

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING/MEETING

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TUESDAY,

JUNE 24, 2014

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD L. JORDAN, Chairperson
MARNIQUE HEATH, Board Member
JEFFREY HINKLE, Board Member

ZONING COMMISSION MEMBER PRESENT:

MARCIE COHEN (sitting in as member of Board of Zoning Adjustment)

BOARD STAFF PRESENT:

CLIFFORD MOY, Board Secretary
JOHN NYARKU, Zoning Specialist
STEVE VARGA, Zoning Specialist

OFFICE THE D.C. ATTORNEY GENERAL:

ALISON MYERS, ESQ.

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OFFICE OF PLANNING STAFF:

STEPHEN MORDFIN
STEPHEN GYOR
MAXINE BROWN-ROBERTS
STEVE COCHRAN

This transcript constitutes the minutes from the Public Meeting/Hearing held on June 24, 2014.

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Adjourn

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

(9:39 a.m.)

CHAIRPERSON JORDAN: Good

morning. If we could please come to order. We're here for the meeting of the Board of Zoning Adjustment and hearing of the Board of Zoning Adjustment. We're located at the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. Today's date is June 24, 2014.

My name is Lloyd Jordan, Chairperson of the Board; seated at my right is Jeffrey Hinkle, Member of the Board; to my left Marnique Heath, Member of the Board and to her left is Marcie Cohen, Member of the Zoning Commission sitting in as a member of the Board of Zoning Adjustment today.

Please be advised that these proceedings are Webcast live and also being recorded by a court reporter who is seated to my right, so therefore I'm going to ask you to refrain from any disruptive noises here in the

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1 hearing room today. And so again a good time
2 to silence any device that rings or vibrates
3 loudly.

4 The Board's hearing process is
5 contained in the document to my left by the back
6 door so feel free to get that so you can
7 understand how we process things at the Board
8 and if you're going to provide testimony or
9 statement to the Board today, statement,
10 testimony or talk to the Board in any way, I'm
11 going to need you to do two things.

12 That's two things, the first of
13 which is to complete two witness cards per
14 person, that's two witness cards per person,
15 and prior to and underline that, how do you
16 speak and underline something? Prior to --
17 underline -- give those cards prior to your
18 statement or testimony to the court reporter
19 who is seated to my right. Okay?

20 So that's prior to your testifying
21 and coming to the table, please stop by the
22 court reporter's table and give her the two

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1 witness cards.

2 The second thing I'm going to need
3 you to do is to now stand and take the oath or
4 affirmation being given by the Board Secretary,
5 Mr. Moy.

6 So if you're going to provide any
7 statement or testimony please stand and take
8 the oath.

9 (WITNESSES SWORN)

10 CHAIRPERSON JORDAN: Okay. All
11 right. Let's have the party status request and
12 representative in the case of 18786 to come
13 forward to the witness table please.

14 Is the person who's seeking -- is
15 there a Karen Riis seeking party status and a
16 representative of the applicant of 18786. Is
17 that the correct case where there's a party?

18 MR. MOY: Yes, that's correct.

19 CHAIRPERSON JORDAN: Okay. I
20 don't see either. Going once. Going twice.
21 Anyone from 18786? Okay. All right. So then
22 Mr. Moy let us call our first meeting case

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1 please.

2 MR. MOY: All right. If I may,
3 before I do that, Mr. Chairman, I just want to
4 make just a real quick announcement for the
5 record. Three cases that's noticed on the
6 docket, we have two cases that have been
7 rescheduled, 18779 of Christine Trankiem has
8 been postponed and rescheduled to September 30,
9 2014.

10 The second application is
11 application No. 18787 of 143 Rear W Street LLC,
12 and that case has been rescheduled to July 29.

13 And the last case 18742 of Northeast
14 Holy Trinity Church, that application was
15 withdrawn by the applicant, Mr. Chairman.

16 CHAIRPERSON JORDAN: All right.
17 Thank you, Mr. Moy.

18 MR. MOY: Thank you. So with that
19 I guess the first case for decision is the one
20 application on the Expedited Review Calendar,
21 which is application No. 18783 of Vitaliy
22 Kurbatshiy.

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1 The applicant's pre-hearing
2 statement is under Exhibits 1, 2 and 3, Mr.
3 Chairman and the only other filing in the record
4 is the report from the Office of Planning under
5 Exhibit 20.

6 My notation is that there's no
7 affidavit or posting in this record.

8 CHAIRPERSON JORDAN: Okay. Is
9 the applicant here for 18783? Please come
10 forward and take a seat for us please. Please
11 move quickly and fill out your cards because we
12 may call you but let's wait one second. We're
13 going to give you an exemption for this moment
14 -- no, no, stay where you are. We're going to
15 give you an exemption for the moment and let you
16 give your card after we have this conversation.

17 So make sure your microphone is
18 turned on. There should be a bright green
19 glowing light, now push the button, there you
20 go. Would you please give us your name?

21 MR. DAVIS: My name is Rodney
22 Davis. I'm here for Mr. Kurbatshiy.

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1 CHAIRPERSON JORDAN: Do we have
2 your authorization?

3 MR. DAVIS: The authorization
4 should be -- everything is in the file.

5 CHAIRPERSON JORDAN: Do you have
6 an authorization letter, Mr. Davis?

7 MR. DAVIS: You do have it.

8 CHAIRPERSON JORDAN: I just need
9 to note that we have it. Okay. And have the
10 placards been posted on this property?

11 MR. DAVIS: To my knowledge, yes.

12 CHAIRPERSON JORDAN: What do you
13 mean to your knowledge? Do you go by the
14 property? Are you around the property?

15 MR. DAVIS: I haven't been by the
16 property but the property owner assured me that
17 he had done everything that the Board has asked.

18 CHAIRPERSON JORDAN: Hmm, I'm not
19 really comfortable with that.

20 MR. DAVIS: I understand.

21 CHAIRPERSON JORDAN: Has an
22 affidavit of posting been filed?

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1 MR. DAVIS: That I do not know.

2 MR. MOY: We have no record of that
3 in our official record, Mr. Chairman.

4 CHAIRPERSON JORDAN: I simply
5 can't take that aspect of hearsay that it's been
6 posted. It would be different if you were around
7 the property or were there regularly or if you
8 were actually the applicant and upon oath
9 telling the Board that it has been posted. But
10 posting is very, very important for the
11 community to know what is actually going on in
12 their neighborhood.

13 MR. DAVIS: I understand that.
14 Is there any way that you could pass this till
15 later and I could call the property owner and
16 find out whether or not he did indeed post it?

17 CHAIRPERSON JORDAN: Give me one
18 second.

19 [CONSULTATION]

20 The only thing I'm going to accept
21 at this -- well, if we postpone it and move it
22 on the docket we're still dealing with someone

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1 saying -- and we just don't have them under oath
2 -- that it actually was posted.

3 I'm going to offer the Board that we
4 roll this to another docket. I just simply have
5 to make sure it's been done. Is that okay with
6 the Board or you want to just do it another way?

7 MEMBER HINKLE: No, I think that's
8 important, Mr. Chairman. I mean one of the
9 reasons to post is to allow the community to
10 perhaps testify if they feel they need to. So
11 I think it's important to ensure that this was
12 posted and that the community has an
13 opportunity to understand what the project is
14 that's being proposed.

15 CHAIRPERSON JORDAN: So let's
16 give another date, at least one on which we can
17 be sure that posting is taken care of and
18 provided.

19 MR. MOY: Mr. Chairman, the month
20 of July the Board has a very full docket. We
21 do have a scheduled Public Meeting on the last
22 hearing prior to the August recess on July 29th.

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1 If that doesn't accommodate the Board then
2 we're looking at September.

3 CHAIRPERSON JORDAN: I think
4 that's the only thing that would hold us up from
5 my initial review. I don't know how the other
6 Board members feel but we just have to get
7 that.

8 MS. COHEN: I agree.

9 MR. DAVIS: Mr. Chairman, would it
10 be possible for me to go by the property, take
11 a picture of the posting, come back here this
12 evening or whatever. I mean something today?

13 CHAIRPERSON JORDAN: Well we're
14 not coming back tonight for you. How about
15 that.

16 MR. DAVIS: I know. The end of July
17 is an extreme hardship. This property has
18 been -- we've had an issue with this property
19 for several months now, going on a year, and
20 there is a security issue there. Without the
21 garage in the back of the property there's
22 unfettered access from the alleyway and Mr.

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1 Kurbatshiy has not been able to move into his
2 property because he doesn't feel safe.

3 CHAIRPERSON JORDAN: Let me ask
4 you something. Do you know whether or not the
5 applicant or anyone has talked to the
6 neighbors?

7 MR. DAVIS: Well, the ANC posted,
8 the ANC approved.

9 CHAIRPERSON JORDAN: Do we have a
10 letter, I don't think we have a letter from the
11 ANC.

12 MR. DAVIS: The ANC letter is in
13 the file. I have a copy of it electronically.

14 CHAIRPERSON JORDAN: Wait a
15 minute. You know what? I'm going to say
16 something, you're going to say something, I'm
17 going to say something, you say something.
18 That would help us.

19 MR. DAVIS: Okay.

20 CHAIRPERSON JORDAN: Let me
21 check. We have no letter in our file from the
22 ANC.

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1 We're rolling this, it's going to --
2 what's the date?

3 I just can't -- I'm trying to work
4 with you but we don't have the letter from the
5 ANC and etc.

6 MR. DAVIS: I have the ANC file
7 here.

8 CHAIRPERSON JORDAN: But what
9 about going to the neighbors surrounding the
10 property, do you have anything from them? Has
11 that occurred?

12 MR. DAVIS: We mailed. We mailed
13 the neighbors, we did mail the neighbors.

14 CHAIRPERSON JORDAN: Do you have
15 that letter?

16 MR. DAVIS: I brought the mailing
17 labels, I brought two copies of the mailing
18 labels here to the Board and gave it to the
19 Board.

20 CHAIRPERSON JORDAN: That's not
21 what I'm asking. I'm asking did the applicant
22 make an outreach?

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1 MR. DAVIS: No, not to my
2 knowledge.

3 CHAIRPERSON JORDAN: What's the
4 date we're rolling this to? I understand you
5 have issues. I'm trying to get you there. I
6 mean I'm walking down and we're trying to be
7 friendly but there are certain i's you've got
8 to dot and t's you've got to cross and--

9 MR. DAVIS: I understand.

10 CHAIRPERSON JORDAN: --we just
11 can't simply do that. This is going to be--

12 MR. MOY: Mr. Chairman, after
13 hearing the applicant's testimony, we could
14 roll this to the week prior to the 29th because
15 the Board does have expedited calendar for July
16 22nd.

17 CHAIRPERSON JORDAN: We can do it
18 a week earlier, July 22nd, but it's important
19 that this is posted. And again these are
20 things that are required, it's the requirements
21 of the Zoning Regulations. They've been there
22 forever. It's not just what the applicant

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1 needs, but when we grant relief it also may have
2 an effect upon the community.

3 It's so very key and important that
4 we know the community has at least been noticed
5 and they have the option to whether they want
6 to come and support or not.

7 We also ask that applicants, even if
8 you go through and bring the mailing labels,
9 when people live in communities they should at
10 least talk to their neighbors and say hey and
11 one way or the other let them know that they're
12 doing it. We don't have that.

13 We also require that you go and
14 present to the ANC; we don't have that.

15 So these are all the safeguards that
16 the applicants need to -- that you would be
17 required to do. It's important that people
18 understand what's in the Regulations and, if
19 you don't, please come into the Office of
20 Zoning, pick up the phone, call someone and find
21 out. Okay?

22 MR. DAVIS: Okay. May I ask you a

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1 question? I have notification that the form
2 supporting the application was sent from the
3 ANC to the Board so--

4 CHAIRPERSON JORDAN: I'm sorry,
5 Mr. Davis, we've already rolled this.

6 MR. DAVIS: No, I'm just saying,
7 so how do I make sure that you all get that
8 documentation?

9 CHAIRPERSON JORDAN: You make
10 sure, you put it in yourself. You get to come
11 in and file it itself. That's the best way.
12 You know, that's the best way to assure yourself
13 that it's done.

14 MR. DAVIS: July 22nd?

15 CHAIRPERSON JORDAN: Yes.

16 MR. DAVIS: Thank you.

17 CHAIRPERSON JORDAN: Okay.

18 MR. MOY: Thank you, Mr. Chairman.
19 The next and last case for a decision before the
20 Board is a party opponent's motion for
21 reconsideration and rehearing. This is to
22 application No. 18725 of Rafael Romeu.

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1 The motion was filed on May 20, 2014
2 under Exhibit 47. There was a timely filed
3 response to the motion from the property owner
4 and that is in your case folders under Exhibit
5 49. Subsequent to that, the party opponent
6 filed a response to the applicant's response
7 and that's under Exhibit 50.

8 There's no filing from ANC-2B, and
9 that completes the briefing, Mr. Chairman.

10 CHAIRPERSON JORDAN: Okay.
11 Thank you. I'm participating and Mr.
12 Hinkle's participating and I don't think Ms.
13 Cohen or Ms. Heath are participating in this
14 decision. Is that correct?

15 MR. MOY: Yes sir. Looking at my
16 notes here, it should be the Chairman, Mr.
17 Hinkle and Mr. Anthony Hood who participated
18 on the original application so that's three of
19 you for a quorum.

20 CHAIRPERSON JORDAN: Well, not
21 for a quorum but be able to--

22 MR. MOY: That's correct.

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1 CHAIRPERSON JORDAN: So did Mr.
2 Hood participate by proxy or anything? Or
3 absentee?

4 MR. MOY: Yes.

5 CHAIRPERSON JORDAN: Okay. So
6 then let's proceed. This is a matter before
7 the Board on reconsideration of the decision
8 rendered previously by the Board. The
9 reconsideration motion and motion for
10 rehearing is to offer the Board information
11 that the Board did not have allegedly at the
12 time of the hearing, or to provide information
13 which the Board could have reviewed that would
14 make it change its decision or open the door for
15 a new hearing.

16 The motion for rehearing included
17 as the supporting evidence why there should be
18 reconsideration and rehearing, was simply that
19 the person at the DCRA's job title was not --
20 the payroll classification was not zoning
21 technician but engineering technician even
22 though the person functioned in the zoning

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1 assistant capacity at DCRA whose regular job
2 and function is to review the zoning
3 applications and to provide applicant with
4 information regarding zoning requirements and
5 with C of O's and etc.

6 I don't find that to be grounds
7 enough to reverse, you know, payroll
8 classification doesn't define what the
9 person's function is and it's not required that
10 the ZA himself has to render his opinion on any
11 of these matters. I don't see there's adequate
12 grounds for reconsideration. I really think
13 this is really, really, really, really a
14 stretch for reconsideration and rehearing.
15 That's just my thought. Mr. Hinkle?

16 MEMBER HINKLE: Thank you, Mr.
17 Chair. I completely agree with you and in fact
18 I did read the position description that was
19 provided by party that submitted the motion for
20 reconsideration and even that, you know, states
21 that regardless of the title of the position,
22 that person needs to have particular knowledge

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1 related to the zoning code and so I mean I'm
2 struggling with this as well. So I simply
3 agree with you.

4 CHAIRPERSON JORDAN: And
5 especially throughout D.C. government, the
6 payroll classification job title may not be the
7 functioning title in which the person operates.
8 So with that, do you want to make a motion?

9 MEMBER HINKLE: Sure. I'll make
10 a motion to deny the motion for
11 reconsideration.

12 CHAIRPERSON JORDAN: And
13 rehearing?

14 MEMBER HINKLE: And rehearing.

15 CHAIRPERSON JORDAN: I'll second
16 that. With this all those in favor of the
17 motion signify by saying aye. Those opposed
18 nay.

19 (VOTE TAKEN)

20 Mr. Moy, do we have what Mr.
21 Hood's--

22 MR. MOY: Yes sir. Before I give

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1 the final vote, I am in receipt of an absentee
2 ballot from Mr. Anthony Hood who also
3 participated in the original application and
4 his vote is to deny the motion for
5 reconsideration and rehearing. That would
6 give a total vote of 3-0, this on a motion of
7 Mr. Hinkle, to deny the motion for
8 reconsideration and second the motion Chairman
9 Jordan and, of course, Mr. Hood. No other
10 Board members participating so the vote to deny
11 carries.

12 CHAIRPERSON JORDAN: All right.
13 Thank you. Okay. Mr. Moy, it looks like we're
14 going to have to go straight down the docket.
15 I don't see any other way of expediting anything
16 on here.

17 But I do believe that we should
18 combine 18784 and 18765. We have the same
19 applicant, almost the same transaction, same
20 block, same people in opposition, etc.

21 MR. MOY: All right, sir. Very
22 good. Let me call--

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1 CHAIRPERSON JORDAN: If that's
2 okay with the Board? If the Board is amenable
3 to that. Let's do that.

4 MR. MOY: All right. So the two
5 applications that are before the Board for
6 hearing, that is application. No. 18784. This
7 is the application of Observatory Land Trust.
8 This is a request for a variance relief from lot
9 occupancy and special exception under section
10 353 for a 6-unit apartment house on 3915 Fulton
11 Street, N.W.

12 The second application is 18765,
13 Fulton Land Trust. This is a request for
14 special exception under section 353 and a
15 variance from lot occupancy under section 403
16 to construct a 6-unit apartment house at 3919
17 Fulton Street, N.W. This is the relief that
18 has been advertised unless the applicant has
19 made amendments to the relief requested.

20 CHAIRPERSON JORDAN: Okay.

21 MR. MOY: Now while I have the mic,
22 Mr. Chairman, while the applicants are setting

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1 up, the first application 18784 I believe the
2 applicant filed revised plans, which is on your
3 Exhibit 33 and I believe there's also a waiver
4 of time requirements for that.

5 CHAIRPERSON JORDAN: A request
6 for waiver?

7 MR. MOY: To accept the revised
8 plans, yes sir.

9 CHAIRPERSON JORDAN: We'll do
10 that.

11 MR. MOY: And similarly for the
12 second case, 18765, same context, revised plans
13 with a waiver of time requirements.

14 CHAIRPERSON JORDAN: Okay.
15 Except 18765 there was an amended request for
16 relief, right? Is that--

17 MR. MOY: Yes. I believe the
18 applicant withdrew the request for lot
19 occupancy but I'll defer to the applicant.

20 CHAIRPERSON JORDAN: Okay. All
21 right. Please introduce yourselves.

22 MR. SULLIVAN: Thank you, Mr.

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1 Chairman. My name is Marty Sullivan with the
2 law firm of Sullivan & Barros and here with me
3 from Sullivan & Barros also is Kimberly
4 Whitiak.

5 MR. PRUDHOMME: And my name is
6 Guy Prudhomme. I'm the developer of the two
7 properties.

8 CHAIRPERSON JORDAN: Did we get an
9 ANC letter in this matter?

10 MR. SULLIVAN: Mr. Chairman,
11 we've met with the ANC three times, including
12 last night, and they have 2-2 vote and so they
13 will not be submitting anything to the record.

14 CHAIRPERSON JORDAN: Okay.
15 Thank you. Is that for both properties?

16 MR. SULLIVAN: Yes. They
17 considered them together.

18 CHAIRPERSON JORDAN: Okay. Mr.
19 Sullivan, as you know, there's a lot of people
20 in opposition to this. I don't know if there's
21 any way we're going to be able to expedite this
22 matter so I need you to do your presentation,

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1 but one of which, the first thing if you can help
2 us because I think we have different kinds of
3 plans, a couple of different sets, can you show
4 us what is the most recent plans and then what
5 was changed from the original? Do you
6 understand what I mean?

7 MR. SULLIVAN: Yes. I've got a
8 new computer and rather than spend 15 minutes
9 trying to figure out how to connect it I'm going
10 to pass out the PowerPoint to you.

11 CHAIRPERSON JORDAN: There you
12 go. Thank you. We've all been through those
13 struggles.

14 So the cover of the PowerPoint is
15 currently the design that's in the file, and
16 this was filed with the pre-hearing statement
17 two weeks ago?

18 MR. SULLIVAN: That hasn't
19 changed. What we filed yesterday was just
20 changing the interiors because last week after
21 discussions with the community we scaled it
22 back and we have a 2-bedroom scenario in every

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1 unit now, so we went from 18 bedrooms in each
2 to 12 bedrooms in each and so those plans were
3 just interior renovations.

4 CHAIRPERSON JORDAN: I'm sorry,
5 that was 18 bedrooms to 12 bedrooms in each
6 building?

7 MR. SULLIVAN: That's correct.

8 CHAIRPERSON JORDAN: Okay.
9 Thank you. From 18 bedrooms in both?

10 MR. SULLIVAN: In each one so
11 there's six units in each building. There were
12 originally three bedrooms in each unit and now
13 there are two bedrooms in each unit.

14 CHAIRPERSON JORDAN: Okay. Was
15 there any change to the exterior on 18765?

16 MR. SULLIVAN: There were no
17 changes yesterday; changes two weeks ago with
18 the pre-hearing statement to both. They're in
19 concert now.

20 CHAIRPERSON JORDAN: Let me see
21 the most recent. I want to make sure -- oh
22 there they are.

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1 MR. SULLIVAN: Yes, they're both
2 together on this one, yes. 3915 is along the
3 alley and 3919 is to the west.

4 CHAIRPERSON JORDAN: What is the
5 material of the exterior?

6 MR. PRUDHOMME: The material
7 planned is Nichiha cement boards.

8 CHAIRPERSON JORDAN: Okay. I'll
9 ask the Board, is there anything the Board needs
10 to hear specifically from the applicant or just
11 in general?

12 MS. COHEN: Just one question.

13 CHAIRPERSON JORDAN: Okay.

14 MR. SULLIVAN: And also I think
15 because of the opposition I would hope the
16 applicant would focus on how they address some
17 of those issues.

18 CHAIRPERSON JORDAN: Yes, and the
19 impact on the community and why you think this
20 rendering fits the character of the
21 neighborhood because that's a concern even that
22 I have as you do your presentation and Ms.

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1 Cohen, you want to ask now or you just want to
2 wait to hear the presentation?

3 MS. COHEN: I'll wait.

4 CHAIRPERSON JORDAN: Okay. Go
5 ahead please.

6 MR. SULLIVAN: Thank you, Mr.
7 Chairman. We'll use the PowerPoint for our
8 guide for the presentation. As you know,
9 Section 353, all new residential developments
10 require BZA review under the guidelines under
11 353.

12 The first guideline is that the
13 Board shall refer the application to the Board
14 of Education. I don't believe we've received
15 any comment from the Board of Education.

16 Second is that the application be
17 referred to DDOT and to DHCD. DDOT has issued
18 a report stating that they have no objection to
19 the granting of the special exception and DHCD
20 to my knowledge has not responded.

21 The third requirement is that the
22 Board refer the application to the Office of

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1 Planning for comment and recommendation on the
2 site plan, arrangement of buildings and
3 structures and provisions of light, air,
4 parking, recreation, landscaping and grading
5 as they relate to the future residents of the
6 project and the surrounding neighborhood. And
7 the Office of Planning, as you know, has
8 recommended approval pursuant to these
9 standards.

10 Our architect is en route and I
11 expect him to be here any minute and he can talk
12 more about the vision of his design and how he
13 interpreted the surrounding neighborhood.

14 I would like to provide a little
15 context for what's permitted in the R-5-A if you
16 don't do a new residential development because
17 that's what's going on around us.

18 First of all, there's no limit on
19 the amount of units you can provide if you do
20 an addition to a building in the R-5-A. You're
21 only limited essentially by your parking
22 requirement and you get a parking credit for

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1 whatever existed before.

2 And I'm on slide 8 now. You'll see
3 3921 and 3925 Fulton Street, these are the two
4 buildings immediately to the west of 3919
5 Fulton Street.

6 CHAIRPERSON JORDAN: 8. What is
7 the material of those buildings?

8 MR. SULLIVAN: Do you know what--

9 MR. PRUDHOMME: It's vinyl
10 siding.

11 MR. SULLIVAN: Vinyl siding. On
12 both of those?

13 MR. PRUDHOMME: Yes.

14 MR. SULLIVAN: So 3925 Fulton is
15 the addition that you see on the right of this
16 photo. That is a 6-unit building done by way
17 of an addition. The building at 3921 right now
18 is under construction. Essentially they're
19 doing a connection to that building and
20 building another building in the back three
21 stories high and they're going to have--

22 CHAIRPERSON JORDAN: What slide

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1 are you on?

2 MR. SULLIVAN: Same slide, slide
3 8, 3921. At 3921 which is right next door,
4 they're connecting to that building and
5 building another building that's an addition
6 and they're putting eight units in there with
7 just five parking spaces because they had a
8 parking credit of three. That's
9 matter-of-right.

10 CHAIRPERSON JORDAN: And you're
11 not asking for any parking relief?

12 MR. SULLIVAN: No. And I point
13 these out so that's going to be a 6-unit and
14 8-unit and then to our immediate east is an
15 existing 11-unit condominium building, with no
16 parking I might add.

17 This option was available to us and
18 in fact we could fit eight parking spaces
19 because we have a very wide lot, we have a
20 60-foot wide lot so we could have four spaces
21 on each side.

22 CHAIRPERSON JORDAN: You mean as a

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1 matter-of-right?

2 MR. SULLIVAN: As a matter of
3 right, yes.

4 And I'd like Mr. Prudhomme to talk
5 about why he didn't go that route and why this
6 is the plan that he prefers.

7 MR. PRUDHOMME: Essentially,
8 what we are trying to do in this area is a
9 development which is going to be a high quality
10 product. I have made developments all over the
11 city, in Northeast and Northwest. I'm currently
12 doing developments in Irving Street and Mount
13 Pleasant and I think that the kind of people
14 that would like to live in the neighborhood of
15 Fulton Street are people who would like a
16 quality product.

17 And this is why we have chosen to
18 reduce the number of condominiums in order to
19 get the maximum number of square feet that we
20 could offer to each one of them.

21 The buildings are intended to be
22 modern, high-efficiency, very well insulated.

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1 They will have the latest technology as regards
2 appliances and HVAC unit. The hearing will be
3 done with a high-efficiency pump that only
4 draws 25 amps.

5 We felt that people who like a quiet
6 neighborhood and who can afford it would prefer
7 to live in a larger condo rather than the small
8 700 or 800 square foot condos that are going up
9 around us. So we felt that the development
10 would fit into the neighborhood socially, as a
11 nature of the social character of the people who
12 would buy these condos.

13 They are intended to be sold at
14 prices ranging from \$800,000 to \$950,000 and we
15 feel that this new look, the modern look, the
16 spacious and open plan with a lot of light is
17 what these buyers would want. And this is what
18 we wanted to go ahead and do and why we've
19 selected this design and the architect who's
20 got a very good track record for similar condos
21 in and around Washington, D.C.

22 MR. SULLIVAN: Mr. Prudhomme,

1 can you talk about the comparison of the land
2 area per unit on these lots. The neighboring
3 lots have packed a greater density of units on
4 a smaller square footage of land; can you talk
5 about the comparison with those two buildings?

6 MR. PRUDHOMME: Yes. The two
7 buildings immediately to the right that have
8 been recently developed -- immediately to the
9 west rather than have been recently developed,
10 are 3925 which is a lot of 5,300 square feet on
11 which they have six units; 3921 has 5,625 square
12 feet on which they are putting eight units and
13 on our lots which are 7,500 square feet we plan
14 to put six units.

15 If you look at the square foot of the
16 unit, 3921 is 687; 3901 is 636, that's an old
17 existing building; 3925 is 883 square feet per
18 unit and our project will be have 1,250 square
19 feet in comparison to the others.

20 CHAIRPERSON JORDAN: Is that per
21 unit?

22 MR. PRUDHOMME: Per unit.

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1 MR. SULLIVAN: Thank you, Mr.
2 Prudhomme. Can you talk a little bit about the
3 design of the building in relation to the
4 buildings across the street?

5 MR. PRUDHOMME: What we saw when
6 we initially bought these lots with the
7 intention of developing them into condominium
8 units is we looked around us at what existed
9 already and we saw that there was a transition
10 in design--

11 CHAIRPERSON JORDAN: Give me one
12 second, please. Okay. I'm sorry. Proceed.

13 MR. PRUDHOMME: We saw that there
14 was a transition in design from Colonial
15 replicas and in fact from a mixed match of
16 designs but of the older look in the houses as
17 you come off Wisconsin Avenue and as you drive
18 down Fulton Street--

19 CHAIRPERSON JORDAN: From
20 Colonial to?

21 MR. PRUDHOMME: From Colonial to
22 kind of contemporary. And in fact as you come

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1 down Fulton Street, the immediate building that
2 is on your right before you reach our property
3 is actually a condominium which is a square
4 block. It has 11 units in it, no parking, and
5 immediately to the left you have a building
6 which is a very modern building, and I have
7 photos of these if necessary to show you that
8 around that area, around the bottom end of this
9 subdivision that there are a lot of condominium
10 units all of a contemporary design.

11 CHAIRPERSON JORDAN: If you have
12 them please submit it, I think we would like to
13 see those.

14 MR. SULLIVAN: Mr. Chair, slide 10
15 shows the building across the street and then
16 the slide after that is the Russian embassy
17 which is--

18 CHAIRPERSON JORDAN: And what
19 were you sayibg about the building at 3901
20 Tunlaw?

21 MR. PRUDHOMME: This building is a
22 1960s contemporary building.

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1 CHAIRPERSON JORDAN: Okay. Got
2 you.

3 MR. PRUDHOMME: So our architect
4 looked around at what was there and if you
5 stand, and if you can go back to the first slide,
6 if you go back to slide 1 or slide 13, I beg your
7 pardon, slide 13 or 1, you will see around you,
8 around the back of these buildings that there
9 are contemporary buildings.

10 So that whole area going down to
11 Watson Place, Tunlaw Road, the whole bottom
12 section of Fulton Street is already
13 contemporary. And that's why we felt that our
14 design would fit into the neighborhood and why
15 we designed a contemporary building.

16 MR. SULLIVAN: Mr. Prudhomme, I'd
17 like to address some of the -- in discussions
18 with the community that you had, some of the
19 concerns that were raised and your response to
20 those concerns.

21 MR. PRUDHOMME: We initially
22 appeared at the ANC of May, I think it was May

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1 10th, and the project that day was in fact
2 favorably accepted by all members of that
3 committee. They asked us to make some changes
4 to the design, especially as regards color. We
5 had a white turret tower, they wanted the
6 building to be of a single color. We chose the
7 color that you see there because it's kind of
8 brick red, it matches the bricks. And they
9 asked us to come back with these changes in
10 design which we did.

11 We appeared at a second meeting of
12 the ANC in June and there we had a number of
13 neighbors who expressed their dissatisfaction
14 with the project in general.

15 Some of the things that came up on
16 that day were the fact that I was not building
17 condominiums, I was going to be building an
18 apartment unit for rental and they didn't want
19 tenants in their community.

20 One of the main reasons that they
21 applied for that was the fact that the
22 application to BZA states apartments --

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1 apartment buildings -- which it has to be
2 because that is the nomenclature that BZA
3 chooses.

4 I have since written a letter to
5 these people committing to creating
6 condominiums, two condominium complexes, of
7 six units each and to the sale of these. They
8 then were concerned that the condominiums would
9 be bought by investors and then re-rented and
10 they didn't want tenants.

11 Yesterday, at the request of the
12 ANC chairman I also committed in the
13 condominium association rules to include a rule
14 initially which states that 50 percent of
15 the owners would have to agree before anyone
16 could rent a unit. This is to try and allay
17 their fears.

18 The second thing that they were
19 concerned about was the density of the project.
20 Six units, each of three bedrooms, they did the
21 math and said this was going to be probably 18
22 or 36 people sleeping in one condominium and

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1 that would create a density that they didn't
2 like, they thought it was too dense for the
3 area.

4 So I agreed to reduce the number of
5 bedrooms in each condominium from three to two
6 and that's why the new design was submitted to
7 BZA just recently. This is after discussion
8 and agreement with the neighbors. And they
9 were very appreciative of that. They've told
10 us that this was a fact that they liked very
11 much.

12 Then they were concerned about
13 parking and we explained that we were offering
14 one parking for each unit on the lot and there
15 was no need for fear because it was accessed
16 through the alley, especially a very short
17 distance, probably of about 200 feet from the
18 edge of the one property to Watson Place. This
19 is the only concern that traffic would have in
20 the back alley.

21 We have also requested a traffic, if
22 you look at your slide, okay we have originally

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1 requested an expert, a traffic expert to write
2 a report and this report has been written and
3 I believe the gentleman is in this room to
4 testify if necessary.

5 MR. SULLIVAN: Yes, Mr. Andres is
6 here to testify if you want to hear from him,
7 and his report was filed with the pre-hearing
8 statement.

9 And do the Watson Place townhouses
10 access their properties from the rear from that
11 alley or do they have garages in the back?

12 MR. PRUDHOMME: No garages, no.
13 The Watson townhouses don't have any vehicular
14 access to the back of the alley.

15 The other concern that they
16 expressed was that it was going to create a lot
17 of traffic in the alley with trash cans because
18 right now the alley is full of trash cans on the
19 day, on most days in fact, and because we are
20 creating a condominium association the trash
21 cans are all going to be kept within the site
22 and the trash would be removed by a private

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1 company. It would not be removed by the city,
2 so this fear was allayed as well. So they got
3 that.

4 Then they were very concerned about
5 the landscaping. We would have to remove a
6 couple of old trees in order to get the building
7 and they were concerned that we were not going
8 to replace the trees correctly. I have agreed
9 to replace it like for like, you know, they
10 would be the same species. They requested that
11 the trees we replaced be 10 to 12 foot high,
12 which I have agreed to.

13 After the landscaping, I can't
14 recall if there was anything else, but these are
15 the concessions that we've made all the way
16 along to try and accommodate the ANC.

17 There were a couple of other things
18 in fact. The neighbors were concerned that I
19 would not have sufficient funds to complete the
20 project, and that they would be left with a
21 half-completed project. And I have offered to
22 -- firstly I have told them that I have started

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1 145 projects so far in the last five years and
2 I have completed 145 projects.

3 I have not made profits on each one
4 of them but even on those that I lost money the
5 projects were completed and sold.

6 I have offered to provide to the ANC
7 proof of funds to cover the cost of building
8 before we start construction, just to show them
9 that we will be able to complete the project.

10 They were concerned about roof
11 decks. There were two roof decks on the
12 design, one on each side of the building
13 accessible only to the top unit. As this will
14 be the condo sold with two bedrooms it will
15 probably be accessed to two or three people and
16 they were very concerned that they not be
17 parties and lots of noises at night. They
18 wanted us to see if we could study the
19 possibility of putting barriers around it and
20 they even mentioned tempered glass but I feel
21 that this would not be a good addition to the
22 building because it would make it look even more

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1 of a contemporary building and a sore point in
2 the neighborhood.

3 I have also agreed to tweak the
4 design, the contemporary design that we've come
5 up with, in order to embellish the facade.
6 This was a concern at some stage and our
7 architect has attended a couple of meetings at
8 my cost. He has gone back to work and come up
9 with other suggestions for that.

10 CHAIRPERSON JORDAN: So what you
11 submitted to us today may change? Is that what
12 I'm hearing? Or no?

13 MR. PRUDHOMME: No.

14 CHAIRPERSON JORDAN: Okay.

15 MR. PRUDHOMME: And the neighbors
16 have not accepted any of the changes that we
17 made. They thought that these were not
18 sufficient. I have had a couple of neighbors,
19 in fact one of the neighbors who was present at
20 the meeting held at my house told everyone on
21 that day that, and in fact I'll quote his words.
22 He said, "This is not Ukraine. This is America.

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1 If somebody wants to build a contemporary
2 building, he's got the right to do that."

3 And how things have developed since
4 then, there's been a complete clash and I think
5 that most of the opposition we're getting today
6 is about the design of the building.

7 CHAIRPERSON JORDAN: Yep, I can
8 see that.

9 MS. COHEN: May I speak?

10 CHAIRPERSON JORDAN: Yes, please.

11 MS. COHEN: Thank you, Mr.
12 Chairman. I have a question with regard to
13 the material you're using and I'd like to know
14 what your experience has been or the whole
15 industry's experience of the material over
16 time?

17 MR. PRUDHOMME: Cement board is
18 considered in our industry as a higher standard
19 than vinyl siding. It is a material that's
20 guaranteed for 30 years so it carries a 30-year
21 guarantee and it's widely used in all modern
22 construction, constructions of a modern

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1 approach in design.

2 And the advantage of this product is
3 that it doesn't hold [inaudible] like bricks
4 would. It is a material that is safe, it
5 doesn't carry any toxic material, it has
6 nothing to do with -- in fact it's very
7 healthful, it's completely inert and it has no
8 allergic characteristics or allergens
9 components.

10 There are a number of buildings in
11 Washington, D.C. that have already used this.
12 It's manufactured by a Japanese firm. The
13 highest quality cement board that you can buy
14 are made either in Japan or in Germany. This
15 is manufactured in Japan by a company called
16 Nichiha and their products have been widely
17 accepted right throughout, up and down the East
18 Coast. This is what I can tell you about it.

19 CHAIRPERSON JORDAN: Any
20 additional questions? Anything else you want
21 to present?

22 MR. SULLIVAN: No, Mr. Chairman.

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1 CHAIRPERSON JORDAN: Board, any
2 additional questions before we go to the Office
3 of Planning? Anything else you need to hear
4 from the applicant? Okay. Then let's turn to
5 the Office of Planning for Mr. Mordfin and Ms.
6 Browne-Roberts' input please.

7 MR. MORDFIN: Good morning Chair
8 and Members of the Board. I'm Stephen Mordfin
9 with the Office of Planning and the Office of
10 Planning supports the applications, finding
11 them in conformance with the requirements of
12 section 353.

13 The applicant has revised the
14 plans. The Office of Planning finds them
15 acceptable, finds that the architecture
16 although not the same as the buildings on either
17 side, finds that there's a mixture of
18 architecture in this neighborhood across the
19 street and behind and to either side and it
20 doesn't find one consistent architectural
21 style.

22 Also the application has been

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1 revised to two bedrooms which creates no issues
2 with conformance with the criteria, and it's
3 also in conformance with all of the
4 requirements, the setbacks, the parking, the
5 building height and requires no variance.
6 Therefore the Office of Planning supports the
7 application. Thank you.

8 CHAIRPERSON JORDAN: Ms.
9 Browne-Roberts, have you anything?

10 MS. BROWNE-ROBERTS: Yes. Good
11 morning, Mr. Chairman. The Office of Planning
12 on this application also recommends approval
13 and I will concur with all the comments that
14 were made by Mr. Mordfin. Thank you.

15 CHAIRPERSON JORDAN: Thank you.
16 So both of you believe that this building fits
17 the character of the neighborhood?

18 MR. MORDFIN: Yes. We find that
19 the character of the neighborhood, there's a
20 variety of different architectural styles.
21 There doesn't appear to be one architectural
22 style.

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1 As the applicant mentioned, you
2 have a '60s building across the street, you've
3 got some older buildings on either side, you've
4 got additions onto buildings very modern on
5 Fulton Street and you further down towards
6 Watson Place. So there's a variety of
7 architectural styles and I don't think we can
8 peg it into any one style.

9 MS. BROWNE-ROBERTS: Mr.
10 Chairman, I think that when we received the
11 application we also had some concerns about
12 the architecture and we worked with the
13 applicant in making some revisions. And so we
14 did spend a lot of time looking at the
15 architecture of what is being proposed and what
16 is in the community. And so, you know, we
17 really came down on the side of the fact that
18 there's no consistency of architecture in the
19 surrounding area.

20 CHAIRPERSON JORDAN: And have
21 both of you gone out to the property?

22 MS. BROWNE-ROBERTS: I have.

1 MR. MORDFIN: We've looked at the
2 buildings that go around the blocks.

3 CHAIRPERSON JORDAN: Board, I'm
4 sorry, I'm sorry I didn't mean to hog up the
5 questions. Board, any additional questions?

6 MEMBER HINKLE: Real quick. I
7 think the applicant has made some effort in
8 terms of landscaping. Are you satisfied with
9 what's been proposed in terms of landscaping?
10 Does it fit the character as well of the
11 neighborhood?

12 MS. BROWNE-ROBERTS: Yes. And I
13 think some of the additions that we have heard
14 about, that the applicant has just talked
15 about, I think will enhance it.

16 I think we sort of pushed them
17 because the first time we saw it we thought it
18 was really scant and we sort of pushed them on
19 getting some additional things. But I also
20 think that with the addition of the more mature
21 trees that they're talking about that, you
22 know, they will come to maturation at a faster

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1 rate.

2 CHAIRPERSON JORDAN: Thank you.
3 Ms. Cohen?

4 MS. COHEN: Has the architect
5 arrived yet because it would be interesting to
6 have--

7 MR. PRUDHOMME: He is not in the
8 room yet. He's supposed to have been here
9 since 9:30. Something's happened and we
10 haven't heard from him.

11 MS. COHEN: I tend to think that,
12 except for "starchitects," a lot of architects
13 do look at their surroundings and try to
14 incorporate some of the vocabulary and so I was
15 just trying to understand from their point of
16 view what they may have been thinking in their
17 design.

18 I agree this is a very eclectic
19 neighborhood but I just thought that it would
20 be helpful to hear--

21 MR. SULLIVAN: Hopefully, he'll
22 be here in time for rebuttal. And that then may

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1 be more productive at that point too.

2 MR. PRUDHOMME: May I say
3 something, Mr. Chairman?

4 CHAIRPERSON JORDAN: Yes.

5 MR. PRUDHOMME: The architect has
6 been present at a number of meetings with the
7 neighbors and with the ANC and has expressed his
8 point of view. And he is better qualified than
9 any of us here to say that, so this is why I think
10 rebuttal would be better at the end.

11 CHAIRPERSON JORDAN: And so I hope
12 he finds that this is not adding adversely to
13 the impact on the neighborhood, is that what I'm
14 understanding?

15 MS. BROWNE-ROBERTS: In respect
16 to the architectural or do you mean overall?

17 CHAIRPERSON JORDAN: Overall.

18 MS. BROWNE-ROBERTS: Overall, no.
19 This is R-5-A and I think that they have met all
20 the zoning requirements.

21 CHAIRPERSON JORDAN: Is this
22 street an open street, a thoroughfare, or is it

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1 closed? Is it open or is it closed at one end?

2 MS. BROWNE-ROBERTS: No, it's--

3 CHAIRPERSON JORDAN: It's
4 completely open at both ends?

5 MS. BROWNE-ROBERTS: Yes. Yes.

6 CHAIRPERSON JORDAN: Okay. I
7 must be confusing it with another area. Board,
8 any additional questions of the Office of
9 Planning? Does the applicant have any
10 questions of Office of Planning?

11 MR. SULLIVAN: No, Mr. Chairman.

12 CHAIRPERSON JORDAN: All right.
13 Okay. Then is anyone here from the Department
14 of Transportation regarding these two
15 applications? We do have a letter of no
16 objection from the Department of
17 Transportation, no objection to the relief
18 being requested. And that's about what you're
19 going to get from them. That means that they
20 support the application.

21 Is anyone here from ANC 3D? Anyone
22 who's the representative ANC 3D who's been

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1 selected to speak in behalf of the ANC at these
2 hearings?

3 As has been represented by Mr.
4 Sullivan, we don't have a letter from the ANC
5 that that was a 2-2 vote so therefore there was
6 no approval given.

7 Is there anyone here from the Board
8 of Education? I think DHCD also has to weigh
9 in. Anyone here from DHCD. We have a
10 representative from the city by way of the
11 Office of Planning.

12 Is there anyone here wishing to
13 speak in support of this application? Or of
14 both these applications, both 18784 and 18765?
15 Is there anyone wishing to speak in opposition
16 to 18784? Okay. Would you please start on
17 the left side and feel your way into the
18 microphones please. If you're wishing to
19 speak please come forward now. And if we run
20 out of seats here I'm going to ask you to sit
21 in the very first row behind these seats so if
22 you'd please-- Thank you, please turn in the

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1 cards first. Thank you. Okay. Let's begin.

2 Each of you has three minutes to
3 express what you want to express to the Board
4 under the Board rules please, so let me start
5 here.

6 Two things. One, stay with me for a
7 minute and then we're going to get to where you
8 need to be. So if can make sure your
9 microphones are turned on please, I'm just
10 going to ask you all to go down the row and
11 introduce yourselves first and then we can come
12 back as you want to do your presentations. Is
13 that okay?

14 MR. RYMLAND: Yes sir.

15 CHAIRPERSON JORDAN: Okay.
16 Thank you. Is your microphone on?

17 MR. RYMLAND: Yes, I believe so.

18 CHAIRPERSON JORDAN: Okay.
19 Please just identify yourself.

20 MR. RYMLAND: Richard Rymland,
21 resident, 3917 Watson Place.

22 MR. BRENKERT: George Brenkert,

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1 2825 39th Street.

2 MS. MACK: Rosamond Mack,
3 co-owner and resident of 2816 39th Street which
4 is within 200 feet of the proposed properties.

5 MS. TETELMAN: Alice Tetelman,
6 co-owner and resident 3919 Watson Place, N.W.,
7 within 200 feet of both properties.

8 MS. MLADINOV: Ann Mladinov, 2819
9 39th Street around the corner.

10 CHAIRPERSON JORDAN: The last
11 name again?

12 MS. MLADONIV: M-l-a-d-i-n-o-v.

13 CHAIRPERSON JORDAN: Okay. You
14 can wait on the next panel coming up. Okay?
15 Thank you.

16 MR. MOY: Mr. Chairman, before we
17 begin I just want to let you know that the staff
18 is making additional copies of the testimony
19 that was just handed us, that they're going to
20 be making copies. I just wanted to let you know.
21 We didn't have enough copies to pass out to the
22 Board.

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1 CHAIRPERSON JORDAN: Got it.
2 Okay. So whichever order you want to start but
3 you have three minutes apiece.

4 MR. BRENKERT: I'll begin. George
5 Brenkert. Thank you for the opportunity to
6 address the Board. It is correct that we have
7 had a couple of meetings with the developer and
8 Mr. Sullivan. We have made some progress there
9 but nevertheless I rise to oppose the present
10 design of the building.

11 The neighborhood that we're talking
12 about is a neighborhood, a small oasis that's
13 been in part mis-characterized by the Office of
14 Planning. It's a neighborhood bounded by 38th
15 Street, Cathedral, 39th Street, Tunlaw and
16 Fulton. It's a neighborhood of semi-detached
17 buildings, some small condos. They are
18 significantly constructed out of brick. If
19 they're not constructed out of brick they have
20 a design that fits with the neighborhood with
21 pitched roofs and the like.

22 The proposal that you have before

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1 you is for a starkly modernist type of building
2 with large flat surfaces, composed out of
3 glass, metal and fiber cement panels.

4 Though the building across the
5 street you've been shown is a 1960s
6 contemporary building, it is one of the uglier
7 buildings in our neighborhood and we have urged
8 Mr. Prudhomme not to think in terms of the
9 ugliest buildings in our neighborhood but in
10 terms of the nicest buildings in the
11 neighborhood.

12 One way in which to characterize a
13 neighbor too, if I can use the portion of my
14 testimony, is to give you an exhibit we would
15 like to show you of the block in the
16 neighborhood. We have a scroll of the
17 buildings so that you can see, a picture is
18 worth a thousand words, and perhaps worth five
19 minutes.

20 CHAIRPERSON JORDAN: I'm going to
21 ask you to do something for us. Could you come
22 down so that we can get that projected and

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1 recorded. Yes, there we go. And is he going
2 to be able to move all the way from left to
3 right? That's okay. We can see clearly
4 where you are.

5 In order to be fair, I want to make
6 sure Mr. Sullivan that you have the opportunity
7 to see these pictures. Have you seen them
8 before?

9 MR. SULLIVAN: Yes, I've seen it.
10 Thank you.

11 CHAIRPERSON JORDAN: To allow you
12 the proper grounds for examination. Okay.
13 Please go ahead. Who's speaking?

14 MR. BRENKERT: And now what you
15 see is the new proposed buildings that are going
16 to be put into our neighborhood.

17 CHAIRPERSON JORDAN: Do me one
18 favor. Give me some context of where these
19 buildings are. Is that all in the same
20 street? Across the street?

21 MR. BRENKERT: These are all on
22 Fulton Street.

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1 MS. TETELMAN: And from here up
2 until here is 39th Street which begins the R-2
3 zone which extends for nine plus blocks to the
4 east and the north. This is the beginning of
5 the R-2 zone which is mixed detached houses,
6 semi-detached and townhouses.

7 CHAIRPERSON JORDAN: Got it.
8 Thank you.

9 MS. TETELMAN: And then from here
10 till the end is Watson Place, the back triangle
11 of the square of 1806. This is all the square.

12 CHAIRPERSON JORDAN: Let's do
13 this. For the sake of making a record, because
14 I think in this case we're definitely going to
15 have to have a record, I don't know if
16 everything is going to stay in this building,
17 that we make this opposition Exhibit 1. Okay?
18 And you're going to have to make sure we have
19 this for our records.

20 MS. TETELMAN: We will. I thank
21 you for that. We're prepared. We have a
22 wrapper which says when the photographs were

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1 taken, by whom and so on.

2 CHAIRPERSON JORDAN: Got it.
3 Okay.

4 MR. BRENKERT: What you're
5 seeing under that are the two single family
6 houses on this property surrounded by six large
7 old-growth trees and it's all going to be taken
8 down, replanted with 10 to 12 foot trees which
9 we're very pleased that Mr. Prudhomme has moved
10 in that direction, but with buildings that are
11 strikingly out of character of the neighborhood
12 both in design and material.

13 CHAIRPERSON JORDAN: Do me a
14 favor. Flip that back over one more time. And
15 that's what's there now?

16 MR. BRENKERT: Yes.

17 CHAIRPERSON JORDAN: Okay. Flip
18 it back down. Got it. Okay. I think we're good,
19 Board, on the pictures. Thank you.

20 MR. BRENKERT: Thank you.

21 MS. TETELMAN: Thank you.

22 CHAIRPERSON JORDAN: Since we

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1 used the -- is that all you need to say because
2 we did give you a little more time but is that
3 all you have? We can give you another minute.

4 MR. BRENKERT: I can say much
5 more.

6 CHAIRPERSON JORDAN: I don't want
7 you going longer now and I want you to say what
8 you're supposed to say and I'll give you another
9 minute.

10 MR. BRENKERT: What I would say is
11 that we are in favor of many of the things that
12 Mr. Prudhomme said about quality units, larger
13 condos, that we think that's its important, the
14 density that he's talking about we're not
15 objecting to that as such.

16 What we are objecting is to the
17 particular style. We don't think it fits in,
18 to use your words "with the character of the
19 neighborhood." Anybody coming through that
20 area looking at those buildings would say oh my
21 God.

22 CHAIRPERSON JORDAN: Board, any

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1 questions of this witness? The applicant,
2 any questions of this witness? Or do you want
3 to hold to the end? Whichever way you prefer
4 to handle, I'll give you that option Mr.
5 Sullivan.

6 MR. SULLIVAN: Just one point on
7 this one. I wanted to clarify that only the
8 first three homes--

9 CHAIRPERSON JORDAN: Are we
10 asking questions?

11 MR. SULLIVAN: Yes, verify that
12 only the first three homes on this 20-picture
13 scroll were on Fulton Street, other than the
14 applicant's project. Is that correct?

15 MR. BRENKERT: I'm not sure what
16 the question is.

17 MR. SULLIVAN: There's about 20
18 pictures on the scroll and only the first three
19 are on Fulton Street. Is that correct?

20 MS. MACK: No, that's not correct.
21 There are three to the west of 3919 and one to
22 the east of 3915. Four.

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1 MR. SULLIVAN: Okay, so there's
2 four of the whole scroll. Okay. That's the
3 only question I had. Thanks.

4 CHAIRPERSON JORDAN: Thank you.
5 All right. The next person who's testifying.

6 MS. MACK: Yes, I'll repeat my
7 name, Rosamond Mack since I was not heard last
8 time, 2816 39th Street, co-owner with my
9 husband.

10 I've already talked to the scroll,
11 I just want to reiterate that most of the
12 comparable cited, both by the applicant and the
13 Office of Planning, are really limited to the
14 corner of the R-5-A zone which is in our larger
15 neighborhood. And they're not addressing our
16 part which begins right in that square, 1806,
17 just to the east of these two properties.

18 In fact, the little condo building
19 which is quite old and has no parking, built
20 long before there were parking requirements, is
21 zoned R-2. Go ahead.

22 CHAIRPERSON JORDAN: No, no let me

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1 let you finish.

2 MS. MACK: Otherwise I will cede
3 my time to the next person unless there are
4 questions which come up regarding parking and
5 then I may come in again.

6 CHAIRPERSON JORDAN: Well, let me
7 tell you. You need to take your three minutes
8 whichever way you want to take them.

9 MS. MACK: Okay. All right.
10 Despite the reduction in the number of
11 bedrooms, which is to us a very positive
12 development, we're still left with 12 new
13 apartments with two bedrooms each.

14 It's unlikely that these apartments
15 will be occupied by less than two people,
16 probably two people or more, maybe a few of them
17 by one person. And at this price, this level
18 of wealth required to purchase these
19 condominium units, it's unlikely that there is
20 going to be one car per unit. Now there are 12
21 spaces provided which is the minimum. That's
22 not enough.

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1 Other condos downtown, a number of
2 them, supply more. I've seen advertised in the
3 paper we provide two places with our units.

4 There are going to be extra cars.
5 There's going to be more than 12. How many? We
6 don't know. Right now the streets are very
7 crowded, the whole southern end of Fulton
8 Street across from these units there's no
9 parking because of the Russian embassy.

10 Fulton Street is already full, 49th
11 Street gets very full particularly when school
12 is in session. Currently, one house which is a
13 group rental, five cars were generated for a
14 long time plus visitors. That's empty, that
15 didn't figure in the June 9 survey that Grove
16 Slade did for the applicant. Students were
17 away. So that's a flawed mis-representative
18 sample. So already we're squeezed, if we come
19 home at 10 p.m. at night we have to hunt for a
20 parking space. Drive around the blocks. And
21 we have to walk at least a block to get home.
22 So parking still is an issue.

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1 CHAIRPERSON JORDAN: Okay.
2 Thank you. The picture again, is it somewhere
3 around?

4 MR. BRENKERT: Yes, here it is.

5 CHAIRPERSON JORDAN: Now, let me
6 just ask the question. I thought we showed when
7 I asked a question that the picture showed the
8 homes on that same block except for one
9 portion. Is that correct?

10 MR. BRENKERT: What they show
11 are all of the buildings on Fulton where the
12 projects are going to be built. Then it goes
13 around the corner down 39th Street--

14 CHAIRPERSON JORDAN: Give me one
15 more shot on the picture if you could pull it
16 out.

17 MS. MACK: Okay. It's square 1806.
18 It's that block. It's the block right there.

19 CHAIRPERSON JORDAN: I got it. I
20 want to see the pictures. Thanks. I just need
21 to be able to be clear about the pictures. All
22 right. Now--

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1 MR. BRENKERT: If you were going up
2 Fulton it would be all residential going up
3 Fulton. This actually doesn't quite--

4 CHAIRPERSON JORDAN: Okay. So
5 everything on that block. Show me everything
6 on that block.

7 MS. MACK: This is Fulton on the
8 north--

9 CHAIRPERSON JORDAN: On the north
10 side of Fulton. Okay. Fulton north side.
11 Part of speaking here you've got to be in
12 entertainment training so you know how to keep
13 that going.

14 MS. MACK: Yes, here we go. The
15 entertainer's here. We start here and these
16 are all the houses on the north side of Fulton
17 Street. This is the corner of 39th Street and
18 they are--

19 CHAIRPERSON JORDAN: This is the
20 north side. You've got pictures of the south
21 side?

22 MS. MACK: We do not have a picture

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1 of the south side.

2 CHAIRPERSON JORDAN: Okay. One
3 building, right?

4 MS. MACK: No, there are two and on
5 the corner actually across from this is a very
6 large detached single family house.

7 CHAIRPERSON JORDAN: So did I hear
8 you say there's only one building on the south
9 side of Fulton?

10 MS. MACK: Two apartment
11 buildings but they don't access from Fulton.
12 They're actually accessed from Tunlaw Road
13 which is on a hill. One is accessed from
14 Fulton, the other is from--

15 CHAIRPERSON JORDAN: So the other
16 one is a rear?

17 MS. MACK: One is a rear and one is
18 a front.

19 CHAIRPERSON JORDAN: Got it.
20 Okay.

21 MR. BRENKERT: You have to realize
22 Fulton is up on a--

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1 CHAIRPERSON JORDAN: We need you
2 on a microphone.

3 MR. BRENKERT: What you need to
4 realize is Fulton is up on a high level. Tunlaw
5 is way down below. And so that's why one of the
6 buildings is accessed, and it's a 3-story
7 building from Fulton even though the Office of
8 Planning characterized it as a 7-story
9 building. It's a 7-story building because it's
10 built on Tunlaw which is 50 or 60 or 70 feet
11 below Fulton.

12 CHAIRPERSON JORDAN: So is the
13 back of it vegetation, trees or something?

14 MR. BRENKERT: Well, the side on
15 Fulton is the picture that you have in the
16 PowerPoint slides that were given. It's not a
17 very attractive building.

18 CHAIRPERSON JORDAN: All right.
19 So I see the north side of Fulton. Where are
20 we?

21 MS. MACK: Okay. Now this is the
22 west side of 39th Street which runs north-south

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1 and it begins here and as I say the R-2 zone
2 begins behind these houses on the alley and it
3 includes this old apartment house.

4 CHAIRPERSON JORDAN: Okay. Got
5 it. Now I see where we are.

6 MS. MACK: And these are all the
7 duplexes in the R-2 zone. And then the R-2 zone
8 goes three blocks that way, three blocks that
9 way, all the way out to the alley just west of
10 Wisconsin Avenue.

11 CHAIRPERSON JORDAN: All right. I
12 think we have it. Thank you very much.

13 MR. RYMLAND: And just to point
14 out, if we went up this way on Fulton on 39th
15 Street, if you go up on Fulton this way it is
16 then exclusively single family homes and maybe
17 a few town homes but old town homes. So it
18 really is the edge of -- a pressure point of
19 design and residences.

20 MS. COHEN: I have a question.
21 Are there garages behind these houses or do you
22 have to park on the street?

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1 MR. BRENKERT: Many of them have
2 parking behind but others you have to park on
3 the street.

4 CHAIRPERSON JORDAN: Okay.

5 MS. COHEN: Off the top of your
6 head you don't know the numbers?

7 MR. RYMLAND: On 39th Street, if I
8 may, almost everyone has like a bump-in or an
9 old driveway on their back so there is parking
10 and actually many of them have an actual garage
11 in the basement. So there are a lot of parking
12 options,

13 CHAIRPERSON JORDAN: Okay. All
14 right. Next in order please. Or whatever order
15 you've already decided on.

16 MS. TETELMAN: To repeat, my name
17 is Alice Tetelman. I live at 3919 Watson
18 Place, N.W. From the rear of our house we look
19 directly at both of these buildings, the alley
20 behind Fulton Street and also the houses
21 themselves, their gardens and the alleyway.

22 I just want to reiterate what my

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1 neighbors have said, and which I believe, that
2 this design is totally out of character with our
3 neighborhood and it offer a jarring appearance
4 as you go down Fulton Street, and I think it will
5 irretrievably alter the character of our
6 neighborhood, which is why I and many neighbors
7 have opposed this.

8 I should point out that Mr. Brenkert
9 is our -- he calls himself our informal
10 coordinator, but 35 people in our neighborhood
11 signed a petition in opposition to this and
12 there are others besides that 35 who feel as we
13 do.

14 So there are a number of people in
15 the neighborhood that feel this way.

16 MR. BRENKERT: Actually, we might
17 be a few signatures short. I think we have 26.

18 MS. TETELMAN: You have 26? But
19 they represent parties that would get you up to
20 35 as I understand it. Okay. I want to speak
21 to two issues. I've submitted a broader
22 statement. I want to pick up on what Ms. Mack

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1 has said about parking as a concern. And we
2 do, we on Watson Place, we park on the street,
3 we do not have garages.

4 But we do use the alleyway behind
5 our house and the alley separating Watson Place
6 houses behind Fulton Street will now, with the
7 addition Mr. Prudhomme's development, will
8 have 12 parking spaces. There will be five
9 parking spaces at 3921, that is being
10 redeveloped or rehabbed right now, and also the
11 last house, 3925, has four parking spaces.

12 So that means that 21 cars are going
13 to be parked on a very narrow alleyway off of
14 Fulton, separating Fulton Street and right next
15 to the Watson Place houses. I personally think
16 that this is an accident waiting to happen.
17 There are just too many cars in too little
18 space.

19 Also two of the houses, mine and our
20 neighbor's, have garden walls that go along the
21 alleyway and I frankly am concerned about the
22 parking and the traffic coming through. The

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1 garbage trucks use those alleys, the people on
2 39th Street use the alleyway, it is trafficked.
3 And so I raise that for your consideration.

4 And the other comment I'd like to
5 make, and Ros alluded to it, as part of his June
6 12th pre-hearing presentation, the developer
7 had a traffic study done. This traffic study
8 was done on a night when there were no students
9 around. Students do inhabit a lot of the
10 buildings around us and they take up a lot of
11 the parking spaces.

12 In addition, this traffic study had
13 incorrect names of our streets, referred to
14 Garfield Road and Watson Street instead of
15 Watson Place and Garfield Street. So I
16 personally think that the details in that study
17 are suspect and I call that to your attention.

18
19 The other issue I'd like to raise
20 and the noise from the roof decks. There will
21 be four roof decks and one part of the roof deck
22 is an enclosure of about 700 square feet. We are

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1 concerned about noise. There is only a
2 four-foot parapet. If you have a party people
3 stand up, they will be making noise from those
4 roof decks. It's inevitable.

5 And we have asked for some
6 mitigation on this. Mr. Prudhomme was not
7 happy with the concept of tempered glass. I am
8 not an architect but I do worry about the noise
9 coming from there. And so--

10 CHAIRPERSON JORDAN: I think we
11 need to -- your last sentence will be?

12 MS. TETELMAN: I said I do worry
13 about noise.

14 CHAIRPERSON JORDAN: No, no, I'm
15 saying make your last sentence please.

16 MS. TETELMAN: Yes, and I thank
17 you for listening to us and I hope that you will
18 oppose this proposal. Thank you.

19 CHAIRPERSON JORDAN: Thank you.
20 Board, any questions of this witness?
21 Applicant any questions of this witness?

22 MR. SULLIVAN: Just one, Mr.

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1 Chairman. You said that you're represented by
2 Mr. Brenkert and Mr. Brenkert said that your
3 group was generally okay with the density of the
4 project. Is that not true or were you not part
5 of conversations regarding the density?

6 MS. TETELMAN: I'm not quite sure
7 how you're interpreting Mr. Brenkert's
8 statement so I think George can answer that.

9 MR. BRENKERT: When I referred to
10 the density I was referring to the reduction
11 from three bedrooms to two bedrooms, that that
12 was an improvement in the density. I think
13 even the density can be separated from the
14 parking and I wasn't addressing the parking
15 issue in doing so. Thank you.

16 MR. PRUDHOMME: Mr. Chairman, may
17 I ask a question?

18 CHAIRPERSON JORDAN: No. Mr.
19 Sullivan can ask a question,

20 MR. SULLIVAN: You said that you
21 use the back alley for vehicular means. What
22 do you use the back alley for?

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1 MS. TETELMAN: Well, sometimes if
2 we want to find parking on a different part of
3 the street we will go around the back. We will
4 take our trash there and it's a directional
5 alley so we'll leave one part of Watson Place
6 and use the alley to come around and go around
7 off to Fulton Street or to the other side of
8 Watson. So there is traffic in the back there
9 regularly. The cars use that alleyway.

10 MR. SULLIVAN: Thank you.

11 CHAIRPERSON JORDAN: Additional
12 question, Mr. Sullivan?

13 MR. SULLIVAN: No, Mr. Chairman.
14 Thanks.

15 CHAIRPERSON JORDAN: Thank you.
16 Our next witness please?

17 MR. RYMLAND: Richard Rymland,
18 3917 Watson Place. This is a very interesting
19 dilemma since something will definitely happen
20 on this site and my primary concern is that it
21 is a successful project and will sell.

22 And I want to express gratitude for

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1 the agreements we've reached with the developer
2 at this point -- not everything, but serious
3 issues.

4 The appeal I have to the Zoning
5 Board concerns the facade.

6 [SIREN SOUNDS]

7 CHAIRPERSON JORDAN: Don't move
8 yet. I understand we have to be designated
9 right? I don't know if this is our siren.
10 This is a funny building, you only have to
11 sometimes evacuate if it's your floor
12 designated so that's what Mr. Moy is going to
13 find out. But I hope he finds out before it's
14 too late. Sounds like that's our floor.

15 I think we wouldn't hear it if it's
16 not for us. Right? Isn't that correct? It's
17 a big problem if you do it because it gets
18 congested in how they do it.

19 I'm going to -- let's err on the safe
20 side and let's make our move out of here.

21 (OFF THE RECORD)

22 CHAIRPERSON JORDAN: Okay. Go

1 back in session. I think Mr. Rymland you were
2 speaking.

3 MR. RYMLAND: Yes, thank you Mr.
4 Chairman. What I started to say was that
5 something is going to happen in this location.
6 We have reached a meeting of the minds over the
7 last discussions of several major points with
8 the developer, and what I am pleading for here
9 with the Zoning Board is an aspect of aesthetics
10 and beauty.

11 I realized last night in the middle
12 of the night the reason that I had such a
13 negative response to the rendering was that it
14 looked exactly like the bachelor's officer's
15 quarters I lived in on Sandia Base at the end
16 of the Korean War.

17 I tried to reach a friend of mine in
18 New Mexico to find out if I could get a picture.
19 It has been torn down, which is justice for that
20 design. So what I'm appealing to the Zoning
21 Board to do, if you can, is to get a more
22 comprehensive, thoughtful aesthetically

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1 pleasing monument of art on the front of these
2 buildings. All the other things are perfect.
3 If it were beautiful it makes a vast difference.
4 And so that's my appeal.

5 We need to have not an office park,
6 not an industrial park, not a commercial
7 facade, but a real modern residential facade.
8 Calling this contemporary is not accurate
9 unless we're talking about our whole lifetime
10 because this is a design from the '50s.

11 So if you have that in your mandate
12 and in your power we would appreciate it if you
13 would insist on that aspect. Thank you very
14 much.

15 CHAIRPERSON JORDAN: Thank you.
16 Board, questions? Applicant questions?

17 MR. SULLIVAN: One question, Mr.
18 Rymland. Did you see alternative proposals
19 for the design recently, last week at a meeting,
20 did you see the alternative proposals?

21 MR. RYMLAND: I can only refer to
22 the proposals that are in front of the Board.

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1 I don't know about those. I've never been given
2 them.

3 MR. SULLIVAN: Okay. So you didn't
4 look at the design proposals that we presented
5 in front of you last week?

6 MR. RYMLAND: I didn't have the
7 opportunity to look at them.

8 MR. SULLIVAN: Okay. Thank you.

9 CHAIRPERSON JORDAN: All right.
10 Thank you all. Next witness?

11 MR. POLLAK: Hi, Noah Pollak. I
12 live at 2818 39th Street. I live next to Ros so
13 I believe I'm 200 yards. I share the back alley
14 with them. And at this point in time when I
15 look back I see trees and a setback residential
16 home.

17 When this project is complete I will
18 see four elevated noise platforms, each with a
19 dedicated kitchen area that is apparently not
20 a bedroom but if you'll look at the plans
21 there's room at the top stairs with a sink and
22 some type of kitchen area, there solely to

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1 service a party space and that will not have any
2 noise cover.

3 Once those trees are taken down and
4 those decks are exposed, it will be a huge noise
5 issue for the entire block. And that is the
6 block that you saw which is predominantly a
7 residential block.

8 So I have very serious concerns
9 about the roof decks and what it will do to our
10 currently very quiet community and it just
11 won't be when it's done.

12 The next part is about the parking.
13 Again, it's an increase. Currently, there are
14 seven cars on those two lots. They're looking
15 to increase it to 24; apparently with 2-bedroom
16 houses either you're looking at two adults and
17 a child or apparently there are empty nesters
18 who can be spending \$900,000 dollars for either
19 a walk-up or for a basement apartment, because
20 that's what these are. You have a basement
21 apartment--

22 MR. SULLIVAN: It's not 24

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1 parking spaces.

2 MR. POLLAK: Well, there'll be 24
3 cars most likely. If you're looking for
4 \$900,000 dollar apartments--

5 CHAIRPERSON JORDAN: You're
6 assuming?

7 MR. POLLAK: Assuming, yes. Yes.
8 Well, I think if we look at the traffic study
9 that was done, there was an assumption that many
10 of these would not have any cars and when you're
11 spending \$800,000 and \$900,000 dollars on an
12 apartment an assumption there'll be zero cars
13 and also an assumption that for each building
14 there will only be two trips during rush for six
15 apartments is just kind of -- the assumptions
16 in that traffic study I think were very wrong.

17 And I think that an assumption of in
18 a close to a million dollar apartment that there
19 will be two automobiles for each apartment I
20 think is quite frankly a very rational and
21 reasonable assumption. And currently it's my
22 understanding, I haven't independently

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1 verified, that there are seven cars among the
2 two houses currently. And this is a material
3 increase from seven cars to 24 cars that are
4 going to be in this spot.

5 Even if you did a matter-of-right
6 development we'd be talking about 16 cars
7 because these units in a matter-of-right
8 development would be eight units, each would be
9 a studio or a one-room apartment so we're
10 talking about maybe eight cars. And, if you
11 believe this traffic study, perhaps far, far
12 fewer than that because you're now going to be
13 at a price point which might not have any cars
14 or have only one car in a household.

15 I just want to ask when you're
16 looking at the planning, the layout as well, I
17 just ask -- and I don't know the answer to this
18 -- look at the four to six-foot window wells and
19 whatever those things are on the right side of
20 each house, I just ask whether those are in
21 conformity with the 8-foot side yards when you
22 have a four to six-foot deep well that runs

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1 along the side of the house, and whether you
2 count that space in the 8-foot side yard. I
3 don't know the answer, I'm just asking you all
4 to just consider that when you're looking at the
5 space.

6 And finally, I guess what assurance
7 do we have that if you did approve these plans
8 as they are, that they wouldn't change going
9 forward? And again this isn't my area of work
10 so I don't know what the process is going
11 forward. But obviously that would be some
12 concern down the road. There was a written
13 commitment that was given but it doesn't really
14 mean anything. There's no substance--

15 CHAIRPERSON JORDAN: They would
16 have to get relief if they changed their plans.

17 MR. POLLAK: With community
18 notice and go through this all again, or is it
19 a much more streamlined process?

20 CHAIRPERSON JORDAN: They would
21 have to come back the same way.

22 MR. POLLAK: Okay. So in

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1 conclusion my big issues quite frankly are the
2 roof decks. I think the parking is a
3 significant concern and perhaps the yard
4 requirement are kind of my big issues.

5 CHAIRPERSON JORDAN: Got it.
6 Questions, Board?

7 MS. COHEN: I have a question.
8 There are homes in the neighborhood that have
9 decks, is that correct?

10 MR. POLLAK: Correct.

11 MS. COHEN: So those people that
12 have decks probably have parties occasionally?

13 MR. POLLAK: I think -- yes, it is
14 correct that people use their decks yes.
15 There's a difference between the decks that are
16 going in, 3-stories up I think makes a big
17 difference than ground floor decks. I think
18 that makes a significant difference.

19 I think that you are now talking
20 about four decks per site, you're talking about
21 very, very large decks. So I think there is a
22 difference, you're doubling the number and

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1 again there's been a representation that these
2 are going to be empty nester apartments who are
3 living on a 2-story walk up. I'm pretty sure
4 that's not the top place that people are going
5 to be looking for--

6 MS. COHEN: You answered my
7 question though. Thank you.

8 CHAIRPERSON JORDAN: Any other
9 questions? You know my colleagues have been
10 like he's well over time, he's well over time
11 so we've already kind of extended that courtesy
12 to you.

13 MR. POLLAK: Thank you. I
14 appreciate your time.

15 CHAIRPERSON JORDAN: Board, any
16 other questions? Applicant, questions?

17 MR. SULLIVAN: So would you prefer
18 the 9-unit scenario with the studio apartments
19 is what you're saying?

20 MR. POLLAK: I think as my
21 neighbor has mentioned, I think it is a tough
22 call. To some degree I think it would solve

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1 probably two of my bigger issues,

2 MR. SULLIVAN: Are you aware that
3 you could do a roof deck as a matter-of-right
4 in that scenario? It's possible without any
5 review by this Board or the community.

6 MR. POLLAK: That would be a roof
7 deck shared by eight individuals as opposed to
8 a roof deck shared by likely six individuals.
9 Again, I think it's--

10 MR. SULLIVAN: So you're aware
11 that each roof deck only connects to one unit?

12 MR. POLLAK: I do but if you look
13 at the plans there's a dedicated party room
14 which would likely be converted into a bedroom.

15 MR. SULLIVAN: Does it say
16 dedicated party room on the plans?

17 MR. POLLAK: Well, when you have a
18 sink--

19 MR. SULLIVAN: Or is that your--

20 MR. POLLAK: When it's a sink
21 without a bath--

22 MR. SULLIVAN: Made up

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1 definition.

2 CHAIRPERSON JORDAN: Wait, wait,
3 wait, wait. Slow up one second. Mr. Sullivan,
4 ask the question, let him respond, wait for his
5 answer and then we'll go to the next question
6 because you both were talking about the same
7 time.

8 MR. SULLIVAN: Okay. So you said
9 the roof deck is solely to service a party
10 space. Do you have any information to support
11 that?

12 MR. POLLAK: Well, it's not a
13 bedroom is it?

14 MR. SULLIVAN: So the only reason
15 somebody would want to go outside is to have a
16 party?

17 MR. POLLAK: No, but you have an
18 extra room up there.

19 CHAIRPERSON JORDAN: Okay. Got
20 you. I think I understand clearly what the
21 question is and I clearly understand the
22 response. It's his guesstimation, this is

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1 his testimony, his opinion, it is not a factual
2 statement that it's going to be used for a party
3 room. It's an assumption, is that correct?

4 MR. POLLAK: I believe that's the
5 likely use of a second floor--

6 CHAIRPERSON JORDAN: But it's
7 your assumption?

8 MR. POLLAK: Yes.

9 CHAIRPERSON JORDAN: There.
10 Stay with me.

11 MR. POLLAK: I'm with you.

12 CHAIRPERSON JORDAN: Thank you.
13 Next question?

14 MR. SULLIVAN: No further
15 questions.

16 CHAIRPERSON JORDAN: Okay. All
17 right. Do we have another person to testify?
18 Ah. Okay. I saw you sitting down there and I
19 thought we went past you. Go ahead please.
20 State your name.

21 MS. MLADINOV: Thank you,
22 Chairman Jordan, I appreciate being here. We

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1 have a wonderful group of neighbors and many of
2 them are represented here. It's one of the
3 reasons that I love being in that neighborhood,
4 the quality of the people and how much they care
5 about this neighborhood which is why we are
6 here.

7 We just had a fire drill. We are
8 not talking about an emergency of that nature
9 when we're talking about this project but it is
10 very important, a potential change point, just
11 as this block is a change point in our
12 neighborhood. It is the transition between
13 the R-5-A district and the R-2 that
14 characterizes the rest of the neighborhood
15 which is entirely single family homes except
16 for that one small older apartment building.

17 The architect told us not even a
18 week ago, four days ago, that until he was
19 hearing the discussion with neighbors he had
20 not walked up Fulton Street to see the single
21 family homes in the adjoining blocks. He came
22 up from Tunlaw, which is an apartment corridor,

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1 it's a busy arterial, and he did not realize
2 that he was building, designing for a
3 residential neighborhood with single family
4 homes.

5 The apartment building on the south
6 side of the street that people have been kind
7 of dodging is an unusual building because it was
8 built by the Soviet Embassy, is separated from
9 the neighborhood by an iron fence at the top of
10 which are coils of concertina wire. It's hard
11 to consider that a neighbor and that's really
12 why we haven't been speaking about that as part
13 of the neighborhood. It's very different from
14 anything else and we don't have anything to say
15 about it.

16 CHAIRPERSON JORDAN: That's the
17 7-unit that's down--

18 MS. MLADINOV: There are two
19 buildings there.

20 CHAIRPERSON JORDAN: From the
21 Soviet Embassy, Russian Embassy?

22 MS. MLADINOV: One of them is a

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1 embassy residence.

2 CHAIRPERSON JORDAN: Got it.

3 Thank you.

4 MS. MLADINOV: The rest of that
5 street which Ros didn't show has some beautiful
6 older homes which the architect did note when
7 he took his walk up the street.

8 I remember Noah mentioned that the
9 architects often design to be sensitive to the
10 context and that's what we were hoping would
11 happen here.

12 When the ANC met first on this
13 project, for some of the reasons none of the
14 neighbors were notified about it. So they met
15 in May and the ANC did tentatively give its
16 approval on condition of some modifications to
17 the exterior.

18 They had a follow up meeting on June
19 12 which was announced to the neighborhood and
20 quite well attended and, as you heard, the
21 neighbors opposed the building for a variety of
22 reasons that you've heard and one of the

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1 strongest ones was the exterior. So the ANC
2 asked the developer to meet with the neighbors
3 and try to resolve the remaining issues in time
4 for this hearing.

5 We had several discussions and they
6 were quite generous in their time. I'm not
7 sure they spent as much time on it as we did but
8 we did have several meetings.

9 [WHISTLING SOUND]

10 CHAIRPERSON JORDAN: Well, that's
11 awfully rude but you do need to wrap up.

12 MS. MLADINOV: Okay. And most of
13 the time was spent talking about roof decks and
14 rentals and the number of units. They took a
15 lot of time to do the new plans down to two
16 bedrooms. That meant there was no time to
17 discuss the exterior which was the major issue.
18 They had some drawings on the table which were
19 slipped by some of us last Thursday, the
20 architect is trying to develop some refinements
21 to the facade.

22 CHAIRPERSON JORDAN: When I said

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1 that I meant you to make your last sentence.

2 MS. MLADINOV: Their design was
3 not complete and yesterday we had no time to
4 review it and I would say it is very clear that
5 this graphic does not reflect the current floor
6 plans and you can see that easily by comparing
7 the east elevation in this set to this design
8 for at no time there has not been enough time--

9 CHAIRPERSON JORDAN: No. No. I
10 really appreciate you bringing your testimony.
11 I note three minutes but that's the rule. It's
12 not a lot, but when you took that breath we knew
13 that was the sentence. I mean seriously I
14 understand. Questions, Board?

15 MR. MOY: Mr. Chairman, did she
16 identify herself for the record?

17 CHAIRPERSON JORDAN: I believe
18 so.

19 MS. MLADINOV: Ann Mladinov.

20 MR. MOY: I just want to be sure.

21 CHAIRPERSON JORDAN: Thank you.

22 Board, questions? Applicant questions?

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1 MR. SULLLIVAN: No, thank you Mr.
2 Chairman.

3 CHAIRPERSON JORDAN: All right.
4 Now we will turn to the applicant for five
5 minutes-- we'll give you a 10-minute rebuttal.
6 Oh there's another? Oh, I'm sorry. When I
7 asked earlier I did not see your hand. Is there
8 somebody else? Okay. Last call. Last call.
9 Seventh inning. Okay. Go ahead please.

10 MS. BOURJAILY: I'm Peggy
11 Bourjaily, I live at 2818 39th Street, N.W., so
12 I guess I'm also within that 200 yard range.
13 And we just moved here to this neighborhood, to
14 the city last year and it seems to be, you know,
15 to us it was a neighborhood of young families
16 moving in and then people who've been there
17 and raised their families living there into the
18 future and it's been a great neighborhood of
19 transition but also of stability and a
20 foundation.

21 And those two homes that are looking
22 to be ripped down it's just such a shame to me

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1 on our block that instead of, you know, being
2 maintained as single family homes where
3 children are raised, that now it's just going
4 to be a bunch of condos that you hope to sell
5 for a lot of money to people but I just don't
6 see how that's going to happen.

7 So you know D.C.'s one of these
8 wonderful cities that's being rejuvenated and
9 I feel like developers have a responsibility to
10 the communities in which they're building, and
11 I don't see that responsibility here. So that's
12 one of my things.

13 The other thing is our stretch of
14 39th Street, all of the houses have garages and
15 the ability to park and use that alleyway so
16 adding five additional cars or parking spaces
17 into that alleyway I think would be huge.

18 Also, I think so there's five
19 additional parking spaces in the alleyway and
20 then the potential for numerous cars. I mean I
21 don't think there's a limit on how many cars any
22 one apartment owner can own into the

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1 neighborhood, I mean right now it's hard to
2 park, it's hard already. So I think adding, I
3 don't know how many cars to the neighborhood,
4 I think it will be difficult.

5 So you know I just feel that it's a
6 shame and I would love them to just like rethink
7 their approach. We border Wesley Heights which
8 is a luxurious neighborhood, we border all of
9 these wonderful schools where families are
10 dying, I can't tell you how many families are
11 dying to buy a house like the ones that these
12 gentlemen are going to be ripping down. And
13 that's where I stand.

14 CHAIRPERSON JORDAN: All right.
15 Thank you. Board, questions of this witness?
16 Applicant?

17 MR. SULLIVAN: No, Mr. Chairman.

18 CHAIRPERSON JORDAN: Okay. Next
19 person please.

20 MS. LAWSON: Hello, I'm Linda
21 Lawson. I live at 2808 39th Street the back of
22 which looks out on this project and out on the

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1 alley. And I want to thank the developer for
2 working with us and accommodating many of the
3 concerns that we had.

4 I echo Richard's comments about
5 wanting a bit more time to make the facade more
6 compatible with the neighborhood. We were shown
7 some preliminary drawing but we had so many
8 other things to talk about we really ran out of
9 time to actually talk about other choices for
10 this facade and how we might mitigate the sort
11 of severity of it.

12 I use my back, I park in my garage
13 all the time. I'm in and out of that. My back
14 deck looks right out at the building and I will
15 see it all the time. Right now I see trees.
16 But I just would ask if there were a bit more
17 time to work on mitigating the facade somewhat
18 so it's not quite so stark in our neighborhood.
19 Thank you.

20 CHAIRPERSON JORDAN: Thank you.
21 Board, questions please? Applicant question?

22 MR. SULLIVAN: No, thank you, Mr.

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1 Chairman.

2 CHAIRPERSON JORDAN: Any
3 additional witnesses. Yes please?

4 MS. PELL: My name is Mina Pell.
5 My husband and I live at 3900 Fulton Street,
6 N.W., catty-corner to this proposed project. So
7 we're sort of the last man standing. Our
8 neighbors immediately to the left are the
9 Russians with the concertina wire and,
10 unfortunately, the people from whom we bought
11 our house a long time ago sold off that property
12 to the Russians. So if that hadn't happened we
13 would have owned everything down to Tunlaw
14 Street.

15 That being said, thank you the
16 developer, Mr. Sullivan for these concessions
17 that you've made and I'm going to be brief and
18 simple. I'm opposed to the exterior of the
19 building. As I said to Mr. Prudhomme, we're
20 not asking for the Pantheon but this looks
21 monolithic and stark and if they're looking for
22 Frank Lloyd Wright it is Frank Lloyd Wrong and

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1 that's what I'm saying. That's it.

2 And that being said, I'd love to
3 have the project -- the project is going to go
4 forward because they've got a right to do it and
5 if the facade of the building could be changed
6 to mitigate some of the lack of aesthetic
7 dignity, that would be great.

8 CHAIRPERSON JORDAN: Thank you.
9 Board, questions of this witness? Applicant
10 questions of this witness?

11 MR. SULLIVAN: No, thank you, Mr.
12 Chairman.

13 CHAIRPERSON JORDAN: Thank you.
14 Any other person -- that's right I made last
15 call. I want to thank you all for coming down
16 and giving us your input. It means a lot to the
17 Board and I think it's been very helpful.
18 Thank you. Moving to rebuttal, give your ten
19 minutes in rebuttal please.

20 MR. SULLIVAN: Thank you, Mr.
21 Chairman and I'd like to move to the architect
22 and he can talk about--

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1 CHAIRPERSON JORDAN: Are you
2 going to need all ten minutes? Okay.

3 MR. SULLIVAN: That was a lot of
4 stuff and I'd like to have Mr. Andres talk too
5 but if he doesn't get the chance--

6 CHAIRPERSON JORDAN: Oh it's up to
7 you, it's your time.

8 MR. SULLIVAN: Thank you. Temple
9 Washington is the architect and I'll have--

10 CHAIRPERSON JORDAN: I do have
11 some questions for Mr. Andres if he would come
12 to the witness table. Good time to make your
13 move now.

14 MR. SULLIVAN: Mr. Washington, do
15 you want to explain your concept and your vision
16 for this design.

17 MR. WASHINGTON: Good morning.
18 Yes, thank you. If you could operate the images.

19 CHAIRPERSON JORDAN: Just say the
20 slide numbers.

21 MR. WASHINGTON: Okay. Let's
22 start with the No. 10. When I approached the

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1 project, I looked at what the immediate
2 physical surroundings are, the context and what
3 I see directly across the street are two older
4 contemporary multifamily 3-story facades.

5 CHAIRPERSON JORDAN: Across the
6 street?

7 MR. WASHINGTON: Directly across
8 the street. So these lots face, now granted
9 they're part of the Russian Embassy.

10 CHAIRPERSON JORDAN: Oh those
11 buildings you mean are part of the Russian
12 Embassy?

13 MR. WASHINGTON: Yes. The
14 context is not a line on a piece of paper on a
15 neighborhood or zoning map. The context is
16 what's physically fronting because to make a
17 good street space you need two facades to create
18 a space. So what we're looking at are two older
19 contemporary building, 3-stories. On the east
20 side uphill there's an older longer 2- and
21 3-story multifamily building with a parapet and
22 then on the low side it is more traditional

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1 looking but it's being redone with about double
2 the density of what we're doing.

3 And in the back the additions are
4 very different than what you see in the front.
5 The additions are siding, parapet, and much
6 different treatment of the openings. And then
7 I go to the--

8 CHAIRPERSON JORDAN: Let's go to
9 the siding again, where are they?

10 MR. WASHINGTON: I think 3921.
11 Oh 3925. If you go down the alley in the back
12 which is essentially the second frontage for
13 these units because that alley is a public alley
14 and it's widely used, then I see across the
15 alley a long 3-story wall.

16 CHAIRPERSON JORDAN: Is that an
17 apartment building, those buildings with the
18 siding?

19 MR. WASHINGTON: Yes.

20 CHAIRPERSON JORDAN: Okay.

21 MR. WASHINGTON: Yes. And
22 there's a series of two or three of the volume

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1 on that alley side. Then if you go across the
2 alley so what we're facing our facade facing the
3 alley would then face the rear of the long block
4 of townhouses. Those are 3-story primarily
5 more solid than opening because traditional is
6 more blank wall than more openings.
7 Contemporary here. So when I looked at that I
8 said--

9 MS. COHEN: Excuse me for
10 interrupting but you don't have these
11 photographs or anything to put up do you?

12 MR. FOY: It's in the stack that
13 you gave us in the presentation. The
14 PowerPoint.

15 CHAIRPERSON JORDAN: What page
16 number would that be? Which one are you
17 looking at? Okay. Got it.

18 MR. WASHINGTON: Just go around the
19 building. The townhouses -- yes, right there.
20 If you look at the right hand end you'll see
21 the--

22 CHAIRPERSON JORDAN: Which page

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1 please?

2 MR. WASHINGTON: I'm sorry. Hard
3 for me to read. Page 1.

4 CHAIRPERSON JORDAN: Okay.

5 MR. WASHINGTON: You can see the
6 alley coming in from Fulton Street to the side
7 and then in the rear it takes a right hand bend,
8 I mean a left hand bend and comes out down the
9 hill. Directly opposite you can see right
10 behind the first of our buildings, 3915, the
11 3-story rear of the townhouses. That's
12 essentially a long block wall for those
13 townhouses.

14 So I have 3-story volume facing that
15 3-story volume and on the front I have a 3-story
16 volume facing the 3-story buildings there.

17 CHAIRPERSON JORDAN: So the rear
18 of this building on the corner by the alley back
19 there are townhouses and that's vinyl. No?

20 MR. WASHINGTON: They're brick.

21 CHAIRPERSON JORDAN: Okay. All
22 right. I thought you said--

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1 MR. WASHINGTON: No. Brick
2 townhouses. Height scale exactly. And then
3 on the sides which are the longer sides for our
4 building I have 2-stories which is closest to
5 what the adjacent multifamily buildings are.

6 So I've modulated the mass, broken
7 it down so that at the street it faces the
8 heights that are immediately opposite and on
9 the sides it steps down so that the longer
10 facade is less height.

11 The width of the buildings is
12 similar to a single family house as the ones
13 that it's replacing right now. So when you go
14 down the street, unlike the other buildings,
15 this one actually has a size and a scale that's
16 more in keeping with the single families in the
17 neighborhood.

18 The color has been changed to
19 approximate as closely as possible the brick
20 colors that we see immediately surrounding us.
21 The approach here is to have not what you see
22 in a traditional single family house which is

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1 a dark closed cut-up interior but to have
2 light-filled and more open to the garden and
3 to--

4 CHAIRPERSON JORDAN: Say that
5 last part again.

6 MR. WASHINGTON: Pardon?

7 CHAIRPERSON JORDAN: Say that
8 again.

9 MR. WASHINGTON: The concept for
10 the building in part comes from the context and
11 part from the interior concept. The interior
12 concept is to have a living space that is of
13 today, an architecture of today, so that the
14 interiors are light-filled and they are open
15 plan. They have more relationship or more
16 immediacy to the outside than a traditional
17 house.

18 A traditional house has mostly
19 solid wall area with a few punched openings, the
20 rooms tend to be small and so the floor plan gets
21 cuts up, and they tend to be dark.

22 I know that some of the neighbors

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1 commented on that so they appreciate that
2 aspect of what we're trying to do, a few of them.

3 And we have used sustainable
4 materials and -- pardon me for just a second.
5 As far as the roof deck is concerned, we have
6 put the HVAC up there rather than on the ground.
7 We thought that that in addition to putting the
8 private outdoor space up there was both more
9 privacy, less noise and more landscaping on the
10 ground for the neighbors. So we thought it was
11 a win-win quite frankly.

12 CHAIRPERSON JORDAN: Mr.
13 Sullivan, you have like two minutes and a half.

14 MR. SULLIVAN: Okay. I'd like to
15 have Mr. Andres address a couple of the comments
16 on parking and traffic in the alley.

17 MR. ANDRES: Good morning,
18 Chairman Jordan and Members of the Board. For
19 the record Erwin Andres principal of Glove
20 Slade Associates.

21 We had done a brief memo to support
22 the application and there were some questions

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1 raised about our study and in that we had done
2 it in June. The reason why we did it in June
3 is because that's when we were brought on board.

4 And when we did we looked at, first
5 of all we looked at the alley system. The
6 existing alley system is almost a Y-shaped
7 alley system so there's an alley that runs
8 north-south from Watson Place to Fulton and
9 then actually an east-west sort of curved alley
10 that also extends out to Watson and extends to
11 the north-south alley. So it's an alley system
12 that in essence a lot of District blocks don't
13 have, if you're in that alley if you're not
14 square you actually have three ways in and out.

15 Given the size of the relative
16 square it's actually a relatively small square
17 compared to some of the other District alleys
18 that we've worked on. So in keeping with
19 DDOT's sort of no objection letter, the
20 additional five vehicles, and it's not 24,
21 there's only 12 parking spaces proposed within
22 the square within the alley that will be

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1 accessed off of that alley.

2 And the distance between Fulton
3 Street and sort of the parking spaces that are
4 serving these two lots, the conflict that's
5 potentially available there is minimal because
6 these properties and these spaces are the
7 closest to the entrance coming out onto Fulton
8 Street.

9 CHAIRPERSON JORDAN: Can you park
10 on both sides of the street on Fulton?

11 MR. ANDRES: You cannot. On the
12 south side of Fulton there's restricted
13 parking. On the north side, and when we did our
14 traffic counts, and we did them late at night,
15 and the reason is you want to do them when
16 everybody's sleeping because then you know who
17 are the residents.

18 So essentially what we identified
19 is that the parking on Fulton is relatively
20 full. The parking on 39th is relatively full
21 except for there's a little stub just south of
22 Fulton Street that there's probably about three

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1 or four spaces available there.

2 CHAIRPERSON JORDAN: Is there a
3 difference -- what school is near there?

4 MR. ANDRES: Well, Stoddard
5 Elementary is probably about two blocks south.
6 And then most of the parking availability in the
7 middle of the night was on Watson, on the north
8 side of Watson. And there were numerous
9 spaces.

10 CHAIRPERSON JORDAN: How close is
11 mass transportation?

12 MR. ANDRES: I believe there's a
13 bus line on Tunlaw, I'd have to check that. But
14 this neighborhood is only a few blocks away from
15 Wisconsin.

16 CHAIRPERSON JORDAN: A few blocks
17 meaning?

18 MR. ANDRES: Four.

19 CHAIRPERSON JORDAN: Your four
20 blocks could be a mile for me. Four blocks?

21 MR. ANDRES: Yes. So with
22 respect to parking availability they had

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1 identified that you know that maybe during the
2 school year there were transient parkers on
3 those streets, which could be the case but then
4 if that's the case then they're eligible for RPP
5 because you need a District, you need a District
6 license and a District registration to get RPP.

7 So in essence, in order to
8 potentially free up on-street spaces the
9 neighbor can ask for enforcement. There are
10 areas where there's RPP only. Because there's
11 two types of RPP, there's RPP only and there's
12 RPP with the two-hour exemption.

13 CHAIRPERSON JORDAN: There's no
14 RPP presently on that block?

15 MR. ANDRES: There is RPP but not
16 the RPP only.

17 CHAIRPERSON JORDAN: Got it.

18 MR. ANDRES: And the access
19 system that's serving--

20 CHAIRPERSON JORDAN: So if relief
21 was granted outside of the parking there, has
22 the applicant offered that they will restrict

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1 to one RPP per unit?

2 MR. SULLIVAN: We haven't. We
3 didn't know that that was appropriate in this
4 case because we weren't asking for a parking
5 variance and it is the strictest--

6 CHAIRPERSON JORDAN: You know the
7 catch-all, impact upon the neighborhood
8 community is kind of like impact. So I just
9 asked the question that's all.

10 MR. SULLIVAN: Right. No, it
11 hadn't come up actually.

12 CHAIRPERSON JORDAN: Okay.
13 Wrap up sentence for us?

14 MR. ANDRES: In essence, the
15 parking and access system is adequate to serve
16 the site and I'm available for questions.

17 CHAIRPERSON JORDAN: Board,
18 additional questions of Mr. Andres?

19 MS. COHEN: No.

20 CHAIRPERSON JORDAN: Or the
21 applicant in any way any rebuttal? Thank you.
22 You want a closing?

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1 MR. SULLIVAN: Briefly yes, thank
2 you, Mr. Chairman.

3 CHAIRPERSON JORDAN: Briefly like
4 two minutes?

5 MR. SULLIVAN: Sure. I would
6 just like to say for an opposition they had a
7 lot of nice things to say about us I think.

8 CHAIRPERSON JORDAN: And some not
9 so good things too, but go ahead.

10 MR. SULLIVAN: Well, it seems to
11 focus on the design but they were happy about
12 the other changes that we made I think overall.
13 What we're proposing here is a lot less density
14 and a lot more considerate of the neighborhood
15 than a matter-of-right development, the ones
16 that are going around this neighborhood and the
17 R-5-A.

18 We're subject to GAR requirement as
19 a new residential development which we're not
20 subject to as an addition. We've submitted a
21 landscape plan by a landscape architect, not
22 just one that we've thrown together. We've

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1 agreed to provide trees that are 10 to 12-feet
2 high instead of saplings which would not be
3 required in a matter-of-right project.

4 And so as we're down to design now
5 it's a question of taste between the architect
6 that's been hired to do this, the owner who's
7 responsible for selling the units and in fact
8 the Office of Planning that recommends approval
9 here.

10 So I would just push us back towards
11 the regulations of 353 which have minimal
12 requirements; Department of Education, DDOT,
13 DHCD and then the recommendation from the
14 Office of Planning regarding site planning,
15 landscaping, grading, arrangement of
16 buildings, doesn't mention design but the
17 reason the design is the way it is, is because
18 the owner and the architect have done their
19 research, have done their evaluation of the
20 neighborhood and have talked with the
21 professionals that know that this is what's
22 going to be desired in this neighborhood and

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1 this is what's going to be marketable and what's
2 going to sell. And that's in line with a lot
3 of the concerns that I heard from the opponents
4 as well.

5 CHAIRPERSON JORDAN: I think
6 we've probably used our two minutes didn't we?
7 Wrap up. Last two sentences.

8 MR. SULLIVAN: So in closing I
9 would just cite the regulation 353 and say that
10 this project is in compliance with that and
11 we've done an awful lot of work to make it a
12 better project with the help of the neighbors
13 here. Thank you.

14 CHAIRPERSON JORDAN: Thank you.
15 We will conclude this hearing. I want to thank
16 everybody for coming down and giving us your
17 input. It's very, very, very, very important.
18 Is the board ready to deliberate? I don't know
19 if I'm ready to deliberate on this. I'm really
20 on the verge -- I mean if the Board, are you
21 ready to deliberate?

22 I mean I'm really concerned. How

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1 does the Board feel? Do you want to deliberate
2 now? I might need another 30 days on this.
3 It's hard for me to get past the design and its
4 impact upon the community overall.

5 And so I'm thinking I might need to
6 take a minute, maybe it's a period of time where
7 the applicant will meet again with the
8 neighbors and see if they can work out something
9 that's a little bit more palatable. I mean I
10 need to study it for another minute but I think
11 maybe the applicant would have some opportunity
12 to meet again if there's some ground with the
13 community and maybe there is a meeting of the
14 minds.

15 Because also here's the problem we
16 have as a Board; although this is a 353 and there
17 are certain things that can happen here as a
18 matter-of-right and I know the neighbors don't
19 understand that to some extent. And it's hard.

20 But from the applicant's standpoint
21 too, yes there's some very limited review under
22 353 but it's also reviewed under special

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1 exception and it's also required to consider
2 the impact upon the neighborhood. So I think
3 this is one -- lets put it off for 30 days for
4 decision. Keep the record open if there's
5 going to be any modifications or any agreements
6 on modification to design, we'll allow the
7 applicant to submit that. If that's okay with
8 the Board. Mr. Hinkle?

9 MEMBER HINKLE: Yes, thank you. I
10 think just taking one more shot and see if you
11 could work with the neighbors and if there's no
12 modifications to the plans then there's
13 modifications. But if there are, that would be
14 helpful.

15 I would also like to see at least a
16 condition related to the agreement by the
17 applicant to restrict renting out these units,
18 the restriction for future owners to rent out
19 these units or a bedroom related to that. So if
20 you could draft some language related to a
21 condition that would be helpful.

22 CHAIRPERSON JORDAN: Let me let

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1 Mr. Sullivan say one thing. One thing.

2 MR. SULLIVAN: The applicant has
3 written a letter with those amendments and I
4 could submit that now and you'll have it in the
5 record or I can submit--

6 CHAIRPERSON JORDAN: You just
7 submitted it. I'm sorry, Mr. Hinkle, did I
8 interrupt--

9 MEMBER HINKLE: No, that's it.

10 CHAIRPERSON JORDAN: Also and
11 strong consideration that if we were to grant
12 this, the restriction on RPP per unit would
13 probably be helpful. If we get there, like I
14 said I'm still struggling on the design issue
15 and its impact upon the community. So with that,
16 Mr. Moy can we have-- is there anything else any
17 other Board member needs to say or wants to say?
18 A date when Ms. Cohen would be with us?

19 MS. COHEN: July 20th.

20 MR. MOY: Mr. Chairman, the 30
21 plus days would take this Board to its last
22 hearing in July which would be July 29th, which

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1 Ms. Cohen is not-- I believe she doesn't have
2 a date in July.

3 MS. COHEN: Oh yes, I'm in
4 September.

5 CHAIRPERSON JORDAN: Well that's
6 okay. I know you're such a good trouper. So
7 let's have a date.

8 MR. MOY: Okay. That would be a
9 decision date on July 29th. With regards any
10 possible submissions by the applicant, Mr.
11 Chairman, would you care to set a date for those
12 submissions?

13 CHAIRPERSON JORDAN: July 29th,
14 is that what we're doing?

15 MR. MOY: Yes, which would be
16 Tuesday the 29th.

17 CHAIRPERSON JORDAN: A week in
18 advance is good because there's no counter
19 discussion here. It's just to see if there's
20 any supplemental filings and there may or may
21 not be.

22 MR. MOY: Okay.

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1 CHAIRPERSON JORDAN: It's for the
2 applicant to do whatever the applicant can do
3 within that period of time but we're not making
4 any arguments. We're just either
5 supplementing the record that there's been some
6 type of modification or agreements and if the
7 applicant's going to submit some of the
8 conditions that the Board was thinking about.

9 MR. MOY: Okay.

10 CHAIRPERSON JORDAN: I would
11 think if possible at least a week before the
12 hearing for the staff to process the material
13 for the Board's review.

14 CHAIRPERSON JORDAN: Okay. Ms.
15 Cohen?

16 MS. COHEN: Yes. The thing I just
17 wanted to suggest is that had the ANC voted for
18 this, I might have argued for a position today.
19 But we do have people who came out who are really
20 close to this project and they don't like it.

21 And I think a lot of what happens
22 when something different is introduced to a

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1 neighborhood, the onus is on the architect and
2 the developer to explain where they have gotten
3 some of the context for the design such as what
4 was rushed through, for me at least, by the
5 architect because he didn't have enough time to
6 really explain the design's context.

7 I looked at the design, I'm not an
8 architect but I began to see signs of where he
9 was picking up from what properties. And so I
10 think that that is key for people to understand,
11 especially when you're introducing a different
12 style that doesn't conform exactly to what the
13 population is living in.

14 So I'd just urge you to go back to
15 the ANC as well and I think that would help me
16 in my decision-making if they had been in
17 support, not just the 2-2.

18 CHAIRPERSON JORDAN: Okay.
19 Thank you so much. So that would be the
20 Board's position at this point. So July 29th
21 I believe and July 22nd for any supplemental
22 filings. And it's up to you guys to, you know,

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1 do what you think.

2 But sometimes these things work out
3 better by agreement than for us to do it because
4 everybody's not going to be happy. I wouldn't
5 have any problems with that. Okay. Thank you
6 all.

7 CHAIRPERSON JORDAN: The next
8 application?

9 MR. MOY: The next application
10 was continued from the January 7, February 25
11 and May 6, 2014 public hearings on the
12 application of William L. Ricks for a variance
13 from the lot area requirements and from the open
14 court requirements under 406 of the rear yard
15 was withdrawn. Okay?

16 CHAIRPERSON JORDAN: Got it.
17 Please identify yourselves and make sure your
18 microphone's on please.

19 MR. RICKS: My name is William L.
20 Ricks.

21 CHAIRPERSON JORDAN: Okay.
22 Next?

1 MR. GRAY: My name is Bernard A.
2 Gray, Sr., your Honor, and I'm representing Mr.
3 Ricks. I'm an attorney.

4 CHAIRPERSON JORDAN: Next?

5 MR. MITCHELL: David Mitchell,
6 I'm an architect.

7 CHAIRPERSON JORDAN: All right.
8 This matter we already conducted a hearing on
9 it. We allowed giving you the opportunity
10 instead of just denying you the outright, the
11 opportunity to provide additional information
12 that was going to supplement your application
13 and there were certain documents provided by
14 you.

15 And I'm going to be very blunt and
16 up front, I don't see where we're going to grant
17 relief. The documents you submitted was not
18 what was going to help you in any shape, form
19 or fashion and you didn't address any of the
20 criteria for granting you the relief.

21 We talked about this at the time you
22 had a hearing and we extended you a courtesy to

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1 keep this open so that you could document the
2 file with information that was going to allow
3 us to grant the relief. Isn't
4 that correct Board if I remember correctly? Is
5 that right, Mr. Moy?

6 MR. MOY: Yes sir.

7 CHAIRPERSON JORDAN: Okay. So
8 I'm going to give you ten minutes now for you
9 to try to tell us why you should be granted
10 relief and I'm telling you as we sit here if
11 you're going to refer to the documents you
12 submitted, it doesn't do it at all.

13 The fact that you have Housing
14 Authority vouchers or Housing Authority
15 tenants does not get you past you what's
16 necessary to be granted the relief, and I think
17 we said that before. But go ahead please.

18 MR. MITCHELL: Since I was just
19 brought into this case I was under the
20 impression that two of the things that was
21 important was the design of the building itself
22 not being altered in such a way that it takes

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1 from the neighborhood.

2 Secondly, the open court area that
3 was required under the rules could not be done
4 without actually tearing down part of the
5 property.

6 So that what I submitted to you was
7 an overlay showing that we would have to
8 actually remove part of the building in order
9 to meet the requirements of your 10-foot open
10 court area and the fact that the buildings were
11 row houses was impossible to extent the space
12 that was necessary to widen it based on per
13 units in the property.

14 And based under those circumstances
15 where we have no actual way -- without actually
16 destroying the property itself -- to increase
17 it to the building, the fact that the ANC voted
18 11-0 that it was something that they wanted and
19 was best for their neighborhood would allow
20 this court to allow the variance to take place.

21 It actually improves it if we were
22 to try to go up. It would really detract from

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1 the character of the neighborhood. And in this
2 way we make no changes whatsoever to its
3 character. It fits in within the rule for
4 residential requirement. There is the
5 exception only based on the fact that because
6 we do have that third unit in the building, it's
7 required an additional open court area and the
8 fact that it should be 10-feet wider in terms
9 of the width of the lot which, of course, we
10 can't change because of the way the buildings
11 were built.

12 And based on that, the fact that we
13 have this problem and cannot resolve it in a
14 practical way without actually destroying the
15 building itself. And thus that's why I brought
16 the architect and that's why I showed the
17 drawings that I submitted. Without destroying
18 the building we can't meet the requirements.

19 CHAIRPERSON JORDAN: Okay.
20 What's the exceptional condition of the
21 building?

22 MR. MITCHELL: The fact that the

1 existing building now will now allow it because
2 of the way the building itself is structured.

3 CHAIRPERSON JORDAN: And how is
4 that?

5 MR. MITCHELL: The building
6 exceeds the open court area, it actually
7 intrudes in there and in order to gain more open
8 court area we would have to either go into the
9 other person's property or destroy part of our
10 building.

11 As a practical matter we can't
12 comply with the regulations.

13 CHAIRPERSON JORDAN: Excuse me
14 one second. Thank you. You've already been
15 granted relief from the court, it's my
16 understanding that the Zoning Administrator
17 did that within his discretion.

18 MR. MITCHELL: I understand that
19 they gave us some relief based on the longevity
20 or grandfather clause of a couple of the items
21 that were needed. Those two was not a part of
22 that grandfather clause.

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1 CHAIRPERSON JORDAN: Yes, but
2 you're asking for lot area relief.

3 MR. MITCHELL: Yes, your Honor.

4 CHAIRPERSON JORDAN: Okay. And
5 that's what you should be talking about. Are
6 you familiar with the requirements and the test
7 for getting variance relief?

8 MR. MITCHELL: First, let me say
9 this to you. When Mr. Ricks came to me I
10 indicated to him I would try and find an
11 attorney that was more experienced. I haven't
12 been before the Zoning Board since '70.

13 But yes, I did go through the
14 regulations and the best that I could find was
15 the substantial detriment to the property and
16 that's what we proceeded on, trying to
17 indicate to the court that without the relief
18 that we're asking for or the variance we were
19 asking for, in order to obtain that variance we
20 have to destroy the building.

21 And we can't do it if we have
22 existing row houses. There's no way we can

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1 expand the lot to get that 10-feet that we need.

2 CHAIRPERSON JORDAN: So you're
3 saying that -- I'm trying to put this in words.
4 Describe the property to me. How does it relate
5 to the other properties on the block? Are the
6 properties larger or smaller? Same size?

7 MR. MITCHELL: They're basically
8 the same size.

9 CHAIRPERSON JORDAN: Okay. Same
10 size. Same kind of design?

11 MR. RICKS: Yes sir.

12 CHAIRPERSON JORDAN: It's like
13 playing, what's that game where you've got
14 guess what the other person -- charades or
15 something. Okay. It's for the applicant to
16 make their presentation. We've carried this
17 thing a couple of times. And unless I'm
18 missing something, Board, I have not heard any
19 basis for us to be able to the variance and I'm
20 just trying to help you get there. Let me flip
21 back over to the Office of Planning and see if
22 there's anything in addition that you want to

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1 say about this. We've seen your report a
2 couple of times but--

3 MR. MORDFIN: For the record I'm
4 Stephen Mordfin with the Office of Planning.
5 The Office of Planning has nothing further to
6 add and still recommends denial of the--

7 CHAIRPERSON JORDAN: You found an
8 exceptional condition or situation with this
9 property?

10 MR. MORDFIN: We find that this
11 property is very much similar to the ones up and
12 down 11th Street, similar in size, similar in
13 structure, abutting the same alley to the rear
14 and find nothing unique about this property
15 that would result in a practical difficulty.

16 CHAIRPERSON JORDAN: Okay.

17 MEMBER HINKLE: Mr. Chair?

18 CHAIRPERSON JORDAN: Yes?

19 MEMBER HINKLE: so the key issue
20 here is the relief that they're looking for in
21 terms of the area, the required 900 square feet
22 of the lot area for each unit. Is that correct?

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1 Do I have that correct?

2 MR. MORDFIN: Yes. The applicant
3 requires 900, well the zoning requires 900
4 square feet of lot area per unit and this
5 subject property does not have that so
6 therefore they need a variance to reduce that
7 by approximately 50 percent in order to conform
8 with the requirement of lot area.

9 MEMBER HINKLE: As the structure
10 is today, at least on the interior, apart from
11 the court and how it's structured, they're able
12 to do a flat at this property without any other
13 required variances or special exceptions. Is
14 that correct?

15 MR. MORDFIN: That's correct.
16 They can do a flat as a matter-of-right.

17 CHAIRPERSON JORDAN: So they
18 have the two units and they were trying to get
19 to three and we can't find the way of getting
20 it. Bottom line. Is that right? Is that
21 right?

22 MR. MORDFIN: That's the Office

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1 of Planning's assessment, yes.

2 CHAIRPERSON JORDAN: Okay.
3 That helps. Thank you. Board, any other
4 questions? Going back to the applicant, if
5 that whole conversation helps you in any way is
6 there anything else you want to say to the Board
7 before we go ahead and make a decision on this?

8 MR. RICKS: No, thank you.

9 MR. GRAY: No, your Honor.

10 CHAIRPERSON JORDAN: All right.
11 We have to close the record on this. Is the Board
12 ready to deliberate on this? Okay. I think
13 we've been around the block on this several
14 times. This property does not meet any of the
15 requirements for getting variance relief for
16 lot area.

17 We extended additional time for the
18 applicant to show the Board that this property
19 has an exceptional condition or situation which
20 was creating a practical difficulty for it to
21 meet the requirements under the zoning
22 regulations and we just cannot get there on this

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1 property in my estimation. Anybody else?

2 MEMBER HINKLE: No, I agree with
3 you, Mr. Chairman.

4 CHAIRPERSON JORDAN: So I would
5 move that we deny the request under whatever
6 this 18686.

7 MS. HEATH: I'll second.

8 CHAIRPERSON JORDAN: Motion made
9 and second. Any additional discussion? All
10 those in favor of the motion signify by saying
11 aye. Those opposed nay.

12 (VOTE TAKEN)

13 Mr. Moy?

14 MR. MOY: Yes sir. Staff would
15 record a vote of 3-0, this on a motion of
16 Chairman Jordan to deny the requested variance
17 relief. Second the motion Ms. Heath. Also in
18 support Mr. Hinkle. We have two other members
19 not participating so the motion carries.

20 CHAIRPERSON JORDAN: All right.
21 Thank you. We have concluded. I think we can
22 deal with 18786. Do we have a party status on

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1 that one?

2 MR. MOY: The party status
3 individual had withdrawn.

4 CHAIRPERSON JORDAN: Okay.
5 Because we called earlier for that, right?

6 MR. MOY: That's correct. That
7 was the one.

8 CHAIRPERSON JORDAN: The party
9 status 18786 has gone?

10 MR. MOY: That's correct.

11 CHAIRPERSON JORDAN: Okay. That
12 was only opposition right?

13 MR. MOY: That's correct.

14 CHAIRPERSON JORDAN: Let's do
15 18786.

16 MR. MOY: So that would be Fenton.
17 These aren't companion with 18782 are they?

18 CHAIRPERSON JORDAN: Okay.
19 Let's take the companion. Since the party
20 status has been withdrawn, there's no other
21 opposition in this matter, right, these two
22 cases. And except for Office of Planning I

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1 think we can get that right directly because
2 that's the only question I had in this matter
3 was to Office of Planning. Please let's move
4 quickly if we can. Thanks.

5 MR. MOY: So that would be
6 application 18786 of Fenton 302/304 M Street
7 LLC. The companion application is 18782 of
8 Fenton 302/304 M Street LLC.

9 CHAIRPERSON JORDAN: Okay. All
10 right. Please introduce yourselves.

11 MR. DANIEL: My name is Eric
12 Daniel from Griffin, Murphy, Moldenhauer &
13 Wiggins, zoning counsel on behalf of the
14 applicant.

15 With me today we have Ulysses Glee,
16 CEO of the Fenton Group on behalf of the
17 applicant to my right.

18 MR. GLEE: I'm Ulysses Glee, yes.

19 MR. DANIEL: To my immediate left
20 is Kristine Adey, development manager for the
21 Fenton Group on behalf of the applicant. To my
22 far left is Will Teass, architect for the

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1 project on behalf of Tectonics Architecture.
2 Also with me today is Meredith Moldenhauer,
3 also from Griffin, Murphy, Moldenhauer &
4 Wiggins.

5 CHAIRPERSON JORDAN: Okay. And
6 we're handling both 18786 and 18782 because
7 they're companions and no other way to look at
8 it. I don't know if the Board has any
9 particular with these applications. I think
10 if we can, counsel, if we can just go to -- I
11 want to hear from Office of Planning first
12 because that will kind of give me the basis of
13 where my questions arise, if that's okay. And
14 I think the Board kind of -- is that the same
15 kind of questions? And I think that might be
16 Ms. Thomas if we can with that 18782 because OP
17 has objections to the relief and I'm trying to
18 really understand it because we've got a vacant
19 lot in one of these matters and the other one's
20 the other side and I just have a concern about
21 not finding the exceptional condition and etc.

22 MS. BROWNE-ROBERTS: Well, the

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1 applicant recently explained this morning.
2 It's not that we have any big problem, we sort
3 of punted it back to you if you had no objection.
4 We punted it back to you, if you notice that we
5 said if you had no major concern.

6 CHAIRPERSON JORDAN: Okay. I got
7 you.

8 MS. BROWNE-ROBERTS: Basically,
9 if you could find that the criteria with respect
10 to the HP's review that it resembles a corner
11 lot and they wouldn't have permitted the
12 addition to the top. It was coming in as a 223
13 and we had no objection to it, the small square
14 footage at the rear.

15 CHAIRPERSON JORDAN: Got it.

16 MS. BROWNE-ROBERTS: Yes, we
17 would really not make a fuss about it.

18 CHAIRPERSON JORDAN: Got it.
19 Okay. Mr. Gyor, anything you want to add? Are
20 you in the same ballpark?

21 MR. GYOR: Mine's a little bit
22 different as mine's a vacant property.

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1 CHAIRPERSON JORDAN: Right. So
2 tell me how that's not exceptional.

3 MR. GYOR: Sure. Well, good
4 afternoon Mr. Chairman and Members of the
5 Board. Stephen Gyor with the Office of
6 Planning.

7 The Office of Planning recommends
8 denial of the requested lot occupancy and floor
9 area ratio relief. While typically OP is
10 supportive of efforts to provide new
11 appropriately designed and sited infill
12 developments on vacant lots such as in this
13 case, here the applicant has not satisfied the
14 test for those requested variances, including
15 what unique property characteristics create a
16 practical difficulty.

17 The applicant has also requested
18 relief for the rear yard and parking and if the
19 Boards finds that the applicant has met the
20 variance tests for the other forms of requested
21 relief, OP has no major concerns with the
22 parking or rear yard relief request.

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1 So I think that in this case mine is
2 a little bit different in the sense that it is
3 a vacant lot and I think that there is an
4 opportunity here to bring this lot into
5 conformance with the zoning regulations.

6 CHAIRPERSON JORDAN: Okay.
7 Thank you. So will the applicant explain to us
8 why he cannot do that?

9 MR. DANIEL: Sure.

10 CHAIRPERSON JORDAN: And I'm not
11 asking for, as Ms. Moldenhauer would tell you,
12 I'm not asking from A to Z, just hit that point
13 for us.

14 MR. TEASS: Understood. So just
15 to cut it short, the exceptional circumstance
16 of the property, which has been acknowledged by
17 the Office of Planning in their OP report, they
18 indicate that the small size of the lot, extreme
19 narrowness of the lot, the shallowness of the
20 lot and lack of curb cutter access to the rear
21 alley and you know this--

22 CHAIRPERSON JORDAN: The curb cut

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1 and the lack of access to the alley is why you're
2 seeking parking relief?

3 MR. DANIEL: That's correct.

4 CHAIRPERSON JORDAN: All right.
5 This is not a debate going back and forth but
6 okay. Board, any other questions on this one?
7 Okay. Got any questions of OP, anything you need
8 to do on this? Anything that you think that you
9 need to say?

10 MR. DANIEL: Would you also like
11 to hear -- there's a similar argument in terms
12 of 302--

13 CHAIRPERSON JORDAN: I think the
14 Board's clear about where we are and that we're
15 okay, unless you want to throw something else
16 in it.

17 MR. DANIEL: Understood. We'll
18 rest on the final--

19 CHAIRPERSON JORDAN: Am I good,
20 Board? Do I get the right fill in for that?
21 Okay. Then we've heard from Office of
22 Planning. Is there anyone here from the

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1 Department of Transportation? Do we have a
2 letter of no objection to the relief from the
3 Department of Transportation?

4 Anyone here from ANC 6E? I think we
5 have their letter of support for both of these
6 where they unanimously voted to support the
7 relief being requested.

8 Anyone here wishing to speak in
9 support of the application or the applications?
10 Anyone wishing to speak in support? Anyone in
11 opposition? Opposition? Going once.
12 Going twice. Going a third time.

13 We will turn back to the applicant
14 on either one of these cases and see if you think
15 you need to do a rebuttal. If you think you
16 need to do a rebuttal, if you think you need to
17 do a closing but I'm going to help you out here.
18 We're going to now close the record based upon
19 what we've already received and I believe that
20 the application clearly shows that there's an
21 exceptional condition and that the application
22 and the documents submitted to the Board

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1 clearly reflect the need for relief in both
2 18786 and 18782. So I would move that we grant
3 the relief.

4 MEMBER HEATH: I'll second.

5 CHAIRPERSON JORDAN: Motion made
6 and second. Any additional discussion?
7 Anyone, please? All those in favor of the
8 motion signify by saying aye. Those opposed
9 nay?

10 (VOTE TAKEN)

11 The motion carries. Mr. Moy?

12 MR. MOY: Staff would record the
13 vote as 4-0. This on a motion of Chairman
14 Jordan to approve the relief requested for both
15 applications, 18786 and 18782. Second the
16 motion Ms. Heath. Also in support Ms. Cohen
17 and Mr. Hinkle. No other members present.
18 Motion carries 4-0.

19 CHAIRPERSON JORDAN: We leave the
20 best for last. Is that what we ought to do?
21 18785. The best case for the day. And again
22 I want to apologize. It's a different day but

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1 you know we try to take these as we can move
2 these cases and not have everybody stay here
3 all day.

4 Again, that would be application
5 No. 18785, Ditto Residential LLC. And I
6 apologize to Mr. Cochran, I'm sure you didn't
7 want to miss this class today. It's probably
8 something you could have taught him. He had
9 a class this morning that he missed because of
10 our docket and it was the impact of building
11 codes upon new construction. Okay. All
12 right. Mr. Collins, are we ready? Mr. Moy,
13 could you call it for us please?

14 MR. MOY: Yes. That would be
15 application No. 18785 Ditto Residential LLC
16 request for relief for a variance from the
17 off-street parking requirements under 2101.1.

18 CHAIRPERSON JORDAN: Okay.
19 Introductions please.

20 MR. DITTO: All right. Thanks
21 for having us, appreciate it. My name is
22 Martin Ditto -- I'm sorry, I stepped out of

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1 turn. My life story.

2 CHAIRPERSON JORDAN: Mr. Collins?

3 MR. COLLINS: Good afternoon.

4 Chris Collins with Holland & Knight and I'll let
5 the panel introduce themselves.

6 CHAIRPERSON JORDAN: Now you can
7 speak.

8 MR. DITTO: Thank you, Chairman.
9 Martin Ditto with Ditto Residential.

10 MR. ROTH: Dan Roth, Ditto
11 Residential.

12 MR. CAO: Chuong Cao.

13 CHAIRPERSON JORDAN: What was the
14 last name again?

15 MR. CAO: Cao, C-a-o.

16 MR. ANDRES: Erwin Andres, Grove
17 Slade.

18 CHAIRPERSON JORDAN: I think
19 you've been at this table before, right? Okay.

20 Mr. Collins, we certainly need to
21 hear -- there was a lot of opposition to this
22 matter and we need to hear something in regards

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1 to those letters where there's a discussion
2 about -- well, certainly an overall
3 presentation about density and traffic
4 congestion.

5 And then I would like to hear how we
6 -- oh that's the wrong case. I'm sorry.

7 MR. COLLINS: Mr. Chairman, I'm
8 sorry, I'm having a hard time hearing you.

9 CHAIRPERSON JORDAN: I'm sorry. I
10 think I'm off a little bit. I was looking at
11 the wrong case. Okay. Go ahead, Mr. Collins,
12 with your presentation.

13 MR. COLLINS: Well, first and
14 foremost, thank you, Mr. Chairman. We
15 submitted several documents requesting a
16 waiver of the rules to accept some information
17 after the 14-day submission and we just ask the
18 Board to waive the rules to allow that
19 information to be accepted and to be considered
20 today.

21 CHAIRPERSON JORDAN: Was this
22 information that was on-- Mr. Varga? It was

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1 nothing new that came in this week, right, is
2 that correct?

3 MR. VARGA: Not this week, no sir.

4 CHAIRPERSON JORDAN: Okay.
5 Fine. The problem is when we come in in the
6 morning and we have tons of people doing filings
7 and I tell you, and I've said it a thousand
8 times, the Board doesn't have time to process
9 it. We take hours and hours before we come here
10 to do it and people will dump on us. But yes,
11 that's fine Mr. Collins.

12 MR. COLLINS: Thank you very much.

13 CHAIRPERSON JORDAN: And also you
14 request that Mr. Cao be accepted as an expert.
15 Is that correct?

16 MR. COLLINS: Yes sir.

17 CHAIRPERSON JORDAN: Then unless
18 the Board has a problem, I think his resume
19 shows that he can be accepted as an expert
20 unless the Board has a problem. Okay. We're
21 good.

22 MR. COLLINS: Thank you. And

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1 also I believe you have Mr. Andres on your
2 record as already having been expert testimony.

3 CHAIRPERSON JORDAN: He's been
4 here all morning on cases.

5 MR. COLLINS: Just to make sure.

6 CHAIRPERSON JORDAN: We'll reject
7 him for yours. Noooo.

8 This is an application for variance
9 relief from the number of required parking
10 spaces, special exception for a roof structure
11 setback and then a variance for a driveway grade
12 issue that was identified by the zoning
13 administrator.

14 So without further -- unless
15 there's some preliminary question I'd like to
16 go directly to Mr. Ditto.

17 MR. DITTO: Okay. Second start.
18 My name is Martin Ditto. I'm the president of
19 Ditto Residential. We are a design-focused
20 real estate development company located in
21 Washington, D.C. on 14th Street.

22 We are dedicated to building truly

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1 significant spaces in everything that we do,
2 our buildings and the developments that we work
3 on. I mean we're an integrated organization so
4 we truly believe at the core, you know, our
5 value set of our company that building
6 incredible buildings both in terms of our
7 attention to detail and design is the most
8 important thing that we do.

9 And our partnership with Chuong
10 Cao, which is a long term partnership, is part
11 of that commitment and we really value that
12 relationship and I think you all will see that
13 when Chuong talks, I mean how he truly loves
14 what he does and values our relationship.

15 We've done five community outreach
16 meetings and collaborations with neighbors
17 during the course of our presentation to the
18 community, learning about what community
19 concerns are and desires are for this
20 development and have basically heard from the
21 community regarding concerns about parking,
22 concerns about design and have worked with the

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1 community throughout these meetings to ensure
2 that we can treat and address their concerns.

3 We were able to win over a lot of
4 community support. You're right, Chairman
5 Jordan, there were a number of letters of
6 opposition. Almost all, if not all of those
7 letters of opposition, came before any of our
8 community meetings.

9 There was some misinformation about
10 the amount of parking that we were requesting.
11 Actually they flip-flopped. Instead of us
12 providing 17 and asking for relief from seven,
13 it was the opposite. And so after all of our
14 community outreach we actually received, we now
15 have more letters of support from the community
16 than we have opposition. And two of the
17 members of one of the community organizations
18 who were kind of part of the group that was
19 concerned, have now written letters of support.
20 So that's been great to win them over.

21 We're excited about bringing a high
22 level development with attention to detail to

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1 Trinidad and this was the concern of so many of
2 the residents that we met was that there are
3 people coming to Trinidad, they want to
4 buildings you know both rental and for sale, and
5 they're not building the quality that Trinidad
6 believes that it deserves.

7 And we agree with them and we intend
8 to build a really wonderful building and we
9 believe that we've won over the community and
10 proven to them that our plan is in line with
11 their goals.

12 So just to go over the site quickly.
13 The site is just one block north of H Street,
14 at the corner of Florida and Trinidad Avenue.
15 The neighborhood, as you know, is mixed use with
16 a special focus on the arts. We are just
17 outside of the Arts Overlay but our parcel is
18 C-2-A and is in a split zone block with both high
19 density and low density housing.

20 The adjacent uses to our site are to
21 the east Engine Co. No. 10, a fire station; to
22 the north there are single family homes; to the

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1 west are also single family homes and some mixed
2 use retail and then to the south is Florida and
3 obviously the neighborhood just south of
4 Florida.

5 Obviously, we are not far from the
6 Bladensburg development. We are one block
7 from the new trolley line that is hopefully soon
8 to be installed and not far at all from
9 Gallaudet University.

10 CHAIRPERSON JORDAN: You said a
11 trolley line soon to be installed?

12 MR. DITTO: Well, the line is
13 installed. I guess we can all cross our fingers
14 that one day the cars will roll down that track.

15 CHAIRPERSON JORDAN: I didn't
16 know if you were saying that so that we can
17 consider that and the relief requested. But
18 that's okay. Go ahead.

19 MR. DITTO: Okay. So again the
20 site is C-2-A, 3.0 FAR which is inclusive of 0.5
21 bonus density.

22 In terms of what our plan is for the

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1 development, we believe that there is an
2 untapped market for smaller, relatively more
3 affordable units and we will include the
4 required IZ units but, in addition to that, our
5 building and our units are designed in a way
6 that we basically will be relatively more
7 affordable than the competitive set.

8 So many of the buildings being built
9 in this neighborhood are you know 700/800
10 square foot, one-bedrooms. They are mostly
11 for sale. Our plan for our building is to be
12 a rental building that we will hold long term
13 so that we will stay invested in the community.

14 Our prospective tenants tend to
15 rely more heavily on mass transit, less likely
16 to own a car, so we're excited about the
17 project.

18 The site photos which you can see
19 here, the project currently is an
20 under-utilized vacant one-story commercial
21 building, often used as a flea market on
22 weekends. I believe it's vacant now -- it is,

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1 yes.

2 And if you can see here the adjacent
3 fire station, which is Engine Co. No. 10, to the
4 north is a 20-foot wide alley which we'll use
5 to access our parking garage. And that's
6 north of the property.

7 Again, just speaking to our
8 philosophy, our company is committed to really
9 developing wonderful properties. We
10 emphasize quality and design and are proud of
11 the products that we produce in D.C. We do plan
12 on keeping this a long-term property.

13 In addition to meeting with the
14 Trinidad Neighborhood Association, the ANC and
15 our local S&D and ANC meetings, we've had
16 numerous one-on-one meetings over the phone
17 with community members along with email
18 exchanges about the project. We've also met
19 with ANC and S&D meetings with their architect
20 and on site planning meetings.

21 Our project is directly adjacent to
22 the recent BZA case, which was more aggressive

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1 in terms of its relief, and as a result we've
2 had to work hard to overcome some initial
3 knee-jerk reaction which I referred to earlier.
4 And working through a lot of these meetings
5 we've been able to do that.

6 Now I guess this morning is it 20
7 letters of support registered as of this
8 morning and people are excited about the
9 project. We've been very happy ever since our
10 initial outreach we have received no more
11 letter of opposition. But we do believe that
12 the community is in support of what we're doing.

13 CHAIRPERSON JORDAN: We just
14 received one, I don't know if you're aware of
15 that. Did you have a copy of the one from
16 Trinidad Neighborhood Association, Mr.
17 Collins?

18 MR. COLLINS: I'm sorry? From
19 today?

20 CHAIRPERSON JORDAN: Yes.

21 MR. COLLINS: No, we did not see
22 that.

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1 CHAIRPERSON JORDAN: I didn't
2 think you did. Let's be sure that counsel has
3 a copy of it please.

4 MR. DITTO: The Trinidad
5 Neighborhood Association, the two Board
6 members that we had interactions with who
7 initially had some concerns were the two Board
8 members who in the last two weeks have written
9 letters of support, both Matt and Robbie. They
10 did a poll online using SurveyMonkey and it was
11 just over 50 percent of their respondents were
12 not in support.

13 However, Robbie who wrote the
14 letter, Robert Mann, did register a letter of
15 support as did one other of their Board members.
16 So they did a popular vote of their -- and
17 actually Karen who's here today, one of the
18 community members who is a member of the TNA was
19 not contacted for the survey.

20 So while the popular vote via this
21 online SurveyMonkey was in opposition, two of
22 the Board members are in favor and there are

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1 some members of the TNA that are in favor that
2 were not contacted for the vote.

3 CHAIRPERSON JORDAN: Yes. Ms.
4 Cohen?

5 MS. COHEN: Can you focus on what
6 the issue is as opposed to the numbers for and
7 against?

8 MR. DITTO: Absolutely.
9 Absolutely. Well, the project itself is a
10 50-unit, 4-story building--

11 CHAIRPERSON JORDAN: No, I think
12 Ms. Cohen asked you what are the neighbors'
13 issues?

14 MR. DITTO: I think initially what
15 happened was there was an email went out which
16 incorrectly stated that we were asking for more
17 than double the relief than we actually were.
18 And there was a template that was emailed out
19 to a lot of residents and then the letters
20 started clicking in.

21 After our first S&D meeting, which
22 was our first time that we had a chance to talk

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1 to the community, we were able to explain and
2 answer a lot of questions. And from that point
3 on we began to get a lot of letters of support.

4 And it was at that meeting when
5 Robbie Mann, who actually did end up signing
6 this letter although he is in support of the
7 project, and Matt wrote letters. You know we
8 kind of won them over and they wrote letters of
9 support. So it kind of happened the way that
10 you want it to except for the misinformation
11 which is that we came out, we explained
12 ourselves, answered questions, won over two of
13 the people who had initially been a little bit
14 concerned about the project and now have
15 received a lot of great community support.

16 MS. COHEN: But Robbie Mann, you
17 know, just signed this letter today so--

18 MR. DITTO: I can read you an email
19 he wrote me this morning which was essentially,
20 you know, Martin, I'm sorry, I do support the
21 project. However, because of the vote of
22 SurveyMonkey we had to write this letter, is

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1 essentially what he said and I can look that up
2 if I can get my phone to work.

3 MR. COLLINS: Mr. Mann's personal
4 letter of support is Exhibit 67.

5 MR. DITTO: So the primary concern
6 of the community was the parking relief. At
7 least that is my understanding. Robbie said to
8 me, personally I support the project, TNA does
9 not, so two Board members at the very least
10 support it. But an informal survey via the
11 internet said that more than 50 percent did not.

12 CHAIRPERSON JORDAN: Okay. All
13 right. Continue.

14 MR. DITTO: So the project itself
15 is a 50-foot, 4-story plus cellar, 45 unit
16 residential building with one level of below
17 grade parking. The garage will have 16 parking
18 spaces.

19 CHAIRPERSON JORDAN: We
20 understand what the project is going to be real
21 clear. But we want to hit the points that are
22 in controversy. We understand what the

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1 project is, we know how it looks. Let's talk
2 about your difficulties and then how you're
3 going to mitigate any parking issues and why you
4 have a parking issue. That's what we would
5 prefer to hear.

6 MR. DITTO: Why don't we go right
7 to the architect, Mr. Cao.

8 MR. CAO: I'm Chuong Cao, I'm a
9 principal with DEP Designs. I'm the architect
10 for the project. I think I'll scale back my
11 presentation and just address the issues the
12 Chairman just raised.

13 Personally, as an architect I'm
14 very excited about this project as well as
15 excited about the design opportunities this
16 particular site has to offer. It's open all
17 four sides, it's a corner lot. It has a
18 different mix of urban scale that's a lot to
19 work with.

20 That being said, there are site
21 constraints that really limit the building's
22 shape and size in terms of where it's located

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1 on the lot. Just because of the nature -- I'm
2 sorry - the nature of the lot dimension wide,
3 80 feet x 124 feet, the abutment of the public
4 alley as well as being adjacent to the fire
5 station on the east, it limits the footprint of
6 what you can do as well as -- also because of
7 having access to the public alley from the site,
8 curb cuts from the street is prohibited by DDOT.

9 That being said, to maximize the
10 parking count which is in contention right
11 here, the building footprint is pretty much
12 kept at 60 feet in width. That's also to
13 maintain within the compliance of the
14 percentage of maximum lot coverage. So to
15 maintain the 60-foot width our building runs
16 the entire length, 124 feet, along the Trinidad
17 Street.

18 What that gives is the 60-foot width
19 is the minimal dimension that allows for a drive
20 aisle with two parking, parking on either side
21 plus the thickness of the perimeter walls.

22 As you can see, what we have

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1 articulated here is entrance along Florida,
2 access to the garage is along the alley, running
3 parallel between the fire station what we did
4 was we made our rear yard along the east that
5 is on the fire station side to acoustically
6 distance itself as maximum as possible from the
7 fire station.

8 As you know in building design the
9 most important element of design is not
10 typically something that dictates the building
11 footprint, rather it's the parking. As you can
12 see again that 60-foot dimension by the length
13 of the site yields 16 parking spaces. Towards
14 the end you have 18 total bicycle spaces.

15 Now we're also bringing two stairs
16 as well as an elevator down this level of the
17 parking. That's all required by the code
18 regulation. What we did here with the building
19 elevator is push it as close to the drive aisle
20 as possible that's permitted by code. No. 1
21 is to stay clear of the drive aisle as well as
22 when the stair and the elevator goes all the up

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1 to the penthouse, we provide a setback that is
2 from the exterior wall as much as possible.

3 This is the cellar level. Again,
4 you have the ramp that goes down, it clears the
5 cellar level and takes you down to the parking
6 level. So what you're seeing is a kind of cut
7 section of a ramp going beneath the cellar
8 level. Our services are coming in on the
9 cellar level and we have seven units on the
10 cellar level.

11 This is the lobby. The lobby is off
12 Florida Avenue, again you can see the start of
13 the speed ramp going down--

14 CHAIRPERSON JORDAN: Excuse me,
15 do we have a laser pointer.

16 MR. CAO: Yes we do. Here's the
17 speed ramp, here's the lobby, here's the alley
18 access ramp along the east, which is the fire
19 station along here. This is Trinidad, this is
20 Florida. So lobby access is from Florida ramp
21 going down underneath the first floor level as
22 well as the cellar level. Again, this

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1 location of the elevator is in the exact same
2 location down at the speed ramp or the garage.

3 Typical level showing 10 units and
4 an elevator and stairs. As you can see, two
5 stairs all the way from the garage is taken all
6 the way up to the penthouse and the location of
7 the elevator, if you will, is set again
8 closest to the drive aisle as possible to
9 provide us the clearance that we need. Though
10 we have the setbacks that we have on the north
11 and south being 21 feet on the south and 21 feet
12 on the north, we have 10-foot-8 and three
13 quarters on the east and a little bit more than
14 that, 11-foot-2 on the west side.

15 And the location of that elevator
16 shaft is pushed as far as we can to avoid
17 interference conflicting with the drive aisle.

18 Again, from the building parapet to
19 the top of the roof structure, the height of the
20 roof structure is 10-foot-8 and three quarter.
21 According to zone regulation you are taking
22 that measurement from the top of the roof finish

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1 up to the top of the roof structure. This is
2 the special exception that we are requesting.

3 Now technically we can avoid this
4 totally by taking our roof up to the top of the
5 parapet. Let me show you. There, you can see
6 that right there. So we can make our roof
7 flush with the top of the parapet and be in
8 compliance with the zoning regulations in terms
9 of roof structure.

10 But we don't believe that it is
11 beneficial to the public because it doesn't
12 really change the height of the building, the
13 visibility of the roof structure is no better
14 -- if anything, it provides worse because
15 technically we would need to provide guard
16 rails along for safety reasons and that would
17 be visible to the public from the street.

18 Now addressing about the parking.
19 As you can see right here, these are two
20 diagrams that show how we would actually meet
21 the 23 parking spaces that's required by the
22 current zoning regulation.

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1 Right now as it's designed we have
2 16 parking spaces which is a 1-to-3 based on the
3 45 units. The current zoning regulation
4 requires us to be 1-to-2 which would be 23
5 spaces. So what we would have to do in terms
6 of parking structure wise, a ramp would have to
7 go down here, along here. The two parking
8 spaces along here would be eliminated to allow
9 a speed ramp to wrap around underneath the
10 access ramp to bring us down to another level
11 right here.

12 So the 16 spaces on this P-1 level
13 now is reduced to 14 because of the elimination
14 of the two parking spaces on the P-1. So we
15 would actually need to make up nine spaces. By
16 the time you do that, the configuration that you
17 get, this right here represents nine parking
18 spaces, we still are required by code to bring
19 two stairs down as well as the air make up for
20 the garage and the elevator.

21 So what's left is this right there.
22 And based on our study with the general

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1 contractor, as well as the structural engineer,
2 it just didn't make any sense. If we're going
3 to build something like that we might as well
4 build the whole footprint down at that level.

5 The last variance that we're
6 requesting is the speed ramp. In order for us
7 to get down to the, again because of the site
8 constraints and where we can put our speed ramp,
9 it needs to be right off the alley as well as
10 adjacent to the fire station.

11 In order to get beneath the first
12 floor level as well as the cellar level down to
13 the P-1 level, we would need to have our slope
14 at 16 percent. A 12 percent slope would mean
15 that we would enter -- our garage would have to
16 be at the cellar level.

17 So what that means is either we
18 raise the cellar level up by another five feet
19 which we would exceed the FAR of 3.0, as well
20 as the building height, we would have to seek
21 a request for that. So we're requesting that
22 the speed ramp be 16 percent instead of 12

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1 percent.

2 Now, mind you, the parking spaces
3 here are only for the residents. It's not for
4 the public. So the concern for the public
5 safety, as well as zoning regulation, is not
6 there. As well as there are precedents in the
7 city as well as around jurisdictions that 16
8 percent is often done.

9 As you can see, this is the east
10 elevation. Here's the alley. We go down 16
11 percent, clear the cellar level down to the P-1
12 level. If it were 12 percent, we would be right
13 at the cellar level and what that would mean is
14 we would have to eliminate all the units on the
15 cellar level, that's one option, or No. 2 is to
16 raise the cellar level by another five feet
17 which would change the FAR as well as the height
18 of the building.

19 MEMBER HINKLE: If I can jump in
20 here, Mr. Chair.

21 CHAIRPERSON JORDAN: Sure.
22 Jump.

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1 MEMBER HINKLE: Jump. I'm having
2 some issues with this. I think the project is
3 appropriate and I think the use is appropriate.
4 I think the number of units is appropriate for
5 this site. My issue is I don't understand
6 what the unique condition of this property is
7 or the exceptional condition.

8 In reading the documents you state
9 that it's a small site, but it's not necessarily
10 a small site. If I look at the zoning map it's
11 actually one of the larger sites. It certainly
12 is on this block and one of the larger sites in
13 the area.

14 You state that it's narrow, but it's
15 not. It's actually pretty large if you compare
16 it to the other lots.

17 Corner lot. There's four corner
18 lots on this block, there's corner lots all over
19 the District so I'm not buying into that. And
20 then abutting an active fire station, I don't
21 know how long that fire station has been there
22 but certainly the properties around it have

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1 been active for a number of years.

2 So I'm really struggling and I would
3 like to, you know, move this project forward but
4 I'm not quite getting where we meet the first
5 prong of the variance test. So I really need
6 your help with that.

7 MR. COLLINS: Our position is that
8 there's a confluence of circumstances that all
9 result in the exceptional situation or
10 condition.

11 It's rectangular site. It's a
12 corner site. But the size of the site, the
13 dimensions of the site, the location of the site
14 relative to the firehouse all result or the
15 conditions that result in a practical
16 difficulty to us.

17 If the site was longer in a
18 north-south direction we wouldn't have the ramp
19 issue. If it was wider in an east-west
20 direction we wouldn't have the roof structure
21 set back issue. Actually, if the dimensions
22 were larger we probably wouldn't have the

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1 parking issue as well. Because of these
2 dimensions, the dimensions of the property
3 dictate the constraints and where the footprint
4 can go. It can't go to the east or the
5 firehouse because that would block -- you
6 wouldn't be able to have any windows on that lot
7 line so you'd have no units over there.

8 So that's where the rear yard is
9 that dictates where all the other dimensions
10 are taken from. It's constrained, it's small
11 for this development. This is a
12 matter-of-right development other than the
13 fact that we don't meet the parking and the roof
14 structure setback and you've heard about that,
15 and the ramp slope which you've also heard
16 about.

17 So these conditions, these
18 exceptional situations or conditions are
19 creating the practical difficulties that
20 require the variance relief from both the
21 parking and the parking ramp slope.

22 MEMBER HINKLE: But let's be

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1 honest, you could reduce the number of units and
2 not be required to fit so much parking on the
3 site then you wouldn't have an issue, right?
4 Is that correct?

5 MR. COLLINS: Well, we could do a
6 number of things. We could make the building
7 lower and we could make it smaller and a number
8 of different things, but we're not asking for
9 FAR variance, we're not asking for height
10 variance, we're not asking for lot occupancy
11 variance.

12 What we're asking for is things that
13 in planning out this site and as our expert
14 witness has demonstrated in planning out the
15 site in this way that meets all the regulations
16 but for these two variances and the special
17 exception. The special exception we could
18 take care of that by raising parts of the roof
19 on the east and west sides to meet the height
20 of the exterior walls. But then that
21 introduces accessibility issues on the roof in
22 terms of stairways that we can't have because

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1 of accessibility. So that's an issue.

2 The parking ramp, Mr. Cao and I'll
3 ask him in a minute to tell you what the AIA's
4 design guidelines call for in terms of ramp
5 slopes, which this meets. And then in terms of
6 the number of parking spaces, in order to get
7 down to a second level of parking, is a
8 tremendous expense and not only is it an expense
9 but what you'll hear from Mr. Andres is that
10 it's not necessary.

11 And in terms of what is being
12 proposed for the ZRR, we meet and exceed the ZRR
13 proposal for parking for this site. It's
14 proposed to go from one to two spaces to one
15 space for every three units, in excess of four
16 units. So the parking requirement for this
17 building in eight months went when ZRR if it's
18 adopted as written, will be 14 spaces and we
19 have 16.

20 CHAIRPERSON JORDAN: Mr. Collins,
21 and I keep cautioning the applicants about
22 making reference to ZRR and trying to use that

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1 as a standard. I'm not saying that that's not
2 the only thing you have working but I just
3 caution because we may have it, may not have it.
4 There's a lot of things that very well may
5 happen.

6 MR. COLLINS: But it certainly, if
7 nothing else we may have it or we may not have
8 it but it certainly is a proposal that was put
9 forth I understand with the blessing of both
10 DDOT and Office of Planning. So that must be
11 reflective of their idea about what would be the
12 need for parking in the C-2-A zone for a
13 residential building.

14 So all those factors dictate the
15 footprint, the location of the building which
16 in turn dictate why we're doing what we're doing
17 and why we're here asking for what we think are
18 minor areas of variance relief.

19 MEMBER HINKLE: Yes, and I
20 appreciate that and I just wanted you to know
21 that I appreciate the analysis in terms of the
22 cost of the extra parking. Oftentimes we don't

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1 get that and I did read that and I was looking
2 for that and I do understand that so I
3 appreciate that.

4 So I'm trying to get there and your
5 explanation did help me a bit.

6 MR. COLLINS: Thank you very much.

7 CHAIRPERSON JORDAN: But let's
8 talk about, and let me raise the other question
9 about the number of units so we can just kind
10 of get to that point and I appreciate you
11 raising those issues.

12 The number of units, the argument
13 for the number of units was made that this was
14 what was, I'm trying to remember the term, is
15 it marketable?

16 MR. COLLINS: It meets the market
17 demand,

18 CHAIRPERSON JORDAN: Meets the
19 market demand but isn't there also a market for
20 the units at 884 square feet?

21 MR. DITTO: I think there's a
22 market of units at lots of different sizes. I

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1 think that this is a market that's not being met
2 because--

3 CHAIRPERSON JORDAN: It was 844.

4 MR. DITTO: So the larger units
5 they tend to cost more both for sale and for
6 rent, and this neighborhood is seeing, you
7 know, drastically increased rents and for sale.
8 I sold a house in Trinidad two years ago for
9 \$375,000 dollars that today would sell for
10 \$750,000. So the same people that were buying
11 houses two years ago cannot buy houses today in
12 that same neighborhood.

13 And I'm not saying that these are
14 going to be, you know, we're meeting IZ and then
15 the rest is going to be market rate, but by
16 making the units smaller we basically allow
17 people to be able to -- you know be relatively
18 expensive than kind of the competitive set.

19 So yes, I think there is demand Mr.
20 Jordan, at lots of different sizes but I think
21 that these apartments are going to be of a size
22 that allows people that ordinarily would not be

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1 able to rent had we built larger units.

2 And that tends to be why -- well one
3 of the reasons that the community has some
4 certain members supported us because they say
5 yes well actually I agree with that, I can get
6 on board with that.

7 CHAIRPERSON JORDAN: I was just
8 taking it for what you had in your pre-hearing
9 statements about the 844 and I thought you were
10 assuming that there wasn't a market for that.

11 MR. DITTO: No, I believe there is
12 a market for that. I mean right behind us the
13 community is really upset about these condos
14 that were just built that are, you know, on a
15 R-4 lot they built 1,500 square foot condos and
16 they're going to sell of course because there
17 are people who want really large condos. But
18 those condos are selling for \$550,000 to
19 \$600,000 dollars.

20 Well, houses in Trinidad didn't
21 even sell for \$500,000 two years ago so there's
22 this massive change in the community. It's

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1 happening now and it's confusing and again I
2 believe that our units when they're delivered
3 will meet a demand that's not being met by a lot
4 of the new housing that's coming online.

5 CHAIRPERSON JORDAN: And tell me
6 how the firehouse affects this property?

7 MR. COLLINS: The firehouse is one
8 of the busiest firehouses in the city, and
9 that's documents, it's online. And we've
10 cited it in our documents.

11 The location of the property, we're
12 trying to buffer, we try to figure out well
13 where would the rear yard go? The rear could
14 go one of two places. It could go to the north,
15 it could go to the east.

16 If it was to the north that would
17 push the units, the windows, right up against
18 the east property line. Now we have two issues
19 there. Even if we got an easement from the
20 District of Columbia for windows on a lot line
21 we still have these units like right there,
22 right on the firehouse. So we chose to put the

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1 rear yard on that side to pull it away from the
2 firehouse, to give a buffer, a reasonable, as
3 much as we could give a buffer between the
4 firehouse lot line and our building face, which
5 also allows the windows to be on that lot line
6 which otherwise would not be permitted as a
7 matter-of-right.

8 MR. DITTO: There's also
9 additional, I mean in talking to our
10 construction company we're now planning how do
11 we mitigate the sound because we know it's going
12 to be loud, right? So there are a lot of
13 mitigation techniques that we'll do on that
14 side that we don't do on the other side.

15 And those that we talked about with
16 Chuong are higher quality windows, higher
17 quality insulation. I mean things that you know
18 will they make the building 20 percent more
19 expensive? No. But they will have a certain
20 effect on the cost of the building. There are
21 other things that will effect the building.

22 For instance, if you tried to sell

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1 multimillion dollar condos I mean there would
2 be a negative effects of the fire station.
3 However, I've been there a number of times and
4 there are lot of people who live around there
5 so the firemen try to be as, well often as polite
6 with their sirens as they can be.

7 CHAIRPERSON JORDAN: It's just
8 that everybody uses this firehouse for all
9 kinds of exceptions and etc., and we've had this
10 as you know before. This same firehouse has
11 been used as the trigger. Okay. Any more
12 questions?

13 MR. CAO: I want to add one more
14 thing. Now this is not so much the firehouse
15 but if we were to build our building the full
16 80-foot width that's along Florida Avenue, as
17 any designer knows 80 feet is not an ideal
18 parking layout so that extra 20 feet that you
19 have just gets counted for the lot coverage but
20 it really doesn't add anything more to the
21 parking count.

22 So between what was said about the

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1 need to acoustically distance itself and create
2 a buffer with the fire station, 60 feet is a very
3 ideal dimension for parking, an efficient
4 dimension.

5 CHAIRPERSON JORDAN: Thank you.
6 Ms. Cohen?

7 MS. COHEN: Thank you, Chairman.
8 You did not identify where the IZ units are going
9 to be. Can you elaborate?

10 MR. ROTH: So we looked at that
11 with Matt LeGrant the zoning administrator.
12 However, we anticipate doing six IZ units with
13 an even split between 50 percent AMI and 80
14 percent AMI. They will be representative of the
15 building. Our intent is to do three
16 one-bedrooms, two two-bedrooms and one
17 three-bedrooms and disperse them around the
18 floors as well to Matt's liking.

19 MS. COHEN: Thank you. You
20 mentioned you are proposing to construct this
21 building using high quality materials. Are you
22 going to go for any kind of LEED certification?

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1 MR. DITTO: We haven't decided
2 about LEED certification yet. I don't know if
3 we would or not. I would actually ask Chuong
4 to talk about the design a little bit because
5 it's something that got passed over previously
6 and he could talk about kind of the green
7 aspects of the building.

8 MR. CAO: Right. The roof will be
9 a full green roof to meet the storm water
10 management as well as the .3 GAR. Also, the
11 materials that we're using on the facade a
12 number of them are 50 percent recycled content
13 so that's a high recycled content for a building
14 facade material as well as top-notch insulated
15 window systems. We're using the YKK, I'm
16 sorry, off the top of my head it's something
17 like SEIS or something like that but it gives
18 you the full -- now how it's different from your
19 normal Anderson or Marvin window system, this
20 window system can be used as commercial as
21 well as residential. It's not a thermally
22 enhanced system like most systems that you have

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1 with Anderson, it's a thermally broken system
2 so the efficiency is also there as well as, you
3 know, we're using a very efficient heat pump
4 system.

5 MR. DITTO: I was going to say the
6 heat pump system we're using is pretty awesome.
7 There's two different like schools of heat
8 pumps now. There's the American systems and
9 then there's the European and Asian systems.

10 And because of efficiency, but also
11 because of the roof top kind of usage, we've
12 opted to go with a European system either Daikin
13 with European or the Mitsubishi or LG because
14 they're stackable so to save rooftop space in
15 order to increase the green area, we will use
16 the Daikin or the Mitsubishi.

17 And the difference between their
18 efficiency, a 13 SEER is what you know 99
19 percent of apartments are because it's the
20 federal minimum standard for HVAC
21 condensation, will actually be a 22 SEER so it's
22 significantly more expensive -- I did not mean

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1 to say that! It's more efficient. It is also
2 more expensive.

3 MS. COHEN: Yes, but you capture
4 it over a certain period of time.

5 MR. DITTO: That's right.

6 MS. COHEN: And also I would
7 encourage you, it sounds like you are well on
8 your way to even being silver and I would
9 encourage you to do that for marketability
10 issues because people are getting smarter about
11 LEED and they want to live green.

12 Aside from that though when you're
13 talking about stacking I'm uncomfortable with
14 the way the rooftop does look, and if you can
15 walk me through one more time about why you
16 can't achieve the one-for-one.

17 MR. CAO: Sure. Let me go to--

18 MR. DITTO: One thing I would say
19 before Chuong goes through this. There is a
20 way to achieve the one-to-one legally with no
21 special exception or anything else like that.
22 We would raise up, and he'll show you, and one

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1 of the comments especially from our neighbor
2 directly to the north, Dottie, is that she does
3 not like part of the building as it is and when
4 we said to Dottie, when we talked to her about
5 this that was one of her biggest concerns. So
6 we can achieve without a variance of special
7 exception the required one-one setback but it
8 would make the building taller.

9 MR. CAO: The roof would need to be
10 raised by four feet to the height of the
11 parapet. So what you're going to see this
12 is--

13 MS. COHEN: You don't have to go
14 on. Thank you.

15 CHAIRPERSON JORDAN: All right.
16 Any other questions we have of the applicant?
17 Things we need to hear, anybody need to hear
18 anything else?

19 MR. COLLINS: I just want Mr. Cao
20 just to state one thing for the record. Mr.
21 Cao, could you talk about the slope, the
22 proposed slope of the ramp in relation to the

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1 AIA design guidelines?

2 MR. CAO: Right. In the AIA
3 guideline I don't know we--

4 CHAIRPERSON JORDAN: I think
5 your statement talked about it quite well. I
6 think we understand. I think we're good on
7 that.

8 MR. CAO: Thanks.

9 CHAIRPERSON JORDAN: And if
10 anybody has an issue with that let me know so
11 we can give the applicant the opportunity to
12 discuss it. Any other questions of the
13 applicant?

14 MR. COLLINS: We have Mr. Andres.

15 CHAIRPERSON JORDAN: I'm trying
16 to help you here.

17 MR. DITTO: I think he may not need
18 Mr. Andres' testimony.

19 CHAIRPERSON JORDAN: You can use
20 him in rebuttal if necessary. Okay. OP
21 please?

22 MR. COCHRAN: Thanks, Mr. Chair.

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1 You have our report. We had worked with the
2 applicant understanding what the exceptional
3 conditions are and we do think that the
4 combination of the site size, the circulation
5 figures, where the various common elements are
6 that are vertically oriented are located, all
7 combine to form an exceptional condition that
8 would result in practical difficulty if relief
9 weren't granted.

10 We also worked with the applicant on
11 identifying the areas of relief that actually
12 needed to be requested and the applicant has
13 responded by requesting two areas of additional
14 relief.

15 With those we're happy to recommend
16 that the Board approve the requested two
17 variances of relief and the special exception.

18 There are just a couple of things I
19 did want to note and some of them are just sort
20 of looking ahead. The applicant's PowerPoint
21 today referred to a ramp. The zoning
22 administrator has actually determined that

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1 that's a driveway, a ramp doesn't require this
2 kind of relief, a driveway which is external
3 does. So that's where that comes in.

4 There was also a letter submitted by
5 the Department of Transportation and there are
6 a few differences that I'll simply point out
7 without an opinion, between what the applicant
8 has shown on the last page of their PowerPoint
9 and what DDOT had actually recommended.

10 The first two bullets are what DDOT
11 recommended. The TDM coordinator [inaudible]
12 and provide 18 bike spaces on site and the
13 applicant has agreed to do that.

14 The provision of one-time
15 membership fees for car share, bike share
16 program or a \$50 dollar Smartrip card for each
17 resident. DDOT had a slightly different
18 recommendation that if I were to put it in
19 zoning order terms it would be that for the
20 first five years of the building's occupancy
21 the applicant shall provide each new tenant
22 with a one-year membership in either bike share

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1 or a car share program, the difference being
2 that they wanted first off five years, secondly
3 focus on car share or bike share rather than
4 just a general transit option.

5 Secondly, let's see, the
6 applicant's PowerPoint doesn't mention a
7 transportation information board or screen in
8 the lobby. DDOT has recommended that the
9 applicant install a transportation information
10 screen in the lobby that will show real time
11 arrivals and availability for nearby trolleys,
12 bike share, buses and car share. That's
13 presuming that the trolley ever is nearby.

14 And the third thing is that DDOT
15 would prefer that you put in a condition that
16 there not be loading from the alley and that the
17 applicant come in and request permits when
18 necessary to load from one of the streets,
19 presumably not Florida Avenue. And that's it.
20 OP doesn't have an opinion on that, we just felt
21 that we needed to point out the differences.

22 CHAIRPERSON JORDAN: You said

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1 something or DDOT said something about loading?
2 I didn't see a loading request.

3 MR. COCHRAN: Let's see. I'm
4 quoting from the DDOT. Zoning does not require
5 that the proposed project provide on site
6 loading facilities. Applicant indicates that
7 residents will be encouraged to direct
8 residents to load from the alley or along
9 Trinidad Avenue. DDOT does not support
10 loading from the alley as it may block other
11 vehicles from using the alley. Emergency no
12 parking permits from DDOT are available to
13 reserve curbside loading space, also Trinidad
14 Avenue to accommodate the site's loading needs
15 if necessary.

16 CHAIRPERSON JORDAN: Got it.

17 MR. COCHRAN: So that concludes
18 OP's report and if you have any questions
19 obviously I'm here.

20 CHAIRPERSON JORDAN: And I
21 understand DDOT keeps saying putting these
22 information screens in the lobby but isn't it

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1 more practical to provide notice in the lobby
2 that people can pull up real time information
3 on their telephone?

4 MS. COHEN: Well that's what these
5 screens do and they don't cost that much.

6 CHAIRPERSON JORDAN: The screen
7 does what?

8 MS. COHEN: It tells you what's going
9 on, the same information that you can get--

10 CHAIRPERSON JORDAN: I'm real
11 clear. I understand that. I'm saying isn't it
12 more practical to just remind the tenants you
13 need to download this to your phone because they
14 will have this information all the time? That
15 was my question.

16 MS. COHEN: Not everybody has an--

17 CHAIRPERSON JORDAN: That was my
18 question to OP.

19 MR. COCHRAN: And that's a
20 question I would be happy to refer to DDOT. We
21 don't have an opinion on that.

22 MEMBER HINKLE: I mean here's my

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1 issue with that and I wanted to bring this up
2 so I'm glad the conversation is occurring.
3 These screens are new. It's new technology,
4 you know, we've only started recently requiring
5 some buildings to install them. Is it going to
6 be around in two years, three years, four years?
7 Would an applicant have to come in and modify
8 the board order to remove it from the lobby?

9 I mean I'm a little bit
10 uncomfortable with requiring these. So it
11 would be a question for DDOT. I'm not quite sure
12 what to do here. It might be requiring a screen
13 or some similar technology that gets the
14 information to the tenant.

15 CHAIRPERSON JORDAN: And
16 additionally when we had DDOT here we asked that
17 question and they thought that it was very
18 viable when we had the things. But we may not
19 even be at that point.

20 MS. COHEN: It's my experience but
21 again I deal with somewhat of a larger project,
22 that we do require these screens in every

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1 building. They don't cost that much. I don't
2 think that modifying them is an outrageous
3 expense as well.

4 I think a lot of people are not
5 necessarily connected to their cell phone like
6 some of us -- well I'm not. I think it's an
7 important item to have to make it convenient for
8 people to have a choice and to know a little bit
9 more information about options that are
10 available to them.

11 If it was a very expensive item I
12 would probably be more inclined to be cautious
13 but I believe they're not that much money and
14 I think it's an important addition.

15 CHAIRPERSON JORDAN: The issue is
16 \$5,000 and \$10,000 dollars aren't they?

17 MR. DITTO: They're not
18 inexpensive and the installation is not
19 inexpensive but the real problem is the yearly
20 fees that they charge to receive the
21 information which I was hearing about.

22 For a larger development, I've done

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1 one of these before in Arlington on a \$100
2 million dollar building when I worked for a
3 larger company and when you roll it into the
4 project costs of a \$100 million dollar building
5 it tends to be insignificant.

6 But for our 45-unit building when we
7 start looking at the cost I mean again it's not
8 just the installation cost but it's the ongoing
9 cost. And after we got the DDOT letter we
10 started researching kind of what are people
11 using? What is the future of transportation?
12 And what Chairman Jordan was saying actually
13 seems to be the case is that more and more
14 people, I mean so many people are using their
15 phones now to receive that type of information
16 and kind of the future is the apps because you
17 can actually see where you're going.

18 So Ms. Cohen, if you were saying
19 like I want to go to Dupont Circle they would
20 tell you the walking, the bike, you know all the
21 different options, whereas with the screen it's
22 only showing what anybody leaving from that

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1 could leave but with the apps there's a lot more
2 information given.

3 So I think that the future probably
4 is more so in the apps and I give my mother app
5 lessons all the time so if you ever would like
6 for me to--

7 MS. COHEN: Thank you. And I
8 probably am the age of your mother by virtue of
9 the fact that I don't use, I'm not connected.

10 CHAIRPERSON JORDAN: We didn't
11 finesse that one did we.

12 MS. COHEN: That's okay. I'm not
13 insulted at all. I'm sure she's a lovely lady.

14 CHAIRPERSON JORDAN: Any
15 questions, additional questions?

16 MS. COHEN: I still would like you
17 to address the other issues of DDOT with regard
18 to the incentives for Capital Bike Share that
19 you're suggesting only one time. They're
20 suggesting continue it for five years. And
21 again I support that, I support anything that
22 gets people out of their cars.

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1 MR. DITTO: Sure. Absolutely.

2 MR. COLLINS: But DDOT's asking
3 for a 5-year commitment. This is a building
4 that people are going to be in. It's not a
5 continual rolling over of tenant we don't
6 expect. People will be living here for a
7 couple of years, they'll know the mode of
8 transportation.

9 The whole idea of an incentive is to
10 get people used to doing something. Having it
11 for five years for a project of this size with
12 the age demographic that we're expecting on
13 this, people that are coming here we'll expect
14 that these people will be the people who are
15 living here will be people oriented to
16 alternative modes of transportation anyway.
17 And will not need the kind of incentives,
18 certainly a reasonable incentive this board in
19 the past has imposed an initial tenant and then
20 also you've imposed some case where there's
21 been an initial tenant and then the next one for
22 the first two tenants were for a 5-year period

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1 it gets fairly expensive. So that's--

2 MR. DITTO: On a rental building
3 you end up, on a condo building the developer
4 is one year and then they're out and they're
5 gone, they walk away. On a rental building--

6 CHAIRPERSON JORDAN: What's the
7 cost of a one-year membership?

8 MR. DITTO: It's \$75 dollars I
9 believe for the bike share an \$100 and something
10 dollars for the car share. So it ends up being
11 a cost issue ultimately. I mean we don't--

12 CHAIRPERSON JORDAN: We didn't
13 say--

14 MS. COHEN: They're really saying
15 just--

16 CHAIRPERSON JORDAN: We hear you
17 and we have actually been coming down a lot
18 harder with memberships ongoing because we
19 don't know for a fact that the person's going
20 to catch on. We don't know for a fact that it's
21 going to be-- and here we might just allow it
22 for new tenants but we've also required it every

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1 year for a tenant period.

2 MR. DITTO: Sure.

3 CHAIRPERSON JORDAN: So I'm just
4 saying we hear what you're saying but we take
5 very seriously this parking aspect. You have
6 a community that's upset about parking. We
7 don't know exactly if all our TDM measures are
8 working and I wouldn't draw a line in the sand
9 on this because we will draw one for you.
10 Honestly. Because we are very serious about
11 taking care of the community and parking. And
12 I agree with Ms. Cohen, I don't see where this
13 is something that becomes something
14 prohibitive. We hear your argument.

15 MR. DITTO: Sure.

16 MR. COLLINS: Is there anything
17 else that you need on the--

18 CHAIRPERSON JORDAN: That's what
19 I'm trying to get to. I think we might be okay
20 all around here. And so what I would hold off
21 -- let's talk about the condition, I would say
22 for a 5-year period the applicant shall provide

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1 all new tenants with Capital Bike Share or car
2 share membership.

3 And that the applicant -- well, if
4 you guys want to live with the screen, the
5 applicant shall provide a transportation
6 information screen or, alternatively, provide
7 notice to the tenants of an applicable
8 application, cell phone application or other
9 means of obtaining real time multi-transit
10 information.

11 That the applicant be restricted
12 from loading in the alley.

13 MR. DITTO: On the loading in the
14 alley, we have not spoken to DDOT about that.
15 Would you mind saying that we would work with
16 DDOT to identify an appropriate loading area?

17 CHAIRPERSON JORDAN: Okay.
18 That's okay with everybody here?

19 MS. COHEN: Yes.

20 CHAIRPERSON JORDAN: Okay. So
21 that's what I would lift up if that's what's
22 okay with the Board and everyone. Okay. With

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1 that we'll close the hearing. Oh no, I'm
2 sorry, anyone in opposition. Any opposition?
3 Okay. Yes, Ms. Cohen.

4 MS. COHEN: I have one question
5 for Mr. Cochran. I just want to make sure that
6 you definitely are comfortable that there need
7 be no design changes with regard to the
8 penthouse to making it the one-to-one. Are
9 you--

10 MR. COCHRAN: I am very
11 comfortable with that. I actually think that,
12 I mean we noticed this and consequently the
13 applicant did ask for the relief. By allowing
14 the parapet or the continuation of the wall,
15 whichever you want to call it, to go up it
16 actually better screens the penthouse than
17 would a clear railing.

18 MS. COHEN: Okay. All right.

19 CHAIRPERSON JORDAN: I'm sorry.
20 Does someone think they need -- anyone support?

21 MR. DITTO: Karen Ramsey has been
22 here the entire time and she's wonderful.

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1 CHAIRPERSON JORDAN: I was
2 remiss. I was remiss. I was driving and
3 turned my head and I was trying to text and
4 drive. It's been a long morning. I'm sorry.
5 Welcome.

6 MS. RAMSEY: Okay. I will try and
7 keep this short since we've all been here for
8 a very long time today. My name is Karen
9 Ramsey, I'm a resident on Montello Avenue in
10 Trinidad and I support this project for a number
11 of reasons. It is true that Trinidad is
12 experiencing great growth, we are having out of
13 control real estate prices. I purchased my home
14 a little over two years ago. I cannot afford
15 to move to Trinidad now. That same house would
16 now be double the cost of what it is currently.

17 I also am a resident who lives in
18 Trinidad without a vehicle. I use bike share
19 which is only \$75 dollars a year; I use Car-2-Go
20 which has free membership. There are five bus
21 lines within a few blocks walk of the
22 neighborhood. It's very convenient to get

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1 around.

2 I primarily use apps like Ride Scout
3 where you punch in where you are and where
4 you're headed and it gives you all of the
5 options on how to get there, all of the
6 different bike sharing, car sharing, which
7 Metro, which buses. So that is very
8 convenient.

9 The neighborhood has experienced a
10 lot of debate on where we should go in terms of
11 zoning because it is zoned R-4. This property,
12 however, is commercial zoning. I do not have
13 a problem with forgoing seven parking spaces to
14 have a development that will bring density to
15 the outskirts of the neighborhood to the
16 commercial zoned area that will provide people
17 on the streets where currently we have a drug
18 market and people with perhaps intent to commit
19 crime.

20 Having more people on the street
21 will be a benefit.

22 We are also losing a lot of our

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1 apartment buildings to condos and people are
2 being pushed out. We're going to have lower
3 cost housing, including inclusionary zoning
4 units that will be available to some of those
5 residents that are being pushed out of being
6 able to rent in Trinidad.

7 Let's see. Parking. Not a problem.
8 I do have a lot to say on this issue so forgive
9 me.

10 CHAIRPERSON JORDAN: We
11 appreciate your taking the time.

12 MS. RAMSEY: But I don't see a
13 problem with renters who are coming into the
14 neighborhood. People that have a car will rent
15 somewhere else. People that are concerned
16 with having a green building or the potential
17 for a green building and access to public
18 transit are market demographics. I'm probably
19 20 years over the market demographic, but it's
20 also how I choose to live and in this
21 neighborhood.

22 We are trying to maintain a sense of

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1 neighborhood in Trinidad which has gone a
2 little off the rails during the process of
3 discussing zoning but it is a neighborhood that
4 we do want to preserve, and having a developer
5 that's going to come in and say is far different
6 than what we're getting with people that come
7 in and are doing shoddy bump out bump back
8 increasing density.

9 So we need a partner that we can work
10 with and it seems like that's been demonstrated
11 over the past six to eight weeks of discussions
12 in the neighborhood.

13 CHAIRPERSON JORDAN: Okay.
14 Appreciate it. Thank you. Thank you for the
15 comments. Yes?

16 MS. COHEN: One question for you
17 and thanks for your testimony. You mentioned
18 that Car-2-Go offers free memberships.

19 MS. RAMSEY: It is free for the
20 annual--

21 MS. COHEN: The annual membership
22 fees?

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1 MS. RAMSEY: What other companies
2 would charge as an annual fee there's no annual
3 membership fee and you pay by the minute for
4 each time that you use the car.

5 MS. COHEN: Got it.

6 MS. RAMSEY: So that makes you in
7 my decision making process on how I'm going to
8 get from point A to point B, I factor in cost
9 as well. Is it better for me to take a bike?
10 Is it better for me to drive a car in rush hour
11 traffic from Trinidad to Georgetown? Most
12 certainly not. So you make decisions based on
13 what is reasonable in terms of time and cost,
14 like anyone else would do.

15 CHAIRPERSON JORDAN: Okay. So we
16 will close the hearing based upon the record
17 we've already deduced. I move that we grant
18 a relief requested by the applicant and include
19 the conditions as I just went through them.
20 Any further discussion? All right. That
21 would be my motion. Anybody want to do anything
22 else like a second or something?

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1 MEMBER HINKLE: I'll second it.
2 Just the fact that you know I'll buy that the
3 lot's narrow, 80 feet is difficult to configure
4 the parking and to go deeper. It's difficult and
5 costly.

6 CHAIRPERSON JORDAN: That's what
7 got me.

8 MS. COHEN: I just want to make sure
9 that we are in agreement on the five year
10 period.

11 MR. DITTO: Yes. We definitely
12 can do that. One of the things in talking to
13 Erwin Andres about this is in order to
14 accomplish that with our management company,
15 can we say that we would -- we offer them either
16 the bike share or Car-2-Go, so instead of saying
17 to provide say that we offer, whic would allow
18 us to you know in our leasing agreement you give
19 them a letter and say we're offering you either
20 this or this?

21 MS. COHEN: I think that DDOT
22 would be comfortable with that.

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1 MR. DITTO: Okay. Thank you.

2 CHAIRPERSON JORDAN: Now I forget
3 what the motion is. It's approved but I don't
4 know if we amended the condition in any shape,
5 form or fashion. Is that what we're doing?

6 Okay. All those in favor signify by
7 saying aye. Those opposed nay.

8 (VOTE TAKEN)

9 The motion carries. Mr. Moy?

10 MR. MOY: Staff would record the
11 vote as 4-0. This on a motion of Chairman
12 Jordan to approve the application for the
13 relief requested with conditions. Was that
14 four conditions or three conditions?

15 CHAIRPERSON JORDAN: There's
16 three conditions.

17 MR. MOY: Okay. I wasn't sure
18 there was another one after the loading issue.
19 Okay. Three conditions. Second the motion,
20 Mr. Hinkle. Also in support Ms. Heath and Ms.
21 Cohen. We have a member not present. The
22 motion carries 4-0.

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1 CHAIRPERSON JORDAN: Summary
2 order please.

3 MR. MOY: Yes sir.

4 CHAIRPERSON JORDAN: Okay. Then
5 that concludes this hearing. Thank you.

6 In accordance with Section 405(c)
7 of the Open Meetings Act of the Administrative
8 Procedure Act I move that the Board of Zoning
9 Adjustment hold closed meetings on the Mondays
10 of July 7th, 14th, 21st and 28th. These
11 meetings start at 4 p.m. and are being held for
12 the purpose of obtaining legal advice from our
13 counsel in deliberative form with our deciding
14 cases scheduled for the Board's docket the next
15 succeeding day.

16 These cases are identified in
17 Board's Hearing Agenda of July 8, 15, 22 and 29.
18 A closed meeting for this purpose is permitted
19 under Section 405(b)(4) and b(13) of the act.

20 Finally, I hold that Monday, July
21 7th in our meeting for purpose of obtaining
22 legal advice from counsel deliberate upon but

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1 not voting open, remain in appeal No. 17109.
2 17109 as permitted by the Administrative
3 Procedural Act. Is there a second?

4 MS. COHEN: Second.

5 CHAIRPERSON JORDAN: Would the
6 secretary please call roll call please.

7 MR. MOY: Thank you sir. When I
8 call member's name if you would respond with a
9 yes or a no. Ms. Cohen?

10 MS. COHEN: Yes.

11 MR. MOY: Ms. Heath?

12 MEMBER HEATH: Yes.

13 MR. MOY: Chairman Jordan?

14 CHAIRPERSON JORDAN: Yes.

15 MR. MOY: Mr. Hinkle?

16 MEMBER HINKLE: Sure.

17 MR. MOY: And we have a Board
18 member not present today. The motion carries,
19 Mr. Chairman.

20 CHAIRPERSON JORDAN: All right.

21 Any other business coming before the Board?

22 Okay. Then we're adjourned. Thank you.

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1 (Whereupon, the above-entitled
2 Public Hearing/Meeting of the Board of Zoning
3 Adjustment having been concluded, went off the
4 record at 1:26 p.m.)

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