

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

DECEMBER 2, 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 10:00 a.m., Lloyd J. Jordan, Chairperson, presiding.

The transcript constitutes the minutes from the Public Hearing held on December 2, 2014.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

PETER MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOTT
KAREN THOMAS
STEVEN COCHRAN
MATT JESICK
ELISE VITALE

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF
PRESENT:

JONATHAN ROGERS

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

2 10:00 a.m.

3 MR. MOY: That would be Application No.
4 18870 of Jennifer Keller.

5 Mr. Chairman, this is a request for a
6 special exception to allow an accessory
7 apartment, under Sub-Section 202.10, as
8 advertised.

9 CHAIRPERSON JORDAN: All right, please
10 identify yourself. Just make sure your microphone
11 is on. Is it -- push the -- say something. I don't
12 think your microphone is on.

13 MR. SEARLE: Sorry, yes.

14 CHAIRPERSON JORDAN: There you go.

15 MR. SEARLE: Jennifer Keller.

16 CHAIRPERSON JORDAN: You also have a
17 request for the Board to waive the requirement for
18 proper certification, self-certification
19 requirement that attorney and/or an architect
20 certify your request for relief or a Zoning
21 Administrator letter.

22 MR. SEARLE: Yes.

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1 CHAIRPERSON JORDAN: What does the
2 Board feel about that, anyone?

3 For this particular relief, I could be
4 supportive of this, in this instance, because
5 you're already -- the property -- you're just
6 trying to basically, clean up something that's
7 already been happening, and it's already been cited
8 by DCRA I believe, is that right?

9 MR. SEARLE: I was -- when I purchased
10 the property in 2009, I was told it had a
11 certificate of occupancy, and I re-applied for it
12 by mail.

13 In the process of having the apartment
14 rent though, I determined that it was not a
15 certificate of occupancy. It was a business
16 license, and so, the apartment had not been zoned.

17 I continued the lease and when my
18 dweller left the apartment, I've started the
19 process with the Board of Zoning.

20 CHAIRPERSON JORDAN: Okay, Board ready
21 to deliberate on this? I mean, well, first it's
22 a hearing, I'm sorry.

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1 I really don't have any other further
2 questions, that I need to ask. Board, any
3 questions we need to drill down and hear anything
4 from this particular Applicant?

5 All right, it's up to you, to add
6 anything if you want to, but I don't believe it's
7 necessary. We can go on and proceed with the
8 hearing, if that's your wish.

9 MR. SEARLE: Yes.

10 CHAIRPERSON JORDAN: Okay, then let's
11 turn to the Office of Planning, and see if there
12 is anything in addition to what's already in the
13 record.

14 MS. ELLIOTT: Good morning, Mr.
15 Chairman, members of the Board.

16 For the record, I'm Brandice Elliott
17 with the Office of Planning.

18 We have nothing additional to add to the
19 report. We're recommending approval of the
20 request.

21 CHAIRPERSON JORDAN: Thank you.
22 Anyone here from Department of Transportation? We

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1 do have a letter of no objection to the requested
2 relief.

3 Anyone here from ANC-3C for this
4 matter? ANC-3C?

5 We do have a letter of support from
6 ANC-3C, which we certainly give great weight to.

7 Anyone here wishing to speak in
8 support? Anyone wishing to speak in support?
9 Anyone wishing to speak in opposition? Anyone in
10 opposition?

11 Then we'll close the record on this
12 matter, and I would move that we grant the relief
13 requested in 18870.

14 VICE CHAIRMAN ALLEN: Second.

15 CHAIRPERSON JORDAN: Motion made and
16 seconded. Additional discussion?

17 All those in favor signify by saying
18 aye.

19 (Chorus of ayes)

20 CHAIRPERSON JORDAN: Those opposed,
21 nay. The motion carries. Mr. Moy?

22 MR. MOY: Staff would record the vote

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1 as 4-0. This on the motion of Chairman Jordan to
2 approve the application for the relief requested,
3 seconded the motion, Vice Chair Allen. Also in
4 support, Mr. May and Mr. Hinkle. We have a member
5 not present. The motion carries 4-0, Mr.
6 Chairman.

7 CHAIRPERSON JORDAN: Summary, please.

8 MR. MOY: Thank you.

9 CHAIRPERSON JORDAN: As well as the
10 other case, summary order in that.

11 MR. MOY: I was going to ask. You knew
12 that.

13 CHAIRPERSON JORDAN: Thank you.
14 Appreciate it. I guess we're at 868.

15 MR. MOY: Application No. 18868 of Eli
16 and Margaret Joseph.

17 Mr. Chairman, this is a request for a
18 variance related to allow additions to a one-family
19 detached dwelling. This is the property at 4547
20 Lowell Street, Northwest.

21 CHAIRPERSON JORDAN: Okay, all right.
22 Just one second.

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1 All right, please identify yourself for
2 the record.

3 MR. COOKE: Patrick Cooke, acting as an
4 agent for the owner's behalf from Thompson & Cooke
5 Architects.

6 CHAIRPERSON JORDAN: Okay, we were
7 just looking at the request for relief because it
8 speaks of special exception and is asking for a
9 variance and then I think the variance is being
10 asked for -- from the front yard relief, but we
11 believe that's sufficient to do the special
12 exception, extension of the non-conforming use
13 under 2001.3.

14 So, that's kind of what our discussion
15 was about here.

16 All right, does the Board have any
17 issues or questions with this application, since
18 we've kind of talked through that.

19 Mr. Cooke, as you may have heard, the
20 Board believes there is sufficient information
21 here already in the record to grant the relief for
22 the special exception, and it's also your

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1 opportunity, if you want to make a statement, you
2 can, but otherwise, you know, it's probably heavily
3 suggested that you want to move on.

4 MR. COOKE: We'll stand on the support
5 of OP.

6 CHAIRPERSON JORDAN: Okay, then
7 turning to the Office of Planning, is there
8 anything additional that we have?

9 MS. VITALE: Good morning, Mr.
10 Chairman, members of the Board. Elisa Vitale.

11 Office of Planning supports the
12 requested relief. We'll rest on the record and can
13 answer any questions. Thank you.

14 CHAIRPERSON JORDAN: Board, any
15 questions of Planning?

16 We also have a letter from Department
17 of Transportation, with no objection to the
18 requested relief.

19 Is there anyone here from ANC-3D? We
20 do have a letter from ANC-3D, who stands in support
21 of application.

22 Is there anyone here wishing to testify

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1 -- I mean, anyone in support? Anyone wishing to
2 speak in support?

3 We do have a letter from -- I've got to
4 think. We have a couple letters from neighbors who
5 have written in and supported their application.

6 Anyone here wishing to testify in
7 opposition? Anyone in opposition?

8 Then we would close the record on this
9 matter, and I would grant the -- I would move we
10 grant the relief requested for the special
11 exception.

12 COMMISSIONER MAY: I would second it,
13 and I would also add the comment that I think that
14 the addition is very well designed to fit with the
15 building and fit with the context, and modest in
16 scale and I appreciate that.

17 CHAIRPERSON JORDAN: Any further
18 discussion, Board? All those in favor of the
19 motion, signify by saying aye.

20 (Chorus of ayes)

21 CHAIRPERSON JORDAN: Those opposed,
22 nay. The motion carries. Mr. Moy?

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1 MR. MOY: Staff would record the vote
2 as 4-0. This on the motion of Chairman Jordan to
3 approve the amended relief for a special exception
4 under Section 223 in 2001.3. Second the motion,
5 Mr. May. Also in support Vice Chair Allen and Mr.
6 Hinkle. Member not present. Motion carries.

7 CHAIRPERSON JORDAN: Okay, summary,
8 please.

9 MR. MOY: Thank you.

10 CHAIRPERSON JORDAN: Thank you. Next
11 case?

12 MR. MOY: Next application before the
13 Board is 18864/18403.

14 This is the application of Roslyn
15 Taylor.

16 As advertised, Mr. Chairman,
17 advertised as request for a modification of a
18 previously approved special exception order under
19 Section 205, to allow expansion of a child
20 development center for 27 children and eight to
21 nine teachers at -- in the R-1-B District at
22 premises 4428 Ord Street, Northeast, Square 5117,

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1 Lot 838.

2 CHAIRPERSON JORDAN: Okay, let's see
3 how helpful our Monday morning advice from Counsel
4 was. I'll have to do it here, because I missed the
5 meeting yesterday.

6 Would you please identify yourself?

7 MR. HUGHES: Good morning, Mr. Chair.
8 For the record, my name is Dennis Hughes with the
9 firm of Holland & Knight, and joined with -- joining
10 me today is Ms. Jessica Bloomfield, also of Holland
11 & Knight, and to my right is Ms. Roslyn Taylor on
12 behalf of the Applicant Lia's Rainbow Center.

13 CHAIRPERSON JORDAN: Okay, Mr. Hughes,
14 there's a couple of issues here.

15 One, you're outside -- the filing for
16 the modification was outside the time frame for
17 receiving the modification.

18 So, we need you to file an application
19 for this, and pay the appropriate fees for the
20 relief. The time period had expired, when you
21 filed for the modification.

22 So, therefore, the application is still

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1 not alive. It requires -- you can't modify that
2 which went out of existence. So, we need you to
3 do a new application.

4 We also need a new self-certification
5 form, in regards to this relief.

6 MR. HUGHES: Mr. Chair, I'm not
7 following the time limit concern.

8 With respect to the
9 self-certification, we can provide correspondence
10 from the -- Ms. Taylor was actually directed here
11 by the Office of the Zoning Administrator, so we
12 can provide that documentation in their.

13 CHAIRPERSON JORDAN: Okay, I'm going
14 to ask OIG to respond to timeliness.

15 MS. NAGELHOUT: The issue is that the
16 -- when the application was filed, the prior order
17 was still in effect, but has since expired, and you
18 know, there was no --

19 CHAIRPERSON JORDAN: Okay.

20 MS. NAGELHOUT: -- request for an
21 extension. So, that order -- the validity period
22 of that order has expired.

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1 So, that's why you would need a new ZA
2 referral or self-certification, in effect, a new
3 application.

4 MR. HUGHES: Well, is it appropriate to
5 dialogue with this?

6 CHAIRPERSON JORDAN: Yes, go ahead,
7 that's fine.

8 MR. HUGHES: I'm not following why the
9 current order 18403 is expired. We're operating
10 under that order, which I didn't understand had a
11 time limit.

12 MS. NAGELHOUT: Well, the order itself
13 has a time two-year time limit, which ended, I think
14 in September.

15 MR. HUGHES: Why does it have a
16 two-year time limit?

17 MS. NAGELHOUT: Because if you read the
18 stuff at the very end, it says, "This order is valid
19 for a period of two years."

20 MR. HUGHES: Unless within such
21 period.

22 MS. NAGELHOUT: But it would -- you'd

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1 never ask for an extension, is the point.

2 MR. HUGHES: But this is for special
3 exception of a child care center. It didn't have
4 a lapse to it. We weren't --

5 MS. NAGELHOUT: Use to the lapse, just
6 the order, the validity of the order. So, this
7 would be considered a new application to expand an
8 existing child development center.

9 MR. HUGHES: Okay.

10 MS. NAGELHOUT: Rather than to modify
11 a prior order.

12 MR. HUGHES: I'm not sure I agree with
13 that, but we're at the Board's -- you know, we're
14 just following staff's direction, and we'll
15 certainly continue to do so, but there is --

16 CHAIRPERSON JORDAN: This is what
17 we're doing to do. I am going to move that we waive
18 any alleged untimeliness here and that we take this
19 as a modification, as requested.

20 MR. HUGHES: Thank you.

21 CHAIRPERSON JORDAN: Does that
22 consensus with the Board?

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1 Yes, so, we'll make that by consensus.

2 Now, that we've taken care of
3 procedural issues here, I just have -- I guess there
4 is really -- so, you're going from -- you're going
5 to have 27 children and nine teachers, is that
6 correct?

7 MR. HUGHES: That's correct.

8 CHAIRPERSON JORDAN: Okay, so, it's an
9 increase of like 15 and -- so, it's an increase of
10 15 children and was it another two?

11 MR. HUGHES: Two to three staff.

12 CHAIRPERSON JORDAN: Two to three
13 staff persons, and the -- you've seen the
14 conditions recommended by the Office of Planning?

15 MR. HUGHES: Yes, sir.

16 CHAIRPERSON JORDAN: Any issues with
17 that?

18 MR. HUGHES: I'm sorry, could you
19 repeat that?

20 CHAIRPERSON JORDAN: Any issues?

21 MR. HUGHES: Mr. Chairman.

22 CHAIRPERSON JORDAN: Let me go over

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1 them. So, one is that the hours of operation shall
2 be from 7:00 a.m. to 6:00 p.m.

3 MR. HUGHES: Seven a.m. to 6:00 a.m.

4 CHAIRPERSON JORDAN: Six a.m.?

5 MR. HUGHES: Twenty-three hours.

6 CHAIRPERSON JORDAN: This is
7 overnight, okay. Yes, I'm sorry, a.m.

8 That -- the number of enrolled children
9 shall not exceed 27. The number of staff,
10 including two onsite residents shall not exceed
11 nine.

12 Outdoor activities shall be supervised
13 and concluded by 8:00 p.m. Trash shall be kept
14 onsite, collected three times a week and the
15 property shall be kept free of debris.

16 Staff shall monitor the dropping off
17 and picking up of the children.

18 MR. HUGHES: Mr. Chair, the Applicant
19 is agreeable to all these conditions, with a couple
20 of clarifications.

21 One Item 3, the number of staff,
22 contemplation is a total of nine, including Ms.

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1 Taylor. She is one of the two residents -- she is
2 one of the residents of the house. Her husband is
3 not part of -- does not participate in the
4 operations of the child care center.

5 So, it would be -- we're requesting
6 number of staff shall not exceed nine, including
7 one of the residents, as opposed to including two
8 onsite residents.

9 CHAIRPERSON JORDAN: Okay, that's
10 interesting. We'll make that 'shall not exceed
11 10'. It's easier that way.

12 MR. HUGHES: Okay, thank you. Then
13 with respect to condition -- the condition
14 regarding trash, property shall certainly be kept
15 free of debris, and Ms. Taylor has entered into a
16 contract with a private trash service. It's a
17 single-time a week, but it is a dedicated large
18 haul-off container.

19 We can certainly submit this to the
20 record, but as opposed to three times a week, given
21 the commercial nature, this is what she was
22 directed to pursue by the District. It also

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1 includes a recycling, once weekly recycling.

2 So, we'd just like to submit this and

3 --

4 CHAIRPERSON JORDAN: So, that's two
5 times a week?

6 MR. HUGHES: The recycling occurs at
7 the same time as the trash removal.

8 CHAIRPERSON JORDAN: All right, then I
9 would need to have input on the from the Office of
10 Planning, who suggested three times for this.

11 Board, any other questions of the
12 Applicant? Yes, please.

13 VICE CHAIRMAN ALLEN: Is the daycare
14 now 23 hours?

15 MS. TAYLOR: Yes, ma'am.

16 CHAIRPERSON JORDAN: It's 23 hours.

17 VICE CHAIRMAN ALLEN: Okay, thank you.

18 MS. TAYLOR: You're welcome.

19 CHAIRPERSON JORDAN: Yes, please.

20 COMMISSIONER MAY: So, what happened
21 between the last application and this one? I mean,
22 why are you going so much larger now?

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1 MS. TAYLOR: Because of the needs of
2 infant and toddler slots in the District of
3 Columbia.

4 D.C. bought out this grant earlier this
5 year, for infant and toddlers, and Lia's
6 Rainbow/Roslyn Taylor happened to be one of the
7 recipients, who won that grant to do an addition
8 and increase the child care slots in the District.

9 COMMISSIONER MAY: So, you weren't
10 going to do an addition before?

11 MS. TAYLOR: No, sir.

12 COMMISSIONER MAY: That was just --

13 MS. TAYLOR: No, sir.

14 COMMISSIONER MAY: Right, you were
15 just going to expand the capacity to 12, and that
16 was what was approved, and now, you've gotten a
17 grant that allows you to go even bigger?

18 MS. TAYLOR: Yes, sir.

19 COMMISSIONER MAY: Okay, thank you.

20 CHAIRPERSON JORDAN: Yes, it requires
21 response to the D.C. grant, wasn't that it?

22 MS. TAYLOR: Yes, sir.

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1 CHAIRPERSON JORDAN: That's what I
2 thought, okay. Ms. Allen?

3 VICE CHAIRMAN ALLEN: I just have one
4 other question.

5 How many of the children are infants?
6 Toddlers? Are they all?

7 MS. TAYLOR: No, we have six infants
8 and six toddlers currently.

9 VICE CHAIRMAN ALLEN: Okay, because I
10 was concerned and I guess we'll hear from OP, but
11 I was concerned that trash pick-up of sort of dirty
12 soiled diapers, once a week, might not be very
13 healthy. Are you concerned about that? I would be
14 concerned about that.

15 MS. TAYLOR: Well, we did have concerns
16 and we got a visit from an inspector from the
17 District. He suggested that seeing that we had a
18 business in the District, we needed a commercial
19 trash can, instead of a regular -- the regular green
20 trash cans, which did adhere to, and we have that
21 big huge trash can.

22 It has a cover on it, and we also have

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1 the recycling bin.

2 VICE CHAIRMAN ALLEN: Thank you.

3 MS. TAYLOR: They also pick up once a
4 week, every Wednesday at 6:00 a.m., during closing
5 hours.

6 CHAIRPERSON JORDAN: Okay, anything
7 else you want to say to the Board, before we go to
8 the Office of Planning?

9 Let me do this. Mr. Cochran, would you
10 go ahead and give us your view on this, in regards
11 to the number of trash pick ups?

12 MR. COCHRAN: Assuming that there
13 would be something akin to the residential storage,
14 which is why in the previous, we had recommended
15 that it be picked up three times a week, for all
16 the reasons you've already brought up.

17 OP is not necessarily an agency with
18 expertise in sanitation.

19 So, I'm sure that there is some sort of
20 commercial container there, that can be
21 appropriately sealed, etcetera, and picked up by
22 a commercial service. I just would not know what

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1 would have to be specified in the order, to ensure
2 that that's adequate.

3 CHAIRPERSON JORDAN: I'm thinking it
4 should be kept odor-free.

5 Okay, well, let's -- we can get around
6 to that. We can ponder it.

7 Is there anything that you need to
8 offer to the Board? I think we kind of understand
9 the issue on where you are. This is the trash?

10 Tell me, what kind of trash receptacle
11 is it? Is it odor-free? You need to speak on the
12 record, please.

13 MS. TAYLOR: Yes, sorry. Yes, it is,
14 sir.

15 CHAIRPERSON JORDAN: Why don't you
16 describe it and tell me what kind it is?

17 MS. TAYLOR: It's a huge commercial
18 bin. Like I said, it has covers. The lids on it.
19 So, it's closed, and like I said, Bates, which is
20 the commercial company, they normally come out and
21 clean and remove trash everywhere in this area.

22 CHAIRPERSON JORDAN: And you know that

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1 it's suppose to be odor-free, or is it just a
2 regular commercial and you're just saying it's
3 odor-free? I mean, how do you know it's odor-free?

4 MS. TAYLOR: Well, before we sign the
5 contract, these are questions that we ask.

6 CHAIRPERSON JORDAN: It's sealed?

7 MS. TAYLOR: Yes, sir.

8 CHAIRPERSON JORDAN: Do you have a
9 picture of it?

10 MS. TAYLOR: No, I don't.

11 CHAIRPERSON JORDAN: Okay, that was my
12 concern, yes, okay.

13 All right, good. Yes, go ahead.

14 COMMISSIONER MAY: So, when you take
15 the trash out, is it all going to be bagged, as it
16 goes into the dumpster, when it goes into the
17 dumpster? You need to be on the microphone.

18 MS. TAYLOR: I'm sorry. The regular
19 trash is bagged and the diapers, we normally put
20 them in a Genie bottle, and tie the bags, seal them
21 and put them in the bins.

22 COMMISSIONER MAY: What is a Genie

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1 bottle?

2 MS. TAYLOR: It's like -- it's like a
3 diaper pail, refill bags and we put them in this
4 --

5 COMMISSIONER MAY: Okay.

6 MS. TAYLOR: -- so, it's seal-able.

7 COMMISSIONER MAY: Got it, okay.

8 CHAIRPERSON JORDAN: Okay.

9 COMMISSIONER MAY: So, it's sealed?

10 MS. TAYLOR: Yes, sir.

11 CHAIRPERSON JORDAN: Well, come on
12 now. Anyway, got it, okay.

13 COMMISSIONER MAY: Plenty of diaper
14 time on my side.

15 CHAIRPERSON JORDAN: Okay, good. So,
16 I don't think there is anything else we need to hear
17 from you, Mr. Hughes, unless you -- something else
18 you want to say.

19 Then we would modify this to one time
20 for trash pick up.

21 Board, any additional questions of the
22 Applicant? Mr. Cochran, anything additional you

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1 wanted to say?

2 MR. COCHRAN: Just to be safe, you may
3 want to say something like in a sealed odor-free
4 commercial container, picked up by a professional
5 service once a week.

6 CHAIRPERSON JORDAN: We kind of hummed
7 that around, until we learned about the Genie bag.

8 MR. COCHRAN: You never know when
9 they'll go out of business.

10 CHAIRPERSON JORDAN: All right, so,
11 give me that wording again.

12 MR. COCHRAN: A sealed odor-free
13 commercial container, to be picked up once a week
14 by a commercial service.

15 CHAIRPERSON JORDAN: Mr. Hughes, you
16 understand what that request is? I think it's very
17 reasonable.

18 MR. HUGHES: We agree, yes. Thank
19 you, Mr. Chair.

20 CHAIRPERSON JORDAN: Okay, so, that is
21 what we'll change number five to.

22 Is there anyone here from Department of

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1 Transportation for this matter?

2 We do have a letter of no objection from
3 Department of Transportation. Did we get a letter
4 from ANC-7D?

5 MR. HUGHES: Yes, Mr. Chair. It's
6 included in the Applicant's pre-hearing statement
7 at -- let's see, it's Exhibit-F.

8 CHAIRPERSON JORDAN: Okay, all right.

9 MR. HUGHES: I'm not sure if it was
10 independently submitted.

11 CHAIRPERSON JORDAN: Yes, that's why
12 we missed it, and it's not part of the record. Can
13 you make sure it's properly pulled out and filed,
14 so it's part of the record?

15 We can accept it in your report, but I'd
16 rather for it to be pulled out, and I know OP did
17 make reference to it, and that gave us some comfort.

18 Is there anyone here wishing to speak
19 in support of the application? Anyone in support?

20 We do have letters from neighbors and
21 others in the area who support the application,
22 which is good, especially for something like this.

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1 Anyone wishing to speak in opposition?

2 Anyone in opposition?

3 All right, I don't know if there is any
4 need for any rebuttal or closing, Mr. Hughes.

5 So, I would close the hearing, based
6 upon the record that we have, Board, any other
7 discussion?

8 Then I would move that we grant the
9 relief for 29 children and nine teachers, 10
10 teachers, and that the conditions as read, with the
11 modification to number five, that required trash
12 should be kept onsite and collected in a sealed,
13 odor-free commercial container and picked up once
14 a week by a commercial operation.

15 Okay, so, that would be my motion.

16 VICE CHAIRMAN ALLEN: Second.

17 CHAIRPERSON JORDAN: Motion made and
18 seconded. All those in favor, aye.

19 (Chorus of ayes)

20 CHAIRPERSON JORDAN: Those opposed,
21 nay. The motion carries. Mr. Moy?

22 MR. MOY: Staff would record the vote

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1 as 4-0. This on the motion of Chairman Jordan to
2 approve the request for modification with the
3 conditions as cited by the Board, be amended - as
4 amended.

5 Second the motion, Vice Chair Allen.
6 Also in support, Mr. May and Mr. Hinkle. We have
7 member not present. Motion carries, sir.

8 CHAIRPERSON JORDAN: Summary, please.

9 MR. MOY: Thank you.

10 CHAIRPERSON JORDAN: All right, very
11 good. Thank you very much.

12 MS. TAYLOR: Thank you.

13 CHAIRPERSON JORDAN: On 866.

14 MR. MOY: All right, next up is
15 Application No. 18866. This is Planned Parenthood
16 Association of D.C., as advertised for variances
17 from the Court under Section 536 and parking
18 requirements under Section 2101 and 2120, and a
19 special exception for office use under Section 508.

20 This is property in the SP-2 District
21 at 1108 16th Street, Northwest.

22 CHAIRPERSON JORDAN: Okay, please

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1 identify yourself.

2 MR. COCHRAN: Good morning. My name
3 is Christine Roddy and I am the attorney with
4 Goulston & Storrs, and with us today we have
5 representatives of the Applicant. We have both
6 Ms. Lynn Hackney and Mr. Loren with us this
7 afternoon, and to my left, I have Erwin Andres, who
8 is our transportation consultant, and to my right,
9 I have Jane Nelson, who is our project architect.

10 CHAIRPERSON JORDAN: Okay, a couple of
11 things. First, we'll grant the motion -- the
12 request of the Office of Planning and accept the
13 report out of time.

14 If it's anybody else but you, Ms.
15 Thomas, no. We'll accept that report out of time.

16 All right, I think we're going to need
17 a presentation from you. I don't think -- well,
18 I don't have any issue with the Court. Here is the
19 issue.

20 The parking relief is a lift, and in
21 your presentation, I think you need to drill into
22 that, especially effect upon the surrounding

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1 community and etcetera.

2 So, when you go through your
3 presentation, you want to do that.

4 Board, any other thing specifically you
5 want to hear? What about anything about this --
6 the dimensions of the Court? No? Okay.

7 COMMISSIONER MAY: Yes, I just wanted
8 to information on the trellises on the roof,
9 because they're not described, but they seem to be
10 there in the plans, and don't have anything about
11 heights and set-back and so on, and if there is
12 relief associated with them.

13 MS. RODDY: Absolutely. Would you
14 like us to speak about the addition to the office
15 use, since we are seeking a special exception for
16 that, as well?

17 CHAIRPERSON JORDAN: Yes, please.

18 MS. RODDY: Okay, as I mentioned, there
19 are three areas of the relief. We are seeking
20 special exception for the office.

21 The parking is actually a special
22 exception, since this is considered a contributing

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1 building to the 16th Street Historic District.

2 So, it's not a variance, and we are
3 filing -- we are also seeking a variance for the
4 courtyard. The courtyard would otherwise have to
5 be 24 to -- 25 to 34 feet wide, and we're providing
6 a courtyard that is 14 feet wide.

7 Just to back up, the property is
8 currently approved as a four-story office building
9 that's owned and operated by Planned Parenthood.

10 The first two floor facade, we will be
11 retaining. That is what has been deemed
12 contributing to the Historic District. So, we
13 will be retaining the first two floor facades.

14 Planned Parenthood is relocating and we
15 will be redeveloping the site with an eight-story
16 mixed office and residential building. The office
17 will consist of about 18,000 square feet and will
18 have up to 17 residential units.

19 The project has simultaneously
20 undergone review by the Historic Preservation
21 Review Board, which has granted concept approval.
22 We have gone to the ANC. The ANC has noted that

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1 it has no objections to the project and we have the
2 support of the Office of Planning, as well as DDOT.

3 DDOT did have two recommendations in
4 their report, that we provide additional parking,
5 and we have agreed to do that.

6 We are working with DDOT on the exact
7 dimensions of what that bike parking will be, but
8 we will be able to accommodate the request.

9 So, with that, I will turn to Ms. Jane
10 Nelson first, and she can walk through the roof
11 trellises, as well as the court and the parking.

12 MS. NELSON: Good morning. Jane
13 Nelson with Nelson Architects.

14 I'll just quickly show you the
15 location.

16 So, as Christine mentioned, it is
17 within the 16th Street Historic District, which
18 terminates at the south from -- at the White House.
19 We are a few blocks north of that, south of Scott
20 Circle.

21 It is a mid-block site. It is
22 surrounded by primarily commercial office

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1 buildings. There is one apartment building to the
2 -- on the block to the south, and a representative
3 of that apartment building did attend the ANC
4 Committee meeting, and they are in support of the
5 project.

6 This is the context of the middle row
7 of pictures, it's our site. I guess you really can't
8 see with the lights on, but that is our site, right
9 there.

10 As Christine mentioned, it is an
11 existing four-story building, originally 1880, it
12 was three row houses, three-story row houses, 1920,
13 there was a new facade put on, and then in 1954,
14 a facade was added two stories to the top.

15 The site plan shows, you can just see
16 the remnants of the row houses at the back, and
17 there is a two-story addition and a four-story at
18 the front.

19 That is the current facade. The
20 Historic Preservation Office has concurred that
21 the top two floors of that facade are
22 non-contributing and we are retaining the lower two

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1 floors of that historic facade. Everything behind
2 it will be removed.

3 The top row shows our new eight-story
4 building within that street scape.

5 As Christine mentioned, it is a mix-use
6 project. The existing two-story facade
7 basically, acts as the organizer of the new
8 building with a three-bay division.

9 In keeping with 16th Street historic
10 apartment buildings, the organization vertically
11 is base, shaft and capital.

12 We are -- this view shows to the side,
13 the courtyard and then we have a step-back out at
14 the top floor.

15 The site plan here, this is the proposed
16 site plan. So, you see the -- to the north top of
17 the page is a nine-story office building. To the
18 left, the west across the alley, is a 13-story
19 office building, and then to the bottom, the south
20 is a five-story contributing historic building.

21 The site is only 50-feet wide by 114
22 feet deep, which did create a parking challenge.

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1 As you can see from the first floor, so
2 with -- you know, to do a below grade parking, the
3 ramp is roughly 20 feet. The drive aisle is 20
4 feet. That leaves roughly less than 10 feet for
5 -- we could have parallel parking on that lower
6 level.

7 If we didn't do the ramp and you just
8 parked surface on the site, essentially, we would
9 be pulling up to the front of the building, behind
10 the historic facade. We certainly wouldn't want
11 to see a garage, parking garage behind the facade.

12 In addition to the fact again, at the
13 width. So, the entry to the building with the core
14 and the elevator, by the time you provide those
15 elements, there is virtually nothing left for the
16 parking.

17 The existing office building does have
18 parking at the rear of the building, and that is
19 essentially where we are providing parking.

20 We are providing -- the existing
21 building has five spaces. We are providing three,
22 partly because we have to require -- we need to

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1 provide a van space, which has a much wider
2 requirement than the standard space.

3 We are -- there is -- just a note that
4 one of the spaces does allow for a smart-car size
5 parking space.

6 I will jump to the trellis, and we are
7 not asking for relief on those. They would be, you
8 know, open trellises.

9 This is the roof plan. They would be
10 eight-feet tall, set back eight feet, minimum of
11 eight feet. So, it would be the one-to-one set
12 back.

13 The penthouse, we are not asking for
14 relief on that, as well.

15 So, they would be -- basically, the
16 architectural embellishments for terraces -- roof
17 terraces on the project.

18 The trellis that you see in the -- this
19 corner right here is actually the walk-out terrace
20 at the eighth floor. So, it does two things. One,
21 it provides a very nice for that unit, but also it
22 cuts away that top element for the court and brings

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1 additional eastern light into that court, and
2 that's -- if you have any questions on that, I'm
3 happy to answer.

4 CHAIRPERSON JORDAN: Yes, Ms. Allen?

5 VICE CHAIRMAN ALLEN: I have a couple
6 of questions. You said that you had to -- you were
7 required to have a van? Could you explain that a
8 little more?

9 MS. NELSON: Sure.

10 VICE CHAIRMAN ALLEN: I'm sorry, you
11 said that you were required to have a van?

12 MS. NELSON: Accessible space, yes,
13 has to be -- you have to provide a van parking space.

14 VICE CHAIRMAN ALLEN: So, it's for --
15 I mean, it's ADA accessible, okay.

16 MS. NELSON: And in this case, it also
17 -- you know, it helps for any short-term drop-off
18 loading/unloading.

19 VICE CHAIRMAN ALLEN: Okay, and then
20 you said -- I think you said a smart-car? You had
21 space for it? Is that in addition to the three
22 spaces that you were --

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1 MS. NELSON: That's in addition, yes,
2 it's just a note.

3 VICE CHAIRMAN ALLEN: All right.

4 CHAIRPERSON JORDAN: Yes, Mr. May?

5 COMMISSIONER MAY: So, why isn't a
6 trellis considered a roof structure?

7 MS. NELSON: It is 51 percent open and
8 it's an architectural --

9 COMMISSIONER MAY: That means it's not
10 -- it's not a floor. It's the roof on it, but I
11 don't understand why it wouldn't be a structure.

12 I mean, we see roof trellises all the
13 time that are attached to penthouses and if they're
14 not at the same height as the penthouse, they
15 require relief.

16 So, I don't understand why it wouldn't
17 be a roof -- the roof structure -- why it would not
18 be considered a roof structure.

19 MS. NELSON: The penthouse is 18.6.

20 COMMISSIONER MAY: Right.

21 MS. NELSON: And we were certainly just
22 trying to minimize the -- from the Historic

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1 Preservation standpoint.

2 COMMISSIONER MAY: Right.

3 MS. NELSON: Views from across the
4 street.

5 COMMISSIONER MAY: Well, I mean, I
6 understand why you wouldn't want to have them at
7 18.6, and guess I wouldn't have any problem with
8 them being -- I don't know.

9 I mean, I think that there has to be some
10 sort of explicit form of relief, in order to have
11 the trellises up there, if they're not going to be,
12 you know, at a uniform height, and set back
13 one-to-one.

14 MS. RODDY: Right, and we would be
15 comfortable requesting that relief if the Board
16 would consider it.

17 We can review the roof plan, but as we
18 said, the roof structures would be set back from
19 a one-to-one structure, and a one-to-one set back.

20 COMMISSIONER MAY: Okay.

21 MS. RODDY: And they would be at a 51
22 percent open to the sky.

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1 COMMISSIONER MAY: Okay.

2 CHAIRPERSON JORDAN: Yes.

3 COMMISSIONER MAY: I'm not sure what --
4 how we'd want to handle it, but I'm interested in
5 hearing, maybe what the Office of Planning has to
6 say about it.

7 CHAIRPERSON JORDAN: Mr. Hinkle?

8 MEMBER HINKLE: Yes, thank you. I
9 want to get to the -- the requested relief for the
10 parking.

11 I'm a little bit concerned about this.
12 It's a contributing structure, is what I am
13 hearing, to the Historic District, but you're only
14 preserving just the first two floors of the facade,
15 is that correct?

16 MS. RODDY: That is correct, and for
17 the width of the lot along 16 Street, yes.

18 MEMBER HINKLE: And everything behind
19 that facade is demolished?

20 MS. RODDY: Correct.

21 MEMBER HINKLE: And you're asking for
22 special exception relief for the parking, under

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1 2120.6.

2 So, just reading that, so, the Board can
3 grant relief from the parking requirements, as a
4 result -- and I'm going to quote this, "As a result
5 of the location of the historic resource, providing
6 that the required parking will result in
7 significant architectural or structural
8 difficulty in maintaining the historic integrity
9 or appearance of the historic resource."

10 So, how would providing the required
11 parking result in some significant architectural
12 or structural difficulty in maintaining those
13 first two floors of the facade?

14 MS. NELSON: Well, it's a combination
15 of the site width of the -- and the length of the
16 lot, as well as the facade.

17 So, to do a below grade, as I discussed
18 earlier, the width, the math basically doesn't work
19 with the ramp width, the drive aisle, and then a
20 19-foot depth parking space.

21 If you could do parallel spaces, those
22 are basically 20 feet long. You'd still only get

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1 a couple of spaces down there.

2 So, a ramp below grade structure is
3 impractical.

4 If we just -- if we got rid of the ramp
5 and basically surface-parked under the building,
6 again, two negative and impractical things.

7 One, we still have to have the core and
8 the corridor to get to that core. So, that
9 basically adds up to about 15 feet of that 48 feet
10 inside clear. So, that doesn't leave enough for
11 the surface parking on that first floor.

12 The negative to that is, we'd have to
13 provide a certain depth behind that facade, of
14 actual occupied space, so the facade doesn't --
15 behind that beautiful, classical facade, does not
16 -- you don't see a parking garage.

17 MEMBER HINKLE: But essentially the
18 arguments I just heard from you are for a variance
19 and not necessarily a special exception, related
20 to preservation of this historic facade.

21 I mean, for me, the special exception
22 gets to the point of preserving a historic

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1 resource, and right, I am just not getting the
2 relationship between the parking relief and
3 preserving the facade itself without additional
4 structure behind it.

5 MS. RODDY: Well, I think part of it
6 goes to the point that below grade parking could
7 compromise the facade, when you do the excavation
8 below the building, as well as what she had said,
9 it's a combination of preserving some space behind
10 the existing facade.

11 So, it maintains that appearance along
12 16th Street and the providing the core.

13 I think though from what she had said,
14 and we also have Mr. Andres here to discuss the
15 impacts, which is part of the requirement as well,
16 that this case also would fit the variance and
17 satisfy the variance requirement.

18 It's unique in that it is only 50 feet
19 wide and it also has those two -- first two floors
20 that must be preserved, and we get the practical
21 difficulty for all the reasons that Ms. Nelson just
22 explained, as to why we would not be able to provide

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1 additional parking and provide a court to access
2 the building.

3 So, then again, we'll have Mister -- we
4 haven't gotten to Mr. Andres at this point, but we
5 -- he can testify to the impacts that the lack of
6 parking would have on the community, and that we
7 are mitigating that and that this really is a
8 community that isn't driving to this site.
9 They're in downtown. Most people who live there
10 would use public transportation and everyone who
11 worked there would likely use public
12 transportation, as well.

13 CHAIRPERSON JORDAN: At some point,
14 we're going to keep hearing that argument. It's
15 going to blow up.

16 MEMBER HINKLE: Yes, I mean, we hear
17 this all the time, right.

18 CHAIRPERSON JORDAN: Everybody uses
19 the same argument --

20 MEMBER HINKLE: Right.

21 CHAIRPERSON JORDAN: -- up and down the
22 block, throughout the District, and everybody is

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1 saying that no one is going to park, but there's
2 an awful lot of cars around, and anyway, we'll get
3 to that, under Mr. Andres.

4 But let me ask you. So, you could keep
5 the five spaces, but could you -- because you're
6 eliminating two of the spaces you already have, I
7 mean, without impacting the historical nature of
8 the property.

9 MS. NELSON: We would not be able to get
10 five. The very most we could get would be four,
11 because we are still required the van space. So,
12 again, it's a math. It's a --

13 CHAIRPERSON JORDAN: That's your
14 election though, right?

15 MS. NELSON: No, no, it's a
16 requirement.

17 CHAIRPERSON JORDAN: The van spaces.

18 MS. NELSON: The accessible van space.

19 CHAIRPERSON JORDAN: Okay.

20 MS. NELSON: And it's an 11-foot wide
21 space with a five-foot access aisle to that.

22 In addition, that access aisle acts are

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1 the rear -- the entrance, the pedestrian entrance
2 and the removal of trash and loading from that rear.

3 So, they have five now. They just have
4 five nine-foot wide spaces. They do not have an
5 accessible van space.

6 CHAIRPERSON JORDAN: Anybody else,
7 questions? You can proceed on.

8 MS. NELSON: Yes, the van isn't an
9 ANSI, and ADA requirement.

10 CHAIRPERSON JORDAN: Okay, got you.
11 That's what I was -- it was like, wait a minute.
12 Okay. So, it's an ADA requirement. Okay, yes, I
13 just knew it wasn't an -- and the zoning was going
14 -- my brain is going zoning, zoning, van
15 requirement? Okay, all right.

16 MS. RODDY: And we'll have Mr. Andres
17 now testify.

18 MR. ANDRES: Good morning, Chairman
19 Jordan, members of the Board.

20 For the record, Erwin Andres with
21 Gorove/Slade Associates.

22 We've worked with the development team

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1 to support the application.

2 With respect to the relief requested,
3 it's important to know, you know, basically where
4 and what characteristics contribute to the parking
5 demand.

6 With respect to the site location
7 itself, as shown on the screen, it's -- the site
8 is located west of 16th Street, just north of L,
9 and if you notice the -- there are three accessible
10 metro-rail stations within three blocks, that
11 include two to three different lines with Farragut
12 North on the red line, and Farragut West and
13 McPherson Square on the blue and orange.

14 It's important that we are providing
15 access to three spaces behind the garage with an
16 alley, a public alley that extends from L Street
17 and dead-ends mid-block behind the property.

18 With respect to the relief, next slide,
19 the relief that is being sought consists of 13
20 spaces. Currently, we're providing three, so the
21 relief we're requesting is 10 spaces.

22 I understand, as we've spoke about

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1 before, Chairman Jordan, if this -- under the new
2 zoning rewrite regulations, and I understand that
3 it's not final yet, but under the draft zoning
4 rewrite regulations, this project would have no
5 parking requirement associated with the
6 residential.

7 As part of the loading requirements,
8 there is no loading requirement either.

9 With respect to the justification
10 itself, and I think this goes to the heart of the
11 issue, we believe that the -- the parking that's
12 provided and the amenities that are in and around
13 the site, as well as the demographics associated
14 with residents in and around the subject property,
15 lends itself to the amount of parking that we're
16 providing.

17 With respect to the actual demographics
18 from the census tract, 60 percent of the two census
19 tracts that this site is located in and near, do
20 not own cars. So, there is 60 percent non-vehicle
21 ownership.

22 The District average is in the 50

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1 percent range. So, it's a higher non-auto
2 ownership, as compared to the overall District.

3 With respect to destination of journey
4 to work information, which is information related
5 to how people get to and from work, 78 percent of
6 the residents in the households in these two census
7 tracts where the site is located do not drive to
8 work.

9 CHAIRPERSON JORDAN: Seventy?

10 MR. ANDRES: Seventy-eight percent.
11 So, only 22 percent either drive or car-pool to
12 work, of the residents that live in this -- within
13 the census tracts.

14 So, it's important to note that even if
15 they do own a car, there is a portion that don't
16 use their car to go to work.

17 CHAIRPERSON JORDAN: So, what's 78
18 percent of the number -- residents for this
19 building?

20 MR. ANDRES: Seventy-eight percent of
21 residents?

22 CHAIRPERSON JORDAN: Are projected for

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1 this building.

2 MR. ANDRES: If there are 17 units, you
3 know, I guess if you assume a couple at most, it's
4 you know, 70 -- 80 percent -- 78 percent of 34
5 residents is -- I would say it's in the range of
6 about 24.

7 CHAIRPERSON JORDAN: Right, 24.

8 MR. ANDRES: Yes.

9 CHAIRPERSON JORDAN: Twenty-one to 24.

10 MR. ANDRES: About 24.

11 CHAIRPERSON JORDAN: So, there is 10
12 people who are going to be driving?

13 MR. ANDRES: If those -- if those
14 people do not decide that, you know, their -- almost
15 there in the -- because that 78 percent is an
16 average. So, there is --

17 CHAIRPERSON JORDAN: Using your
18 numbers.

19 MR. ANDRES: Absolutely.

20 CHAIRPERSON JORDAN: How else do we
21 verify the numbers? We're using your average,
22 right?

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1 MR. ANDRES: Absolutely.

2 CHAIRPERSON JORDAN: Can't have both
3 sides.

4 MR. ANDRES: No, I understand that, but
5 you know, certain residential developments attract
6 certain types of residents.

7 There are some residents that are not
8 close to the metro and have no real proximity to
9 some of the amenities that drive non-auto --

10 CHAIRPERSON JORDAN: But I thought you
11 said in your hypothesis that you included the
12 people in the type of area that this building is,
13 with this same type of situation, that's 78
14 percent.

15 MR. ANDRES: Yes, that's correct. So,
16 with respect to that 78 --

17 CHAIRPERSON JORDAN: So, that would
18 include the same issue with being near mass
19 transportation, etcetera.

20 MR. ANDRES: Yes, that's correct, but
21 this also includes some other residential
22 buildings within the area that have parking.

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1 So, in this instance, we have a limited
2 number of parking, so, the way that the marketing
3 for this development, as well as other developments
4 like this, are looking to attract people who either
5 are currently not reliant on their personal vehicle
6 or choose to live near where they work.

7 I wouldn't be surprised if some of the
8 residents live within the Golden Triangle downtown
9 bid area. So, that they choose that -- you know,
10 they'd rather spend their money not on
11 transportation, but obviously higher housing
12 costs.

13 CHAIRPERSON JORDAN: Where in your
14 presentation, I didn't see it, maybe I missed it,
15 where you've offered some type of mitigation or
16 deterrent for people to park, to have cars, who want
17 to park in this building?

18 MR. ANDRES: Well, with respect to the
19 mitigation, I am going through that.

20 So, the first is obviously, the
21 demographic cuts out a whole bunch of people --

22 CHAIRPERSON JORDAN: I'm asking for

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1 this building, what are you -- what is being placed
2 for this building, that's going to discourage
3 people from owning cars?

4 MR. ANDRES: Well, with respect to the
5 TDM plan, the Transportation Demand Management
6 plan provides opportunities to disseminate
7 information, so that those who are non -- who are
8 not inclined to drive or own a car, to get the
9 information they need to be able to access
10 bike-share, car-share, metro-rail, future street
11 car line and there is 20 bus lines within three
12 blocks of this site.

13 In addition to that, we're providing
14 each residential unit, car-share membership or
15 capital bike-share memberships, so it helps
16 stimulate that environment of providing non-auto
17 modes to commute, and then we're providing onsite
18 bicycling, which we've committed to as part of our
19 response to DDOT comments.

20 In addition to that, in our report,
21 we've identified a graphic that shows 34 offsite
22 parking garages.

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1 CHAIRPERSON JORDAN: Now, let me ask
2 you. Does your TDM include that which has been
3 offered from Department of Transportation? Did it
4 consolidate, because I --

5 MR. ANDRES: No, it did not. Our TDM
6 includes a commitment to provide bicycle parking.
7 DDOT's comments identifies what that commitment
8 should be, and we're committed to meet DDOT's
9 requirements.

10 CHAIRPERSON JORDAN: Okay.

11 MR. ANDRES: And then in response to,
12 I guess your question about mitigation, we've
13 identified all the different reasons why people
14 don't have to drive, but in the event that they do,
15 there are 34 parking garages in and around this
16 subject property, 12 of which provide overnight
17 parking.

18 So, there are 22 public garages in and
19 around within -- if you look at our graphic up on
20 the screen, the -- what looks like blue are actually
21 facilities that are overnight -- that are daily
22 parking.

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1 So, if there are residents that come
2 that -- if they're visitors for the residents
3 during the day that don't have parking, they can
4 park in those facilities, but the residents
5 themselves have access to the green facilities,
6 which provide overnight parking.

7 So, those green facilities, and there
8 are 12 of them within three blocks of the site, that
9 provide the necessary sort of overflow relief, with
10 respect to parking supply, in the event that
11 despite all of the recommendations that we're
12 identifying, in the event that somebody still wants
13 to drive, there is an opportunity for them to use
14 one of these offsite parking garages that do
15 provide overnight parking.

16 CHAIRPERSON JORDAN: Has the Applicant
17 made any arrangements with one of the parking
18 garages?

19 MS. RODDY: Yes, we have made
20 arrangements for overflow parking in a garage next
21 to the building.

22 CHAIRPERSON JORDAN: Okay.

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1 MS. RODDY: And just to clarify, I know
2 that we were anticipating in the math that we did
3 before, that there would be 34 residents. We would
4 anticipate there would actually be 24 residents.
5 We don't expect to have two residents in the
6 one-bedroom units.

7 So, with 24 residents in the building,
8 that would really be five spaces. The 22 percent
9 comes out to five spaces.

10 So, just wanted to clarify that.
11 That's a two-space overflow from what we're
12 providing in that, we've made arrangements, like
13 I said, for overflow parking in a neighboring
14 garage.

15 CHAIRPERSON JORDAN: So, what kind of
16 arrangements have you made?

17 MS. RODDY: We have Ms. Hackney, who is
18 a representative of the Applicant, coming to
19 testify.

20 CHAIRPERSON JORDAN: Okay.

21 MS. HACKNEY: Good morning, Chairman
22 and the Board.

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1 I actually spoke with the parking
2 garage directly behind, which is not a 24-hour, it
3 closes every day daily at 9:00 p.m., closed on
4 Sunday, and they have -- currently have spaces.
5 They expect to have space availability when we need
6 them.

7 I also talked to a parking garage
8 Desales, which is a 24-hour garage with some block
9 -- it's about halfway, and they have spaces,
10 anticipate they'll have spaces when we need them.

11 CHAIRPERSON JORDAN: You don't have a
12 contract with them, is that correct?

13 MS. HACKNEY: We can get a contract
14 anytime, you know, that we need it. It's just at
15 this point, we would need -- we would have to start
16 paying for the spaces, and we're far enough out,
17 that that obviously would be a financial impact,
18 but the spaces are available.

19 CHAIRPERSON JORDAN: You wouldn't have
20 to start paying necessarily right now.

21 MS. HACKNEY: Generally, I asked -- I
22 specifically asked that question, in order to

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1 secure space with the contract. You have to start
2 paying a monthly fee, that's the only way to secure
3 them.

4 I'm happy to get that in writing from
5 them, if you'd like.

6 CHAIRPERSON JORDAN: Okay, go ahead,
7 please, go ahead.

8 VICE CHAIRMAN ALLEN: So, when you --
9 I'm just trying to understand what it is that --
10 when you talk to these, what did you envision or
11 what is your -- as you get closer to it, what would
12 be the contract that you would be seeking?

13 I guess I'm just trying to understand
14 what is it that you actually would -- are thinking
15 about providing?

16 MS. HACKNEY: Sure, and
17 coincidentally, my office was directly across from
18 both these garages for 11 years. We just moved to
19 14th Street a few months ago.

20 So, I personally used both of these
21 garages for 11 years for my staff. So, I'm very
22 familiar with the people and how they run and how

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1 it works.

2 So, you lease each month, it's a 30-day
3 renewable and they charge anywhere from \$215
4 currently, to \$250 a month for these spaces, and
5 there is no -- they will not offer you a long-term
6 contract, but in 11 years, I never had an issue
7 renewing as many spaces as I needed for my staff.

8 We would have as few as 10 a month or
9 as many as 20, depending on who needed parking at
10 any given time.

11 VICE CHAIRMAN ALLEN: So, then with --
12 are you talking about your former staff or the
13 current staff, because then that would indicate
14 that you have anywhere from 10 to 20 people that
15 are going to need parking spaces on any given month.

16 MS. HACKNEY: Well, we moved to 14th
17 Street. I'm just referencing that, because I've
18 used these exact two parking garages for a number
19 of years.

20 VICE CHAIRMAN ALLEN: That's what I was
21 asking. So, the folks who you -- yes, right. So,
22 Planned Parenthood moved, but the people who are

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1 going to be in this building are the ones that
2 you're referencing, the five spaces or whatever the
3 10 people, the 24, I got you.

4 MS. HACKNEY: Okay.

5 VICE CHAIRMAN ALLEN: All right.

6 MS. HACKNEY: Thank you.

7 CHAIRPERSON JORDAN: Okay, anything
8 else?

9 COMMISSIONER MAY: No, Chairman.

10 CHAIRPERSON JORDAN: All right,
11 anything else, Ms. Roddy?

12 MS. RODDY: That's our presentation.
13 I would just add that, you know, we have advertised
14 for a variance relief for the courtyard, so if you'd
15 be more comfortable in proceeding with a variance
16 for the parking, which as we walked through the --
17 this impractical difficulty, I do believe we can
18 satisfy parking.

19 CHAIRPERSON JORDAN: Well, if we're
20 going to -- I was going to take a break, but let
21 me ask you, because that just raised another issue,
22 that I remember I had in my notes.

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1 What do you claim is unique about this
2 building?

3 MS. RODDY: This lot is only 50-feet
4 wide, so --

5 CHAIRPERSON JORDAN: Are there other
6 buildings on that -- other buildings on that -- in
7 that block 50 feet wide?

8 MS. RODDY: While we're looking for the
9 --

10 MS. NELSON: Is your question are there
11 50-foot wide lots that provide parking? Is that
12 the question?

13 CHAIRPERSON JORDAN: I didn't ask all
14 of that. I'm just talking about the uniqueness for
15 the building, that you're -- your argument is for
16 uniqueness, why you claim the building is unique
17 for the variance relief?

18 MS. NELSON: The 50-foot wide goes to
19 the difficulty and the impracticality of providing
20 the parking.

21 CHAIRPERSON JORDAN: I'm talking about
22 step one, not step two.

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1 MS. RODDY: Right, it's a conflict of
2 the width of the lot, as well as the fact that we
3 have to preserve the first two floors, the first
4 two-floor facade, and that together, since the
5 facade runs from north to south for the entirety
6 of the lot, creates the practical difficulty and
7 the uniqueness of the site.

8 CHAIRPERSON JORDAN: So, there is no
9 other building that has this historic significance
10 on that block? Is that what you're saying?

11 MS. RODDY: No, I'm not saying that
12 there are no other buildings. I am saying that the
13 create -- the width of this lot, coupled with the
14 historic and the requirement to provide parking.

15 The other properties on this site, I
16 don't know what their situation with parking is.

17 CHAIRPERSON JORDAN: All right, so,
18 but you're making the argument that this building
19 is unique compared to other buildings and other
20 situations, and I'm saying you're talking about
21 your building.

22 MS. RODDY: Yes, and our's is a facade.

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1 I don't know what the other historic attributes
2 would be. They may not be -- have to preserve the
3 building, which would create a different
4 uniqueness.

5 Our's would be the --

6 CHAIRPERSON JORDAN: But that's
7 something you just pulled out the air, without
8 doing the research to find out.

9 You know the standard better than I do,
10 and the fact that almost every building has
11 something that they consider themselves unique
12 about it, but actually, we look at it as required
13 within the realm of the immediate universe, it may
14 not be.

15 So, we're going to give you a change to
16 deal with that, and let's take a break for five.
17 Five minutes.

18 (Whereupon, the above-entitled matter
19 went off the record at 10:56 a.m. and resumed at
20 11:03 a.m.)

21 CHAIRPERSON JORDAN: Okay, sorry, we
22 can proceed, back in session. Thank you. Do you

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1 want to proceed?

2 MS. RODDY: You had asked us --

3 CHAIRPERSON JORDAN: Well, wait. Do
4 we have seats? Do you need seats? Yes, let's --
5 please, let's take seats and -- thank you.

6 MS. RODDY: You had asked us what was
7 unique about this property and if there were any
8 other properties that were similarly wide, and if
9 you look at the plot for Square 183, and I'm looking
10 at one that was in Exhibit-C of our initial
11 submission.

12 You'll note that the property to the
13 south of us is similarly wide, whereas the
14 properties to the north, directly to the north is
15 considerably wider, as well as the property north
16 of that.

17 Property north of that is narrow, as
18 well. The difference though with our property is
19 that we have no access to L Street, as the practice
20 -- property to our south does, and we have no access
21 to an alley along the east-wide width of our lot,
22 as the property to the north.

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1 We are the only one who has the limited
2 access along the 30-feet of the rear of our
3 property, and that limits the flexibility that we
4 have and how to access and locate the parking.

5 So, it is a confluence of the width of
6 the property, the fact that we can't access it off
7 of 16th and we can only access it from the alley
8 in the rear along the 30-foot width of our property.

9 CHAIRPERSON JORDAN: Mr. May?

10 COMMISSIONER MAY: Can I ask a
11 question? What is the -- I'm sorry, can you give
12 me the exhibit number again?

13 MS. RODDY: It's C in the initial
14 submission, the very first one.

15 COMMISSIONER MAY: Tab C, yes, okay,
16 it's --

17 CHAIRPERSON JORDAN: Can you pop it up?

18 MS. RODDY: I'm sorry, I don't have
19 that on our -- in our PowerPoint.

20 CHAIRPERSON JORDAN: Okay, Tab C in
21 your pre-hearing?

22 MS. RODDY: No, in our initial

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1 submission.

2 CHAIRPERSON JORDAN: Tab 3?

3 MS. RODDY: C as in Christine.

4 CHAIRPERSON JORDAN: Your initial
5 submission?

6 COMMISSIONER MAY: Yes, I mean, it's
7 not syncing up with what the --

8 CHAIRPERSON JORDAN: Yes, right.

9 COMMISSIONER MAY: The way our
10 documents are listed.

11 MS. RODDY: I'm sorry.

12 COMMISSIONER MAY: It's in the tab.

13 MS. RODDY: I am looking, essentially,
14 we have a plot, as well as a zoning map. The zoning
15 map is -- it can easily be used, as well.

16 CHAIRPERSON JORDAN: Let's proceed on
17 it. You might have to submit that, and more,
18 that's not off the hip, so that we can verify it,
19 because I'm not going to hold up the hearing for
20 this, and because that's something that should have
21 been pointed out to us, and -- before. So, let's
22 proceed on it.

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1 I don't think we're going to make a
2 decision on this, because there is some additional
3 information that we're going to need. That is one.

4 Any other questions of the Applicant at
5 this particular point?

6 COMMISSIONER MAY: Yes, I'm -- by the
7 way, I think we have the zoning map on Exhibit-11,
8 right, which does show it.

9 CHAIRPERSON JORDAN: Exhibit-11?

10 COMMISSIONER MAY: So, explain again,
11 now that we have this exhibit in front of us.

12 CHAIRPERSON JORDAN: Eleven?

13 COMMISSIONER MAY: Eleven, yes. If you
14 might, exactly what the -- your argument about the
15 -- the wide -- why it's different compared to the
16 neighbors.

17 MS. RODDY: Yes. So, we're Lot 111,
18 and you'll note that we are similarly wide as Lot
19 106 to our south, Lot 98 and 91 to our north is
20 narrower.

21 Lots 881 and Lot 105 are considerably
22 wider, and then Lot 884 also in our square, is much

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1 wider.

2 CHAIRPERSON JORDAN: One-zero-six,
3 what did you say about 106?

4 MS. RODDY: It's similarly wide as our
5 lot. So, yes.

6 CHAIRPERSON JORDAN: They're the same?

7 MS. RODDY: Yes.

8 COMMISSIONER MAY: Yes.

9 CHAIRPERSON JORDAN: Got you, all
10 right, that's all right.

11 MS. RODDY: So, I would say out of those
12 six lots, one lot is narrower and one is the same
13 as our's. The others are much wider.

14 Of the two lots that one is narrow or
15 similarly wide, Lot 91 has access all along the
16 length of it, along the alley.

17 CHAIRPERSON JORDAN: Lot 91?

18 MS. RODDY: Yes, at the north -- to the
19 north.

20 CHAIRPERSON JORDAN: Give me one
21 second. I'm going to have to enlarge this.

22 Ninety-one, over here, okay, is that

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1 91? It's upside down. Okay, I got you, 91 is what
2 now?

3 MS. RODDY: It has access. You have
4 the 16th Street frontage as well as the frontage
5 all on the east-west length of that lot from the
6 alley.

7 Similarly, Lot 106, which is similarly
8 wide, has 16th Street access, as well as L Street
9 and again, that's all the entire length of that
10 east-west length of that lot.

11 Our lot only has access from the alley
12 in the rear, for the 30-foot length of that lot.
13 So, we have less flexibility in how to access or
14 position the parking on our lot. It can only --
15 we'll never get approval to access parking from
16 16th Street. I mean, well, even if we didn't have
17 the facades.

18 But so, we can only look at the alley
19 and the -- the access is from that point, whereas
20 the others would have more flexibility.

21 CHAIRPERSON JORDAN: But the same Lot
22 105 has the same issue.

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1 MS. RODDY: They have a much wider lot.

2 CHAIRPERSON JORDAN: They have access
3 to the -- but I --

4 COMMISSIONER MAY: Does 105 have
5 parking in the building?

6 MR. ANDRES: If you look -- actually,
7 one of our graphics show where the existing garages
8 are.

9 None of the garages -- none of the
10 buildings on that square have garages, on that --
11 on our side of the alley.

12 All of the buildings that Ms. Roddy
13 referenced do not have parking.

14 CHAIRPERSON JORDAN: They have no
15 parking?

16 MR. ANDRES: Yes.

17 CHAIRPERSON JORDAN: On that block?

18 MR. ANDRES: Well, there is no
19 structured parking in the building. So, they
20 might have --

21 CHAIRPERSON JORDAN: In the building,
22 they have it on the property?

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1 MR. ANDRES: If they do, it might be one
2 or two spaces in the alley, but not -- you know,
3 nothing of significance.

4 COMMISSIONER MAY: And 105 is a taller
5 building, is it not? That's the one to the north.

6 MS. RODDY: Yes, that is the taller
7 building.

8 COMMISSIONER MAY: That is the taller
9 building, and 106 is the historic building on the
10 corner that was just redone, and they took off all
11 the stucco or faux stucco, and that doesn't have
12 any parking in it, as I recall. That's a historic
13 building, right?

14 MS. RODDY: Correct.

15 COMMISSIONER MAY: Yes. So, we've
16 seen many cases where parking is extremely
17 difficult because of the width of -- or because of
18 a dimension of the property, because you know, you
19 have a certain floor plate that is really
20 necessary, in order to have efficient structured
21 parking.

22 Can you tell us what that might be? I

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1 mean, is it -- does it become efficient at 60 feet?
2 Eighty feet? One-hundred feet?

3 MS. RODDY: Yes.

4 COMMISSIONER MAY: Mr. Andres is going
5 to answer, so, I'm interested in both, you know,
6 whoever wants to go first, but what you both have
7 to say.

8 MS. NELSON: Yes, a 60-foot wide --
9 actually, so, you have a 20-foot aisle, a 19-foot
10 space on either side, that allows for the two --
11 two feet for the exterior walls.

12 So, 60 feet was the magic number, where
13 you could provide a ramp down. That ramp then
14 turns into a drive aisle. You have parking on one
15 side of that, and a few parking spaces that could
16 fit under the top of the ramp.

17 COMMISSIONER MAY: Okay, and remind me
18 again, the width of the property.

19 MS. NELSON: Fifty feet.

20 COMMISSIONER MAY: Fifty feet,
21 exactly, okay, and but even at 60 feet, you've got
22 room for two sets of spaces on either side, and then

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1 one drive aisle, right? You don't necessarily get
2 a turnaround necessary for a ramp.

3 MR. ANDRES: Well, in that instance,
4 you're actually only have one side --

5 COMMISSIONER MAY: Right.

6 MR. ANDRES: -- and you can park on a
7 few spaces, underneath the ramp that's coming down.

8 COMMISSIONER MAY: Right.

9 MR. ANDRES: So, depending what that
10 clearance is, you might squeeze some under the
11 ramp, but other than that, yes, that's all you're
12 limited to.

13 COMMISSIONER MAY: Right, right. So,
14 more or less, everything that's -- I mean, that's
15 not a -- I don't know, probably 80 or 100 feet wide,
16 it's not going to be very efficient parking?

17 MR. ANDRES: In addition to that, there
18 is a depth issue, because if you start the ramp from
19 the alley --

20 COMMISSIONER MAY: Right.

21 MR. ANDRES: -- and drop down, you
22 know, depending on what the depth of that lot is,

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1 there is also some constraints, unless that ramp
2 is, you know, upwards of 15 to 16 percent.

3 COMMISSIONER MAY: So, did you look at
4 doing the steepest possible ramp and getting down
5 to a single parking level, instead of having those
6 cellar apartments, and what kind of numbers did you
7 get out of that?

8 MS. NELSON: Yes, we did look at that
9 and again, the only parking that we -- we couldn't
10 fit the perpendicular parking. We could only fit
11 a row of parallel parking, and those spaces
12 actually take like 21 to 22 feet in length because
13 of the --

14 COMMISSIONER MAY: Right.

15 MS. NELSON: -- maneuvering ability,
16 and so, if you use the full lot of 114 feet, you
17 basically get four -- you know, five spaces.

18 COMMISSIONER MAY: And you get three,
19 maybe four outside, and I mean, the current design
20 shows three and you could get a fourth, possibly.

21 MS. NELSON: Possibly. Well, you
22 would have to -- the 20 -- you need to subtract the

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1 20 feet for the drive aisle, plus another five feet
2 for pedestrian access. So, that is --

3 COMMISSIONER MAY: No, I'm not talking
4 about additive. I'm talking about what -- you
5 know, having a garage versus having the surface
6 parking. The surface parking gets -- your current
7 scheme is three spaces, and then if you -- but if
8 instead, you had a ramp down into the building, you
9 would get four or five spaces, you say.

10 MS. NELSON: On the surface or below?

11 COMMISSIONER MAY: Below.

12 MS. RODDY: Correct, and again, our
13 current scheme, it's three zoning compliance
14 spaces, a fourth that does not meet the zoning
15 requirements.

16 COMMISSIONER MAY: Got it, okay. So,
17 Ms. Roddy, lots of this size are fairly frequently
18 developed for office or apartments, and the
19 argument is typically made that a variance is
20 needed for parking in a -- because of these sorts
21 of circumstances.

22 In those kinds of cases, are they

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1 typically, you know, truly unique properties,
2 where you know, everything else on the block is 100
3 feet wide and this one only happens to be 50 feet,
4 and so, therefore, it can't fit, or is it often in
5 places where there are other properties on the
6 block that are the same width or narrower?

7 MS. RODDY: Well, I think again, we are
8 -- the difference here is that we're in the 16th
9 Street historic district. So, our frontage along
10 16th Street doesn't help us with our access, and
11 we have to preserve those first two floors.

12 So, I think that this situation is --
13 I know that there are other situations where the
14 lots aren't wide enough to accommodate the parking,
15 but this is the situation of both of those issues.

16 As we -- we wouldn't be able to provide
17 -- I mean, assuming we were located elsewhere in
18 the District, we could come off of the front,
19 provide some parking from the front, and then
20 provide additional parking, surface parking from
21 the alley.

22 But given that the fact that we have to

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1 preserve the facade along the front, we can't do
2 that. We're limited only to the alley access, and
3 I think that it's those factors that create the
4 uniqueness.

5 COMMISSIONER MAY: What I was trying to
6 do was get a baseline for how -- just how unique
7 a 50-foot wide property can be, because it seems
8 to me that when it comes to building a building of
9 any size on a 50-foot wide lot, that it's going to
10 be a challenge to provide parking, no matter what,
11 and somehow in those cases, a case is made that the
12 property is unique, even though there might be
13 other 50-foot wide properties on the block. Would
14 you agree with that?

15 MS. RODDY: I guess it's hard to say.
16 Out of -- without the context, but there could be
17 a uniqueness about that building, even if there are
18 other 50-foot wide lots that are on the same --

19 COMMISSIONER MAY: Right.

20 MS. RODDY: -- square.

21 COMMISSIONER MAY: Okay, all right.

22 Thank you.

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1 CHAIRPERSON JORDAN: All right, couple
2 of questions.

3 One, looking at your TDM, really not
4 excited about the fact that you're saying for only
5 the first new tenants, the first occupants of the
6 building will be granted the bike-share membership
7 and etcetera. If it's something -- I would want
8 to see this to have for every first -- every new
9 tenant.

10 Additionally, is there anything that
11 you're proposing for your lease, that says that
12 tenants can't have a car?

13 MS. HACKNEY: Mr. Chairman, the units
14 in this building are going to be for-sale
15 condominiums, and not rental, in which case, the
16 condominium documents would obviously be handled
17 by the residents and what they want to do, going
18 forward.

19 CHAIRPERSON JORDAN: Now it gives us a
20 little bit more 'umph' that we can use.

21 We would need -- that does not stop the
22 condo documents that have a covenant that they

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1 cannot -- owners in this building cannot have cars.

2 Additionally, then we're talking about
3 -- and going further about additional sales of the
4 building and the condo docs, that the association
5 makes sure that they are provided the bike-share
6 member, etcetera and car-share membership.

7 I don't see that in your TDM kind of
8 offering here.

9 Here is the problem. You know, it's
10 not just that you get passed us today and that,
11 these things go away, once you walk out this room.

12 These buildings have a history and a
13 whole life, and as you know, parking is a major,
14 major issue in the District, and we see it all the
15 time, and some of these reports from -- some other
16 or some transportation experts, I can just take it,
17 change the name of the Applicant and just put a new
18 name on it, because they all read the same.
19 They're all guessing about what is going to happen.

20 We put in these measures and what -- and
21 parking is the issue, even places where there has
22 been granted relief, based upon some of the same

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1 arguments that people aren't going to have parking
2 in the District, and nobody is going to drive, and
3 sure enough, those aspects of this, those buildings
4 are up for a little bit, we find out people have
5 cars, have parking, because they decide one, not
6 just they have to go to work, but how are they going
7 to get groceries on the weekend, and we're not
8 taking the groceries on the metro, all of those kind
9 of things.

10 So, we take it real serious, and I'm
11 just saying to you, it's not the convenience of the
12 Applicant. It's the convenience of the citizens
13 of the District of Columbia, okay. That's really
14 what we're looking at.

15 So, I raise these issues with you to see
16 if you're looking at the alternatives. I looked
17 at your TDM, and I'm like, "Oh my God, come on.
18 This is drive-by TDM."

19 This Board has been more restrictive,
20 have we not, regarding TDM's and you know, you know
21 first hand, Mr. Andres, how we have been with TDM.

22 So, I just put -- I put forth to you,

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1 is it Ms. Hackney?

2 MS. HACKNEY: That's correct.

3 CHAIRPERSON JORDAN: Ms. Hackney, that
4 the fact that they're condos versus apartments,
5 that doesn't get you any points with us, per se.

6 MS. HACKNEY: Fair enough.

7 CHAIRPERSON JORDAN: Because they have
8 to be real issues here and --

9 MS. HACKNEY: Well, I mean, is the
10 request that you want to require in perpetuity?

11 CHAIRPERSON JORDAN: Well, I was just
12 asking you, have you considered what are those type
13 of things, because we have -- if you kind of follow
14 and track how this Board has operated, we're asking
15 for those things.

16 We're asking, and I don't think -- this
17 is kind of RPP block, because it's a commercial
18 street, so you can't do RPP anyway, but if had it
19 been a residential area, we would have requested
20 that, in addition.

21 MS. HACKNEY: I think that what we run
22 into is with the Condominium Board. We can put

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1 requirements and condo docs from the initial public
2 offering statement, but if the Board subsequently
3 votes to do something differently, we have to --

4 CHAIRPERSON JORDAN: No, that doesn't
5 -- that's recorded with this property, that will
6 go through -- that will stay with this land, and
7 everybody will be required to follow. That's not
8 the --

9 MS. HACKNEY: Okay, I won't argue the
10 legality piece of it, but that's just based on
11 experience, so, okay.

12 CHAIRPERSON JORDAN: Okay, I'm just
13 trying to get you there, because I'm telling you,
14 you've got a lift, and I know you got a lift with
15 this Board and as you can see, we take these things
16 really, really serious.

17 Okay, so, Board, any other questions?
18 Applicant, anything else you want to say before we
19 go to the Office of Planning?

20 Anybody? No? Please, then Ms.
21 Thomas.

22 MS. THOMAS: Good morning, Mr. Chair.

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1 Karen Thomas with the Office of Planning, for the
2 record.

3 We are going to stand on the record of
4 our report. We've reviewed the application of a
5 special exception, including the parking issue
6 that you're focusing on.

7 I'd just like to highlight one issue
8 with respect to the condition.

9 You were asking whether the property
10 was unique and to what extent, but when you -- the
11 variance test requires that there is an exceptional
12 narrowness, and I would position -- position that
13 with respect to parking, it is exceptionally narrow
14 to provide parking on that site, because as Miss
15 -- as the Applicant Ms. Roddy stated, there is a
16 magic number to -- and width, to be able to provide
17 that situation below grade.

18 I'd be happy to take any other
19 questions.

20 CHAIRPERSON JORDAN: Yes, please.

21 COMMISSIONER MAY: So, did you, either
22 initially or since I raised the issue, look into

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1 the question of the trellises of the roof?

2 MS. THOMAS: Well, since you raised the
3 question with the trellises, having discussed it
4 with other staff members, this did not raise a red
5 flag for us, because it was open.

6 We looked at it as an embellishment, and
7 as in the past, we have not had any issues with it,
8 and based on DCRA's interpretation in the past,
9 this is --

10 COMMISSIONER MAY: They wouldn't
11 consider it a roof structure, just because it
12 doesn't have a roof over it.

13 MS. THOMAS: No, because it was 51
14 percent open, because it was an open structure.

15 COMMISSIONER MAY: Okay, but
16 penthouses frequently don't have roofs at all.
17 They're open to the sky and they just have enclosing
18 walls.

19 So, those aren't roof structures,
20 either?

21 MS. THOMAS: That would -- that is
22 classified as a roof -- a penthouse is classified

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1 as a roof structure, but a trellis has not been in
2 the past. So, we did not --

3 COMMISSIONER MAY: But I mean, usually
4 they're attached to the -- the penthouses are often
5 -- they're attached to the penthouse, in fact, part
6 of this one is attached to the penthouse.

7 You know, the openness has never been
8 a subject of debate in my experience. I mean, that
9 didn't -- that suddenly didn't -- that did not
10 suddenly get you a free pass.

11 I mean, my -- you know, unless somebody
12 can show me in the regulations, why I'm wrong, my
13 conclusion is that those trellises are roof
14 structures and that means roof structures,
15 possibly separate roof structures, and roof
16 structures requiring relief due to unequal
17 heights, and potentially even set-back issues,
18 because of where they are placed relative to the
19 courtyard, because often, we wind up having to
20 grant explicit relief for set-back from
21 courtyards.

22 In fact, we have that for the stairway

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1 exit from the rear top floor unit, where it's not
2 set back from the courtyard.

3 I think all these things need to be
4 addressed explicitly and somebody needs to
5 demonstrate why relief is not needed or you need
6 to request the relief, and I'd be very interested
7 in seeing what the Office of Planning has to say
8 about that, because I mean, you know, I'm just doing
9 it based on my recollection of past cases, when
10 these sorts of issues have come up and how we've
11 addressed trellises in the past, and what I'm
12 seeing here is not consistent with what has
13 happened in the past.

14 My memory could be faulty. It could be
15 that you're -- you know, you're absolutely right,
16 and everybody -- and I'm the one in the wrong, and
17 somebody just needs to show me why I'm wrong.

18 MS. THOMAS: Okay, we'll be happy to
19 look at it further.

20 COMMISSIONER MAY: Thank you.

21 MS. THOMAS: Thank you.

22 CHAIRPERSON JORDAN: Anybody else,

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1 questions for Office of Planning?

2 Applicant, questions for Office of
3 Planning?

4 Okay, anyone here from Department of
5 Transportation? Yes, there he is. I'm sorry, I'm
6 looking right at you. Go ahead, please. Thank
7 you for coming.

8 20: Happy to be here. I will largely
9 stand on the record --

10 CHAIRPERSON JORDAN: Please identify
11 yourself.

12 MR. ROGERS: Sure, Jonathan Rogers
13 with the District Department of Transportation,
14 and happy to stand on the record that the site,
15 given its location and its excellent access to
16 transportation alternatives, will -- the parking
17 relief that is requested is -- will not have an
18 adverse impact on the transportation network.

19 CHAIRPERSON JORDAN: Okay, let me ask,
20 Mr. Rogers, where -- does DDOT have the analysis
21 based upon these past projects for the TDM's that
22 are similarly in place, the success of it?

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1 I know there was going to be a study
2 done. Do you have -- has that been produced?

3 MR. ROGERS: You're talking about
4 Transportation Data Management effectiveness,
5 essentially?

6 CHAIRPERSON JORDAN: Yes.

7 MR. ROGERS: We do not have a study on
8 that, and but what we've found are more anecdotally
9 is that TDM elements, they work together.

10 So, it's not -- it's difficult to
11 attribute a certain performance to one particular
12 element, but it's, how does the entire plan work,
13 given the other elements that are in place, given
14 context, given the demographics of the residents
15 and so on.

16 CHAIRPERSON JORDAN: And I don't know
17 if you had the chance -- well, just reviewing the
18 ones that is done by Arlington and Fairfax County
19 and some other places, and we're -- we have a more
20 intense use, I believe than those areas, I mean,
21 still some concerns.

22 Okay, Board, any other questions of Mr.

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1 Rogers?

2 Applicant, again, any questions of Mr.
3 Rogers? What ANC is this? Is anyone here from
4 ANC, is it two? Which ANC is it? ANC-2B?

5 Anyone here from ANC-2B? We do have a
6 letter of no objection from ANC-2B, in fact, I did
7 just read that.

8 Is anyone here wishing to speak in
9 support? Anyone wishing to speak in support?

10 Anyone wishing to speak in opposition?
11 Anyone wishing to speak in opposition?

12 We will turn back to the Applicant for
13 any rebuttal and closing, please.

14 MS. RODDY: Well, in thinking about
15 what you had proposed, with respect to a covenant
16 of property, to give some assurance that there
17 wouldn't be a parking impact, and I think one of
18 the things that we can look at doing is providing
19 the covenant that for the residents who will come,
20 that there be evidence of a monthly lease, so that
21 they'd be parking in the neighborhood, and not
22 onsite.

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1 Another possibility might be that we
2 would maintain a minimum number of spaces at an
3 offsite location.

4 I think there is a couple ways that we
5 can do this, to get to your concern, through the
6 use of the covenant.

7 CHAIRPERSON JORDAN: So, you said the
8 owners would be required to produce a monthly
9 lease? Was that the first one?

10 MS. RODDY: Yes, if they have a car,
11 that they would have to provide evidence that they
12 were not parking it onsite, that they had a monthly
13 lease with -- I'm sorry, with the garage.

14 CHAIRPERSON JORDAN: And the second
15 thing that you said?

16 MS. RODDY: Well, I think an
17 alternative option would be that we would maintain
18 a minimum number of spaces at an offsite garage.

19 CHAIRPERSON JORDAN: Okay, is there
20 anything else you want to say in rebuttal?

21 MS. RODDY: Well, I would just -- I
22 would continue just to, you know, evidence that

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1 DDOT believes that this will not have an impact.
2 Our analysis shows the same.

3 We are providing the TDM. The ANC,
4 which is usually very strong in letting their voice
5 be heard, if they do have concerns about the
6 parking, has no objection to this application, and
7 again, Office of Planning is supportive.

8 We are happy to provide those
9 assurances as we just went through, if that makes
10 your more comfortable with our request for the
11 parking variance.

12 I think that our submission does
13 evidence the courtyard, the variance standard has
14 been met for the courtyard. I also believe that
15 the office space, the evidence is in there, that
16 we meet the special exception standard for the
17 additional office space.

18 CHAIRPERSON JORDAN: All right, thank
19 you. Then we will close the record. Any
20 additional -- yes, but I was just -- we're going
21 to do deliberation or you want to just --

22 Okay, so, let's close the record with

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1 what we have before use, and I note the Board is
2 ready to deliberate, or if there is additional
3 information that we're going to need. Mr. May?

4 COMMISSIONER MAY: Well, I think there
5 is probably -- there is some additional
6 information, I certainly requested some.

7 But I would very much like to start
8 talking about what issues are here, so that the
9 Applicant knows best, what to be submitting.

10 I think that the -- the Applicant has
11 made the case here, for relief from the parking.
12 I mean, that seems to be the big issue here. I
13 have, you know, what I think are minor concerns
14 about the trellis, but I think they need to be
15 addressed, and they will be.

16 But the parking here -- parking relief
17 here really makes sense. There are certainly
18 circumstances when parking relief for additional
19 housing in certain neighborhoods is problematic
20 because of the tendency for spill-over parking, for
21 people to go ahead and, you know, have a car, even
22 though their building doesn't have parking for

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1 them, and then they just go park in the
2 neighborhood.

3 Well, the immediate vicinity here is
4 not a residential neighborhood. You have to go a
5 couple blocks to get to anyplace where there is --
6 where there even are residential parking spaces.

7 The building is not eligible for RPP.
8 The people who are moving into this building are
9 going to be buying condos, so they know that they
10 will have to acquire a parking space, if they have
11 to park a car there.

12 I mean, this is, I think fairly typical,
13 you know, very urban living, to not have the parking
14 associated or directly under the building where you
15 live. If you live in New York City, if you live
16 in Manhattan, you're going to have -- you know, it's
17 not uncommon to have your building -- another
18 building where you have your apartment and then
19 you've got to walk a couple blocks to put your car
20 in the garage, if you have a car.

21 I don't think that there's any problem
22 with it. So, I think that it meets the uniqueness

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1 test, because of the narrowness and the difficulty
2 of putting parking under the building. It's a
3 historic property. The practical difficulty has
4 to do with the inefficiency of putting parking
5 under the building, and there is so little, I think
6 potential impact from this, because again, it's not
7 RPP eligible, and because the people who purchase
8 the units are going to know what they're in for.

9 You know, we can't think of properties
10 like this as if, you know, "What would I do if I
11 lived there?" That's not what this is about.

12 This is -- you know, this is what people
13 who buy properties like this know what they're in
14 for and know that they -- if they're going to have
15 a car, they're going to have to pay for a garage
16 somewhere, and I don't have any problem in granting
17 this relief.

18 CHAIRPERSON JORDAN: Anybody else?
19 Mr. Hinkle?

20 MEMBER HINKLE: Yes, thank you. So, I
21 think we're talking about a variance on parking and
22 I'm not quite sure that the Applicant has made the

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1 case on the uniqueness test.

2 Now, I agree with Mr. May, in terms of
3 the impact, but it's how do we get there, and what
4 I would propose is to have the Applicant come back
5 with a solid argument, in terms of the variance on
6 the parking relief, because I would like to see that
7 spelled out by the Applicant, in terms of how it
8 meets the first prong, how this property is unique,
9 and how that uniqueness actually fits into the
10 practical difficulty to provide the parking.

11 That practical difficulty discussion
12 can include sketches or what have you, that shows
13 that you can't fit the parking on the site, but I
14 think we need more in the record to show that.

15 So, my suggestion is to have the
16 Applicant supplement the record.

17 CHAIRPERSON JORDAN: I agree with
18 that. I believe the record is very light, in
19 regards to showing the uniqueness, showing how
20 there is an issue with parking, the inability to
21 park -- to create parking spaces underneath, the
22 financial issue that may hit, trying to do it, even

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1 for the four or five that you can put there. I
2 mean, that is -- I would agree with that. Ms.
3 Allen?

4 VICE CHAIRMAN ALLEN: I totally agree,
5 and I just -- it always bothers me when I hear,
6 "Well, we could do it this way," and that would give
7 us maybe four or five or six more spaces, or four,
8 five or six versus two or three.

9 I mean, the idea here is to not go
10 against the zoning regulations that are in place,
11 and so, I would prefer a presentation that shows,
12 "Here is what we can do that can give the maximum
13 amount of spaces."

14 You know, I mean, that would be helpful
15 for me, assuming you can get beyond the uniqueness
16 test.

17 CHAIRPERSON JORDAN: Okay, let's do
18 this. Let's keep the record open. Let's just --
19 what we need to see, something from the Applicant
20 regarding the issue of trellis versus roof
21 structure.

22 We need a stronger argument for you,

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1 with not just us sitting here looking at guessing,
2 is this building smaller, narrower or whatever, on
3 uniqueness, regarding this property.

4 Need a stronger TDM plan, in light of
5 what we talked about. The projected make up of
6 what these residents are going to be, you know, you
7 say where one-bedroom, then there's only going to
8 be one person in a one-bedroom. People do two
9 people in two-bedrooms -- one-bedrooms all the
10 time, you know, that kind of stuff. I don't know
11 what you're marketing is centering trying to do.

12 The letter for some type of intent or
13 letter of interest from some parking garage that
14 they believe that -- I don't know when this building
15 is suppose to come online, but potentially, they
16 think it might be still in existence, that -- the
17 location of the parking.

18 Let me look at my notes here. Anything
19 else, Board, you see that is needed? Mr. Hinkle?

20 MEMBER HINKLE: Do we need a
21 supplemental from the Office of Planning?

22 CHAIRPERSON JORDAN: I think Planning

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1 is very clear.

2 MEMBER HINKLE: In terms of reviewing
3 these documents. On the trellis issue, they -- I
4 did ask them to respond.

5 CHAIRPERSON JORDAN: Yes, I asked them
6 already. I asked them, for the trellis issue.

7 Yes, you asked for OP to respond to
8 that?

9 MEMBER HINKLE: Yes.

10 CHAIRPERSON JORDAN: Okay, all right.
11 So, let's -- if you'll supplement the record with
12 that.

13 Let's put this on for a continued
14 hearing, limited hearing. That means that
15 everyone has had a chance to already have their
16 comments, regarding opposition and support and all
17 of that is already here.

18 We'll just do a limited, based upon the
19 submission. Mr. Moy, a date? Where are we?

20 MR. MOY: Well, Mr. Chairman,
21 depending on the labor of the Applicant --

22 CHAIRPERSON JORDAN: So, we were

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1 January or February?

2 MR. MOY: Yes, because there is -- as
3 I said earlier, the last hearing for this month is
4 the 16th, which may or may not be too soon.
5 Otherwise, we're into January.

6 Given the size of the docket, when are
7 you back?

8 CHAIRPERSON JORDAN: Twenty-seventh
9 of December?

10 MR. MOY: The 27th of January, Mr. May,
11 I'm told will be here.

12 CHAIRPERSON JORDAN: Okay.

13 MR. MOY: So, that would be the 27th of
14 January.

15 CHAIRPERSON JORDAN: All right, the
16 27th of January and so, when we --

17 MR. MOY: Yes, may need filings a week
18 before the 27th.

19 CHAIRPERSON JORDAN: Yes.

20 MS. RODDY: We were just wondering if
21 there's any possibility that we could go with the
22 December 16th date?

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1 CHAIRPERSON JORDAN: Mr. May won't be
2 here.

3 MS. RODDY: Okay.

4 CHAIRPERSON JORDAN: And it's
5 important, I think, that he's here for whatever
6 addition that we're doing.

7 Okay, so, the submittal?

8 MR. MOY: Submittals, a week or eight
9 days before the 27th, perhaps Monday, January 19th.
10 So, the Board will have ample time to review.

11 CHAIRPERSON JORDAN: Okay, all right.
12 So, that is where we are, and we'll continue until
13 that date, with the supplemental information to be
14 placed into the file.

15 All right, thank you. Thank you, all.

16 Eight-six-seven, Mr. Moy?

17 MR. MOY: The next application is
18 Application 18867 of Growth Spurts. If the
19 Applicant is here, this a request for a variance
20 from the off-street parking requirements under
21 Section 2101.1 for a child development center at
22 1802 D Street, Northeast.

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1 CHAIRPERSON JORDAN: All right, very
2 good. Did you give your cards to the Court
3 Reporter? Okay, and were you here to get sworn in?
4 I didn't think so.

5 Okay, so, would you stand? Mr. Moy, we
6 need to give them the oath, please.

7 MR. MOY: Do you solemnly swear or
8 affirm that the testimony you're about to present
9 in this proceeding is the truth, the whole truth
10 and nothing but the truth?

11 Thank you. You may be seated.

12 CHAIRPERSON JORDAN: All right, please
13 identify yourselves. Make sure your microphone is
14 on. There should be a bright, glowing green light.

15 MR. SMITH: Calvin Smith.

16 CHAIRPERSON JORDAN: Okay.

17 MS. SMITH: Good morning. I'm Camilla
18 Smith.

19 CHAIRPERSON JORDAN: Before we begin,
20 I need to know, was this property posted with the
21 zoning sign, the placards?

22 MS. SMITH: No.

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1 CHAIRPERSON JORDAN: Okay.

2 MS. SMITH: You mean something on the
3 wall or the door?

4 CHAIRPERSON JORDAN: Yes.

5 MS. SMITH: No.

6 CHAIRPERSON JORDAN: Okay, so, we've
7 had -- we've got to end this hearing, and I thought
8 the office had conversations with one of you about
9 that.

10 MS. SMITH: They had conversation with
11 me on Friday, but I was out of town, and --

12 CHAIRPERSON JORDAN: All right, so,
13 we're going to have to continue this for another
14 time. You have to post the property.

15 You have to get the placards from across the
16 hall, and you have to put it on your property for
17 15 days, so that everybody knows what you're doing,
18 and give them the opportunity to comment on the
19 relief that is requested. All right, mandatory,
20 okay?

21 Then you have to file with the Board,
22 an affidavit swearing that these things happened,

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1 okay?

2 MR. SMITH: Okay, got you. No one told
3 us about that.

4 CHAIRPERSON JORDAN: Mr. Moy?

5 MR. MOY: Yes, sir, given the time
6 requirements for posting, that would take -- bring
7 us into January, again.

8 Given the number of hearing dates we
9 have in December, so, the earliest, the Board has
10 eight or nine cases for January 6th, which I would
11 have preferred, and January 13th is also similarly.

12 CHAIRPERSON JORDAN: And be sure to
13 stop with the Office of Zoning across the hall, to
14 make sure you know everything that you're suppose
15 to have for these things.

16 There is also a plaque, a document in
17 that back that tells you what needs to go on it,
18 and online there is a whole kind of step-through
19 kind of tutorial, so be sure you look at those
20 things, or seek advice for some -- you know, another
21 person professional, to do so.

22 MR. MOY: But given the nature of this

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1 application, I would suggest January 6th, sir.

2 CHAIRPERSON JORDAN: Okay, so, January
3 6th. We'll put this on the docket for January 6th,
4 okay?

5 So, I would go over across the hall now,
6 to get the signage and etcetera, get that all worked
7 out, so when you get home or wherever you're going,
8 get back to the property, put it up, so you at least
9 get that out the way. Okay, thank you.

10 Let's go ahead and line up. Get 18852
11 and 18853.

12 MR. MOY: Yes, sir. Again, this would
13 be Applications 18852 and 18853, both are
14 applications of SB Urban LLC, multiple variance
15 relief and special exceptions relief.

16 Both at premises 90 Blagden Alley
17 Northwest, the other property at 91 Blagden Alley
18 Northwest.

19 CHAIRPERSON JORDAN: As soon as Mr. May
20 comes back, we'll continue to introductions,
21 please. We'll take five minutes.

22 (Whereupon, the above-entitled matter

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1 went off the record at 11:43 a.m. and resumed at
2 11:46 a.m.)

3 CHAIRPERSON JORDAN: Okay, are we
4 ready, Mr. Moy?

5 MR. MOY: Whenever you are, sir. I
6 think they're all at the table.

7 CHAIRPERSON JORDAN: Okay, please
8 identify yourselves.

9 MR. KADLECEK: Good morning, members
10 of the Board. My name is Cary Kadlecek from the
11 law firm of Goulston & Storrs, on behalf of the
12 Applicant, and I'll let the rest of the team
13 introduce themselves.

14 MR. KATZEN: My name is Brook Katzen
15 with the SB Urban, the Applicant.

16 MR. BALABAN: I'm Mike Balaban with the
17 SB Urban.

18 MR. PERKINS: I'm Devon Perkins with
19 Hickok Cole Architects.

20 MS. MILANOVICH: Good morning. Jami
21 Milanovich with Wells & Associates, transportation
22 consultant for the project.

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1 CHAIRPERSON JORDAN: Thank you.
2 Okay, of course, we've got to drill down in the
3 parking, right?

4 I think -- let me see, the relief you're
5 requesting, sometimes I look at these things so far
6 in advance, I have to go back and read my notes on
7 them. I can't read them.

8 For me, it's drilling down on the
9 parking relief, I think. I am good on most --on
10 all the other requests and I think your application
11 is supported.

12 Board, anything you want to drill down
13 on?

14 MEMBER HINKLE: Yes, thank you, Mr.
15 Chair. I think most everybody at the table was
16 here for the last application. I have the same
17 issues with this application, as I had with the
18 last.

19 I'm not sure if the special relief --
20 I mean, the special exception for the parking
21 relief is appropriate in this case, and then
22 secondly, on both lots, I need to hear more about

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1 the uniqueness, and why that uniqueness would
2 create a practical difficulty in providing
3 parking. So, that's where I stand.

4 CHAIRPERSON JORDAN: Okay, all right.

5 MR. KADLECEK: Okay, we're happy to
6 provide that information.

7 CHAIRPERSON JORDAN: Board,
8 additional? We're good, okay, all right.

9 MR. KADLECEK: I also wanted to preface
10 it with the fact that we've reviewed the DDOT
11 report. They asked for us to agree to four
12 additional conditions, which we do agree do, and
13 with that, I'll let Devon and Jami discuss the
14 parking.

15 First, I think we'll focus on the
16 special exception for the M Street lot, and then
17 we'll talk about the variance relief for the 9th
18 Street lot.

19 MR. PERKINS: So, there are a couple of
20 key issues with the M Street lot, and looking at
21 the screen, M Street is on the south --

22 CHAIRPERSON JORDAN: Is that one of

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1 your exhibits?

2 MR. PERKINS: Yes, we submitted a set.
3 Should we hand out the package?

4 MR. KADLECEK: It's in the pre-hand.

5 MR. PERKINS: Okay, if you note on the
6 north end of the property, there is a historic
7 structure. It's a historic garage structure that
8 we have to maintain.

9 So, putting any type of parking on the
10 --

11 CHAIRPERSON JORDAN: Excuse me, Mr.
12 Moy, can we have the lights, please? Can you just
13 turn them on?

14 MR. PERKINS: Okay, so, talking about
15 the M Street building, located here.

16 At the north end of the property is a
17 historic structure that we have to maintain in
18 whole. So, providing any sort of access into the
19 building through this historic structure would not
20 be acceptable to HPO, and we are also not allowed
21 to have curb cuts along M Street at South, and we
22 have a very narrow alley to the west side of the

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1 site. The alley is only 15 feet wide.

2 So, it's actually extraordinarily
3 difficult to find an appropriate place into the
4 building.

5 I'm going to go to another diagram, as
6 well.

7 The site itself is 68 feet wide, but the
8 building portion is only 50 feet wide. We have FAR
9 limitations that control the size of the building
10 that we can build, and in this particular diagram,
11 it's oriented 90 degrees differently.

12 The historic structure is at the back,
13 which we cannot go under, and so, that leaves us
14 this portion of the building.

15 Aside from the fact that we can't come
16 in at the front and it's very difficult to come in
17 the side, and we can't come in at the back, just
18 accessing the building is extraordinarily
19 difficult, and also, the 50 foot width, when you
20 look at this diagram, you know, by the time you have
21 a drive aisle and a ramp you're left with about nine
22 feet in the center, which would be enough just to

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1 get a couple of parking spaces and we could get one
2 row at the end.

3 What this results in is more than 1,000
4 square feet of space.

5 CHAIRPERSON JORDAN: Where did you say
6 you could get one row in?

7 MR. PERKINS: On the end here. If we
8 could figure out how to get access off of the alley
9 and into a ramp, we can get approximately five
10 spaces on the end of the building.

11 However, when you look at the overall
12 configuration of the plan, more than 78 percent of
13 the plan is required just for circulation of the
14 vehicles, and so, you end up providing over 1,000
15 square feet of space for each vehicle, simply
16 because of the practical of the practical issues
17 of the building of that width.

18 CHAIRPERSON JORDAN: Yes, so, you
19 can't get another row in without -- because you
20 don't have access. You wouldn't have access to that
21 row.

22 MR. PERKINS: Yes, if we can get the

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1 turns to work, to get in --

2 CHAIRPERSON JORDAN: Got you.

3 MR. PERKINS: So, we can get about
4 eight spaces or nine spaces per floor at the max,
5 and practically speaking --

6 CHAIRPERSON JORDAN: But you couldn't
7 get --

8 MR. PERKINS: -- it's just really
9 inefficient.

10 CHAIRPERSON JORDAN: You couldn't get
11 to it.

12 MR. PERKINS: It would be very, very
13 difficult. It would be an extraordinarily
14 difficult entrance.

15 CHAIRPERSON JORDAN: Okay.

16 MR. PERKINS: I would say that it's not
17 feasible.

18 CHAIRPERSON JORDAN: Okay,
19 structurally not feasible or financially not
20 feasible?

21 MR. PERKINS: The amount of opening and
22 ramp that you would have to have, and the turns that

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1 you would have to make to get onto that ramp are
2 practically infeasible.

3 CHAIRPERSON JORDAN: Okay.

4 MEMBER HINKLE: So, the historic
5 structure, that's contributing or not?

6 MR. PERKINS: Yes.

7 MEMBER HINKLE: That is, and it was an
8 auto garage, is that correct?

9 MR. PERKINS: Yes.

10 MEMBER HINKLE: So, they were able to
11 get automobiles to the alley at some point in time,
12 but you're telling us now, you can't access it?

13 MR. PERKINS: No, cars come through the
14 alley, but we cannot put a ramp through the middle
15 of this historic structure.

16 MEMBER HINKLE: Okay.

17 MR. PERKINS: And in this particular
18 design, we are using that historic structure as all
19 of the amenity uses for the project.

20 CHAIRPERSON JORDAN: Ms. Allen?

21 VICE CHAIRMAN ALLEN: Can you go back
22 a slide or two?

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1 MR. PERKINS: To the ground floor plan?

2 VICE CHAIRMAN ALLEN: I don't know.

3 I'll tell you when you get there. There.

4 So, you talked about the north, the
5 south and the west, but I'm sorry, the north, the
6 south and the west, on this east side, what is that?
7 Yes.

8 MR. PERKINS: So, car-only, this is the
9 main entrance to the project, and once you come into
10 the project, all the amenity spaces are on this side
11 and all the residential units are on this side.

12 We are also not allowed to building our
13 building overtop of the historic structure, to the
14 greatest extent possible.

15 So, the building actually only extends
16 a little bit on top of the historic structure.

17 VICE CHAIRMAN ALLEN: What is the space
18 in between the buildings? Is that a street?

19 MR. PERKINS: This is an alley. It's
20 part of the Blagden Alley network and it's a 30 foot
21 side alley.

22 The difficulty that we have is that if

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1 we have to put a 20 foot opening here and pull in,
2 and immediately turn down, it's just a -- it really
3 effectively destroys the ground floor plan and the
4 connectedness of the amenities with the
5 residential units, and it's also just a very, very
6 impractical ramp solution.

7 CHAIRPERSON JORDAN: Okay, proceed.

8 MR. PERKINS: Okay, so, 9th Street has
9 similar issues. The 9th Street property is even
10 smaller. It is only 57 feet across in the width,
11 and about 130 feet in length, and again, if we
12 provide a ramp coming off of the alley at the back,
13 a ramp coming down, the ramp takes up more than
14 two-thirds of the length of the property, and we
15 can again, in an 8,000 square foot area, at the
16 very max, get eight spaces.

17 It also has, you know, just detrimental
18 impacts on what we would like to actually
19 accomplish on the alley, which is keeping the
20 activity and the pedestrian quality of the alley
21 itself.

22 So, again, it's just an extreme

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1 challenge and an extreme inefficiency on a building
2 of this size.

3 MR. KADLECEK: Devon, would you say
4 it's an unusual condition to have a property
5 flanked on two sides by an active pedestrian alley?

6 MR. PERKINS: Yes, extremely unusual.
7 This particular alley has numerous restaurants,
8 shops, exercise centers, coffee shops, and it's
9 very, very, heavily active by pedestrians, so,
10 keeping cars out of this alley is very desirable,
11 because as you know, alleys don't have sidewalks,
12 so that are a lot of people that use this alley.
13 So, minimizing the impact of vehicles on this alley
14 is critical to the design.

15 CHAIRPERSON JORDAN: Why did you say
16 that on the 9th -- go back to the 9th Street.

17 The first thing you said about the --
18 what was the width of the alley portion?

19 MR. PERKINS: The maximum width is 68
20 feet across here. The property then steps in a
21 little bit and the building about, our residential
22 building is a 50 foot wide building.

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1 CHAIRPERSON JORDAN: Okay.

2 MR. PERKINS: Which allows us to have
3 a residential unit on either side and a corridor
4 down the center.

5 CHAIRPERSON JORDAN: All right,
6 continue.

7 MS. MILANOVICH: So, as you know, the
8 parking required by code for the 9th Street
9 building would be 44 units. For the M Street
10 building would be 79 units, and we are seeking
11 relief from those requirements, as we will be
12 providing no parking.

13 The site is ideally situated with a
14 multitude of transportation options. The site is
15 a five-minute walk to the metro station. There are
16 six metro bus lines and a D.C. circulator line that
17 serve the project with bus stops in immediate
18 proximity to the site.

19 There are 19 car-sharing vehicles that
20 are within a quarter-mile of the project, and there
21 are two Capital bike-share stations within two
22 blocks of the site.

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1 In addition, there are an abundance of
2 nearby amenities, such -- and services, such as
3 grocery stores, restaurants, pharmacies, banks,
4 hardware stores, barber shops, salons, all making
5 it unnecessary to have a vehicle to run your typical
6 daily errands.

7 Importantly, the project -- both
8 buildings will have Blagden Alley addresses,
9 because Blagden Alley is not eligible for the RPP
10 database, that means that none of the residents of
11 the building will be eligible for residential
12 parking permits, and residents will be notified
13 that they will not be eligible for RPP permits when
14 they signed our lease.

15 To take advantage of the transportation
16 options that are available and to encourage people
17 to use those transportation options, the Applicant
18 will implement a transportation demand management
19 plan, and again, this is one of the most, if not
20 the most comprehensive transportation management
21 plans that I've seen for a project of this type.

22 There will be a transportation

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1 coordinator for the buildings. Again, that
2 coordinator will notify potential residents that
3 they won't be eligible for residential parking
4 permits, and that they will be prohibited from
5 obtaining residential parking or temporary parking
6 permits.

7 They will direct residents to the
8 property's website, where they'll find various
9 information on all of the transportation options
10 available to them.

11 The transportation management
12 coordinator will also maintain a current list of
13 neighborhood retail and service uses that are
14 available within walking distance.

15 There will be transit screens provided
16 in both residential buildings. Car-share
17 memberships will be provided for all residents of
18 the buildings, for the initial term of their lease,
19 and that will be done in perpetuity.

20 Capital bike-share memberships will
21 also be provided, however, instead of being
22 provided for residents who do not own bikes, at

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1 DDOT's request, we will providing them for all
2 residents of the buildings for the initial term of
3 their lease, and again, that will be done in
4 perpetuity.

5 There will be bike parking inside the
6 building for residents. There will be a bicycle
7 repair facility inside.

8 CHAIRPERSON JORDAN: Yes, we have the
9 TDM's. You're reading the list of TDM's that you're
10 submitting right?

11 MS. MILANOVICH: Correct.

12 CHAIRPERSON JORDAN: We can do that.

13 MS. MILANOVICH: Okay.

14 CHAIRPERSON JORDAN: Okay, but
15 questions, Board? Yes? Mr. Moy, may we have the
16 lights on, please?

17 VICE CHAIRMAN ALLEN: Thank you. I
18 just want to make sure I understand the nature of
19 this building.

20 It's a 100 unit building. Is it some
21 kind of a temporary housing or whatever? So, I
22 just --

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1 MR. BALABAN: Yes, I can offer --

2 VICE CHAIRMAN ALLEN: Let me just --
3 let me finish my question.

4 So, we're talking 100 units. We're at
5 -- you're suggesting absolutely zero parking, and
6 I didn't hear any discussion about even loading,
7 like how this 100 unit parking, where people are
8 going to -- you know, they have to have something,
9 I guess, some kind of a car or truck to load whatever
10 they're bringing to the building.

11 So, I mean, I have to tell you, I'm very
12 concerned about this, and would really like you to
13 discuss that a little more.

14 MR. BALABAN: We appreciate the --

15 CHAIRPERSON JORDAN: And because there
16 are 69 -- 60 more spaces required, isn't that
17 correct?

18 You're required to have 61 parking
19 spaces? Am I right or wrong?

20 MR. KADLECEK: You're correct, 62.

21 CHAIRPERSON JORDAN: And you're asking
22 for zero?

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1 MR. KADLECEK: That's correct.

2 CHAIRPERSON JORDAN: That's a lift.

3 MR. BALABAN: So, we appreciate the
4 question. We should describe a couple things about
5 the project and the community and our model that
6 may be helpful.

7 First of all, of the 123 units, they
8 will be 100 percent studio apartments. We formed
9 our company specifically to develop and operate for
10 the long-term, small household, small unit rental
11 apartments.

12 Number two, they will all be furnished.
13 So, there will be no move-in or move-out deliveries
14 of a conventional kind.

15 Number three, Jami referred to the
16 parking restrictions, and our leases will not only
17 point out that one cannot have a residential
18 parking permit, but the leases will preclude in
19 such a way that it would be a breach of the lease,
20 any tenant from seeking by any means, any parking
21 arrangements for any automobile that they may have,
22 by any means other than renting a space in a parking

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1 garage.

2 So, we're obligating ourselves to
3 impose on our tenants, the restriction that they
4 not park cars, other than in a commercial parking
5 garage, and the reason that we're so comfortable
6 doing that is that because the units are all small,
7 because they're all furnished and because they're
8 specifically targeted to a profile of tenant who
9 will appreciate our community which has
10 significant socially interactive shared living
11 spaces, our tenant is by definition, going to be,
12 because otherwise there would be no reason to live
13 in this community, that it's going to be a person
14 who does not have a lot of things, including does
15 not have car.

16 So, it is not an ordinary apartment
17 building. It is not an ordinary apartment
18 community. It won't have ordinary apartment
19 renters.

20 There are no one-bedrooms. There are
21 no two-bedrooms. There are no families. The
22 units average 380 square feet. We do not expect

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1 even many couples and the couples that we will have
2 from time to time, will be people who are urban and
3 share the perspective of all of the members of our
4 community, that they want to be immediately
5 proximate to transportation. They want to be
6 immediately proximate to pedestrian-accessible
7 urban amenities, and they want to have immediate
8 access to the workplace.

9 So, I hope that's helpful in describing
10 why it is that we're convinced that we won't have
11 cars, and what we're doing affirmatively by choice
12 to make sure that our tenants don't have cars, and
13 it's because of that, that we chose to change the
14 address of these buildings to Blagden Alley
15 addresses, which are not eligible for parking
16 permits.

17 It's completely consistent with our
18 model, and I hope that's helpful.

19 MR. KADLECEK: Mr. Balaban, can you
20 also explain the extent to which the units are
21 furnished and the nature by which you anticipate
22 residents arriving to the building, i.e., moving

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1 in?

2 MR. BALABAN: Yes, the units, as I
3 said, are 100 percent furnished. So, we expect
4 that most of our tenants will arrive by taxi or by
5 metro or by being dropped off.

6 They'll have a suitcase and a little bit
7 of stuff, if they have anything more, if they have
8 any china or they have any furniture from grandma,
9 they won't choose to live here, because there is
10 no room for it in the unit.

11 With regard to the loading plan,
12 actually we'd be pleased to describe briefly and
13 I think others can address it more extensively.

14 We have discussed with the ANC at
15 length, a loading and trash operations plan, which
16 does everything that we can to preclude in a way
17 that's consistent with this profile of tenant and
18 community that I've described to you, that we will
19 not have vehicular traffic contributed to the
20 alley.

21 CHAIRPERSON JORDAN: Basically, your
22 loading plan is that the tenant would be required

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1 to provide notice to you, couple weeks or so in
2 advance, and they are doing on-street loading and
3 unloading, correct?

4 MR. BALABAN: There is a designated
5 loading area on 9th Street, and our staff is
6 obligated by the conditions to advise all persons
7 and parties who may do loading that there is parking
8 on 9th Street, that parking is not permitted in the
9 alley, and we expect there will be very few people
10 who will actually arrive with anything that
11 requires a loading stop of any kind.

12 CHAIRPERSON JORDAN: When you say
13 parking on 9th Street, what do you mean?

14 MR. KADLECEK: It's commercial
15 loading.

16 CHAIRPERSON JORDAN: Okay.

17 MR. KADLECEK: It's a commercial
18 loading.

19 CHAIRPERSON JORDAN: That's what you
20 mean?

21 MR. KADLECEK: Yes, it's commercial
22 loading space.

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1 CHAIRPERSON JORDAN: Yes.

2 VICE CHAIRMAN ALLEN: And let me just
3 ask about the building itself.

4 Is there any storage for each of the
5 units?

6 MR. BALABAN: Yes, there is storage in
7 the building. The units themselves are designed
8 to include as much storage within that square
9 footage, as can be arranged, and there is storage
10 in the building available to the tenants.

11 VICE CHAIRMAN ALLEN: So, then they
12 could arrive with grandma's china, but just -- I
13 wondered, okay. Thanks.

14 CHAIRPERSON JORDAN: Anything else?

15 MR. KADLECEK: We have nothing
16 additional.

17 CHAIRPERSON JORDAN: Board, anything
18 additional from the Applicant?

19 Office of Planning, please.

20 MR. JESICK: Thank you, Mr. Chairman
21 and members of the Board. My name is Matt Jesick.

22 For most of my testimony, I will rest

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1 on the record, just to address the parking
2 question.

3 We felt that the application adequately
4 addressed the special exception test for parking
5 relief on the M Street property, as well as the
6 variance test for the 9th Street property.

7 We had requested that the Applicant
8 produce diagrams showing what a potential parking
9 layout would look like, if one were to somehow be
10 provided, and you can find that in the pre-hearing
11 submission, and they were shown in the Applicant's
12 PowerPoint.

13 So, we are comfortable with the
14 requested relief and recommend approval of the
15 project. We are also comfortable with the
16 proposed TDM plan, which is similar to other TDM
17 plans approved by the Board in the past, including
18 at 15 Dupont Circle, which was BZA case from last
19 year and had a very similar TDM package.

20 That concludes my testimony. I'd be
21 happy to take any questions.

22 CHAIRPERSON JORDAN: This is a hard

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1 something to swallow with 62 parking spaces gone
2 in kind of a residential neighborhood, and what is
3 your opinion about that? You don't find there is
4 any -- it won't have an impact on this neighborhood?

5 MR. JESICK: I believe the conclusions
6 both of the Applicant's transportation study, as
7 well as Department of Transportation, who was here
8 to testify, is that there wouldn't be an impact.

9 The residents would not be permitted to
10 park on the street. There are numerous transit
11 options available. I think as was alluded to in
12 the previous case this morning, the people who
13 choose to live in this location would -- and in the
14 -- specifically, the type of units that are being
15 provided, would likely not even have vehicles.

16 So, yes, we are comfortable with
17 granting the relief.

18 CHAIRPERSON JORDAN: Any other
19 questions for Planning, Board?

20 Applicant, any questions for Planning?
21 Mr. Rogers, transportation?

22 MR. ROGERS: Good afternoon. I'm

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1 Jonathan Rogers with the District Department of
2 Transportation.

3 Again, largely rest on the record and
4 only say that between the transportation options
5 that are plentiful and available on the vicinity,
6 the transportation demand management plan and the
7 parking restrictions and plans included in the
8 application, DDOT finds that there will be no
9 significant negative impact to the transportation
10 network, and also, DDOT acknowledges and
11 appreciates the Applicant's inclusion of the four
12 addition TDM measures in their application. I'll
13 be happy to answer any questions.

14 CHAIRPERSON JORDAN: So, no impact for
15 not having 62 parking spaces in a building that has
16 at least 175, is it? What is the number?

17 MR. KADLECEK:
18 One-hundred-twenty-three in it.

19 CHAIRPERSON JORDAN:
20 One-hundred-twenty-three units.

21 MR. ROGERS: That's correct. So,
22 looking -- I guess I'll focus on the parking

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1 management plan that the Applicant has proposed.

2 They've changed the address, so that
3 the properties aren't RPP eligible. The parking
4 spaces in the vicinity, the curbside parking spaces
5 are either RPP or they're metered spaces.

6 Without RPP permit, there are no viable
7 long-term curbside parking options for the
8 residents.

9 So, even if they were theoretically to
10 own a car, they wouldn't be able to park on the
11 street as a long-term parking option. They'd
12 either have to move their car every two hours, in
13 keeping with RPP restrictions, or they'd have to
14 adhere to the metered restrictions.

15 The target audience that the Applicant
16 is looking at are unlikely to own cars, however if
17 they should bring cars with them, the Applicant's
18 analysis identified sufficient parking in private
19 parking garages in the nearby vicinity, and that
20 would really be the only long-term parking option
21 that would be available to the residents.

22 CHAIRPERSON JORDAN: What do we do

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1 after two years from now, these buildings are up
2 and running, and we've got a parking problem? How
3 do we go back and say undo? Is there a way?

4 No, that was rhetorical. That's okay.
5 So, and this is a residential neighborhood, which
6 is even different than that on 16th Street,
7 although there is a lot more teeth here, with this
8 application.

9 Anyway, any other questions for
10 transportation? Anybody? All right.

11 Is there anyone here from ANC-2F?
12 ANC-2F? Please. Whoever is the representative,
13 please come forward. Who is the designated
14 representative?

15 MR. CAIN: That would be myself and
16 Greg.

17 CHAIRPERSON JORDAN: Okay, we usually
18 have one designated representative by the ANC, but
19 okay, that's fine. Would you please come up?

20 MR. CAIN: My name is Walt Cain.

21 CHAIRPERSON JORDAN: Just make sure
22 that the microphone is on, please.

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1 MR. CAIN: My name is Walk Cain. I'm
2 the Vice Chair for ANC-2F, and the reason that we
3 felt it important to have both myself and Greg here,
4 is that in my capacity as Vice Chair, I also Chair
5 our community development committee, which is the
6 formal first impression for the ANC, for BZA
7 matters, HPRP matters, those types of things.

8 Greg sits on that committee and it's
9 also --

10 CHAIRPERSON JORDAN: And Greg's last
11 name is?

12 MR. CAIN: My name is Walt Cain. This
13 is Greg Melcher.

14 CHAIRPERSON JORDAN: Greg Melcher.

15 MR. CAIN: And Greg sits on that
16 committee, and also is the Commissioner who
17 represents the single-member district, where the
18 project would be located.

19 He is also very involved with the
20 Blagden Alley and Naylor Court Community
21 Association, so, I thought that he had a very
22 unique perspective that would be valuable to --

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1 CHAIRPERSON JORDAN: Okay.

2 MR. CAIN: -- to the Board.

3 CHAIRPERSON JORDAN: But just make
4 sure we have our five minute on our timer, please,
5 Mr. Moy.

6 All right, very good. Thank you, and
7 welcome, please.

8 MR. CAIN: Thank you. I'll keep this
9 brief, but I wanted to say that your initial
10 reaction was the same as mine. The ANC has been
11 working with SB Urban on this project for several
12 months, trying to arrive at a conclusion that we
13 thought was beneficial for the neighborhood.

14 Then they first came, I looked at the
15 application and again, said exactly what you said,
16 "Are you telling me zero parking places," and but
17 since then, and over the course of the past several
18 months, we've come to a place where I think that
19 this is -- it's in the best interest of the
20 community, and I think it will really be a benefit
21 to the community, and the things that specifically
22 led the ANC to that conclusion was the changing of

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1 the address to Blagden Alley, thus making the
2 residents ineligible for RPP.

3 The transportation demand plan, which
4 includes -- the Applicant has also agreed to
5 install an additional Capital bike-share station
6 within the immediate vicinity of the project.

7 The loading and unloading, actually the
8 kind of -- the concern of the community was around
9 not necessarily folks moving and moving out, but
10 if these are people who are coming in with very few
11 things, they're going to be ordering a lot of things
12 that need to be delivered. So, FedEx, UPS, those
13 types of things.

14 Those were concerns that we raised and
15 that they suitably addressed, in putting together
16 the delivery plan that they noted in their
17 transportation demand management plan. We feel as
18 though they have addressed those concerns.

19 Then also, the nature of the
20 development being short-term leases, very small
21 units, it's just not hospitable to folks who are
22 going to come with a lot of baggage and are going

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1 to need parking.

2 I'll wrap up my portion, just by saying
3 that we work with a lot of developers on a lot of
4 different projects, and these folks have really
5 been our example of the way the process should work.

6 They've been very collaborative, very
7 responsive. They've taken the feedback of the ANC
8 and responded positively and substantively to
9 that, and made changes that really addressed the
10 concerns of the ANC.

11 CHAIRPERSON JORDAN: Mr. Melcher.

12 MR. MELCHER: Okay, thank you. Yes, I'm
13 the President of the Blagden Alley/Naylor Court
14 Association, as well as a single-member district
15 from ANC-2FO6.

16 By the way, as a matter of record, I
17 testified here in opposition to a BZA proposal in
18 1994 to change this alley to commercial, which was
19 approved. I just thought I'd note that, although
20 I'm glad to see that at least now 2014, I do welcome
21 our commercial neighbors coming into the alley, the
22 shops, the restaurants, and the other things going

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1 on there.

2 But I'm also very glad to see that these
3 two large lots are going to be residential for the
4 most part.

5 In considering the proposal, I was
6 looking very carefully at the interior of Blagden
7 Alley and all the other development activity
8 currently underway.

9 I'm looking at it more as a system that
10 we have to work together, not as individual
11 properties.

12 What I've concluded is that the ideal
13 solution for future development is one that does
14 not add any additional vehicle traffic to the
15 interior of the alley.

16 We believe it's very important that
17 Blagden Alley become a living alley full of
18 pedestrians either walking in or between their
19 places of residence and the restaurants and bars
20 that are here or soon to come.

21 We should also be capital that there's
22 a metro stop that is a short two blocks away, and

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1 by the way, if you walk out of that metro, you walk
2 under the underpass. So, you're literally only
3 going about 100 feet before you're in this
4 building, or actually outside, exposed to the
5 elements.

6 In any event, for that reason, I've
7 reached the conclusion that I don't really want to
8 see any additional parking or parking garage
9 entrances in the alley.

10 At present, we have one restaurant,
11 Rogue 24, one bar the Lost and Found, a doggie
12 daycare place, a yoga studio, a supper club, a
13 couple art galleries, all that are co-existing in
14 there, and we're expecting to have additional
15 restaurants and bars that will open in the near
16 future.

17 All this again, is leading to the desire
18 of Blagden Alley to become a walk-in paradise and
19 any additional uses should be ones that do not add
20 additional vehicle traffic.

21 You just need to go there a few minutes
22 on a Saturday around the coffee bar and see what

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1 goes on, the people walking around, and see how
2 that's impeded by the traffic now. It's only going
3 to get worse if we put something in there that
4 brings more cars and vehicles into it.

5 In addition, I've been working with
6 some of the business developers around there and
7 want to work more with DDOT to ensure that we do
8 have the proper loading zones along 9th Street and
9 ensure that we can remove the additional truck
10 traffic that might ordinarily be required to
11 service these properties.

12 The Douglas development properties
13 agreed to this. The American restaurant that's
14 coming, their settlement agreement includes the
15 provision that they will hand-truck their stuff
16 from the loading zones on the street, into the
17 interior of the alley.

18 As Walt has mentioned, we've worked
19 closely with the developer over the last six months
20 to get this project forward, and you've seen all
21 the provisions.

22 So, bottom line is, this is really our

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1 fifth try at this location in 20 years, to get
2 something to happen. It's fortunate we found a
3 project that's both residential and fits with our
4 downtown close to metro location, and just keep in
5 mind that something could come back, if this
6 project doesn't go through, it could be C-2-A, it
7 could be fast food restaurants, who knows what
8 would go in those lots.

9 I think this is one that's worked, and
10 I ask you to approve it. Thank you.

11 CHAIRPERSON JORDAN: Board, any
12 questions of the ANC representatives?

13 I take it when you say this is in the
14 best interest of the community, it's because there
15 have been vacant properties? Is that -- and that
16 you think it's better for --

17 MR. MELCHER: They're basically --
18 have been used for parking of the -- the old
19 warehouse, the historic building has had storage
20 in it and the rest of the two lots are just parking
21 lots, at this point.

22 CHAIRPERSON JORDAN: And so, you don't

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1 perceive there is any impact of not having -- thus
2 having zero to 62 less parking spaces?

3 MR. MELCHER: Well, clearly, there is
4 going to be impact when you build a new building,
5 you know. Clearly, there will be more people.
6 There will be more density. That's going to
7 happen, whatever you put there.

8 I just think in this case, they built
9 the case to justify minimizing it, and further, if
10 you look at the entire alley and think of the
11 historic alley, what you want it to be, I envision
12 it full of people walking around, going to the
13 restaurants, the bars, using the shops that are
14 back there, and if you add additional garage door
15 entrances and more cars and more trucks going in
16 there, then you're never going to achieve that
17 vision.

18 CHAIRPERSON JORDAN: All right, any
19 other questions, Board?

20 Then is there any one here -- thank you
21 for coming.

22 Anyone here wishing to speak in

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1 support? We do have a letter from the Coalition
2 of Smarter Growth and letters of another neighbor.
3 Anyone else want to speak in support?

4 Please come forward, and you have three
5 minutes. Okay, please.

6 MS. CORT: Thank you, Chairman. My
7 name is Cheryl Cort. I'm with the Coalition for
8 Smarter Growth. I did submit written testimony in
9 advance.

10 We are a non-profit in the Washington,
11 D.C. region, where we're based in D.C., making the
12 case for smart growth. Our mission is to promote
13 walk-able, inclusive and transit-oriented
14 communities, and the land-use and transportation
15 policies and investments needed to make those
16 communities flourish.

17 We wish to express our strong support
18 for this residential housing project and the
19 variances needed to make it feasible and
20 appropriate to its unique context, which I note is
21 a treasured pedestrian oriented historic alley,
22 and I really recommend that everybody, if you

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1 haven't been there, you really need to go there.
2 It's a wonderful -- it's a wonderful place.

3 Given the continued strong demand to
4 live in this growing neighborhood and in the city
5 in general, the site's walking and bicycling
6 proximity to hundreds of thousands of jobs and the
7 neighborhood's low car ownership rate, this
8 project is a helpful contribution to making the
9 city's -- meeting the city's need for housing.

10 The project is especially welcome with
11 its addition of 11 inclusionary zoning units, half
12 of 50 percent AMI and half at 80 percent AMI.

13 The building has -- could require a
14 level of parking that's actually even
15 inappropriate, in terms of what we were seeing, in
16 terms of a typical market development would
17 typically do, sort of dig down like one level, about
18 the .3 parking ratio. This is that higher .5,
19 which developers consistently tell me is just too
20 high for these great transit-oriented
21 neighborhoods.

22 But no-vehicle parking is appropriate

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1 for this location for the following reasons.

2 Parking would be a costly and unneeded
3 expense, especially given the numerous transit
4 alternatives readily available in the
5 neighborhood. The project is only intended to --
6 for residents who do not own or need a car.

7 The project's management will amplify
8 residents already significant transportation
9 options through substantial transportation demand
10 management program and other services, and the
11 historic character of Blagden Alley would be
12 significantly degraded by adding parking
13 facilities.

14 We note actually, if you look at the
15 commute pattern for the census tract that most
16 commuters are walking to their jobs. Thirty-seven
17 percent of people going to work every day are
18 walking to their jobs, and that is followed by
19 riding transit at 31 percent.

20 The area already enjoys 41 percent
21 car-free renters, and that's before trying to
22 attract and -- attract car-less households.

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1 That's just passively, not actively seeking out
2 those who don't need cars and those who are seeking
3 to live in a place where it is very easy not to own
4 a car.

5 I think what's important about this
6 project is that it offers a sound alternative to
7 unworkable parking requirements and demonstrates
8 the fallacy of the notion that there is a fixed
9 amount of parking demand per housing unit.

10 This is specific to a context, to the
11 type of person that is being attracted to a
12 particular housing project, and we welcome this
13 added housing, taking advantage and -- taking
14 advantage of this location and really building on
15 the strength of the transit accessibility, but even
16 more so actually, the walk -- this incredibly high
17 walk to work rate.

18 So, it's not even we're talking about
19 transit here. We're actually just talking about
20 people walking to their jobs.

21 We agree with ANC-2F, that the
22 developer has demonstrated a compelling

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1 alternative model for providing housing that does
2 not generate demand for vehicle parking and we
3 applaud the robust transportation demand
4 management program, and I especially want to call
5 out the new Capital bike-share station with the
6 additional bikes and docks, and along with the
7 other things, including bicycle storage room and
8 a bicycle repair room.

9 So, in summary, I just want to say that
10 we are very enthusiastic about this very
11 intentional project, that does not need to and is
12 intentionally seeking to serve people who don't own
13 cars, who don't want to own cars and who want to
14 live in a great place where they can probably walk
15 to work, and we also, with our publicizing this,
16 we have 41 people who have joined with us in signing
17 a petition, saying that this is a really great
18 project, that we hope that the BZA will advance.
19 Thank you very much.

20 CHAIRPERSON JORDAN: Board, any
21 questions? Applicant, any questions? Our next
22 witness, please. You've got three minutes. Make

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1 sure the microphone is on. Thank you.

2 MR. LEFEBVRE: Hello. My name is
3 Alexis Lefebvre. I'm a resident on the 1400 block
4 of Church Street. I used to live at 16th and R,
5 so I'm well aware of how difficult parking is in
6 neighborhoods around Logan Circle.

7 I know there was another sort of
8 controversial parking variance case on my block
9 recently, and I supported the approval of that one,
10 as well.

11 I think sort of -- we've touched on the
12 issue here that for most people like me, and I'm
13 just speaking anecdotally for me and my friends in
14 the neighborhood, it's a very conscious choice to
15 live a denser metro-accessible area. It's a lot
16 of people that don't have cars, don't want cars,
17 that like the walk-ability. That's really an
18 appeal of the neighborhood.

19 Again, just speaking from either me and
20 my friends of the five households that I am friends
21 with in this area, three of those have cars. We
22 all have garage parking. I have a friend who moved

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1 there with a car, after two weeks, he couldn't take
2 the parking. He sold it, didn't need it.

3 People's attitudes towards driving and
4 parking are changing, particular in this
5 neighborhood. So, I would urge BZA to approve this
6 and other projects like it, particularly where the
7 developer, I think is really gone to great lengths
8 to address the concerns.

9 I wasn't even aware of the Blagden Alley
10 address change. I think that's, you know, a great
11 addition to this project, so, thank you.

12 CHAIRPERSON JORDAN: Board, any
13 questions? Applicant, any questions?

14 Thank you very much. Thank you, two,
15 for coming.

16 Anyone here wishing to speak in
17 opposition? Yes, please come forward.

18 I'm going to limit the number, because
19 I'm sure it's all on the parking issue and if it
20 gets kind of redundant.

21 Yes, we need some additional space, if
22 we could. Mr. Kadlecek, you can bring some of your

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1 team back up, if necessary.

2 All right, let's see. How many do we
3 have? One, two, three, four, five, six, okay.

4 Is someone going to talk about anything
5 other than parking? Who is speaking, other than
6 parking?

7 MR. MIKHAILOV: Hi, Mr. Chairman. I'm
8 Sergei Mikhailov, and I'm the Petitioner
9 organizer. In addition to the witnesses here, we
10 have petition with 75 signatures in opposition to
11 the project.

12 CHAIRPERSON JORDAN: Okay, that wasn't
13 what I asked.

14 So, we're going to do two minutes a
15 witness, because we understand that issue, but we
16 just simply want you to -- so, let's begin please.
17 Yes, but still, we're going to -- go ahead, please.

18 Just make sure, you've got to identify
19 yourselves, and let me first ask, have all of you
20 been sworn? Have you been sworn in?

21 Mr. Moy, let's make sure -- if you have
22 not been sworn, please stand and take the oath with

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1 Mr. Moy.

2 (Witnesses sworn)

3 CHAIRPERSON JORDAN: Please identify
4 yourself.

5 MR. NELSEN: My name is Craig Nelsen.
6 I live in Blagden Alley, and what it seems like this
7 project is, is just an attempt to take -- to jam
8 as many apartments and as many people as possible
9 into a small area, regardless of the impact it might
10 have on the people who already live there.

11 As I understand it, this project is
12 planning to widen the alley and turn -- co-op the
13 alley, usurp it basically, to provide a common area
14 for the residents of this project, and this is --
15 this is something that they're selling as a way to
16 keep people from going crazy, living in apartments
17 the size of two parking spaces.

18 This is -- if anything is going to harm
19 the character of Blagden Alley and its historical
20 nature, it's seems to me, this would be it. It's
21 not even close to keeping it within the character
22 of the alley, as it is today.

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1 So, I think -- you know, I just hope that
2 the -- I think what -- some of the objections I've
3 heard from the Chair has been -- have been right
4 on, and I think that the people -- the greed that
5 sort of is -- the engine behind this project should
6 be -- if left unchecked, is just going to destroy
7 what is there, and that would be a shame, because
8 as you said, if that happens, there is no going
9 back. Once this is done, you know, it's over and
10 the whole city will have lost something that's kind
11 of a treasure.

12 CHAIRPERSON JORDAN: Thank you very
13 much. Board, questions? Applicant, questions?
14 Our next witness, please.

15 MS. BEEBE: Good morning. My name is
16 Carolyn Beebe, and I have lived on M Street, three
17 doors down from this proposed development since
18 1980. I raised my daughter in this house and my
19 daughter and her husband are now raising their
20 three children in this house.

21 We are clearly committed to this
22 residential neighborhood and to the city, and this

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1 neighborhood, as we've already discussed, is
2 unique. It's the first residential block north of
3 the downtown development and in 1996, the Board of
4 Zoning signed this case that changed the alley
5 zoning to C-2-A, and this was a movement by people
6 in the neighborhood to try to decrease the terrible
7 crime that was going on in the 1990's in Blagden
8 Alley, and the document, which we have here, it
9 states quite clearly that this was -- the purpose
10 of this was to protect the character of the
11 neighborhood, the residential character of the
12 neighborhood, and it was requesting that there
13 would be small scale commercial uses and
14 residential uses to revitalize the interior of the
15 square.

16 This development that is being
17 proposed, these 130 or 125 units, these tiny 300
18 square feet units, are essentially residential
19 hotels, and this is going to be a hotel on a
20 residential block.

21 They say they have a kitchen. It's two
22 burners and a little fridge, which is what you get

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1 in a hotel room.

2 So, this is not appropriate for this
3 residential block, apart from parking, which is
4 another issue, but it's a very dense development
5 that is going to detract from the residential
6 character of M Street.

7 CHAIRPERSON JORDAN: Thank you, Ms.
8 Beebe. Board, any questions? Applicant,
9 questions? Our next witness, please?

10 MS. SCHAUER: Good morning. My name
11 is Barbara Schauer. I am -- my building is at 937
12 M Street. I've been in the area since 1988, and
13 as Carolyn said, Zoning Commission Order No. 782,
14 dated February 12, 1996 re-zoned the interior of
15 the alley from R-4 to C-2-A, with 10 pages of
16 discussion as to what the limits would be on this
17 development. It was C-2-A with many limits, in
18 terms of the density of the commercial development
19 was allowed.

20 Back in 1996, and I was there, so I
21 remember, nothing of this sort would have ever been
22 agreed to, and this is not just an apartment

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1 building. It's like a dormitory -- it's a short
2 residents hotel, three to six months per person.

3 Yes, people will find ways of finding
4 parking. They can go down to the local police
5 station and get a card to stick in their window
6 for a month. So, this notion that that's going to
7 be prevented it not true.

8 Number two, the third prong of the
9 variance proof is that you have to show substantial
10 detriment to the public good or impairment of the
11 intent purpose or integrity of the zoned plan does
12 not occur.

13 They have not made an argument that this
14 development does not do all of those things.

15 Historic Blagden Alley is unique. It's
16 unique in the east coast. It's unique in
17 Washington. It is not a pedestrian alley. Just
18 about every street that leads into it has a garage
19 behind the house, including myself, Carolyn and
20 many of these people. People drive through the
21 alley.

22 The notion that it's going to become

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1 some kind of a Venetian piazza is a fantasy. It's
2 a drive-able alley with lots of garages in back,
3 and in fact, the building that they're
4 incorporating into the development is a garage.
5 It's not a beautiful house. It's not a store. It
6 is not a pedestrian alley.

7 If you come in there, you'll see there
8 are not many cafes. There is one coffee and there
9 is one tiny, little restaurant that is only open
10 three days a week for special evening events and
11 a bar that just opened last week.

12 So, it is not a busy commercial zone.
13 That's absolutely not true, and finally, there were
14 many people who would have come here today. I have
15 signatures here for 74 people who are adamantly
16 opposed to this, for a variety of reasons.

17 We want protection of our precious
18 alley. It's a resource for us, for our future
19 generations, for the entire city, for the country.
20 It's on the National Register. It's also in a D.C.
21 historic zone.

22 Secondly, the issue of this loading and

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1 unloading of trash. How does 100 -- how does trash
2 for 125 people get removed from a building and put
3 on the sidewalk? This is their proposal. There's
4 no loading dock, and this notion that people are
5 going to be biking up with their little satchel to
6 go into an apartment is absurd.

7 They're short-term rentals, three to
8 six months. People are going to be coming and
9 going in droves, like a hotel.

10 CHAIRPERSON JORDAN: Okay, I
11 appreciate --

12 MS. SCHAUER: And that's the end of my
13 statement. Thank you.

14 CHAIRPERSON JORDAN: No, no, I think it
15 was impactful. Thank you.

16 MS. SCHAUER: But I would like to put
17 some things into the record, that I brought.

18 CHAIRPERSON JORDAN: No, we've used
19 the time, but if you could submit your --

20 MS. SCHAUER: Yes, I put my paper in,
21 yes.

22 CHAIRPERSON JORDAN: Okay. Board?

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1 Applicant? Next, please.

2 MR. MIKHAILOV: Mr. Chairman, I was
3 wondering if in light of the fact that we do have
4 75 signatures from the neighbors, if you can allow
5 us --

6 CHAIRPERSON JORDAN: No, two minutes.
7 Go ahead.

8 MR. MIKHAILOV: All right. So, I do
9 agree with the second Zoning Commission ANC
10 Commission that re-zoning back in 1996 to create
11 C-2-A zone did create a problem, and I guess my
12 recommendation for this, I think that to really
13 correct this issue, it should not be done at the
14 BZA level. Should go back to Zoning Commission and
15 actually get re-zoned back.

16 Now, addressing the various variances
17 requests, I do -- I'm encouraged by the fact that
18 in the previous case, for the Church Street
19 development project, that the Board voted 3-2, just
20 barely in favor of the project, and I feel that
21 the increased magnitude of this project and even
22 a more brazen request for, you know, zero parking

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1 spaces, it's provided six, convinces some members
2 to vote in opposition.

3 Now, I did some -- I will submit a --
4 I guess a 15 page report, which I hope you will read
5 a little bit. I tried to make arguments for all
6 the prongs, the variances tests.

7 I am not at all convinced that either
8 property is exceptional. Generally, the
9 Applicant essentially lists several factors,
10 majority of them are in fact, favorable, and then
11 they declare that there is a combination of factors
12 as to how it constitutes exceptional condition.

13 You know, and I have a long list, which
14 I don't have time to review right now, but just from
15 a review of those.

16 So, I do not believe that the
17 exceptional condition has been met.

18 Going -- addressing the issue of
19 practical difficult for parking, again, their
20 argument is that the general garage will be
21 inefficient. As far as I know, inefficiency by
22 itself is not -- doesn't have any bearing in BZA

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1 deliberations.

2 There is a long sort of gap between
3 inefficiency and practical difficulty. So far,
4 this has not been proven.

5 Now, there are other ways to achieve
6 efficiency. I have several appendices that are
7 attached, that suggest that one can use a car
8 elevator or an automated parking system to achieve
9 greater efficiency.

10 CHAIRPERSON JORDAN: You're over your
11 time. So, and we've seen what you submitted.

12 MR. MIKHAILOV: Well, I do request that
13 you read the report.

14 CHAIRPERSON JORDAN: I know you have
15 submitted information before, and we've already
16 looked at that. So, just to let you know that.

17 But we appreciate your concern and
18 certainly, the depth of your concern and research
19 and work here on this particular -- because I do
20 know we've had that, and that these things are very
21 important.

22 Next witness, please.

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1 MR. LIPINSKI: My name is Don Lipinski.
2 I live at 937 M Street. I'm just not in favor of
3 this project.

4 Even if the variances weren't needed,
5 the project is just too large and too dense for
6 Blagden Alley Historic District, and the
7 surrounding residential area.

8 Protection of this area was promised in
9 the re-zoning of 1996 and it was intended to offer
10 some commercial development, to stabilize the
11 neighborhood alley.

12 Now, we're faced with a situation where
13 the excessive development threatens to overtake
14 the alley, and this shouldn't be allowed.

15 What is proposed is far beyond thinking
16 of behind the re-zoning. I have lived there since
17 1989 and this type of development was never
18 envisioned.

19 The alley is a rare historic area, and
20 the intention was for protection, not for
21 commercial development. The area is on the
22 national historic registry for historic places,

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1 and development must be modest, scaled to preserve
2 the history.

3 The surrounding Victorian row houses
4 must also be protected from the encroachment of
5 commercial development.

6 It's quite obvious that any hardship
7 the developers feel they may have is one of their
8 own making. The site is develop-able, but at
9 reasonable scale, and that concludes my --

10 CHAIRPERSON JORDAN: Thank you for
11 your comments. We understand the impact, yes, but
12 it's kind of caught all in.

13 Board, any questions? Thank you. Our
14 next witness.

15 MS. CORRIGAN: My name is Colleen
16 Corrigan and I live right on the alley. I'll show
17 you where.

18 I live right here, and this -- this
19 community development is really going to affect me.

20 CHAIRPERSON JORDAN: I have to have you
21 on the microphone.

22 MS. CORRIGAN: Okay, no problem.

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1 Right behind my house. I have a unique house. I
2 have 10 unit -- a small 10 unit apartment building.
3 So, I am aware of what apartments are.

4 Out of my 10 units, four of my tenants
5 have cars. I have two studios and -- I have two
6 studios and eight one-bedrooms, and to say that
7 they will not get cars is a fluke. They will get
8 cars. People do want to drive places. They want
9 to go see mom and dad. They want to drive.

10 They also rent cars. Enterprise is
11 right down the street, and they rent a car and
12 they'll bring their rental car right back, and my
13 tenants do rent their cars -- rent cars, and they
14 have to find parking on the street.

15 It's very hard to find parking on the
16 street now, and it's going to be absolutely insane
17 to find parking on the street with this property
18 122 units coming.

19 My husband is also handicapped. Have
20 to get him out the back door of my -- I have a ramp
21 built in the back of my house, to try to get him
22 out my back -- out my back door, and I need access,

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1 and it's been very hard right now, to get access
2 back and forth. I need access to 9th Street and
3 in the alley.

4 If this becomes pedestrian only, I will
5 not be able to get him out the door. Thank you very
6 much.

7 CHAIRPERSON JORDAN: Thank you. Our
8 next witness, please.

9 MR. HORVATH: Yes, my name is Ed
10 Horvath. I live at 929 --

11 CHAIRPERSON JORDAN: Last name?

12 MR. HORVATH: Horvath, H-O-R-V-A-T-H.
13 I live at 929 M Street. It's three lots away from
14 this development.

15 This is a very unique situation,
16 special situation. One thing which hasn't been
17 raised and which is not in the OP's report is this
18 property is -- the 9th Street property is
19 immediately adjacent to the D.C. Convention
20 Center.

21 Both of the -- the D.C. Convention
22 Center is within 200 feet of both of these

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1 properties. At the D.C. Convention Center, that
2 was plopped in the middle of our neighborhood. We
3 have at times 45,000 people there for events, with
4 zero public parking.

5 This just adds too that burden. Even
6 the parking that we have, when we have special
7 events, special national emergency events, the
8 President is there, our streets are blocked off.

9 We have 10 foot fences in front of our
10 homes. We need to, you know, be able to get in and
11 out.

12 So, this is not a normal street in a
13 normal neighborhood. Blagden Alley is 30 feet
14 wide there. The idea of mechanical parking is
15 something which again, could alleviate the -- and
16 allow for denser parking within parking
17 structures.

18 While 62 spaces may be a lot, I think
19 that at least two-thirds of that number would be
20 a reasonable way to go. Don't have to have
21 everything, but I have friends who are major bike
22 riders, and they say, you know, they can't envision

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1 123 units of people, even who were serious bikers,
2 not having vehicles.

3 One of the other things that was brought
4 in the prior case was, there is no provision for
5 ADA parking either. Zero parking, and you know,
6 I think this is just such a burden on the
7 neighborhood.

8 We had other buildings, right on the
9 same square where zero parking was proposed. They
10 went back and re-did their designs, put in two
11 levels of parking, and across the street from this,
12 immediately across the street, the Whitman condo,
13 that was built and we had influence on the architect
14 there. They have more than a one-to-one ratio of
15 parking per unit.

16 Parking is -- off-street parking in
17 garages is needed in this neighborhood. Thank
18 you.

19 CHAIRPERSON JORDAN: Thank you.
20 Appreciate your concern and comment.

21 I think we have one other person that
22 came in. No? Yes?

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1 MS. BAKKER: Yes, I did.

2 CHAIRPERSON JORDAN: All right, you
3 have two minutes, please.

4 MS. BAKKER: Sorry?

5 CHAIRPERSON JORDAN: Two minutes,
6 please.

7 MS. BAKKER: My name is Sara Bakker.

8 CHAIRPERSON JORDAN: Just make sure
9 your microphone is on.

10 MS. BAKKER: My name is Sara Bakker.
11 I'm at 1235 4th Street, and I have similar concerns
12 as other neighbors have stated.

13 But specifically, the biggest concern
14 is with the transportation analysis, and that the
15 Applicant was allowed to reduce the trip generation
16 number by 90 percent.

17 This yielded number is below a
18 threshold of a required full traffic impact study,
19 and when my husband, Sergi Mikhailov spoke with
20 Jonathan Rogers, the development reviewer for
21 DDOT, he was asked, why the 90 percent reduction
22 was -- how it was rationalized and why 90 percent

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1 and not 75 percent?

2 He stated, Mr. Rogers stated that the
3 DDOT felt that the 90 percent was reasonable,
4 without citing any concrete study. In fact, there
5 was no study to back the generous 90 percent
6 reduction.

7 Essentially, he had allowed the
8 Applicant to make assertions without any factual
9 basis, and we find this to be arbitrary and
10 capricious.

11 In other matters, the domino effect,
12 because we don't live directly in that
13 neighborhood, but the domino effect of parking due
14 to events in the Convention Center, and otherwise,
15 we have a family and we find it very difficult to
16 find parking, especially on weekends. So, we
17 foresee that increasing.

18 The speaker mentioned earlier that he
19 foresees -- because it is fully rented or fully
20 furnished, that there will be no -- nobody will be
21 driving, and that's incorrect because it's similar
22 to dorm living, and if anyone has children in dorms,

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1 you bring a lot of stuff for them. You drive.
2 They have families. They will buy stuff. The
3 premise is that they will have cheaper living, so
4 they will probably spend more money.

5 You have Uber, which is a new form of
6 transportation and it is prevalent in our
7 neighborhood. They come, they go to the
8 alleyways, the find parking on the street. They
9 double-park, and that -- he mentioned, there will
10 be other forms of transportation, including being
11 picked up, and that is a very frequent and
12 encouraged way now.

13 So, it impacts many people. Excuse me.

14 CHAIRPERSON JORDAN: Well, your time
15 is up.

16 MS. BAKKER: Two minutes? Okay.

17 CHAIRPERSON JORDAN: Thank you. We
18 appreciate all the comments. Board, questions?
19 Applicant, questions?

20 We thank you all for coming down. Your
21 input is very important. We know generally, the
22 gist of where you are, and other comments were the

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1 same, you know, kind of boxed in. That's why we're
2 able to kind of convince it.

3 We understand the issue, and we're
4 taking a good, hard look at this. So, thank you
5 all for coming down.

6 Mr. Kadlecek, rebuttal? Let me ask one
7 question. Is the property -- you said the property
8 is going to be furnished. Is it optional? Can I
9 take the furniture out?

10 MR. KADLECEK: I'll let Mr. Balaban
11 speak to that, but my understanding is no, and I
12 also want to emphasize, not only are they
13 furnished, by the provide everything from linens,
14 dishes, utensils. It's not like a dorm. People
15 don't have to bring anything.

16 CHAIRPERSON JORDAN: Like a hotel?

17 MR. KADLECEK: Except you have to have
18 a lease.

19 CHAIRPERSON JORDAN: How long is the
20 lease?

21 MR. BALABAN: There will be no leases
22 shorter than 90 days.

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1 CHAIRPERSON JORDAN: It's
2 extended-stay hotel.

3 MR. BALABAN: We certainly wouldn't
4 call it that. There will be residential leases and
5 we expect to have many 12 month leases and if it's
6 convenient for a specific tenant to make shorter
7 arrangements, because it is so easy to move in and
8 move out, because as Mr. Kadlecek said, everything
9 is provided, we expect there will be some
10 short-term tenants.

11 CHAIRPERSON JORDAN: Rebuttal, Mr.
12 Kadlecek?

13 MR. KADLECEK: Yes, Mr. Milanovich is
14 going to speak a little bit about TDM.

15 CHAIRPERSON JORDAN: What about them?
16 We've got the TDM plan.

17 MR. KADLECEK: Effectiveness of TDM.

18 CHAIRPERSON JORDAN: It's not
19 rebuttal, right?

20 MR. KADLECEK: Well, the -- I believe
21 that the neighbors testified that they think there
22 is going to be a significant impact on the

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1 neighborhood.

2 CHAIRPERSON JORDAN: Go ahead.

3 MS. MILANOVICH: I just thought it
4 might be helpful to cite a few case studies, that
5 show that the TDM plan is actually -- they do work.
6 They are effective in reducing vehicular trips, and
7 the case studies that I'm going to cite are actually
8 -- the TDM plans aren't nearly as robust as what
9 we're proposing.

10 So, we've done annual studies at a
11 number of developments. I'm going to talk about
12 one in the District that's near the Foggy Bottom
13 metro station, and then the other three are
14 actually in Fairfax County, and the reason I've
15 selected those is because those are not near metro,
16 and it's sometimes hard to understand if you're
17 looking at a site near metro, how much of the
18 reduction in vehicular trips is simply just because
19 you're adjacent to metro versus how much is from
20 the effectiveness of the TDM plan.

21 So, the Square 54 development, which is
22 adjacent to the Foggy Bottom metro station, has --

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1 it's where the Whole Foods is at 22nd and I. There
2 is residential and office components there, as
3 well.

4 When we did the study for that several
5 years ago, the estimated trip reduction for that
6 project was 60 percent, and that's 60 percent
7 reduction in a.m. and p.m. peak hour vehicle trips.

8 We've gone out and monitored that, most
9 recently in September of this year, and what we
10 found was that the site is actually achieving a 70
11 percent reduction in the a.m. peak hour and an 82
12 percent reduction in the p.m. peak hour. So,
13 significantly exceeding the anticipated
14 reduction.

15 I also looked at three sites, and as I
16 said, in Fairfax County. Two of those sites are
17 more than one mile from metro. One of those is
18 Ridgewood, which the goal of that TDM plan was to
19 achieve a 20 percent trip reduction during the p.m.
20 peak hour, and when we monitored that and did a
21 survey of that last year, in November of 2013, we
22 found that they're actually achieving a 46 percent

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1 reduction. So, more than doubling the reduction
2 that was specified in their goal.

3 The other that's more than one mile from
4 metro is the Mosaic District in the Merrifield area
5 of Fairfax County. Their goal was 30 percent
6 non-single occupant vehicles, and in December of
7 2013, a year ago, we did a survey of that site and
8 found that they are actually achieving a 42 percent
9 non-single occupant vehicle rate.

10 Then the final case that I'll cite is
11 the Reserve at Tysons. It's about a mile from the
12 Dunn-Loring metro station. This was done
13 pre-silver line.

14 Their goal again, was a 20 percent
15 non-single occupant vehicle and in November of
16 2013, they were actually achieving 30 percent
17 non-single occupant vehicle, and I just do want to
18 note that none of those projects included Capital
19 bike-share memberships for residents or car-share
20 memberships for residents, not at initial
21 occupancy and certainly, not in perpetuity of the
22 project.

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1 As I said, three of the four are nowhere
2 near metro. In our case, we're near metro, so we're
3 having the benefit not only of the TDM plan, but
4 also the proximity to metro.

5 So, I thought that might just help put
6 it in context and show that TDM plans really do
7 work.

8 CHAIRPERSON JORDAN: Certainly, and I
9 would want you to submit those studies and your
10 analysis on that, so we can see the actual
11 comparable's of TDM's that were in place, what the
12 initial goal was within the reduction and the time
13 period. That would be good. Thank you.

14 All right, anything else?

15 MR. KADLECEK: Yes, I just have a short
16 closing.

17 CHAIRPERSON JORDAN: Yes, please.

18 MR. KADLECEK: Three main points I want
19 to make in closing.

20 The first is, I want to re-emphasize Mr.
21 Balaban's testimony about the nature of the
22 residents in this building.

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1 They're not the kind of people who are
2 going to be bringing a lot of stuff. They are
3 choosing to live in this neighborhood and in this
4 type of project precisely because they want to be
5 near transit. They want to be near amenities.
6 They want to be near restaurants. They want to be
7 near jobs. They want to be near gyms. They want
8 to be near everything that they can get to within
9 a short walk, with metro, with bus.

10 If they want to have a car, there are
11 plenty of other options in the District, even in
12 this neighborhood, there are other options for
13 people to have cars where they can park in their
14 building.

15 That's not the type of marketing that
16 this project is oriented towards. These are not
17 the types of people that are going to live in this
18 building.

19 Secondly, when you're talking -- when
20 people are making comparisons about people parking
21 on the street, we have to remember that this is an
22 atypical type of apartment. It's not a standard

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1 one-bedroom. It's also not eligible for RPP,
2 which in think differentiates it from a lot of the
3 other buildings in the neighborhood that some of
4 the neighbors have testified to.

5 My second main point is, there was some
6 discussion about -- concern about preserving the
7 Blagden Alley, and I want to say that we are in
8 complete agreement with preserving Blagden Alley.
9 In fact, as Commissioner Melcher testified, we
10 believe this project actually helps preserve
11 Blagden Alley by eliminating additional car
12 traffic in it.

13 For those people who do have garages
14 that back onto the alley, this will make their lives
15 a lot easier than if a matter-of-right building
16 with parking were to go in and have parking, or cars
17 driving through the alley.

18 There is no part of the alley that's
19 being deeded to this project. I think there was
20 a misunderstanding about that. We're actually
21 preserving part of our property that will be
22 towards and which will, in effect, widen the alley.

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1 Then finally, I want to emphasize
2 again, the ANC support. We went to the ANC for just
3 the BZA case, four times, not to mention the times
4 that we went to the ANC for the HPRB case.

5 The ANC felt, as you heard, very
6 strongly that we went above and beyond to meet the
7 concerns of the community that were expressed at
8 those meetings of the ANC Commissioners. That's
9 why we've committed to such a robust TDM plan, and
10 that's why we're, you know, willing to do as much
11 as we can to minimize the fact that there would be
12 any negative impact, but never the less, we believe
13 that the types of residents that will live here are
14 not likely to bring cars, despite the number of
15 parking spaces that we're asking for relief from.
16 So, thank you.

17 CHAIRPERSON JORDAN: All right, thank
18 you. We'll close the record on this, unless the
19 Board needs something additional.

20 I do want the study that you recited,
21 so we can take a look at that. I would like to have
22 that. Mr. May?

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1 COMMISSIONER MAY: I just have one
2 question. Reading back over the ANC report, and
3 I'm not seeing the actual vote, what the vote was.
4 Was it unanimous or was it a split vote?

5 MR. KADLECEK: It was a split vote.

6 COMMISSIONER MAY: And I'm sorry, I'm
7 asking him.

8 CHAIRPERSON JORDAN: Folks that
9 participated as witnesses with -- in the -- in
10 opposition, it's no discussion. Your guys time is
11 done. It's now conversation with the Applicant,
12 okay.

13 COMMISSIONER MAY: So, I'm sorry, can
14 you tell me what it was? It was a split vote?

15 MR. KADLECEK: Four to three.

16 COMMISSIONER MAY: Four to three?
17 Okay, so, technically, we need to have that
18 reflected in the -- in the report, and I'm just not
19 sure I -- we have it on a -- in a written form in
20 the record. Yes, I mean, it's -- I'm not seeing
21 it in the letter that was written.

22 CHAIRPERSON JORDAN: So, I'd like to

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1 see that in the -- the letter amended in the record.

2 Board, anything else you want to see?
3 I don't think we're ready for a decision on this,
4 are you?

5 Okay, so, Mr. Moy, I want to put this
6 over for -- on the hearing docket, just in case
7 there is some additional questions, but for
8 hearing/decision date.

9 I'm telling you, that study is going to
10 be very key, because it's a -- you know, I've looked
11 at the Arlington and Fairfax County studies myself.
12 I've been always waiting for the District to do its
13 -- you know, because you're right. I mean, your
14 Arlington is still -- and Fairfax is still not the
15 District, and we keep hearing, it's coming, it's
16 coming and coming and coming, and these -- you know,
17 this project is going from a required 61 or 62
18 parking spaces to zero in a residential
19 neighborhood.

20 Yes, that alley is zoned commercial.
21 Then that's another aspect this Board has got to
22 look at, the impact of what went on in the Zoning

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1 Commission hearing when it was designated as
2 commercial. I think that's a fair consideration
3 also.

4 So, and now, we hear that the ANC vote
5 was actually 4-3 and it wasn't a slam dunk there,
6 as I was kind of getting the impression, it was a
7 slam dunk.

8 So, I want to put this on for another
9 date, Mr. Moy. That's fair.

10 So, I think as soon as December 27th?
11 No, I'm sorry.

12 MR. MOY: January 27th.

13 CHAIRPERSON JORDAN: January 27th is
14 fine. No, no, January 27th is fine with me.

15 You know, we -- you know, we've got to
16 do these things with -- you know, certainly with
17 some speed, but it's got to be deliberate speed.

18 These things are not like, you know --
19 because these decisions are going to impact people
20 for a long time. Mr. Moy?

21 MR. MOY: Okay, as I heard Mr.
22 Chairman, that was continued hearing, as opposed

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1 to a decision meeting for January -- Tuesday,
2 January 27th. Any filings as the Board requests,
3 by January 20th, because I believe the 19th is a
4 holiday. I believe that's a Monday, I think, but
5 I could be second-guesses on that.

6 CHAIRPERSON JORDAN: So, the 27th?

7 MR. MOY: Yes, sir.

8 CHAIRPERSON JORDAN: And in on the
9 19th?

10 MR. MOY: Twenty.

11 CHAIRPERSON JORDAN: They've got to
12 get it in by the 20th? What's the docket look like?
13 We've been stacking some stuff up for the 27th.

14 MR. MOY: Yes, but I have high
15 confidence in this Board.

16 CHAIRPERSON JORDAN: What the heck
17 does that mean? Twenty-seventh, please, okay, and
18 with the submission beforehand.

19 Thank you, all. Thanks, everybody.
20 Thank you all for coming down and being diligent
21 on this. I know this is -- it's one of those
22 issues. It's one of those life impactful issues

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1 and we understand that.

2 All right, a brief three minutes and
3 then we're up and running. We'll take the last
4 case for the day, and that's got to move
5 expediently.

6 (Whereupon, the above-entitled matter
7 went off the record at 1:00 p.m. and resumed at 1:06
8 p.m.)

9 CHAIRPERSON JORDAN: This is Case No.
10 18841, the continuation hearing of Robert Searle
11 for the variance for addition to row-dwelling in
12 the R-4 District at 1522 8th Street, Northwest.

13 This case was previously heard in
14 October 28th -- was it October 28th, that long ago?
15 October 28th, it seemed like just yesterday.
16 October 28th, 2014.

17 The case was kept open for the Applicant
18 to present to the Board, issues that were raised
19 during the hearing, including explanation of other
20 alternatives and options and why it's not feasible
21 -- why those things are not feasible, and to further
22 clarify the structural reasons for the third floor

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1 expansion.

2 Anyway, okay, good. So, the Board has
3 reviewed the record on the matter. I think we see
4 what's going on. Let me find out.

5 Board, was there any other questions we
6 want to ask this Applicant about the supplemental
7 filing?

8 I kind of -- if we can do -- if you bear
9 with me a minute, let me go and ask a question of
10 OP on their report, because it's my understanding,
11 Ms. Vitale, you still are not in support of the
12 relief for the third floor, correct?

13 MS. VITALE: That is correct.

14 CHAIRPERSON JORDAN: And let me ask
15 you, because you wrote in your report, some
16 potential alternative ways to do the -- how to
17 handle the structural issue with the building, that
18 the Applicant could refrain -- re-frame the
19 existing third floor roof and distribute the roof
20 load to the parting wall and dog-leg the wall, or
21 the Applicant could restructure and stabilize the
22 under-pinning.

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1 If doing it your way, would they not
2 need any zoning relief to do this project?

3 MS. VITALE: I actually did speak with
4 the Office of the Zoning Administrator in DCRA, to
5 confirm that if the Applicant were to pull permits
6 to, you know, renovate and stabilize the existing
7 structure without the addition, if that could be
8 done, without the need for relief, and they
9 indicated that was in fact, the case.

10 CHAIRPERSON JORDAN: All right. So,
11 back to the Applicant, to respond to that and/or
12 -- yes, I got you.

13 No, I didn't do it. That's my fault.
14 You weren't on. There you go. Now, you can do it.

15 MS. MOLDENHAUER: At this point, can I
16 cross-examine Office of Planning based on that
17 statement or are we jumping around?

18 CHAIRPERSON JORDAN: Yes, because
19 we're already in the hearing. So, let's -- I think
20 unless there is something else you think you need
21 to present to the Board, that you haven't presented
22 to us.

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1 MS. MOLDENHAUER: Well, one, I'd like
2 to cross-examine Office of Planning.

3 CHAIRPERSON JORDAN: Go ahead.

4 MS. MOLDENHAUER: And then I can
5 provide additional supplemental.

6 CHAIRPERSON JORDAN: Certainly, that
7 would be good. Go ahead.

8 MS. MOLDENHAUER: So, my question
9 would be, based on your proposed options, is it your
10 understanding that structurally, you would have to
11 underpin and thus, demolish the existing basement
12 structure?

13 CHAIRPERSON JORDAN: Say that again.
14 Could you rephrase that?

15 MS. MOLDENHAUER: Based on your
16 recommendations to just simply re-stabilize the
17 existing wall, do you understand or is it your
18 understanding that you would have -- in order to
19 do that, you would have to then demolish a portion
20 of the existing basement or cellar unit?

21 MS. VITALE: I'm --

22 CHAIRPERSON JORDAN: You're missing

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1 the question?

2 MS. VITALE: No, I understand what
3 she's saying, and I'm not certain that I know, you
4 know, the relevance of that.

5 You could underpin that existing wall
6 that now runs from the basement to the third floor,
7 to the existing third floor, that half-story, you
8 know, as I discussed with staff in the Office of
9 the Zoning Administrator.

10 That underpinning work could be done
11 without the need for additional relief. The
12 extent of renovation interior work to underpin, I
13 don't -- I can't speak specifically --

14 CHAIRPERSON JORDAN: I think her --

15 MS. VITALE: -- to that.

16 CHAIRPERSON JORDAN: I think her
17 question is saying doing it the way that you
18 suggest, would you then either take away the use
19 or is there a need to substantially change the
20 cellar level in doing that? Is that your question?

21 MS. MOLDENHAUER: I think the Office of
22 Planning had answered the question, that they

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1 haven't evaluated the need to --

2 CHAIRPERSON JORDAN: Well, first let
3 me -- was that the question, as I rephrased it?

4 MS. MOLDENHAUER: Not exactly.

5 CHAIRPERSON JORDAN: All right, so,
6 let's make sure we're clear on the question,
7 because I --

8 MS. MOLDENHAUER: The question was, in
9 your proposed alternatives, did you consider the
10 fact that those proposed alternatives would
11 require waste and demolition of a portion of the
12 cellar unit that has been renovated?

13 MS. VITALE: Yes, I did. I know it --
14 at the last hearing, you did indicate that the
15 basement unit had been renovated recently.

16 I did check permit records, didn't see
17 any permit records for extensive renovation work
18 for the basement.

19 So, I did. I understood that
20 certainly, that's finished space and to underpin
21 in a finished space, would require some disruption,
22 certainly of that space.

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1 MS. MOLDENHAUER: And that does not
2 evaluate in regards to wasteful renovation or
3 something that would be practically difficult? In
4 other words, to wasting an existing structure
5 that's been renovated already?

6 MS. VITALE: I'm not certain how that's
7 relevant to the case before us and the need for the
8 third floor.

9 CHAIRPERSON JORDAN: Let me say this.
10 Ms. Vitale, relevance, don't worry about that.
11 Let's just answer the question. We'll handle the
12 relevance, okay? I understand. Just answer the
13 question.

14 I understand where you're coming from,
15 but just answer the question. I think -- I
16 understand what she's asking --

17 MS. VITALE: As I stated, yes, I
18 understand that you would certainly need to disrupt
19 some existing finished space, in order to underpin
20 that wall.

21 MS. MOLDENHAUER: Then no other
22 questions at this point for OP.

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1 We'll then just simply -- we have
2 obviously, we can elaborate on the information that
3 was provided in regards to the civil engineer, and
4 we also, in part of the revised plans, have shown
5 that the roof top access has been removed from the
6 structure, and I believe that the Applicant would
7 like to provide a brief statement, as well, to the
8 Board.

9 MR. SEARLE: Good afternoon, Chairman
10 Jordan and the Board.

11 I'll try to be quick and brief on this.

12 I just want to give, from my
13 perspective, you know, the difficulty that is, you
14 know, on the decision of how to remedy this wall
15 in my unique situation, as we talked about. There
16 is an internal wall. It's got a lot of cracks.
17 It's even buckling in a spot, and it's causing a
18 lot of problems and something has to be done to
19 remedy, and this was done through previous owners,
20 through modifications and failure to keep upkeep
21 of the property.

22 In consulting initially with my

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1 architect, she gave me a couple options. You know,
2 one we discussed, which was to carry the load of
3 the roof back to the rear well, which has a better
4 footing and better structural integrity to carry
5 the load.

6 The other, which was to tear apart the
7 basement, which you know, to build up that wall to
8 put in footing, which obviously was going to be
9 difficult, because we'd have to tear apart -- and
10 wasteful, because we'd have to tear apart the
11 basement that was already finished, or demolishing
12 the garage, which again, was wasteful to a
13 structure that was already there, and it would also
14 require a variance and permission from the Historic
15 Board.

16 So, because of the risk and the
17 difficulty, it seemed that, you know, carrying the
18 load to the back wall was the best option that we
19 could do.

20 She told me that this would require a
21 variance and that this can be costly and laborious,
22 but I felt because of the other options and the

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1 alternatives and this old house, that this was what
2 we would go for.

3 So, before we even started, I reached
4 out to the neighbors, and I got support from all
5 the neighbors that I asked. We brought this to
6 ANC-6E and Alex Padro, that actually lives across
7 the street, and he was very emphatically in support
8 of it, and he -- because he is -- lives across the
9 street, he also is concerned about how far it's
10 reaching.

11 I also got very emotional support from
12 Mary Sutherland, who was community activist at the
13 meeting, who happens to be my next door neighbor,
14 who was very vocal during the meeting in support
15 for it.

16 So, following the last meeting from the
17 Zoning Committee, or from the Board, we did get the
18 structural engineer to look at it, and he in deed,
19 backed what we had said in the last meeting through
20 the architect, that that wall is basically -- he
21 condemned it, which he said -- he was actually
22 concerned about it falling apart unless we did some

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1 serious construction to it, which involves the --
2 putting -- finishing or taking -- putting the
3 footing in and increasing the footing on the
4 foundation.

5 So, if there still is a question, I just
6 want to make it clear that from -- you know, from
7 my perspective, or at least -- and I hope it's the
8 Board's perspective, that I mean, deliberation is
9 good, but I think in this case, I rest on the experts
10 of the architect and the structural engineer, who
11 actually saw the uniqueness of my property, have
12 been able to look at the walls, the deterioration
13 of the walls, look underneath and saw the casing
14 -- how the footing is and the foundation, and so,
15 I would like to rest on their expert opinion, and
16 their advice to me, which is the best option would
17 be to carry the load through that -- to that rear
18 wall, and that's all I have. Thank you, sir.

19 CHAIRPERSON JORDAN: Thank you.
20 Anything else that you think the Board needs to
21 hear? Board, questions? Yes, Mr. May?

22 COMMISSIONER MAY: Okay, well, first

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1 of all, I appreciate the fact that you removed the
2 rooftop access. That was problematic for me.

3 Let's talk about this "condemned wall".
4 I mean, condemned wall is just -- that's the term
5 that the engineer used for it, right? It's not --
6 you haven't -- you don't have a condemnation
7 sticker on it from DCRA or anything like that,
8 right?

9 MS. MOLDENHAUER: No, it was what the
10 --

11 COMMISSIONER MAY: What they called
12 it? What they -- how they referred to it?

13 MS. MOLDENHAUER: How they referred to
14 it.

15 COMMISSIONER MAY: Okay, so, tell me
16 more about why it's condemned.

17 The wall extends from the -- presumably
18 the basement level, all the way up to the roof?
19 Correct?

20 MS. MOLDENHAUER: I am not a civil
21 engineer and we don't have our civil engineer here
22 with us.

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1 COMMISSIONER MAY: Okay, well, your
2 architect sure be able to answer that question.

3 MS. FOWLER: Sure, yes. It does
4 extend from the basement level and it carries the
5 load of the partial third floor.

6 COMMISSIONER MAY: Partial third
7 floor, right and the roof, right? Carries to the
8 roof?

9 MS. FOWLER: Yes, the roof load from
10 the third floor.

11 COMMISSIONER MAY: Right, it doesn't
12 include -- actually carry any load from the third
13 floor, because that's carried by bearing -- the
14 party walls.

15 MS. FOWLER: Right.

16 COMMISSIONER MAY: So, the -- what
17 portion of this wall is bad? I mean, is it bad from
18 the basement? I mean, from the cellar all the way
19 to the roof?

20 MS. FOWLER: That's correct. Yes, we
21 observed cracks and bowing, kind of throughout from
22 the basement level, all the way up through --

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1 COMMISSIONER MAY: So, how much bowing
2 are you talking about?

3 MS. FOWLER: He had -- in his letter,
4 kind of states that there is --

5 COMMISSIONER MAY: The only dimension
6 I saw was three-eighths of an inch, which is not
7 much.

8 MS. FOWLER: Out of plain movement that
9 he mentioned in the letter.

10 COMMISSIONER MAY: Yes.

11 MS. FOWLER: There is one particular
12 area in the basement where you can see -- you can
13 visually see that there is -- there has been
14 movement in that wall.

15 COMMISSIONER MAY: It's moving, it's
16 bowing?

17 MS. FOWLER: It's bowing, yes.

18 COMMISSIONER MAY: Okay, is the mortar
19 in tact?

20 MS. FOWLER: No, there is definitely
21 areas where the mortar is not.

22 COMMISSIONER MAY: I mean, in the area

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1 where it's bowing, is the mortar in tact?

2 MS. FOWLER: In that area, it's not
3 exposed. The mortar is not exposed, but we can see
4 other damage and bowing from the finished wall.

5 COMMISSIONER MAY: So, it's pushing on
6 the finished wall?

7 MS. FOWLER: Right.

8 COMMISSIONER MAY: And you can't see
9 it?

10 MS. FOWLER: That's what we think.
11 That's what we believe.

12 COMMISSIONER MAY: In the basement
13 level?

14 MS. FOWLER: Correct.

15 COMMISSIONER MAY: So, you're going to
16 have to take apart that wall anyway, in order to
17 fix that, right? You don't want to have the -- I
18 mean, you're not going to want to have the masonry
19 wall start pushing through the drywall.

20 MS. FOWLER: I think once the load is
21 removed, we won't need to --

22 COMMISSIONER MAY: It's not going to

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1 bow anymore. It's only going to bow as much as it
2 has.

3 MS. FOWLER: I believe so.

4 COMMISSIONER MAY: Okay.

5 CHAIRPERSON JORDAN: What caused the
6 damage to the wall, anyway, the structure?

7 MS. FOWLER: There was -- as we
8 testified previously, there have been holes put
9 through the wall over time, for duct work and other
10 utilities, doorways put through without proper
11 support, and also, we believe that that foundation
12 -- based on other projects that I've experienced
13 through work, there is potentially no footing under
14 that particular wall.

15 Usually, it's just kind of a brick wall
16 laid on the dirt. So, we believe that there is
17 settling -- it's settling differently than the
18 perimeter walls.

19 COMMISSIONER MAY: So, where -- to what
20 extent have you been able to examine the actual
21 masonry? Is it on the first floor? Second floor?
22 Inside only? Second floor or third floor inside

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1 only?

2 MS. FOWLER: Inside, mostly, but there
3 is a photograph we had in the --

4 COMMISSIONER MAY: Yes, I saw one where
5 there is a -- sort of a column --

6 MS. FOWLER: Right.

7 COMMISSIONER MAY: -- piece that is
8 exposed, and it's obviously, in very bad shape
9 behind the drywall. Is that the extent to which
10 it has been -- you've examined the masonry?

11 MS. FOWLER: On the upper levels, we've
12 seen cracks -- there is plaster walls --

13 COMMISSIONER MAY: Right.

14 MS. FOWLER: -- so, we were able to see
15 cracks that have occurred from the --

16 COMMISSIONER MAY: It's the
17 differential settlement, right?

18 MS. FOWLER: Correct, and where the
19 wall meets the party walls --

20 COMMISSIONER MAY: Yes.

21 MS. FOWLER: -- where it's separated.

22 COMMISSIONER MAY: Right, it's

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1 settling a little bit more in the middle because
2 it doesn't have the foundation, right.

3 MS. FOWLER: But it's much easier to
4 tell with the plaster walls than it is for instance,
5 in the basement --

6 COMMISSIONER MAY: Right.

7 MS. FOWLER: -- where this is drywall.

8 COMMISSIONER MAY: Right, so, how much
9 do you think it has actually settled there?

10 I mean, because those cracks at corners
11 like that are quite common in older plaster -- you
12 know, houses with plaster.

13 MS. MOLDENHAUER: I think the issue is,
14 and I think we can kind of go back and forth with
15 this, but what we did from the last time is, we
16 actually went and we obtained a civil engineer from
17 them, to provide their expert opinion.

18 COMMISSIONER MAY: And I read it, and
19 I have questions about it, and he's not here. So,
20 I'm trying to figure out what I need to figure out.

21 MS. MOLDENHAUER: I'm just trying to
22 say that obviously, you know, one of the things

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1 we're relying upon is his, you know --

2 COMMISSIONER MAY: Right.

3 MS. MOLDENHAUER: -- opinion that wall
4 and --

5 COMMISSIONER MAY: Okay, let me tell
6 you what -- what he described in the letter is no
7 worse than conditions that I've seen in multiple
8 townhouses over the years, and particularly on that
9 back wall.

10 So, I'm trying to understand if that
11 wall really, truly is in jeopardy or not, because
12 based on the description, it's not compelling.

13 So, I'm trying to find that out. If you
14 want me to stop --

15 MS. MOLDENHAUER: No.

16 COMMISSIONER MAY: -- I'll stop and
17 vote, you know.

18 MS. MOLDENHAUER: I'm just trying to --

19 COMMISSIONER MAY: Okay.

20 MS. MOLDENHAUER: -- focus what we
21 have, obviously on the --

22 COMMISSIONER MAY: I understand, I

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1 understand and it's, you know, as you can probably
2 tell, it's not compelling enough for me.

3 CHAIRPERSON JORDAN: As I always say,
4 and you know certainly, we've already read the
5 record. So, we know what we read.

6 COMMISSIONER MAY: Right.

7 CHAIRPERSON JORDAN: So, the questions
8 are just follow-ups that we need to get the answers
9 to.

10 COMMISSIONER MAY: So, in terms of the
11 actual construction that you would do here, at this
12 point, you would take down the wall from the level
13 of the floor, the first floor, all the way up to
14 the roof, essentially.

15 MS. FOWLER: That's correct.

16 COMMISSIONER MAY: Okay, and then the
17 roof load, you expect to use a king beam to carry
18 that, the rest?

19 MS. FOWLER: Correct. We were
20 planning to reinforce --

21 COMMISSIONER MAY: An existing king
22 beam?

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1 MS. FOWLER: -- forward king beams and
2 then install new king beams further back.

3 COMMISSIONER MAY: I see, yes, right,
4 because it's too far to span.

5 So, is there anything that would
6 prevent you from simply spanning from the existing
7 brick wall, to rebuild the back wall, at the third
8 floor with just wood framing?

9 I mean, is there any reason why you
10 couldn't just stop it there and maintain the same
11 envelope?

12 I mean, you're arguing that this is
13 structurally necessary because you need to remove
14 that wall, and the only solutions that we've heard
15 so far is that you'd have to demolish the thing down
16 to the basement and put in a new footing and build
17 it all up and masonry.

18 But you're also -- you know, you're
19 showing king beams that are being carried by the
20 party walls and by the dog-leg wall, and if those
21 are strong enough to carry king beams that will
22 carry the roof load, couldn't you, you know, span

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1 that, you know, at the top of the second floor, span
2 and then put your wall, you know, your back wall
3 right on top of that and then maintain the envelope
4 and comply with the zoning?

5 MS. FOWLER: I mean, part of the
6 strategy here is to remove the load from that --
7 the wall that the engineers condemned, and spread
8 it out over multiple points, and which are also
9 carrying down onto walls that we believe have more
10 viable foundations than the wall that's currently
11 carrying the loads.

12 So, the idea is to disperse this load
13 over different walls that we've seen have better
14 foundations.

15 COMMISSIONER MAY: Okay.

16 MS. MOLDENHAUER: And if you were --
17 what would be another option? Would it be to carry
18 out to the original existing exterior wall?

19 COMMISSIONER MAY: I'm just asking why
20 not?

21 MS. MOLDENHAUER: But what I'm saying,
22 if they pulled it out to the original existing wall,

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1 which is the second one, that would still then
2 require zoning relief. It would just --

3 COMMISSIONER MAY: No, no, no, I'm not
4 talking about the original existing wall. I'm
5 talking about the wall that is bad, essentially in
6 the same plain, have a beam that goes from the party
7 wall at the top to the -- you know, the viable
8 masonry wall, you know, at the end of the dog-leg
9 there, and carry the load down that way, and build
10 up.

11 MS. FOWLER: We're kind of basing what
12 we -- our design on the recommendations of the
13 structural engineer and what he thought was the
14 most efficient way to address the issue.

15 COMMISSIONER MAY: So, the structural
16 engineer who gave us this report most recently, was
17 the one who advised you originally to extend the
18 roof all the way to the back of the house?

19 MS. FOWLER: He didn't originally, but
20 when we showed him the designs and we walked through
21 the house, he concurred that that was the best
22 solution.

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1 COMMISSIONER MAY: Okay, all right.
2 It's unfortunate that he's not here to testify to
3 that, because that's not what he wrote in his
4 letter. He wrote that the letter -- that the wall
5 is not viable and should come down, and you know
6 --

7 CHAIRPERSON JORDAN: There was a lot of
8 detail.

9 COMMISSIONER MAY: Yes, it's -- I'll
10 leave it there. I don't have any further
11 questions.

12 MS. MOLDENHAUER: I want to ask
13 Jennifer a question.

14 So, if based on what obviously, the
15 structural engineer informed you, that this wall,
16 this entire wall is not viable, what would be the
17 alternative, if you were to use this wall, the
18 original, which I'm just going to -- kind of going
19 over on a cursory here.

20 This was the original wall of the
21 property. Would that still require zoning relief?
22 You're expanding not all the way to the far back

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1 wall, all the way to the far -- to the far back wall,
2 but to the middle wall, which is the original wall,
3 would that still require zoning relief, if you went
4 back to that portion?

5 MS. FOWLER: Yes, it would also have
6 its own challenges, as well, because the wall has
7 been removed in many locations.

8 CHAIRPERSON JORDAN: Okay, Board, any
9 additional questions?

10 COMMISSIONER MAY: Actually, I do have
11 another question.

12 So, you have -- in your submission, you
13 included information about the garage, that
14 indicates the garage has been there for a long time.
15 Is it a contributing structure in the Historic
16 District?

17 MS. MOLDENHAUER: We have not yet gone
18 to HPO. We were going through the BZA process
19 first, and then we're going to be going to the
20 Historic Preservation process.

21 But what we did pull up was just a --

22 COMMISSIONER MAY: I saw what you

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1 submitted, yes.

2 MS. MOLDENHAUER: Also that -- from the
3 1907 picture on the left here, is a picture of all
4 of the original garages that were built at that
5 time, and if you look at the picture on the right,
6 that's actually a picture from our current.

7 So, obviously, majority, almost all of
8 those original structured garages have been
9 removed from this entire square. You can see the
10 picture on the right, where there is really only
11 one other garage structure from the image.

12 So, we have not yet pursued HPO. We are
13 going go through the BZA process first, but we do
14 believe it would be an issue, in regards to, you
15 know, addressing that, since this was -- is one of
16 the few garages that are left.

17 COMMISSIONER MAY: Okay, so, in your
18 original submission on page C4, you have a
19 photograph of that garage, which shows a concrete
20 block garage with a double door on it. That's what
21 I'm -- that's the garage, right?

22 MS. MOLDENHAUER: That's the interior

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1 side, yes.

2 COMMISSIONER MAY: It's the alley
3 side.

4 MS. MOLDENHAUER: Is that the alley
5 side? Sorry.

6 COMMISSIONER MAY: I'm looking at the
7 alley side. I don't have the picture of the -- of
8 the interior side.

9 Yes, I mean, I'm seeing basically a
10 block wall garage.

11 I mean, I guess what it -- my point is
12 that even -- I'm sorry, and the current iteration
13 of the garage, it borders the alley directly,
14 right? It's not off-set the way it's shown in the
15 basement up on the left.

16 CHAIRPERSON JORDAN: Is that flipped?

17 COMMISSIONER MAY: No.

18 MS. MOLDENHAUER: It appears to be.

19 COMMISSIONER MAY: Right. So, one of
20 the solutions to the -- I'm sorry, is one of the
21 solutions for the garage to be removed, and then
22 to build the addition -- the expansion the way you

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1 want?

2 MS. MOLDENHAUER: We believe that that
3 would create a practical difficulty, in regards to
4 waste of an existing structure, and we also believe
5 we'd have to --

6 COMMISSIONER MAY: And this -- and I
7 understand that's what you would argue, but that's
8 not what I asked.

9 Would that be a solution? It would be
10 -- it may not be the solution you want, but is that
11 a solution, that if you took the garage away, would
12 you be compliant with zoning, with this addition?

13 MS. MOLDENHAUER: If you removed the
14 garage structure it would reduce the lot occupancy
15 and --

16 COMMISSIONER MAY: Right.

17 MS. MOLDENHAUER: Yes.

18 COMMISSIONER MAY: So, you'd be zoning
19 compliant.

20 MS. MOLDENHAUER: But so I -- it's --
21 so, it would not though, you would have to have an
22 issue with the court, because the issue here is the

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1 court, and so --

2 COMMISSIONER MAY: Right.

3 MS. MOLDENHAUER: -- it would not
4 change the court issue, and the court obviously
5 provides the light and air that, you know, courts
6 were designed for that purpose.

7 So, you would still --

8 COMMISSIONER MAY: Right, but it's a
9 different test for court versus lot occupancy,
10 right?

11 MS. MOLDENHAUER: But the relief that
12 we're seeking now --

13 COMMISSIONER MAY: You have a 223
14 relief on extending a non-compliant court, but you
15 can't, for non-compliant -- non-conforming lot
16 occupancy.

17 MS. MOLDENHAUER: No, exactly, so,
18 obviously, you know, but that obviously goes to the
19 degree of relief and here, if we were -- the same
20 issue is the case here.

21 We have a question of a non- conforming
22 court, and if we wanted to increase that

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1 non-conforming court, we would still need zoning
2 relief, and then that actually just goes to --

3 COMMISSIONER MAY: But the special
4 exception relief as opposed to variance relief.

5 MS. MOLDENHAUER: It goes to then the
6 case of 1700 N Street, in which the Court evaluated
7 Barber and they indicated that that case was
8 distinguishable, "Because the owner of the
9 property had two alternative methods that could be
10 constructed without full compliant -- within full
11 compliance of the zoning regulations."

12 Whereas, here in this -- in the case of
13 1700 N Street, the YMCA had not feasible
14 alternative methods that would provide both a pool
15 and also require the parking spaces.

16 So, we are arguing that this is a same
17 situation as the Court of Appeals determined in
18 that case, which was distinguished from Barber.

19 We have alternatives, but any of those
20 alternatives would still require zoning relief.
21 The option that you just presented, Commissioner
22 May, would still require a degree of zoning relief,

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1 and it would also then, in our opinion, create more
2 practical difficulty because it would not allow
3 the maintenance or the maintaining of structures,
4 such as a parking structure.

5 We've heard a lot of testimony about,
6 you know, the need for parking in the area, and we
7 believe that it would be a practical difficulty to
8 demolish the --

9 COMMISSIONER MAY: Elimination of the
10 garage doesn't take away parking.

11 MS. MOLDENHAUER: It reduces the style
12 of parking that you're being provided.

13 COMMISSIONER MAY: Changes it.

14 MS. MOLDENHAUER: And storage, and so,
15 we -- but to the legal issue, the legal issue
16 identifies in the 1700 N Street block case that if
17 the only other alternatives would still require
18 zoning relief, then in those regards, the standard
19 has been met and we present that --

20 COMMISSIONER MAY: So, in that case
21 that you're citing --

22 MS. MOLDENHAUER: -- there are

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1 alternatives --

2 COMMISSIONER MAY: In the case that
3 you're citing, is that one where it was one variance
4 versus another variance?

5 MS. MOLDENHAUER: It was whether or not
6 they could provide a pool. So, it was actually --
7 it was literally the desire to have a pool for the
8 YMCA, and also provide parking.

9 So, they had indicated that they could
10 not provide both the pool and parking, and so, here
11 we're indicating that if you had any other
12 alternative, you would either be, you know,
13 wastefully destructing or destroying a portion of
14 the structure, or you would still need relief from
15 special exception relief, or if you were even --
16 even too, as we were talking about, pull the wall
17 back to possibly maybe another portion of the
18 structure, you would still then need court relief.
19 You just would not need -- the degree would change.

20 So, based on --

21 COMMISSIONER MAY: Right, but there is
22 an essential difference between special exception

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1 relief and variance relief, right, and I'm not sure
2 that the case you're citing has anything to do with
3 that.

4 MS. MOLDENHAUER: There is no specific
5 case that relates to both that is -- is comparing
6 that, and unfortunately, we have limited --

7 COMMISSIONER MAY: You're the one that
8 brought it up. That's why I asked.

9 MS. MOLDENHAUER: But I believe it's so
10 --

11 CHAIRPERSON JORDAN: Okay, okay,.

12 MS. MOLDENHAUER: -- parallel on the
13 legal issues.

14 CHAIRPERSON JORDAN: I think we can do
15 this all day. I think we're ready to wrap this up.

16 Is there any other evidence? Board,
17 any additional questions from the Board?

18 Okay, then we will close the record in
19 this case. Is the Board ready to deliberate?

20 Okay, then we'll move into
21 deliberations on this.

22 This is a matter which I think you can

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1 kind of toss up, in regards to how you take care
2 of the structural issue, but clearly, there is a
3 showing that this building has some uniqueness and
4 has been defined by the evidence presented by the
5 Applicant, and that there is a structural issue
6 with this wall.

7 How you do it, I think you can probably
8 get 15 experts in the room and you'll probably get
9 12 different ways of how you can handle the
10 structural issue. But I think it presents enough
11 that the structural issue shows that there is a
12 deterioration of some sort, an erosion in this
13 building, and there has got to be some kind of
14 aspect of attacking that third floor wall and that
15 half-portion of the roof.

16 Again, question about where the experts
17 are, and I would -- I believe that doing so still
18 is going to require some type of practical
19 difficulty, in regards to this property, and
20 depending on which way you do it, will have an
21 affect upon the cellar and require some additional
22 spending of money, maybe in the area that didn't

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1 need it.

2 But again, you can go back and forth
3 with the experts. I think it's -- I can support
4 this application, based upon what I've heard so
5 far, what I've heard in this case.

6 Based upon that, I think again, the
7 argument how you do it and 15 different ways to do
8 it, it's still questionable, but I think there has
9 been reasonable evidence presented by the
10 Applicant, to support this and that's my thought.
11 Anyone else?

12 COMMISSIONER MAY: Certainly. So, as
13 you might guess, I don't support granting a
14 variance in this circumstance.

15 Certainly, the idea of fixing the
16 problem with the wall by extending the load and
17 carrying the load, distributing it over more of the
18 walls is a way to solve the problem. It is not the
19 only way to solve the problem, and I don't believe
20 that it is necessarily even the most cost-effective
21 way to solve the problem.

22 It is the most cost-effective way for

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1 the home owner to expand the dwelling and not lose
2 their garage and not lose the basement apartment
3 during the course of construction.

4 But frankly, I don't see that either --
5 you know, any of those issues warrant granting a
6 variance in this circumstance.

7 I think that -- I mean, you know, yes,
8 experts can differ on these things, but we're not
9 talking about really super complicated stuff here.
10 This is pretty basic stuff, and I think that it --
11 there is a solution that doesn't involve anything
12 nearly this complicated or this -- that requires
13 granting, you know, extra space to a rather lot
14 occupancy relief, in order to fix a problem of a
15 structural wall. I think that those are issues
16 that can be fixed in much more understandable and
17 zoning compliant ways, and I just didn't see
18 anything that was compelling in the evidence that
19 was provided.

20 It was -- you know, this was a solution
21 that the architect came up with and consulted with
22 the civil engineer or the structural engineer after

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1 the fact, in order to justify the solution. At
2 least, that's the way it looks to me.

3 So, I agree with the Office of Planning,
4 this is not something that we should be granting.

5 CHAIRPERSON JORDAN: I would move we
6 grant the relief in this matter.

7 VICE CHAIRMAN ALLEN: Second.

8 CHAIRPERSON JORDAN: Motion made and
9 seconded. Any additional discussion from anyone?

10 All those in favor of the motion,
11 signify by saying aye.

12 (Chorus of ayes)

13 CHAIRPERSON JORDAN: Those opposed
14 nay. The motion passes. Mr. Moy?

15 MR. MOY: Staff would record the vote
16 as 3-1. This is on the motion of Chairman Jordan
17 or approve the application for the relief
18 requested. Second the motion, Vice Chair Allen.
19 Also in support, Mr. Hinkle. Opposed to the
20 motion, Mr. May and we have a member not present.
21 The motion carries, Mr. Chairman.

22 CHAIRPERSON JORDAN: The motion

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1 passes. Let's have a full order. Maybe, no, we
2 can do a summary order.

3 We can't have a summary. We need a full
4 order. Make it full, okay, all right.

5 (Whereupon, the above-entitled matter went
6 off the record briefly at 1:37 p.m.)

7 MR. MOY: Before we close the hearing,
8 Mr. Chairman, can I make just a real quick
9 announcement?

10 CHAIRPERSON JORDAN: Yes.

11 MR. MOY: Yes, just for the record,
12 just to leave a paper trail, two cases that were
13 rescheduled, 18899 Ron Rogers was rescheduled to
14 December 9th and the hearing case of Kevin Latner
15 18865 was rescheduled to December 16th. That's
16 all I have, Mr. Chairman.

17 (Whereupon, the above-entitled matter
18 went off the record at 1:40 p.m.)
19
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21
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