

GOVERNMENT
 OF
 THE DISTRICT OF COLUMBIA
 + + + + +
 BOARD OF ZONING ADJUSTMENT
 + + + + +
 PUBLIC HEARING
 + + + + +
 TUESDAY
 MARCH 18, 2014
 + + + + +

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
 MARNIQUE HEATH, Board Member
 JEFFREY HINKLE, Board Member (NCPC)

OFFICE OF ZONING STAFF PRESENT:
 CLIFFORD MOY, Secretary
 JOHN NYARKU, Zoning Specialist
 STEPHEN VARGA, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:
 ALLISON MYERS, ESQ.
 MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:
 MAXINE BROWN-ROBERTS
 STEPHEN GYOR
 ARTHUR JACKSON
 STEPHEN MORDFIN
 KAREN THOMAS
 ELISE VITALE

The transcript constitutes the minutes from the Public Hearing held on March 18, 2014.

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

2 9:43 a.m.

3 CHAIR JORDAN: Please come to
4 order. Good morning, ladies and gentlemen.
5 We=re located at Jerrily R. Kress Memorial
6 Hearing Room here at 441 4th Street, NW. And
7 we=re here for the public meeting of the Board
8 - public hearing of the Board of Zoning
9 Adjustment.

10 My name is Lloyd Jordan,
11 Chairperson. To my left is Marnique Heath,
12 member of the Board, to my right, Jeffrey
13 Hinkle, member of the Board.

14 Please be advised that today=s
15 proceedings are being recorded by a court
16 reporter sitting to my right, and also being
17 webcast live. So, I=m going to ask you,
18 therefore, to refrain from any disruptive
19 noises in the hearing room today.

20 So, it would be a good time if you
21 would silence your - any device that=s going to
22 make any noise, telephones, iPads, etc. Is

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1 that a commercial break? No. Anything that=s
2 going to ring.

3 If you=re going to provide
4 testimony today in any of the cases, and by
5 testimony, that means make any statement to the
6 Board, offer any letter to the Board, etc., I=m
7 going to need you to do two things. The first
8 of which is I=m going to need you to complete
9 two witness cards per person.

10 If you=re going to provide any
11 statement or testimony to the Board, I=m going
12 to need you to complete two witness cards per
13 person. And prior to your testimony, that=s
14 prior to your testimony, that means before you
15 say something, give the cards to the court
16 reporter sitting to my right.

17 This is a test because we always
18 have somebody that doesn=t do that. So, prior
19 to you testifying, complete two witness cards
20 per person and give them to the court reporter
21 sitting to my right, and you can do that any
22 time. You don=t have to wait until your case

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1 is called.

2 And the second thing I'm going to
3 need you to do is to now stand and take the oath,
4 which will be given by Mr. Moy, the Board
5 secretary.

6 (WITNESSES SWORN)

7 MR. MOY: Ladies and gentlemen, you
8 may consider yourselves under oath.

9 CHAIR JORDAN: Thank you. Please
10 be seated. Mr. Moy, any announcements?

11 MR. MOY: Yes, we do, very briefly,
12 Mr. Chairman. On the docket for today, there
13 are two cases that have been withdrawn. The
14 first was a decision case which is 18317 request
15 for a two-year extension, so that's off, as well
16 as on the public hearing application number
17 18694 of 1362 H Street, LLC. That has also been
18 withdrawn.

19 Now, there are some preliminary
20 matters, Mr. Chairman, but I think it's best to
21 take that case by case.

22 CHAIR JORDAN: Okay.

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1 MR. MOY: And the only final thing,
2 if I may, is that just to remind our guests that
3 no food or drinks are allowed in the stadium.
4 Thank you.

5 (Laughter)

6 CHAIR JORDAN: And if you remind me
7 that we have informal matters when we call those
8 cases, that would be good. So, let=s - let me
9 do this. Let me request the applicant or
10 applicant representative in 18730, and then Mr.
11 Christopher Romney, to come to the witness
12 table. There is a party status request that I
13 want to deal with initially.

14 Good morning, would you please
15 identify yourselves? Just make sure your
16 microphone is on. And let me ask, did you give
17 your witness cards to - did you give your cards,
18 or - no? Just identify yourself, please.

19 No, it should be a bright, glowing,
20 green light. They=re not on? I don=t have any
21 - that=s my fault. I slept on the master
22 button. See, I have a master button, so if you

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1 say something that we don=t like, we just push
2 the button and it can=t be heard.

3 (Laughter)

4 CHAIR JORDAN: Go ahead, please.
5 Now, that=s - sorry, here we go.

6 MR. ROMNEY: Good morning, my name
7 is Chris Romney, 635 Acker Place, NE.

8 CHAIR JORDAN: Thank you.

9 MS. FOWLER: Hi, Jennifer Fowler,
10 I=m the architect.

11 MS. GREGOR: Janet Gregor, 651 F.
12 Street, NE.

13 CHAIR JORDAN: Okay, we have before
14 us - Mr. Romney, you have filed a request for
15 party status in this matter. We have read your
16 filing and understand what you=re submitted.

17 The Board generally - I
18 particularly think that this matter might be
19 lacking granting party status, but I wanted to
20 hear from you to show where you might - can tell
21 the Board how you have a uniqueness, and why you
22 should be granted party status, that your issue

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1 in this matter is not an issue that the Board
2 is already going to consider, or that you have
3 a special or unique interest in this matter
4 different than anyone else or the general
5 public.

6 So, if you would take, you know,
7 five minutes for you to explain that to us?

8 MR. ROMNEY: Thank you. As a
9 neighbor within 200 feet of the applicant on 651
10 F. Street, I am concerned about the precedent
11 that would be set for filling in the dog leg in
12 the back of the house in the historic district.

13 And having bought the house in 1984,
14 and lived here, I'm concerned that it's not just
15 a - it's a very local and important issue for
16 all of us here.

17 And when I had called the Zoning
18 Department, Mr. Nero had suggested that a party
19 status has a little more weight than if I just
20 volunteered as a witness in terms of the
21 procedure. So, that was one of the reasons I
22 did that. And -

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1 CHAIR JORDAN: Let me explain.
2 Everyone has a right to come and bring
3 testimony, either in support or in opposition,
4 and you're allowed that on our docket. Party
5 status gives additional ability to weigh in on
6 a matter, however, there are some thresholds.

7 And by party status, that means that
8 the person gets the opportunity to act as a
9 party, present evidence, cross examine
10 witnesses, etc., just like any other party in
11 the matter.

12 However, there are some thresholds
13 for you to cross before you can be granted party
14 status. And party status requests the
15 applicant - excuse me, the person seeking party
16 status would have to show to the Board why
17 they're uniquely situated, or uniquely
18 affected by this property.

19 And so, that's what I'm asking you
20 to help us, because some of the things that you
21 raised in your application, the Board is
22 already going to consider.

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1 And secondly, you=re not the next
2 door neighbor, you=re across the street, which
3 you also argue that this development is going
4 to - if relief is granted, it=s going to affect
5 your light and air, which we=re trying to
6 understand that, and that you=re going to be
7 affected by the noise or the acoustic
8 population - pollution in the area, and the
9 reduction in value of the property. Reduction
10 in value of the property is not something that
11 the Board is going to generally consider.

12 You=ve also mentioned here that
13 this property is in an historic district.
14 Well, if there is some historic issues, that=s
15 not where the Board handles, that=s for
16 Historic Preservation Review Board to deal
17 with.

18 So, that=s why I wanted to give you
19 the opportunity to kind of help us get over the
20 threshold for you.

21 MR. ROMNEY: And yes, I think as a
22 neighbor and a witness, I=m uniquely qualified

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1 with a background in architecture, and urban
2 planning, and construction that I've been in
3 professionally for 40 years. So, I feel that
4 this would uniquely qualify me as someone who
5 might comment on the grander neighborhood
6 ramifications.

7 You know, there=s nothing
8 particular to this case except that the
9 precedent it would set in terms of allowing
10 neighbors to then fill it in and suddenly change
11 the character of this neighborhood. And when
12 that happens, precedents get - once they=re
13 set, people can rely on that.

14 And I have a very vivid photograph
15 of what happened in my backyard where someone
16 came in through the back, rear yard setback, and
17 they have a deck that=s basically in my patio.
18 And, you know, to me, that=s kind of uniquely
19 qualifying me to say, AWhoa, fellas and ladies,
20 this is what can happen when a precedent is
21 set,@ you know.

22 Ms. Gregor and Mr. Gregor, I have

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1 met them and introduced myself to them this past
2 weekend saying, "Well, it's nothing against you
3 personally. This is something I feel strongly
4 about." And I took a day off from work without
5 pay because I feel this is a very important
6 thing to do.

7 CHAIR JORDAN: Okay, I thank you.
8 Board, any questions of Mr. Romney?

9 MEMBER HINKLE: Yeah, if I may. If
10 I could just ask you, I understand you live less
11 than 200 feet away from the property, but I was
12 trying to understand where exactly your
13 property is in relationship to the subject
14 property of this.

15 MR. ROMNEY: The subject property
16 is F Street, and if you go south 60-100 feet,
17 it's the alley, another 100 feet is Acker
18 Street, and I'm on Acker Street is my address.

19 MEMBER HINKLE: Okay, but you're
20 not directly behind this property?

21 MR. ROMNEY: I'm not directly on,
22 no.

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1 MEMBER HINKLE: Okay.

2 MR. ROMNEY: No, one of my concerns
3 was, Mr. Hinkle, is that the - with everybody
4 who works so hard in Washington, D.C., people
5 don=t get a chance to read their mail don=t do
6 things, and I tried to make an effort on the past
7 two weekends to, after I filed my motion to be
8 a party of interest, to solicit peoples=
9 opinions on the street that are backed up
10 against.

11 And you know, in all honestly, there
12 were 12-14 people that back up against the F
13 Street applicant, and three of them said, AOh,
14 I didn=t have a chance to read it.@ One
15 couldn=t get online to read it, and the others
16 had not looked and been aware of it at all.

17 CHAIR JORDAN: Anything else from
18 the Board? I do not believe this is a matter
19 where we should grant party status to you, Mr.
20 Romney. I believe you also have a point on our
21 agenda when the case is called to participate
22 by giving whatever dialogue you want, but not

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1 in party status.

2 That=s my recommendation to the
3 Board. I don=t find Mr. Romney to be
4 particularly uniquely affected by this
5 property. In fact, as we=ve just discussed, he
6 lives a little bit away from the property. And
7 additionally, that his issue about setting a
8 precedence, well, each one of our cases are
9 handled on a case by case basis.

10 So, one doesn=t leave precedence
11 for the other. Each has to be dealt with on the
12 merits of each property going forward. So,
13 that would just be my recommendation, my
14 thought on this. The Board, anyone else?

15 MEMBER HINKLE: No, Mr. Chair. I
16 agree with your assessment. You know, Mr.
17 Romney brings up some interesting points, but
18 I don=t see how you=re - or he is, you know,
19 distinctively affected from the general public
20 on this.

21 CHAIR JORDAN: I would like to hear
22 from him if he has time, so we can - in the -

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1 and the point of being in opposition, I would
2 like to hear those other issues, but not in
3 party status. So, I would move that the Board
4 deny a party status in this matter.

5 MEMBER HEATH: Second.

6 CHAIR JORDAN: Motion made and
7 seconded. All those in favor, signify by
8 saying aye.

9 (CHORUS OF AYES)

10 CHAIR JORDAN: Those opposed, nay.
11 The motion carries. Mr. Moy, do we need -

12 MR. MOY: Well, with few numbers
13 here, the motion would carry 3-0. On the
14 motion, the Chairman is seconded by Ms. Heath.

15 CHAIR JORDAN: But, Mr. Romney, I'm
16 going to ask two things. One, if you can stay,
17 so that when we call this case back up, that you
18 can certainly present your matter before us.

19 But, secondly, Ms. Fowler, I'm
20 going to ask that you meet with Mr. Romney and
21 treat him as though he was a member of - had a
22 party status, and talk about any differences

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1 and issues that you can work out, so that he can
2 be more familiar about what you=re doing prior
3 to this case being called again, okay? Thank
4 you.

5 I think we have another party status
6 issue on - yeah, on our 17679 C. So, if a
7 representative of the applicant and - who is
8 that one - Mr. Werner, could come to the table,
9 please?

10 All right. Well, let me do this,
11 being advised by counsel, that we will - that
12 we are just about required to assume the party
13 status that was granted to you before. So, I=m
14 going to ask you two to have conversation.

15 As we do, Mr. Werner, we require
16 those who seek or have party status to have
17 conversations in an attempt to resolve any
18 matter or issues that might go on among the
19 parties.

20 As we say over and over again, we
21 learned that sometimes neighbors, or people
22 with applicants, or party people in party

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1 status don=t have simple conversations, so
2 we=re going to ask you to do that prior to this
3 matter being called. We appreciate that.
4 Thank you.

5 MR. WERNER: Mr. Chairman, just if
6 I can say something then, we have had those
7 conversations, and so -

8 CHAIR JORDAN: I -

9 MR. WERNER: I=m going to drop my
10 request for party status, but I would like to
11 make comments.

12 CHAIR JORDAN: Okay, very good.
13 Thank you very much. And we will have that
14 parting agenda when your case is called. Thank
15 you.

16 MR. WERNER: Very good, thank you.

17 CHAIR JORDAN: See, I=m glad you
18 had those conversations. See, it works.

19 MR. WERNER: It works.

20 (Laughter)

21 CHAIR JORDAN: And we=ve even had
22 people who have had conversations before, prior

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1 to getting here, and say, ANo way,@ and then
2 they go outside, and they come back, and then
3 they=ve worked it out.

4 So, it=s something we believe
5 strongly about, and I really appreciate both
6 for the applicant and Mr. Werner to have taken
7 that step on your own.

8 Okay, anything else I have that I
9 need to clean up? I can go forward now? Okay.
10 Let=s do 732, please.

11 MR. MOY: All right, that would be
12 for public hearing Application Number 18732 of
13 WSD Capital, LLC, pursuant to 11 DCMR 3104.1.
14 Mr. Chairman, this is a request for a special
15 exception under Section 223, not meeting the
16 lot occupancy side yard, and nonconforming
17 structure requirements.

18 CHAIR JORDAN: Okay, is there
19 anyone here on 18732? 18732? Okay, we=re
20 going once, going twice, three times. Let=s
21 set a show cause on that. 729?

22 MR. MOY: Okay, the next case then

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1 is Application Number 18729. This is the
2 application of Eva Noone, pursuant to 11 DCMR
3 3103.2. This is a request for a variance
4 relief from lot occupancy to allow construction
5 of a new family row dwelling.

6 CHAIR JORDAN: Let me catch up with
7 myself. All right. The only thing we - so we
8 have a preliminary matter. Let=s have you
9 identify yourselves, please.

10 MR. BELLO: Mr. Chair, good
11 morning, Toye Bello representing the
12 applicant.

13 MR. JONES: Patrick Jones, the
14 architect.

15 CHAIR JORDAN: 18729, and you are?

16 MR. NEWSOME: Arthur Newsome,
17 representative for Oscar White. Oscar, is
18 that the applicant?

19 CHAIR JORDAN: Is that the - who is
20 that? Who - Newsome? Are you on the right
21 case, sir?

22 MR. NEWSOME: I=m not sure. It=s

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1 18729, yeah.

2 CHAIR JORDAN: And who are you, Mr.
3 Newsome?

4 MR. NEWSOME: Yeah, Newsome.

5 CHAIR JORDAN: You=re Newsome, and
6 your role here is to do what?

7 MR. NEWSOME: Stand in for Oscar.
8 He wasn=t able to make it.

9 CHAIR JORDAN: Oscar is who?
10 Oscar who?

11 MR. NEWSOME: Oscar Blanco.

12 CHAIR JORDAN: Blanco. Who is
13 Oscar Blanco?

14 MR. NEWSOME: Is that not the right
15 case?

16 CHAIR JORDAN: I - I don=t know.
17 Do you have a property address?

18 MR. NEWSOME: The address is -

19 CHAIR JORDAN: Yes, ease up closer
20 to the microphone.

21 MR. NEWSOME: 841 Ingerham Street.

22 (Off mic comments)

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1 CHAIR JORDAN: Yeah, that is not
2 the address to this matter.

3 MR. NEWSOME: Okay.

4 CHAIR JORDAN: Yeah. And in the
5 interim, I=m going to ask you to go across the
6 hall and talk to the Office of Zoning so they
7 can help you get pointed to the case that you
8 have, that you need to be on.

9 MR. NEWSOME: Okay, thank you.

10 CHAIR JORDAN: Okay. Do we have
11 everything we need in this matter? This is a
12 request for waiver of filing deadline
13 pre-hearing statement, which, unless the Board
14 has any issues, we=ll grant that. Nothing in
15 the file from ANC. Did you meet with the ANC,
16 Mr. Bello?

17 MR. BELLO: Yes, Mr. Chair, we met
18 with the ANC and presented a month ago on
19 February the 18th. The ANC did not act upon the
20 application because a single member district
21 commissioner was not present.

22 CHAIR JORDAN: Okay.

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1 MR. BELLO: We tried severally to
2 get in touch with the single member
3 commissioner without success.

4 CHAIR JORDAN: Okay. Let me also
5 ask you, as you know, the Office of Planning was
6 generally supportive of your application
7 except they had some design concerns. Have you
8 had a conversation with the Office of Planning?

9 MR. BELLO: Yes, we did, and I'll
10 perhaps let the architect walk you through some
11 of those changes, mostly to do with the exterior
12 finish material.

13 CHAIR JORDAN: And - all right, so
14 let me do this, has Office of Planning - are you
15 comfortable with the changes made, Ms. Vitale?

16 MS. VITALE: Good morning, Mr.
17 Chairman. Yes, the applicant did submit
18 revised elevations that address -

19 CHAIR JORDAN: Okay.

20 MS. VITALE: - the Office of
21 Planning=s concerns.

22 CHAIR JORDAN: Then I don=t need to

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1 hear from your architect.

2 SPEAKER: There it is.

3 CHAIR JORDAN: All right. Mr.
4 Bello, as I believe, that the file then, we took
5 care of the concerns that I had, and I don=t know
6 if the Board had any additional concerns with
7 this matter.

8 I think the application is very
9 clear regarding why relief is necessary, and
10 that you meet the guidelines for relief in this
11 matter. The Board may have questions.
12 Anything you need from this applicant that you
13 - think the - okay.

14 Then, as you know, it=s your
15 opportunity to either do - to either move on,
16 waive, and come back and rebuttal, or you can
17 go ahead and do a presentation, whichever you
18 want. But, we believe your file, as it sits
19 now, has enough evidence to support the relief
20 requested.

21 MR. BELLO: Just one thing, Mr.
22 Chair. The Office of Planning wanted some form

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1 of treatment of exterior wall, which would be
2 apparently exposed in perpetuity. We=ve asked
3 for openings, but we would need a code waiver
4 from the construction codes official.

5 So, we wanted to set that as an
6 option in the event that the construction code
7 official grants a code waiver to be able to do
8 that.

9 CHAIR JORDAN: Okay, so you can
10 have that conversation with OP, and if there is
11 something that requires a minor modification,
12 then you know how to get that, okay?

13 MR. BELLO: Thank you, Mr. Chair.

14 CHAIR JORDAN: That makes sense.
15 Then so, we=ll move on to Ms. Vitale and see if
16 there is something in regards the Office of
17 Planning wants to add to the report.

18 MS. VITALE: Good morning, Mr.
19 Chair, Elisa Vitale with the Office of
20 Planning. We=ll rest on the record and can
21 answer any questions that you have. Thank you.

22 CHAIR JORDAN: Board questions of

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1 Office of Planning? Does the applicant have
2 questions of Office of Planning?

3 MR. BELLO: No, Mr. Chair.

4 CHAIR JORDAN: Is there anyone here
5 from the Department of Transportation on this
6 particular matter? We do have a letter of no
7 objection to the relief being requested,
8 submitted by the Office - Department of
9 Transportation.

10 Anyone here from ANC 4D, ANC 4D? We
11 don=t have a letter in the file, but the
12 applicant has represented that they have been
13 in contact with ANC 4D and have done a
14 presentation, however, no decision was made,
15 and we have nothing in our file at this point.

16 Is anyone here wishing to speak in
17 support of this application? Anyone here
18 wishing to speak in support of this
19 application? Anyone here wishing to speak in
20 opposition to this application? Anyone in
21 opposition?

22 We would normally turn back to the

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1 applicant for rebuttal, but there is nothing to
2 rebut. And closing, I don=t think you need to
3 do that unless you just wanted to talk.

4 MR. BELLO: No, sir.

5 (Laughter)

6 CHAIR JORDAN: So, we will close
7 the record on this matter and move into
8 deliberation. I believe the file is -
9 substantially shows the need for relief in this
10 matter, and I would move that the Board grant
11 the relief as requested.

12 MEMBER HINKLE: Second.

13 CHAIR JORDAN: Motion made and
14 seconded. Any unreadiness for the discussion?
15 All those in favor, signify by saying aye.

16 (Chorus of ayes)

17 CHAIR JORDAN: Aye. Those
18 opposed, nay. Motion carries. Mr. Moy?

19 MR. MOY: Staff will record the
20 vote as 3-0, this on the motion of Chairman
21 Jordan to approve the application for the
22 relief requested. Seconded motion, Mr.

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1 Hinkle, also in support, Ms. Heath, and we have
2 two board members not present with us today.
3 The motion carries, sir.

4 CHAIR JORDAN: Okay, thank you.

5 MR. MOY: How would you like to
6 write the order, Mr. Chairman?

7 (Laughter)

8 CHAIR JORDAN: So, you=re asking me
9 a summary order? Is that what you=re asking
10 me?

11 (Laughter)

12 CHAIR JORDAN: Yes?

13 MR. MOY: Thank you, sir.

14 CHAIR JORDAN: Thanks. What else
15 do we have in here that=s kind of - Okay, Mr.
16 Moy, would you call 699?

17 MR. MOY: All right. The next
18 application for hearing then would be
19 Application Number 18699 of MR. KELSEY:
20 Enterprises, Inc. This is a request which was
21 advertised for special exception for a change
22 of nonconforming use for a dry cleaners,

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1 alterations, shoe repair, and pick up service
2 under subsection 2003.1, in the R-4 District at
3 2712 11th Street, NW, Square 2859, Lot 855.

4 CHAIR JORDAN: Is there anyone here
5 for this case, 18699? Have you turned in
6 witness cards?

7 MR. KELSEY: Yes, I did.

8 CHAIR JORDAN: Okay, all right.
9 Please, move closer to the microphone and give
10 us your name, please.

11 MR. KELSEY: John Kelsey.

12 CHAIR JORDAN: You need to make
13 sure it=s turned on.

14 MR. KELSEY: The green light is on.

15 CHAIR JORDAN: No, push it again.
16 It=s a bright, glowing, green light.

17 MR. KELSEY: Oh, okay, yes, okay.
18 John Kelsey, 1328 Fairmont Street, NW,
19 Washington, D.C.

20 CHAIR JORDAN: And Mr. Kelsey, you
21 - what are you in relation to this property?

22 MR. KELSEY: I own the property,

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1 proposed property for the dry cleaners.

2 CHAIR JORDAN: We got a couple of
3 issues. Well, one, there is - did you file an
4 affidavit of posting?

5 MR. KELSEY: Yes.

6 CHAIR JORDAN: Do we have that, the
7 affidavit of posting?

8 MR. MOY: Yes, sir, we do. It=s
9 dated February 27th.

10 CHAIR JORDAN: Okay. But, the
11 bigger issue here is that I think we=re going
12 to have to move this off our docket. You
13 initially came in asking for a special
14 exception, and then the relief was amended
15 later for a variance. Is that correct?

16 MR. KELSEY: Yes.

17 CHAIR JORDAN: And the
18 advertisement of this matter, unless you can
19 correct me -

20 MR. KELSEY: Yes.

21 CHAIR JORDAN: - unless - let=s -

22 MR. KELSEY: I actually turned in

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1 the affidavit today.

2 CHAIR JORDAN: The affidavit of
3 what?

4 MR. KELSEY: For the variance, and
5 the posting was March 1st.

6 CHAIR JORDAN: Yeah, but the
7 advertisement there was -

8 MR. KELSEY: Advertisement - well,
9 I don=t know.

10 CHAIR JORDAN: The broad based
11 advertisement -

12 MR. MOY: Yeah, I just want to make
13 a correction, Mr. Chairman. I was looking at
14 the wrong folder. The affidavit of posting was
15 date stamped today, March 18th. So, it=s late.
16 It=s untimely, the affidavit of posting.

17 CHAIR JORDAN: And the notice on
18 this, the advertisement?

19 MR. MOY: Is for - I can=t read the
20 - well, just a second. It says for a variance.
21 I=ll show it to you.

22 CHAIR JORDAN: The advertisement

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1 is for a variance?

2 MR. MOY: On the signage.

3 CHAIR JORDAN: Did you repost this,
4 and what is this -

5 MR. KELSEY: Right, the first one I
6 posted it said for exception. We had it
7 changed.

8 CHAIR JORDAN: Special exception.

9 MR. KELSEY: Right. So, I came
10 back up here and got a new one for -

11 CHAIR JORDAN: Make a new placard
12 for a variance, okay.

13 MR. KELSEY: A variance placard,
14 and I posted that one on March 1st.

15 CHAIR JORDAN: March 1st.

16 MR. KELSEY: And actually -

17 CHAIR JORDAN: March 1st.

18 MR. KELSEY: - I thought that I was
19 going to get it postponed again, and that=s why
20 I gave the affidavit in late. But, I got it
21 notarized and submitted it.

22 CHAIR JORDAN: So, you posted this

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1 new one March 1st?

2 MR. KELSEY: March 1st it was
3 posted, yes.

4 CHAIR JORDAN: And how long has it
5 been up? When did you - did you take it down?

6 MR. KELSEY: Oh, no, no.

7 CHAIR JORDAN: Okay.

8 (Off mic comments)

9 CHAIR JORDAN: All right. And did
10 you have a chance to meet with the ANC regarding
11 this property?

12 MR. KELSEY: On three occasions,
13 and it was a -

14 CHAIR JORDAN: You did meet with
15 them?

16 MR. KELSEY: I met with them, but I
17 don=t think he wrote a recommendation because
18 the last meeting, which was the 6th, I believe,
19 of this month, he had told me - Commissioner
20 Turner emailed me and said, ALook, you don=t
21 have to come down here. We=re going to go ahead
22 and pass this. We do have a problem with the

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1 parking situation, but we'll address that a
2 little later.@"

3 And then I got an email later from
4 Lila from the design committee. She told me
5 that there wasn't enough in the quorum to vote
6 for it. And that's why I was going to just go
7 ahead and postpone it again for the April
8 hearing, and then decided to just go ahead with
9 this. But -

10 CHAIR JORDAN: Okay, all right.
11 All right, I think we're good. We've cleaned
12 up what we needed to clean up in this matter.
13 Outside of that, as this matter has shifted from
14 a special exception because of the use, the
15 previous use, when it actually had been in
16 operation, the use you want to put in place now
17 has been in operation for years.

18 However, it was abandoned for more
19 than three years, so that use went away. So,
20 that's why we had to go back and do the
21 advertisement for a variance.

22 And the other conditions and

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1 requirements for a variance, I believe that you
2 have met those with the application documents
3 already submitted. We understand how the
4 building was previously used for the same use
5 that you want, the cleaners.

6 It=s a commercial structure. It=s
7 just a single floor that=s wide-open. There=s
8 no kitchen or bathroom, all that. We
9 understand how that uniquely affects that
10 property, and then how the problem with
11 converting - at least, I do.

12 MR. KELSEY: B behind that, yes.

13 CHAIR JORDAN: Does the Board need
14 to hear anything from this applicant on this
15 case? Mr. Hinkle?

16 MEMBER HINKLE: Yes, thank you, Mr.
17 Chair. Is there part - I don=t see a site plan.
18 Is there parking on the site? Are you using
19 vans to deliver or pickup, or -

20 MR. KELSEY: There will be - I have
21 contacted a couple of distributors and bidding
22 with them. But, there will be a van that comes

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1 and picks up the clothes, and then drop them
2 off, but that=s in the back.

3 MEMBER HINKLE: Okay.

4 MR. KELSEY: There=s not a site
5 plan for parking because there=s not actually
6 a parking - but, it=s a - there was a two-car
7 garage back there, and I demolished it years
8 ago.

9 MEMBER HINKLE: Okay.

10 MR. KELSEY: And so, the van would
11 be parking back there to offload the clothes and
12 then pick them up, so they won=t be blocking or
13 double parking in front of the establishment.

14 MEMBER HINKLE: Okay. And that=s
15 - so, that=s accessed through the alley?

16 MR. KELSEY: Yes, there=s a ramp
17 that goes straight - I didn=t bring a picture
18 of that, but there=s a ramp that goes straight
19 to the back of the - like - because actually,
20 when it was a dry cleaners and they had a plant,
21 the plant was actually where the garage was.

22 MEMBER HINKLE: Okay.

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1 MR. KELSEY: So, he built the ramp
2 that went straight into the garage.

3 MEMBER HINKLE: Okay, thank you.

4 CHAIR JORDAN: Anything else from
5 the Board?

6 (Off mic comment)

7 CHAIR JORDAN: Is there anything
8 else you think the Board needs to hear from you
9 before - or you might want to hold it until
10 rebuttal.

11 MR. KELSEY: Yes, I'll hold it for
12 rebuttal.

13 CHAIR JORDAN: Let's turn to the
14 Office of Planning and see if there's anything
15 additional. Mr. Brown-Roberts?

16 MS. BROWN-ROBERTS: Good morning,
17 Mr. Chairman and members of the Board. I'm
18 Maxine Brown-Roberts from the Office of
19 Planning. And I will rest on our
20 recommendation except for one thing that I'd
21 like for the applicant to just clarify is the
22 hours of operations, because I'm not sure if I

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1 have the right -

2 CHAIR JORDAN: Yes.

3 MS. BROWN-ROBERTS: - the correct
4 hours. So, if he could just correct that, I=d
5 appreciate it. Thank you, Mr. Chairman.

6 CHAIR JORDAN: Thank you.

7 MR. KELSEY: The hours of
8 operation, it=s going to be daily, just to
9 include Sunday with the same hours.

10 CHAIR JORDAN: And those hours are
11 - is that the 7:00 a.m. to 8:00 p.m.?

12 MR. KELSEY: Yes, 7:00 a.m. to 8:00
13 p.m.

14 CHAIR JORDAN: That=s Monday to
15 Saturday, so you said no Sunday?

16 MR. KELSEY: No, Sunday also.

17 CHAIR JORDAN: What=s the time
18 you=re going to operate on - from 7:00 a.m. to
19 8:00 p.m. on Sunday?

20 MR. KELSEY: Yes, the same hours of
21 the laundromat. I own the laundromat adjacent
22 to it.

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1 CHAIR JORDAN: Okay.

2 MR. KELSEY: And it=s just going to
3 complement the laundromat hours.

4 CHAIR JORDAN: Okay.

5 MEMBER HINKLE: Mr. Chair, if I
6 could ask Ms. Brown-Roberts, is that a
7 condition that you=re proposing within this
8 application?

9 MS. BROWN-ROBERTS: No, no, just
10 some additional information.

11 MEMBER HINKLE: Okay, thank you.

12 CHAIR JORDAN: See, I didn=t see
13 Sunday in the file, but at the hearing now
14 you=re saying Sunday.

15 MS. BROWN-ROBERTS: Right, I
16 wanted to -

17 MEMBER HINKLE: Thank you.

18 CHAIR JORDAN: All right, is there
19 anyone here from the Department of
20 Transportation? We do have a letter of no
21 objection to the relief requested from the
22 Department of Transportation.

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1 Is anyone here from ANC 1B, ANC 1B?
2 Anyone here wishing to speak in support of this
3 application? Anyone wishing to speak in
4 support of this application? Anyone wishing
5 to speak in opposition? Anyone in opposition?

6 We do have a letter in the file from
7 Susan Farris, who has a concern about the
8 operation blocking that alley because it kind
9 of comes at the fork of the alley, which the
10 Board has weighed and taken a look at. Have you
11 had some conversation with Ms. Ferris or
12 anybody in the neighborhood about that?

13 MR. KELSEY: No, and somebody
14 generated a flyer. They didn=t leave a name or
15 anything, and actually dropped off the same
16 flyer next door.

17 CHAIR JORDAN: But, you did talk
18 about this at the ANC meeting?

19 MR. KELSEY: Yes, I did talk to
20 them. And in the flyer that they dropped off
21 - I don=t know if you have a copy of it or not,
22 but it was a pretty fair letter. But - and they

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1 used the word past.

2 And it did happen in the past, and
3 I=m talking seven to ten years ago. And they
4 probably think that opening up the dry cleaners
5 will, you know, the problem will come back up.
6 And like I told people -

7 CHAIR JORDAN: How many times has
8 it blocked up cars in that alley?

9 MR. KELSEY: Ten years ago?

10 CHAIR JORDAN: That=s the only time
11 it happened?

12 MR. KELSEY: Yeah, and you might
13 get a straggler once in a while because we=re
14 in D.C., okay, but you might get a straggler for
15 the most part. But, when it did happen, I took
16 a proactive approach to it, and all I did is
17 explain to the customers, AHey, look, this
18 alley is a dead end alley. Everybody comes in
19 and out.@

20 And at one point ten years ago,
21 there was no one using that alley. But, now
22 because of the parking restrictions, and the

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1 bike lanes, and stuff like that, everybody is
2 tearing their yards up putting driveways in,
3 building garages, and that=s what they did
4 during that time, and now we=re getting a lot
5 of traffic coming in and out of that alley.

6 And when I did see that, I just told
7 the customers, AHey, look, you...@ -

8 CHAIR JORDAN: Okay, okay.

9 MR. KELSEY: Are we good?

10 (Laughter)

11 MR. KELSEY: We=re good, okay.

12 CHAIR JORDAN: Board, any other
13 questions, any other issues?

14 MEMBER HINKLE: Yeah, I=m just
15 curious if the applicant would be amenable to
16 a condition that he maintains a no parking in
17 the alley sign on the side of the building?

18 MR. KELSEY: Actually, there is one
19 there in the alley, right on the light fixture,
20 and that was put up there maybe about ten years
21 ago also. But, again, there=s not a parking
22 problem in there. For the most part, 80 to 90

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1 percent of my customers walk to the laundromat.
2 And I feel the same customers are going to walk
3 to the dry cleaners.

4 CHAIR JORDAN: Anything else? Is
5 that good? Okay. Then let=s conclude this
6 hearing. Is the Board ready to deliberate on
7 this matter? As indicated, I believe the file
8 and the records already before the Board
9 indicates that the relief requested by this
10 applicant should be granted, and I would so
11 move.

12 MEMBER HEATH: Second.

13 CHAIR JORDAN: Motion made and
14 seconded. All those in favor, signify by
15 saying aye.

16 (Chorus of ayes)

17 CHAIR JORDAN: Those opposed, nay.
18 The motion carries. Mr. Moy?

19 MR. MOY: Staff will record the
20 vote as 3-0, this on the motion of Chairman
21 Jordan to approve the amended relief for
22 variance relief, seconded the motion, Ms.

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1 Heath, also in support, Mr. Hinkle, two members
2 not present. The motion carries, Mr.
3 Chairman.

4 CHAIR JORDAN: Okay, summary,
5 please.

6 MR. MOY: Thank you.

7 CHAIR JORDAN: 18707?

8 MR. KELSEY: Thank you.

9 MR. MOY: You=re welcome.

10 CHAIR JORDAN: 18707?

11 MR. MOY: Next up is Application
12 Number 18707. This is the application of
13 Antioch Baptist Church pursuant to 11 DCMR
14 3104.1 and 3103.2. This is a request for a
15 variance from the parking lot location
16 requirements under subsection 214.4 and a
17 special exception to establish an accessory
18 parking and storage lot. This was - this
19 application was originally postponed from its
20 public hearing of February 11th.

21 CHAIR JORDAN: We actually took
22 testimony, I believe, and we needed some

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1 additional information.

2 MR. MOY: Yes, sir.

3 CHAIR JORDAN: We needed to have
4 the, kind of the site plan and the layout of the
5 accessory parking lot, and you submitted that.
6 Did you have a chance to meet with ANC 7C -
7 excuse me, I=m sorry. Let me - identify
8 yourself, please.

9 MR. BROWN: Joseph Brown,
10 representative of Antioch Baptist Church.

11 CHAIR JORDAN: Mr. Brown, did you
12 have an opportunity to meet with ANC 7C?

13 MR. BROWN: Mr. Jordan, I did not
14 meet with the ANC. However, I had several
15 conversations, and I did note in reviewing the
16 packet, that the recommendation was not one of
17 the exhibits. But, I do have a copy of the
18 ANC=s letter to you on the 8th of February 2014.

19 CHAIR JORDAN: I=m trying to see -
20 You met with the ANC or you didn=t meet with the
21 ANC?

22 MR. BROWN: I did not. We

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1 conversed through email and telephone
2 conversations.

3 CHAIR JORDAN: And who did you
4 speak to? Is that Mary Jackson?

5 MR. BROWN: Gregory Stewart.

6 CHAIR JORDAN: Okay, Gregory
7 Stewart. And what did Mr. Stewart say?

8 MR. BROWN: Mr. Stewart indicated,
9 AAt a regularly scheduled properly noticed
10 meeting on January 9th, our commission voted
11 unanimously, 6-0, with four commissioners
12 required for a quorum, to support the
13 applicant=s request for a variance pursuant to
14 DCMR section 3103.2 to allow accessory parking
15 storage not continuous to, or separated by, an
16 alley.@

17 CHAIR JORDAN: Okay, excuse me, one
18 second. Do we have an ANC letter?

19 MR. MOY: We don=t have one on file.

20 CHAIR JORDAN: Could you give us a
21 copy of what you have, please, and give it to
22 - here. Before we run copies, let me just look

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1 at it, please. Thank you. Oh, you made
2 copies, so good, beautiful, thank you. Good,
3 thanks.

4 Okay, yeah, well, this is February
5 8th, yeah, so you do have a letter from - wait
6 a minute - ANC 7C where they give support for
7 this by a vote of 6-0 with a quorum present, and
8 for us to give great weight to, which we will
9 include in our deliberations.

10 Does the Board have any additional
11 questions about this application? Because we
12 had it before and we did get the revised plans.
13 Any questions anybody?

14 Turning to Office of Planning, Mr.
15 Jackson?

16 MR. JACKSON: Mr. Chairman, good
17 morning. My name is Arthur Jackson, D.C.
18 Office of Planning. I'm here to comment on
19 this - make further comments on this
20 application. You have before you the
21 applicant=s revised plan.

22 And in working - in our

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1 conversations, he worked very hard to put in the
2 information I thought was necessary to make it
3 an adequate piece of documentation for this
4 case, and also to turn in for a billing permit.
5 I think applicant=s done a good job pulling it
6 together, so we have no more concerns about this
7 proposal.

8 We think that the screening he=s
9 proposing, the location of the parking spaces,
10 and the existing development - the existing
11 parking lot next to it, I think bodes well for
12 this not being an impediment to the community,
13 so we - that addresses the concerns we had about
14 this application, and we support its approval.

15 CHAIR JORDAN: I thank you, Mr.
16 Jackson. Any additional questions for OP,
17 Board? The applicant, any questions from
18 Office of Planning?

19 MR. BROWN: No, sir.

20 CHAIR JORDAN: And I appreciate you
21 working with the applicant because the plans
22 are completely different -

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1 (Laughter)

2 CHAIR JORDAN: - and they make a lot
3 of sense now. So, that was a thing that was
4 holding us up before. Is anyone here from the
5 Department of Transportation on this file? We
6 do have a letter of no objection from the
7 Department of Transportation supporting your -
8 well, no objections here for relief.

9 And we do have a letter from ANC 7C
10 which you read part of, and which I just
11 indicated we - they voted unanimously to
12 support your application.

13 Is anyone here wishing to speak in
14 support of this application? Anyone wishing
15 to speak in support of this application?
16 Anyone wishing to speak in opposition? Then we
17 will close the hearing based on the record
18 before Board at present.

19 I would move that we grant the
20 relief requested in 18707.

21 MEMBER HINKLE: Second.

22 CHAIR JORDAN: Motion made and

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1 seconded. Additional discussion? All those
2 in favor, signify by saying aye.

3 (Chorus of ayes)

4 CHAIR JORDAN: Those opposed, nay.
5 The motion carries. Thank you. Summary
6 order, please.

7 MR. MOY: Staff will record vote as
8 3-0, this on the motion of Chairman Jordan to
9 approve the application for the relief
10 requested, seconded the motion, Mr. Hinkle,
11 also in support, Ms. Heath, two members not
12 present. Summary order, as you said.

13 CHAIR JORDAN: Yeah, right. See,
14 I was ahead of you.

15 MR. MOY: I guess it - very much so.

16 CHAIR JORDAN: Thanks.

17 (Laughter)

18 CHAIR JORDAN: Thank you very much.
19 I appreciate it. Thank you for submitting
20 those revised plans. All right, now, let=s do
21 17679-C. That was 18671. I think that=s
22 Mister - that=s your case too, yeah. Mr. Moy,

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1 do you want to call it, please?

2 MR. MOY: Yes, sir. This is the
3 application of Jemal=s TP Land, LLC. This is
4 - yes, modification of plans and numerous
5 variances.

6 (Off mic comments)

7 CHAIR JORDAN: Yeah, I think this
8 is pretty straightforward. This is a matter
9 that=s for a modification. We=ve already
10 heard the underlying case some time ago and
11 granted relief, and so, there=s a request to
12 expand the number of units from 38, I think, to
13 50 or something, and then the issue on parking.

14 We had this before didn=t we?
15 Yeah, okay, I thought so. And it requests for
16 95 parking spaces. So, you=re about doing
17 two-thirds or about 90-something percent of the
18 parking that=s required for this spot on this.
19 I think I=m real clear.

20 I don=t know if we=re going to need
21 to qualify any of your experts on this unless
22 there=s something that comes up later. Board,

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1 do we have any issues or questions about this
2 application?

3 MEMBER HEATH: No.

4 CHAIR JORDAN: Okay. I think
5 then, based upon what we've already reviewed -
6 and so, those who are not - who are new to the
7 Board, the Board puts in eight to 12 hours
8 before these cases, going through each one of
9 these files and reading every document in it.

10 That's what I'm doing, catching up
11 with my notes. Sometimes I write in such a way
12 I can't even read my own writing. But, we do
13 that in advance. And so, we would be very
14 familiar or understand any issues or problems
15 with this case, of the cases.

16 This is one I think where your
17 documents already support the relief, and
18 previous relief has been granted. There are
19 some additional needs, but we think that - I
20 think that the evidence that you submitted in
21 the record would support that.

22 And I don't think I have any issues.

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1 And Board, I don=t know if there=s something you
2 need to hear?

3 MEMBER HINKLE: No, Mr. Chair, I=m
4 clear.

5 CHAIR JORDAN: Okay. So, if the
6 applicant thinks they need to put something on
7 now, we can go ahead and come back, and you can
8 hold whatever you need for rebuttal if that
9 would be helpful to you.

10 MS. BATTIES: That=s fine.

11 CHAIR JORDAN: Then let=s turn to
12 Ms. Thomas from Office of Planning and see if
13 there=s anything in addition to her report.

14 MS. THOMAS: Good morning, Mr.
15 Chair and members of the Board, Karen Thomas
16 with the Office of Planning. The only thing
17 I=d do is - with the application on the record
18 is to amend the subject of the first page which
19 says, ABZA Case 18671,@ to reflect that it is,
20 in fact, 17679-C.

21 CHAIR JORDAN: Got it.

22 MS. THOMAS: And I=ll stand on the

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1 record of our report. Thank you.

2 CHAIR JORDAN: Okay. Board,
3 questions for Office of Planning? The
4 applicant, questions for Office of Planning?

5 MS. BATTIES: No questions.

6 (Off mic comment)

7 CHAIR JORDAN: Okay, let=s come
8 back to that. Okay, thank you, page - Anyone
9 here from the Department of Transportation on
10 this matter? Anyone from the Department of
11 Transportation on this case?

12 There were some TDM measures that
13 were offered by the Department of
14 Transportation. Just give me a second. Let
15 me pull those things up. Has the applicant had
16 an opportunity to look at those TDM measures
17 offered by the Department of Transportation and
18 your views on those?

19 MS. BATTIES: Yes, we have, and we
20 have no objection to any of them.

21 CHAIR JORDAN: Okay. All right,
22 then we will include the measures offered - if

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1 this was to pass, we would include these
2 measures offered by the Department of
3 Transportation as a condition of the granting
4 of relief, and those are contained on Page 4.

5 That requires the applicant to
6 identify a TDM leader throughout the phases of
7 this project, and to provide DDOT with an annual
8 contact person to provide an adequate amount of
9 short and long-term bicycle parking spaces,
10 including a secure bicycle room, unbundled
11 parking costs for each - for the leases and
12 purchase, and besides the website, a community
13 connection and etc. that goes with that.

14 All right. Is there anyone here
15 wishing to speak in support of this
16 application? Anyone wishing to speak in
17 support?

18 MR. WERNER: This is Jack Werner.

19 CHAIR JORDAN: Oh, you're going to
20 speak in support? Okay, very good, Mr. Werner.

21 MR. WERNER: Well, I'm going -
22 yeah, put my comments down as neutral, but I'm

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1 removing it from opposition.

2 CHAIR JORDAN: Okay, please take
3 three minutes and provide us your input. Thank
4 you.

5 MR. WERNER: Okay, this is my three
6 minutes. I'm Jack Werner. I reside at 6908
7 Willow Street. I had party status in this
8 case, in the original case, and I just wanted,
9 for the record, to find out, as a matter of
10 procedure, and having been given party status
11 even though this was a modification of the
12 original case, did my party status then
13 disappear and so I did have to reapply for party
14 status, or should I not have had party status?

15 CHAIR JORDAN: You have to reapply
16 based upon a new application, but we were going
17 to grant you party status, but you withdrew that
18 earlier.

19 MR. WERNER: Okay, I just wanted to
20 get clarification. Second, as I mentioned in
21 that earlier statement, we've had meetings
22 between myself and our neighbors, and Jemal

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1 Douglas=s staff, and the issue was around
2 traffic, and particularly on parking, and
3 traffic, and sort of the whole transportation
4 issue.

5 So, we have come up with what looks
6 like a pretty good solution, and they have
7 committed to conducting a new traffic study and
8 to work with us in terms of looking at a new
9 traffic study. So, I just wanted to put that
10 on the record, and we=re very pleased that they
11 have committed to do that.

12 The third point was on the number of
13 units. The neighbors and everyone really did
14 have a major concern over the increase from 76
15 to 100 units, and that relates to, you know, all
16 of the issues that were listed before on traffic
17 and so forth, and parking, and noise, and other
18 issues that might come up.

19 So, we=re, you know, we=re in the
20 process of, again, working with them on those
21 issues as well. And so, we withdrew our
22 opposition to that.

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1 And then finally, just to put it on
2 the record, there is - the Jemal Douglas family
3 does own the property across the street from
4 this development.

5 It=s a major commercial piece of
6 property that they=re also in the process of
7 starting to do some development on, so we wanted
8 to just kind of put that on the record that that
9 also could have impacts on transportation, the
10 traffic, parking, and issues, and so forth, so
11 that that=s all coming down the pike from what
12 we understand further down the road.

13 So, we=re in discussions with the
14 neighbors and the developer, and in discussions
15 about that impact. So, that=s kind of all I
16 wanted to say. Thank you.

17 CHAIR JORDAN: Very good, and thank
18 you. And we always encourage the dialogue
19 between an applicant and the neighbors. It
20 just makes things a lot easier, and people live
21 in these neighborhoods, so it=s important that
22 we have that, and we appreciate the dialogue

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1 that was given.

2 I think I was remiss, and I think I
3 skipped over ANC 4B. Is there a representative
4 here from ANC 4B, ANC 4B? We do have a letter
5 to which the Board will give great weight and
6 a unanimous vote of 9-0 in support of this
7 application.

8 Anyone wishing to speak in
9 opposition? Anyone wishing to speak in
10 opposition? Sir, let me ask you a question, is
11 there a reason why you're standing?

12 (Off mic comment)

13 CHAIR JORDAN: Okay, well, yeah,
14 you've been standing for a while, and I was just
15 wondering if you were trying to come forward or
16 not, or whatever, but, okay.

17 Anyone else - anyone wishing to
18 speak in opposition? Anyone in opposition?
19 Then we will turn back to the -

20 (Timer goes off)

21 CHAIR JORDAN: That means I need to
22 stop?

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1 (Laughter)

2 CHAIR JORDAN: We will turn back to
3 the applicant for any rebuttal and closing, but
4 there is nothing to rebut, and there is nothing
5 to close. Then, we will close the record based
6 on what we've already added in the record on
7 this matter.

8 I believe that the file indicates
9 the need for this relief. There has been
10 support from OP, and the ANC, and the applicant
11 has reached out to the neighborhood, and has
12 tried to make some compromises.

13 Department of Transportation has
14 offered some conditions that I think would
15 mitigate any traffic issues in their view, but
16 there's going to be continued dialogue between
17 the applicant and the neighborhood regarding
18 that.

19 So, with that, I would move that we
20 grant the relief requested with the conditions
21 proposed by - as the TDM measures of Page 4 of
22 the Department of Transportation be included in

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1 the order as conditions. That would be my
2 motion.

3 MEMBER HEATH: Second.

4 CHAIR JORDAN: Motion made and
5 seconded. Any unreadiness? All those in
6 favor, signify by saying aye.

7 (Chorus of ayes)

8 CHAIR JORDAN: Those opposed, nay.
9 The motion carries. Mr. Moy?

10 MR. MOY: The staff will record the
11 vote as 3-0, this on the motion of Chairman
12 Jordan, to approve the application for the
13 relief requested, including the conditions as
14 cited by the Chairman and the Board, seconding
15 the motion is Ms. Heath, also in support, Mr.
16 Hinkle. We have two members not present. The
17 motion carries.

18 CHAIR JORDAN: Summary, please?

19 MR. MOY: Thank you, sir.

20 MS. BATTIES: Thank you.

21 (Off mic comments)

22 CHAIR JORDAN: All right, 730,

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1 please. Let=s go back to the top and handle
2 those matters which we think we=re going to have
3 to deduce evidence on.

4 MR. MOY: Okay, the next
5 application is number 18730. This is the
6 application of Joseph and Janet Gregor pursuant
7 to 11 DCMR 3104.1. Again, this is a request for
8 a special exception under section 223, not
9 meeting lot occupancy nonconforming structure
10 requirements at 651 F Street, NE.

11 CHAIR JORDAN: All right. Would
12 you please introduce yourselves again, please?

13 MS. FOWLER: Jennifer Fowler, I=m
14 the architect.

15 MS. GREGOR: Janet Gregor, 651 F
16 Street, NE resident.

17 CHAIR JORDAN: Okay. So, I know we
18 have some opposition, as you=re aware, to this
19 matter. I think the record, though, shows that
20 you do - the property has some uniqueness, and
21 the reason why relief should be - excuse me, not
22 - this is special exception - a special

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1 exception that you would qualify for the relief
2 that=s granted.

3 However, have you had a chance to
4 have a conversation with Mr. Romney about his
5 concerns?

6 MS. FOWLER: Yes, sir. We
7 discussed the project in depth with Mr. Romney.
8 We explained the nature of the relief and why
9 we=re going through the process. We also
10 explained the fact that we=re connecting to an
11 existing party wall that they own half of, so
12 we=re just filling in -

13 CHAIR JORDAN: They?

14 MS. FOWLER: I=m sorry?

15 CHAIR JORDAN: You said they.

16 MS. FOWLER: The Gregors, I=m
17 sorry.

18 CHAIR JORDAN: Okay.

19 MS. FOWLER: And also the fact that
20 the lot numbers are not changing. We=re
21 keeping it at the 66.1 percent, and we=re
22 filling in a nonconforming court that could not

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1 be built today with current zoning standards.

2 We also explained that there=s no
3 impact on the light and air enjoyed by anyone.
4 The only impact would be to the bedroom window
5 in their house, and it=s inside the Gregors=
6 property, but not any impact to the adjacent
7 properties, nor to the alley or to the yard.

8 We also discussed precedent and
9 kind of how that works, and that everybody on
10 his block, or our - or this block, would have
11 to go through the same process to do any
12 additional - add any additional space.

13 And then he showed us photos of an
14 illegal deck that=s on his alley that he
15 mentioned earlier in testimony. While we
16 appreciate his concerns, you know, we feel like
17 it=s not a proper venue for this opposition.

18 To me, it sounds like historic
19 preservation concerns, less so than light and
20 air or privacy. We - I just wanted to mention
21 that we have gotten approval from the Historic
22 Preservation at staff level. They have no

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1 concerns about this project. We also have
2 CHRS=s support, and we had full, unanimous
3 support from ANC.

4 It=s a very modest project that=s
5 going to greatly impact - have a great
6 improvement of the quality of life for my
7 clients, with a very, very minor impact on the
8 exterior.

9 CHAIR JORDAN: We=re good, because
10 this is a special exception. This is not
11 requesting a variance. And so, the standard is
12 a bit - it=s a lot lower, and we understand that,
13 and we see that you meet the criteria for that
14 based on what=s been submitted.

15 However, I don=t think there=s
16 anything else we need to hear from this
17 applicant unless the Board has some additional
18 questions. Then, let=s turn to the Office of
19 Planning and see if Mr. Gyor has anything in
20 addition to his report.

21 MR. GYOR: Good morning, Mr.
22 Chairman and members of the Board, Stephen Gyor

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1 with the Office of Planning. The Office of
2 Planning supports the application and rests on
3 the record. Thank you.

4 CHAIR JORDAN: Board, questions
5 for Mr. Gyor?

6 MEMBER HEATH: No.

7 CHAIR JORDAN: Applicant, any
8 questions for Mr. Gyor?

9 MS. FOWLER: No, thank you.

10 CHAIR JORDAN: Is there anyone here
11 from the Department of Transportation on this
12 case? I didn=t see a DDOT report. Do we have
13 a DDOT report? I don=t think I saw one. I
14 might have missed it, so - no? Okay.

15 Is there anyone here from ANC 6C,
16 ANC 6C? We do have a letter from ANC 6C where
17 they voted unanimously to support this
18 application by a vote of 5-0 in support of this
19 application, so we will give that great weight.

20 Anyone here wishing to speak in
21 support of this application? Anyone in
22 support? Anyone in opposition? Mr. Romney?

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1 Yes, please.

2 MR. ROMNEY: Thank you, Mr.
3 Chairman.

4 CHAIR JORDAN: You usually get
5 three minutes, but since you applied for party
6 status, and we know there might be something
7 additional you want to talk about, you can take
8 up to five minutes, that would be fine.

9 MR. ROMNEY: Thank you. Perhaps
10 its more of a procedural question that I have
11 with planning and with the zoning variance in
12 terms of one of the -

13 CHAIR JORDAN: Well, you know this
14 is not a variance. This is a special exception
15 which is completely different than a variance.

16 MR. ROMNEY: The special
17 exception.

18 CHAIR JORDAN: Okay.

19 MR. ROMNEY: Thank you for
20 clarifying my terminology.

21 CHAIR JORDAN: In fact, so - those
22 who are not familiar with zoning, the Board is

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1 very handcuffed in regards to special
2 exceptions versus zoning. There=s less
3 discretion that the Board has in regard to
4 special exceptions. If the certain bullets
5 are hit, then it=s - the Board is required to
6 follow suit. Okay, go ahead.

7 MR. ROMNEY: Thank you, Mr.
8 Chairman. And Jennifer was kind enough to
9 explain with the special exception how this lot
10 was in nonconformance already, although it=s
11 only built at 60 percent, which seems to be, to
12 me, a conforming built lot, and that=s what the
13 plat plan shows, which I think you all have too.

14 And you can see they=re all
15 conforming lots that the developer built back
16 when they did. As Jennifer pointed out, the
17 courtyards now are nonconforming, but they
18 were, in an effort to let in light and air, and
19 to do acoustic attenuation, by having these
20 little baffles of light wells.

21 And to me, it feels like it=s not a
22 special exception within that, but you=re going

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1 from 60, a conforming lot, to 68 percent because
2 the lot coverage is 60 percent.

3 CHAIR JORDAN: 61.

4 MS. FOWLER: 66.1 percent.

5 CHAIR JORDAN: Right, okay.

6 MR. ROMNEY: Right, and that=s
7 because the lot is covered - or the dog leg is
8 included within the calculation, so that was
9 explained.

10 CHAIR JORDAN: 66.1.

11 MR. ROMNEY: Is there a
12 clarification the Board could give me on that
13 of why - I mean, is it - or perhaps Planning,
14 Mr. Gyor?

15 CHAIR JORDAN: What are you -

16 MR. ROMNEY: I=m confused of the
17 lot coverage is 60 percent within the one
18 percent. But, as Ms. Fowler=s calculations do
19 it, it=s 68 percent because the dog leg is
20 counted as lot coverage, but there=s no
21 building on that.

22 CHAIR JORDAN: Why don=t you have

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1 that conversation with Office of Planning or
2 Office of Zoning after this hearing? This is
3 the point where we take your statement.

4 MR. ROMNEY: I see, thank you. I
5 do think that the procedure sometimes is not as
6 accessible to the neighbors as it could be.
7 So, as a statement, I have, of the dozen
8 neighbors that back up against the lot, I have
9 seven people that signed that said it doesn't
10 feel like it should be a special exception to
11 fill in the dog leg, that it would set a
12 precedent which is -

13 CHAIR JORDAN: Let me make sure, so
14 when you talk to the others, there is no
15 precedent setting generally by cases in the BZA
16 to extend. Each case has to stand on its own
17 merit.

18 So, another applicant can't come in
19 and say, AWell, that house has it, and you
20 granted that relief in that case, and that means
21 you have to do it in ours.@ It doesn't happen
22 that way.

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1 MR. ROMNEY: And thank you for that
2 clarification. In my experience, I've seen
3 that happen, and I appreciate that you're
4 resting me assured that it won't.

5 CHAIR JORDAN: We have many people
6 around here that tried that, and just send them
7 right back, so.

8 MR. ROMNEY: Thank you for your
9 time.

10 CHAIR JORDAN: Thank you, and we
11 really appreciate you coming down, and for
12 neighbors to make input in regards to these
13 properties that are - or changes are being made
14 in the neighborhood, and this is the forum to
15 do it. So, we do need to hear that.

16 And regarding the processes and
17 procedures of the Board of Zoning Adjustment as
18 well as the Zoning Commission, the website of
19 the Department - the Office of Zoning has every
20 way to explain what we do here, what zoning is
21 about, tutorials and etcetera.

22 So, I welcome people to go look at

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1 that, and if you still have questions, contact
2 the Office of Zoning. They=re really good at
3 explaining those things to people. And also,
4 the first - another avenue of help is the Office
5 of Planning.

6 So - but, people should, if you need
7 help with that - and we also have pamphlets.
8 The Office of Zoning has plenty of pamphlets,
9 and flyers, and etcetera explaining the
10 processes.

11 And I=m not just talking to you, I=m
12 just talking in general for those who are
13 listening in at home and etcetera, so that you
14 can familiarize yourself with zoning. Zoning
15 is hard enough even when you=re not familiar
16 with it.

17 (Laughter)

18 CHAIR JORDAN: Or even if you are
19 familiar with it, it=s difficult. So, we
20 appreciate that. Anyone else wishing to
21 speaking in opposition? Anyone else wishing
22 to speak in opposition?

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1 Then we would move back to the
2 applicant for what would normally be rebuttal
3 or closing, but there isn't any need to rebut
4 in this matter, so we will close the record
5 based upon what has been submitted to the Board.

6 I believe this is a clear showing
7 that you meet within the guidelines for the
8 special exception relief. There is no issue of
9 light and air. The properties are not being
10 unduly affected. There is not a privacy use
11 issue. The - there is no visual impact from the
12 alley or from the street regarding this
13 addition.

14 The geographical - the graphical
15 plans that you submitted to this Board
16 certainly represent - clearly represent that,
17 what you're doing. The - and there is no other
18 reason why I can't see why we don't grant the
19 relief. Mr. Hinkle?

20 MEMBER HINKLE: Yes, thank you, Mr.
21 Chair. I just wanted to make a statement. I
22 tend to agree with you. I wanted to give my

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1 appreciation to the applicant and Ms. Fowler
2 because it=s a really well put together
3 application.

4 In particular, the burden of proof,
5 which is our Exhibit 9, I thought is really
6 helpful the way it=s structured, and I just
7 wanted to make that statement. We see all
8 different applications, but this was really
9 well put together. Thank you.

10 CHAIR JORDAN: And I was impressed
11 about - so they didn=t impact on the neighbors,
12 how that was gone about -

13 MEMBER HINKLE: Right, right.

14 CHAIR JORDAN: - on the window
15 side. I thought that was interesting.

16 MEMBER HINKLE: So, if you made a
17 motion, I=ll second that.

18 CHAIR JORDAN: You can make it.

19 MEMBER HINKLE: Oh.

20 CHAIR JORDAN: I don=t want to be
21 the motion hog.

22 (Laughter)

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1 MEMBER HINKLE: Well, then I=ll
2 make a motion to approve the application as
3 submitted.

4 CHAIR JORDAN: Do you want to
5 second? Yeah, I=ve never seconded. Second.

6 MEMBER HEATH: There you go.

7 (Laughter)

8 CHAIR JORDAN: Motion made and
9 seconded to grant the relief requested. Any
10 unreadiness? All those in favor, signify by
11 saying aye.

12 (Chorus of ayes)

13 CHAIR JORDAN: Those opposed, nay.
14 The motion carries. Mr. Moy?

15 MR. MOY: Yes, sir, staff would
16 record the vote as 3-0, this on the motion of
17 Mr. Hinkle, seconded the motion, Chairman
18 Jordan, also in support, Ms. Heath, and two
19 Board members not present. The motion
20 carries, sir.

21 CHAIR JORDAN: Thank you. Then
22 that=s - I guess we=ll have a summary order.

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1 MR. MOY: All right, thank you,
2 sir.

3 CHAIR JORDAN: Okay, let=s take a
4 brief five minute recess, and then we=re going
5 to come back with 18731.

6 (Whereupon, the hearing went off
7 the record at 10:51 a.m. and went
8 back on the record at 10:58 a.m.)

9 CHAIR JORDAN: All right, did we
10 call it?

11 MR. MOY: You want me to call it?

12 CHAIR JORDAN: Yeah. You want me
13 to call it?

14 MR. MOY: No, I can call it. It=s
15 just that the -

16 CHAIR JORDAN: If you want me to
17 call it, I can call it.

18 MR. MOY: It=s just that the other
19 battery came through the plate. The Board is
20 looking at Application Number 18613. This is
21 the application for -

22 CHAIR JORDAN: No, no, no, wait a

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1 minute.

2 MR. MOY: Wrong one?

3 CHAIR JORDAN: It=s a different
4 page, 731, right? You=re 731, right?

5 MR. MOY: Okay, perfect.

6 (Laughter)

7 MR. MOY: Sorry, sir.

8 CHAIR JORDAN: I guess I should
9 call it.

10 (Laughter)

11 MR. MOY: No, no, that=s fine.
12 Okay, well, it=s the snow day, I guess. But,
13 okay, 18731. This is the application of
14 Horizon Hill Ventures. This is pursuant to 11
15 DCMR 3104.1 and 3103.2.

16 Mr. Chairman, this is a request for,
17 as advertised, a special exception under
18 section 353, and variances for parking
19 requirements, loading, aisle width, and
20 nonconforming structure provisions, yes.

21 And also for the record, Mr.
22 Chairman, the applicant filed a waiver of time

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1 to allow a supplemental layer which, of course,
2 was due in 14 days prior to the hearing, so
3 that=s in your case folders.

4 (Off mic comments)

5 CHAIR JORDAN: Okay, please
6 introduce yourselves.

7 MS. WHITE: Okay, I=m the
8 transportation consultant on the team, Nicole
9 White with Symmetra Design.

10 MR. FEOLA: Phil Feola with
11 Goulston and Storrs.

12 MR. KOZERO: Jeff Kozero with K4,
13 the architects and engineers.

14 MS. RODDY: Christine Roddy with
15 Goulston and Storrs.

16 MR. EDMONDSON: I=m Jim Edmondson,
17 co-developer.

18 CHAIR JORDAN: Okay, okay, let=s go
19 back a second. All right, there was a motion
20 to waive filing issue. That=s done. We got
21 it, granted. Was this presented to the ANC?

22 MS. RODDY: We were scheduled to

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1 present on March 3rd, but there was a snow storm
2 that day, and it was initially rescheduled for
3 March 10th, but then it was subsequently
4 rescheduled for April 7th.

5 So, we, as Mr. Edmondson can
6 testify, we have - he has met with the Chair of
7 the ANC, but we have not done the presentation
8 to the full ANC.

9 CHAIR JORDAN: Okay. Let=s kind
10 of hit a couple of things. You know, of course,
11 you know we=ve reviewed the file. Am I clear
12 that there=s attic space that you=re trying to
13 put to use, and you=re going to do a little, a
14 pop-up from that about another foot height. Is
15 - or am I right or wrong?

16 MS. RODDY: We are going up in
17 height. We are going up to 35 feet, so it=s
18 still within the 40-foot height limit. We are
19 adding a duplex story as the third level. And
20 what we - we filed a prehearing statement with
21 amended relief.

22 We don=t believe that the duplex

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1 constitutes two separate stories to equal four
2 stories. We believe that it=s a third story
3 with two levels. We asked the zoning
4 administrator for a determination on that, and
5 unfortunately, we haven=t received that yet.

6 So, we did amend the application out
7 of - as a precaution to include relief for a
8 fourth story, but it is still within the height
9 limit.

10 CHAIR JORDAN: Okay. All right,
11 and you=re aware that the Office of Planning is
12 not supportive of the height request?

13 MS. RODDY: We understand that they
14 had some concerns with the practical difficulty
15 in providing the duplex units, and we are
16 prepared to testify to that.

17 The submission that we provided on
18 Friday included additional information which
19 we believe addresses the practical difficulty
20 that the applicant is facing.

21 CHAIR JORDAN: And let me - are you
22 - do you have with you - I saw nothing in that

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1 filing that talked about the rate of return on
2 investment of the money.

3 I didn=t see anything that
4 discussed the marketing aspect of - some of the
5 conclusions you reached, I saw nothing that
6 supported it, I just saw conclusions. I didn=t
7 see the underlying basis for those conclusions.

8 MS. RODDY: Right, and we can
9 testify to that today. One of the - some of the
10 information we did provide was with the DHC
11 limit on the subsidies and why we need to be with
12 - underneath that 75,000.

13 CHAIR JORDAN: And so, you=re
14 seeking nine percent money on this from the DHC,
15 nine percent tax credits?

16 MR. EDMONDSON: No.

17 CHAIR JORDAN: You=re doing four
18 and a half?

19 MR. EDMONDSON: Yes, sir.

20 CHAIR JORDAN: Okay. So, it
21 doesn=t change because - yeah, I was just
22 wondering. All right. Okay, so, why don=t

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1 you go ahead, please?

2 MS. RODDY: Sure, thank you. As
3 you know, my name is Christine Roddy, and I=m
4 an attorney with Goulston and Storrs, and we=re
5 here this morning on behalf of the applicant,
6 Horizon Hill Ventures, as well as the ENG Group.

7 And we=re requesting special
8 exception and variance relief for this
9 affordable project. And we=re excited about
10 it because it=s an affordable project that will
11 provide 110 units right by the Congress Heights
12 Metro Station.

13 And that not only will be a transit
14 oriented development, but there are going to be
15 a number of different unit types. I=m sure
16 that everyone has seen in the news recently that
17 there really is a dearth of affordable housing
18 for families.

19 So, this project will not only
20 provide the studios and the one-bedrooms, but
21 will also have the two-bedrooms as well as the
22 three-bedrooms. And as we discussed, it will

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1 have duplex units, which, again, is an optimal
2 housing for a family.

3 And I believe it=s actually one of
4 the few, if not the only, affordable project
5 that would provide those duplex units.

6 CHAIR JORDAN: Let me do this -

7 MS. RODDY: Okay.

8 CHAIR JORDAN: - to save time and
9 effort, because I just went back through my
10 notes because I was catching myself up and
11 indicating - I think even without the
12 financials, I think you=ve made an argument for
13 practical difficulty basically, from my
14 understanding.

15 So, if we don=t mind, let=s go to
16 Office of Planning and hear from Mr. Jackson,
17 and let=s work our way back and maybe put on a
18 rebuttal if necessary.

19 MS. RODDY: Sounds good.

20 CHAIR JORDAN: Mr. Jackson?

21 MR. JACKSON: Good morning.

22 CHAIR JORDAN: You know I haven=t

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1 called you in a long time.

2 MR. JACKSON: That=s true.

3 (Laughter)

4 MR. JACKSON: This is Arthur
5 Jackson, again, with the DC Office of Planning.
6 Briefly, I=ll go through the relief that we are
7 supporting. We are supporting the relief from
8 the parking requirement on the lot number - on
9 parcel number one because we think they have
10 squeezed in about as much parking as they could
11 on the site.

12 We also support the loading relief
13 from the 55-foot loading berth in that they=re
14 providing a 30-foot loading berth. They=re
15 providing a - more than the required height or
16 required size of the loading platform which is
17 100 square feet. It=s about 166 square feet
18 for the loading platform.

19 And the applicant has indicated
20 they are going to put back the parking - the
21 delivery and parking space at the end of the
22 bay, is what they=re calling it on the plan,

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1 that was on the first submission, on the
2 original submission, but not on the revised
3 supplemental submission.

4 Then we also support the relief
5 requested from the drive aisle width on parcel
6 number three in that we think that the fact that
7 they=re providing more than required parking -
8 well, the applicant=s caught in a catch 22
9 there.

10 They can provide the amount of
11 parking and more, or they could provide the
12 drive aisle width, and that=s - and - which in
13 some cases goes down to 16 feet. But, we think
14 since it=s primary for the residents of the
15 building, that the residents should be able to
16 work around that in the long term, so we support
17 that relief.

18 We had some concerns about the
19 height in that the Office of Planning usually
20 does not support additional - going over
21 allowable height in the zoning district unless
22 there are curious circumstances.

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1 The initial supplemental that was
2 provided by the applicant did not - did seem
3 more along, more in line with a PUD filing as
4 opposed to a variance filing.

5 However, the additional submission
6 that talks about what's anticipated to be the
7 limit on subsidies to this type of development,
8 and how the proposal with the - without the
9 addition would require more subsidy per unit
10 than would be allowed, is very persuasive.

11 What we would rather see though, is
12 that the actual - the subsidy limit actually
13 have been addressed - actually have been
14 announced. We understand the announcement is
15 coming up in early May.

16 And we also would - we wanted to make
17 sure that applicant had considered all the
18 possible - other possible options to reach the
19 numbers they need to require. And, of course,
20 the brief amount of time that we spoke with the
21 applicant and got the information back to us,
22 we really appreciate that quick work.

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1 It just seems like there are just a
2 few details that probably need to be fleshed
3 out, particularly with regard to what the
4 difference is - what the difference is between
5 what could have been done in terms of the mix
6 of units without the subsidy, and what can be
7 done with it.

8 But, this - the information they
9 provided in the second supplemental in
10 particular, I think is very persuasive.

11 CHAIR JORDAN: Okay, I think we're
12 all on the same page with it. Because like I
13 said, this is - you're going after - you're
14 going to get four and a half percent money and
15 not the nine percent money, so, you know, that=s
16 almost a no-brainer in that regard, okay. Yes?

17 MR. EDMONDSON: The issue, sir, is
18 the amount of what we refer to as gap financing
19 from the Department of Housing and Community
20 Development.

21 And the - we're fortunate in that
22 the city, through the current mayor=s efforts,

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1 has significantly increased the amount of
2 dollars available for that kind of financing to
3 create affordable units.

4 On the other hand, we can=t abuse
5 that by requesting more than a reasonable
6 amount of money per unit produced. The
7 realities of affordable housing in the
8 District, or virtually any place for that
9 matter, requires capital subsidies in order to
10 make the numbers work because we have rent
11 restrictions.

12 We can only - we can=t get \$2,500 per
13 unit for a new apartment. A one-bedroom unit
14 rent cap is about \$1,100 per month. So, we have
15 capital restraints as a result of that, and we
16 need money that does not require debt service.
17 The city=s money from DHC is that resource.
18 But, asking for too much per unit -

19 CHAIR JORDAN: I understand.

20 MR. EDMONDSON: - a problem.

21 CHAIR JORDAN: Board, any
22 questions for Mr. Jackson? The applicant, any

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1 questions of Mr. Jackson? Anyone here from the
2 Department of Transportation on this matter?
3 We do have a letter from DDOT with no objection
4 to the relief being requested. ANC 8E, would
5 you - what happened with ANC 8E?

6 MS. RODDY: Again, we met -

7 CHAIR JORDAN: The meeting is in
8 April or something, got it.

9 MS. RODDY: Right, we did - Mr.
10 Edmondson did meet with the Chairperson, but
11 again, there was no formal presentation to the
12 full ANC.

13 MR. EDMONDSON: Mr. Chairman, the
14 Chairman of the ANC made several requests
15 regarding our contributions in the community,
16 each of which was perfectly reasonable, and we
17 will agree to provide. It included a -

18 CHAIR JORDAN: That=s okay.

19 MR. EDMONDSON: Okay.

20 CHAIR JORDAN: You know, we=re not
21 having a PUD discussion, so. And if it was any
22 issues that they raised about this relief

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1 directly affecting, the other public benefit
2 kind of stuff is - it=s certainly a Zoning
3 Commission conversation.

4 MR. EDMONDSON: No, sir.

5 CHAIR JORDAN: Is anyone here
6 wishing to testify in support of this
7 application? Anyone in support? Anyone in
8 opposition? Anyone in opposition? Then let
9 me just ask - and I just lost that, whatever that
10 question I was going to ask.

11 Well, I didn=t see in your numbers,
12 what=s your - what=s the - your cost of your
13 money? What=s your cost of - your finance cost
14 percentage?

15 MR. EDMONDSON: Well, with low
16 income housing tax credits, there literally is
17 no cost. The investors put in capital
18 resources and get a return based upon the tax
19 credits that they receive over a ten year
20 period. The internal rate of return on that
21 money is unbelievably small.

22 CHAIR JORDAN: Yeah, but you - so,

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1 you=re not doing - seeing any other debt?

2 MR. EDMONDSON: We=re doing bond
3 debt. The DCHFA will issue the bonds. The
4 interest rate on the bonds is likely to be
5 something like five and a half, five and
6 three-quarter percent.

7 CHAIR JORDAN: Okay. What=s the
8 overall rate of return on - to the applicant on
9 the project?

10 MR. EDMONDSON: We actually don=t
11 calculate a formal rate of return for us. The
12 primary motivation for us is development fees.
13 Under the DCHFA rules, the maximum development
14 fee for a project, whether it=s a small one or
15 a big one, is \$2,500,000, and that=s - and we
16 get paid that over an extended period of time.

17 CHAIR JORDAN: All right, did I see
18 - I guess I missed the revenue bond aspect in
19 your numbers.

20 MR. EDMONDSON: Well, the DCHFA -
21 the debt that we talk about in the numbers, the
22 - is tax exempt bonds issued through DCHFA.

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1 That=s the primary debt. The subordinated
2 debt, the soft money from DHCD is a very
3 significant number, and that=s the number that
4 has - typically had a cap.

5 The last time, last year when the -
6 when we had to compete for allocations for the
7 funding, the cap per unit from the DHCD was
8 \$75,000. We expect the number to be similar
9 this year, but we don=t know precisely what it
10 will be yet. We=ll know on April 2nd.

11 CHAIR JORDAN: Okay. Is there
12 anything that the applicant needs to add, they
13 believe they need to add to this request for
14 relief? I think there was - was there TDM
15 measures for this project? Yeah, there are TDM
16 measures. Are these - whose TDM measures are
17 these? These are DDOT=s TDMs? Yes?

18 MS. RODDY: DDOT did not propose
19 any TDM measures. They - if you look at page
20 40 of our transportation analysis, we provide
21 that we will provide more bicycle spaces, and
22 that we will allow residents of parcel one to

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1 use parcel three parking.

2 MR. JACKSON: Mr. Chairman?

3 CHAIR JORDAN: Yes?

4 MR. JACKSON: Excuse me, I don=t
5 mean to interrupt. But, when the Office of
6 Planning did our report, we suggested that the
7 TDM measures in the report that were provided
8 by the applicant be considered for conditions
9 of approvals.

10 CHAIR JORDAN: Is that the one that
11 said, ADuring construction, maintain and
12 coordinate...@

13 MR. JACKSON: Yes, and I believe -

14 CHAIR JORDAN: - A... application
15 of existing bus stops.@?

16 MR. JACKSON: Right, and that was
17 straight out of the Department of
18 Transportation -

19 CHAIR JORDAN: Right.

20 MR. JACKSON: - guidelines. So,
21 we just thought that would we - because
22 everybody doesn=t know what the Department of

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1 Transportation guidelines are, so. But,
2 that=s all that.

3 CHAIR JORDAN: I must have missed
4 the ones that=s in the applicant=s proposal.
5 What - you said page 40?

6 MR. JACKSON: It=s in the
7 applicant=s transportation study in the back.
8 There are discussions of the recommendations
9 and a discussion of impacts, and it lists the
10 transportation measures that are - makes
11 reference to a study that was done by the
12 Department of Transportation.

13 And that study looked at the typical
14 standard TDM measures for - they referred to
15 standard TDM measures for a project that=s
16 generating less than 50 trips per day, or is it
17 per week?

18 CHAIR JORDAN: And that would be
19 the four that I just mentioned?

20 MR. JACKSON: Yes.

21 CHAIR JORDAN: Right.

22 MR. JACKSON: The applicant=s - the

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1 principle on this that=s being provided in the
2 plans is the additional, over and above the
3 level, of bicycle parking on the site. And the
4 others, I think, are more operational.

5 So, we suggested that if those are
6 the measures that the applicant is going to be
7 implementing, that they just be listed, because
8 unless you want to look on the Department of
9 Transportation website and try to dig them out,
10 you wouldn=t know what they were.

11 And I think the Office of Planning=s
12 report, the list in Office of Planning=s report
13 is pretty - is faithful to what was in the
14 Department of Transportation study.

15 CHAIR JORDAN: Okay, just give me
16 one second, please. Ms. Roddy, list for me
17 those conditions that are on your report.

18 MS. RODDY: Sure. The applicant
19 will exceed the required bicycle parking
20 spaces, and provide for a total of 68 bicycle
21 spaces.

22 CHAIR JORDAN: Is that 68?

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1 MS. RODDY: 68, yes. And the
2 applicant will allow residents of parcel one to
3 also utilize parking spaces on parcels two and
4 three.

5 CHAIR JORDAN: Okay. That=s it?

6 MR. JACKSON: One point of
7 clarification. There aren=t any parking space
8 on parcel two, are there?

9 MS. RODDY: You=re correct. It
10 should just read parcel three. I=m sorry, I
11 just was reading that from here.

12 CHAIR JORDAN: Okay, yeah, I must
13 have missed that. And then that would be in
14 conjunction with the - well, the others are just
15 kind of generic. Yeah, okay, all right. Any
16 other questions of the applicant on this? Is
17 there anything you think you need to provide for
18 us?

19 MS. RODDY: No, just appreciate
20 your time this afternoon.

21 CHAIR JORDAN: Then Board, are you
22 ready to deliberate on this matter?

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1 MEMBER HEATH: Yes.

2 CHAIR JORDAN: I believe we - a
3 showing has been made for the requested relief,
4 although it=s a lot of relief being requested,
5 for the numerous variances and special
6 exceptions, and that being granted, along with
7 the conditions as proposed by the applicant, I
8 would be ready to support and would so move.

9 MEMBER HEATH: Second.

10 CHAIR JORDAN: Motion made and
11 seconded. Additional discussion? All those
12 in favor, signify by saying aye.

13 (Chorus of ayes)

14 CHAIR JORDAN: Those opposed, nay.
15 The motion carries. Mr. Moy?

16 MR. MOY: Staff will record the
17 vote as 3-0, this on the motion of Chairman
18 Jordan to approve the application for the
19 relief requested, including the two
20 conditions. Seconded the motion, Ms. Heath,
21 and also in support, Mr. Hinkle. Two members
22 are not present today. The motion carries 3-0.

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1 CHAIR JORDAN: Summary order,
2 please.

3 MR. EDMONDSON: Thank you.

4 CHAIR JORDAN: Thank you. Okay, I
5 think we have another case that we -

6 MR. MOY: Yes, sir, I believe that
7 would be Application Number 18613 of
8 Continental Mortgage and Investment
9 Corporation, pursuant to 11 DCMR 3103.2.

10 This is a request for a variance
11 relief from - this is what has been advertised,
12 for a variance relief from the height and story
13 limitations under section 400.1, and a variance
14 from the nonconforming structure requirements
15 under subsection 2001.3. This is at 11 50th
16 Street, SE, and 4945 Ayes Street - A-Y-E-R-S
17 Street, SE, Square 5331, Lots 32 and 33.

18 (Off mic comments)

19 CHAIR JORDAN: Good morning.
20 Would you make sure your mic=s on for us,
21 please? Would you identify yourselves? I
22 don=t think you=re on, Mr. Crawford.

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1 MR. CRAWFORD: There we go. Mark
2 Crawford, counsel for the applicant,
3 Continental Mortgage and Investment
4 Corporation. I=d like to introduce, to my
5 left, Mr. Ernie Marcus, one of our witnesses
6 this morning, and Marc Feinstein, architect for
7 the project.

8 CHAIR JORDAN: Okay. Let me see -

9 MR. CRAWFORD: May I address just a
10 couple of preliminary things?

11 CHAIR JORDAN: One second, please.

12 MR. CRAWFORD: Sure.

13 CHAIR JORDAN: All right, go ahead,
14 please.

15 MR. CRAWFORD: Well, the first is
16 this matter has been continued several times so
17 that we would be able to meet with ANC 7E, make
18 our presentation, allow them to take the matter
19 under consideration and vote.

20 We were there at their monthly
21 meetings multiple times, and had a very
22 positive interaction and experience with them.

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1 Most recently was this past Tuesday, the 11th,
2 where they did act on our matter. They voted.
3 They had a quorum, voted unanimously in support
4 of our application.

5 I spoke with Ms. Mary Jackson, the
6 Chairperson for 7E, yesterday, and Rosa
7 Hamlett, another commissioner, and I don=t
8 believe that they have the report together and
9 submitted to the Board, but they are in the
10 process of doing that.

11 So, whatever happens today, I=d
12 like the record to be left open. I=d like to
13 make a motion for that, in order to receive
14 their report.

15 I also understand that Commissioner
16 Jean McVea, who is our single member district
17 representative, and she wasn=t at the meeting
18 - she was ill last Tuesday - wants to separately
19 write a letter in support of our application.
20 So, we=d obviously like to be able to present
21 that as well.

22 And the last preliminary thing is

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1 that Mr. Walters, the principal for
2 Continental, is ill today. I got a message
3 from him at about 5 a.m., and he was unable to
4 make it. I don=t know whether you would have
5 any questions for him, but I wanted to let you
6 know the reason for his absence.

7 CHAIR JORDAN: Okay, I appreciate
8 it, thank you. Certainly we give deference to
9 ANC 7E and Ms. Jackson so they can submit their
10 report, and we=ll keep the record open to allow
11 that to happen.

12 I think we=re pretty clear on this.
13 Let me say this, and I don=t think it=s
14 necessary for this, but I think where you were
15 lacking - clearly, this uniqueness is shown by
16 your application.

17 And I understand your argument for
18 practical difficulty in regards to the market
19 demand, and expenditures of additional funds,
20 and what have you. So, I=m thinking I=m saying
21 you=re going to be borderline.

22 The reason why you=re borderline,

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1 and I think unless the Board has any other
2 issues with this, normally it would probably
3 give you problems in the future because you
4 didn't provide the supporting documents in some
5 of your conclusions that you've made in regards
6 to mark - inability to market, you know, your
7 costs. You just cannot make conclusions, but
8 it has to be supported by the evidence.

9 But, I think there's some other
10 basis here to conclude that there are some
11 practical difficulties with this project.
12 But, when you're making an economic argument,
13 you have to - and marketing argument, you're
14 going to have to support the record with that
15 kind of dialogue.

16 That being said, does the Board have
17 other issues they need to hear from this
18 applicant on?

19 MEMBER HINKLE: No.

20 MEMBER HEATH: No.

21 CHAIR JORDAN: Okay. Because I
22 think, you know, the practical difficulty is

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1 also shown by just the configuration, the
2 layout of it. This is the pop-up building, and
3 so -

4 (Laughter)

5 CHAIR JORDAN: - you=re just going
6 to increase by a little bit on that floor. And
7 I understand the need, particularly in this
8 area, for this level of housing. And if there
9 are some issues with the community, I=m sure Ms.
10 Jackson would have let us know that there were
11 some issues in regards to that.

12 But, these buildings have been
13 abandoned for a while, and we=re trying to get
14 these things back on the rolls, and make them
15 active. Did I miss something here about these
16 being affordable?

17 MR. CRAWFORD: No, sir.

18 CHAIR JORDAN: They=re not
19 affordable?

20 MR. CRAWFORD: Oh, I=m sure they=re
21 affordable, but they=re not designated as
22 Aaffordable housing.@

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1 CHAIR JORDAN: Okay, all right.

2 MR. CRAWFORD: And I do have Mr.
3 Marcus with me today, and some written
4 materials he=s prepared on the economic and
5 marketing issues, and I=d be happy to print out
6 some testimony from him and make his materials
7 a part of the record also.

8 CHAIR JORDAN: Yeah, let=s turn to
9 the Office of Planning and see if there is
10 anything else Mr. Mordfin needs to add for us.

11 MR. MORDFIN: Good morning,
12 Stephen Mordfin with the Office of Planning.
13 And the Office of Planning has nothing further
14 to add in the case, but is available for
15 questions. Thank you.

16 CHAIR JORDAN: Okay. Board,
17 questions on this? No? All right, applicant,
18 questions of the Office of Planning?
19 Applicant, any question of the Office of
20 Planning?

21 MR. CRAWFORD: I have no questions
22 of Mr. Mordfin, no, sir.

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1 CHAIR JORDAN: Department of
2 Transportation has already submitted a letter
3 of no objection to the relief being requested.
4 ANC 7E, we just discussed, and we're leaving the
5 record open for them to submit their
6 recommendation.

7 Is anyone here wishing to speak in
8 support of this application? Anyone in
9 support? Anyone in opposition? Anyone in
10 opposition? All right, then we will close the
11 record on this case. Board, are you ready to
12 take action, yes, no, in between?

13 MEMBER HEATH: Yes.

14 CHAIR JORDAN: Yes, all right.
15 Based upon the evidence already received in the
16 record, I would move that we grant the relief
17 in this matter.

18 MEMBER HEATH: Second.

19 CHAIR JORDAN: Motion made and
20 seconded. Unreadiness? All those in favor,
21 signify by saying aye.

22 (Chorus of ayes)

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1 CHAIR JORDAN: Those opposed, nay.
2 The motion carries. Mr. Moy?

3 MR. MOY: Staff will record the
4 vote as 3-0 on the relief requested, seconded
5 the motion, Ms. Heath, also in support, Mr.
6 Hinkle. Two members are not present today.
7 The motion carries, Mr. Chairman.

8 CHAIR JORDAN: All right. Then,
9 let=s have a summary order. Keep the record
10 open for ANC 7E to submit their letter. Thank
11 you.

12 MR. CRAWFORD: Thank you very much,
13 Mr. Chair.

14 CHAIR JORDAN: I understand we=re
15 making our way back around to a case that was
16 called earlier. Is that right?

17 MR. MOY: Yes, sir. Staff was
18 informed that the applicant was behind schedule
19 this morning, but he can speak for himself.
20 That would be Application Number 18732 of WSD
21 Capital, LLC.

22 CHAIR JORDAN: A couple of things.

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1 Either we had put this on for a show - make sure
2 your microphone is on. It should be a bright,
3 glowing, green light. Identify yourselves,
4 please.

5 MR. EASTERLING: William
6 Easterling, I=m the owner -

7 CHAIR JORDAN: What was your last
8 name again?

9 MR. EASTERLING: Easterling.

10 CHAIR JORDAN: Okay.

11 MR. EASTERLING: I=m the owner and
12 representative of the property for WSD Capital,
13 LLC.

14 MR. DIXON: Clifford Dixon, I=m the
15 agent for WSD.

16 CHAIR JORDAN: Okay, we had called
17 this case earlier and then put it on for a show
18 cause. What=s the reason why you weren=t here?

19 MR. EASTERLING: Lack of
20 communication this morning. It was my fault,
21 behind schedule, and didn=t communicate with
22 Mr. Dixon.

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1 CHAIR JORDAN: All right. So, you
2 - Mr. Easterling, you are an owner of the
3 property?

4 MR. EASTERLING: Yes, sir. Well,
5 I work for the company that owns the property.
6 I don=t own it directly myself. WSD Capital
7 owns the property.

8 CHAIR JORDAN: W - all right, what
9 are they, a corporation or an LLC?

10 MR. EASTERLING: It=s an LLC, yes,
11 we are a development company.

12 CHAIR JORDAN: And we don=t have a
13 letter of authorization in the file, do we? I
14 think we=re absent a letter of authorization.
15 What=s your position with the company?

16 MR. EASTERLING: I=m the designer
17 of record.

18 CHAIR JORDAN: So, you=re not the
19 president?

20 MR. EASTERLING: No, sir.

21 CHAIR JORDAN: You=re not an
22 officer, no.

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1 MR. DIXON: I think there might
2 have been - maybe there=s another communication
3 error. I did get an email, and I explained to
4 them that a member of WSD would be here, and they
5 said that was okay.

6 CHAIR JORDAN: It=s not for them to
7 decide -

8 MR. DIXON: Right.

9 CHAIR JORDAN: - if it=s okay. We
10 got to have a letter in our file to indicate
11 what=s what. If this wasn=t such a simple
12 matter - You guys are really trying us today.
13 I want you to know that. No, very seriously.

14 MR. EASTERLING: I apologize.

15 MR. DIXON: I apologize for that.

16 (Off mic discussion)

17 CHAIR JORDAN: But, you=re really
18 trying us, a couple of ways. Okay, Board, I
19 would suggest that we go forward, and we would
20 hold in abeyance any order if there=s going to
21 be one. If this wasn=t such a simple kind of
22 straightforward matter, I would take another

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1 posture with it. But, I would think if we move
2 forward, it moves it off our docket.

3 I think the - I mean, there=s - does
4 the Board have any issue with this relief? I
5 think it=s pretty straightforward, in my
6 opinion, and I think the documents already
7 submitted, in conjunction with OP=s report, and
8 in conjunction with the ANC=s recommendation,
9 it would be something that I think would be
10 ready to move forward unless - Mr. Hinkle?

11 MEMBER HINKLE: Yeah, thank you.
12 I=m comfortable with just the ANC report, but
13 I just had a question. Has there been any
14 conversations with the adjacent neighbors to
15 the property in terms of what=s being proposed?

16 MR. EASTERLING: Not directly
17 verbally, but we have sent out DCRA=s letter of
18 notification to our neighbors to let them know
19 that we are going to be performing a
20 construction project next door to them.
21 There=s been no push back or verbal
22 communication at all.

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1 MEMBER HINKLE: Okay, thank you.

2 CHAIR JORDAN: Well, again, you=re
3 trying us, and you=re trying me on that point.
4 You know, it=s important not to just send, you
5 know, notifications to neighbors if you=re
6 going to build in an area, to knock on doors and
7 say what we=re doing. AHey, we=re going to be
8 good neighbors. We=re coming next door.
9 Let=s talk about it.@

10 Because a lot of times, people don=t
11 get those kind of notifications, although
12 you=re not required to. Don=t get me wrong.
13 But, it=s a good thing to knock on people=s
14 doors if you can, to - you=re coming to these
15 neighborhoods, and we=re getting a lot of folks
16 coming to neighborhoods and not being courteous
17 as neighbors -

18 MR. EASTERLING: I understand.

19 CHAIR JORDAN: - and then you think
20 you want to function regarding these matters.
21 That=s just my own asterisk in this discussion.
22 But, nothing cold saying, AWell, we just sent

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1 them a letter and they didn=t say anything.@

2 Well, how do you know they got the
3 letter, or whatever it is. How do you know
4 they=re able to - there might be someone that=s
5 not able. They might be physically challenged
6 or whatever variable it may be.

7 But, I=m just saying, when you come
8 into these areas - and I=m kind of putting this
9 on blast so people have these conversations.
10 We have learned here that it=s important for
11 neighbors to have conversations, especially
12 the people coming in doing development in these
13 neighborhoods, just -

14 MR. EASTERLING: If it helps, I did
15 speak with Ms. Wheeler, the ANC Chairman, at
16 some length on the phone, so she was aware. I
17 spoke with her. We know each other=s voice.

18 CHAIR JORDAN: And ANC did submit a
19 letter in support of this.

20 MR. EASTERLING: They did, yes.

21 MR. DIXON: Yes, they did, yes.

22 CHAIR JORDAN: All right, any other

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1 questions of this applicant? Okay, let=s turn
2 to Office of Planning.

3 MR. MORDFIN: Good morning,
4 Stephen Mordfin with the Office of Planning.
5 And the Office of Planning stands on the record.
6 Thank you.

7 CHAIR JORDAN: Okay. And they are
8 in support of this application. Department of
9 Transportation, we do have a letter from the
10 Department of Transportation with no objection
11 to the relief, and ANC 4B has voted 9-0 to
12 support this application.

13 Anyone here wishing to speak in
14 support of this application? Anyone wishing
15 to speak in support? Anyone wishing to speak
16 in opposition? Anyone in opposition?

17 Then let=s close the record on this
18 case except that I need a formal letter of
19 authorization for the file before we do
20 anything else - well, before any order may be
21 issued in this case.

22 I would move that the Board grant

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1 the relief requested in this application.

2 MEMBER HINKLE: Second.

3 CHAIR JORDAN: Motion made and
4 seconded. Any unreadiness? All those in
5 favor, signify by saying aye.

6 (Chorus of ayes)

7 CHAIR JORDAN: Those opposed, nay.
8 The motion carries. Mr. Moy?

9 MR. MOY: Staff will record the
10 vote as 3-0, this on the motion of Chairman
11 Jordan to approve the application for the
12 relief requested, seconded the motion, Mr.
13 Hinkle, also in support, Ms. Heath. Two
14 members are not present today. And I believe,
15 as you said, the order to be held until the
16 office receives a copy of the letter of
17 authorization.

18 CHAIR JORDAN: That=s correct,
19 thank you. So, summary order on that.

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

21 CHAIR JORDAN: All right, thank
22 you.

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1 MR. EASTERLING: Thank you.

2 MR. DIXON: Mr. Jordan, when we get
3 this letter, do I take it over -

4 CHAIR JORDAN: To the Office of
5 Zoning.

6 MR. DIXON: Office of Zoning, and
7 that=s it?

8 CHAIR JORDAN: Mm-hmm.

9 MR. DIXON: Okay, thank you, sir.

10 MR. EASTERLING: Thank you,
11 Chairman.

12 CHAIR JORDAN: All right. Let=s
13 move to our next item of business. Thank you.
14 In accordance with Section 405 of the Open
15 Meetings Act, DC Code 2575 C, I move that the
16 Board of Zoning Adjustment hold closed meetings
17 on the following dates: May 31st - Monday, March
18 31st, April 14th, and April 28th.

19 These meetings start at 4 p.m. and
20 are held for the purposes of obtaining legal
21 advice from our counsel, and deliberating upon
22 it without deciding cases scheduled to be heard

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1 on the following day of those closed meetings,
2 and those cases that are identified on both the
3 Board=s public agenda for April 1st, April 15th,
4 and April 29th.

5 A closed meeting for the purposes to
6 be permitted for Section 405 B4 and B13 of the
7 Act, I further move that the Board hold on
8 Tuesday, April 8, 2014 at 9:30, for the purposes
9 of conducting internal training as provided
10 under the Act. The subject of the training is
11 the residential parking permit program.

12 And three, also hold on the same
13 date and time an internal training for the
14 purposes of obtaining legal advice from counsel
15 and deliberating on, but not voting upon, case
16 number 17109 as permitted under the Act.

17 Is there a second?

18 MEMBER HINKLE: Second.

19 CHAIR JORDAN: Mr. Moy?

20 MR. MOY: Yes, sir. Board
21 members, when I call your name, if you could -
22 if you would reply with yes or no. Ms. Heath?

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1 MEMBER HEATH: Yes.

2 MR. MOY: Chairman Jordan?

3 CHAIR JORDAN: Yes.

4 MR. MOY: Mr. Hinkle?

5 MEMBER HINKLE: Yes - or no. Yes.

6 (Laughter)

7 MR. MOY: You kind of hesitated on
8 that. And Mr. Chairman, we have Vice Chair
9 Allen and Mr. Miller not present with us today,
10 but the motion carries.

11 CHAIR JORDAN: All right.

12 (Off mic comments)

13 CHAIR JORDAN: Any other items to
14 come before the Board today?

15 MR. MOY: Not from the staff, sir.

16 CHAIR JORDAN: Do you all want to
17 adjourn, or do you just want to sit here? What
18 do you want to do?

19 (Laughter)

20 CHAIR JORDAN: All right, so we'll
21 sit. No, we'll adjourn. Thank you.

22 (Whereupon, the hearing was

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concluded at 11:36 a.m.)