liveable  
4       feet. So, it's a much different  
5       configuration.

6               So, the point in the big picture  
7       on uniqueness is we've got the smallest lot on  
8       the square and the smallest footprint on the  
9       smallest lot.

10              Okay. So, now the --

11              CHAIRPERSON JORDAN: Yes, how long  
12       have you lived there on the property let's  
13       say?

14              MR. GROSSMAN: We've lived there  
15       since 2005.

16              MS. GROSSMAN: 2006.

17              CHAIRPERSON JORDAN: You're  
18       married.

19              MS. GROSSMAN: We're married.  
20       We'd like to stay married, yes.

21              CHAIRPERSON JORDAN: Okay.  
22       Proceed.

1                   MR. GROSSMAN:   Okay.   So, the  
2                   practical difficulties of our house and this  
3                   gets to the question you asked, Mr. Chairman.  
4                   The current dimensions of the first floor, you  
5                   know, don't allow for the simply basic ground  
6                   floor layout that most people want which is a  
7                   moderately sized living room, a moderately  
8                   sized dining room and a moderately sized  
9                   kitchen.   That's what we're asking for.

10                  The L shape at this point is  
11                  almost completely useless space.   As I said  
12                  before, there's limited light from the rear.  
13                  There's not practical outdoor space.   The  
14                  master bathroom is extremely small.   And per  
15                  the regulations, we can't add any living space  
16                  without a variance because we're already  
17                  nonconforming.   And we can't achieve the goals  
18                  of providing an adequate living space for us  
19                  unless we expand the footprint of our house by  
20                  a modest amount and that's why we requested  
21                  it.

22                  Now, the Office of Planning

1 proposed an alternative in their report and  
2 their alternative was that we could fill in the  
3 L but not go the additional three feet. So,  
4 I wanted to take a second and talk about what  
5 the practical difficulties of -- of not going  
6 the extra three feet does for us if we could  
7 go to that slide.

8 Those show -- go down one more  
9 please.

10 MS. GROSSMAN: One more slide?

11 MR. GROSSMAN: Yes. You don't  
12 have the big one? Okay. All right.

13 What -- the one that has the ID on  
14 it? I need the one that has the ID on it.

15 MS. GROSSMAN: You got to go to  
16 the other --

17 MR. GROSSMAN: Okay. Where the  
18 dotted line there is an I-beam that our  
19 architect tells us has to be there. That  
20 creates a word that I didn't know existed  
21 until I started this process. A soffit.

22 CHAIRPERSON JORDAN: Which page

1       are we on?

2                   MR. GROSSMAN: I'm looking at the  
3 dotted line and that appears on page 6.

4                   MS. GROSSMAN: The I-beam has to  
5 hold up the second floor.

6                   MR. GROSSMAN: So, the second  
7 floor back wall.

8                   CHAIRPERSON JORDAN: Hold up the  
9 back wall of the second floor.

10                  MR. GROSSMAN: Exactly. Great.  
11 Are you an architect?

12                  CHAIRPERSON JORDAN: Yes.

13                  MR. GROSSMAN: Great. So, you can  
14 help me through this if I try to explain in  
15 architect terms.

16                         So, this requires a soffit which  
17 I'm told is a thing that comes down from your  
18 wall and which we can't draw because we're  
19 only showing two dimensions. But it also  
20 requires on the north and south ends those  
21 little -- the columns. The wall is not wide  
22 enough. The columns have to be wider than the

1 wall. So, you're going to have those  
2 indentations there.

3 So, the way we have it designed is  
4 that we build -- that soffit can form a  
5 natural threshold and the -- the two columns  
6 that abut into the house form a natural  
7 division between the powder room on one hand  
8 and then the living room with the kitchen.

9 The alternative proposed by the  
10 Office of Planning -- go down to this slide,  
11 would be this middle one here which appears on  
12 page 13. If we did that, it would only allow  
13 us a kitchen of 6« feet deep and that's what  
14 we call the problematic ceiling plan on page  
15 13. And a kitchen of only a 6« depth by  
16 comparison, our current kitchen which my wife  
17 lovingly refers to as a one-butt kitchen when  
18 she kicks me out, is 7« feet. So, we're  
19 already -- we're talking about one of the  
20 whole purposes here is to increase the living  
21 space and make this more useable and we'd  
22 actually be reducing the depth of the kitchen



1 if we go with the alternative -- if we're  
2 limited to the alternative that the Office of  
3 Planning has suggested.

4 The other consequence of that is  
5 that the deck would -- the deck necessarily  
6 has to be the same size or smaller than the  
7 kitchen because that wall --

8 MS. GROSSMAN: The I-beam is  
9 supporting the exterior wall on the second  
10 floor.

11 MR. GROSSMAN: So, the deck would  
12 also be only 7« feet deep which, again, if you  
13 put sort of a normal, you know, outdoor patio  
14 table there is a very shallow deck area.

15 So, the reduction -- I mean, part  
16 of the whole -- one of the key architecture  
17 elements of the whole plan is having that  
18 vaulted ceiling and having that deep enough to  
19 take advantage of the increased light and  
20 basically the plan provided -- the proposal by  
21 the OP doesn't -- doesn't really allow for  
22 that, basically undoes one of the key benefits

1 of what we're trying to do in addition to the  
2 useable space.

3 Going to move on to the --

4 CHAIRPERSON JORDAN: Let me first  
5 check if the Board has any questions so far.

6 Mr. May.

7 ZC COMMISSIONER MAY: Yes, I do.

8 So, there's something about what  
9 you're saying that doesn't quite make sense to  
10 me. So, looking at this, can you make that  
11 image as large as possible, the three plans  
12 all side by side?

13 MS. GROSSMAN: How do you make --

14 MR. GROSSMAN: You go to the slide  
15 show.

16 ZC COMMISSIONER MAY: Right.

17 There we go. Okay.

18 So, you still can't quite see it  
19 but on the existing ceiling plan, the  
20 dimension string on the left shows the depth  
21 of the house from the front wall to the  
22 existing bearing wall to be 29 feet.

1 MR. GROSSMAN: Correct.

2 ZC COMMISSIONER MAY: Right. What  
3 you're calling the problematic ceiling plan  
4 shows that depth now at 32 feet.

5 MR. GROSSMAN: Correct.

6 ZC COMMISSIONER MAY: So, are you  
7 proposing moving the rear wall of the entire  
8 house back three feet?

9 MR. GROSSMAN: We are proposing  
10 and is it helpful --

11 ZC COMMISSIONER MAY: You need to  
12 stay at the microphone.

13 MR. GROSSMAN: On my initial  
14 pointer --

15 ZC COMMISSIONER MAY: Okay.  
16 Great.

17 MR. GROSSMAN: Okay. So, we are  
18 proposing moving both this wall right here --

19 ZC COMMISSIONER MAY: Right.

20 MR. GROSSMAN: That goes back,  
21 three feet.

22 ZC COMMISSIONER MAY: Right.

1                   MR. GROSSMAN: The current depth  
2 of this room is 9«. Think of it that way.

3                   ZC COMMISSIONER MAY: Right.

4                   MR. GROSSMAN: And we're also  
5 proposing moving that wall back three feet.

6                   ZC COMMISSIONER MAY: Okay.

7                   MR. GROSSMAN: So, both walls move  
8 back three feet. The wall on the second floor  
9 also moves -- the back wall of the second  
10 floor moves back three feet.

11                  ZC COMMISSIONER MAY: Right.

12                  MR. GROSSMAN: Which allows us to  
13 do the things that --

14                  ZC COMMISSIONER MAY: It's just  
15 two stories, right?

16                  MR. GROSSMAN: No, there's a third  
17 story.

18                  ZC COMMISSIONER MAY: There's a  
19 third story as well.

20                  MR. GROSSMAN: The third story  
21 remains unchanged.

22                  ZC COMMISSIONER MAY: So, you're

1 going to have a second I-beam to support the  
2 third floor?

3 MR. GROSSMAN: Correct. And that  
4 I-beam I'm told it has to be -- I mean, it's  
5 only supporting half as much weight, right.  
6 It's half as strong. And so that can be  
7 designed into the --

8 ZC COMMISSIONER MAY: The existing  
9 wall.

10 MR. GROSSMAN: Into the existing  
11 wall --

12 ZC COMMISSIONER MAY: Okay.

13 MR. GROSSMAN: -- in a way that it  
14 couldn't be if it was supporting two floors.

15 ZC COMMISSIONER MAY: So, I don't  
16 know what the Office of Planning was really  
17 trying to get at in terms of an alternate  
18 proposal. But what I wonder is why can't you  
19 simply extend that back room all the way  
20 across and leave that I-beam in place?

21 MR. GROSSMAN: So, just go like  
22 that?

1                   ZC COMMISSIONER MAY: Yes. Then  
2                   you'd have a depth in the kitchen of 9 foot 6.  
3                   Your living room/dining area instead of being  
4                   29 feet would be 32 feet. But 29 feet is  
5                   actually a fairly reasonable amount of space  
6                   of a living room and dining room.

7                   MR. GROSSMAN: Well, the reason is  
8                   that the -- on the second floor the second  
9                   floor moves -- the second floor rear wall also  
10                  moves back the same three feet. And so --

11                  ZC COMMISSIONER MAY: And what's  
12                  wrong with the space above that -- what's the  
13                  difficulty with that?

14                  MS. GROSSMAN: We have a master  
15                  bath up there that doesn't have a bath tub.  
16                  It's not big enough for a bath tub.

17                  ZC COMMISSIONER MAY: Right.

18                  MS. GROSSMAN: That's a problem  
19                  for me.

20                  ZC COMMISSIONER MAY: Okay. I  
21                  mean, that's actually very common to have  
22                  stall showers in a master bathroom so I'm not

1       sure that really rises to a level of  
2       requiring, you know, driving the relief if  
3       that's what's driving the relief because  
4       you're not really showing anything about those  
5       plans that demonstrates why. I mean, I could  
6       see that if perhaps the master bathroom were  
7       extraordinarily small or something like that  
8       but you don't show us any plans that indicate  
9       why that --

10               MR. GROSSMAN: It's 55 square  
11       feet. The master bathroom is 55 square feet.

12               ZC COMMISSIONER MAY: It's not  
13       uncommon to have a complete bathroom that's  
14       seven feet by five feet in a small townhouse  
15       so that's only 35 feet. So, 55 doesn't seem  
16       to be extraordinarily small to me.

17               So, again, but it could be  
18       depending on where the pipes are and how  
19       everything is located and everything else but  
20       you don't have plans that show that. Do you  
21       have any additional plans that show the second  
22       floor and the changes?

1 MS. GROSSMAN: I don't think we  
2 have a current drawing of that.

3 ZC COMMISSIONER MAY: Okay.

4 MR. GROSSMAN: That part didn't  
5 need a variance so I think that didn't get  
6 included.

7 ZC COMMISSIONER MAY: But it seems  
8 to be driving what you're doing here so it's--

9 MS. GROSSMAN: There's two things  
10 that are driving what we're doing here.

11 ZC COMMISSIONER MAY: Sure.

12 MS. GROSSMAN: One is the size of  
13 the bathroom upstairs and the second is we  
14 were talking about one of the main  
15 architectural features of this was the vaulted  
16 ceiling above the kitchen. When you reduce  
17 the size of the kitchen, the vault becomes  
18 strange looking, right? It's not of  
19 sufficient depth to be --

20 ZC COMMISSIONER MAY: Right.  
21 You're preferred ceiling plan all the way on  
22 the right shows a room that's nine foot six by



1       seventeen feet. You would have a room that's  
2       nine foot six by 17 feet if all you did was --

3               MS. GROSSMAN: If we went that  
4       way.

5               ZC COMMISSIONER MAY: If all you  
6       did was widen the back room.

7               MS. GROSSMAN: Then the other  
8       problem with it is you have this vaulted  
9       ceiling. We wanted to put windows in. We  
10      have a neighbor who has built a solid wall--

11              ZC COMMISSIONER MAY: I understand  
12      that.

13              MS. GROSSMAN: -- three feet  
14      further than that and that's really going to  
15      impact the light we get out of a vault. I  
16      mean, we've tried to be -- we've tried to be  
17      conscientious about stepping our -- stepping  
18      our floors and allowing adequate light and air  
19      but we want to be able to access some of that  
20      light and air too.

21              ZC COMMISSIONER MAY: Okay. Yes,  
22      it's really hard to evaluate with more

1 information on the plans for the building.

2 Let's leave that for now.

3 CHAIRPERSON JORDAN: I'm thinking  
4 about continuing this hearing for you.

5 A couple of things. One, your  
6 argument is basically one of convenience and  
7 this is not -- that doesn't meet our standard.  
8 Two, I don't think we have all the information  
9 that we need, nor do you have the information  
10 to give us based upon the dialogue we've just  
11 had -- Mr. May has just had with you to allow  
12 you to move forward. We can go forward as it  
13 is but I'm trying to let you know I think it's  
14 probably to your benefit that we go ahead and  
15 continue this matter, unless someone on the  
16 Board has an objection to that.

17 ZC COMMISSIONER MAY: I don't  
18 object. I do think it would be helpful  
19 because I think that in terms of what you're  
20 asking, in terms of the overall impacts, it's  
21 not that significant and it seems like, you  
22 know, if all you were asking for was widening

1 the back room across the entire face it would  
2 be a very easy decision to make. But when  
3 you're wanting to push it that much further,  
4 the reasons why that's really necessary are  
5 not demonstrated in what I've seen in the  
6 drawings nor in what you've said so far. So,  
7 I think it would be helpful for us to see a  
8 little bit more information and for you to,  
9 you know, show us a little more and maybe  
10 have, you know, whoever is doing this design  
11 work for you assist in some manner.

12 MS. GROSSMAN: Okay.

13 CHAIRPERSON JORDAN: And I would  
14 definitely recommend that you seek some help  
15 so you'll be able to get this done.

16 Mr. Moy, if we continue this what  
17 would be our -- I want to give them  
18 substantial time at least six weeks, more than  
19 30 days.

20 MR. MOY: Mr. Chairman, given the  
21 size of our dockets, the earliest would be the  
22 afternoon of February 26. I guess it depends

1 on the Applicant's timing. I would suggest  
2 March 5th.

3 CHAIRPERSON JORDAN: February 26th  
4 or March 5th will give you a chance --

5 MR. GROSSMAN: I think we prefer  
6 February 26th. We've -- we've sort of been  
7 living with a house half -- partially done  
8 for--

9 MS. GROSSMAN: A long time.

10 MR. GROSSMAN: -- six months  
11 already. I'd like to -- and I genuinely  
12 appreciate you giving us an opportunity to  
13 revise things. But I'd rather go sooner  
14 rather than later.

15 CHAIRPERSON JORDAN: It's best to  
16 be correct.

17 MR. GROSSMAN: I appreciate that.

18 CHAIRPERSON JORDAN: Then we'll do  
19 February 26th. Is it 26th or 28th?

20 MR. MOY: It's February 26th at  
21 1:00, Mr. Chairman.

22 CHAIRPERSON JORDAN: Okay. Or

1       towards the afternoon docket. Very good. All  
2       right. Thank you.

3               MS. GROSSMAN: Thank you.

4               MR. JACKSON: Excuse me.

5               CHAIRPERSON JORDAN: We have a  
6       morning training session. Okay.

7               MR. JACKSON: Mr. Chairman, one  
8       clarification.

9               CHAIRPERSON JORDAN: Yes.

10              MR. JACKSON: When would they need  
11      to have their materials in?

12              CHAIRPERSON JORDAN: Yes, thank  
13      you. And, Mr. Moy, we need them at least 14  
14      days before the hearing.

15              MR. MOY: That would be February  
16      the 12th. Tuesday, February 12th, Mr.  
17      Chairman.

18              CHAIRPERSON JORDAN: Visit as much  
19      as you need with Mr. Jackson and anybody else  
20      in Zoning and other folks to try to get you  
21      where you need to be.

22              MS. GROSSMAN: Thank you.

1                   CHAIRPERSON JORDAN:   Mr. Jackson  
2                   is always very helpful.

3                   MR. MOY:   The next application,  
4                   Mr. Chairman, is Application No. 18484.   This  
5                   is the application of -- rather than insulting  
6                   the Applicant I'm going to spell his first  
7                   name which is I-F-E-A-N-Y-I-C-H-U-K-W-U.  
8                   Ifeanyichukwu.

9                   MS. IFEANYICHUKWU:   Ifeanyichukwu.

10                  MR. MOY:   Pursuant to 11 DCMR  
11                  3103.2 for a variance from the limitation on  
12                  the number of stories under subsection 400.1  
13                  and a variance from the lot area provisions  
14                  under subsection 401.3. This is to allow the  
15                  continued use of an existing four-story three-  
16                  unit apartment house in the R-4 District at  
17                  premises 26 T Street, Northeast, property in  
18                  Square 3509S, S as in Sierra, Lot 39.

19                  Before we begin, we're going to  
20                  take a brief five-minute break and then we'll  
21                  come back into session.

22                  (Whereupon, off the record from

1 10:34 a.m. to 10:39 a.m.)

2 CHAIRPERSON JORDAN: We did call  
3 the case so we're back in session. Let me  
4 make that call out one more time. We're back  
5 in session. Going once, going twice, going  
6 for the third time. We're back in session.  
7 We're going to go like in school and start  
8 calling names. Okay. Thank you.

9 Would you please introduce  
10 yourself please?

11 MS. MOLDENHAUER: Good morning.  
12 My name is Meredith Moldenhauer of Griffin and  
13 Murphy. I represent the Applicant in Case  
14 18484 at 26 T Street. Ifeanyichukwu Egbuniwe  
15 is here with me and I may be mutilating my own  
16 client's last name, but she goes by Egbuniwe  
17 also so that might be an easier way to address  
18 her during the hearing.

19 I'd like to provide a quick  
20 summary of the relief that the Applicant has  
21 requested.

22 CHAIRPERSON JORDAN: Has the

1 relief changed?

2 MS. MOLDENHAUER: No, the relief  
3 has not changed.

4 Then I will just identify that --

5 CHAIRPERSON JORDAN: Let me say, I  
6 think that we believe -- I mean, this is a  
7 matter where you inherited -- you bought some  
8 property already built out that did not meet  
9 required zoning regulations. And then DCRA  
10 further compounded it by giving permits and  
11 Certificate of Occupancy and pulled all the  
12 stuff back in about a month. Is that --

13 MS. MOLDENHAUER: Six months after  
14 she purchased the property, but, yes. There  
15 was a C of O that was issued after the  
16 acquisition and then prior to the acquisition  
17 and then she received notice.

18 CHAIRPERSON JORDAN: I think your  
19 record of file clearly shows that and I  
20 believe to me it shows that I've seen nothing  
21 that said you didn't operate in good faith and  
22 nothing that -- I think the actions show that



1     you may have had some detrimental alliance  
2     based upon governmental officials and etcetera  
3     in this matter. And so I think that I'm there  
4     to where I believe there's enough in this file  
5     to support it. But I want to turn to the  
6     other Board Members and see if there's some  
7     issues that we need to have drilled down.  
8     Anyone?

9                     Mr. May.

10                    ZC COMMISSIONER MAY: Well, yes,  
11     I'm not there yet so I'm interested in hearing  
12     the explanation a little bit more thoroughly.

13                    Frankly, I was confused by the  
14     sequence of events and so I think just having  
15     the time line explained to me would be  
16     helpful. And I'm also interested in the  
17     Office of Planning's mixed report on this.

18                    MS. MOLDENHAUER: Well, let me  
19     just address some of those issue and we'll  
20     kind of do our presentation out of order so  
21     that we're just focus in on the specific  
22     questions that are being addressed and if we

1 have any additional questions hopefully.

2 Just one clarification. The plans  
3 that are in the submission are an attempt to  
4 try to reverse -- engineer what might have  
5 been there back in '06. If that provided any  
6 confusion, I just want to make sure that's  
7 clear.

8 In addition to that, I believe  
9 that this case is supported by others in our  
10 case such as Murphy et al, AMM Holdings, the  
11 appeal and Muret case that was recently  
12 decided.

13 We have reviewed the Office of  
14 Planning's report and we find that they in  
15 some degree support the lot occupancy but they  
16 have a concern about the height. We find that  
17 obviously if we can support both and, you  
18 know, it goes to the next step of practical  
19 difficulty, I'm going to briefly provide a  
20 summary of the history and then I'll turn to  
21 my client to testify about a couple of things.

22 This is research that we've done

1 on behalf of Ifeanyi to try to --

2 CHAIRPERSON JORDAN: One second.

3 Mr. Moy, can we have the lights please because  
4 we don't have that.

5 MS. MOLDENHAUER: No, it's a  
6 summary of kind of what was in the submission.

7 CHAIRPERSON JORDAN: That's what  
8 we need to see.

9 MS. MOLDENHAUER: So, again, this  
10 is what our firm has done as far as  
11 researching what available the record of  
12 deeds, permits and that information and again  
13 none of this was known by Ifeanyi when she  
14 purchased the property or even months after.

15 Lancaster, an individual,  
16 purchased the property in 2006. He then from  
17 documentation and by the permits that were  
18 pulled gutted the structure and renovated the  
19 full basement and raised the ceiling on the  
20 third floor, created that high 15-foot ceiling  
21 on that top third floor.

22 He converted the structure to

1 three units, created three separate wiring.  
2 Created three separate entrance. Provided all  
3 of the gutting and the planning and created  
4 separate entrances.

5 At that point in 2009, the economy  
6 obviously hit and he was foreclosed upon. A  
7 bank purchased the property in '09 from  
8 foreclosure and then EFP purchased the  
9 property from foreclosure and completed the  
10 renovations pursuant to permits or plans that  
11 were found on site and obtained additional --

12 CHAIRPERSON JORDAN: Lancaster had  
13 permits?

14 MS. MOLDENHAUER: Lancaster had  
15 some permits, yes. They were -- those permits  
16 potentially do not reflect what was done but  
17 he did obtain permits.

18 And so then between '09 and '10,  
19 EFP actually at that point did obtain a valid  
20 DCRA permit which is included in our  
21 submission to excavate the first floor. When  
22 that floor was excavated that is actually what

1 created the height variance that's requested  
2 because it changed the grade level on that  
3 first floor. Prior to the excavation, the  
4 height would not have been a nonconforming.  
5 That permit was issued and work was done  
6 pursuant to that permit.

7 DCRA issued a C of O for three  
8 units to EFP. Ifeanyi obtained that C of O at  
9 closing and then she obtained a C of O in her  
10 name for three units and then six months later  
11 received the notice to revoke. So, that kind  
12 of outlines the time line as we understand it.

13 CHAIRPERSON JORDAN: So, the DCRA  
14 permit was for the excavation.

15 MS. MOLDENHAUER: There were  
16 multiple permits but there was one, yes. DCRA  
17 did issue a permit for the excavation which  
18 specifically then created the nonconformity as  
19 to the height.

20 CHAIRPERSON JORDAN: Height. 40-  
21 foot height issue.

22 MS. MOLDENHAUER: I will then just

1 provide a little other -- I'm going to turn --

2 CHAIRPERSON JORDAN: When did your  
3 client purchase?

4 MS. MOLDENHAUER: I'm going to let  
5 Ifeanyi just testify to the time line of when  
6 she purchased.

7 MS. IFEANYICHUKWU: Okay. Good  
8 morning.

9 I purchased the property. I found  
10 it in November of 2011 and went to closing in  
11 early January of that year so I've been there  
12 about a year now.

13 Here are -- here is actually one  
14 of the MRIS pictures that I saw when  
15 considering purchase of the property and this  
16 actually shows the height of that third story.  
17 Actually, it's the fourth floor so it shows  
18 the 15-foot ceiling and this is actually --  
19 and this picture is taken about 15 days ago or  
20 about 10 days ago. But, you know, this top  
21 floor is one of the reasons I purchased the  
22 property. I thought the ceilings and the work

1       that was done was beautiful.

2               So, as Meredith said, I obtained  
3       the seller's copy of the C of O and then later  
4       in February, almost a month after closing, had  
5       the C of O changed, registered in my name.  
6       And then subsequently, registered the property  
7       with Housing Accommodation, went through the  
8       process of obtaining my license.

9               ZC COMMISSIONER MAY: I'm sorry,  
10       what is Housing Accommodation in the city?

11              MS. MOLDENHAUER: It's an order  
12       for Ifeanyi to register as a landlord and so  
13       all three units are -- all two units that she  
14       rents out. There's three units. She lives in  
15       one but the other two have to be inspected by  
16       DCRA or DHCD inspectors to confirm that  
17       they're in conformance with housing and  
18       landlord tenant requirements and that was done  
19       and registered with, again, no indication that  
20       there was any problem.

21              And then just to kind of provide  
22       you an understanding of how she got here, I'll

1       let Ifeanyi testify to that.

2                   MS. IFEANYICHUKWU: Oh, yes. So,  
3       actually after moving in, a few weeks after  
4       moving in I heard periodic pounding in the  
5       middle of the night and I couldn't identify  
6       what it was. I thought, okay, you know, I'm  
7       new here. This is a row home. We're side by  
8       side. Maybe this is some sort of pounding  
9       that I hear that's going on within the next  
10      door neighbor's home. And for actually a few  
11      weeks I couldn't identify where the pounding  
12      was coming from but I would hear it in the  
13      middle of the night.

14                   So, I decided to call up DCRA to  
15      have them come and inspect it when I found  
16      actually that my neighbor had installed two  
17      sealed beams between my -- between their third  
18      story window and I don't know if you have a  
19      picture but -- and my wall. So, when I  
20      discovered that, I decided to call DCRA  
21      because I didn't know if the beams were, you  
22      know, structurally supporting their windows or



1       what.

2                   The left side shows my neighbor's  
3       property and this wall to the right is my own.  
4       So, I discovered that that was the source of  
5       the pounding.

6                   Mind you, I called the department  
7       that is in charge of illegal construction.  
8       Had I known that I myself was in violation of  
9       any sort of zoning issues, I would have  
10      thought twice before calling DCRA. So, I kind  
11      of walked into that.

12                  So, yes, this whole problem didn't  
13      come about because I had neighbors who  
14      complained or anyone from the community who  
15      complained. In fact, everyone has been  
16      incredible supportive but it really came about  
17      because I invited the DCRA inspector to come.  
18      When she came actually, this was Inspector  
19      Delaney. She came and she noticed that my  
20      property was brand new and so she was  
21      interested in some of the work, at least  
22      that's what I thought. And she asked for a

1       tour. Me, unwittingly, I just -- I was like,  
2       yes, sure. Come on in, you know. You want to  
3       see this, you want to see that. And I had no  
4       -- no idea what was going on.

5               And then a few weeks later,  
6       actually like 15 days later, is when DCRA sent  
7       the notice to revoke. They actually sent it  
8       to the wrong address so I didn't get it but I  
9       received a follow up letter in June of 2012  
10      saying -- referencing the notice to revoke  
11      that they had sent and that's when I became  
12      aware of any issues. So, that's how we got  
13      here.

14             To come into compliance required a  
15      couple of things. It requires demolishing  
16      part of the existing structure as well as  
17      reconfiguring my property to a two-unit -- to  
18      a two-unit property and both -- both of those  
19      options are just -- I can't -- I can't afford  
20      that. And not only that, it would create  
21      difficulty is that one, you reduce the rental  
22      value which -- the rental income which I

1       depend on in large part to help pay my  
2       mortgage and you also end up -- not you but  
3       having to make these changes would also  
4       decrease the overall value of my property.  
5       But I would still have my -- my mortgage to  
6       pay. The bank as you know wouldn't forgive  
7       any amount of my loan given the changes I have  
8       to make and the resulting decreased value.

9                       So, I --

10                      MS. MOLDENHAUER: There was a  
11       question also about OP and just kind of  
12       clarify. We actually met with OP and we're  
13       trying to engage them in seeing if there is  
14       any way or anything that we could do that  
15       would be financially feasible. Obviously, as  
16       we saw, they have recommended us to meet with  
17       HPO. We were willing to do that but they  
18       indicated that they would do that directly and  
19       when we got the report with their extensive  
20       alternatives, we went out and we obtained  
21       estimates and I'll let Ifeanyi speak to that.  
22       But our understanding from our initial meeting

1 and I believe was OP's understanding as well  
2 was that they were going to be some sort of a  
3 more aesthetic changes that could be done  
4 within financial -- a more reasonable  
5 financial estimate or budget. So, I'll just  
6 let Ifeanyi speak quickly to that.

7 CHAIRPERSON JORDAN: Put the light  
8 back on.

9 MS. MOLDENHAUER: You can just see  
10 from this slide it's 47,000 --

11 CHAIRPERSON JORDAN: Oh, I'm  
12 sorry. Just a second.

13 MS. MOLDENHAUER: Just quickly,  
14 47,000 for the first alternative and then  
15 about 92,000 for the second alternative. So,  
16 those are just the estimates that we'd like to  
17 provide on the record.

18 CHAIRPERSON JORDAN: That's based  
19 upon OP's recommendations?

20 MR. BLANK: Those were, no. Those  
21 were HPO's recommendation to OP which OP had  
22 incorporated in their report.

1 CHAIRPERSON JORDAN: Right. So,  
2 it's the same. That's what I mean. Okay.

3 MS. MOLDENHAUER: I just wanted to  
4 make sure.

5 CHAIRPERSON JORDAN: Yes.

6 MS. MOLDENHAUER: So, based on all  
7 of the above, I can just if the Board would  
8 like, I can indulge them. If they would not,  
9 it's a compliment of factors. Obviously, this  
10 is a very unique situation. The time frame,  
11 the fact that, you know, my client is an  
12 innocent owner, there is actually no  
13 relationship. I mean, the work that was done  
14 by three prior owners that actually did the  
15 majority of the work. My client cannot  
16 practically afford to make the property  
17 compliant nor was she aware of that at the  
18 time that she purchased or at the time that  
19 she obtained her mortgage and made certain  
20 financial decisions in regard to being able to  
21 rent it out.

22 She relied upon DCRA's issuance of

1 a C of O, the MRI listing and then even her  
2 ability then to go and get the two units  
3 registered with DHCD.

4 Based on that, we believe that we  
5 satisfy the three prongs and would request  
6 support of this case.

7 CHAIRPERSON JORDAN: Does the  
8 Board have any questions of the Applicant?

9 ZC COMMISSIONER MAY: Did you look  
10 at the issue of the measuring from grade on  
11 the front side? I mean, if they had gotten a  
12 permit to build up as high as they did  
13 presumably it was done to the 40-foot limit  
14 when it was done and the nonconformity is  
15 created by the grade having dropped.

16 MS. MOLDENHAUER: Yes, originally  
17 the grade was about here and when that was  
18 there -- this is the property down here. The  
19 height was within the requirements. But in  
20 order to remedy that you were talking about  
21 either, you know, obviously as indicated, you  
22 know, back filling this which would then

1       eliminate the entrance. So, there's really no  
2       way to remedy that situation in regard to  
3       changing the grade. If you back fill it  
4       you're going to eliminate the access or you're  
5       going to have to require the cost that we  
6       provided in our report in regards to creating  
7       a second set of staircases to access that unit  
8       which would then again change --

9               ZC COMMISSIONER MAY: Did you  
10       measure actually where the middle of the front  
11       of the house is? Is it actually in the  
12       doorway?

13              MS. MOLDENHAUER: This is in the  
14       door, yes.

15              ZC COMMISSIONER MAY: The middle  
16       of the front of the house is in the doorway?  
17       It's not just coming to the right of it or  
18       anything like that?

19              MS. MOLDENHAUER: There is no  
20       really way to -- I mean, you're trying to ask  
21       if there is a way to potentially --

22              ZC COMMISSIONER MAY: Well, I

1 mean, the regulations say measure from the  
2 middle of the front of house and the middle of  
3 the front of the house -- I'm just wondering.  
4 I mean, this is where the nonconformity came  
5 from, putting in a retaining wall and some  
6 dirt is a lot cheaper than the modifications  
7 that they're proposing. Did anybody talk to  
8 you about that? If it were at the middle. If  
9 the middle of it is within the doorway then  
10 obviously that's not going to work.

11 MS. MOLDENHAUER: From my  
12 understanding the middle is within the  
13 doorway. I don't believe -- we've looked into  
14 it, Mr. May, and when I was first contacted by  
15 my client we tried to discern if there was any  
16 additional alternative such as potentially  
17 doing back fill or putting in a retaining  
18 wall. I don't believe that any of those would  
19 be an option based on the staircase here to  
20 get up and the access point for this door  
21 based on the measurements.

22 ZC COMMISSIONER MAY: Okay.



1 CHAIRPERSON JORDAN: Any other  
2 questions of the Applicant?

3 Then let's turn now to the Office  
4 of Planning for their report.

5 MS. VITALE: Good morning, Mr.  
6 Chair and Members of the Board.

7 For the record, Elisa Vitale with  
8 the Office of Planning.

9 As you're heard, the Applicant is  
10 seeking variances to legitimize on the  
11 continued use of an existing four-story,  
12 three-unit apartment building at 26 T Street,  
13 Northeast. The subject property is zoned R-4.  
14 And as you've heard, OP believes that we can  
15 support the Applicant's request for an area  
16 variance from the lot area requirement.  
17 Normally OP would strongly oppose relief that  
18 would allow the conversion of a rowhouse to a  
19 multi-dwelling building in the R-4 zone but in  
20 this case, we do believe that there was  
21 detrimental reliance and extenuating  
22 circumstances that would support the requested

1 relief.

2 We do, however, have, you know,  
3 more concern about the height and number of  
4 stories and it does not appear in our review  
5 of the permit that that pop up on the upper  
6 level was ever contemplated as part of a  
7 building permit application. You know, we do  
8 understand that this work was completed prior  
9 to the Applicant's purchase. But we don't  
10 believe that that additional height was part  
11 of any permit application by a prior owner.

12 And that's why we can't support  
13 the variance for the additional height and  
14 number of stories. You know, the variance  
15 process isn't intended to provide retroactive  
16 relief for illegal construction. And given  
17 that that top floor merely provided just extra  
18 ceiling height, we do believe that that could  
19 be reduced without requiring the Applicant to  
20 reduce the number of units. We do understand  
21 that there would be financial implications  
22 with that, but I don't believe that it would

1 result in a reduction in the number of units.

2 That concludes my presentation. I  
3 can certainly answer any questions that you  
4 might have at this time.

5 CHAIRPERSON JORDAN: Does the  
6 Board have any questions of the Office of  
7 Planning?

8 ZC COMMISSIONER MAY: I guess I  
9 should ask you too. Did you look at the issue  
10 of the measuring point or did that actually  
11 fix it? Because the variance is 6, 10. Maybe  
12 that wouldn't fix it.

13 MS. VITALE: I can't speak to  
14 that, you know, offhand right now as to  
15 whether or not -- I guess you're asking if you  
16 back filled in the front yard if that would  
17 correct it?

18 ZC COMMISSIONER MAY: Right.

19 MS. VITALE: Yes, I don't know if  
20 that would modify the measuring point  
21 sufficiently to bring the property into  
22 compliance.

1                   ZC COMMISSIONER MAY:   Okay,  
2                   thanks.

3                   CHAIRPERSON JORDAN:   And regarding  
4                   your recommendation -- recommendation you made  
5                   in regards to the height issue, what's the  
6                   cost of that?

7                   MS. VITALE:   I can't speak -- we  
8                   don't have a cost estimate for height.   This  
9                   property I will note that it is not in a  
10                  historic district but our historic  
11                  preservation staff, you know, frequently look  
12                  at thee types of issue.   So, we consulted with  
13                  them to see if there were potentially  
14                  modifications that the Applicant could make to  
15                  mitigate the appearance of that top floor.

16                  CHAIRPERSON JORDAN:   And, I guess,  
17                  what I'm asking for those mitigations, what's  
18                  the cost that OP has looked at that would cost  
19                  the Applicant -- if the Applicant was to  
20                  absorb that recommendation, what would it  
21                  cost?

22                  MS. VITALE:   And we did not run

1       those numbers.

2                   CHAIRPERSON JORDAN:   So, we don't  
3       know if OP when they make the recommendation  
4       doesn't know if it's financially feasible for  
5       someone to actually do that.  Is that what  
6       you're saying?

7                   MS. VITALE:   Certainly, no.  We  
8       did not provide that cost estimate.

9                   CHAIRPERSON JORDAN:   Because it  
10      might not be a viable alternative?  It  
11      determines, I guess, you have to consider what  
12      the Applicant can afford and also then when  
13      making those recommendations if something is  
14      viable or not, whether or not what the cost  
15      associated makes a lot of sense.  That's just  
16      my thought.

17                   Any other questions of the Office  
18      of Planning from the Board?  Does the  
19      Applicant have any questions of the Office of  
20      Planning?  Does the Applicant have any  
21      questions of the Office of Planning?

22                   MS. MOLDENHAUER:   No.

1                   CHAIRPERSON JORDAN: Is anyone  
2 here from the Department of Transportation?

3                   We do have a letter from the  
4 Department of Transportation which submitted  
5 there are no objections to the request for  
6 relief.

7                   Do we have anyone here from ANC, I  
8 believe, 5-B? I believe we have a letter in  
9 support from ANC 5-B to which we will give  
10 great weight who supports the Applicant's  
11 request for relief.

12                  Our record also shows that there  
13 are at least 19 letters of support from  
14 neighbors supporting the request for relief to  
15 this application.

16                  Are there others in the audience  
17 wishing to testify in support of this  
18 application?

19                  Anyone in the audience wishing to  
20 testify in support of the application?

21                  Anyone in the audience wishing to  
22 testify in opposition to thise application?

1                   Then let's turn back to the  
2                   Applicant for any rebuttal or closing.

3                   MS. MOLDENHAUER: We'll, close  
4                   very briefly just indicating that we believe  
5                   the written submissions and today's testimony  
6                   clarify the history of the property and the  
7                   innocence reliance that Ifeanyi had in regards  
8                   to the existing conditions.

9                   There is a confluence of factors  
10                  here. One, in regard to the existing  
11                  condition that we believe was existing in  
12                  regards to the third floor which then became  
13                  a fourth floor that was constructed back  
14                  probably in '09 or '08. In addition to that,  
15                  the final condition of the property was  
16                  finalized most likely before September of  
17                  2011. A C of O was provided to my client at  
18                  closing. She then obtained a C of O for three  
19                  units from DCRA and relied upon that.

20                  And then locating two additional  
21                  tenants in the building, obtaining a mortgage  
22                  for a specific value and in order for her to

1 potentially remedy either the eight or the  
2 number of units, it would be practically  
3 difficult as she testified to and as we  
4 indicated in the record, if it was an issue of  
5 even just modifying the top floor as OP  
6 indicated, you're talking about something  
7 around \$50,000 and my client is not in the  
8 real estate or construction arena so this  
9 would be something that would be exceptionally  
10 challenging for her in addition to financially  
11 but also in regards to managing that.

12 My client has gone to  
13 extraordinary lengths to obtain letters of  
14 support from neighbors and from the ANC and  
15 have the support. We believe that this case  
16 satisfies the three prongs of the variance  
17 standard and I believe it might be right for  
18 a bench decision and we'd request your  
19 approval.

20 CHAIRPERSON JORDAN: Thank you.  
21 Are there any questions by the Board? Any  
22 other questions? Then we will conclude --



1                   ZC COMMISSIONER MAY: Yes, I'm  
2                   sorry. We only saw the financial analysis  
3                   very quickly on the scene there. That wasn't  
4                   submitted to the record, was it?

5                   MS. MOLDENHAUER: Yes, it was. In  
6                   the initial application --

7                   ZC COMMISSIONER MAY: And the  
8                   exhibit number?

9                   MS. MOLDENHAUER: I can give you  
10                  an exhibit number, yes. One moment. It's  
11                  Exhibit 4, page 11. Describes the practical  
12                  difficulty identifying the cost estimate of  
13                  \$30,000 to \$40,000 for modifying the top  
14                  floor. \$30,000 to \$35,000 for reconfiguring  
15                  the staircases if the lower level was back  
16                  filled and when changing it to two units. And  
17                  then provides the monthly mortgage and  
18                  additional information for operating the  
19                  property.

20                  ZC COMMISSIONER MAY: Okay. But  
21                  there was some additional detail that was on  
22                  that slide --

1 MS. MOLDENHAUER: Yes.

2 ZC COMMISSIONER MAY: -- that's  
3 not here.

4 MS. MOLDENHAUER: That slide. I  
5 think you're referring to the OP comments.  
6 That is not --

7 ZC COMMISSIONER MAY: Yes.

8 MS. MOLDENHAUER: This is just --  
9 we just got this. I can print this out and  
10 provide a copy to be part of the record but  
11 we--

12 ZC COMMISSIONER MAY: I think  
13 since you've shown this to us it should be  
14 part of the record anyway, so --

15 MS. MOLDENHAUER: Absolutely. We  
16 can provide a copy to Mr. Moy. And this is  
17 just answering or providing cost estimates for  
18 the recommendations that OP provided in their  
19 -- in their submission.

20 CHAIRPERSON JORDAN: Any other  
21 questions of the Applicant?

22 No, okay. Then let's close the

1 hearing based upon the evidence that's in the  
2 file and what's been submitted today.

3 Is the Board ready to deliberate?  
4 Need additional time? Okay. All right. Then  
5 let's move to deliberation.

6 I'll start.

7 This is a matter which I can  
8 support. I believe that there's been a  
9 showing of good faith upon the Applicant and  
10 that there is detrimental reliance by the  
11 Applicant in regards to the condition of this  
12 property. And because of that, it meets the  
13 condition for granting relief.

14 I think that it's clearly shown  
15 that the economic hardships and burdens that  
16 would be bore out in trying to make this  
17 compliant is unreasonable and burdensome. And  
18 I can support the relief requested by the  
19 Applicant.

20 Anyone else want to weigh in on  
21 that?

22 Mr. May.

1                   ZC COMMISSIONER MAY: Yes, the  
2 whole thing makes me very uncomfortable. I  
3 mean, I guess the conversion to three units is  
4 a -- where seeing the history was very helpful  
5 to see what the Applicant reasonably should  
6 have known at the time the purchase was made  
7 and whether there's any real recourse in the  
8 direction of whoever made these mistakes in  
9 the first place. You know, the fact that the  
10 work was permitted by DCRA or more importantly  
11 the fact that they issued C of O, it looked  
12 like three times. Is that right? Twice.  
13 Once the prior occupant and then I thought  
14 there was a third one in that time line. But  
15 in any case, it was issued twice. It gives me  
16 some comfort that the Applicant could not have  
17 or would not likely have caught this at the  
18 time of purchase and had a reasonable  
19 expectation that everything was on the up and  
20 up.

21                   And, frankly, I think what's been  
22 done to the top of the building, while it may

1 look great from the inside, looks terrible  
2 from the outside. And I think that's one of  
3 the reasons why I want to be vigilant about  
4 this. I think that these sorts of  
5 modifications to a building, whether or not  
6 it's in a historic district, it's just not  
7 good. It shouldn't be happening and it's  
8 unfortunate that DCRA permitted it in the  
9 first place, even if it was compliant. I  
10 mean, there's probably no recourse if it was  
11 compliant, but it seems like if the variation  
12 is 6 feet 10 that even if it had been done  
13 properly at -- measured properly at DCRA, I'm  
14 not sure that it would have -- oh, wait a  
15 minute. Let me think about this. I actually  
16 have a question for the Office of Planning.

17 Is it 6 feet 10 or is it --  
18 because it has to be measured to the top of  
19 the ceiling of the interior structure, right?

20 MS. VITALE: That's correct. The  
21 measuring point for height would be to the  
22 ceiling.

1                   ZC COMMISSIONER MAY:   Right.   And  
2                   is that what the 4610 is?

3                   MS. VITALE:   I do not know where  
4                   that measurement was taken.

5                   ZC COMMISSIONER MAY:   Can the  
6                   Applicant tell us where the 4610 comes from?  
7                   And it looks like it's -- I can't read the  
8                   numbers but it looks like to the top of the  
9                   structure.

10                  MS. VITALE:   It is the top of the  
11                  structure because is, if you look at the  
12                  interior picture of the interior of the  
13                  ceiling is actually vaulted -- type vaulted.  
14                  I'm probably --

15                  ZC COMMISSIONER MAY:   I remember  
16                  what it looks like.

17                  MS. VITALE:   It's to the top, yes.

18                  ZC COMMISSIONER MAY:   Okay.

19                  MS. VITALE:   All the way to the  
20                  top.

21                  ZC COMMISSIONER MAY:   I guess it's  
22                  conceivable that this was -- that somebody in

1       checking these plans initially was looking at  
2       a membership from the existing grade to the  
3       top of the under side so it would have been  
4       compliant at that point.

5               I don't believe that that solution  
6       has been thoroughly investigated. In other  
7       words, re-establishing the grade at the  
8       midpoint because the middle of the house you  
9       may actually be able to do that.

10              I don't know. I mean, that would  
11       make it compliant but it wouldn't make it look  
12       any better which is, I think, part of the  
13       problem that the Office of Planning has. And  
14       this is an opportunity for them to try to fix  
15       that.

16              All this just to say that I'm not  
17       really pleased to be voting in favor of it but  
18       I don't see a clear solution that -- a clear  
19       alternative solution that would not be  
20       extraordinarily difficult for the Applicant to  
21       do.

22              So, begrudgently, I could go

1 along.

2 CHAIRPERSON JORDAN: Okay. Thank  
3 you.

4 With that then I move that we  
5 grant the relief to the Applicant.

6 MEMBER HINKLE: Second.

7 CHAIRPERSON JORDAN: Motion made  
8 and seconded.

9 All those in favor signify by  
10 saying aye.

11 (AYES)

12 CHAIRPERSON JORDAN: Those opposed  
13 nay.

14 The motion carries.

15 Mr. Moy.

16 MS. MOLDENHAUER: Thank you very  
17 much.

18 MR. MOY: On the vote count of  
19 three to zero upon the motion of Chairman  
20 Jordan to approve. Seconding the motion Mr.  
21 Hinkle. Also in support of the motion Mr.  
22 Peter May. We have a Board Member not present



1 with us today in a seat vacant. So, the  
2 motion carries, Mr. Chairman.

3 CHAIRPERSON JORDAN: Then let's  
4 have a Summary Order please.

5 MR. MOY: Very good. Thank you.

6 The next scheduled application,  
7 Mr. Chairman, is Georgetown Park but I don't  
8 know if the Board would care to leap frog over  
9 that to the next application.

10 CHAIRPERSON JORDAN: Let's call  
11 Georgetown.

12 MR. MOY: Okay. Very good. That  
13 would be Application No. 18486. Application  
14 of AG Georgetown Park Hold I LLC, pursuant to  
15 11 DCMR 3104.1 for a special exception to  
16 allow a bowling alley under subsection 908.1  
17 in the W-1 and #-2 Districts at premises 3222  
18 M Street, Northwest. Property located in  
19 Square 1200, Lot 868.

20 CHAIRPERSON JORDAN: All right.  
21 Would the person at the witness table please  
22 identify themselves?

1 MS. PRINCE: Allison Prince,  
2 Goulston & Storrs, counsel for the Applicant.

3 MR. SCHWARTZ: Dale Schwartz,  
4 founder of Pinstripes.

5 MR. SULLIVAN: Marty Sullivan from  
6 Sullivan and Barros, representative for the  
7 Georgetown Park Unit Owners Association.

8 MR. STARRELS: Good morning, Bill  
9 Starrels representing ANC 2-E.

10 MR. MILSOM: Scott Milsom, the  
11 landlord.

12 MR. POLLOCK: Chris Pollock with  
13 Cerami Associates, Acoustical Engineers.

14 CHAIRPERSON JORDAN: And let me go  
15 back again. You are?

16 MR. MILSOM: Scott Milson with  
17 Vornado.

18 CHAIRPERSON JORDAN: Milsom.

19 MR. MILSOM: Milsom, M-I-L-S-O-M.  
20 We're the owner of the property.

21 CHAIRPERSON JORDAN: And the  
22 gentleman to your right?

1 MR. POLLOCK: Chris Pollock with  
2 Cerami.

3 CHAIRPERSON JORDAN: Okay. Are  
4 there any announcements that should be made?  
5 Bring me up to date of where we are from the  
6 negotiated point. Either one.

7 MS. PRINCE: I'll go first.

8 We have crossed that two percent  
9 threshold and we have an agreement with the  
10 condominium association regarding this  
11 project. We're prepared to proceed.

12 CHAIRPERSON JORDAN: Mr. Sullivan,  
13 are you still seeking party status?

14 MR. SULLIVAN: No, we've agreed to  
15 withdraw our party status in opposition. And  
16 we would like to submit a list of proposed  
17 conditions which are distilled down from the  
18 agreement itself. And we've put the  
19 conditions--Is that part of the agreement?

20 MR. SULLIVAN: I'm sorry?

21 CHAIRPERSON JORDAN: The  
22 conditions are part of the agreement?

1                   MR. SULLIVAN: The conditions are  
2 part of the agreement but we have a separate  
3 attachment where the conditions are more in  
4 the context of a BZA order.

5                   CHAIRPERSON JORDAN: Okay. And  
6 are you going to present this agreement to the  
7 Board?

8                   MS. PRINCE: We are.

9                   CHAIRPERSON JORDAN: Or do you  
10 just want us to take a look at the conditions  
11 and determine whether or not they should be  
12 part of an order if one is forthcoming in  
13 support?

14                  MR. SULLIVAN: I think both. We  
15 don't have the agreement. We'll have it  
16 within 15 minutes or so, but before the end of  
17 the hearing I'll have the agreement. And I  
18 would propose submitting both the agreement  
19 and the proposed conditions but with the idea  
20 that the proposed conditions represent what's  
21 in the agreement.

22                  CHAIRPERSON JORDAN: Well, I'm

1 going to ask that you probably give those  
2 proposed conditions, if you both have verified  
3 that those are the conditions, then give them  
4 to Ms. Prince because you won't be a party to  
5 add it, but we will do that.

6 Is ANC 2-E also still in  
7 opposition?

8 Push that.

9 MR. STARRELS: I know. Done this  
10 before.

11 CHAIRPERSON JORDAN: Even if you  
12 have, we fight with this little button whether  
13 or not it's really bright green or green.

14 MR. STARRELS: It's challenging a  
15 you get older.

16 Anyway, ANC 2-E, when we did our  
17 motion basically the way the motion is  
18 structured is that we were in opposition until  
19 there was an agreement, if there was an  
20 agreement. That's the essence of our motion.

21 CHAIRPERSON JORDAN: All right.  
22 Thank you. All right.

1                   So, then we would eliminate the  
2                   party status issue here. We have an agreement  
3                   with the group that would have been in  
4                   opposition. The ANC then would move to the  
5                   support column because of the fact that we  
6                   have an agreement.

7                   This matter is slightly different,  
8                   as you know. I think we have a little bit  
9                   more leeway regarding special exceptions and  
10                  in cases such as this one where there's a  
11                  bowling alley and we would probably in most  
12                  other cases because of the way the regulation  
13                  is written, provides that if the Board finds  
14                  it appropriate to meet the objectives,  
15                  etcetera, etcetera, in regards to allowing  
16                  this type of operation.

17                  The other thing I want yo all to  
18                  know that we -- the Board has no jurisdiction  
19                  over construction issues and I know there had  
20                  been some questions and objections based upon  
21                  construction, construction noise. We have no  
22                  rendering of that. Also, that we not --

1 before us is the operation of a restaurant  
2 because that is a matter of right. We would  
3 just have before us the special exception for  
4 the operation of the bowling alley.

5 And one aspect of granting or  
6 review on the regulations here is the noise  
7 issue. So, we would want to see and hear more  
8 in regards to the noise issue that we're  
9 comfortable with that even though we know that  
10 the association very well may have worked out  
11 a way to mitigate that.

12 I'm concerned about the report I  
13 received from -- your noise report in that I  
14 don't see any real measures or readings that  
15 have been actually done in that facility but  
16 it's been based upon some similar situated  
17 facility some place else. Maybe I'm wrong  
18 from what I read in the documents but I would  
19 like you to hone in on that for me.

20 Does the Board have anything else  
21 specifically that we need to get because I  
22 want to be sure to put that on the table as

1       you go through here.

2                   ZC COMMISSIONER MAY:   Along the  
3       same lines, again, going to the report on the  
4       acoustics, there's lots of description of how  
5       the construction should be done.   But no  
6       indication that those particular construction  
7       details will eliminate the noise.   And so  
8       there's nothing that says that if you do put  
9       in three layers of gypsum and six inches of  
10      insulation and so on that the noise will not  
11      be transmitted into the structure above.   So,  
12      even sort of a technical analysis that  
13      demonstrate that would help and I know that  
14      that's possible.

15                  The second thing is there's a  
16      noise issue in a couple of directions.  
17      There's within the structure and then there's  
18      outside the structure into and across the C&O  
19      Canal area.   And so I'm interested in knowing  
20      what's being done to make sure that that does  
21      not disturb the park or disturb the neighbors  
22      who are a little further down the way and so



1 on.

2 MS. PRINCE: Good morning, Members  
3 of the Board. Thank you for your time this  
4 morning. I'm very, very pleased that we were  
5 able to work quite carefully with the  
6 condominium association, particularly over the  
7 last 24 hours in an effort to address the  
8 concerns that you've just raised but also a  
9 wide host of other issues that they presented  
10 to us.

11 I'm representing Vornado and  
12 Pinstripes today in connection with this  
13 application. As the chairman correctly  
14 characterized, this is a special exception for  
15 bowling only. The restaurant component of the  
16 uses is a matter of right.

17 Having said that, we took a more  
18 global approach in dealing with the  
19 condominium association and there are  
20 conditions proposed for the order that really  
21 address the entirety of the facility and its  
22 operation that was critical to our ability to

1 reach an agreement in this case.

2 The waterfront zone where this  
3 facility will be located is one of the few  
4 that regulates bowling in a very specific way  
5 requiring special exception relief. And we  
6 believe we've clearly met the test here.

7 We have an expert witness who will  
8 get directly to the issue that you've raised,  
9 Commissioner May, but suffice it to say that  
10 the greatest protection that is available in  
11 this instance is not only the testimony of our  
12 expert on the issue but also the District's  
13 own regulations. The ABC regulations in the  
14 waterfront zone are highly protective of  
15 residences and provide that no amplified noise  
16 and no noise really beyond the human voice can  
17 be heard off the premises -- outside the  
18 premises. That's the restaurant and the  
19 bowling alley included in addition to the  
20 bowling alley.

21 So, that provided a very high  
22 level of protection for the neighbors and a

1 standard that we were able to commit to in the  
2 BZA order and in our agreement.

3 The configuration of this bowling  
4 alley is very helpful from a sound perspective  
5 because it's located on the lower of the two  
6 levels of the establishment and will buffered  
7 from the condominium residences by an entire  
8 level of restaurant use. That level of  
9 restaurant use will also be buffered through  
10 from, a sound standpoint and a sound engineer  
11 will get to that.

12 Regarding outdoor uses,  
13 Commissioner May, a friend of the park I know,  
14 we have spend a lot of time getting comfort on  
15 that issue with the neighbors and it rally  
16 centers on the outside patios, the use of  
17 those patios and restrictions on their use.

18 There are also some issues that  
19 address screening of the patios that will  
20 provide some measure of noise protection.  
21 But, perhaps, most important, only the human  
22 voice can be heard from the patios. No music,

1 no amplified music, nothing on the outdoors.

2 So, without further delay, I'd  
3 like you to hear testimony from Dale Schwartz  
4 who is the founded of Pinstripes which is sort  
5 of a national concept but new to D.C.

6 Oh, I'm sorry. Before we get to  
7 Dale, we're going to hear from the owner of  
8 the property, Scott Milsom of Vornado.

9 MR. MILSOM: Thank you. I was  
10 going to present just a quick overview of the  
11 redevelopment project if the Board would think  
12 that would be helpful and to locate the actual  
13 Pinstripe location within the property?

14 CHAIRPERSON JORDAN: If you would  
15 just give a quick summary about it. I think  
16 we understand well enough what's going there  
17 unless somebody else needs more detail about  
18 that.

19 MR. MILSOM: Okay. So, is there a  
20 portable microphone that I could --

21 CHAIRPERSON JORDAN: Yes, there  
22 is.

1                   MR. MILSOM: Thank you. So, I'll  
2                   be quick.

3                   As you know, the mall is located  
4                   on the Wisconsin level. Pinstripe's as  
5                   Allison stated is a two-level space. The  
6                   upper level which is restaurant and banquet  
7                   use is located on the southeast corner of M  
8                   Street here. We have other retail spaces on  
9                   the bounds of M Street each with their own  
10                  entrance. So, we're basically de-malling the  
11                  existing mall. And Pinstripes goes down one  
12                  level to what is called the Wisconsin level.  
13                  They total about 28,000 square feet. On this  
14                  lower level is where the bowling is located  
15                  here. And then the actual property goes down  
16                  one more level of retail, new parking that  
17                  we're adding and there's three additional  
18                  levels of parking beneath that.

19                  In terms of a section which I  
20                  think is fairly useful and which Chris will go  
21                  into more detail is a section showing our  
22                  building here, the three levels of retail, the

1 bowling on the middle level of our mall. The  
2 restaurant/banquet space above. There's a 12-  
3 inch thick concrete slab in between. Their  
4 other sides are eight inches thick and then  
5 the condominium is above that.

6 Here are the layouts of the actual  
7 Pinstripes' proposal so, again, you can see  
8 the banquet rooms, the outdoor patio on the  
9 upper level. On the lower level there is 12  
10 bowling lanes which comprise approximately 20  
11 percent of the overall area, some boccie  
12 courts and then restaurant and bar area.

13 And I'll let Dale go through some  
14 of this but quickly, here are some existing  
15 photos of what we're talking about. So, this  
16 would be the ground floor entrance here and  
17 the second floor banquet space and enclosed  
18 patio is in this location here.

19 You can see here is the patio.  
20 The condos above and then the ground floor  
21 entrance here.

22 And this is just a rendering

1 showing what's there today and potentially how  
2 this could be branded for the Pinstripes' use  
3 knowing that we'd have to go through the Old  
4 Georgetown Board Commission of Fine Arts  
5 process to make thee changes, but this would  
6 be their main entrance and, again, this would  
7 be the exterior patio. There's also a patio  
8 component here.

9                   You can see from the Pinstripes'  
10 plan of the lower level, the bowling again is  
11 located two floors away from the condos above.  
12 It's also within the floor plan so there's no  
13 part of the bowling that has direct access to  
14 the exterior.

15                   ZC COMMISSIONER MAY: Can you pull  
16 those sections out again and just show that  
17 somewhere?

18                   MR. MILSOM: Okay. What's between  
19 what's labeled restaurant space and operable  
20 window wall?

21                   MR. MILSOM: So, this is the upper  
22 terrace area, upper patio area.

1                   ZC COMMISSIONER MAY:   Okay.

2                   MR. MILSOM:   And the idea is that  
3                   we would along with Pinstripes we would extend  
4                   the line of this existing terrace to basically  
5                   block the line of site from the residential  
6                   terrace down to Pinstripes' upper terrace.

7                   ZC COMMISSIONER MAY:   Okay.   So,  
8                   what is currently an open terrace would become  
9                   an enclosed space?

10                  MR. MILSOM:   It's not really open  
11                  today.   There is a glass sort of greenhouse  
12                  structure if you will.

13                  ZC COMMISSIONER MAY:   I see.  
14                  Okay.

15                  MR. MILSOM:   Which is this.   Which  
16                  was built when the mall was made.   I'm really  
17                  sure what it was ever used for but it's sort  
18                  of in disrepair today.

19                  ZC COMMISSIONER MAY:   Okay.

20                  CHAIRPERSON JORDAN:   All right.  
21                  Any other questions of Mr. Milsom?   Okay.

22                  All right.   Where are we now?



1 MS. PRINCE: Dale Schwartz, the  
2 founder of Pinstripes.

3 MR. SCHWARTZ: Thank you. Well,  
4 let me just quickly just give you a little  
5 flavor, pun intended of just what type of  
6 restaurant and concept that we do and then I  
7 can give a little more specifics about this  
8 specific layout.

9 I started this concept about six  
10 years ago, had the idea 27 years ago. And  
11 what we're really doing is redefining  
12 entertainment and dining in a very unique and  
13 sophisticated quality way. And so we're more  
14 Four Seasons, Create & Barrel, Whole Foods in  
15 terms of the quality and design and layout.  
16 Much different than stereotypically a typical  
17 bowling alley. And so that's a quite important  
18 piece. Our food is all scratch kitchen. It's  
19 strickenly good. Our service is quite  
20 exceptional and as a result we've been quite  
21 successful. I started the concept in Chicago.  
22 I saw Jeff. He spent some time there. So,

1 Northbrook was our first location five years  
2 ago. We did a location in South Barrington in  
3 the Chicago area three years ago. We did a  
4 location, Edina in Minneapolis two years ago  
5 and then just opened three months ago in  
6 Oakbrook Mall.

7 So, we have four locations to  
8 date, about 450 team members. Each location  
9 we have about 120 full and part time team  
10 members between back of house, front of house.  
11 And it's been very well received in  
12 communities.

13 We do everything from mom and tots  
14 in the mornings. 10:00 in the morning for  
15 little kids to enjoy bowling. We do a  
16 phenomenal Sunday brunch. We do lunch. We do  
17 dinner. We do weddings. We do a lot of  
18 corporate events. We do an art contest. So,  
19 it's very, very community focused eccentric.

20 And in terms of this particular  
21 location, I started a number of years ago  
22 looking and we're looking at a variety of

1 sites throughout the country, usually in just  
2 quality residential markets that also have an  
3 attractive business community.

4 Georgetown is very attractive  
5 because of the townhomes in the communities  
6 and the condos as well as of course the  
7 proximity to some of the universities and as  
8 well as the close proximity to a lot of the  
9 offices. And admittedly the canal was one of  
10 the really key attractions. Every location  
11 that we do we look for something really  
12 special that creates somewhat of an oasis  
13 feel. I mean, Jeff in Scottsdale. We've  
14 talked to, you know, taking over the Barnes &  
15 Noble space in Kierland Commons by way of  
16 example. Or for that matter, the Barnes space  
17 if they would stop at some point doing  
18 business in Bethesda Row. So, we look for  
19 just really distinctive locations and what  
20 we're not always doing in terms of the  
21 redevelopment of the mall coupled with the  
22 canal became very attractive for us.

1                   And in terms of the space, just as  
2                   Scott mentioned, on the first floor -- let me  
3                   just kind of put this up as well. But this is  
4                   the current circumstance. So, this is  
5                   obviously not well tended in terms of  
6                   landscaping and the general area. So, what  
7                   we're proposing and intending to do is to just  
8                   really nestle in here in a very quality way.  
9                   So, we'll certainly relandscape a lot of this  
10                  front area. We'll change the facade. We'll  
11                  do some tasteful signage. We'll have a front  
12                  entrance here and basically as Scott  
13                  mentioned, this kind of greenhouse look here,  
14                  we're just going to peel back 40 some feet.  
15                  So, our upstairs patio is just going to be on  
16                  a portion of the second level. Our space  
17                  doesn't go all the way deep here.

18                 On the first floor and to put in  
19                 context over 80 percent of our business is  
20                 food and beverage. So, the bowling and bocchie  
21                 is an important component and on occasion  
22                 people do show up just to enjoy bowling or

1       boccie, but generally speaking, people are --  
2       people might have dinner and then play boccie.  
3       Or they may show up and bowl and have  
4       appetizers and a drink and then enjoy the  
5       bistro. So, it's very multidimensional.

6               So, you know, when people walk in  
7       there's a front desk. We hand out socks.  
8       We've got a very tasteful bar. We've got  
9       Italian/American food, Italian/American wines.  
10       We'll have a tasteful bistro here, 12 bowling  
11       lanes here. In front of the bowling we'll  
12       have three boccie courts and then just right  
13       outside as Scott mentioned. This small  
14       outdoor patio area will seat about 30 people.  
15       So, this is in relative terms a rather small  
16       outdoor seating on the first level and on the  
17       second level it maxes, you know, 40 some  
18       people when we've got seating on the second  
19       level.

20               In terms of --

21               CHAIRPERSON JORDAN: We're real  
22       good on the concept.

1 MR. SCHWARTZ: Okay.

2 CHAIRPERSON JORDAN: We understand  
3 the concept very well.

4 MR. SCHWARTZ: And I'll let my  
5 colleagues speak to some of the detail in  
6 terms of sound. But just a couple of brief  
7 comments.

8 Regarding bowling, we worked very  
9 closely with Brunswick so Brunswick is the  
10 largest bowling manufacturer in the country.  
11 And they have built all four of our bowling  
12 installations and they've done bowling centers  
13 all over the country, if not all over the  
14 world. They've encountered lots of different  
15 sound issues. They've built bowling alleys in  
16 homes and hotels, etcetera. And so there's a  
17 variety of means, sound-wise that was can do  
18 to clearly mitigate and eliminate both  
19 vibration and sound. Frankly, if the condo  
20 sat right above us, there are ways to  
21 eliminate the bowling sound. The fact that  
22 the condos are two levels above makes it

1       frankly easier, considerably easier. So, I  
2       think as my sound colleague will  
3       describe, there's clearly ways as it relates to  
4       bowling, both the sound and vibration that any  
5       vibration and noise will be completely  
6       eliminated.

7                       In terms of the second floor  
8       banquet space and for that matter the outside  
9       areas, as Allison mentioned, first of all in  
10      terms of an of the outside areas that we do  
11      not enclose we will never have any amplified  
12      music. We also are kind of self-imposing and  
13      agreeing to not allow any outside seating  
14      after a certain time. So, on Friday/Saturday  
15      nights, even though we'll be open until 12:30  
16      we will stop allowing people to sit outside  
17      after 10:00 p.m. and on weekdays we'll limit  
18      that to 9:00 p.m. just out of respect to the  
19      neighbors.

20                     And I think the one question that  
21      was raised regarding the upstairs outside  
22      patio, (a) we're extending the roof so that it

1 will be flush to the patio below and then as  
2 Allison and Scott mentioned, what we're  
3 basically going to design is a very tasteful  
4 nano wall system.

5 In other locations I've done some  
6 pull down garage doors to attenuate the sound.  
7 In this case, just some very attractive  
8 sliding nano walls or something comparable to  
9 nano walls we'll use. It's a more tasteful  
10 design look in this type of location than a  
11 garage door. And so we will have beautiful  
12 nano walls that just give us the flexibility  
13 on a gorgeous lunch day to open a few of that  
14 so people can enjoy the inside/outside feel.  
15 And otherwise if we're ever playing amplified  
16 music we will close the doors and it also  
17 further eliminates any of the sound issues to  
18 the extent we have a banquet party on the  
19 second floor and a door happens to open, it  
20 will eliminate that issue as well.

21 So, are certainly the sound issues  
22 and the last comment I'll make is with respect



1 to the bowling alley issue, in everyone of our  
2 prior locations we've kind of had a similar  
3 special use exception where there's historical  
4 statues, when bowling alleys stereotypically  
5 might have attracted a Harley Davidson crowd  
6 and municipalities wanted some protection for  
7 not having a bowling alley.

8 And I think I gave the flavor but  
9 that's quite distinctively not what we do.  
10 And so I think in terms of those types of  
11 stereotypical bowling concerns that's not  
12 really an issue with the establishment that we  
13 run.

14 CHAIRPERSON JORDAN: Thank you.  
15 Any questions from the Board of Mr. Schwartz?

16  
17 ZC COMMISSIONER MAY: Since you  
18 brought it up, so you're going to have nano  
19 walls which will open up large portions of the  
20 seating areas that would otherwise not be  
21 outside, right?

22 MR. SCHWARTZ: Right. So, when

1       that happens there's no music. Is that what  
2       you're saying?

3               MR. SCHWARTZ: Correct. Correct.

4               ZC COMMISSIONER MAY: Okay.

5               MR. SCHWARTZ: When they're open.

6               ZC COMMISSIONER MAY: When they're  
7       open.

8               MR. SCHWARTZ: When they're open,  
9       we will have no amplified music on. When  
10      they're closed, generally any of our music is  
11      quite low background in nature. We never want  
12      music to interrupt people talking. But, yes,  
13      when the nano walls are open, we'll just turn  
14      the dials off and at that point it's just  
15      people enjoying and talking and eating  
16      outside.

17              CHAIRPERSON JORDAN: So, human  
18      voice?

19              MR. SCHWARTZ: Human voice.  
20      Correct.

21              ZC COMMISSIONER MAY: So --

22              MR. SCHWARTZ: We'll only serve to

1 humans, correct.

2 CHAIRPERSON JORDAN: I mean,  
3 collective the noise gathering together is --

4 ZC COMMISSIONER MAY: It's hard to  
5 tell from what we've seen in drawings and such  
6 but is there any area where the restaurant  
7 space and the bowling level, there's actually  
8 an opening through that slab? Is that only at  
9 that little stairway or is there more than  
10 that?

11 MR. SCHWARTZ: So, the bowling --  
12 the bowling area --

13 ZC COMMISSIONER MAY: A simple yes  
14 or no. Tell me where the openings are.

15 MR. SCHWARTZ: Okay. So, this is  
16 the bowling area. The only opening is a small  
17 opening right here.

18 ZC COMMISSIONER MAY: And what's  
19 the purpose of that?

20 MR. SCHWARTZ: Oh, for people to  
21 enter the bowling lane.

22 ZC COMMISSIONER MAY: Oh, okay. I

1       see, got it.

2               MR. SCHWARTZ:   That's it.

3               ZC COMMISSIONER MAY:   So, it's  
4       walled off?

5               MR. SCHWARTZ:   It's a solid wall.

6               ZC COMMISSIONER MAY:   Got it.

7               MR. SCHWARTZ:   Glass to see in but  
8       another solid wall --

9               ZC COMMISSIONER MAY:   There's no  
10       slab penetration is what I was asking about.  
11       No openings in the slab?

12              MR. SCHWARTZ:   Oh, no, no.

13              ZC COMMISSIONER MAY:   Between the  
14       levels?

15              MR. SCHWARTZ:   No, no, no.

16              ZC COMMISSIONER MAY:   Got it.

17       Okay.

18              MR. SCHWARTZ:   Absolutely not.

19              ZC COMMISSIONER MAY:   All right.

20              And then you said something about  
21       how, you know, if a door opens that issue will  
22       be addressed. I mean, is it just because of

1 the way the layout is that you don't have  
2 noise sources in immediate proximity to the  
3 doors that would open to the outside?

4 MR. SCHWARTZ: The precaution that  
5 we're talking about here is just entirely out  
6 of respect to the residents. So, what we're  
7 talking about here is, this is our banquet  
8 area on the second floor. So, if we are  
9 having a corporate event and they're dancing.  
10 There are 200 people who are enjoying  
11 themselves, this is a hallway here and this is  
12 a solid wall here and this is the outside  
13 patio.

14 So, just in the occasion that  
15 clearly people are going to come in and out of  
16 the banquet space. Some noise will bleed out  
17 of that door. Whatever noise bleeds out,  
18 first it's going to be attenuated by this  
19 solid wall to the extent somebody then chooses  
20 to walk outside on the patio we're just taking  
21 the further provision that when we're having  
22 parties with music or with a level of sound

1       that might make its way outside, that's when  
2       the nano walls would be closed and it will  
3       eliminate any 65, 70 decibels that's making  
4       its way out.

5               ZC COMMISSIONER MAY:   Right.

6               MR. SCHWARTZ:   By the time we  
7       close those nano walls it will be a de minimis  
8       and nonexistent sound.

9               ZC COMMISSIONER MAY:   Okay.   And  
10       then one last question.   What's in the space  
11       that's between the bowling alley and the  
12       condominiums in the -- it's that floor in  
13       between.   What's directly above the bowling  
14       alley?

15               MR. SCHWARTZ:   It will be other --

16               MR. MILSOM:   It will be other  
17       retail space.

18               ZC COMMISSIONER MAY:   Okay.   All  
19       right.   Thanks.

20               CHAIRPERSON JORDAN:   Anyone else?

21               MS. PRINCE:   We'll now proceed  
22       with the testimony of the sound expert.

1                   CHAIRPERSON JORDAN: I think we  
2                   have to qualify him as an expert. I don't  
3                   think he has been. The Board I'm sure has had  
4                   a chance to look at Mr. Pollock's resume,  
5                   particularly in regards to noise, noise sound,  
6                   etcetera. And so I'm tending to grant expert  
7                   status and we will do so and we will grant Mr.  
8                   Pollock expert status, Mr. Moy, so we can add  
9                   to the book please.

10                  MR. MOY: Yes, sir.

11                  MR. POLLOCK: Thank you. I will  
12                  start by talking about some of the noise and  
13                  vibration challenges of bowling alleys and  
14                  then we'll go through some of the work that  
15                  we've done to date and the sort of conceptual  
16                  recommendations that we've made to meet the  
17                  requirements of the project.

18                  CHAIRPERSON JORDAN: I understand  
19                  your report. We've read the report. Have you  
20                  made any measurements or done anything on site  
21                  there that verifies what you've talked about  
22                  as a general norm with bowling alleys?

1                   MR. POLLOCK: Not yet, no. The  
2                   site has -- is available to us moving forward  
3                   to make those measurements, but that's part of  
4                   the design process that we'll be going through  
5                   moving forward to validate and verify the  
6                   conceptual report that you have in front of  
7                   you.

8                   A lot of the recommendations were  
9                   made based on site measurements made at a  
10                  similar facility in Florida with commercial  
11                  office space above bowling facilities. Those  
12                  spaces were made available to us. We made  
13                  some noise and vibration measurements at that  
14                  location and we've used that to inform the  
15                  conceptual design process in the report that  
16                  you have in front of you but the details are  
17                  still to be worked out as to what all of those  
18                  specific construction components.

19                 CHAIRPERSON JORDAN: That other  
20                 facility that you're using that's similar is  
21                 there residential space?

22                 MR. POLLOCK: There was not, no.



1 It was commercial.

2 CHAIRPERSON JORDAN: And what's  
3 the acceptable, I guess, dBA levels?

4 MR. POLLOCK: In that space?

5 CHAIRPERSON JORDAN: In that  
6 space?

7 MR. POLLOCK: They were in the 50  
8 dBA range as I understand.

9 CHAIRPERSON JORDAN: And your  
10 projection here to have what would be the  
11 range? If all this went into effect and to  
12 your consideration that it worked, what would  
13 be the --

14 MR. POLLOCK: We -- we haven't  
15 done the work yet to fully analyze all of the  
16 voice transmissions, but the intent here is  
17 that we implement the recommendations both in  
18 design and in construction review that will  
19 enable us to meet the requirements of the --

20 CHAIRPERSON JORDAN: Well, what's  
21 your target I guess I'm asking? What's your  
22 target?

1                   MR. POLLOCK: The goal is that  
2                   this is essentially inaudible in the  
3                   residential spaces. But the operation of the  
4                   bowling alley will be mitigated such that this  
5                   is not going to be bothersome.

6                   ZC COMMISSIONER MAY: Will it be  
7                   audible in the retail space that's immediately  
8                   above?

9                   MR. MILSOM: If I could address  
10                  that. I mean the criteria for a residence and  
11                  retail space are different.

12                  ZC COMMISSIONER MAY: I  
13                  understand. I'm not asking that.

14                  MR. MILSOM: It's possible that it  
15                  might be slightly audible in the retail space  
16                  above. It's not one of our big concerns.

17                  ZC COMMISSIONER MAY: Okay. So,  
18                  that separation is going to further deaden  
19                  whatever gets through the ceiling of the  
20                  bowling alley.

21                  MR. MILSOM: Correct.

22                  ZC COMMISSIONER MAY: Do you have

1 a sense of what -- well, sorry.

2 Going back to the Florida  
3 facility, is it completely analogous in that  
4 there's a bowling alley and a floor between  
5 and then the office space? Or was it directly  
6 above?

7 MR. POLLOCK: The measurements we  
8 made were directly above. There are other  
9 differences in the building structure and here  
10 we have a very heavy concrete -- eight-inch  
11 concrete and 12 inch concrete slab. That  
12 space was a more light-weight construction of  
13 steel and metal decks. So, there are some  
14 structural differences which is partly why I  
15 mentioned we still have work to do to  
16 physically attain data at this facility so we  
17 can validate the differences between the  
18 measurements.

19 With that said, the -- generally,  
20 a heavy building, a concrete building like the  
21 Georgetown Park Mall dissipates and dampens  
22 vibration more so actually than a structural

1 steel building does. So, the measurements  
2 that we have from -- from the existing  
3 facility we measures I think we can be  
4 confident in saying we will have better  
5 performance in that facility.

6 ZC COMMISSIONER MAY: Do you have  
7 a concern about -- I mean, you may have floors  
8 that provide that separation for a majority of  
9 the sound but also the columns could be  
10 transmitting the sound. And so I'm wondering  
11 if -- what precautions do you take to make  
12 sure that, I mean, can you design a facility  
13 so that there isn't any direct transmission of  
14 vibration in the gold column?

15 MR. POLLOCK: Conceptually  
16 speaking there is going to be some isolation  
17 both in the floor, ceilings and walls so we're  
18 creating an enclosure to the noise and the  
19 vibration and part of that enclosure as Dale  
20 mentioned is the solid walls between the  
21 bowling and any other space.

22 In addition to that, we also have

1       what we call column enclosures or column wraps  
2       that will be isolated partitions around the  
3       columns.

4                   ZC COMMISSIONER MAY:   Similar  
5       multi-layered gypsum kind of thing?

6                   MR. POLLOCK:   Yes.   Yes.

7                   MR. MILSOM:   And the slab.

8                   MR. POLLOCK:   Yes, and the slab  
9       again the details of which we are still  
10      working on but the slab construction of the  
11      bowling alley will be a secondary pour of  
12      concrete of some nature that will be  
13      resiliently supported.   So, it will have a  
14      soft resilient support base.   So, that noise  
15      and vibration energy that's associated with  
16      bowling will be mitigated before it enters the  
17      building structure.

18                   ZC COMMISSIONER MAY:   It's not the  
19      classic kind of box within a box but it's a  
20      slab within a box?   A floated slab within a  
21      box.

22                   MR. POLLOCK:   To some degree it

1 will be a box within a box actually. The  
2 walls and ceiling will definitely have  
3 isolation components.

4 ZC COMMISSIONER MAY: Okay.

5 CHAIRPERSON JORDAN: All right.

6 ZC COMMISSIONER MAY: One last  
7 question. What's the definition of inaudible  
8 and in a dBA level?

9 MR. POLLOCK: I'm not sure that  
10 there is one. Part of the process that we'll  
11 go through is to measure existing noise levels  
12 in the condos if those spaces are made  
13 available to us because that forms the basis  
14 of what can be defined as inaudible.

15 ZC COMMISSIONER MAY: Right.

16 MR. POLLOCK: But generally  
17 speaking, a noise level that is 10 decibels  
18 below an ambient or an existing noise level  
19 would be considered inaudible.

20 So, if we're in an environment  
21 that is 30 decibels and the transmitted noise  
22 is 20, generally speaking that's consider

1       inaudible.

2                   CHAIRPERSON JORDAN:   But are we  
3       talking about the noise coming from the  
4       bowling alley potentially having 85 to maybe  
5       100?  I'm trying to understand what you said  
6       in a bowling location.  So, when you said 10  
7       levels lower --

8                   MR. MILSOM:  By the time it gets  
9       to the --

10                  MR. GRAHAM:  Right.  So, does that  
11       mean it's going to be getting 80.  If we're  
12       looking at 80 and it's going to hit the  
13       residences at 70 or are you saying zero at the  
14       residents?  That's what I'm trying to get  
15       clear.

16                  MR. POLLOCK:  My point being that  
17       if the background noise level without any  
18       activity or any bowling, the residence is 30  
19       or 40 which might be typical of that type of  
20       space.

21                  CHAIRPERSON JORDAN:  Right.

22                  MR. POLLOCK:  We would be aiming

1       for the transmitted sound so that by the time  
2       the sound comes up through the structure and  
3       through all the isolation, mitigation I  
4       included, that would be 10 dB below --

5               CHAIRPERSON JORDAN:  At the --

6               MR. POLLOCK:  -- at the condition.

7               CHAIRPERSON JORDAN:  Okay.  In the  
8       aspect of even reducing it to the residence  
9       level?

10              MR. POLLOCK:  Exactly.  When  
11      they're doing this.

12              MR. SULLIVAN:  Right.  The clear  
13      objective of ours is --

14              CHAIRPERSON JORDAN:  You need to  
15      get on a microphone please.

16              MR. SULLIVAN:  The residents will  
17      not hear the bowling noise.

18              CHAIRPERSON JORDAN:  Okay.  So,  
19      what is the level now in the residence level?

20              MR. POLLOCK:  I don't know.  We  
21      haven't made those measurements yet.  That's  
22      part of our next step process.



1                   CHAIRPERSON JORDAN: So, all these  
2 things that you've written is just conceptual,  
3 but what things might happen, but we don't  
4 know if it's going to be successful.

5                   MR. POLLOCK: We're confident we  
6 can design a solution that if all of our  
7 recommendations are implemented in the field  
8 that we'll meet the goals of the project.

9                   CHAIRPERSON JORDAN: Okay. I'm  
10 clear. Just can't -- but I understand where  
11 we are. I guess I was looking for some more  
12 actuals, some studies that have actually been  
13 done in that property. Measurements from the  
14 residents' level to understand where we are  
15 now and knowing the construction materials Mr.  
16 May has talked about so we know that these  
17 things will actually work. So, I guess, we're  
18 looking at some type of come-back compliance  
19 or something and it's in my mind, in order to  
20 assure that if we were to go forward to grant  
21 this special exception that the residents are  
22 not affected.

1                   MR. SULLIVAN: Just to interject.  
2           The agreement with the condos is that I think  
3           you'll see. The only reason we haven't done  
4           all of the detailed studies is the preference  
5           is to first get the blessing here. It's going  
6           to cost us some meaningful money. Then we are  
7           going to do all of what you're describing.  
8           So, we're going to take the exact sound levels  
9           before anything is done in the condos. We're  
10          going to marry the sound analysis with the  
11          exact structure and design it and frankly make  
12          sure all that is copacetic before we start  
13          spending millions of dollars on the build out  
14          clearly.

15                   CHAIRPERSON JORDAN: Is there any  
16          other questions, anything else we need from  
17          the sound expert, Mr. Pollock? Okay. All  
18          right.

19                   Ms. Prince, if there's anything  
20          else you want to present to us if you feel it  
21          necessary. Our issue particularly are the  
22          things that we've covered in regards to how

1 the construction, the layout and want to have  
 2 protection for the residents. And I think  
 3 you've hit that if there's something else that  
 4 needs to be --

5 MS. PRINCE: What I'd like to  
 6 submit to the record at this point because I  
 7 now have it are the proposed conditions that  
 8 we've worked out with the condominium  
 9 association. I also have the agreement. We  
 10 haven't physically signed it because we're all  
 11 sitting at the table, but I have the final  
 12 version of the agreement if it would helpful  
 13 for you to review that knowing that it will be  
 14 signed and in the record before the end of the  
 15 hearing.

16 CHAIRPERSON JORDAN: We would  
 17 particularly like to see the conditions. Do  
 18 you have it to bring for Mr. Moy to pass?

19 MS. PRINCE: If I could just walk  
 20 you through the conditions very briefly. I  
 21 would have done it sooner but our --

22 CHAIRPERSON JORDAN: Why don't you

1       wait until we have it in our hands and we can  
2       follow you and make notes.

3               Okay. We're with you.

4               MS. PRINCE: I'll walk you through  
5       the conditions briefly but I think they're  
6       critically important especially in light of  
7       the dialogue that we've had.

8               You'll see some conditions that  
9       are not ones that you typically see in a BZA  
10      order. I would ask just in the spirit of our  
11      cooperation agreement with the neighbors that  
12      you consider including conditions that you  
13      wouldn't normally consider.

14              MR. GRAHAM: Let's go through that  
15      because what we might do is just attach it to  
16      the order but not incorporate it because as  
17      you know, we have to be careful about what we  
18      incorporate into our order.

19              MS. PRINCE: I understand and some  
20      of these are very appropriately will  
21      absolutely be in the liquor license approval  
22      but we did want to get both in both records if

1 possible.

2 No smoking permitted in any  
3 portion of the restaurant. That's the first  
4 one.

5 The second one is the most  
6 important condition and it really is what  
7 holds the Applicant's feet to the fire. Any  
8 noise relating to the operation or use of the  
9 bowling lanes, including the patios and  
10 banquet facility has to comply with the  
11 section of the building code that says that  
12 any mechanically produced or amplified noise  
13 in a facility that has a liquor license cannot  
14 create noise for a resident. So, it's an  
15 extremely stringent noise regulation that  
16 happens in this instance to benefit the Board  
17 in its deliberations because you can rely on  
18 it since we do, in fact, need a liquor license  
19 to operate the facility.

20 So, the burden is on the  
21 Applicant. The Applicant obviously hasn't  
22 installed the equipment yet and hasn't gone to

1 the level of sound study to be able to tell  
2 you exactly how they will achieve satisfaction  
3 with this standard. They have the floating  
4 flag concept. They have the sound insulation  
5 in the ceiling. They have the column wrapping  
6 concept. But at the end of the day we must  
7 comply with the sound regulation and that is  
8 what we've committed to the neighbors and that  
9 is what we are committing to you.

10 We also, you've seen the plans.  
11 You've seen the layout. We've agreed to very  
12 rigid on times of closing of the restaurant  
13 and last call in deference to strong concerns  
14 from the neighbors over that. We've even had  
15 a start time in the morning incorporated into  
16 the order so we can't open before 8:00 a.m.  
17 but we can, in fact, have breakfast meetings  
18 after 8:00 a.m.

19 We've agreed to language on the  
20 placement of a vent. A kitchen vent and we've  
21 -- the patios are probably what engendered  
22 more discussion than any other aspect of this

1       agreement and the big idea with the patios are  
2       number of people that can be on the patios.  
3       The fact that the patios need to have  
4       furniture so that they are not vacant spaces  
5       that are used to pack large crowds of people.  
6       The no music only human voice on the patio.  
7       The idea of an ability to enclose the upper  
8       patio and to extend the existing roof line so  
9       that it is under roof. Those are all key  
10      heavily negotiated sections that I think  
11      should provide comfort to this Board that  
12      we've really been very careful and thoughtful  
13      about the use of the outdoor space.

14               There is a condition regarding the  
15      fire pit which will be located on the lower  
16      patio. There was even discussion last night  
17      that has been incorporated into the agreement  
18      about privacy of neighbors -- immediate  
19      neighbors and those on the other side of the  
20      canal and the need to use landscaping and  
21      possibly other forms of screening to eliminate  
22      or reduce any visual impacts of the use of the

1 patios on area residents. It was really more  
2 a privacy concern. Obviously, anything  
3 structural, anything requiring a permit  
4 requires the approval of the Old Georgetown  
5 Board but we will definitely use what is  
6 available to us to address the privacy  
7 concerns of the neighbors.

8           There is some language in  
9 Condition 21 that sets forth our commitment to  
10 work with the condominium association sound  
11 engineer. Their sound engineer will give  
12 input on our sound attenuation measures that  
13 we have to take into consideration. But in  
14 addition to that, when we are under  
15 construction, the condo association sound  
16 engineer will be given reasonable access to  
17 the premises to confirm that we are, in fact,  
18 complying with the attenuation measures as we  
19 construct. So, it will be a situation where  
20 there won't be -- if there is an issue, there  
21 will be an opportunity to pick it up as  
22 construction is proceeding rather than a last



1 minute C of O scramble because there was some  
2 oversight. So, there's a protective measure  
3 built in in that regard.

4 Always extremely important,  
5 there's a liaison person between the facility  
6 and the condominium association. And there  
7 is, in fact, one construction-related  
8 condition which I know you don't love to put  
9 in BZA orders. I would ask that you consider  
10 including it. It's a very minor condition.

11 Then there's a reminder that all  
12 signage is subject to review by the Old  
13 Georgetown Board. Regardless, we have to  
14 design it in a very sensitive manner and we'll  
15 get all signage approved but we want to  
16 reiterate that it will be all be done in a  
17 manner that's consistent with the Georgetown  
18 Historic District or it simply won't get  
19 approved.

20 There is some minor, minor matters  
21 in addition to that but I think these  
22 conditions show the extent to which we all

1       dove in and worked together to get at the  
2       heart of what were the concerns of the  
3       condominium association.

4               CHAIRPERSON JORDAN: Let me ask  
5       this question. I see the references to D.C.  
6       Code 25725 which is actually the law.

7               MS. PRINCE: It is the law.

8               CHAIRPERSON JORDAN: So, it's a  
9       concession to no concession because it's the  
10      law.

11              MS. PRINCE: Correct.

12              CHAIRPERSON JORDAN: But that  
13      makes a reference to DCMR 2701 regarding the  
14      Chapter 27 -- Title 2, Chapter 2701, which  
15      provides what's considered within 25-725  
16      what's considered noise. That's in the  
17      daytime, 60 dBA and at nighttime 55 dBA. I  
18      just want to know if that's what folks are  
19      agreeing to because we've been batting around  
20      this thing about no noise or zero noise or a  
21      reduction in noise. But this says you're  
22      going to make reference that you're going to

1       comply with the D.C. Code which then  
2       references 2701 which says that the dBA can be  
3       60 in the daytime and 55 at night.

4               MS. PRINCE: This particular  
5       section which applies in the Waterfront Zone  
6       talks about a no noise standard. And it's  
7       only facilities that have a liquor license.

8               CHAIRPERSON JORDAN: That's under  
9       25725.

10              MS. PRINCE: Right.

11              CHAIRPERSON JORDAN: And it  
12       references in 25725, Title 20, Chapter 27,  
13       which references 2701 of the regulations and  
14       that's what I'm saying. That's what it's  
15       using as its guide as to no noise. Do you  
16       understand what I'm saying?

17              MS. PRINCE: I do understand what  
18       you're saying.

19              CHAIRPERSON JORDAN: You used the  
20       term no noise. No noise may be zero to  
21       hundred, you know, and I'm trying to make sure  
22       that we're protecting the residents, that

1 we're all in agreement that -- your agreement,  
2 that everybody is on the same page so it  
3 doesn't end up some place else later. We  
4 asked that of the noise expert and we're  
5 listening -- we hear it. We have something  
6 like that in this agreement but the reference  
7 to the D.C. Code in my opinion is that --  
8 well, it clearly says that it must comply. No  
9 noise. The noise level requirements as set  
10 forth in Chapter 27, Title 20 of the D.C.  
11 Municipal Regulations.

12 MS. PRINCE: But the human voice  
13 is not regulated by that section. So, to the  
14 extent that there's human voice on the patio,  
15 for example, I think that decibel level is  
16 designed to get at the permitted noise.

17 CHAIRPERSON JORDAN: All I'm  
18 saying, we need to make sure we're clear about  
19 we're all eating the same -- not just apples,  
20 but we're all eating, you know, Honeycrisp or  
21 whatever. We're all eating the same apple.

22 MS. PRINCE: Right. I think we

1       are.

2                   CHAIRPERSON JORDAN:   Because we  
3       don't want people coming in and saying I got  
4       a Jazz apple and a Honeycrisp apple and we  
5       were talking about apples, but they're  
6       different standards. And it's important for  
7       this Board because this is one of the very few  
8       aspects we have to assure that the residents  
9       have a quality of life after this is up and  
10      running is that we are all understanding the  
11      standard of noise.

12                  MS. PRINCE:   I agree.

13                  CHAIRPERSON JORDAN:   I wanted to  
14      put that there because it's in a general way  
15      here and it references something else that  
16      says something else.

17                  Any other questions about the  
18      conditions from anyone?

19                  Is there anything else that you  
20      may want to present?   Okay.

21                  MS. PRINCE:   Nothing else.

22                  CHAIRPERSON JORDAN:   Does the

1 Board have any other questions of the  
2 Applicant at this point?

3 Then let's turn to the Office of  
4 Planning.

5 MS. BROWN-ROBERTS: Good  
6 afternoon, Mr. Chairman and Members of the  
7 BZA.

8 For the record, I'm Maxine Brown-  
9 Roberts from the Office of Planning.

10 We believe that the Applicant has  
11 met the requirements of Section 908. We too  
12 had a concern about the noise and how it would  
13 be mitigated going forward.

14 I would like to amend our  
15 recommendation slightly which in our report we  
16 said that we recommend approval of the  
17 requested for special exception with a  
18 condition that all of the consultant  
19 recommendation is outlined in the December  
20 12th report being implemented.

21 We'd also like to include in that  
22 the conditions that were presented here today

1       that those either be included as part of the  
2       order or it be attached.

3               And that's the recommendation.

4               Thank you.

5               CHAIRPERSON JORDAN: Does the  
6       Board have any questions of the Office of  
7       Planning?

8               CHAIRPERSON JORDAN: Does the  
9       Applicant have any questions of the Office of  
10      Planning?               Anyone? The ANC have a  
11      question of the Office of Planning?

12              Then let's move to the Department  
13      of Transportation. Anyone here from the  
14      Department of Transportation?

15              And I think we do have a letter in  
16      our file, Exhibit Number 33, which they issued  
17      the letter of no objection to the relief  
18      requested.

19              Any other government agency? We  
20      had to send this to the Office of Planning and  
21      we did that. I think our record shows in  
22      Planning's testimony that they were properly

1 notified as required under the regulation.

2 Is there anyone in the audience  
3 wishing to testify in --oh, I'm sorry. ANC 2-  
4 A. Do you want to stand on the record based  
5 upon your letter or do you want to give  
6 testimony,

7 MR. STARRELS: As far as --

8 CHAIRPERSON JORDAN: Yes, and  
9 based upon what you've given us in regard to  
10 earlier today subject -- your approval subject  
11 to that agreement. That agreement has been  
12 executed. So, it was important to have the  
13 agreement, otherwise you're in opposition  
14 unless there was an agreement.

15 MR. STARRELS: Yes, because we  
16 wanted to insure the protection of the  
17 residents until they struck an agreement if  
18 that happened.

19 CHAIRPERSON JORDAN: Right. Any  
20 questions of the ANC by anyone?

21 By the Applicant?

22 Is there anyone in the audience



1 wishing to speak in support of the  
2 application?

3 MS. MILLER: We have a  
4 consultation--

5 CHAIRPERSON JORDAN: Well, I'll  
6 tell you what. We're going to take a five-  
7 minute break. We normally don't do this,  
8 taking a five-minute break.

9 MS. MILLER: I know --  
10 (Whereupon, off the record from  
11 12:05 p.m. to 12:12 p.m.)

12 CHAIRPERSON JORDAN: All right.  
13 Let's go back in session please.

14 We have a full docket today and we  
15 can't -- now, where was I? I think I was  
16 asking for anyone in the audience wishing to  
17 testify in opposition. Okay.

18 Then let's move back to the  
19 Applicant -- well, it's not anything to rebut  
20 for closing please.

21 Ms. Prince please.

22 MS. PRINCE: Thank you for your

1 time. I believe we've completed our direct  
2 presentation and I'd just like to reserve time  
3 for a closing statement after the opposition.

4 CHAIRPERSON JORDAN: What  
5 opposition? We're about wrapping up this  
6 hearing so what are we doing? I turn back to  
7 you for closing or rebuttal. There's no  
8 parties in opposition. They waived. He  
9 withdrew his opposition.

10 I asked for those who wish to  
11 testify in opposition to testify. No one came  
12 forward. I've now moved to rebuttal or  
13 closing.

14 MS. PRINCE: Thank you. I  
15 appreciate your time this afternoon. We're  
16 pleased to have had an opportunity to present  
17 our testimony in this case.

18 I believe with the testimony of  
19 our expert sound consultant we've demonstrated  
20 that any sound impacts relating to the  
21 operation of this bowling alley in this zone  
22 will not create any adverse impacts on the

1 surrounding community. That is, in fact, the  
2 standard in the noise regulation and that is  
3 the standard in the conditions that we've  
4 proposed before you today.

5 I believe the conditions also  
6 demonstrate an effort to look beyond just  
7 immediate bowling-related impacts and take a  
8 more holistic approach to the application. We  
9 could have easily come before you and said,  
10 you only have jurisdiction over the bowling  
11 alley. In fact, Chairman Jordan said that at  
12 the beginning and while that is, in fact,  
13 true, we're willing to enter into a broad  
14 range of conditions that go far beyond that.  
15 And the reason for that is because this  
16 operator is really committed to making this a  
17 successful establishment in this location.  
18 And that commitment is demonstrated by, I  
19 think, the conditions that we've submitted to  
20 you.

21 So, thank you for your time and  
22 we're available to answer any final questions

1       that you may have.

2                   CHAIRPERSON JORDAN:   I think we're  
3       good.

4                   Then I would close this hearing  
5       based upon the testimony that's already been  
6       introduced into the record and turn to the  
7       Board and see if they're ready for  
8       deliberation.   And I'm getting a nod that we  
9       are.

10                  Anyone want to start us off, any  
11       of the Board Members?

12                  Mr. May.

13                  ZC COMMISSIONER MAY:   I guess I  
14       just had a question.   Did we actually receive  
15       the signed agreement?   So, it has not been  
16       signed?

17                  CHAIRPERSON JORDAN:   But we do  
18       have the conditions.

19                  ZC COMMISSIONER MAY:   We have the  
20       conditions but the ANC's report was contingent  
21       upon the -- their support --

22                  CHAIRPERSON JORDAN:   Yes.

1                   ZC COMMISSIONER MAY:  -- was  
2                   contingent on the signing of the agreement or  
3                   the completion of the agreement.

4                   CHAIRPERSON JORDAN:  Are we just  
5                   dealing with the formality of signing?

6                   MS. PRINCE:  I mean, we're  
7                   prepared to sign the agreement.

8                   CHAIRPERSON JORDAN:  Okay.  This  
9                   is what I'm going to do.  We're going to move  
10                  this to the decision calendar.  Give you time  
11                  to properly dot your I's and cross your T's.  
12                  And that way, I believe that, unless --  
13                  because I'm hearing some other rumbling going.

14                  Mr. Moy --

15                  MS. PRINCE:  May I -- May I.  
16                  You've been extremely patient with us today  
17                  and we greatly appreciate it.  I believe if  
18                  you give us five minutes we can walk back in  
19                  with a signed agreement and save you from  
20                  having us come back for a decision.

21                  CHAIRPERSON JORDAN:  Is there an  
22                  issue that's brewing here that I'm missing?

1 MS. PRINCE: Just confusion but I  
2 think we can --

3 CHAIRPERSON JORDAN: People nod  
4 their heads yes and no.

5 MS. PRINCE: I think if you can  
6 give us five minutes I really believe we can  
7 walk back in with an agreement and full  
8 satisfaction of --

9 CHAIRPERSON JORDAN: This is what  
10 I'm going to do.

11 MR. SULLIVAN: I'm sorry. I'm  
12 Marty Sullivan for Georgetown Park. I think  
13 the agreement is fine and we have an  
14 agreement. The question is about the proposed  
15 conditions that are being submitted to the  
16 Board representing that agreement and I think  
17 it's a quick fix.

18 CHAIRPERSON JORDAN: All right.  
19 We are going to pass this and we'll take  
20 another case and then you come back for that  
21 issue. I'm not taking anymore testimony.  
22 We've given everybody the opportunity. I'm

1 not opening the record again, but give you an  
2 opportunity to dot the I's and cross the T's.  
3 Okay.

4 Mr. Moy, can we do the 18447  
5 please?

6 MR. MOY: 18447? The next  
7 application then would be Application No.  
8 18447. This is the application of Karen  
9 Slachetku, pursuant to 11 DCMR 3104.1. This  
10 is for as advertised a special exception to  
11 allow a rear deck on an existing one-family  
12 row dwelling under Section 223, not meeting  
13 the lot area and width requirements. Section  
14 401, lot occupancy requirements under Section  
15 403 and rear yard requirements under Section  
16 404 in an R-4 District at premises 1139 Abbey  
17 Place, Northeast. Property located in Square  
18 773, Lot 193.

19 CHAIRPERSON JORDAN: Yes, please  
20 come forward.

21 Would you please identify yourself  
22 first. Make sure the green light is on.

1                   MR. PERUZZI: Good morning,  
2                   Members of the Board. My name is Pablo  
3                   Peruzzi and I represent --

4                   CHAIRPERSON JORDAN: Say your last  
5                   name again please.

6                   MR. PERUZZI: Pablo Peruzzi.

7                   CHAIRPERSON JORDAN: And were you  
8                   here earlier to provide -- to be sworn in and  
9                   give the witness cards to the Court Reporter?  
10                  Did you get sworn in this morning? Did you  
11                  take the oath from Mr. Moy?

12                  I don't think so. Why don't you  
13                  stand and take an oath or affirmation from Mr.  
14                  Moy.

15                  MR. PERUZZI: Yes.

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

20                  MR. PERUZZI: Yes.

21                  MR. MOY: Thank you.

22                  CHAIRPERSON JORDAN: And you are



1 the Applicant or the --

2 MR. PERUZZI: I represent the  
3 Applicant.

4 CHAIRPERSON JORDAN: Do we have a  
5 letter of authorization? Oh, we do have that.  
6 Okay.

7 MR. PERUZZI: Yes.

8 CHAIRPERSON JORDAN: Exhibit,  
9 okay. Very good.

10 This is a matter that is before us  
11 for a special exception under 223. I think  
12 the record in this matter is generally very  
13 full meeting the requirements to grant that  
14 223.

15 What I'm missing, do we have ANC--  
16 any notice from the ANC in this matter? Was  
17 this presented to the ANC? The Advisory  
18 Neighborhood Commission? Do we have a letter  
19 from them?

20 MR. PERUZZI: I think -- I think  
21 so. We did all the steps.

22 CHAIRPERSON JORDAN: Our file does

1 not have a letter from the ANC. Did you meet  
2 with the ANC?

3 MR. PERUZZI: Yes.

4 CHAIRPERSON JORDAN: You did meet  
5 with the ANC. Did they take a vote in regards  
6 to support or not to support the application?

7  
8 MR. PERUZZI: I -- I -- I think we  
9 follow all the steps to do this. I said  
10 before everything is done.

11 CHAIRPERSON JORDAN: Okay. We  
12 know though in our record we did send notice  
13 to the ANC from the Office of Zoning so that  
14 they do have notice and you believe that you  
15 did meet or make contact with the ANC  
16 regarding this application. Is that what I'm  
17 understanding?

18 MR. PERUZZI: Yes. You can review  
19 all my papers.

20 CHAIRPERSON JORDAN: Okay. All  
21 right. Then let's proceed.

22 Does the Board have any questions

1 of this application for relief?

2 Then we will move forward.

3 Normally you would have the opportunity to d  
4 a presentation before us. Especially, we  
5 would ask you questions if we have a concern.  
6 We believe that the record is already full and  
7 that what we have in the record would provide  
8 you the relief that you're seeing.

9 So, you can waive that. We can  
10 move on and take care of the business that  
11 you're here for.

12 MR. PERUZZI: Okay.

13 CHAIRPERSON JORDAN: Okay. We  
14 take that as a waiver.

15 Does OP have anything in addition  
16 to what they have already submitted that they  
17 need to talk to us about?

18 MS. ELLIOTT: Good afternoon. For  
19 the record, my name is Brandice Elliott with  
20 the Office of Planning.

21 I have nothing to add to the staff  
22 report. I'll go ahead and stand on the record

1 but I'd be happy to answer any questions.

2 CHAIRPERSON JORDAN: Is there  
3 anyone here from the Department of  
4 Transportation? We do have a letter of no  
5 objection from the Department of  
6 Transportation. And we don't have anything  
7 from ANC 6C.

8 Let me turn back to Mr. May.

9 ZC COMMISSIONER MAY: I had a  
10 question whether the Office of Planning knew  
11 whether this matter was considered by the ANC  
12 and whether there's any reaction?

13 MS. ELLIOTT: As a matter of  
14 procedure, I do contact the ANCs prior to  
15 writing the staff report. I do not recall  
16 hearing back from this particular one  
17 regarding this case.

18 CHAIRPERSON JORDAN: But you tried  
19 to make contact also and didn't hear anything?

20 MS. ELLIOTT: Correct.

21 CHAIRPERSON JORDAN: All right.  
22 Is there anyone in the audience wishing to

1       testify in support of this application?

2               We do have two letters of support  
3       in the file for this application.

4               Is there anyone in the audience  
5       wishing to testify in opposition to this  
6       application?

7               Seeing none, we will turn back now  
8       to the Applicant for rebuttal or closing.  
9       Since there's nothing to rebut I'm sure you  
10      have nothing that you want to close with but  
11      stand on the record. Is that right?

12              MR. PERUZZI: Yes.

13              CHAIRPERSON JORDAN: Then we'll  
14      close the record in this matter and move to  
15      deliberation.

16              I would move that based upon the  
17      record submitted to the Board, that we grant  
18      the relief requested under 223.

19              MEMBER HINKLE: I'll second that.  
20      The relief is minimal in terms of what's being  
21      requested.

22              CHAIRPERSON JORDAN: All right.

1 All those in favor signify by saying aye.

2 (AYES)

3 CHAIRPERSON JORDAN: Those opposed  
4 nay.

5 The motion carries. Mr. Moy.

6 MR. MOY: Staff would record the  
7 vote as three to zero, this on a motion by  
8 Chairman Jordan to approve the application for  
9 the relief requested. Seconding the motion,  
10 Mr. Hinkle. Also in support of the motion Mr.  
11 Peter May. Ms. Sorg not present. The Board  
12 seat vacant so the motion carries, Mr.  
13 Chairman.

14 Thank you. Can we have a Summary  
15 Order please.

16 MR. MOY: Yes.

17 CHAIRPERSON JORDAN: All right.  
18 Thank you. It's all done.

19 MR. PERUZZI: Thank you very much.

20 CHAIRPERSON JORDAN: Appreciate  
21 your coming down.

22 Okay. Let's then call 18455, Mr.

1 Moy. Here is one again we go back to the  
2 question of whether or not any relief is  
3 necessary in this matter.

4 MR. MOY: Yes, sir. That, again,  
5 is Application No. 18455 of Lafon McCrae,  
6 pursuant to 11 DCMR 3103.2 for variances from  
7 the lot area and lot width requirements under  
8 subsection 401.3. This is to allow the  
9 construction of two semi-detached dwellings in  
10 the R-2 District at premises 4257 and 4259  
11 Brooks Street, Northeast. Property located as  
12 Square 5087, Lots 930 and 937.

13 CHAIRPERSON JORDAN: I remember we  
14 already had a hearing and testimony on this  
15 and this was just for additional information,  
16 was it not? And that the issue was whether  
17 the property had a different ownership. Is  
18 that what -- Mr. May?

19 ZC COMMISSIONER MAY: Yes, I have  
20 reviewed the record that I received but I did  
21 not participate in the prior hearing.

22 CHAIRPERSON JORDAN: Yes, that's -

1 -

2 ZC COMMISSIONER MAY: I can't  
3 participate in the decision making until I've  
4 done that.

5 CHAIRPERSON JORDAN: Right,  
6 exactly, because we did have --

7 MR. MOY: That's right, Mr. Chair.  
8 According to my notes, the Board had asked for  
9 a clarification of ownership of the two lots,  
10 as well if there were any changes to the  
11 drawings and plans, as well as providing time  
12 for a letter from ANC-7B.

13 CHAIRPERSON JORDAN: And did we  
14 get the letter from ANC-7D?

15 MR. MOY: Yes, we did. That's  
16 under Exhibit 32, I believe.

17 CHAIRPERSON JORDAN: Of 31 they  
18 recommended approval and the documents that  
19 support. Did Ms. Sorg provide an absentee  
20 ballot on this one?

21 MR. MOY: Yes, sir.

22 CHAIRPERSON JORDAN: Okay. Then



1 we can -- well, again, if the issue is whether  
2 or not there's any relief necessary, so I'm  
3 going to turn to OP on this because I believe  
4 the issue was that they had a matter of right.

5 MR. MOY: Yes, I just need to  
6 recant my response, Mr. Chairman. No, she did  
7 not submit an absentee for this case since  
8 this was a continued hearing.

9 CHAIRPERSON JORDAN: Okay. But,  
10 again, the question goes whether or not this  
11 is a matter of right proceeding.

12 MR. MOY: Yes.

13 CHAIRPERSON JORDAN: And based  
14 upon the ownership, the ownership issue, and  
15 I'm going to ask Office of Planning, have you  
16 taken another look at this?

17 MR. GYOR: Good afternoon, Mr.  
18 Chairman and Members of the Board.

19 Stephen Gyor, Office of Planning.

20 I believe in the last hearing we  
21 determined that the two properties are under  
22 the same ownership and, therefore, relief

1 would be necessary.

2 CHAIRPERSON JORDAN: Would be  
3 necessary. Okay.

4 Then we're going to have to  
5 continue this to another decision date, Mr.  
6 Moy, since the Board doesn't have a quorum in  
7 order to operate regarding this application.  
8 Mr. May did not sit in on the hearing that we  
9 previously had. Ms. Sorg, I believe, is out  
10 ill. So, then we would have to move this to  
11 another decision date. We already have what's  
12 in the record you can show or don't show but  
13 it's the decision date. You don't have any  
14 input into that process.

15 So, Mr. Moy, let's give it a short  
16 window.

17 MR. MOY: Yes. Well, let me say  
18 this. The next scheduled public meeting,  
19 decision meeting, is February the 12th.

20 CHAIRPERSON JORDAN: Okay. Let's  
21 do that.

22 MR. MOY: Okay.

1 CHAIRPERSON JORDAN: I mean, we  
2 should be able to resolve this one --

3 MR. MOY: yes.

4 CHAIRPERSON JORDAN: -- in  
5 deliberation. We've already taken care of  
6 everything we need. The record is already  
7 attained and closed. Okay.

8 Thank you.

9 Where are we in our brief five  
10 minute wrap up for our 18486? I guess they're  
11 still out.

12 Let's try 18489. That's the  
13 Georgia Avenue.

14 We're going to handle 18489 and  
15 18486 for the remaining part of the morning.  
16 Then we're going to take a break probably 40-  
17 45 minutes. So, if you have a case that would  
18 be Case No. -- for the remaining cases that we  
19 have under public meetings, Mr. Moy.

20 MR. MOY: Decision meeting?

21 CHAIRPERSON JORDAN: Yes. That  
22 would be 18 --

1                   MR. MOY: Well, it would be 18445,  
2                   18400, 18446 --

3                   CHAIRPERSON JORDAN: 18448, 18439.

4                   MR. MOY: Yes, and the appeal of  
5                   18439.

6                   CHAIRPERSON JORDAN: That's going  
7                   to be closer to 2:00, I believe. Be closer to  
8                   2:00 for those cases.

9                   All right. Where are we on 18486?

10                  MS. PRINCE: We have a signed  
11                  agreement. We have one change --

12                  CHAIRPERSON JORDAN: To the  
13                  conditions.

14                  MS. PRINCE: -- to the conditions  
15                  that have been submitted to you. And if you  
16                  would simply eliminate Condition No. 2 we have  
17                  full agreement on the terms.

18                  CHAIRPERSON JORDAN: Oh, you do.  
19                  Okay.

20                  MS. PRINCE: We are, of course,  
21                  legally bound by the standard but it created  
22                  confusion and we're eliminating it to avoid

1 confusion.

2 CHAIRPERSON JORDAN: Okay. All  
3 right. Then we're back to deliberating and we  
4 have -- I guess you'll make copies and get it  
5 to us. Is the Board ready to  
6 deliberate on 18486?

7 Based upon the testimony given  
8 here today regarding the efforts that were  
9 remade in regards to noise mitigation and  
10 noise mitigation being one of the major facets  
11 of granting this relief, I'm comfortable that  
12 all is going to be done regarding mitigating  
13 the noise, that the expert has experience in  
14 providing for that.

15 The Georgetown Association,  
16 Residents Association and the ANC are  
17 comfortable by the agreement that's been  
18 reached and the conditions that are proposed  
19 to make sure that there's not going to be an  
20 adverse impact -- a substantial adverse impact  
21 on the residents within the property area.

22 I believe that the operator has

1 given us -- the landlord and the operator of  
2 the restaurant have given us assurances that  
3 the conditions that have been submitted,  
4 they're going to adhere to and follow through  
5 in regards to this property and I can stand in  
6 support of this application.

7 Anyone else?

8 ZC COMMISSIONER MAY: Mr. Chair, I  
9 would agree. I think that we having heard the  
10 case and learned more of the details of it, it  
11 seems pretty clear that given the separation  
12 and the construction and so on that the  
13 likelihood of any noise going to transmit into  
14 the residences are remote and that they've  
15 done an agreement with the potentially  
16 affected homeowners and they seem to be  
17 satisfied that they're adequately protected.  
18 Plus I think that there are adequate  
19 protections to make sure that we don't have  
20 undue noise in the neighborhood, you know,  
21 outside the building.

22 So, I feel comfortable moving

1 forward.

2 CHAIRPERSON JORDAN: Mr. Hinkle?

3 MEMBER HINKLE: Yes, thank you,  
4 Mr. Chair.

5 I certainly agree with all the  
6 comments that were made. You know, typically  
7 it's better to have these agreements made  
8 prior to the meeting, but it's good that they  
9 were able to work these conditions out and  
10 certainly I don't think the Board needs to  
11 impose any additional requirements than what  
12 they proposed as conditions.

13 CHAIRPERSON JORDAN: Great. And I  
14 do salute the parties and the association and  
15 the ANC all for working together because it's  
16 better for you to come to some type of  
17 agreement than for us to make a decision I  
18 always say. And we have to all try to live  
19 together and it's best to have a workable  
20 situation.

21 So, I would move that we grant the  
22 relief sought by the Applicant and that we

1 incorporate the proposed conditions as agreed  
 2 upon by the parties, even though that are not  
 3 within our jurisdiction. However, the parties  
 4 have asked -- the affected persons and parties  
 5 have asked us to incorporate it which we would  
 6 do so for that reason. That would be my  
 7 motion.

8 Mr. May.

9 ZC COMMISSIONER MAY: Second.

10 CHAIRPERSON JORDAN: Motion made  
 11 and seconded. All those in favor signify by  
 12 saying aye.

13 (AYES)

14 CHAIRPERSON JORDAN: Those opposed  
 15 nay.

16 The motion carries.

17 Mr. Moy.

18 MR. MOY: Staff would record the  
 19 vote as three to zero on a motion by Chairman  
 20 Jordan to approve the request for special  
 21 exception relief. Seconding the motion Mr.  
 22 Peter May. Also in support Mr. Hinkle. Ms.



1       Sorg not present and the Board vacancy, the  
2       motion carries, Mr. Chairman.

3               CHAIRPERSON JORDAN:   Thank you.

4       And I believe it's safe now to have a summary  
5       order.

6               MR. MOY:   Yes, sir.

7               CHAIRPERSON JORDAN:   Thank you.

8               MS. PRINCE:   Thank you.

9               CHAIRPERSON JORDAN:   Thanks again,  
10       really, really, really appreciate all the  
11       work.   Really appreciate it and everyone that  
12       came down in support one way or the other.  
13       Thank you.

14               All right.   Mr. Moy, let's do  
15       18489.

16               MR. MOY:   That would be, again,  
17       Application No. 18489.   This is of GA Views  
18       Management LLC, pursuant to 11 DCMR 3103.2 for  
19       a variance from the rear yard requirements  
20       under Section 774, variances on the roof  
21       structure provisions under Sections 777 and  
22       411 and a variance from the off-street parking

1 requirements under subsection 2101.1 to allow  
2 the development f a mixed-use ground floor  
3 retail and residential above project in the  
4 GA/C-3-A District at premises 3557-3559  
5 Georgia Avenue, Northwest. Property located  
6 in Square 3033, Lot 89.

7 CHAIRPERSON JORDAN: Would the  
8 persons at the witness table please identify  
9 themselves.

10 MS. BATTIES: Yes, good afternoon,  
11 Chairman Jordan and Members of the Board.

12 Leila Batties with the law firm of  
13 Holland and Knight representing the Applicant  
14 GA Views Management LLC.

15 MR. BELLAMY: Brandon Bellamy, GA  
16 Views Management LLC.

17 MR. STOIBER: Jeff Stoiber with  
18 Stoiber and Associates, Architects, architect  
19 for the project.

20 MS. GRIFFITH: Rebecca Griffith  
21 with Stoiber and Associates, architects for  
22 the project.

1                   MR. SHER: Steven E. Sher,  
2                   Director of Zoning and Land Use Services with  
3                   Holland and Knight.

4                   CHAIRPERSON JORDAN: Do we have in  
5                   our file an authorization letter for Holland  
6                   and Knight?

7                   MS. BATTIES: Yes, you should.

8                   CHAIRPERSON JORDAN: I don't know  
9                   if we do.

10                  MR. MOY: I believe that might be  
11                  Exhibit 6, Mr. Chairman, unless I'm mistaken.

12                  CHAIRPERSON JORDAN: 6?

13                  MR. MOY: I'll pull the official  
14                  record.

15                  CHAIRPERSON JORDAN: Okay. I can  
16                  get to it right away, Mr. Moy. I'll pull it  
17                  up in one second. Yes, we do have it. Okay.

18                  You're familiar with the Office of  
19                  Planning's report on this matter and the  
20                  concerns raised there. Also, some questions  
21                  from me also regarding the light and the air  
22                  because I think we kind of passed on it

1 quickly in our prehearing statement. I'd like  
2 to hear the discussion about that particularly  
3 in this matter.

4 I think I'm clear on the parking  
5 space issue and why.

6 Anybody else have anything in  
7 particular you need to hear in conjunction  
8 with what they're going to present to us?

9 ZC COMMISSIONER MAY: The roof  
10 structure relief having to do with two  
11 separate structures, if you want to talk about  
12 why that's actually necessary because it seems  
13 like it could be done very easily within the  
14 regulations.

15 CHAIRPERSON JORDAN: Ms. Batties,  
16 if you would just talk to us about those  
17 things please.

18 MS. BATTIES: Sure. Chairman  
19 Jordan, if I may start with some preliminary  
20 matters. First is to proffer Steve Sher as an  
21 expert witness in the area of land planning  
22 and zoning.

1 CHAIRPERSON JORDAN: It's  
2 accepted.

3 MS. BATTIES: Okay. And then in  
4 response to the OP and DOT reports, I just  
5 want to note up front that the Applicant  
6 agrees to the following conditions in  
7 connection with the approval of the  
8 application should the Board agree to grant  
9 the approval.

10 First, the Applicant agrees to  
11 provide the first occupant of each unit upon  
12 the closing of the sale or assigning of a  
13 lease a car-sharing membership at a value of  
14 not less than \$50 or a Capital Bike Share  
15 membership at a value of not less than \$75 or  
16 a SmartTrip Card at the value of not less than  
17 \$100.

18 Further, the Applicant agrees to  
19 provide a minimum of 20 bicycle spaces on the  
20 property which is equivalent to one bicycle  
21 space per unit.

22 And then finally the Applicant

1 would agree to a condition that the permanent  
2 placement of dumpsters in the rear yard shall  
3 be prohibited.

4 In terms of our presentation, I  
5 will just give a brief overview of the basis  
6 for the zoning relief that's requested.

7 Mr. Stoiber and Ms. Griffith will  
8 give an overview of the project. And in  
9 response physically to the OP report,  
10 describe--

11 CHAIRPERSON JORDAN: I really  
12 don't want to hear a whole bunch of other  
13 stuff.

14 MS. BATTIES: Okay.

15 CHAIRPERSON JORDAN: Let's get to  
16 the mustard. We understand what the project  
17 is. We understand what you're trying to do.  
18 We want to go to those issues that we raised.

19  
20 MS. BATTIES: Okay. So, Mr. Sher  
21 will provide analysis of the light and air as  
22 you requested. The waiver of the off-street

1 parking requirements, they did raise that in  
2 the Office of Planning report. He took care  
3 to address that if you'd like.

4 And then, Commissioner May, the  
5 architects can go through the roof structure--  
6 the roof plan to address your concerns.

7 Of the four areas of relief, I do  
8 want to point out that with the exception of  
9 the roof structure, the zoning relief  
10 requested under the application really results  
11 from the exceptional conditions of the  
12 property. The property is already a very  
13 small site. It only has 4,986 square feet of  
14 land area and then, of course, the developable  
15 area is reduced by the building restriction  
16 lines along Georgia Avenue and Otis Place.  
17 And, in fact, the land area is effectively  
18 reduced from 4,986 square feet to 3,113 square  
19 feet as a result of the -

20 CHAIRPERSON JORDAN: 113, that's  
21 574?

22 MS. BATTIES: 113 is what I got

1 from the architects.

2 CHAIRPERSON JORDAN: Okay.

3 MS. BATTIES: So, the land area.

4 Is that correct?

5 It's about a 30 percent reduction  
6 in the developable area.

7 In addition to having the building  
8 restriction lines on the property, the  
9 property is also within the Georgia Avenue  
10 Commercial Overlay District. That imposes  
11 certain standards. Design criteria on the  
12 project.

13 The Georgia Avenue Commercial  
14 Overlay is intended to promote mixed-use  
15 projects like the one we have here. It also  
16 requires that 65 percent of the ground area be  
17 used for commercial space and I just note that  
18 for the record because it was raised in the  
19 Office of Planning report in terms of our  
20 parking -- the provisions for parking that we  
21 are providing.

22 And then the overlay also requires



1       that the building be built to the property  
2       lines abutting the public street which we  
3       cannot do in this case because of the  
4       encumbrances of the building restriction line.

5               Finally, and with regard to the  
6       ground floor retail, the plan shows 2,138  
7       square feet of ground floor retail. And,  
8       again, in response to the Office of Planning  
9       report, reducing that retail space, the size  
10      of that retail would really limit the options  
11      of retail tenants in that space. The  
12      Applicant did get a report from Streetsense  
13      which are real estate advisors and consultants  
14      and Streetsense confirmed that the amount of  
15      floor area being proposed provides greater  
16      options for a potential tenant whereas if the  
17      retail space was reduced to 1,200 to 1,300  
18      square feet it will lend itself to more grab  
19      and go convenience-type retailers and again  
20      limiting the options along this portion of  
21      Georgia Avenue.

22              The application in terms of

1 community support and outreach, the  
2 application has gone before the ANC twice on  
3 November 14th for the first time to make the  
4 initial presentation. On January 9th the ANC  
5 voted unanimously to support the project  
6 without conditions. In December the  
7 Applicant, Mr. Delamene met with residents  
8 that live along Otis Place which is  
9 immediately to the rear of the property.

10 There was a letter from  
11 Councilmember Jim Graham filed into the record  
12 over the weekend in support of the project.

13 And then finally it's my  
14 understanding that last night the Applicant  
15 met with the Georgia Avenue Development Task  
16 Force and they expressed no objection to the  
17 project.

18 So, that's what I have in terms of  
19 kind of the overview of where the project is.  
20 I'm going to ask that Mr. Sher start with  
21 addressing your concerns about the light and  
22 air and the conditions that are caused by the

1 rear yard setback.

2 CHAIRPERSON JORDAN: I think the  
3 ANC had some, well, not necessarily a  
4 condition but a recommendation regarding --

5 MS. BATTIES: To DDOT, yes.

6 CHAIRPERSON JORDAN: To DDOT.

7 Please proceed, Mr. Sher.

8 MR. SHER: Mr. Chairman and  
9 Members of the Board. I think the question  
10 resolve around our request for relief from the  
11 rear yard requirements and what we are seeking  
12 is a special exception under the provision of  
13 the regulations which allows the Board to  
14 waive the rear yard requirements upon certain  
15 findings. Those are laid out on the bottom of  
16 page 7 and onto page 8 of the outline that you  
17 have before you.

18 The requirement for a rear yard is  
19 based on the height of the building and that  
20 is 2« inches per foot of height but not less  
21 an 12 feet.

22 For the first 20 foot height of

1 the building, the depth of the rear yard may  
2 be measured from the center line of the alley.  
3 In this case, there's a 10 foot alley on the  
4 east side of the building. So, with the 5  
5 foot width of half of the alley from the  
6 center line, plus the 7 foot setback that the  
7 building provides, we are 12 feet back for the  
8 first 20 and the requirement there is 13 foot  
9 9. So, we are 1 foot 9 short for the first 20  
10 feet of the building.

11 Above 20 feet we're required to  
12 measure the rear yard from the property line.  
13 So, in that case, we're still providing seven  
14 feet, but because of the requirements of 13,  
15 9, the relief required for the higher floors  
16 of the building is 6 foot 9 inches.

17 There is a building, a row  
18 dwelling, located immediately to the east of  
19 the alley, but the wall of that building will  
20 be 17 feet from the rear wall of the proposed  
21 building. That exceeds the amount of rear  
22 yard that would be required if there were no

1 alley there. So, in effect, the separation  
2 between the side wall of that house and the  
3 rear wall of the subject building is greater  
4 than would be the case if we just provided a  
5 rear yard and there were no alley there.

6 Above the 20 foot height and there  
7 are drawings in the Applicant's plan set shows  
8 you see forever before there are any facing  
9 windows, greater than 300 feet before there  
10 are any facing windows that face west towards  
11 this building or east from this building. So,  
12 we believe that that with respect to the  
13 impact of the rear yard relief that there  
14 would not be any significant loss of open  
15 space or views or impact on properties  
16 basically to the east.

17 Beyond that and I'm not sure that  
18 it really is part of the standard, we've done  
19 some shadow studies that show what the impact  
20 is on the difference between providing a  
21 building with a complying rear yard and  
22 providing the rear yard as shown. And there

1 are examples of that in the plan set that you  
2 have before you.

3 We've looked at other times of the  
4 day, days of the year, depends whether the sun  
5 is shining. Today you wouldn't have much of  
6 a shadow. But we determined in our view that  
7 the differences are -- I'm going to use the  
8 word "inperceptable". There will be certain  
9 times of the day on certain days of the year  
10 that there will be a slight difference in  
11 where that shadow falls on property to the  
12 north across Otis Place and to the east on the  
13 south side of Otis Place. But essentially  
14 those buildings that were going to be shadow  
15 cast by this building are going to be in  
16 shadow cast by a matter of right setback as  
17 well. And we can talk in more detail about  
18 that if you need us to do that.

19 What was the other thing I was  
20 supposed to talk about?

21 CHAIRPERSON JORDAN: The roof.

22 MR. SHER: Well, the roof again is

1 a special exception under Section 411 and what  
2 happens in this case because of the small site  
3 and the building restriction lines, the way  
4 that this building has been laid out, the  
5 circulation for the upper floors of the  
6 building is on the south side of the building.  
7 So, the entrance to the apartment house is on  
8 the Georgia Avenue frontage and it enters into  
9 basically a vertical circulation card that has  
10 stairs and elevators and then on the ground  
11 floor, it goes back to where the trash is  
12 collected and other service functions occur.

13 When you carry that floor plate  
14 all the way up through the building, on the  
15 typical residential floors, you're going to  
16 find the stairs are on one side of the  
17 corridor. Then there is a corridor and then  
18 there's an elevator on the other side of the  
19 corridor. Carry that all the way up to the  
20 roof, you got the stairs on the side closest  
21 to the lot line. You got a corridor and then  
22 you got just the elevator shaft and we thought

1       there was no reasonable purpose to be served  
2       by adding additional wall space to connect the  
3       stairs over here to the elevator over there  
4       when you really can't see it from just about  
5       anywhere. So, when the regulations talk about  
6       impractical or causing -- what's the term?  
7       I'm going to get it right here. Unduly  
8       restrictive, prohibitively costly or  
9       unreasonable. We thought it just wasn't  
10      reasonable to have to add that additional wall  
11      space to connect the two pieces of the roof  
12      structure which essentially wouldn't  
13      serve any useful or useable purpose.

14               MS. BATTIES: And parking.

15               MR. SHER: If I need to talk about  
16      parking I will quickly. Again, when you take  
17      the areas that we can't use because of the  
18      building restriction lines on Otis Place and  
19      on Georgia Avenue, the site is too small to do  
20      underground parking. The site is too small to  
21      ramp up if you would even want to do that to  
22      put parking above grade. So, the question



1       then is, can you put any parking at grade or  
2       in the first floor of the building.

3               Well, you can't get 10 spaces  
4       because that would just wipe out the whole  
5       building. Could you get a smaller number of  
6       spaces? You could but you'd still be back  
7       here asking for relief. We don't think it's  
8       reasonable to try and put those spaces in that  
9       building for a couple of reasons. Number one,  
10      the amount of space available for retail is  
11      required to be 50 percent of the gross floor  
12      area of ground floor. We're over that but  
13      we're not a lot over that.

14             When you put parking in there, you  
15      could conceivably put a number of spaces that  
16      are accessed from the alley. You chop into  
17      that space that's available for retail and  
18      probably bring it pretty quickly below the 50  
19      percent. So, if we didn't have parking, we'd  
20      need relief on the retail. Beyond that, you  
21      would have to push those parking spaces  
22      further into the building to make sure that

1     you could make the swing from the alley into  
2     the spaces.  So, we think that that's just not  
3     a reasonable solution and would be unduly  
4     burdensome to the Applicant to try and provide  
5     parking on the ground floor of the building.  
6     So, for those reasons we do not think that --  
7     we think the site has a combination of  
8     exceptional conditions that creates the  
9     practical difficulty for the owner and we  
10    believe that the relief can be granted without  
11    substantial detriment to the public good.

12                 CHAIRPERSON JORDAN:  Am I correct  
13    in looking at the shadow study that there's  
14    really no significant change from what you  
15    have as a matter of right versus what's being  
16    proposed?

17                 MR. SHER:  That's my view and our  
18    collective view.  There are slight differences  
19    but because we're only talking about a  
20    difference of six feet nine inches when you  
21    take the angle of the sun into account.  On  
22    some days it will fall over here and other

1       days it will fall over there. So, he's  
2       holding his fingers slightly apart.

3               CHAIRPERSON JORDAN: The Board  
4       have any other questions for Mr. Sher?  
5       Anyone?

6               So, then any other questions we  
7       need of the Applicant?

8               ZC COMMISSIONER MAY: I have one  
9       question.

10              CHAIRPERSON JORDAN: Yes, Mr. May.

11

12              ZC COMMISSIONER MAY: I don't  
13       recall seeing in the package a rear elevation  
14       alley elevation. Is that in the package?

15              CHAIRPERSON JORDAN: I think there  
16       is one.

17              ZC COMMISSIONER MAY: I was  
18       looking for it. Maybe I just missed it.

19              MS. BATTIES: On sheet 8.

20              ZC COMMISSIONER MAY: Sheet 8.  
21       Okay. There we go.

22              CHAIRPERSON JORDAN: Yes, I

1       thought I saw it.   Okay.

2                       Okay.   Then let's turn now to the  
3       Office of Planning.

4                       MR. GOLDSTEIN:   Good afternoon,  
5       Mr. Chairman and Members of the Board.

6                       For the record, my name is Paul  
7       Goldstein.

8                       Based on the testimony I've heard  
9       today I think our concerns have been addressed  
10      and we're pleased to hear that the Applicant  
11      has agreed to DDOT's conditions contained in  
12      their submission and also to the condition  
13      reference in our report that there be no  
14      permanent placement of garbage in the rear  
15      yard.

16                      With that, the Office of Planning  
17      will revise their recommendation to recommend  
18      support in this matter.

19                      Thank you.

20                      CHAIRPERSON JORDAN:   Thank you.  
21      Has the Board any questions for the Office of  
22      Planning?

1 Sure, Mr. May.

2 ZC COMMISSIONER MAY: Yes, so you  
3 feel confident that the light and air impacts  
4 have been addressed in the application? I  
5 mean, what clicked for you there?

6 MR. GOLDSTEIN: Well, I think the  
7 -- a bit broader discussion that -- I think  
8 one of the problems we had in evaluating this  
9 was there was no discussion of the shadow  
10 study. No persuasive discussion of it in the  
11 application. We've heard of it more that the  
12 difference between the matter of right and the  
13 proposal is minimal, that they did look at  
14 different times of day and didn't see a  
15 perceptible difference.

16 I did think that the discussion of  
17 the alley as opposed to a situation where  
18 there's no alley does provide additional  
19 separation and I think lastly the fact that we  
20 did now receive a unanimous vote of support  
21 from the ANC. We received that copy that  
22 typically tells us that if there were problems

1 at the ANC being expressed to this design, we  
2 would have thought to have seen it in the ANC  
3 report but it was a unanimous vote from what  
4 we saw reflected.

5 If the Board wants to push them  
6 further for shadow studies we would not be  
7 opposed to that but at this point I think we  
8 feel comfortable enough.

9 ZC COMMISSIONER MAY: Okay. Light  
10 and air is pretty easy to understand and get  
11 a hold of. And I think there are only  
12 marginal difference, although if you do move  
13 it, you know, to make it fully compliant, I  
14 think there would be some impact on the light.  
15 But the requirement also has to deal with  
16 light and privacy to the rooms and presumably  
17 it's light and privacy to the rooms of the  
18 building being but also to the neighbors  
19 across the street. So, I mean, there seems to  
20 be a fairly uncomfortable relationship between  
21 this building and the house immediately across  
22 the alley, at least in terms of privacy.

1                   Do you want to talk to that a  
2                   little bit?

3                   MR. GOLDSTEIN:   Sure.   Happy to.

4                   Well, I think the Applicant did  
5                   testify that the facade of the neighboring row  
6                   dwelling for be at least 17 feet away from the  
7                   building's rear facade and that's -- the row  
8                   dwelling looks approximately maybe 25 feet in  
9                   height.   That's going to be for about the  
10                  height of that dwelling.

11                  A 17-foot separation is not tight.  
12                  I feel like that might be a reasonable amount  
13                  of room between them.   Above that, you know,  
14                  I guess there is the opportunity to look up or  
15                  look down but, again, it's at the very least  
16                  separated by 17 feet.   That doesn't seem  
17                  unreasonable to me.

18                  ZC COMMISSIONER MAY:   I think that  
19                  the circumstance that occurs in many  
20                  situations across the city, very often what it  
21                  is is essentially a large masonry surface with  
22                  punched openings and we have a very, I mean

1       it's not a completely glass facade, but  
2       there's a lot of glass in the facade as it  
3       faces the alley. So, do you think that this  
4       is -- I mean, this is part of what  
5       contributes, I think, to the uncomfortable  
6       relationship between this and the adjacent  
7       building. You know, if you're talking about  
8       two houses across an alley from each other and  
9       they're 10 or 15 feet apart and they have a  
10      few punched windows, that's one thing. But  
11      having the large glass elevations is a  
12      slightly different circumstance.

13                   I'm wondering if you'd like to  
14      comment on that.

15                   MR. GOLDSTEIN: I don't know if I  
16      have anything more to say. I certainly  
17      understand your comment. Perhaps, the  
18      Applicant can address further, particularly  
19      the second level of their rear facade and the  
20      glass there which seems like it would be the  
21      most directly impactful level as it's still on  
22      level to some extent with the row dwelling to



1 the rear and whether those windows would  
2 particularly have any privacy impact.

3 ZC COMMISSIONER MAY: Okay. Well,  
4 they can address that in rebuttal if they  
5 want.

6 MR. GOLDSTEIN: It doesn't overly  
7 trouble me but I can -- I can understand, you  
8 know, perhaps a design with a bit less glass  
9 underneath the second level perhaps could be  
10 something that could be addressed.

11 ZC COMMISSIONER MAY: I do have  
12 one other question on the parking.

13 Did you consider the, you know,  
14 what I saw in terms of the parking  
15 configuration that they proposed which was,  
16 you now, the alternative or the study of how  
17 they might fit three parking spaces. They  
18 looked at a single parking entrance and enough  
19 room to maneuver vehicles in and out.

20 Did you talk at all about having  
21 simply three garage doors, if you will, on the  
22 alley to get three spaces in?

1 MR. GOLDSTEIN: I believe we did  
2 have some discussion about that. I think as  
3 part of the discussion we worried that maybe  
4 that would have a negative impact on the  
5 design and be more impactful on the alley  
6 having possibly three different -- perhaps  
7 even four actually different garage doors on  
8 the alley. So, I think there was a design  
9 concern about that solution. But it was  
10 raised. We certainly in our report wanted the  
11 Applicant to discuss it further, why that  
12 option wouldn't work. I think we've heard a  
13 bit more today about why a more limited  
14 parking option wouldn't be effective here.

15 ZC COMMISSIONER MAY: Okay.

16 Thanks.

17 CHAIRPERSON JORDAN: Any other  
18 questions of the Office of Planning?

19 Does the Applicant have any  
20 questions of the Office of Planning?

21 MS. BATTIES: No, but I would just  
22 like to add to Mr. Goldstein's last comment.

1           The other reason why the limited  
2           parking to the rear would not work because it  
3           would significantly impact the retail. The  
4           amount of retail --

5           ZC COMMISSIONER MAY: Okay. So, I  
6           was going to wait for rebuttal but --

7           CHAIRPERSON JORDAN: We can come  
8           back at rebuttal. I didn't want you to  
9           actually ask the question or having a response  
10          but since it's out there --

11          ZC COMMISSIONER MAY: And when you  
12          rebut it talk about how deep that would have  
13          to go.

14          CHAIRPERSON JORDAN: Okay. Anyone  
15          here from the Department of Transportation?  
16          We do have a letter of no objection from the  
17          Department of Transportation.

18          We do have a letter from  
19          Councilmember Jim Graham in support of the  
20          application.

21          Anyone here from ANC-1A? Although  
22          the letter is untimely, we will accept it into

1 the record and they recommend approval.

2 Is there anyone in the audience  
3 wishing to speak in support of the  
4 application?

5 Anyone wishing to speak in  
6 opposition? Yes, we have a hand. Please come  
7 to the table and identify yourself.

8 Mr. Sher, can you just move over  
9 one chair.

10 Good afternoon. No, no that means  
11 you have three minutes to speak. It means you  
12 have no more than three minutes to speak.

13 And would you give us your name  
14 please. Bowman?

15 ZC COMMISSIONER MAY: Your  
16 microphone is not on.

17 CHAIRPERSON JORDAN: Make sure the  
18 green light is on. And did you -- it's got to  
19 be a bright green light.

20 MS. BOWMAN: Okay. Right.

21 CHAIRPERSON JORDAN: And did you  
22 complete witness cards and give them to the

1 Court Reporter?

2 MS. BOWMAN: Yes, I did.

3 CHAIRPERSON JORDAN: And you were  
4 here earlier, weren't you?

5 MS. BOWMAN: Yes, I was.

6 CHAIRPERSON JORDAN: Okay. Go  
7 ahead.

8 MS. BOWMAN: I live exactly -- I  
9 live three doors from the alley. I live at  
10 732 Otis Place, Northwest, and one of my  
11 primary concerns is that there has been  
12 limited effort to really engage the community  
13 in this process.

14 I got information from the Board  
15 of Zoning and I got information from the ANC  
16 but in terms of this organization really  
17 contacting those of us who are going to be  
18 directly impacted by their plan, this has not  
19 happened. And I think that's unfortunate.

20 One of my primary concerns has to  
21 do with the fact that they do not want to have  
22 parking. This is a very congested area.

1 Right now the parking is so dense that people  
2 who go to Gill's Seafood Restaurant, if they  
3 can't find parking on Georgia Avenue they will  
4 back up and back up into Otis Place. Come  
5 back, because this is a one-way street, to  
6 park.

7 There are a lot of stores,  
8 restaurants. There's a nightclub. There's a  
9 church and so to not provide for parking is  
10 going to directly have a negative impact upon  
11 me and my neighbors.

12 I think the issue about the  
13 privacy for some of the homes is something  
14 that really has to be taken into account when  
15 you build a structure like that.

16 One of my other issues that I  
17 think it has been cleared up is that they will  
18 not have garbage, dumpsters directly in their  
19 yard because to me that would be a health  
20 consideration. But I do think that, you know,  
21 there are a lot of concerns like they're  
22 planning to have a sidewalk cafe like what's

1 the -- how's that going to impact pedestrian  
2 traffic on the street and, you know, like  
3 what's the time frame for the construction.  
4 On the one hand, it's good to see a vacant lot  
5 being developed but on the other hand, when  
6 you have a building. You're going to have 20  
7 units and you're not going to provide parking  
8 for at least half of those units, it is going  
9 to have an impact on those of us who live  
10 there.

11 CHAIRPERSON JORDAN: Thank you.  
12 Does the Board have any questions of Ms.  
13 Bowman?

14 Does the Applicant have any  
15 questions of Ms. Bowman?

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

17 CHAIRPERSON JORDAN: Okay. Thank  
18 you, Ms. Bowman. We appreciate your comments  
19 and thank you for staying here with us.

20 Next we have --

21 MS. STREETS: She said about  
22 everything I was going to say.

1 CHAIRPERSON JORDAN: Oh, okay.

2 And what's your name?

3 MS. STREETS: I live two doors  
4 from --

5 CHAIRPERSON JORDAN: Okay. What's  
6 your name?

7 MS. STREETS: Rebecca Streets.

8 CHAIRPERSON JORDAN: Ms. Streets,  
9 thank you.

10 MS. STREETS: 734.

11 CHAIRPERSON JORDAN: 734. Thank  
12 you.

13 MS. BOWMAN: And in my 40 seconds.  
14 Once again, engaging those of us who live on  
15 the street didn't happen --

16 CHAIRPERSON JORDAN: Absolutely.  
17 That's something we're key on.

18 Okay. Then let's turn back to the  
19 Applicant for rebuttal and in that rebuttal  
20 please add too in addition to what Mr. May  
21 wants you to respond to about what outreach  
22 was there to the neighborhood.



1 MS. BATTIES: Actually, Chairman  
2 Jordan, I'm going to let the Applicant, Mr.  
3 Brandon Bellamy, speak to that issue as he did  
4 most of the community outreach for this  
5 process.

6 MR. BELLAMY: I would like to say  
7 that we made several attempts to reach out to  
8 the community. We met with the Office of  
9 Planning when we first conceptualized the  
10 project. We talked with them about any  
11 neighborhood committee groups they may know  
12 of. We made a list of those groups and one of  
13 those was the Georgia Avenue Development Task  
14 Force. We reached out to the single-member  
15 ANC. We talked to him and asked him about any  
16 information that he may have about groups that  
17 we should talk to additionally to the ANC.

18 We went in November and we  
19 actually met with ANC that represents that  
20 area. We gave a full presentation to the ANC  
21 board. All the members of the community that  
22 were there that night got an opportunity to

1       hear it. That was in November.

2               We had a subsequent conversation  
3       with that single-member ANC commissioner and  
4       he suggested that we have a completely  
5       separate meeting for the residents purely on  
6       Otis Street. That meeting was scheduled 30  
7       days later. We came out and we met with all  
8       of the residents specifically on Otis Street.

9               I think that sufficient notice  
10       was --

11              CHAIRPERSON JORDAN: That was in  
12       one meeting? That wa

13              MR. BELLAMY: That was in  
14       November.

15              CHAIRPERSON JORDAN: That was a  
16       group meeting?

17              MR. BELLAMY: Yes, it was. It was  
18       a --

19              MR. GRAHAM: A notice had been  
20       given out?

21              MR. BELLAMY: Yes. The notice had  
22       been given out in December. I think there was

1 plenty of opportunity. It was actually held  
2 at a school right there on Otis Street. So,  
3 we came out that evening. We stayed probably  
4 two hours. We talked to everyone who was  
5 there.

6 And then lastly we went back to  
7 the ANC just a few days ago and then in that  
8 meeting they were able to vote on the project  
9 and give unanimous support.

10 Then last night because we really  
11 don't want to miss anybody. We went to the  
12 Georgia Avenue Development Task Force meeting  
13 that they had last night just to be a good  
14 neighbor, just to make sure we could give an  
15 opportunity to the community to hear about the  
16 project, hear any concerns. We've made every  
17 attempt that we could to try to talk to  
18 people. And if anyone fell through the cracks  
19 we apologize about that. It's not our  
20 intention to railroad a project on anyone.

21 CHAIRPERSON JORDAN: Thank you.

22 MS. BATTIES: The neighbor also

1 raised the concern about parking and the  
2 waiver of the parking requirements in this  
3 case. The zoning regulations require that  
4 this project have a total of 10 parking  
5 spaces. We are asking for relief to provide  
6 no parking spaces. But I'd just like to point  
7 out that this project is located just three  
8 blocks south of the Georgia Avenue Petworth  
9 Metro Rail Station. It is well served -- the  
10 property is well served by public  
11 transportation and it's a relatively small  
12 site where parking cannot be accommodated on  
13 site and so the project is intended to be  
14 constructed and marked to people who desire  
15 not to have a car and live in the city and yet  
16 have ample access to public transportation.

17 We are, again, providing bicycle  
18 parking spaces for each unit within the  
19 property. And that is the demographic. That  
20 demographic is who we're targeting for this  
21 project.

22 We are also -- the ANC did also

1 ask the Applicant or ask DDOT to consider car-  
2 sharing spaces along Otis Street. We have  
3 been in contact with DDOT on this issue but  
4 that is a separate review and approval process  
5 which we have no objections undertaking at the  
6 appropriate time.

7 ZC COMMISSIONER MAY: Okay. So,  
8 back on the parking thing.

9 How much, you know, you showed a  
10 diagram that showed how much space would be  
11 required if there were a single entrance and  
12 three spaces and room to maneuver. How much  
13 space would you lose if it was just three  
14 garage doors off the alley?

15 MR. SHER: Mr. May, if I might try  
16 to answer that.

17 ZC COMMISSIONER MAY: Yes, please.

18 MR. SHER: Parking space minimum  
19 is 9 by 19 so it's got to be 19 feet deep  
20 going into the building. The lot is only 71  
21 feet long. Take 7 feet away from the rear  
22 yard we're provided -- I'm sorry. Our

1 building is 71 feet to the back. We lose  
2 about a third of 30 to 33 percent of the  
3 ground floor space in that retail unit if we  
4 had to put three parking spaces in there.

5 ZC COMMISSIONER MAY: About a  
6 third so you'd lose just 19 feet or 20 feet to  
7 allow for a door?

8 MR. SHER: Yes, something like  
9 that. And, again, it's --

10 ZC COMMISSIONER MAY: Twenty feet  
11 out of seventy which is --

12 MR. SHER: Twenty-eight percent,  
13 something like that.

14 CHAIRPERSON JORDAN: Right. Okay.  
15 Because that's what is shown in your plans on  
16 page 13 of the plan. Exhibit Number 8.

17 MR. SHER: Yes, that was one way  
18 to look at it. I think that was overstated  
19 and understated at the same time because it's  
20 showing only an 18-foot parking space and we  
21 need a 19-foot parking space and probably  
22 another foot for clearance. But I don't know

1       that we really need 24 feet all the way to  
2       actually get into those spaces. So, again, my  
3       guess would be somewhere around as Mr. May  
4       approximated it, two sevenths out of the  
5       building would be required to reduce that  
6       retail space on the ground floor.

7                   CHAIRPERSON JORDAN: Also, I think  
8       Mr. May raised earlier and certainly he can  
9       raise it again but I didn't want us to miss it  
10      the question about the building, the second  
11      level shading, light and air issue. I think  
12      that's what you --

13                   ZC COMMISSIONER MAY: Yes, I mean  
14      it has to do with the privacy of a very glassy  
15      building looking out over the immediate  
16      neighbors.

17                   MS. BATTIES: Yes, and I'm going  
18      to ask Mr. Stoiber to address that issue.

19                   MR. STOIBER: Thank you.

20                   Mr. May, what I want to point out,  
21      although that appears to be a ribbon window on  
22      the second floor, if you look at the second

1 floor plan actually part of that is spandrel,  
2 page 3, at the rear there. The effect is the  
3 punched windows that you suggested and part of  
4 it is spandrel panels.

5 ZC COMMISSIONER MAY: All right.

6 MR. STOIBER: So, it ends up -- it  
7 has a dual effect. It appears to be ribbon  
8 windows but it functions like punched openings  
9 in a more typical townhouse.

10 ZC COMMISSIONER MAY: It does look  
11 like there is -- my understanding because  
12 there is a -- like a 12-foot section that's  
13 all glass. Is that right?

14 MR. STOIBER: yes, sir.

15 ZC COMMISSIONER MAY: And then the  
16 others are punched windows.

17 MR. STOIBER: yes, sir.

18 ZC COMMISSIONER MAY: More or  
19 less. Okay.

20 MR. STOIBER: I would also point  
21 out that with the separation of 17 feet  
22 between the two structures, since this faces



1 the side yard of the adjacent structure, most  
2 restrictive residential zone in the city, we  
3 have 16 feet between the two of them on side  
4 yards with eight foot on either side and we're  
5 a foot more than that.

6 ZC COMMISSIONER MAY: Okay.  
7 That's a good argument.

8 CHAIRPERSON JORDAN:  
9 Any additional questions?

10 ZC COMMISSIONER MAY: Yes. Sorry,  
11 I should have asked these earlier but going  
12 back to the parking question overall. Did you  
13 actually do a study of parking availability in  
14 the area since DDOT has stated in their  
15 report that the 20 unit owners here or  
16 occupants would be eligible for the RPP  
17 system, Residential Parking Permits.

18 MS. BATTIES: We did not do a  
19 study.

20 ZC COMMISSIONER MAY: So, we don't  
21 have any idea how -- whether there's the  
22 ability to absorb that number of units? The

1       number of cars in the area or anything like  
2       that?

3               MS. BATTIES:  We didn't bring in a  
4       traffic consultant to confirm that, no.

5               ZC COMMISSIONER MAY:  Okay.  You  
6       said that you were trying to market this  
7       project to people who are not going to be  
8       heavily car dependent but that doesn't rule  
9       out the possibility that some of them might  
10      have cars.  And, you know, I'm actually kind  
11      of surprised that it would be eligible for  
12      RPP.  I'm guessing that Georgia Avenue there  
13      is metered commercial parking and I think they  
14      told me in the past in Zoning Commission  
15      hearings that when it's metered commercial it  
16      would not be eligible for RPP.

17              Mr. Sher, is that --

18              MR. SHER:  That's generally been  
19      my understanding.  I heard it the same way you  
20      heard it.

21              ZC COMMISSIONER MAY:  Right.  
22      Actually, that's a good thing.  I mean, it may

1 not be good for your marketing because, you  
2 know, your people wouldn't be able to get RPP  
3 permits. But, you know, it would actually --  
4 I don't know if we're going to decide this  
5 today but it would be helpful to confirm what,  
6 in fact, the case is because I'm much more  
7 comfortable if I knew that this project would  
8 not have all these residents available for  
9 RPP.

10 MS. STREETS: Excuse me. May I  
11 say something?

12 CHAIRPERSON JORDAN: I'm sorry,  
13 you really can't at this point. Let us finish  
14 this up and maybe if we have some time, but we  
15 have a certain procedure that we have to go by  
16 by law.

17 I know that you waived, well, is  
18 there something that you want to say just  
19 quickly because actually you went past your  
20 point, but go ahead.

21 MS. STREETS: I'm sorry.

22 CHAIRPERSON JORDAN: No, no

1       please.

2                   MS. STREETS: I'm concerned about  
3       the parking because everybody that lives in  
4       the 600 block of Newton Street which is the  
5       next street from Otis Place. So that's  
6       another reason we don't have any parking  
7       spaces. And my daughter gets off at 12:00 at  
8       night. I have to go out there and park my car  
9       on the street in order for her to have a  
10      parking space when she gets back. And with my  
11      age to get up at 12:00 at night and go out  
12      there and move my car so she can get a space.  
13      And it's just a lot of people that's all over  
14      the place of parking on Otis Place. All the  
15      places that we already have on Otis Place is  
16      coming and it's just awful.

17                  CHAIRPERSON JORDAN: We appreciate  
18      you coming. Yes, parking is an issue  
19      throughout the District and, in fact, I do the  
20      same. If I have guests or anybody coming by  
21      my house I move the car off the space, block  
22      one out until they get there and go back

1       around the block. But, yes, we understand  
2       that and we thank you.

3               Let me ask a question. What was  
4       your transportation management alternatives  
5       that you're offering, I think you said?

6               MS. BATTIES: Right. We agreed to  
7       DDOT's condition of providing basically a car-  
8       sharing or bike share membership.

9               CHAIRPERSON JORDAN: Is that for a  
10       year or you doing it for this \$50 and \$75?

11              MS. BATTIES: Right.

12              CHAIRPERSON JORDAN: Right, which  
13       one? Which one are you doing? Are you  
14       offering the membership for a year?

15              MS. BATTIES: Well, it's up to a  
16       certain value on the car.

17              CHAIRPERSON JORDAN: What's the  
18       value?

19              MS. BATTIES: \$50 for the car-  
20       sharing. \$75 for the Capital BikeShare or  
21       SmartTrip card for not less than \$100.

22              CHAIRPERSON JORDAN: And that's

1 going to take care, rally make a substantial  
2 impact on our traffic flow and people --  
3 encouraging people not to get cars.

4 MS. BATTIES: I need my car. I  
5 shouldn't answer that question. I don't know.

6 CHAIRPERSON JORDAN: I raised that  
7 and I know that's something we've heard before  
8 but we've also had other projects which gave  
9 either car membership or bike share membership  
10 for up to a year period and SmartCard or  
11 something like that. But I think that's  
12 something we really need to take a look at,  
13 something that's impactful regarding these  
14 alternative transportation offers that we're  
15 doing because, you know, \$50 we're done.

16 MS. BATTIES: Well, that's what  
17 was proposed by DDOT.

18 CHAIRPERSON JORDAN: I understand  
19 where it comes from and I understand that in  
20 that regard too. So, I just wanted to go back  
21 over what you offered because I was thinking  
22 something else.

1 All right. Any other questions  
2 for the Applicant?

3 Then we will close this hearing  
4 based upon the record that's before us.

5 Is the Board ready to deliberate?

6 ZC COMMISSIONER MAY: Mr.  
7 Chairman, I'd like to talk about it. I  
8 wouldn't mind starting deliberations but I'm  
9 not sure that we necessarily wants to finish  
10 them.

11 CHAIRPERSON JORDAN: Do we want to  
12 move it to a decision date?

13 ZC COMMISSIONER MAY: Well, let me  
14 just explain some of the issues that I have.

15 I am -- I have previously voted  
16 for projects with no parking as recently as  
17 last night. So, I'm not generally opposed to  
18 the idea that some projects you simply can't  
19 fit the parking in or what have you.

20 There is an option to get at least  
21 some of them in here and I like the idea of  
22 having projects that would not need parking.

1 I mean, putting the requirements aside but if  
2 it's structured in such a way that the parking  
3 spaces are truly not needed like, you know,  
4 you would not, if the building is excepted  
5 from the RPP system, to me that means that  
6 there isn't really much chance that people  
7 living in this building are going to be  
8 parking in the neighborhood. But we don't  
9 have that here. At least we don't have  
10 anything definitive on that. And so that's  
11 one of the things I'm actually interested in  
12 getting is a clarification from DDOT because  
13 what they put in their report seems to be  
14 inconsistent with what they've told me before.  
15 And if I knew for sure that the building would  
16 not be eligible for RPP then I would be more  
17 favorably inclined.

18 The second thing I'd mention is  
19 that I'm not buying into the roof support. I  
20 mean, the roof relief. I don't think it's  
21 unreasonable to connect those two structures.  
22 They're not that far apart and, you know,



1       there certainly are circumstances where you  
2       need to have remote stairways and it's silly  
3       to have, you know, 50 feet of roof to connect  
4       two pieces like that. But this is, you know,  
5       they are six feet apart or something like that.  
6       It seems like it's not that hard to comply  
7       with the regs.

8                   CHAIRPERSON JORDAN: In addition  
9       to the parking, I'm not jumping up and down  
10      in regards to the alternative, the  
11      Transportation Management Plan. And I think  
12      that's something that we as a Board need to  
13      really start looking at. And I know DDOT  
14      talked about \$50 and \$25 and is that really  
15      going to make an impact and discourage people  
16      from having cars and parking?

17                   So, what I'm going to do is move  
18      this over to a decision date and ask that you  
19      supplement the record regarding something  
20      that's going to provide the issue on the  
21      roofing, for the layout in regards to the  
22      parking and see if you can come up with

1 anything that's stronger with regards to the  
2 Transportation Management Plan.

3 And so we'll move that to the next  
4 date that Mr. May is going to be with us.

5 ZC COMMISSIONER MAY: I think I'm  
6 going to be here on the 26th for a couple --

7 CHAIRPERSON JORDAN: January 26th?

8 ZC COMMISSIONER MAY: No, February  
9 26th, sorry. I'm already mentally in  
10 February. I don't know how that happened. It  
11 doesn't necessarily need to be when I'm here  
12 but when I can make it.

13 MR. MOY: According to my schedule  
14 Mr. May is correct. He would be here at least  
15 for the morning of February 26th.

16 CHAIRPERSON JORDAN: We could move  
17 it faster and he can come in for --

18 ZC COMMISSIONER MAY: What's the  
19 fastest that we could do it?

20 CHAIRPERSON JORDAN: The next  
21 decision date is?

22 MR. MOY: The next decision date

1 is February the 12th.

2 CHAIRPERSON JORDAN: All right.

3 Let's put it in that date and give you time to  
4 work and make the submission.

5 MS. BATTIES: And, Chairman  
6 Jordan, if I can just clarify. With regard to  
7 the roof structure, Commissioner May, do you  
8 want to see a revised drawing showing the roof  
9 structure because the Applicant is willing at  
10 this point to say that they would connect the  
11 roof structure.

12 ZC COMMISSIONER MAY: Yes, I don't  
13 really need to see a drawing of it. I mean,  
14 if you're --

15 MS. BATTIES: Because they're  
16 willing to --

17 ZC COMMISSIONER MAY: I think you  
18 could show a drawing that -- if you want, you  
19 can show a drawing that connects the two or  
20 you could submit something that simply says  
21 you withdraw the request for that support.

22 MS. BATTIES: Okay.

1                   ZC COMMISSIONER MAY: Or that  
2 relief rather. And then we don't have to vote  
3 against that because that's what I would want  
4 to do.

5                   MS. BATTIES: Okay.

6                   CHAIRPERSON JORDAN: Okay. So,  
7 then let's conclude this hearing and the date  
8 for submission for that, Mr. May -- Mr. Moy?

9                   MR. MOY: We're getting there. I  
10 suspect a week prior to February 12th would  
11 suffice unless the Board would want --

12                  CHAIRPERSON JORDAN: A week is  
13 good but we have to get them in by -- just so  
14 everybody knows. We're being a lot more  
15 restrictive about people filing things late.  
16 Coming out today, overnight we probably got  
17 about 30 pieces of paper going to different  
18 files and we're being able to look at those  
19 things since we take the time before these  
20 hearings to actually drill in.

21                  I'm not talking to you just in  
22 general, but please get these things in.

1                   MR. MOY: Staff would suggest  
2 Monday, February the 4th, Mr. Chairman.

3                   CHAIRPERSON JORDAN: Monday,  
4 February 4th. Okay.

5                   We're good. Then we will move  
6 this to a decision date for that time.

7                   The record is closed except for  
8 those items which we discussed for the  
9 Applicant to submit and we appreciate it.

10                  We stand in recess until 2:00.

11                  MS. BATTIES: Thank you.

12                  (Whereupon, the above matter was  
13 concluded at 1:22 p.m.)

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In the matter of: Public Hearing

Before: DC BZA

Date: 01-15-13

Place: Washington, DC

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