

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JULY 8, 2014

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:56 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
S. KATHRYN ALLEN, Vice-Chairperson
MARNIQUE HEATH, Member
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

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

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.
ALLISON MYERS, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN GYOR
MAXINE BROWN-ROBERTS
BRANDICE ELLIOTT

The transcript constitutes the
minutes from the Public Hearing held on July 8,
2014.

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

9:56 a.m.

CHAIRPERSON JORDAN: Thank you.
18789. We're moving to our hearing cases. So
when your case is called, please come to the
witness table.

MR. MOY: Yes, that would be
Application Number 18789 of Richard Honig.
This Mr. Chairman is a request for special
exception relief under Section 223, not meeting
rear yard requirements.

CHAIRPERSON JORDAN: Good morning.
Would you please introduce yourself.

MR. HONIG: Yes. I'm Richard
Honig.

CHAIRPERSON JORDAN: Do me a favor.
Make sure the microphone is turned on. It will
be a bright, glowing, green light at you.

MR. HONIG: Yes. I'm Richard
Honig.

CHAIRPERSON JORDAN: Did you give
your cards?

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MR. HONIG: Yes, he has my witness cards.

CHAIRPERSON JORDAN: Thank you.

MR. HONIG: I'm the owner of 3918 Jennifer Street, N.W.

CHAIRPERSON JORDAN: I think this file is in my opinion, and certainly just my opinion. The Board certainly, other members of the Board can speak up on it. But I think the file does contain enough information to support the relief requested.

You have OP -- Office of Planning has recommended approval. ANC3E, which I'm going to come back and visit those conditions there with you. And Department of Transportation recommends no objection. And you have at least 12 letters of support from neighbors.

Does the Board need to hear anything else about -- except for talking about these conditions?

(No response)

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MR. HONIG: Thank you.

CHAIRPERSON JORDAN: There were some conditions offered by the ANC, some of which you agreed to. You agree to these conditions? It's my understanding from the ANC letter that ANC3E is requesting the Board to make these conditions as part of our order. Would that be correct?

MR. HONIG: I'm not too sure.

CHAIRPERSON JORDAN: Did you sign an agreement with the ANC? Sign off on a letter making --

MR. HONIG: I did.

CHAIRPERSON JORDAN: Okay. They did, they asked us to incorporate the terms in the order. By you have already signed an agreement with the ANC --

MR. HONIG: Affirmative.

CHAIRPERSON JORDAN: Which should be enforceable by them with you. They asked the Board in their letter to incorporate into the order those two conditions.

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It's problematic for the Board to incorporate at least one of those. And that would be the requirement that you plant three trees offsite.

Any conditions that the Board imposes on an Applicant in an order must be germane to remediating some issue directly related to the property by the relief being requested.

MR. HONIG: I understand.

CHAIRPERSON JORDAN: So we can incorporate in our order, I would suggest to the Board, we can incorporate the one provision about the install the rain barrel and the downspout. Because your argument is about the runoff water and et cetera by this development.

But the second one about paying the cost of purchasing trees for a whole other areas, I just can't see us accepting that as part of the order. So if that's okay with the Board, unless someone has a problem with it, then I would move that we grant the relief. And

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that we add the condition number one about the downspout.

VICE CHAIR ALLEN: Second.

CHAIRPERSON JORDAN: Additional discussion?

ZONING COMMISSIONER MAY: Yes, I just want to note that the fact that we're not incorporating it into the order, doesn't mean that you wouldn't necessarily want to do it. I mean you've made an agreement with the ANC. I think that in good faith, you know, you'd probably want to go ahead and do that.

But it's just outside the realm of what we can require, so.

CHAIRPERSON JORDAN: Yes, and your agreement, that's why I asked. The agreement that you have with ANC is enforceable with the ANC and you for the most part. I haven't seen the agreement, but it's for you to deal with and it's not something that we would suggest that you run away from.

All those in favor of the motion

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signify by saying aye.

(Chorus of ayes)

CHAIRPERSON JORDAN: Those opposed
nay.

(No response)

CHAIRPERSON JORDAN: The motion
carries. Mr. Moy.

MR. MOY: The staff would record
the vote as five to zero. It's on the motion
of Chairman Jordan to approve the application
for the special exception relief. In support
of the Motion, Vice Chair Allen. Also in
support --

CHAIRPERSON JORDAN: Hold up.
Just let me -- you know what I did? You know
I blew that, didn't I?

MR. MOY: You did?

CHAIRPERSON JORDAN: All right,
let me pull that back. Let me pull that back.
Come on Vice Chair, get me, slap me. Take the
thing and hit me on the head or something.

Let's -- I was speed driving here.

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Okay. You have the opportunity to say something to the Board in support or -- of your Application. I don't -- so it's up to you if you want to say something and take the risk of saying something wrong. As you see, we think it's already acceptable.

MR. HONIG: No. I have nothing else to say.

CHAIRPERSON JORDAN: Good. Smart man. We do have people that get to that point and will say something and we go back and say oh, no. But good. Is there anything in addition that the Office of Planning wants to add?

I just know that there isn't. Such a great report, already read. Yes?

MS. ELLIOTT: You are correct. We will be happy to stand on the record. Thank you.

CHAIRPERSON JORDAN: We do have the report from the Department of Transportation. I don't see them here. So we have that. Boy

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I was really trying to get out of here wasn't I.

Anyone here from ANC3E?

(No response)

CHAIRPERSON JORDAN: We do have the letter in support of ANC3E as I said. And they have made some recommendations that we accept the one. But the other we have already talked about.

Does anyone here wishing to speak in support of this Application? Anyone in support?

(No response)

CHAIRPERSON JORDAN: Anyone in opposition? Anyone in opposition?

(No response)

CHAIRPERSON JORDAN: Okay. We close the record. Now, well go back to -- I move we grant the relief with the one condition about the downspout being added.

VICE CHAIR ALLEN: Second.

CHAIRPERSON JORDAN: Motion made

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and seconded. All those in favor signify by saying aye.

(Chorus of ayes)

CHAIRPERSON JORDAN: Those opposed nay.

(No response)

CHAIRPERSON JORDAN: The Motion carries. See that's why we need a consent docket.

MR. MOY: Again, that would be five to zero on the Motion of Chairman Jordan to approve. Second the Motion by Vice Chair Allen. Also in support Mr. May, Ms. Heath and Mr. Hinkle.

CHAIRPERSON JORDAN: Thank you.

MR. HONIG: Thank you.

MR. MOY: Thank you sir.

CHAIRPERSON JORDAN: Summary order please. What's wrong with me today? Great. 788.

MR. MOY: Okay, the next Application before the Board is Application

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Number 18788. This is the Application of MEDC, LLC. d/b/a Massage Envy Spas. This is a request Mr. Chairman for a special exception for a massage establishment under Section 731 at 4620 Wisconsin Avenue, N.W.

CHAIRPERSON JORDAN: Okay, 18788, anyone here for that? Good morning.

MS. GIORDANO: Good morning, Cynthia Giordano with Saul Ewing law firm.

MR. BARTON: And I'm Eric Barton, Regional Developer with Massage Envy Spa.

CHAIRPERSON JORDAN: Very good. I don't -- does the Board have any issues or questions that we need to hear anything from this Applicant?

(No response)

CHAIRPERSON JORDAN: Okay. There is nothing we need to hear. So you have the opportunity to speak or waive, and we can move on to the Office of Planning who probably doesn't have anything in addition that they want, so.

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MS. GIORDANO: We're happy to stand on the record, thank you.

CHAIRPERSON JORDAN: Mr. Gyor how are we with your report? Anything in addition you need to add?

MR. HORTON: We rest on the record.

CHAIRPERSON JORDAN: Fine report, thanks.

MR. HORTON: Thank you.

CHAIRPERSON JORDAN: anyone here from DDOT? We do have a letter from DDOT indicating no objection, which is meaning that in DDOT speak, they support the Application.

Anyone here from ANC District 3E? We do have a letter recommending approval form ANC3E. Is anyone here wishing to speak in support? Anyone in support?

(No response)

CHAIRPERSON JORDAN: Anyone in opposition? Anyone in opposition?

(No response)

CHAIRPERSON JORDAN: So we'll

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close the record. And I would move that we grant the relief requested in this matter.

ZONING COMMISSIONER MAY: Second.

CHAIRPERSON JORDAN: Motion made and second. Any further discussion?

(No response)

CHAIRPERSON JORDAN: All those in favor of the motion signify by saying aye.

(Chorus of ayes)

CHAIRPERSON JORDAN: Those opposed nay.

(No response)

CHAIRPERSON JORDAN: The motion carries. Mr. Moy.

MR. MOY: Staff would record the vote as five to zero. This on the Motion of Chairman Jordan to approve the Application for the relief requested. A second of the Motion by Mr. Peter May. Also in support Ms. Heath, Vice Chair Allen and Mr. Hinkle.

CHAIRPERSON JORDAN: Thank you. And a summary letter please.

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MR. MOY: Thank you.

MS. GIORDANO: Thank you.

CHAIRPERSON JORDAN: Let's do
18749.

MR. MOY: Okay, next Application
Number 18749. This is the Application of 1031
4th Street, LLC. This is a request for various
multiple variances for property as well as a
special exception relief on the roof structure
requirements at 1031 4th Street N.W.

CHAIRPERSON JORDAN: Okay. If you
please take the table and sit down and introduce
yourselves please.

MR. HORTON: Good morning, Earl
Horton here with 1031 4th Street, LLC.

MR. ANDRES: Just bear with us 30
second, good morning. Good morning Erwin
Andres with Grove/Slade Associates, traffic
consultant.

MR. MAISTO: Good morning. John
Maisto, BKV Group, architects.

MR. HORTON: And our counsel Chip

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Glasgow will be back in in two seconds.

MR. MOY: While there's a brief pause Mr. Chair, and just for the record, I believe the Applicant had amended the relief.

CHAIRPERSON JORDAN: Let me handle that, because I don't know if they did.

MR. MOY: Okay, great, we'll have them do it.

CHAIRPERSON JORDAN: Because I need to clear some things.

MR. MOY: Perfect.

CHAIRPERSON JORDAN: Mr. Glasgow do you want to introduce yourself please.

MR. GLASGOW: Yes sir. Mr. Chairman for the record my name is Norman M. Glasgow, Jr. with the law firm of Holland and Knight, appearing on behalf of the Applicant.

CHAIRPERSON JORDAN: Okay. First, has there been an amendment to the Application? I know that something was pled in the alternative. But I don't know if there was real amendment. Can you bring me up on that.

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MR. GLASGOW: Yes sir. We intended to proceed and filed that in the alternative that what we wanted to do was, and our preferred method of proceedings, is to substitute a percentage of lot occupancy variance for the previously requested side yard variance.

CHAIRPERSON JORDAN: Okay, so we're dropping the side yard request?

MR. GLASGOW: That's correct. And having lot occupancy. And in dealing with the lot occupancy and further dealing with the -- we had an above grade Pepco transformer, which is highly unusual. And that was causing some questions with respect to the Office of Planning and the abutting property owner.

So we are now burying the Pepco transformer, which is the normal course. And in doing that, we then said that well, there was no sense having the side yard there on the northern end. We would work with the abutting property owner, get rid of the side yard

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variance.

When we got rid of that, we had a slight increase in lot occupancy. We went from 80 percent to 86 percent. And then that also in burying the transformer and dealing with having further discussions with Pepco, altered the number of parking spaces that we could provide in the underground garage.

There was a slight decrease in those number of parking spaces. And the architects will be able to address that.

CHAIRPERSON JORDAN: Okay, I thought -- I thought OP had an issue with the rear yard?

MR. GLASGOW: They had an issue with the lot occupancy. And we're going to be presenting some information today. We wanted to get it in earlier, but the discussions with the abutting property owner had not gone to the degree where we're able to now submit.

And we will be submitting for the record a letter from the abutting property

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owner. That they are going to grant us an easement 12 feet by 65 feet, a width at the northern end of the property.

And that will be a no build area for them, which in effect increases our open space at the north end. And would provide sufficient space that that would then, the coverage that we have on the area that we control either in feed, or through the easement, would then take down that to 80 percent.

We wanted to try to address that. And of course as the Chairman is aware, with a case of Capital Hill Restoration Society versus Zoning Commission of the District of Columbia, which was decided in 1977, the Board -- the Commission and the Board can take into account covenants and easements which are effecting a piece of property.

And we have no problem having the condition to do that with respect to this order. And these are things that just happened in the last few days after we got the Office of

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Planning report, we determined that our relationship with the abutting property owner, Golden Rule Plaza, was such that we could proceed in that fashion and get back to you when the negotiations were far enough along, which they now are.

And I'd like to -- we have copies of that letter for the record. Okay, I've got --

CHAIRPERSON JORDAN: Well let me -- let me do this. Let me turn to Ms. Elliott in OP to find out where you are on this. Because I thought you had the rear yard issue and not the lot occupancy issue.

MS. ELLIOTT: Thank you Mr. Chairman. Our concerns have been mostly hinged on the request for lot occupancy relief. We did have a question concerning the rear yard because it is fairly unusual that the ground floor would have to have the same footprint as the garage.

And that -- perhaps the Applicant can go into a little more detail about this.

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But it's my understanding that there is some structural reasons why the ground floor actually needed to extend to the rear lot line to provide support for the below grade garage.

So it was a question but we are in general in support of that request.

CHAIRPERSON JORDAN: Right. And that's kind of what I wanted to work out. Because I thought now that there was a meeting of the minds on this. And I think we would agree that from the filings, that there is some structural issues. And the reason why you're doing it, why lot occupancy would require the relief.

That's kind of what I was trying to get to. Because if not, you know, we can hear -- if your not comfortable there yet.

MS. ELLIOTT: So we did have a brief conversation concerning the lot relief prior to this. And I feel like we're getting a little bit more comfortable with that request.

We're still interested in hearing

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what the Applicant presents.

CHAIRPERSON JORDAN: Got you. Let me find out if the Board's comfortable with the lot occupancy request and the reason why. Mr. May?

ZONING COMMISSIONER MAY: Well I can understand why. I mean I still think we need to hear some of the case to understand that -- or to get to a point where we can decide that it's justified.

I am rather confused about one aspect of the case, which is the abutting property owner to the north. Is that what you -- who you just sent us this letter, Golden Rule Plaza.

MR. GLASGOW: That's correct.

ZONING COMMISSIONER MAY: So they own the former L Street right-of-way?

MR. GLASGOW: Yes, that's correct. When that right of way was closed, then there was a process that we went through. I represent -- I've represented Golden Rule Plaza

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and Bible Way Church for, I don't know, over 20 years. And it probably took us ten years to end up finally with control of that -- with that property.

ZONING COMMISSIONER MAY: So they own it in fee, the entirety of the property?

MR. GLASGOW: That's correct.

ZONING COMMISSIONER MAY: Isn't that -- I mean isn't that unusual for a street end like that to be acquired entirely? I mean usually doesn't it get split between the abutting property owners?

MR. GLASGOW: If we had a plat of the property, you'd see that there is a triangular piece way to the north.

ZONING COMMISSIONER MAY: Yes. Right.

MR. GLASGOW: And there's a part of that that's north of the right-of-way.

ZONING COMMISSIONER MAY: Yes.

MR. GLASGOW: The right-of-way is 90 feet wide. So that if you did do that, yes,

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the abutting property owner was both to the north and the south of that, so.

ZONING COMMISSIONER MAY: I mean but why -- why wasn't this split between you know, why wasn't the right-of-way just split down the middle as it would often be the case?

MR. GLASGOW: I can't remember whether it was on the plat or not. But Golden Rule Plaza, after we had worked with the District government with respect to the acquisitions of the sites, there as property to the north and south of the 90 foot right-of-way. And all of that went to Golden Rule Plaza. So I --

ZONING COMMISSIONER MAY: North and south of the existing right-of-way.

MR. GLASGOW: Correct.

ZONING COMMISSIONER MAY: Got it. And so this Applicant ultimately acquired part of that property from Golden Rule?

MR. GLASGOW: No. This was a different one. This was different property.

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ZONING COMMISSIONER MAY: Okay, now I'm confused again. So L Street used to run through -- across where the freeway is?

MR. GLASGOW: Correct.

ZONING COMMISSIONER MAY: Right. So Golden Rule was the abutting property owner to the north?

MR. GLASGOW: To the north and in part to the south.

ZONING COMMISSIONER MAY: In part to the south. But not this part?

MR. GLASGOW: Not this part.

ZONING COMMISSIONER MAY: But they wound up acquiring the entirety of the right-of way.

MR. GLASGOW: Correct.

ZONING COMMISSIONER MAY: Okay. I was just trying to understand how that happened. But I think I'm just going to take your word on it.

MR. GLASGOW: I'd have to pull out my files on it, which are voluminous.

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ZONING COMMISSIONER MAY: It just seemed odd to me. Because we have a street end here that you know, that dead-ends at the freeway. And it's essentially open space now.

MR. GLASGOW: Right.

ZONING COMMISSIONER MAY: But ultimately it's going to be developed by Golden Rule.

MR. GLASGOW: Yes. And there was -- it was federal highway property involved at one point in time. Because the right-of-way goes up the grassy hill that you see there now.

ZONING COMMISSIONER MAY: Right.

MR. GLASGOW: And it went beyond that at one period of time. And there were a series of assessment taxation lots that we had deeded to Golden Rule by act of the City Counsel after a process that we went through several years ago.

ZONING COMMISSIONER MAY: Okay.
All right.

MR. GLASGOW: The City owned the

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Golden Rule Plaza site at one point in time.

ZONING COMMISSIONER MAY: Right, right. I think I remember that time. There were certain things placed there that didn't make the neighbors very happy.

MR. GLASGOW: Right. There was a -- somebody had -- we had to take them to court to get a bunch of junk cars removed. And all kinds of other things happened.

ZONING COMMISSIONER MAY: Right. So, and then I have one other question is that the right-of-way that abuts the property at the rear, which was acquired for the freeway, right? Why would that not be considered a public right-of-way and therefore be subject to zoning regulations that apply to those? Such as setbacks of rooftop structures and so on?

MR. GLASGOW: Because there's private property that runs all the way behind the site.

ZONING COMMISSIONER MAY: Oh, there's an abutting private property there?

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MR. GLASGOW: Yes, Golden Rule Plaza site goes all the way around this.

ZONING COMMISSIONER MAY: Got surrounded.

MR. GLASGOW: Yes.

ZONING COMMISSIONER MAY: Got it.

MR. GLASGOW: Yes. That's correct.

ZONING COMMISSIONER MAY: Okay, I just assumed that they had, you know, because often when you acquire the rights-of-way, it's not a straight line.

MR. GLASGOW: No. You may be able to see it on there. That could be helpful.

ZONING COMMISSIONER MAY: the little bit of space between the -- yes, between the dotted line and the yellow parcel.

MR. GLASGOW: Correct. At it's narrowest point I believe it's about 21 feet.

ZONING COMMISSIONER MAY: Okay. And the matter of right density of that site would allow the Golden Rule to build up to that

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same height and build a penthouse to that same height.

MR. GLASGOW: Golden Rule's property fronts on K Street. Goes all the way down to K Street, it fronts along.

ZONING COMMISSIONER MAY: It wraps around it you say.

MR. GLASGOW: It wraps around it. So it goes down and it has frontage on K Street. So they can go to 130 feet.

ZONING COMMISSIONER MAY: Okay. But what I'm concerned about is this along the back. I mean this is all about rooftop structures. Because right now the rooftop structures are ganged except for the ones with middle stairway, they're ganged at the northeast corner of the building.

MR. GLASGOW: Correct.

ZONING COMMISSIONER MAY: And I'm wondering what relief is necessary in order for that to be constructed? Because if you're abutting an adjacent neighbor of similar

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density, I guess in theory you can build your rooftop structures right up against that.

MR. GLASGOW. We can build right up against the property line. And on an interior lot --

ZONING COMMISSIONER MAY: Yes.

MR. GLASGOW: We can build right up against the property line.

ZONING COMMISSIONER MAY: Assuming that the zone is the same on the adjacent property.

MR. GLASGOW: Yes, the zoning's the same.

ZONING COMMISSIONER MAY: Right, okay. The other thing I think you may be thinking about is that when you -- now that you've acquired an easement on the adjacent property that allows out risk windows and such, that that is equivalent to a side yard. It's equivalent to, I mean essentially that's the case that you're making that we can take this into consideration in granting the relief.

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So does that mean that there should be a setback of the penthouse structure along that facade? Because it's now an exterior wall of the building. It's not a lot line wall.

MR. GLASGOW: Well it's still technically a lot line wall.

ZONING COMMISSIONER MAY: Correct. But you're using the fact that you have this easement to get out of the lot occupancy, or to make your case on lot occupancy.

MR. GLASGOW: Right.

ZONING COMMISSIONER MAY: So why wouldn't it apply universally to all aspects of the ZONING rec? And I think that's the case you need to make.

MR. GLASGOW: Right. Well we can -- we can discuss that. We had previously was supported a side yard relief if you -- by the Office of Planning of about the same dimension.

ZONING COMMISSIONER MAY: Right.

MR. GLASGOW: There was about a 12 foot side yard. I think we will be able to

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discuss with the Board today that what we were able to do when we have the at risk windows along the north wall, we now are able to have some two bedroom units within the project. And we would have to flip the units a different way if we pull back the architectural and get into that, we would have lost the defining.

ZONING COMMISSIONER MAY: Okay. That's fine. I just want you to be thinking about this issue of the rooftop structures. Because that -- I mean that's the basic relief issue that I'm concerned about. And it drives a lot of these other issues that I'll raise later.

CHAIRPERSON JORDAN: A couple of things. One, I do see Ms. Elliott, I didn't see Exhibit 35 with your supplemental. So now I understand what your discussion is.

But Mr. Glasgow counsel has advised me one, we don't have a formal Application amended from the Applicant. Has one been submitted?

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MR. GLASGOW: We can submit that for the record.

CHAIRPERSON JORDAN: Right. Additionally, there was a question whether or not it should require new notice because it was a new additional relief being requested. I don't believe that's necessary.

And unless the Board thinks that we need to require the Applicant by adding the lot should we go back out. I think there's been sufficient notification.

ZONING COMMISSIONER MAY: I mean it's the same level of relief that we required.

CHAIRPERSON JORDAN: Right. So I don't believe that that part is necessary. But we do need. So we have an oral motion now to amend, and you'll subsequently just provide the documentation in support.

MR. GLASGOW: We will do that Mr. Chairman. And we note that when we went to the community with the ANC letter of support references the lot occupancy relief. There

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was -- that was discussed in the community.

CHAIRPERSON JORDAN: So why don't we go ahead and proceed. We've already started the discussion. Be if you'd go ahead and talk about lot occupancy. Or we can finish up here on the rooftop and the reason why we -- where we are.

MR. GLASGOW: All right, did you want to hear anything from Mr. Horton or just go straight to the architects?

CHAIRPERSON JORDAN: Whichever way you think is necessary. I don't think -- Mr. Horton's going to provide what?

MR. GLASGOW: He's not going to be discussing those two areas, other than -- and you do know that we've been to the ANC on that. And with that taken into the record, we are ready to proceed with Mr. Maisto.

Please identify yourself for the record and proceed with your testimony.

MR. MAISTO: Good morning Mr. Chairman. Ladies and gentlemen of the Board.

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My name is John Maisto. I'm with BKV Group Architects, associate partner.

We're the architect of record for this project. Excuse me Mr. Glasgow, do you want me to go through my presentation or go straight to lot coverage and room?

MR. GLASGOW: I think that they're ready to hear about the roof and the lot occupancy from what I -- unless any of the Board members want to hear about the other issues.

CHAIRPERSON JORDAN: We read well, okay.

MR. MAISTO: Excellent. I'll move forward through the presentation to the lot occupancy portion. As you can see here, it's an aerial view from the northwest. The bound in yellow is the site in question. The red dotted lines indicate the I-395 easement. It's kind of skewed because this is an aerial, not a direct overhead shot.

The building above the first floor provides lot occupancy of 86 percent. The

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requirement is 80 percent. Please note that the ground floor occupancy is 100 percent. The practical difficulty of achieving the required 80 percent lot occupancy is directly related to the site's irregular shape.

And adjacency to adjoining property it limits access to light and air due to zero lot line conditions. The goal was to provide efficient building with a mix of studios, one bedroom units, two bedroom units per the requirements of the housing priority, Area A of the downtown development district, which encourages a mix of unit types.

We worked closely with the Office of Planning to explore options that address their concerns including the removal of an on-grade Pepco -- on-grade Pepco transformer and relocating it to underground vaults. Testing various arrangements to maximum building and site efficiency resulted in the following scenarios.

This is item -- drawing four of

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Exhibit D, demonstrates that a compliance side yard -- a fully compliant side yard to the north. A complaint court to the west. And a compliant rear yard to provides 78 percent lot occupancy, but with nine fewer units overall, and no two bedroom units per floor at all.

Drawing three of Exhibit D demonstrates that the easement to the north, a court on the west that exceeds minimum requirements, a rear yard setback that exceeds minimum requirements provides 80 percent lot occupancy, but with 18 fewer units overall and no studio units per floor.

The next item was tested was drawing two of Exhibit D which demonstrates that an easement to the north, a court on the west that significantly even more exceeds lot -- exceeds, sorry -- exceeds minimum requirements and a compliant rear yard provides 80 percent lot occupancy, but with again, 18 fewer units overall. Some of which as you can see have kind of inefficient layouts.

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Part of the challenge of this site as well, which I was going to talk about earlier, but we went straight to lot occupancy, is that the irregular shape of the site requires sort of two ways to disburse the units internally. Single loaded and double loaded.

And because there is a rear no-build area, we took advantage of that area for our horizontal and vertical circulation. As you can see, we've double loaded on this end with a stair core at the end. Single loaded sort of on this leg. Actually I should go to the final design that we landed on.

This last Exhibits demonstrates that the easement to the north, a compliant court on the west, which we're showing here, a complaint rear yard, provides 86 percent lot occupancy that provides a variety of unit choices for the residents. There is no lack of two bedroom or studio units. The majority of the units are one bedroom.

So as you can see from this aerial

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photo, it's evident that while the lot occupancy exceeds allowable requirement, the nature of the site and it's surroundings, specifically the 395 right-of-way, the existing DC water easement, clearly show that there is no lack of adequate open space in the area.

We do have an Exhibit as well that shows a site section through, as you can see, there's a 33 foot, approximately 33 feet, two inches above the I-395 roadway, or freeway I should say, to the first residential level. And 125 feet to the back of the building from the center of I-395 -- or from the edge of I-395.

As you can see there's a slope that slopes away. And in the future, the neighbor will be in-filling the site beyond.

So we feel that the proposed building configuration on this challenging site does not adversely impact the public good since the proposed building mass and internal building arrangement, in addition to the open

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areas adjacent to the site, allow for adequate light and air on the site to the building and on the site.

CHAIRPERSON JORDAN: Yes, go ahead.

MR. MAISTO: Well actually I was just about --

CHAIRPERSON JORDAN: One second please.

MR. MAISTO: Sure. Go ahead.

VICE CHAIR ALLEN: Thank you Mr. Chair. That -- on that picture, can you explain what the double loading, what that means and how it manifests.

MR. MAISTO: This right here?

VICE CHAIR ALLEN: Uh-huh.

MR. MAISTO: Because the building is -- sorry. The building is irregularly shaped, it's a dogleg, this dimension here, for the type of units we are proposing is perfect for a double loaded corridor. Meaning you can have units on both sides.

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Now because there's a rear yard, we can get the adequate light and air into the building. There's a rear yard set back from the second floor through the top of the building.

On this part of the site, because of the requirement to get as much -- to comply with light coverage, we have to have -- you know we did a court in the front of the building. We took advantage of this rear lot line, which is a no build, or sorry, a zero lot line condition to zone our vertical circulation and our single loaded corridor. Because there are no need for windows along that back wall.

This unit here, due to the easement will have windows to this side. So it will -- these units will get their required light and air via the easement.

To address Mr. May's question about the roof plan, we're seeking a special exception for roof structures. I don't know if I'm going to answer your question exactly in a

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moment here, but I'll try.

There are two roof structures as you know. There's the one on the south and the one on the north that's combined with the elevator shaft. And per the zoning code, as we all know, there's supposed to be one structure combined. But we feel that it adds unnecessary mass and bulk to the building to do that.

So -- and obviously, we had to separate the exits at the rooftop for two separate means of egress per building code. So there are only as high as they need to be. And we're trying to keep them massed separately, but contiguously within each massing to maintain that sort of lower profile.

ZONING COMMISSIONER MAY: Yes, you didn't answer my question.

MR. MAISTO: Thanks. So can you restate your question please.

ZONING COMMISSIONER MAY: So, I would argue that since you're taking into consideration the easement at the north side of

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the property as part of your justification, or mitigation if you will for the lot occupancy, that's being incorporated into your design. To me that means that that's an exterior face of the building. And therefore the penthouse should be set back from that exterior face.

I mean frankly, I think all the penthouses here should be set back from the exterior faces. Because I don't know when everything is going to happen. When the other developments are going to happen.

And it's you know, this is just one of my things that I'm not really fond of being able to see all of these rooftop structures that are just continuous with the exterior face of the building. In anticipation that some day the building next door is going to go up to the same height.

Because sometimes that doesn't happen. And it's you know, it -- anyway.

MR. GLASGOW: I've just spoken with the Applicant. We can move the roof structure,

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the northern roof structure a distance equal to it's height, off of that property line.

ZONING COMMISSIONER MAY: Yes, and that's probably what I'm getting at. I mean I think actually with some further planning of the interior, you could move some of the other structures away from the exterior face as well. But I'm most concerned I guess about the north face.

The other side's -- I guess Mr. Glasgow you're assuring me that ultimately Golden Rule is going to develop everything to the south and everything to the east to at least the height of 100 feet.

MR. GLASGOW: That is what we've been advised of. You know they have to get their financing.

ZONING COMMISSIONER MAY: Obviously, yes. I mean I know you're -- just as sharp as you are, and as much as you know what's happening in real estate city, I know you can't predict with absolute certainty.

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But I just -- I don't want to create a situation where for 20 years where you know, people in the neighborhood are staring at these blank facades with you know, the added unattractiveness of a rooftop structure when with some careful planning you could actually move those away from the edge.

I won't go far as to say that you could reduce the capacity of your roof -- rooftop terrace area so that you only require one stairway. I think the building is big enough and the rooftop is big enough that it probably makes sense to have two stairways.

Although you know, I've made that case in some other buildings where it was just a very small rooftop. So, anyway, I'm all for the rooftop structures being set back to the maximum extent possible just based on the current conditions.

MR. GLASGOW: We can set back from the north property line a distance equal to the height of the roof structure.

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ZONING COMMISSIONER MAY: Okay, so that would be very helpful from my perspective. And anything you can do on the others, I think would make for a better building and improve the neighborhood. But I'm not -- I don't believe it's an absolute requirement.

CHAIRPERSON JORDAN: Let me kind of understand. How do you set back that north rooftop structure?

MR. GLASGOW: The north rooftop structure has a, there's a room associated with it.

ZONING COMMISSIONER MAY: It's the double height party room. Didn't you see the pool table in it.

MR. GLASGOW: It's that -- that's the one that -- and we can set that back. The north is to your --

CHAIRPERSON JORDAN: Right, towards me.

MR. GLASGOW: Yes. Towards you. I was going to say towards your left. But

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that's not correct.

CHAIRPERSON JORDAN: Yes I got it.
I understand.

MR. GLASGOW: All right, so that's
what -- we can set back a distance equal to our
height there.

CHAIRPERSON JORDAN: Okay. All
right, let's continue.

MR. MAISTO: With regard to lot
occupancy and roof structure, I'm --

CHAIRPERSON JORDAN: I think we've
done -- are we okay? Well the occupancy --
let's go back to, what was that first floor?
You showed the first floor.

MR. MAISTO: The very first floor?
The retain level?

CHAIRPERSON JORDAN: Why are we at
100 on the first floor again?

MR. GLASGOW: That's permitted
under the commercial, we're zoned DDC2C. So
we can have 100 percent lot occupancy there.

CHAIRPERSON JORDAN: That's right,

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that's right. All right.

MR. GLASGOW: If there are no further questions or --

CHAIRPERSON JORDAN: Let me do this. Let me take a little out of wack. Ms. Elliott, any questions regarding the relief and the issues that we've discussed and you've raised in your document?

MS. ELLIOTT: I think that I feel fairly satisfied with the response that the Applicant has provided concerning the questions of lot occupancy.

CHAIRPERSON JORDAN: Okay.

MS. ELLIOTT: Thank you.

CHAIRPERSON JORDAN: I just wanted to make sure because we don't -- while we had the opportunity. Board any additional questions? Or Applicant anything else you wanted to present to the Board that we think you need to hear from? I think -- I'm good.

Mr. May anything else you need to hear on this? See if anybody?

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ZONING COMMISSIONER MAY: No. I mean the only other comment I would make about this is that you know, it was hard to understand from the Application what the boundaries of the property were, and why that was driving the design of the building itself.

I mean now that we've had the presentation, I understand more about that. Otherwise I'd be complaining about lots of large blank facades. But those are all at risk, right?

MR. GLASGOW: Yes, that's correct.

ZONING COMMISSIONER MAY: So and if this were a PUD I would be arguing that you need to make the at risk wall look better. But I'm -- it's not a PUD, so I will stay in my lane.

CHAIRPERSON JORDAN: Certainly, so this was helpful. Ms. Allen?

VICE CHAIR ALLEN: I just have a question regarding the parking relief that you're seeking. You -- according to if I'm reading -- if I've read it correctly, you're

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only going to have one space for retail? And can you just talk to that. Why you would think that would be sufficient.

MR. GLASGOW: When we were discussing the issue with the Applicant, it was determined that we have a small area of retail on the site when you look at that. And it seemed that it was mainly going to be local type of retail that would be right there in the community, that people would most likely walk to.

And so we would have a space for one car, like for the manager or the owner of the facility. Because that way you could key fob in there. And it's too small of a garage to chain off different areas of it.

So from a security standpoint, we determined that we could have a manager or an owner coming into the residential garage. But other than that, we thought it was better to have the rest of the garage reserved for the residences of the building.

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VICE CHAIR ALLEN: So is there just one retail space? I mean there's only one retail shop that takes the whole ground floor?

MR. GLASGOW: We believe that it's most likely that there will be one retail user. It's possible it could be cut in two.

VICE CHAIR ALLEN: Okay, that's fine. Thank you.

CHAIRPERSON JORDAN: But presently your programing is for one. Anything additional that you want to present to the Board? Or Board any questions you need to hear from the applicant on this?

ZONING COMMISSIONER MAY: I do have another question. So in the last set of drawings that I received, I guess the July 8 set, in the ZONING tabulations, there is a statement that relief is requested for one to one set back of road structures.

But I'm wondering if that's actually what you're requesting. Because Mr. Glasgow do you believe that you actually need

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relief from the one to one set back anywhere?

MR. GLASGOW: We believe that with respect to the --

ZONING COMMISSIONER MAY: I'm not even talking about the north side. I'm talking about the east and southeast.

MR. GLASGOW: Right, about the east and south sides. Since they're interior lot lines, we do not necessarily believe that you need to set back given the court case that there was years ago. Where if you had -- you know, if you were faced on line and an interior lot line, you did not have to set back.

ZONING COMMISSIONER MAY: Faced on line and an interior lot line, you don't have a set back, even when it's a rear yard? Not even for a side yard?

MR. GLASGOW: Well ours was not in a rear yard.

ZONING COMMISSIONER MAY: Well this is a -- you are showing a rear yard.

MR. GLASGOW: Yes, there's a rear

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yard, but there's no roof structure in that area. The rear yard's shown in green.

ZONING COMMISSIONER MAY: No, I understand. No, but I mean there -- the other area which is on the rear property line I guess.

MR. GLASGOW: Right.

ZONING COMMISSIONER MAY: Where it does abut. That's the east facade there.

MR. GLASGOW: Yes the east facade.

ZONING COMMISSIONER MAY: So you argue that because it's an interior and is that what the court case said? That if it's interior, whether it's a rear yard or a side yard, that set back is not required?

MR. GLASGOW: My understanding of the court case is that we would not need it there since that is not a rear yard. And it's not a side yard. The rear yard is the furthest away from the street. Where the lot line is the furthest away from the street. So that's a rear yard is shaded in green in that area.

ZONING COMMISSIONER MAY: Okay, so

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if it's not a rear yard and it's not a side yard,
what is it?

MR. GLASGOW: I'm not sure that the
regulations provide a definition of that. And
I wasn't -- I didn't know a word that would
describe it where I could go to Webster's Fourth
Unabridged.

ZONING COMMISSIONER MAY: Right.

CHAIRPERSON JORDAN: It's a dead
spot.

ZONING COMMISSIONER MAY: Arguably
it's an exterior wall.

MR. GLASGOW: Yes.

ZONING COMMISSIONER MAY: From
which a set back would be required, if you look
at the plain reading of the regulations.

MR. GLASGOW: Well the court case
said if it's interior and our understanding is
is that there very well may be building up
against there as you mentioned before.

ZONING COMMISSIONER MAY: Okay.
Well and I mean I'm living with that notion. I

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just wanted to clarify it because you had act -- your documents had stated that the relief was requested.

CHAIRPERSON JORDAN: That's the definition of issues.

ZONING COMMISSIONER MAY: I think that's it.

CHAIRPERSON JORDAN: Is someone make a note. Can someone make a note of that so that the Zoning Commission can take a look at that.

ZONING COMMISSIONER MAY: I'm sure we're going to get it straight eventually.

CHAIRPERSON JORDAN: But that's another one of the issues of the gap kind of as you have described it. Let me have a moment with you on these conditions.

DDOT support submitted some conditions. The Applicant supported some conditions. I think the Applicant's proposed conditions include the DDOT's conditions, would that be correct? To some extent?

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MR. GLASGOW: Yes.

CHAIRPERSON JORDAN: Okay. And those conditions, so we make sure we're clear here is --

MR. GLASGOW: There's one -- one -- Mr. Chairman I'm sorry, you asked the question three times. So now I'm finally waking up.

The screen thing. I've been told, because I don't know one way or the other with my flip phone and blackberry. But I've been told by those that are Millennials, one of which practices law with me, that these screens, they don't do anything. Everybody just goes on their app --

CHAIRPERSON JORDAN: We've had that discussion here probably every setting. And we had -- and last week, well towards the -- it seems like two weeks ago, we had our own internal agreement -- we had the internal debate about that, and I understand that completely.

And one of our colleagues was

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certainly pushing the fact that they thought the screen still should have been there. This is a different day. This is a different Application. Every Application has to stand on it's own bottom.

That being said, so let's visit these conditions. So proposed conditions would be that the Applicant shall provide a transportation management coordinator. The Applicant shall provide onsite services such as well -- we can, let's come -- let's skip that one.

A marketing program provides detailed transportation information to residents. The Applicant shall provide transportation incentive regarding the carshare and bikeshare and Smart Car.

Shall secure onsite biking amenities and ride matching and ride share. And dedicate at least one spot for electric car, et cetera.

Now the problem I'm having, we don't

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-- I don't have any indication of what the incentive is going to be for the car or bikeshare. What's the incentive?

MR. GLASGOW: Mr. Chairman we had the -- there was a revised DDOT report dated July 1, 2014. I think they're very similar. So it's minimum -- Applicant should provide a minimum of six short term parking spaces and public space near the entrance.

Can I approach?

CHAIRPERSON JORDAN: Yes, please.

MR. GLASGOW: Thank you.

CHAIRPERSON JORDAN: Those July what? Because I have --

MR. GLASGOW: This is the new one. This is the only one.

CHAIRPERSON JORDAN: That's the same. Yes the one that DDOT, yes. So I have that. We have that.

MR. GLASGOW: You have the July 1, I just want to make sure.

CHAIRPERSON JORDAN: Right, yes.

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MR. GLASGOW: Okay.

CHAIRPERSON JORDAN: And that's why I asked were they incorporated into what you offered.

MR. GLASGOW: Yes.

CHAIRPERSON JORDAN: So Applicant shall prove shall limit to bikeshare, carshare membership, but that's not in your tender conditions. So you're saying you want to add these things. Your tendered conditions didn't have that.

MR. GLASGOW: Mr. Chairman I want to discuss with the Applicant for a second please.

CHAIRPERSON JORDAN: Host all TDM commitments online. What the heck does that -- oh, got you. So these would be in addition to substituting some of those like the bicycle parking spaces.

MR. GLASGOW: Mr. Chairman?

CHAIRPERSON JORDAN: Yes?

MR. GLASGOW: We agree to the four

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bullet points in the July 1, 2014.

CHAIRPERSON JORDAN: So we'll take those and incorporate into those other provisions.

MR. GLASGOW: Correct.

CHAIRPERSON JORDAN: We'll amend the provisions that you submitted to where they're applicable. There are some limitations. So you are putting the quantitative numbers to what you guys had broadly.

MR. GLASGOW: Right. Yes, so long as this doesn't mean we're doing the screen thing.

CHAIRPERSON JORDAN: Well I am not a supporter of the screen thing. I think it's just out of date. And there are many other devices. However, what we discussed is that the Applicant shall provide notice on the property of the various sites that your tenants can get this information from.

MR. GLASGOW: Right. And Mr.

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Chairman we did state in our report that it would -- that car sharing memberships were with \$50.00 car membership, \$100.00 Capital Bikeshare membership. This is at page 15 of the traffic report, Exhibit H. So we did have numbers that went with that.

CHAIRPERSON JORDAN: About the carshare?

MR. GLASGOW: Yes. \$50.00 carsharing membership.

CHAIRPERSON JORDAN: And \$100.00 bikeshare?

MR. GLASGOW: \$100.00 bikeshare, or \$100.00 SmarTrip card. Or, there was an or \$100.00 SmarTrip card.

CHAIRPERSON JORDAN: So \$50.00 or \$100.00 bike -- \$50.00 carshare or \$100.00 bikeshare or \$100.00 Smart Card.

MR. GLASGOW: Smart Card.

CHAIRPERSON JORDAN: And I see DDOT had here for a five year period for just new tenants. I've really got some concerns about

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it. When we give parking relief, it's not just to people who first move there.

You know that parking relief doesn't end, unless you guys just don't agree that parking relief is only going to end for one year. It's not, right? And we know that DDOT's theory is that this is supposed to get people interested, excited and encouraged to continue on their own. But what if they don't?

So that's kind of philosophically what I -- we've kind of kicked around here on the Board. That it should just be, maybe for the first five years that each tenant will receive it. Each tenant, each leased person in the tenancy would do it.

Because it doesn't just go away. See you give them the first year, they may not pick it up the second year. But we've now impacted the neighborhood. But that's just kind of our thought on the matter.

The other thing, so we add the loading, the six short term bicycle is here.

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TDM commitment. So you've got a website. So your understanding of that one is that there's a website and you're supposed to encourage people to follow these TDM measures. Is that what that means?

MR. ANDRES: As part of the leasing process, that information is provided to prospective tenants.

CHAIRPERSON JORDAN: To post all TDM commitments online is what I mean. The Applicant will post all TDM commitments online. That means --

MR. GLASGOW: Well we're going to have essentially apartment building that you look at now, you know has a website that goes with it. And then we post it with that.

CHAIRPERSON JORDAN: Okay. Well that's what I was --

MR. GLASGOW: Yes.

CHAIRPERSON JORDAN: That was my understanding. Board, anything on these conditions please?

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ZONING COMMISSIONER MAY: I mean I have some opinions about carshare, bikeshare and transit screens. But we can save that for deliberation if you want.

CHAIRPERSON JORDAN: Well let's make sure if you might.

ZONING COMMISSIONER MAY: Well I would say respectfully I don't agree that on the importance, or how long bikeshare and carshare should be in place. As far as I'm concerned, an initial offering of that to interest people for you know, a period of sometime, makes perfect sense to me.

Otherwise if we're going to require a developer or property owner to offer that incentive indefinitely, essentially that cost gets built into the rent. And you know, I mean as nice as bikeshare is, if you've got your own bike, you know, you may not want it.

You know, I have a bikeshare membership, but I use it like once every six months. It's hardly worth it for that cost.

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CHAIRPERSON JORDAN: Yes but there were three other spots.

ZONING COMMISSIONER MAY: I mean the point is that I mean do you want to make this apartment building more expensive for all the tenants in order to continually promote that? I'm not sure that that's really necessary.

I think that there's a natural trend towards less dependence on automobiles and less dependence on parking those automobiles. So I don't know that that incentive needs to go on indefinitely.

CHAIRPERSON JORDAN: So you didn't have -- all right, we can talk more when we deliberate and have this conversation.

ZONING COMMISSIONER MAY: I mean the reason I even say this is because you were, you know you were expressing something as if it was --

CHAIRPERSON JORDAN: I just wanted to talk to the Applicant to let him know what I'm thinking about, maybe kind of the

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conditions and getting feedback. It doesn't mean one way or the other what the response is.

ZONING COMMISSIONER MAY: I understand, okay. And I am a big supporter of transit screens. Because you know, there's a big difference between having to pull the damn thing out and push a lot of buttons versus just seeing it there.

CHAIRPERSON JORDAN: Got it. Okay.

MR. GLASGOW: Mr. Chairman, that did raise, because part of the discussion we were having is Applicant was asking, okay, now what do I do with this if it's forever? And I said you build it into your rent.

CHAIRPERSON JORDAN: Yes, but also -- well, my conversation as I just had said you know, for the five year period that you had it here. So anyway, that's what we talked about. That's what the focus in my thought process. And I don't know about the rest of the Board. We'll deal with it in deliberation.

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But you also, it may be part of the cost that somebody bears because the fact that you're getting some parking relief. Parking is serious in this district. You know, it's very, very serious. And we get confronted with it all the time.

So you know, part -- you can't have -- no one can have everything and have all the stuff. So I'm just saying, we have to seriously look at what we do.

Is there anything else before we go to see if there's anything that Ms. Elliott wants to add?

MR. GLASGOW: Nothing further from the Applicant.

CHAIRPERSON JORDAN: Office of Planning, anything?

MS. ELLIOTT: I just think it would be good to clarify OP's position on the lot occupancy because that was the big question going into this. I think that the Applicant has addressed some of our concerns regarding

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that, by demonstrating the Interstate 395 right-of-way width, as well as providing the easement. I appreciate the work that's gone into that in such a short amount of time.

So I think that we're feeling more comfortable with that relief and are willing to support it at this time. Any other questions I would be happy to address them.

CHAIRPERSON JORDAN: Thank you.
Questions Board?

ZONING COMMISSIONER MAY: Yes.
This is just a minor point, but the -- as I recall your report, either version of your report didn't address the entirety of the rooftop relief that was requested. Nevertheless, it addressed the separate structures, but it didn't address the structures of unequal heights. So do you want to talk to that at all?

MS. ELLIOTT: Oh sure. I apologize, and that was an oversight on our part then. We generally, as it pertains to this

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project, we wouldn't have any concerns with the separate heights, the varying heights, or the two different structures.

The alternative is they would all be one structure and be a much larger and more visible one. So we actually prefer and we believe that this meets the conditions of a special exception request.

ZONING COMMISSIONER MAY: Okay, thanks. I think it helps just to have it on the record. I'm not fond of multiple heights because I don't like too much going on on the rooftop. And I like everything to be set back.

But I'm not going to push the point here. Because I think that the bigger issue that you have here is that for some period of time you're going to have a building standing all alone with penthouses that are right up against the outside edge.

It just doesn't make any sense to make those all an equal height. I certainly agree it doesn't make sense to have them joined

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in a single building. So, anyway, thank you.

MS. ELLIOTT: Thanks.

CHAIRPERSON JORDAN: Okay,
Applicant any questions for OP?

MR. GLASGOW: No sir.

CHAIRPERSON JORDAN: Where are we?
Department of Transportation, anyone here? So
they're not here, we have their conditions and
they gave us that. Anyone here from ANC6E?
ANC6E?

(No response)

CHAIRPERSON JORDAN: We do have a
letter of support from ANC6E supporting the
application. Anyone here wishing to speak in
support of the Application? Anyone in support
of the Application?

(No response)

CHAIRPERSON JORDAN: Anyone in
opposition? Anyone in opposition?

(No response)

CHAIRPERSON JORDAN: Then we would
normally turn back to the Applicant for any

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rebuttal or closing.

MR. GLASGOW: No sir.

CHAIRPERSON JORDAN: Okay. So then we would close the record if that's okay with the Board. When the evidence received. And is the Board ready to deliberate? All right.

You know I'm in support of the Application with the amended relief. However the question for me, I think the Applicant this morning has made a showing why the relief requested is necessary for this property. And including particularly the lot occupancy and the roof relief requested.

I'm concerned about the limited engagement. Two things in regards to conditions. I think that the financial incentive should be provided for five years for -- excuse me, the TDM alternative for bikeshare or carshare or Smart Card should be allowed for all tenants for the first five years.

And the argument about it's going to

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increase the rent something crazy I cannot agree with. Because at best they're going to either get one \$100.00 bikeshare of Smart Card. And if you divide that by 12 months, if your doing a lease, what does that come to, \$8.00 increase in the rent a month. It's not like something that's going to blow somebody's pants leg up.

So I have concerns about it. I don't know where the rest of the Board is. And I think that technology has moved relatively fast regarding the screens. I think we just need to give people the opportunity to use their -- the alternative means of getting.

But I think the Application should be required to provide notice either on their website or something in the lobby that's going to indicate here are sites for real time information. That's just -- that's my thought about those conditions. But everything else will fall into play.

Any other deliberations, any other

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questions that people have? Mr. May?

ZONING COMMISSIONER MAY: Yes, I mean I guess I just need a quick clarification of exactly what the Applicant is proffering in terms of the conditions related to what DDOT had offered. Because I am now confused by it.

MR. GLASGOW: We will do -- we will do the five year.

ZONING COMMISSIONER MAY: So you're offering five years.

MR. GLASGOW: Correct.

ZONING COMMISSIONER MAY: And you're going to post the TDM commitments on line.

MR. GLASGOW: Correct.

ZONING COMMISSIONER MAY: And you're going to institute a loading management plan.

MR. GLASGOW: Correct.

ZONING COMMISSIONER MAY: And six short term parking spaces in the public space near the entrance.

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MR. GLASGOW: Correct.

ZONING COMMISSIONER MAY: Those are the four conditions that I have.

CHAIRPERSON JORDAN: In addition to the other ones that they -- that they offered.

ZONING COMMISSIONER MAY: Right. Right.

CHAIRPERSON JORDAN: Okay.

ZONING COMMISSIONER MAY: So, and what else was offered? Where is that in your --

CHAIRPERSON JORDAN: They offered a transportation management coordinator.

ZONING COMMISSIONER MAY: Right.

MR. GLASGOW: Correct.

CHAIRPERSON JORDAN: I'm going to skip over number two. Number two was to have the terminal, the screen.

ZONING COMMISSIONER MAY: Yeah.

CHAIRPERSON JORDAN: Number three, a marketing plan that will detail to residents

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about promoting bicycling, alternative transportation.

ZONING COMMISSIONER MAY: Right.

MR. GLASGOW: Right.

CHAIRPERSON JORDAN: Number four was the carshare, bikeshare. So we've talked about that within the --

MR. GLASGOW: Right.

CHAIRPERSON JORDAN: And the onsite bicycle amenities, we've talked about that now within the context of the DDOT. The ride actioning and ride sharing program was something that was different.

ZONING COMMISSIONER MAY: Um-hum.

MR. GLASGOW: Correct.

CHAIRPERSON JORDAN: And a dedicated spot for either a carshare or an electric car.

ZONING COMMISSIONER MAY: Um-hum.

CHAIRPERSON JORDAN: But that was

--

ZONING COMMISSIONER MAY: And all

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those are proffered?

MR. GLASGOW: Correct.

ZONING COMMISSIONER MAY: Right.

And you're still willing to do all of them?

MR. GLASGOW: Correct.

ZONING COMMISSIONER MAY: And so are you suggesting that we should not require the transit screen? That seemed to be the only one that you raised an issue out of what was proffered.

CHAIRPERSON JORDAN: No, that's not correct. There's two things.

ZONING COMMISSIONER MAY: Okay, so that's why I'm asking.

CHAIRPERSON JORDAN: There's two things. One regarding the financial incentive for tenants out of what DDOT has recommended, I dropped the word new. And I say tenants for five years. So each year for five years, a tenant should be able to receive these alternative, this financial incentive.

Regarding the number two, I would

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substitute number two, on site services such as transit screen in the lobby. And that just should say that there's advertisement of the alternative devices people can use. Websites or et cetera, applications for real time information.

ZONING COMMISSIONER MAY: So that's an in addition to the transit screens?

CHAIRPERSON JORDAN: No. I've dropped it in my --

ZONING COMMISSIONER MAY: As an alternative.

CHAIRPERSON JORDAN: I was offering to the Board to drop the transit screens.

ZONING COMMISSIONER MAY: Well that's what I just said. Okay. So I disagree with that. I mean I think the transit screen is useful. It may eventually be replaced and people may eventually get these, you know, all the information on their phones.

But not everybody is a Millennial,

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not everybody is completely glued to their phone. And even some Millennials who -- well even some Millennials are not. My own children for example, are not going to be doing it that way.

So I think the transit screen is very helpful. I mean I've seen them in action. I think it's a lot of very useful information and it's right there. It's not something that you have to go to to get.

So I really like it. And if they're offering it, I don't see any reason why we would say don't do it. It may eventually be replaced.

CHAIRPERSON JORDAN: Well the Applicant also had some push back to that too in their presentation. Am I correct.

MR. GLASGOW: You're correct.

CHAIRPERSON JORDAN: Yes.

ZONING COMMISSIONER MAY: So you -- well I know you offered testimony that people question it. But -- I mean is it or is it not

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being proffered at this point?

MR. GLASGOW: We would -- we would prefer not to proffer that. I mean we've had some things that have increased that we have agreed to the five year, which was not our initial thing. So we -- we're looking at a little bit of give and take. Is it anything that destroys the project? No.

ZONING COMMISSIONER MAY: Yeah.

MR. GLASGOW: But I mean we're talking about some things we're giving on. Some of the things we're adjusting on.

ZONING COMMISSIONER MAY: Okay. So you know, I'll go along with that. Although I do think the transit screens are a really great thing. I guess now the question for me is on the different between all new tenants for five years or all tenants for five years.

I mean when you say new tenants for five years, that means that anytime you get a new tenant, you give it to him for five years. Is that right? Or are you just saying for the

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first five years of the project?

CHAIRPERSON JORDAN: I would plan and I believe that's very acceptable for the first five years of the project.

MR. GLASGOW: It's five years of the project the way the plan is now.

ZONING COMMISSIONER MAY: It's five years of the project to all tenants?

MR. GLASGOW: Correct.

CHAIRPERSON JORDAN: First five years, thank you for that.

ZONING COMMISSIONER MAY: Right. I mean that's what I --

MR. GLASGOW: That's the way they have it. That's why I clarified that, yes.

CHAIRPERSON JORDAN: Yes I'm glad you clarified that.

MR. GLASGOW: Yes.

ZONING COMMISSIONER MAY: It sounded like you were making it -- anyway, a lot more.

MR. GLASGOW: No.

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ZONING COMMISSIONER MAY: Okay.
For the first five years of the project is fine.

CHAIRPERSON JORDAN: Let me -- by
the way, Mr. Andres, how much does it cost for
a transit screen, et cetera?

MR. ANDRES: It's the cost of the TV
depending on what size you choose and a
subscription service to a -- there's an
internet connection that's required. And I
believe there's a subscription service to
TransitScreen, the company itself.

CHAIRPERSON JORDAN: So you don't
have that number? Okay.

ZONING COMMISSIONER MAY: Do you
know how much that costs?

MR. ANDRES: I think it's in a range
between \$1,000.00 to \$2,000.00 a year.

ZONING COMMISSIONER MAY: Okay.

MR. GLASGOW: It's come down a lot.
We just -- I know when they first came out they
were very expensive.

CHAIRPERSON JORDAN: I know we saw

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numbers here. We've seen numbers between \$5,000.00 and \$10,000.00. But the numbers have come down over a period of time.

Because originally we first had a conversation, we were presented a number like just short of \$10,000.00. Then we saw one like \$4,000.00 and something, something, \$5,000.00, so.

ZONING COMMISSIONER MAY: Okay.

MR. ANDRES: That and the cost of the internet connection is actually pretty expensive too over a year.

CHAIRPERSON JORDAN: Well, but anyway, that's still going to get passed in here. So anyhow. Board any other conversation about this?

(No response)

CHAIRPERSON JORDAN: Then I would move that we grant the amended relief requested with those conditions as discussed here. And that would include for up to five years all tenants, for the five years -- first five years

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of the project. Make sure that's clear. And that the number two is dropped in regards to the screen.

But the tenant -- that the Applicant shall provide the mechanisms, advertisement to show people which websites or apps they can use. That would be my Motion Board.

VICE CHAIR ALLEN: Second.

CHAIRPERSON JORDAN: Motion made and second. All those in favor of the Motion.

ZONING COMMISSIONER MAY: Mr. Chairman.

CHAIRPERSON JORDAN: Yeah we'll have a discussion.

ZONING COMMISSIONER MAY: I just want to note that noting that the Applicant has agreed to pull back the penthouse on the north side of the building that set it back equal to it's height.

CHAIRPERSON JORDAN: Yeah. Was that, was there one other thing?

ZONING COMMISSIONER MAY: You

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know, I had suggested that they look at the internal arrangement of the building to be able to push the penthouses away from the exterior walls. But I'm certainly not going to hold up decision making on this on the basis of that. I think it's just smart to do that.

CHAIRPERSON JORDAN: And I had noted that as a condition. Thank you, I appreciate it.

ZONING COMMISSIONER MAY: Yeah.

CHAIRPERSON JORDAN: All those in favor of the Motion, signify by saying aye.

(Chorus of ayes)

CHAIRPERSON JORDAN: Those opposed nay.

(No response)

CHAIRPERSON JORDAN: The Motion carries. Mr. Moy.

MR. MOY: The staff would record the vote as five to zero. This on the Motion of Chairman Jordan to approve the amended relief with the conditions as sited. Second

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the Motion of Vice Chair Allen. Also in support Mr. May, Ms. Heath and Mr. Hinkle.

CHAIRPERSON JORDAN: Okay.
Summary letter please.

MR. MOY: Thank you sir.

CHAIRPERSON JORDAN: And we will take, is five minutes good? Five minutes. We missed our 10:30, or five minute break. And so we can get ready for the next case. Can you have the persons for 18791 move yourself to the on deck circle please.

(Whereupon, the above-entitled matter went off the record at 11:03 a.m. and resumed at 11:09 a.m.)

MR. MOY: Yes sir, the next Application in the public hearing is Application Number 18791 of Community Connections Incorporated. Pursuant to 11 DCR 3104.1, this is for a special exception relief for a CBR at 5422 Blair Road N.E.

CHAIRPERSON JORDAN: Could we get our microphone turned on, how about that. Do

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we have everyone at the table who's going to be at? Okay. Can you identify yourself please.

MR. BUTLER: Yes, good morning Mr. Chairman and ladies and gentlemen of the Board. My name is Keith Butler with Now or Later Consulting Services. I'm representing the owner, Community Connections in regards to a load increase from six --

CHAIRPERSON JORDAN: Now let me stop you before you go further. Do we have a letter of authorization from the property owner that you are to represent them in this Application? Because there was not one in the file.

MR. BUTLER: There should have been one in the file.

CHAIRPERSON JORDAN: Do you have a copy?

MR. BUTLER: I don't have a copy of it.

CHAIRPERSON JORDAN: We've got an issue. What do you mean there was one in the

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file?

MR. BUTLER: I submitted it with the other packet information. I submitted it online all of the documents required for you know, for making Application.

CHAIRPERSON JORDAN: But you don't have a copy of your -- what you sent?

MR. BUTLER: Not -- I don't have that file, no, I don't.

CHAIRPERSON JORDAN: Well our file though, online file does not have anything, a letter of authorization. What we do have from you is a -- are you an architect or a lawyer, what?

MR. BUTLER: Yes, I'm an architect.

CHAIRPERSON JORDAN: Then you did the form 135, the sole certification, is that what you're speaking of?

MR. BUTLER: Correct.

CHAIRPERSON JORDAN: That is not authorization.

MR. BUTLER: With the owner's --

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the owner's signature's on that.

CHAIRPERSON JORDAN: That's not the authorization to represent. That's you signing as the architect, certifying to the best of your ability -- the best of your knowledge that the information in 135 means that is the relief that is necessary in lieu of a zoning administrator's letter.

MR. BUTLER: Okay.

CHAIRPERSON JORDAN: Board, how do you feel? What do we have? We have a lot of people here in this case.

MEMBER HINKLE: Can we move forward Mr. Chair and have them submit it later? Or can they not?

CHAIRPERSON JORDAN: I just want to make sure that we noted for the record. Because it's a requirement.

MR. BUTLER: The owners will. Okay, that's what -- we'll --

CHAIRPERSON JORDAN: We would need to have it submitted in the record before we

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actually do anything, grant any relief or whatever's going to happen. But I ask that it gets in sometime today. You can go on online, or to -- sometime soon. I don't know how long it will take you to get with the owner.

And who's the owner of the property?

MR. BUTLER: Community Connections, Inc. Ellen Gardner, I believe she's the COO.

CHAIRPERSON JORDAN: Okay. All right, so that being said, now you're needs here Mr. Butler and you are the architect?

MR. BUTLER: Yes, architect, the owner's agent.

CHAIRPERSON JORDAN: All righty.

MR. BUTLER: Our original request was for ten person -- for a ten person increase at the existing facility, from six to ten. But since we've met with the ANC and have made some compromises and some other concessions, we've actually changed from a ten person increase to an eight person increase.

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So we'll be going from six to eight instead of from six to ten.

CHAIRPERSON JORDAN: We understand that. Got you, thank you. Time out. Let me do this. Is there anyone from ANC4B here? ANC4B? Are you the representative from ANC4B? Because I have a question of whether or not the ANC still has opposition.

Their letter indicated that they were not supportive of eight. But they possibility could be -- I mean supportive of ten. But they could be supportive of eight. So I don't know if that was a condition that's now waived.

ZONING COMMISSIONER MAY: Mr. Chairman, you know, maybe I just read it differently, but it says that it opposes the increase from six to ten. And strongly recommends that the number of residents remain limited to eight.

I mean I interpreted that as support for eight. Does that? Do you think I'm

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stretching it?

CHAIRPERSON JORDAN: That's my question. I mean that's -- I hear you and I don't disagree with what you're reading.

ZONING COMMISSIONER MAY: Right.

CHAIRPERSON JORDAN: That's my question.

ZONING COMMISSIONER MAY: I got it.

CHAIRPERSON JORDAN: So we can assume that's what they're saying. Unless and if someone has -- yes. Is that what you? Yes, because -- see that's the ambiguity of what it. Let's go ahead. We'll cross that bridge when we get to it and see where we are.

Okay. So, and there's a ton of opposition here. All right, so you can proceed and tell us why the Board should grant this from six to eight.

MR. BUTLER: If you would allow me just a few minutes to give a little history on the project. The exiting building according to the current use and occupancy, permit

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functions as a mental health facility for six persons with three rotating staff, as was mentioned earlier.

This facility has functioned in this current location for the past 13 years. The owner's continuing with the exiting use, but is seeking to increase it's tenant occupancy from the current six persons with three rotating staff, to eight persons with two alternate staff.

We're seeking special exceptions for the low change only. The existing six person CBRF exists as a matter of right according to Title 11 201(e)(1).

Because this facility is located within an area with another similar facility of six persons or more, Title 11, 6 -- I'm sorry, 218, I'm coming forward with a special exception -- or requesting a special exception according to Title 11, 3104.

This particular facility meets the requirements of Section 3104 for special

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exception. And I sent a -- I don't -- yes, I sent a copy of those charts and I'm sure you're familiar with that particular chart under 3104.

The current status of this particular project is, is the project is going through a final phase of permit review and is awaiting a final decision from BZA. I personally met with the entire ANC Board and obtained their approval for this project.

Even though there's been some opposition, I speak with 100 percent certainty that in the 13 years that this project has been located at it's current site, not a single issue has been raised by the community. A single problem that would be cause for a neighboring resident to send forth a letter, request a meeting with the Housing Director, Ms. Lisa Terry who is with Community Connections, Inc.

So I went online and looked at a -- I think it was like three letters of opposition to this particular load increase. And requested that Ms. Terry try and again, make

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contact with these individuals to allay their fears, or again speak to their concerns.

Because some of these things -- letters that you have in your file, these persons showed up at the ANC meeting and they presented their concerns and they were address. But again, just to go the extra mile, Ms. Terry went forward and tried to make contact.

Has gotten some response back, or there was a later meeting according to the documents that she shared with me this morning, that's supposed to occur with one of the residents who had a complaint. But again, just again to reassure the community that Community Connections is not trying to do something illegal or underhanded, like I said, they've been in that spot for 13 years, and they're just wanting to increase their existing load or resident capacity.

Currently this project has been awarded \$336,000.00 in grant funding by the DHCD and DBH, or Department of Behavioral

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Health. Primary funding approval was based on the fact that this type of accessible housing is actually limited in the District of Columbia.

I've a copy of a letter from the Health Department granting their support. And also mentioning the funding that they're a part of, and that will be forth coming to Community Connections.

Now that too came later. And it should be in your packet. If you don't have that in your packet, I have a copy of that letter from the Department of Behavioral Health lending their support and mentioning the funding issue.

With the history and facts being presented as they are, submit for your questioning and formal approval to agree with a future load change at this existing facility being known ass 5422 Blair Road. Thank you.

CHAIRPERSON JORDAN: Let me ask you, is the other facility that's within 1,000

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feet, how many persons are at that facility?

MR. BUTLER: To my understanding it's six persons.

CHAIRPERSON JORDAN: Six?

MR. BUTLER: To my understanding.

CHAIRPERSON JORDAN: Then why is this before us?

MR. BUTLER: I went back and forth with David Vollin with the Zoning Department, and because, I think if you look down at 2, I think it's 218 -- I'm looking for the regulation and I'm not finding it. 201(v).

CHAIRPERSON JORDAN: 201(v), what did you say?

MR. BUTLER: Yes, 201(v).

CHAIRPERSON JORDAN: What's that? What are you telling me?

MR. BUTLER: That's -- I'm sorry, that's the DC 11 Zoning Regs.

CHAIRPERSON JORDAN: I understand what the regs are. I'm asking you, do you know how many people are at the other CVRF? Do you

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know?

MR. BUTLER: No, I don't personally know. But according to Mr. Vollin who did the buffer, that other facility is at least -- it's at least six person and probably seven. But I don't -- you know, I personally did not do the buffer.

After he ran the buffer, he was the one who insisted that this project has to go before BZA for relief, because we were going from six to eight person. Because of that load increase.

CHAIRPERSON JORDAN: Excuse me a second, I'm sorry. Okay. Let me ask Office of Planning, how are you today?

MS. BROWN-ROBERTS: I'm fine, thank you.

CHAIRPERSON JORDAN: Good. Can you tell us how many people are at the other facility?

MS. BROWN-ROBERTS: I spoke with someone at the Department of Behavioral Health.

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And they told me that that facility had eight persons.

CHAIRPERSON JORDAN: Okay. So now we're working -- so that's, we're working with eight. Got you, so that's why we're here. Okay, thank you. Great solution Jeff.

All right, so Office of Behavioral Health indicates to the Office of Planning, one government agency to another, that there are eight people, so that's why. Where did you get -- I don't know where you got your six from, but okay. Now I understand why you're here.

All right, is there anything else you want to present to the Board?

MR. BUTLER: No.

CHAIRPERSON JORDAN: Okay, let me ask you, you made some statements that gives me concern and caution. One you said the ANC gave it's support and endorsement when you met with them. But that's not what I'm understanding.

They initially rejected it because you were going for ten. And then you've now

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gone to eight. Have you had follow up conversation with the ANC?

MR. BUTLER: Yes.

CHAIRPERSON JORDAN: And did they take it up?

MR. BUTLER: And that was at that second meeting -- well at the first meeting we had with the ANC, there were questions raised by the community, and there were questions raised by the Board.

And so we had a follow up meeting with the South Manor Park Association. And then we came back to the ANC after was addressed those issues and concerns, and they took a vote based on some of the compromises we made --

CHAIRPERSON JORDAN: Who's they?

MR. BUTLER: The Board. The ANC Board.

CHAIRPERSON JORDAN: A full member, the full member of the ANC?

MR. BUTLER: The full Board.

CHAIRPERSON JORDAN: And do you

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have a letter or something? When was that meeting?

MR. BUTLER: That was -- that decision was on June 23rd. I believe that's a Monday.

CHAIRPERSON JORDAN: That's where they said they opposed the Application for ten.

MR. BUTLER: But they were in support of the eight.

CHAIRPERSON JORDAN: I didn't ever say support. They basically said they would encourage that. Let me see the language. They strongly recommend eight. So -- okay, I got you.

So we're talking from the same thing.

MR. BUTLER: yes.

CHAIRPERSON JORDAN: It's ambiguous and okay, got it. So I didn't know if something else had happened based upon your statement.

The other thing that you said, that

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there had not been any incidents or problems at the site, how do you know that?

MR. BUTLER: Well, when I say there have not been any incidents or problems at the site, I didn't -- I said over the last 13 years, not a single complaint has come from the surrounding neighbors.

CHAIRPERSON JORDAN: How do you know that?

MR. BUTLER: Based on conversations that I had with Lisa Terry.

CHAIRPERSON JORDAN: So you don't have first hand knowledge?

MR. BUTLER: Well she's here, she can testify, raise her hand.

CHAIRPERSON JORDAN: Well, who's this?

MR. BUTLER: Lisa Terry. She's the Housing Director for Community Connections.

CHAIRPERSON JORDAN: She works for them? Well somebody should -- yes, well --

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MR. BUTLER: Community Connections, Inc., yes. And she handles all of the housing issues and complaints and problems that --

CHAIRPERSON JORDAN: Well if it was my case, I would bring her up unless there's a reason not to. So it's on you to proffer what you think is evidence that's necessary to get this passed. Because we do have some complaints, as you saw those things that were alleged by the community that said there's been a lot of incidents there and et cetera. And you've see that, correct?

MR. BUTLER: Yes, I saw those letters.

CHAIRPERSON JORDAN: And you're saying those things are not true?

MR. BUTLER: I'm saying that there may have been events, but if they were that critical to the residence, Community Connections --

CHAIRPERSON JORDAN: Hold on, hold

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on. I got you, got you. Do me a favor, let's not wordsmith this.

MR. BUTLER: Okay.

CHAIRPERSON JORDAN: It's important that we -- because we're not going to let that happen.

MR. BUTLER: No, understood.

CHAIRPERSON JORDAN: So either it happened or it didn't happen. Or are you saying, so I'm hearing you saying that the community -- you're not saying there wasn't any events? You're saying --

MR. BUTLER: No.

CHAIRPERSON JORDAN: You're just saying no one from the community then came and said something about it. Is that what you're saying?

MR. BUTLER: If you would allow me to Mr. Chairman.

CHAIRPERSON JORDAN: No, I want you to answer my question. Because what you've been doing is wordsmithing here, and I'm not

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accepting it.

MR. BUTLER: Okay, that wasn't intentional.

CHAIRPERSON JORDAN: Okay, that's what I'm trying to get -- just trying to you and I get together here.

MR. BUTLER: Okay.

CHAIRPERSON JORDAN: So you're just simply saying to your knowledge, and based upon the representation to you, that the community has not filed any complaints with the facility.

MR. BUTLER: Yes.

CHAIRPERSON JORDAN: Nothing more than that.

MR. BUTLER: Nothing more than that.

CHAIRPERSON JORDAN: You're not saying that there has not been issues or things arising?

MR. BUTLER: No.

CHAIRPERSON JORDAN: Okay. Thank

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you.

MR. BUTLER: Can I just speak a word if you would allow me to.

CHAIRPERSON JORDAN: Go ahead.

MR. BUTLER: One of the complaints in the community meeting was that the residents look over at their property while they're outside. I mean I have neighbors, I live in a pretty tight community. And I look at my neighbors and they look at me.

So those -- I mean that -- I'm not going to go through the litany of you know, of concerns that may have been raised. But that was one of the issues. And I'm saying okay, if that's a -- it's a concern, it's a legitimate concern, but if I were living next door, I'd probably look over next door.

I don't have a mental disability. Or at least it hasn't been recognized as one as of today. But you know, so there's a concern, but is that really a legitimate concern? That's the question.

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CHAIRPERSON JORDAN: Well let's just -- anyway. Would you identify yourself for us please.

MS. TERRY: Lisa Terry, Director of Housing.

CHAIRPERSON JORDAN: Make sure you're mics on. Lisa Terry?

MS. TERRY: Lisa Terry, Director of Housing and Property Management for Community Connections, Inc.

CHAIRPERSON JORDAN: Director of Housing and Property Management.

MS. TERRY: Yes, sir.

CHAIRPERSON JORDAN: Were you sworn in this morning?

MS. TERRY: No, sir I was not.

CHAIRPERSON JORDAN: And then we're going to need some witness cards from you before you leave. Mr. Moy will swear you in please.

MR. MOY: If you could please stand for a moment. Do you solemnly swear or affirm

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that the testimony you are about to present in this proceeding is the truth, the whole truth and nothing but the truth?

MS. TERRY: I do.

MR. MOY: Thank you.

CHAIRPERSON JORDAN: Yes, go ahead.

VICE CHAIR ALLEN: I have just a quick question. You said that there's a \$336,000.00 grant?

MR. BUTLER: Yes ma'am.

VICE CHAIR ALLEN: To Community Connections?

MR. BUTLER: Yes.

VICE CHAIR ALLEN: And so I -- my question is, is the increase of tenants from six to either eight or ten, is that any way involved or tied into this grant?

MR. BUTLER: That was one of the main concerns I think, that -- well maybe I should let Ms. -- I'll defer to Ms. Terry. Because I wasn't -- I mean I submitted all the

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paperwork and applications that were required of the architect. But the specifics of how this grant was set up, I can't.

VICE CHAIR ALLEN: I don't need a detailed discussion of it, but you raised it. And I just want to understand if it's tied to the increase in people.

MS. TERRY: No.

VICE CHAIR ALLEN: Residents, I'm sorry.

MS. TERRY: The partnership between Department of Housing and Community Development and the Department of Behavioral Health, is to accommodate the new construction, which in fact specifically accommodates the handicap accessible portion of the house.

So not specifically from six to eight, no ma'am. We could operate at six and we would have the same intent for the construction, as there is a you know, need for that type of housing in the District.

VICE CHAIR ALLEN: Thank you.

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CHAIRPERSON JORDAN: Great. Is there anything else that you -- well let me, Ms. Terry, let me ask you. Have you seen the letters in opposition that were submitted?

MS. TERRY: I have not read the specific letters. Mr. Butler made me aware of the individuals who were concerned. And I made attempts to contact those individuals.

CHAIRPERSON JORDAN: Have there been any shootings at the location?

MS. TERRY: No sir.

CHAIRPERSON JORDAN: No shootings?

MS. TERRY: No shootings.

CHAIRPERSON JORDAN: How long do -- I'm going to -- tenants stay at the facility?

MS. TERRY: It's considered a permanent residential facility and often is transitional as individuals in our housing continuum in general see it as fluid. If someone needs additional support they move in. Or less support they may move on to more independent living.

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But as far as Community Connection's intent, it's for permanent residency for individuals for that level of care and need.

CHAIRPERSON JORDAN: Okay. Any other questions Board? Anything we need?

(No response)

CHAIRPERSON JORDAN: And there is what, three staff people?

MS. TERRY: Actually our staffing pattern is going to change. Given the fact that individuals we plan to accommodate will need additional support if they're ambulatory challenged.

So we intend to have for full time staff, non-sleeping staff positions. But 12 hour shifts throughout the day, with additional staff augmenting that schedule for busy daytime activities. Mealtimes, recreational activities and the such.

CHAIRPERSON JORDAN: Yes, go ahead.

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VICE CHAIR ALLEN: Ms. Terry, so there's three now and then you said it's going to change, but you didn't say to what.

MS. TERRY: There were formally three rotating staff members who would be basically the equivalent of one full time position. Where one staff would come in Monday through Wednesday, Wednesday through Friday, Friday through Sunday, and rotate on Sunday. That's what the original staffing pattern was.

VICE CHAIR ALLEN: And so they stayed there those --

MS. TERRY: Overnight, yes.

VICE CHAIR ALLEN: Those hours. And so there was one staff person?

MS. TERRY: Yes, ma'am.

VICE CHAIR ALLEN: Okay.

MS. TERRY: It's going to 12 hour daily shifts. I believe it will be, and I do not oversee the programmatic side of it, clinical side. But 7:00 a.m. to 7:00 p.m. And then 7:00 p.m. to 7:00 a.m. With additional

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part time staff augmenting the busy schedule time of the day. Meal preparation, rec facility, you know, when people come home from their day obligations and what have you.

VICE CHAIR ALLEN: Thank you.

MS. TERRY: Um-hum. Yes.

CHAIRPERSON JORDAN: Board any other questions?

(No response)

CHAIRPERSON JORDAN: Is there anything else you want to present to the Board?

MR. BUTLER: No.

CHAIRPERSON JORDAN: Okay. Then let's turn to Officer of Planning. Ms. Brown-Roberts please.

MS. BROWN-ROBERTS: Good morning Mr. Chairman. The Office of Planning reviewed the Application and was supportive of the eight units.

We did note in our report the condition concerning the parking. That they would have the two spaces on the parking. And

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we also had a concern about the curb cut on Kennedy Street.

That is something that we had given over to DDOT to respond to. And also, I think that would also be addressed at the public space committee.

But we recommend approval of the Application with the two conditions. Thank you Mr. Chairman.

CHAIRPERSON JORDAN: Board any questions of the Office of Planning?

(No response)

CHAIRPERSON JORDAN: Ms. Brown-Roberts, do you know if there's been any disruption from this property?

MS. BROWN-ROBERTS: I don't know. Whatever information I've gotten has been from the Applicant and from reading the submissions. But nothing otherwise from that.

CHAIRPERSON JORDAN: Okay, thank you. Applicant any questions of Office of Planning?

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MR. BUTLER: No.

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

(No response)

CHAIRPERSON JORDAN: Do we have something from Department -- yes, DDOT has submitted. What did they submit? They submitted a letter in support of the overall Application. They've got issues with the curb cut that they will have to work out with you on your own.

ZONING COMMISSIONER MAY: I mean actually, I was going to be interested to know if the Applicant has anything to rebut the concern of DDOT regarding the curb cut and the driveway?

MR. BUTLER: Well, interestingly this -- the timing of the curb cut issue and the load increase kind of coincided. The original Application again was just for special exception for a load increase. And at the time I'd submitted to DDOT, they sent out the

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Application for the curb cut to ANC and other department heads for their comments.

So I'm going to work with DDOT and public space. If I need to come back to the Board for any reason, a special exception, you know, I'll just come back and make a new request.

ZONING COMMISSIONER MAY: We don't really have a role in the curb cut.

MR. BUTLER: Okay.

ZONING COMMISSIONER MAY: But I'm curious about whether you're actually going to keep pursuing it. Because it doesn't seem like it's necessary.

MR. BUTLER: If DDOT -- again, I've had conversation with the owner. And the new driveway that we're putting in is eco-friendly. It's not going to be a paved or --

ZONING COMMISSIONER MAY: That's not really the issue. Just the curb cut.

MR. BUTLER: Yes, the curb cut. If we're denied, probably not. We're not going to

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go forward. I mean we an --

ZONING COMMISSIONER MAY: I mean you have access from the alley, I don't understand why you would.

MR. BUTLER: It's just kind of tight getting in and out of that you know, off of that alleyway and to that -- into that back parking area. And we just saw an opportunity to extend the driveway to make ease of egress and ingress on the property.

ZONING COMMISSIONER MAY: Okay.

MR. BUTLER: If doesn't happen, that's all.

ZONING COMMISSIONER MAY: All right. It's not really our domain, but I think that the driveway and the curb cut is an exceptionally bad idea.

MR. BUTLER: Okay.

CHAIRPERSON JORDAN: Okay. And it's probably not going to fly anyway, so.

All right. Anyone here from ANC4B?
ANC4B?

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(No response)

CHAIRPERSON JORDAN: We do have a letter from ANC4B which we're going to take for whatever weight individual members want to give it. I think it's a bit -- it can be read a couple of different ways. But we have it.

Anyone here wishing to speak in support of the Application? In support -- yes, please.

Come forward and take the -- if you, yes and make sure that the microphone is turned on. And give us your name. You were here this morning and got sworn in and turned in witness cards I think?

MS. RICE-THURSTON: I turned in a witness card. I don't remember being sworn in.

CHAIRPERSON JORDAN: Okay. For anyone who's going to testify in this matter that has not been sworn in, please stand now and get sworn in please.

MR. MOY: Do you solemnly or affirm that the testimony you are about to present in

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this proceeding is the truth, the whole truth and nothing but the truth.

MS. RICE-THURSTON: Yes.

MR. MOY: Thank you.

CHAIRPERSON JORDAN: Please now, would you identify yourself for me.

MS. RICE-THURSTON: I'm Delabian Rice-Thurston. My husband Robert who's here, he'll testify for himself. My son David and I live at 13 Kennedy Street, N.E. in the same block as the property in question.

I'm here to speak in favor of having a residential facility for people with mental health issues expand in our neighborhood. We have a very personal interest in quality services for people with mental illness in calm, quiet neighborhoods like ours.

This can happen to any family. After being an honor student in high school, attending Columbia University with honors. Graduating Summa Cum Laude from the City University of New York, our son entered a Ph.D.

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program in history at the Graduate Center in New York City.

While he was in that program, May, 2004, we were made aware that David had mental health issues. He came home and has been at home working and receiving mental health services in D.C.

Four years ago we became actively involved with the National Alliance on Mental Illness. Through NAMI, we go to meetings every Wednesday at 7:00 o'clock. We learned that Community Connection is one of the most respected organizations providing services for people with mental illness in D.C.

Finding housing that people can afford when they have mental illness is of major concern. Finding supportive housing where you're monitored and where taking medications is actively supported is critical.

To be hon -- Community Connection has an excellent reputation in this area. But to few supportive housing accommodations. To

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be honest, I'm disappointed that this large lot that has been vacant for so long, will have so few beds, given the number of people who could use them.

If our son reaches the point that he'd like to go back to independent living, we would love to know that an organization like Community Connections is providing apartment living opportunities with the kind of services that help people who need mental health support lead lives of dignity.

Most importantly, we'd like to know that space is available for him. Right now there are too few residential opportunities for the many people who need them. I respectfully submit my testimony.

CHAIRPERSON JORDAN: Thank you.
What did you say your address was again?

MS. RICE-THURSTON: 13 Kennedy
N.E.

CHAIRPERSON JORDAN: How far is
that from the facility?

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MS. RICE-THURSTON: There's the facility, there's one house, a nice big white house, and then our house.

CHAIRPERSON JORDAN: Very good. Thank you. I appreciate it. Board any questions?

(No response)

CHAIRPERSON JORDAN: Does the Applicant have any questions?

MR. BUTLER: No.

CHAIRPERSON JORDAN: We thank you for your time. Did you want to -- or are you just sitting in support? Your mic is on.

MR. THURSTON: Oh, this is on, I'm sorry. Yes I mainly wanted to support that.

CHAIRPERSON JORDAN: Identify yourself please.

MR. THURSTON: My name is Robert Thurston. And I understand that there are neighbors concerns about safety in terms of having that many people around that are maybe living in that kind of arrangement.

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I just want to stress that from all I've learned in this last several years as my wife indicated, we've heard a lot of very positive things about this organization, Community Connections. And not just this respect, but in many of the other encounters people have had. Their downtown facility on Pennsylvania Avenue, S.E. and different places.

So I would feel kind of bad if there's a general feeling that there's too many halfway houses in our neighborhood. Why did they put them all in our neighborhood kind of thing.

I don't know the truth or falsity of that. But I would feel bad if the result of that were keeping a good organization from a modest expansion when there may be other people running halfway houses that aren't really monitoring very well.

So that's basically what I wanted to say. Thank you.

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CHAIRPERSON JORDAN: Thank you, it's been very helpful. Board any questions of Mr. Thurston?

MS. RICE-THURSTON: May I add one observation? There's a beautiful -- there are beautiful trees on that property. I really hope they keep them.

CHAIRPERSON JORDAN: Okay. Any questions Board?

(No response)

CHAIRPERSON JORDAN: Applicant any question?

MR. BUTLER: No. We thank you.

CHAIRPERSON JORDAN: Anyone else want to come forward in support? Anyone else in support?

(No response)

CHAIRPERSON JORDAN: Anyone in opposition? Please come forward.

And make sure your mics are one. And I think both of you were here and got sworn in. I remember, and I know you just did. And

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I just saw you a second. That's her job to keep count of everyone who's been sworn in, who's not sworn in.

But good. Whoever wants to go first. You have three minutes. Please identify yourselves first.

REVEREND HAGLER: I'm Reverend Graylan Hagler. I'm the pastor of Plymouth Congressional United Church of Christ, which is around the corner from the facility. But I'm also live at 30 Kennedy Street, N.E. So I actually face the property from my front door.

And I've been very concerned about some of the assertions that have been made from various different perspectives. And I have a number of concerns.

One, some of those concerns may not be appropriate for this Board, but I would like to just be able to state them. And that is one, is that what is being proposed in a sense is expansion onto a second lot, which radically increases the size of the facility itself in

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order to be able to accommodate it's load increase.

And really what the characteristics of the new facility as I even see the drawings, that seriously changes the character of the neighborhood. It becomes more institutionalized in a purely residential setting. So that's one of the concerns.

The other concern I have has been stated before, is the number of facilities. And we have one right next door to the church. And the church is less then a block away from my home. And that's the one that people are talking about that has eight residents currently.

I need to point out, eight residents that are not always under supervision. Eight residents that have walked over to my church for shelter in the middle of cold weather because there was no staff on.

Residents that are unsupervised. Residents that I've had to deal with because one

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of them tried to chase a young lady from my church and climb in the car with her.

Those have been some of the issues. And when you start talking about now a second facility, and it may not operate like the facility that's going on next door. It is closer to the church, and we sort of have public exposure there so to speak, and this is around the corner.

But the thing I have to always raise, is that there is no real monitoring of whether staffing patterns are maintained. And whether staffing patterns are somehow safeguarded. Which really raises concern about the safety of the residents, and the kind of programs that are put in place for the residents who really in a sense have an enhanced life.

Now there were some questions that were raised, there was a murder back -- there was a murder in that facility.

CHAIRPERSON JORDAN: In this one?

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REVEREND HAGLER: Yes. In this one that we're talking about. And I know that because I came home late from church, I was in my house getting ready to get comfortable. A knock comes at my door, it's a reporter and there's a camera crew wanting me to comment on the murder that just took place in the facility. That was a number of years ago, I point out.

I've seen the cars. The cars of staff when they were on duty, generally were parked in front of my house. And so I sort of had an idea of when staff was on. But it was awfully long hours for staff to be on.

And you also have to raise the question of staff being on that long, because I see when the car is there and when the car leaves. And you have to raise the question for the effectiveness of staff, which really relates therefore to this load increase.

Now one of the things I need to also point out is the questions have been raised --

CHAIRPERSON JORDAN: I'm going to

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need you to take your last 30 seconds.

REVEREND HAGLER: I'm going to take my last 30 seconds. The question has been raised in terms of why they have not received a whole lot of concerns or complaints, it's because they have also operated under a shroud of anonymity in terms of who you get that to. Who do you respond.

This -- we have not seen even really any of the principals that have come out to the community meetings. That have come out to the ANCs.

And so when the question is raised here today, are they allowed to speak on behalf of the owner, I really raise some questions. Because we have not seen the owner. We have not seen the principals engaged in this. And that really raises some concerns for us as well, in order to have some credible conversation with.

My last part, which is ten seconds, is you also notice, the ANC of the single member district voted against it and maintains that

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position.

CHAIRPERSON JORDAN: Thank you. I appreciate you taking the time coming down and giving us your information.

Let me ask you, how long ago was this murder?

REVEREND HAGLER: Maybe it was six, seven years ago. How long? Seven years.

CHAIRPERSON JORDAN: Seven years, okay. What else I wanted to ask you? Besides that, is there anything else in this facility that's been a problem?

REVEREND HAGLER: Let me -- this has been a problem. My neighbor right across the street from me, right -- who abuts the property.

The empty lot is here and the house is there, who has complained about people staring and sort of like that has been in some ways belittled by that type of comment. But it's not. Because what happens with the lack of programs that take place in the house, people

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go on the back porch and sit there all day long in nice weather and smoke.

And they are staring at my neighbor whenever they come out with their kids, et cetera, et cetera. So it's not a small matter for them. They're not worried about folks looking over at them in the yard. But the fact is, when it's warm weather or something like that, it takes place all day long and deep into the night.

CHAIRPERSON JORDAN: Thank you.
Board any additional questions?

(No response)

CHAIRPERSON JORDAN: The
Applicant, any additional questions?

ZONING COMMISSIONER MAY: Yes, I'm sorry. Yes, I had a question. So I mean all the issues that you had raised with the residents of the other facility coming to the church and so on, and the concern with one of your members being you know, the person trying to get in the car with them, and things like

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that.

That was all about that other facility, not about this one?

REVEREND HAGLER: Right, but it's -- remember also when you understand the character of the neighborhood, the facilities are so --

ZONING COMMISSIONER MAY: Yes, I'm just asking for clarification of what you were testifying about.

REVEREND HAGLER: Right, I'm testifying at that point because that house is still active. This has never closed.

ZONING COMMISSIONER MAY: I understand, I understand. So and I have a follow up question, which is that with the facility we have here that's under consideration today, do you have any similar incidents to report?

REVEREND HAGLER: The property has been closed. And one of the things that sticks in the mind still of the neighbors, has been the

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murder that took place. No matter whether it was seven years ago or not.

ZONING COMMISSIONER MAY: Okay, that's fine. I was just wondering if there were any other incidents like the ones that you reported about the other facility, but not.

We heard about the murder already. And I assume that the Applicant will --

REVEREND HAGLER: Right, so that basically --

ZONING COMMISSIONER MAY: I assume the Applicant will have something to say about that.

REVEREND HAGLER: Right, the facility is basically not functioning right now. It's just empty.

CHAIRPERSON JORDAN: How long's it been closed, do you know?

REVEREND HAGLER: I'm not sure. How long?

MS. TERRY: It's been approaching 24 months. We actually moved the residents

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there to another one of our 24 hour staffed group homes as we became to accommodate this process. To apply for grant funding for the construction.

CHAIRPERSON JORDAN: Yes, go ahead please.

VICE CHAIR ALLEN: Thank you Mr. Chair. Ms. Terry, so I wasn't aware that it was actually closed. So now you're saying that when, or if the construction is allowed to go forward, you're going to be bringing eight addition -- or eight, I don't want to say new, but eight people that don't currently live in that facility into the neighborhood.

MS. TERRY: Yes, ma'am, but the house --

VICE CHAIR ALLEN: That's correct?

MS. TERRY: Yes. The house is vacant now. And we will --

VICE CHAIR ALLEN: Okay. Okay. That's fine. And then -- and where are these folks at a different facility of yours, or are

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they going to -- are they -- would they apply for the housing?

MS. TERRY: They -- there may be transfers. Community Connections would from it's existing program participants, take referrals from clinical staff for individuals who would currently, or reside in the future at 5422 Blair Road.

VICE CHAIR ALLEN: Okay, thank you.

CHAIRPERSON JORDAN: Board any additional questions?

(No response)

CHAIRPERSON JORDAN: Applicant any questions?

MR. BUTLER: No.

CHAIRPERSON JORDAN: Our next witness, please give us your name.

MS. McANCE: It's Jamie McAnce.

CHAIRPERSON JORDAN: Make sure you're microphone is on.

MS. McANCE: My name is Jamie McAnce. I live at 34 Kennedy Street N.E.,

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which is at the corner of Blair and Kenney and it's diagonally across from the vacant lot where they're proposing to expand.

In addition to the concerns already mentioned by Graylan, I have a couple of quality of life questions or concerns. Parking is becoming increasingly difficult and it's adversely effecting the quality of life for us long time residents.

So are we talking about potentially the need for 10 to 12 additional parking spaces?

MR. BUTLER: No.

CHAIRPERSON JORDAN: No, no, no, no. This is not that type of operation. You're going to --

MS. McANCE: Oh, I'm sorry.

CHAIRPERSON JORDAN: Give us a statement, and we're going to.

MS. McANCE: Oh, okay. Okay, well that's one of my concern. And also as far as quality of life is concerned, it is a long time single family properties. And so will this

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addition change, I'm concerned about whether the additional will change the nature of the surrounding neighborhood.

And also, another concern is that when there were residents there, they did sit as mentioned, on the back porch. Spent most of -- and they would be there when I left, and they would be there when I come back.

And not to stereotype persons who have mental illness, but it did not raise my you know, comfort level. It's just like somebody's always clocking you, watching your coming and going. You know, know what your schedule is almost better than you do.

And so those are some of the concerns that I have. And while I am not one of those persons who adhere to not in my backyard, I am concerned about the density of the number of right in the immediate -- in my immediate community, these number of facilities.

And there was a murder, but we only

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heard by word mouth. There was not full disclosure about what went on at the property. But heard from my neighbors that a couple of them were interviewed by the Metropolitan Police Department regarding you know.

CHAIRPERSON JORDAN: This was the incident seven years ago?

MS. McANCE: Yes.

CHAIRPERSON JORDAN: And outside of that incident, to your knowledge, has there been any other incidents?

MS. McANCE: Just when they were there before, just occasionally there would be you know, some loudness when the people were on the back porch. But no, I don't know of any other incidents.

CHAIRPERSON JORDAN: Okay. Board any additional questions?

(No response)

CHAIRPERSON JORDAN: Does the Applicant have any additional questions?

MR. BUTLER: No.

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CHAIRPERSON JORDAN: Thank you. To all of the witnesses, those who spoke in support and those in opposition, I really appreciate you taking the time coming down. It's important. And your information has been very helpful. Really helpful in regards to this. So we thank you all.

MS. McANCE: There's one other concern though. If I understood what Ms. Terry said about staffing, they're going to increase the number of residents. But perhaps decrease the number of full time --

CHAIRPERSON JORDAN: Well get -- we'll have some conversation about that.

MS. McANCE: Oh, okay.

CHAIRPERSON JORDAN: Thank you. Thank you very much. We normally now turn back to the Applicant for rebuttal or closing. I do have some questions I need to ask you.

One, what is the programming for these residents?

MS. TERRY: At the property level?

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CHAIRPERSON JORDAN: At the property, what is the programming?

MS. TERRY: It's a residential home. So we definitely want to you know, be good neighbors and treat it as a residence. Having said that though, we are a clinical organization. And the staff who work with the individuals are clinically trained to work with individuals with diagnosis of mental health.

For some individuals, they will participate in day programs. Some individuals may be employed, gainfully. At the property level, there are -- the staff augmentation, which is in addition to the full time staff, will come in to assist with independent skill building.

So that individuals may at some point potentially be considered for a more independent type of living setting. Recreational facility -- recreational activities, excuse me, where they may participate in activities there at the

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property.

So again, maintaining the residential you know, facility.

CHAIRPERSON JORDAN: But there is no formalized program of -- for operation so people are living there as they would in other spot and they decide what they may want to do.

MS. TERRY: No, there's a schedule on the property. There's a schedule at when people rise, they have breakfast, they have a meal together. Staff assists people in getting out of the property.

I wouldn't agree where there's no programming per se, but it is people's home where you're not required to you know, 24 hours a day be accountable to some type of demand or schedule. We do want to maintain that it is people's home and that's where they reside.

At the same time though, there is -- there are clinical activities that we support in the property to assist people. Whether it's the ambulatory challenged

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individuals, working on skills so that they can be ready more independently.

Meal preparation, how to do laundry. We have individuals who come in and often assist individuals with GED preparation. Those kind of activities. But I would -- not that there's a demand for constant participation.

CHAIRPERSON JORDAN: So Mr. Butler, where were people, when you made the statement that no one's come over and made complaints, but the place has been closed for about two years, right?

MR. BUTLER: Yes, but I also said the facility has been there for 13 years. The last two years it has been closed.

CHAIRPERSON JORDAN: Who is the person that's on site to receive any complaints?

MS. TERRY: May I? My tenure with Community Connections began in 1991. I personally opened the property at 15 Longfellow

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Street 20 years ago where we rented the property at that time.

When we closed that property about 13 years ago because we no longer rented it, I attended a local South Manor ANC meeting to talk about the fact that we were moving from Longfellow to the 5422 Blair Road house.

During my 22 year tenure at Community Connections, and specifically since we opened the programs at Longfellow and then Blair Road, there have been no complaints directed to my attention as Director of Housing and Property Management. And I won't speak for Mr. Butler, but I believe that's the spirit of what he was attempting to state.

CHAIRPERSON JORDAN: So is there some type of -- who -- so does Community Connections have a policy, a program for a person to -- for their representative to engage with the community on a regular basis?

MS. TERRY: Yes. Yes, sir. More than the fact that the staff at the house could

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receive any type of you know, walk up or phone call. That would be directed to our office, which is in Capital Hill.

We also have a website. We also have an online submission form for any questions or concerns for anything dealing with Community Connections in general.

CHAIRPERSON JORDAN: Okay. All right, did you have a question? Yes, please.

VICE CHAIR ALLEN: Thank you Mr. Chair. Ms. Terry, why was the facility closed two years ago?

MS. TERRY: We were interested in, as I mentioned, obtaining grant funds for construction to accommodate a truly handicap accessible property. Because those level of care are so diminished in the District of Columbia.

So in order to do that, we knew that we would have to not -- we couldn't operate during potential construction. We sought grant funding from Department of Housing

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Community Development through an RFP process.

We weren't sure that we were going to be awarded those funds. But intended to go forward with the construction, either with our funds through Community Connections. And you know going through the process ourselves that way.

But we knew we wouldn't be able to be open while there was potential construction at the property.

VICE CHAIR ALLEN: So has any construction actually taken place?

MS. TERRY: No.

VICE CHAIR ALLEN: So it's been closed for those two years. And then who does own this Community Connections?

MS. TERRY: Community Connections actually owns the property.

VICE CHAIR ALLEN: I know, but who is actually Community Connections? Is it a District based organization? Is it a non-profit? I mean --

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MS. TERRY: It's a non-profit mental health. There is a Board of Directors. But the property itself is held through Community Connections name.

So there is a Board of Directors. Our CEO, Dr. Maxine Harris presides as Mr. Butler mentioned, Ellen Gardner is the Chief Operating Officer. But the property is actually held in title with Community Connections, Inc.

VICE CHAIR ALLEN: Thank you.

CHAIRPERSON JORDAN: Anyone else? Any other questions?

ZONING COMMISSIONER MAY: I'm just wondering if they want to address the issue of this murder that occurred there? As testified to.

MS. TERRY: It was a most horrible situation. And certainly not anticipated We have full intent to operate the property as we've described. And working very clearly to be transparent with individuals.

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I'm not sure how to address that except to say that we do work with individuals which chronic mental illness. And it was a most unfortunate incident.

I would say that in my 22 year tenure, not to diminish the incident whatsoever, we haven't had that type of incident on properties of Community Connections. And so it was very serious and a great concern of ours.

The property will be, as I mentioned, 24 hour supervision with staff always present. In addition to clinical support on site.

CHAIRPERSON JORDAN: Now were are the two cars? You have spaces for the two cars are going to be on the property?

MR. BUTLER: Yes.

MS. TERRY: In the rear.

CHAIRPERSON JORDAN: And the tenants have cars?

MS. TERRY: The tenants certainly

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may have cars. It has not been our -- it hasn't been my experience in all the years that I've been in this position that individuals who reside at group homes own and operate motor vehicles.

May I add, not to belabor a moot point, but the curb cut as we made the request, and Mr. Butler is part of our design, was to accommodate vans who would transport ambulatory challenged individuals onto the property. Because in fact, we have wanted to be responsive to community concern about parking not on the street, but in the rear of our property.

And we were just interested in making the ease of operation for individuals in wheelchairs potentially, to pull on the other side of the property, and to accommodate their entrance into the home. As opposed to having to drive through parked vehicles, and maneuver wheelchairs potentially from the alley entrance.

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But yes, there is parking off street, and we will maintain that for staff.

CHAIRPERSON JORDAN: Board any other questions? Any other questions?

(No response)

CHAIRPERSON JORDAN: Applicant do you have anything else for the Board?

MR. BUTLER: No.

CHAIRPERSON JORDAN: Okay, did you want to do a closing, or do you just want to, we can end it as it is.

MR. BUTLER: I'll just let it rest.

CHAIRPERSON JORDAN: Okay, well thank you. Well then we'll close the record based upon the information that's been submitted to the Board at this time.

VICE CHAIR ALLEN: He has to supplement the record.

CHAIRPERSON JORDAN: Oh, you have to supplement the record. You have been so good today, go on Kathryn.

Supplement the record. We have to

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have the authorization of Mr. Butler for the file.

MR. BUTLER: Yes.

CHAIRPERSON JORDAN: Okay, is the Board ready to deliberate? Or are we good? I don't, I think the -- I don't see any basis for us not allowing the facility to expand to eight, which they can as a matter of right. And that we then grant the special exception required from 218.

However, I do have concerns as raised by the community about a couple of things. And I would offer some conditions for us to discuss.

The first condition would be that the facility needs to name a Community Relations Coordinator who interacts with the community. Second that they need to distribute within 200 feet of the property, the name of this Community Relations Coordinator.

That there should not be allowed on street parking. And I was toying with another

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about the porch issue, but I just don't know how to get there.

So I'm kind of thinking, any thoughts about those things, anyone? Those conditions, yes, no? Anybody? Yes, go ahead.

VICE CHAIR ALLEN: Mr. Chair, I have some grave concerns. If the Board was to support this, then I certainly would support those -- those conditions.

CHAIRPERSON JORDAN: I'm totally on the fence either way, but --

VICE CHAIR ALLEN: Right. Okay, I would certainly support that. Given my reading of the ANC report, they acknowledged in their vote that the Application had gone from ten to eight. So that wasn't a surprise, or that wasn't something that happened post that vote.

They acknowledged it, they didn't even talk about six. And then -- or you know that it was original. And then they voted no. and I think that that does have to be given some

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support.

My original thought going into this was that there were six individuals living there already. And that this was you know, a modest addition of two people. Having heard from the community and the concerns that they have with the facility that is active and ongoing there, and now what we would be voting is to bring an additional eight individuals into this community, gives me serious pause and concern.

So that -- those are my issues at this time.

CHAIRPERSON JORDAN: Yes, and I'm going to make the record clear. I'm not necessarily sold one way or the other. I'm certainly flexible. Anybody else? Yes Ms. Heath?

MEMBER HEATH: I share Ms. Allen's concerns. And you know, I interpreted the ANC's opposition in the same way, that they would support eight if we were to approve this

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request. But I have heard a number of concerns. And I'm having a hard time supporting the increase or the request to increase to eight from six.

CHAIRPERSON JORDAN: Mr. May?

ZONING COMMISSIONER MAY: Okay, so I'm troubled not by the Application, but by the Board's reaction to it frankly. This -- you know, I understand that there is some ambiguity in the ANC report. But it seems to me pretty clear.

I mean, it says that they recommend that there be no more than eight. They didn't recommend that there be no more than six. They didn't recommend that there be no increase whatsoever. They recommended that there be no more than eight.

And so this isn't -- now this is an Application for eight. I think that we can interpret that reasonably as support. I also believe that you know, based on the testimony that we heard today, there was one very, very

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unfortunate incident that occurred at this home seven years or so ago.

But there has not been a pattern of problems with the residents of this facility over the years. I mean granted, that you know, it's a little bit distant memory because it's been closed for a couple of years.

But this is exactly what the Zoning Regulations are supposed to allow. This community has made a change away from institutionalizing people with mental health problems, and has moved to this sort of community based housing.

And I think that this is an example of one that for years functioned very well. And they're asking for a modest increase. They're improving the facility. They're making substantial investment of I'm sure, the funds from Community Connections itself as well as from District government funds, to provide this I think very necessary service.

So I am not troubled by this

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application really at all. I mean yes, I understand why neighbors would have concerns. It's always going to be a little bit different and difficult to accept to have something like this in your neighborhood.

But I don't see that there's any evidence in the record that this is a poorly managed facility, or that they cannot -- that there will be an impact on operations, traffic noise, et cetera, which is the criteria that we are supposed to be basing our decision on.

So I'm perfectly comfortable with going ahead with the Chairman's suggestion for conditions. But I think this is a thoroughly supportable Application. And a very modest increase, a very modest change.

CHAIRPERSON JORDAN: Yes, I just have a -- just wondering, just kind of having -- yes, go ahead, proceed. No, why don't you --

MEMBER HEATH: One additional question. If you could just clarify the

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question of the number of staff who will be on site at any particular time. It sounds like it varies depending on the time of day.

But if you could just let us understand the variation from whatever the least number would be, to the greatest number.

MS. TERRY: We -- Community Connections has made the transition from the rotating staff model to 12 hour shifts. Primarily to accommodate that we have 24/7 awake coverage.

That staff on duty are never to be asleep. And that there's no staff quarters per se, with a bed to accommodate sleep. That there's a staff office on the premises so that 24/7, this home like our other 11 homes -- or 12 homes, excuse me, will be covered with awake staff coverage.

Augmenting that, we anticipate in addition to, and I'm not referring to home health aides who may come in to support consumers who live on the property, or clinical

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staff who drop by to support them clinically. There will be additional clinical staff augmenting the 24/7 staff.

So that we would anticipate there would be one staff person always present. And a second staff person present for meal preparation times, which would typically be the morning breakfast meal, the dinner meal and recreational activities or additional skill building activities in the late afternoon into the evening.

So that we could anticipate potentially three people on duty at times. But at the very least two in those busy times during the day, who would just support the individual consumer needs, so there's more individual attention.

Does that answer your question?

MEMBER HEATH: I think so. One additional -- so just so I understand. When you were operating previously with six residents, you had three staff at that time?

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MS. TERRY: Three rotating staff people who -- it would be three different individual staff who would accommodate the weekly rotating schedule.

MEMBER HEATH: So it was more like one to two people at a time.

MS. TERRY: That's correct.

MEMBER HEATH: Then three at a time, okay.

MS. TERRY: That's correct. And there were still part time staff who augmented that schedule. But in this case the primary difference is that they're overnight awake staff. There are no sleeping positions at any of our houses now. That's the schedule that we follow.

But especially in this case, with ambulatorily challenged individuals. Whether they're wheelchair bound or not, our intent is to have additional staff there to assist people with getting ready to go to bed, getting ready to rise. Eating and those recreational

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activities and skill building activities that they would do in the house on a daily basis.

VICE CHAIR ALLEN: Ms. Terry, just to -- because I really want to make sure I understand. Ms. Heath's specific question so what's the least to the most. So there will be periods of time though when there's one person there?

MS. TERRY: There will be periods of time when there's one staff person there.

VICE CHAIR ALLEN: Okay, and then it would increase based on what you've said, the part time and the clinical support. Okay.

MS. TERRY: With proposing eight individuals, our plan was to have, if we're approved, four individuals who are ambulatory challenged in the part of the house which would be new construction. Where everything is accessible if in fact individuals are in a wheelchair. Versus four fully ambulatory individuals and perhaps more independent individuals living in the original part of the

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house so that we have a mix.

It's not just -- our intent nor capacity will be at eight individuals who are challenged ambulatory. It will be four at the very maximum. So that the staff can fully attend to the needs of the residents who live at the property.

CHAIRPERSON JORDAN: Okay. This is a fine how do you do. For the end of the discussion, does anybody want to make a Motion some way or the other?

ZONING COMMISSIONER MAY: Mr. Chairman it would help me greatly if you would repeat the conditions that you had suggested.

CHAIRPERSON JORDAN: Okay. That the Applicant should name a Community Relations Coordinator. And the Applicant shall distribute the name of the Community Relations Coordinator to the residents within 200 feet of the facility.

And that the Applicant should not allow on street parking. Period. That's kind

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of where I was at.

ZONING COMMISSIONER MAY: No on street parking for staff?

CHAIRPERSON JORDAN: Well I just said -- I think we should go staff and tenants. Because I think we've had some testimony that there's a parking issue over there.

ZONING COMMISSIONER MAY: Okay, so that means that you're going to ask that this -- is there residential parking permits in the area?

CHAIRPERSON JORDAN: That's the only thing that can happen would be RPP, yes.

ZONING COMMISSIONER MAY: Yes, and I mean if there's not RPP, then you can't stop anybody from parking there. And if there is RPP, then you'd have to get it taken off of the rolls. And it's a residential neighborhood, it's not automatic.

CHAIRPERSON JORDAN: You could make it staff parking. Yes, right. Because otherwise it would have to be RPP. And that's

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a little bit different.

ZONING COMMISSIONER MAY: Yes, it just gets sticky. And is that it for the conditions?

CHAIRPERSON JORDAN: That was it. I was toying with another, but I just didn't know how to do it. But --

ZONING COMMISSIONER MAY: Right. So my question for the Applicant is whether you would agree to those conditions?

MS. TERRY: We do. We do.

ZONING COMMISSIONER MAY: Okay. So then understanding that we still need something on file indicating that you all were authorized to represent the owners, I would make a Motion that we approve zoning -- sorry BZA Case Number 18719 request for a special exception relief under 218 to expand existing community residential facility from six to eight persons at 5522 Blair Road N.E. And ask for a second.

MEMBER HINKLE: Yes, I'll second

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that. I think this is a modest expansion of a use that's existed at the site for a while now. And I supported it.

ZONING COMMISSIONER MAY: Okay, and I didn't say that explicitly in my Motion, but that was inclusive of the conditions that were offered by the Chairman and agreed to by the Applicant.

MEMBER HINKLE: Right.

CHAIRPERSON JORDAN: All right, Motion made and seconded. Any additional in readiness? Yes please.

VICE CHAIR ALLEN: I would just for the record like to say that I still have my concerns. I will not support this. But my -- the real issue for me is especially because the facility is not operated even with the six individuals for over two years.

That I think it would make more sense given the opposition of record of the ANC and the community residents that testified, that stating with the six, even if they build

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the facility to accommodate more and be able to come back and apply more, makes more sense to me.

CHAIRPERSON JORDAN: Well, here's the thing, as a matter of right, they could do the eight. They can go up to seven is it? Eight. I think they can do eight as a matter of right.

ZONING COMMISSIONER MAY: The issue here is that here's another CRF.

CHAIRPERSON JORDAN: Exactly, that's the issue before us.

ZONING COMMISSIONER MAY: Right.

CHAIRPERSON JORDAN: So they could do it as a matter of right.

ZONING COMMISSIONER MAY: They could do matter of right up to --

CHAIRPERSON JORDAN: Eight. It's up to eight as a matter of right.

MEMBER HINKLE: As a matter of right I believe it's eight.

ZONING COMMISSIONER MAY: Right,

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okay.

CHAIRPERSON JORDAN: Yes, it's up to eight. It says seven and eight under 2001V I thin it is.

MEMBER HINKLE: Yes.

CHAIRPERSON JORDAN: Which is worded so crazy. It says seven or eight as a matter of right. Never seen some wording like that. It's the other facility. And that's the issue. A lot of our testimony here today was about the other facility which is not in front of us.

So that's why you know, I'm not jumping up and down about this, but that's why I thought that we should then deal with the issues that we have here. They can operate as a matter of right anyway.

So the only level of control you're going to have is by placing some conditions here on this property. I mean yes, it's a difficult thing, right.

ZONING COMMISSIONER MAY: Well

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yeah. I mean the idea of ramping up to eight as a way of mitigating concerns of the neighbors or making sure that everything is copasetic with the neighbors, I think there is some value to that. But I don't think that we should condition our approval on anything like that because they're making an investment based on an expectation that they can house eight people here.

And the money that they receive from the government in order to house them there, or from whatever sources they have is going to be based on having that number of residents. So ultimately I think that we have to either approve eight or not approve eight. And I think we should approve eight obviously.

CHAIRPERSON JORDAN: Yes, go ahead.

VICE CHAIR ALLEN: Okay, I appreciate the clarity about the issue. Because as I stated originally, I had concern that there was an entire other facility within

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a very short -- I mean a very small area. I thought that -- I thought that our vote, and this is my issue, I thought that our vote was literally the six to the eight.

I did not realize that the vote really is to allow the facility in such close proximity to the other facility. In which case again, I cannot support this.

CHAIRPERSON JORDAN: No, you realize they can do this as a matter of right.

VICE CHAIR ALLEN: So yes, I didn't realize that that was the.

ZONING COMMISSIONER MAY: I mean, I think it lowers the hurdle, but it's still a hurdle if I understand you correctly.

CHAIRPERSON JORDAN: Yes, certainly it's still -- 2001v still, they -- the other facility still carries conflict for them.

All right, all those in favor of the Motion with the conditions signify by saying aye.

(Chorus of ayes)

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CHAIRPERSON JORDAN: All opposed
nay.

(Chorus of nays)

CHAIRPERSON JORDAN: All right,
Motion carries. Mr. Moy, let's just do this
off center. The two of you, I just.

MR. MOY: Okay, I -- Mr. Chairman I
believe the vote is three to two.

CHAIRPERSON JORDAN: That's
correct.

MR. MOY: Okay, this is on the
Motion of Peter May to approve the Application
for the relief requested with the conditions as
cited. Mr. Hinkle second the Motion. Also in
support Mr. Jordan. Opposed Ms. Heath and Vice
Chair Allen.

So that's your -- that's the five
votes. Motion carries.

CHAIRPERSON JORDAN: I -- let's not
have a summary. Let's not have a summary
order.

MR. MOY: Okay. We'll write a full

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order then.

CHAIRPERSON JORDAN: Yes. I don't want a summary order. Okay, let's go, let's --

ZONING COMMISSIONER MAY: And I assume that there will -- I mean there will be no order until we have the authorization.

CHAIRPERSON JORDAN: Anyway, and it's got to be written out. And you've got to get that document turned in.

All right, thank you all again. Thanks so much.

MR. BUTLER: Thank you.

CHAIRPERSON JORDAN: It was three to two to allow it with conditions. We don't know what -- the ANC document is ambiguous of itself. I think that's enough of a response to our -- to take back to the ANC.

We can't tell you if it was supported or not supported. I don't think we have to address every item. Yes, because it was ambiguous. They were not clear. And I think anybody -- any -- you go to every other

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person, everybody's going to have a different interpretation. It's either this or it's this.

Let's go -- call the -- let's call the decision case that's remaining.

MR. MOY: Yes sir, Mr. Chairman the last order for the day is a decision case that was moved to the tail end of the docket for absentee vote for a participating member.

This is Application Number 18741 of BB&H Joint Venture. We have three participating on this decision which includes the Chairman and Ms. Heath.

CHAIRPERSON JORDAN: Okay, wait a minute, it's just the three of us? Oh wait a minute, we -- oh, that's right, it's just you and I. Oh, that's right. And Anthony has voted.

MR. MOY: Just the two of you and Mr. Hood is the absentee ballot vote.

CHAIRPERSON JORDAN: This is 187 -- what is this? 741?

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MR. MOY: This is the property on 4427 Connecticut Avenue.

CHAIRPERSON JORDAN: Oh, how soon we forget. Okay, here we go, we're back in the ball game here. 18741, you've already called it, right Mr. Moy?

MR. MOY: Yes sir.

CHAIRPERSON JORDAN: Okay, there was -- I think we -- I would offer to support this with conditions. But here's my problem with this. The Applicant acted in good -- the Applicant has not acted in good faith with the neighborhood.

It was not until coming here for additional relief that they finally decided to get their act in order. And it's completely unacceptable. It's the wrong time for that to happen.

I mean if you look at the supplemental filing by the Applicant, they've been running around trying to dot their I's and cross their T's for those things which should

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have been done from the original relief being granted. As I said, they've been cleaning up their act since then, but it shouldn't -- this Board is not here to make enforcements. We're here to proactive on relief and et cetera.

And so when people make these espousals to the Board, we take them in good faith that that's what they're going to do. And coming up for the next time of relief is not the time. So be with that, I can support this Application. But I'm still putting brakes on it.

I would recommend that we still put brakes on for three years instead of some five year request. They are going to have to show that they're exercising -- been operating as good citizens of that community.

It's not -- and that the conditions will be three years that there's no dumpsters in the accessory parking lot. That at no time shall delivery of vending or trash trucks be permitted to enter the accessory parking lot.

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Two trash cans shall be maintained in this parking lot and emptied at least once per day or more often if necessary, if there's an overflow in trash.

The parking space fencing along the western boundary of the site shall be maintained in good condition at all times. And not just when you come in for relief.

All parts of the lot shall be kept free of rubbish and debris. Landscaping shall be maintained in a healthy growth condition, neat and orderly. And trees along the property shall be pruned at least -- not once a day, you don't need to prune trees once a day. Prune the trees as necessary.

An exterminator shall perform extermination services at least once a month to control, or more often, whatever is necessary, to control rodents. The Applicant shall appoint a liaison to the ANC and the community. The Applicant shall notify the ANC and all residents within 200 feet of the same of the

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telephone number and address of the liaison.

The individual shall no longer be designated -- oh, and if any change. So there should always be a person, and that person should designate -- the Applicant should designate any change of that person.

The Applicant shall provide to ANC and the residents with an annual report that summarizes compliance -- yes, absolutely -- of the terms and conditions, their compliance hereof. Existing wheel stops, signage, guardrails, parking space stripping, direction signage shall be painted on the pavement and shall be maintained in good order.

The Applicant shall as necessary, repaint and maintain the entrance and exit directional arrows on the surface of the parking lot. It's kind of the same, but. And I've added a new one.

Number 11, the Applicant shall maintain a banner -- no, I didn't add that. The Applicant shall maintain a banner along the

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north side of the accessory parking lot so as to limit ingress and egress into the accessory parking lot along it's northern border.

So with those conditions, I think I would move that we approve the Application.

MEMBER HEATH: I'll second the Motion.

CHAIRPERSON JORDAN: Motion made and second. All those in favor signify by saying aye.

(Chorus of ayes)

CHAIRPERSON JORDAN: Those opposed, nay.

(No response)

CHAIRPERSON JORDAN: Mr. Moy we've got absentee ballot?

MR. MOY: Yes sir, I have an absentee ballot from Mr. Hood. And his absentee ballot is to approve the Application with any conditions as may be imposed by the Board.

CHAIRPERSON JORDAN: Oh, so he was

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reading us.

MR. MOY: Yes sir.

CHAIRPERSON JORDAN: Okay. All right. With that then, that would be the Motion. Do the order, and we would do it by summary order with those conditions?

MR. MOY: Yes sir.

CHAIRPERSON JORDAN: Okay. Any other business coming before the Board at this time?

MR. MOY: Not from the staff sir.

CHAIRPERSON JORDAN: Well then the Board have any other issues?

(No response)

CHAIRPERSON JORDAN: Then we're adjourned. Thank you. Thank you all, I appreciate it.

(Whereupon, the above-entitled matter went off the record at 12:27 p.m.)

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