

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

JANUARY 6, 2015

+ + + + +

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 10:11 a.m., Lloyd
Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

The transcript constitutes the
minutes from the Public Hearing held on January 6,
2015.

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ZONING COMMISSION MEMBER PRESENT:

MICHAEL G. TURNBULL, FAIA, Commissioner
(AOC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN GYOR
MEGAN RAPPOLT
MATT JESICK
BRANDICE ELLIOT

DDOT STAFF PRESENT:

RYAN WESTROM

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

PAGE

Application No. 18885	
Amanda Thomas	4
Application No. 18887	
DC CVS Pharmacy LLC	7
Application No. 18867	
Growth Spurts	12
Application No. 18891	
14 & H, LLC	17
Application No. 18884	
1351 LLC	34

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

2 (10:20 a.m.)

3 CHAIR JORDAN: Let's do 18885.

4 ZC MEMBER TURNBULL: I was going to say
5 are we going to give them a little more time,

6 CHAIR JORDAN: The applicants, yes.
7 We're going to do that, certainly. Let's 85.

8 MR. MOY: Application Number 18885 of
9 Amanda Thomas, as advertised notice, requests a
10 special exception under Section 223 not meeting lot
11 dimension, lot occupancy, rear yard and court width
12 requirements as well as a variance from the alley
13 setback requirements at 1401 Massachusetts Avenue
14 SE.

15 CHAIR JORDAN: Good morning.

16 MS. THOMAS: Good morning.

17 CHAIR JORDAN: Please identify
18 yourselves.

19 MR. TEASS: My name is Will Teass. I'm
20 a principal with Teass \ Warren Architects,
21 formerly Tektonics Design Group. I'm here this
22 morning representing my client to the left, Amanda

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1 Thomas, who's the owner at 1401 Massachusetts
2 Avenue SE.

3 MS. THOMAS: My name is Amanda Thomas,
4 the owner of 1401 Massachusetts Avenue.

5 CHAIR JORDAN: Okay. I think there's
6 sufficient grounds in your documentation to
7 support your application.

8 I don't know if the Board has any
9 questions that they feel they need to ask on this
10 case. So it's your option to waive doing a
11 presentation, and we can just proceed on.

12 MR. TEASS: That would be fine with us.
13 Thank you.

14 CHAIR JORDAN: Sure, and turning to
15 Office of Planning, anything in addition? Good
16 morning. How are you?

17 MR. GYOR: Good morning, Mr. Chairman,
18 members of the Board, Stephen Gyor with the Office
19 of Planning. We support the application and rest
20 on the record. Thank you.

21 CHAIR JORDAN: Board, any questions
22 for OP? Applicant, any questions for OP? We do,

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1 anyone here from ANC 6B on this case, ANC 6B? We
2 do have a letter of support from ANC 6B that
3 supports the application.

4 We have a letter from Department of
5 Transportation with no objection to the relief
6 requested. And I also want to note that there are
7 letters from several neighbors who support this
8 application.

9 Is there anyone here wishing to speak
10 in support? Anyone here wishing to speak in
11 support? Anyone wishing to speak in opposition?
12 Anyone in opposition?

13 Then we'll close the record on this
14 case. And I would move that we grant the relief
15 requested in 18885.

16 MEMBER HEATH: Second.

17 CHAIR JORDAN: Motion made and second.
18 Any additional discussion? All those in favor,
19 signify by saying aye.

20 (Chorus of ayes)

21 CHAIR JORDAN: Those opposed, nay?
22 Motion carries. Mr. Moy?

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1 MR. MOY: Yes, staff would record a
2 vote as 4-0, this on the motion of Chairman Jordan
3 to approve the application for the relief
4 requested. Second the motion, Ms. Heath. Also in
5 support, Mr. Turnbull, Mr. Hinkle and the member
6 not present. Motion carries, sir.

7 CHAIR JORDAN: Summary, please.

8 MR. MOY: Thank you.

9 CHAIR JORDAN: Thank you very much.
10 It's done. Then let's call 87 please, Mr. Moy.

11 MR. MOY: Okay. To the table
12 Application Number 18887 of DC CVS Pharmacy, LLC.
13 As advertised, request for a special exception from
14 the roof structure enclosures under Section 411 and
15 770.6 at property 67 Dupont Circle NW.

16 CHAIR JORDAN: Very good. Please
17 introduce yourselves.

18 MS. BLOOMFIELD: Good morning. I'm
19 Jessica Bloomfield from Holland & Knight.

20 MS. BROWN: Carolyn Brown with Holland
21 & Knight.

22 CHAIR JORDAN: Good morning. Do we

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1 have an ANC letter in this case? I didn't see one
2 when I went into the file. ANC hasn't --

3 MR. MOY: Let me double check. I don't
4 recall there being one yesterday.

5 CHAIR JORDAN: I don't think there is
6 one. There was presentation with the ANC?

7 MS. BLOOMFIELD: There's no letter
8 from the ANC. We contacted the ANC. They did not
9 put us on their agenda. We emailed with them a
10 couple of times.

11 We believe that it was because the
12 nature of relief was so small they didn't think that
13 it was necessary to put it on. We also, HPO really
14 took the lead in this and asked us to do the separate
15 roof structures instead of a single roof structure.

16 And we talked with the ANC about that.
17 So at this point they never scheduled us on any of
18 their meetings.

19 CHAIR JORDAN: Okay. All right. And
20 I did receive notice. That's in front. So this
21 is one I think yes, I'm sure that Ms. Bloomfield,
22 Ms. Brown you're going to waive anything if we

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1 already believe that there's sufficient
2 information in this file to grant relief. Any
3 questions, Board?

4 ZC MEMBER TURNBULL: I just had a
5 question. On the roof structures, there's the two
6 buildings. There's the one that's got the mansard
7 roof, and then there's the other roof.

8 Are the units going on the other roof,
9 not the mansard? They're going on that, I was
10 confused because the one picture shows you looking
11 at the building as if the units are behind the
12 mansard roof.

13 MS. BROWN: My understanding is that
14 they're all going behind the mansard roof or the
15 sloped roof.

16 ZC MEMBER TURNBULL: Right, because
17 there's one, and I'm looking at Architectural
18 Drawing A 4.0. And it's got some dashed in units
19 highlighted, but that's really the units that are
20 beyond in the mansard area. Am I correct on that?

21 MS. BROWN: That's what it appears. I
22 think you're actually right looking at that

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1 drawing.

2 ZC MEMBER TURNBULL: Yes, so I was
3 assuming that the one view that they had, the little
4 perspective shot they were showing nothing on the
5 low roof sort of with the tile.

6 And they're showing the mansard, and
7 they were showing like well it's back in that
8 mansard area.

9 MS. BROWN: Yes.

10 ZC MEMBER TURNBULL: Okay. That's
11 fine then.

12 MS. BROWN: Thank you.

13 CHAIR JORDAN: Okay. Any additional
14 questions? Then let's turn to the Office of
15 Planning.

16 MR. GYOR: Good morning again, Mr.
17 Chairman, Stephen Gyor sitting in for Steve Cochran
18 --

19 CHAIR JORDAN: Oh, I was about to say
20 wait a minute.

21 MR. GYOR: -- with the Office of
22 Planning. We support the application and rest on

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1 the record. Thank you.

2 CHAIR JORDAN: Okay. Any questions,
3 Board, for planning? The applicant, any questions
4 for planning?

5 MS. BROWN: No, sir.

6 CHAIR JORDAN: Anyone here for DDOT for
7 this particular case, on this case? No. We have
8 a letter from the Department of Transportation with
9 no objection to the relief requested.

10 Anyone here from ANC 2B? Anyone from
11 ANC 2B? Is there anyone here wishing to speak in
12 support of the application? Anyone wishing to
13 speak in support of the application? Anyone in
14 opposition? Anyone in opposition?

15 Then we'll close the record on this
16 case. And I would move that we grant the relief
17 in 18887.

18 ZC MEMBER TURNBULL: Second.

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

22 (Chorus of ayes)

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

3 MR. MOY: Staff would record the vote
4 as 4-0, this on the motion of Chairman Jordan to
5 approve the application for the relief requested.
6 Second the motion, Mr. Turnbull. Also in support
7 Ms. Heath and Mr. Hinkle and no other member
8 present. Motion carries, sir.

9 CHAIR JORDAN: Summary order, please.

10 MR. MOY: Thank you.

11 MS. BROWN: Thank you very much.

12 CHAIR JORDAN: Thank you. Let's call
13 67 please, Mr. Moy.

14 MR. MOY: To the witness table
15 Application Number 18867 of Growth Spurts. This
16 is a request, Mr. Chairman, for variance on the off
17 street parking requirements under Subsection
18 2101.1 for Child Development Center at 1802 D
19 Street NE.

20 CHAIR JORDAN: Okay. Please identify
21 yourselves.

22 MS. SMITH: Good morning. I'm Camilla

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1 Smith.

2 MR. SMITH: Good morning, Calvin
3 Smith.

4 CHAIR JORDAN: That's right. We've
5 had you here before, haven't we. Why did we send
6 this B- oh yes, because you didn't post. Now we've
7 got it all posted up. Yes, we're all posted. All
8 right, I think, is this where the relief, there was
9 a relief requested, I think the ZA's letter offered
10 relief under 2101, was it?

11 Just two issues. I think maybe someone
12 requested relief on under 2116, but this can be all
13 done in 2101. Isn't that, am I right or wrong?
14 2101.

15 Okay. I got it. They requested under
16 2101, but it also requires relief under 2116. I
17 think that's the issue here.

18 But if we waive it, and Mary's not here,
19 if we waive under, if we do a variance under 2101,
20 then I don't necessarily see why they need 2116
21 relief, although you're going to have parking space
22 at another place, right? If we waive the

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1 requirement under 2101, then it's done.

2 MR. HINKLE: Then it's done. I agree
3 with you, Mr. Chairman.

4 CHAIR JORDAN: Yes, I don't think OAG,
5 or maybe I misread OAG, but it says that it was
6 necessary for 2116. I don't think that's
7 necessary. Would you all agree? Okay.

8 Then we are at a point with this case,
9 I think it's ready, all packaged up, ribbon and
10 everything ready to go. It's a little delayed
11 Christmas present or whatever you very well may
12 celebrate.

13 Let's make it a new year's present.
14 And I think we necessarily don't have to hear
15 anything from you unless you just want to talk and
16 then talk yourself into trouble.

17 Then we're going to, okay. Got you.
18 So I take that as you've waived any additional
19 hearing and presentation to the Board. Board, any
20 other questions on this? OP?

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

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1 Office of Planning rests on the record in support
2 of the application. Thank you.

3 CHAIR JORDAN: Thank you. Any
4 questions anyone? Okay. Any questions to anyone
5 on anything? All right, we have report from DDOT
6 of no objection to the relief.

7 Anyone here from ANC 6A? They also
8 support the application. And you have contacted
9 the neighbors, right, and talked to them? They're
10 all, yes, okay.

11 Is anyone here wishing to speak in
12 support of this application? Anyone in support?
13 Anyone in opposition? All right, then I would move
14 that we grant, we close this hearing.

15 We will close this hearing, and I also
16 will move that we grant the relief under 2101 under
17 this application.

18 MEMBER HEATH: One more thing --

19 CHAIR JORDAN: We got a condition?

20 MEMBER HEATH: Right, from ANC.

21 CHAIR JORDAN: What was that
22 condition?

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1 MEMBER HEATH: There were five of them.

2 CHAIR JORDAN: Let me look at this.
3 Okay. Yes, we can live with those. That includes
4 the conditions that are in the ANC letter, and they
5 are simply, I think you've had discussion not to
6 let people park --

7 MR. SMITH: Yes.

8 CHAIR JORDAN: -- improperly and all
9 that. Okay. Thank you. So I would amend my
10 motion to include that. Is there a second?

11 MEMBER HEATH: I'll second.

12 CHAIR JORDAN: Motion made and second.
13 Any additional discussion? All those in favor,
14 aye?

15 (Chorus of ayes)

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

18 MR. MOY: Staff would record the vote
19 as 4-0, this on the motion of Chairman Jordan to
20 approve the application for the relief requested,
21 2101.1 with, including the conditions contained in
22 the ANC letter, also in support or seconding, Ms.

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1 Heath.

2 Also in support, Mr. Turnbull and Mr.
3 Hinkle. No other member present today, so motion
4 carries, sir.

5 CHAIR JORDAN: Summary please.

6 MR. MOY: Thank you.

7 CHAIR JORDAN: Thank you. You're
8 done. Okay. Now the fun part begins of our day.
9 Let's do 18891, and let's take a five minute break
10 at our 10:30 breakpoint although we started a
11 little late. So we'll still take our five minute.

12 (Whereupon, the above-entitled matter
13 went off the record at 10:33 a.m. and resumed at
14 10:43 a.m.)

15 CHAIR JORDAN: All right, let's
16 proceed on. Call the case, please.

17 MR. MOY: Yes, sir, with pleasure.
18 This is Application Number 18891 of 14th and H, LLC.
19 This application, Mr. Chairman, was advertised for
20 variance relief from height requirements under 770
21 FAR, 771 lot occupancy, parking requirements,
22 special exception from the roof structure setback

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1 as well as the HS overlay special exception
2 requirement.

3 I would ask that the applicant give the
4 Board the status of where we are, if there's any
5 amendment to the relief requested. And that
6 completes the status briefing, Mr. Chairman.

7 CHAIR JORDAN: You guys are fine.
8 Please introduce yourselves.

9 MS. MOLDENHAUER: Good morning. My
10 name is Meredith Moldenhauer on behalf of Griffin,
11 Murphy, Moldenhauer & Wiggins. With me today is
12 Mohari Sequar on behalf of the applicant and Jeff
13 Goins on behalf of PGN Architects.

14 MR. SEQUAR: Good morning, Mr.
15 Chairman and members of the Board. My name is
16 Mohari Sequar. I'm the owner and applicant of this
17 project.

18 MR. GOINS: Good morning, Mr. Chair,
19 members of the Board. I'm Jeff Goins with PGN
20 Architects. I'm a partner there.

21 CHAIR JORDAN: All right, there's some
22 preliminary matters. I don't know if we can, if

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1 I'm comfortable in going forward with this case.
2 Let me ask some questions.

3 Ms. Rappolt, did you, and have you and
4 the applicant and Ms. Moldenhauer here, have you
5 guys had substantive conversations from the time
6 you submitted your report?

7 MS. RAPPOLT: I'm sorry, Megan Rappolt
8 for the record with OP. We've had one conversation
9 since that time.

10 CHAIR JORDAN: And are you still in
11 need of additional information?

12 MS. RAPPOLT: OP continues to take
13 issue with the FAR requested. We also needed more
14 information, I think, as well as DDOT did in terms
15 of the parking.

16 Generally we support the special
17 exception for the project, but due to these time
18 constraints and sort of, I guess the holidays in
19 general, we didn't have enough time to communicate
20 effectively with the applicant.

21 CHAIR JORDAN: And also, Ms.
22 Moldenhauer, there is an issue here. I see a TDM

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1 plan for this project. What I think I missed, I
2 did see not the traffic study.

3 MS. MOLDENHAUER: No, so in our
4 opinion, and we've worked with DDOT. We've been
5 in communication with them throughout the process,
6 and OP.

7 In our opinion, a full, comprehensive
8 traffic analysis was not necessary for this
9 project, and well obviously we respectfully
10 disagree with DDOT and their request for it.

11 The project physically cannot be
12 parked, and we're more than willing to kind of walk
13 through that process.

14 And the applicant has also been more
15 than willing to concede a host of TDM measures and
16 also is agreeing with DDOT and would concede to the
17 additional requests that they asked in their
18 submission and believe that all of those would
19 ameliorate any possible concerns or impact on
20 parking and --

21 CHAIR JORDAN: We can't operate like
22 that. Here's the issue. We get a traffic

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1 mitigation plan, but what are we mitigating? So
2 how does the Board then make a proper evaluation
3 and say that the issues that might arise out of a
4 traffic study, and this is just my thought, Board,
5 arise out of a traffic study is mitigated by a
6 traffic mitigation plan.

7 I hear what you're saying, but it sounds
8 to me like we're saying just in case there are some
9 then this is what we're going to do. But what if
10 there are some, and these things don't do it? Does
11 that make sense to the Board?

12 MS. MOLDENHAUER: I mean what we're
13 offering is we're offering no RPP and no VPP along
14 with a extensive host of TDM measures. DDOT has
15 agreed that this area is transit rich.

16 And in that regard, the only possible
17 impact that I believe would be a factor here would
18 be the possibility for an owner to then own a car
19 and have to park it on a private garage.

20 We're willing to provide testimony that
21 there are a significant amount of garages in the
22 area, and that you literally can walk out of this

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1 project and hop directly into a streetcar because
2 there will be one right in front of you, take the
3 --

4 CHAIR JORDAN: Streetcar?

5 MS. MOLDENHAUER: I'm sorry, the --

6 CHAIR JORDAN: You know something the
7 rest of DC doesn't know? No, just joking with you.

8 MS. MOLDENHAUER: Once it's
9 operational. They're testing, and I see it
10 everyday when I drive on H Street. Once it's
11 operational, which it will be operational by the
12 time this building would be erected, they then
13 literally hop in a car and drive down to Union
14 Station or a number of other private parking
15 garages that we've provided to DDOT and in our
16 submission and then pay to park if they deem that
17 they want to own a car.

18 But they would not be able to obtain
19 RPP, and there would be sufficient covenants on the
20 project. So I think that in this regard any impact
21 is so limited that to put the burden of obtaining
22 a full TDM study onto the applicant, we

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1 respectfully submit that we believe it's not
2 necessary. And that is why we're here today
3 without having provided one.

4 CHAIR JORDAN: So you have a traffic
5 expert here?

6 MS. MOLDENHAUER: No.

7 CHAIR JORDAN: Okay. I mean it
8 doesn't have to be a full study. Board, any
9 thoughts on this, anyone?

10 ZC MEMBER TURNBULL: Well, unless we
11 ask the Department of Transportation --

12 (Simultaneous speaking)

13 CHAIR JORDAN: Let's kind of flip this
14 around and go to transportation and see if you've
15 got a, rely on your advice.

16 MR. JESICK: Thank you. Good morning,
17 Chairman Jordan and the rest of the Board. I
18 appreciate the chance to discuss this project, and
19 we see it as a project with great potential.

20 As you have observed, however,
21 unfortunately from our opinion we haven't received
22 enough information for us to reasonably evaluate

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1 the project in terms of whether we would support
2 or not support it.

3 We agree with Ms. Moldenhauer that a
4 full, complete CTR comprehensive transportation
5 review would not be necessary. However, there's
6 a fairly well established process by which an
7 applicant would scope a project such as this.

8 And a CTR of some level would be
9 completed, and we would expect that for an
10 applicant such as this in a project seeking a
11 variance such as this one.

12 We have not received that. We did
13 receive a scoping form in late December, which was
14 about approximately one month after we actually
15 would've expected to see a comprehensive
16 transportation review.

17 So we believe that the scoping process
18 was not followed, and thus we are left with a lack
19 of information for us to full evaluate the project
20 at this time.

21 CHAIR JORDAN: Does that, all right,
22 this is what I think we're going to do. I'm going

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1 to offer this unless the Board has something to the
2 contrary.

3 I'd like to roll this over, Ms.
4 Moldenhauer, and let you get either, to have
5 further conversation with Planning or Department
6 of Transportation.

7 It's certainly going to, I'm going to,
8 I think the Board would be more comfortable with
9 more information. Would that be correct?

10 MEMBER HEATH: Yes.

11 CHAIR JORDAN: That we provide not a
12 full traffic study report but what DDOT has
13 requested, and also provide the information that,
14 if you can resolve something with the Office of
15 Planning regarding the information flow.

16 Whether or not they eventually agree is
17 going to be another issue, but that the issue of,
18 where they can say they have sufficient information
19 makes the Board more comfortable.

20 So I kind of think that this is not ripe
21 yet. I think there's some issues outstanding.
22 I'm not comfortable in going forward.

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1 And I don't think the Board is
2 comfortable in going forward at this point unless
3 we have this additional information which we can
4 evaluate this. So we can carry this over for Mr.
5 Turnbull's next date?

6 ZC MEMBER TURNBULL: Yes, and I can
7 make myself available.

8 CHAIR JORDAN: Okay.

9 ZC MEMBER TURNBULL: Again, I mean I
10 think we want to expedite this thing as fast as we
11 can.

12 CHAIR JORDAN: When can we, I don't
13 know how long it may take you to get --

14 ZC MEMBER TURNBULL: Yes, how long will
15 it take the applicant to --

16 MS. MOLDENHAUER: If we're not, I mean
17 I guess one of the clarifications, we're not asking
18 for a full report. It would just simply be an
19 analysis from a transportation expert.

20 MR. JESICK: Yes. So we have the CTR
21 scoping form, and you guys did submit a copy of it.
22 So typically early in the process we would then

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1 respond with comments as to whether we agree with
2 what you're going to do or not.

3 And so there's particular sections that
4 you end up doing, and so the length obviously could
5 be quite extensive or relatively brief. And so,
6 and we would expect that scoping form as part of
7 every project very early in the process.

8 And so in this case, yes, we can work
9 back and forth with the scoping form. I anticipate
10 we could do that in just a couple days= time back
11 and forth.

12 And then once the scoping is completed,
13 that's the scope of the report that would be
14 expected. And I would leave it to the applicant
15 to either find somebody or work on preparing the
16 requested details in house and a submission some
17 point following.

18 CHAIR JORDAN: Okay. Let me do this.
19 Let me take this off page and let you guys certainly
20 have further discussions. Mr. Moy, so I'm
21 thinking 30 days tops, two weeks?

22 MS. MOLDENHAUER: Yes, it sounds like

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1 we may not even need 30 days, and it sounds like
2 we have probably three weeks I think sounds
3 sufficient to file something supplemental.

4 CHAIR JORDAN: So Mr. Moy, on a
5 comfortable day within the 30 days. If it's two
6 weeks, then fine. If it's three weeks, then fine,
7 but a comfortable day.

8 MR. MOY: For comfort level for the
9 Board, Mr. Chairman, of course we're looking to
10 February at this point. I would suggest --

11 CHAIR JORDAN: We meet on the 13th, the
12 20th. Is this a full month for meetings?

13 MS. MOLDENHAUER: There's a holiday in
14 the middle there.

15 MR. MOY: We have a holiday in January.

16 CHAIR JORDAN: Oh, okay.

17 MR. MOY: Well --

18 CHAIR JORDAN: Is that a good well or
19 well, well?

20 MR. MOY: Well, there are --

21 CHAIR JORDAN: Let me help you. I'm
22 going to propose something.

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1 MR. MOY: They're all consistent in
2 terms of number of cases on our hearing dockets.
3 The Board can do as early, and knowing that, the
4 Board can do as early as February the 3rd or the
5 10th or the 24th.

6 CHAIR JORDAN: All right, how many
7 cases do we have on the 3rd?

8 MR. MOY: Well, they're all off by one,
9 so the 3rd we have eight cases. On the 10th, we
10 have nine.

11 CHAIR JORDAN: Those are hearing cases
12 or decision --

13 MR. MOY: That's correct. I'm looking
14 just at the new application, the hearing cases.

15 CHAIR JORDAN: All right, come here a
16 moment.

17 MR. MOY: And the 24th we have eight
18 cases. So they're all pretty level.

19 CHAIR JORDAN: Okay. They're level
20 for sure.

21 MR. MOY: So we're going to have to load
22 one of them up.

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1 CHAIR JORDAN: Yes, so we have no
2 hearings on the 20th. I see that. The 13th --

3 MR. MOY: So that's why I say we can do
4 as early as the 3rd.

5 (Simultaneous speaking)

6 CHAIR JORDAN: That's too soon, 27th
7 there is one, two, oh, one, two, three, four, five,
8 six, seven, eight, nine. Did you say the 3rd or
9 the 10th?

10 MR. MOY: That's correct.

11 CHAIR JORDAN: It doesn't look, wow.
12 And then we have another holiday in February,
13 right?

14 MR. MOY: Yes, but we do as early as
15 January 27th by chance, we still have eight or nine
16 cases, sir.

17 CHAIR JORDAN: All right, let's do the
18 3rd. The 3rd is locked though. Draw a line. Put
19 it in red.

20 MR. MOY: No more?

21 CHAIR JORDAN: Do everything you can.
22 The 3rd, there's nothing can go on the 3rd. Even

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1 if I say Cliff, can we please put something on the
2 3rd, you say no, not the 3rd. Okay.

3 MS. MOLDENHAUER: Chairman Jordan,
4 here's just a question. We've had extensive
5 conversations with OP even though the holiday, the
6 pre-hearing filing.

7 We believe that our FAR case is
8 substantially submitted in regards to the exhibits
9 we filed in our pre-hearing statement. We'd ask
10 the Board if there's any other information that
11 they'd be looking for --

12 CHAIR JORDAN: Okay. Good question.

13 MS. MOLDENHAUER: -- that could
14 provide us an opportunity to supplement that.

15 CHAIR JORDAN: Good question. Good,
16 thank you. Board, is there anything else, any
17 questions that you need to have addressed in this
18 interim period?

19 ZC MEMBER TURNBULL: Well, I think if
20 OP still is not in agreement with the FAR
21 calculations, I think we need to show, you need to
22 show us why they're wrong or why you think you're

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1 right in your calculations.

2 MS. RAPPOLT: Just as a point of
3 clarification, it's not a calculation. It's their
4 request for an additional 0.4 FAR here that OP
5 doesn't support.

6 ZC MEMBER TURNBULL: Oh, okay.
7 Understood.

8 CHAIR JORDAN: Okay. So that's the
9 3rd, right? Is that what I said, February 3rd?

10 MR. MOY: February 3rd, sir.

11 CHAIR JORDAN: Okay. And certainly
12 you know you need to get it in to us --

13 MR. MOY: By a week, sir, would be
14 January 27th. I would say Monday, the 26th. Is
15 that too soon?

16 MS. MOLDENHAUER: Tuesday, the 27th?

17 MR. MOY: Tuesdays, the 27th January,
18 or do you want Friday, the 30th?

19 MS. MOLDENHAUER: Friday, the 30th
20 would be wonderful if that's possible.

21 CHAIR JORDAN: No.

22 MS. MOLDENHAUER: I don't think that

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1 will give the Board enough time to read it, so --

2 CHAIR JORDAN: Well, we don't get our
3 OAG reports until Friday evening, so --

4 MS. MOLDENHAUER: Thursday evening?

5 CHAIR JORDAN: Yes, say Thursday so at
6 least give OAG the opportunity to look at it, do
7 what they're going to do with it, and we can get
8 our report from them on Friday. But certainly
9 you're going to give it to DDOT as soon as --

10 MS. MOLDENHAUER: We're working with
11 DDOT during this entire time, yes.

12 CHAIR JORDAN: Okay. So let's do it
13 that Thursday, whatever that date is.

14 MR. MOY: January 29th, sir.

15 CHAIR JORDAN: Okay.

16 MS. MOLDENHAUER: Thank you very much.

17 CHAIR JORDAN: All right, thank you.
18 Then that's what we'll do, continue it to that date.
19 Thank you. All right, what do we have? We have,
20 oh, one more case.

21 MR. MOY: I can go see where they are
22 at this point, sir.

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1 CHAIR JORDAN: We have the applicants
2 here.

3 MR. MOY: Mr. Bell is here.

4 CHAIR JORDAN: You want to call it?
5 Okay. Let's call 884. Where's the, we'll find
6 out.

7 MR. MOY: Okay. That would be to the
8 witness table Application 18884 of 1351 LLC
9 advertised for special exception from the zone
10 district boundary line under 2514.1(d) and
11 variance from the rear yard requirements under
12 774.1 at 1351 Wisconsin Avenue NW, Square 1243, Lot
13 811, as advertised.

14 CHAIR JORDAN: All right, thank you.
15 Are the parties and persons ready for this case?
16 What happened to our party status folks?

17 (Off microphone discussion)

18 CHAIR JORDAN: No, why don't you sit
19 down at this end because the camera is right where
20 you are. You see the camera in front of you here?
21 There's a camera down over this way.

22 MR. BELL: Oh, I see it.

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1 CHAIR JORDAN: So you can move down
2 this way.

3 MR. BELL: That's what happens when you
4 come with the city.

5 CHAIR JORDAN: You have that in an SUV
6 or something?

7 (Off microphone discussion)

8 ZC MEMBER TURNBULL: You didn't bring
9 it on the bus I'm sure.

10 MR. BELL: The Prius for us.

11 CHAIR JORDAN: Okay, fine. See, did
12 he say something? No, I thought he was, no, I
13 thought he was making the same comment.

14 ZC MEMBER TURNBULL: Maybe before you
15 start, could you just point out the property on the
16 --

17 MR. BELL: Sure. I'll be talking
18 about it, but the property runs from here to here.

19 ZC MEMBER TURNBULL: That's what I
20 thought it was, okay.

21 MR. BELL: That's the property, and
22 then we'll have, I can show you each of the

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1 neighbors --

2 ZC MEMBER TURNBULL: Okay.

3 MR. BELL: -- everything.

4 ZC MEMBER TURNBULL: Got you.

5 MR. BELL: All right, I thought this
6 would give you the context of --

7 ZC MEMBER TURNBULL: It's very nice.
8 Thank you.

9 MR. BELL: -- what we're talking about
10 and make it much more understandable for people who
11 aren't architects that have to replan all this.
12 Should I begin?

13 CHAIR JORDAN: No, just take a seat.

14 MR. BELL: Okay.

15 CHAIR JORDAN: Mr. Moy, you already
16 called the case?

17 MR. MOY: Yes, sir.

18 CHAIR JORDAN: I really don't
19 understand this. What were they doing?

20 MALE PARTICIPANT: I believe that
21 asked Mr. Moy how long to get to the next hearing.
22 They just went to meet. I just called them.

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1 They're coming back upstairs.

2 CHAIR JORDAN: Okay. We'll give them
3 five minutes to get in here.

4 ZC MEMBER TURNBULL: Is that model a
5 quarter inch scale?

6 MR. BELL: It's an eighth inch scale --

7 ZC MEMBER TURNBULL: Oh, eighth inch.
8 Yes, okay.

9 MR. BELL: -- model. I made every
10 building from a flat fold out.

11 ZC MEMBER TURNBULL: Well, we don't
12 often get many models for something like this.

13 MR. BELL: I actually asked Clarence ,
14 who's a friend, I said should I take my model or
15 not? He says oh, absolutely.

16 ZC MEMBER TURNBULL: This is a real
17 treat.

18 MR. BELL: Oh, okay.

19 ZC MEMBER TURNBULL: I love to see
20 models.

21 MR. BELL: Yes, I think you can
22 understand the thing so much better. Architects

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1 love models.

2 ZC MEMBER TURNBULL: Did you show this
3 before the Old Georgetown Board?

4 MR. BELL: I did, and we'll be seeing
5 this essentially with this up.

6 ZC MEMBER TURNBULL: Okay.

7 CHAIR JORDAN: Okay. Welcome back.
8 Thank you. We're going to proceed. If you please
9 reintroduce yourselves. Could you take a seat,
10 please, and introduce yourself. And if you're
11 going to be standing, I'm going to ask, do we have
12 our wireless mic handy?

13 MR. MOY: Yes, sir.

14 CHAIR JORDAN: Mr. Bell, we have a
15 wireless mic that you can use.

16 MR. BELL: Thank you.

17 CHAIR JORDAN: All right, please, but
18 let's take a seat for now. I need everyone to
19 introduce themselves again for the record.

20 MR. BELL: My name is Robert Bell. I'm
21 the applicant and the architect and owner of the
22 property.

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1 CHAIR JORDAN: Yes.

2 MR. MULDER: Christian Mulder,
3 neighbor with a lot adjoining the theater building
4 and spokesman for the party.

5 CHAIR JORDAN: Okay.

6 MR. GALLAGHER: Bill Gallagher,
7 adjacent neighbor. We all, our properties touch
8 this property.

9 CHAIR JORDAN: We understand. Just
10 introduce yourselves, please.

11 MR. JUNKER: Ceaser Junker, neighbor.

12 CHAIR JORDAN: All right, thank you.
13 All right, I'm sorry.

14 (Off microphone discussion)

15 CHAIR JORDAN: Okay. We've already,
16 so that you gentlemen understand, we were ready to
17 go some time ago, at least ten minutes ago, and
18 we've been waiting.

19 Mr. Bell, would you like to handle the
20 ownership issue first, please? Or first, tell me
21 what happened? Did you guys not resolve your
22 issues?

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1 MR. BELL: We were not able to come to
2 a resolution of the fundamental issue here.

3 CHAIR JORDAN: Okay. All right.

4 MR. MULDER: Mr. Bell said, he claims
5 that he can build a residence out there, and he felt
6 that needed to be discussed first, decided by the
7 Board first.

8 CHAIR JORDAN: So you guys didn't have
9 fruitful discussion? Is that what you're telling
10 me?

11 MR. MULDER: We did not. We made it
12 clear. I mean we from our side, we're prepared to
13 work. We are so concerned about it all that we're
14 even willing to buy the lot as long as it's not being
15 developed and just that the carriage houses
16 restored.

17 CHAIR JORDAN: Right, and Mr. Bell, you
18 didn't have fruitful discussion? You didn't offer
19 to have discussion with the party opposition?

20 MR. BELL: I offered to make any kind
21 of visual adjustments, windows, roof lines, things
22 like that. But I couldn't offer the fundamental

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1 question of here, of was this, did this qualify to
2 be a residence.

3 CHAIR JORDAN: All right, got you.
4 We're good. So now let's deal with the first issue
5 on ownership. The ownership of the property for
6 which relief is requested is an issue. So can we
7 step through that, please?

8 MR. BELL: I present as evidence with,
9 these are not issues, two different pieces.

10 CHAIR JORDAN: Do you have copies for
11 the Board?

12 MR. BELL: Yes, here's a copy for the
13 Board.

14 CHAIR JORDAN: No, you're supposed to
15 have 12 copies, right? Twelve copies for the
16 Board.

17 MR. BELL: I don't have 12 copies of
18 that.

19 CHAIR JORDAN: Hand it to Mr. Moy.
20 Let's see what we have, and if we have time to copy
21 it.

22 MR. BELL: I have a couple of copies.

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1 CHAIR JORDAN: Give what you're going
2 to give. Hand that to the Board, Mr. Moy. And did
3 you, did the party in opposition see these
4 documents?

5 MR. MULDER: We are well aware of the
6 surveyor's work.

7 CHAIR JORDAN: And you still contend
8 that there's an issue on ownership?

9 MR. MULDER: Yes.

10 CHAIR JORDAN: Okay. So what do you,
11 Mr. Turnbull, what do we have here?

12 ZC MEMBER TURNBULL: Well, I mean
13 we're, what evidence do you have that you could
14 present that would be contrary to this?

15 MR. MULDER: We don't have the evidence
16 with us because we weren't expecting to, but we can
17 send it to you tomorrow.

18 CHAIR JORDAN: But you made the
19 representations in your pleadings to this body, so
20 if you're not, I don't understand you not being
21 prepared to deal with what you raised as part of
22 the issues with the relief.

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1 It just doesn't seem logical to me.
2 All right, I'm going to take this under advisement,
3 going to certainly want to see these other
4 documents.

5 I'm going to need to probably see
6 everything that supports, that you think is
7 necessary for the Board to see that show ownership
8 of the complete area in which you are seeking
9 relief, okay.

10 And the same thing from the party
11 opponents who subsequently be submitted to this
12 Board, right?

13 MR. MULDER: Yes.

14 ZC MEMBER TURNBULL: Okay. I guess
15 the, what we're seeing is the survey, but do you
16 actually have a Bill of Sales?

17 CHAIR JORDAN: You know, deeds?

18 ZC MEMBER TURNBULL: A deed.

19 MR. BELL: Yes, after these claims were
20 made, this went to a settlement and title company
21 which showed that there were no encroachments on
22 the title as claimed by the applicants. And the

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1 purchase was made after that.

2 ZC MEMBER TURNBULL: So you have a deed
3 to the property then?

4 MR. BELL: Yes, I do.

5 ZC MEMBER TURNBULL: With no what do
6 you call it.

7 MEMBER HEATH: Where is that
8 information?

9 MR. BELL: I didn't bring a copy of the
10 deed with me.

11 CHAIR JORDAN: Okay. I know this is
12 new to everyone, and I understand that. And so let
13 me certainly let you know I do understand. The
14 issue here that's raised and whether or not even
15 we can go forward is on the ownership issue.

16 The issue has been presented by someone
17 else that you don't own all the property in which
18 you're seeking relief. That's a fundamental basis
19 of our relief being granted, to hear a case and move
20 forward.

21 So that's what you have to show us, that
22 you own the property. A survey, yes, we can see

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1 what the survey is, but that doesn't talk about
2 ownership.

3 And it's certainly the same thing
4 pointing back to those with party status because
5 it does not help in any shape, form or fashion that
6 you just make the claim.

7 Anybody can make the claim they own
8 property. So we could go through with the Hearing
9 Board and hold this in abeyance, this particular
10 issue, which is probably what we, the Board have
11 a feel for how they want to proceed in this, anyone?
12 Any suggestions, Mr. Turnbull?

13 ZC MEMBER TURNBULL: You raised a good
14 point. It's kind of tricky. Normally we've never
15 dealt so much with the ownership of the property
16 per se. In fact, I don't know how many times where
17 an applicant has come in with a deed to the
18 property.

19 Maybe it's been in the documentation,
20 and I haven't really noticed it, but here there's
21 definitely an issue with the ownership of the
22 property.

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1 CHAIR JORDAN: What we usually do,
2 because we take the documents that you filed with
3 the government. It's based upon your oath or
4 affirmation and that you're not going to, anyone
5 falsifies.

6 And so we have had situations before,
7 not very many, few and far between since I've been
8 on this Board that issues question. Then we
9 require the proof of ownership issue to resolve.

10 So that's kind of where we are on this
11 one. And as Mr. Turnbull said, this is a chicken
12 and egg kind of deal. And so that's why I was just
13 kind of turning to the Board to see if they want
14 to hold the hearing and then or just reschedule
15 this. Anybody have a feel? Yes, Mr. Turnbull?

16 ZC MEMBER TURNBULL: Again, just
17 trying to hash through all this. I mean you could
18 have the hearing and come to a decision, but you
19 really couldn't decide anything.

20 You couldn't decide anything, so you'd
21 have to, we'd have to have a continuation at some
22 point.

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1 CHAIR JORDAN: And so in following what
2 you're saying, what if we did go through a full
3 hearing and then the ownership is not proven. Then
4 we would've wasted the Board's time and issue.

5 MEMBER HEATH: Right.

6 CHAIR JORDAN: That make any sense?

7 MEMBER HEATH: That does.

8 ZC MEMBER TURNBULL: Right.

9 CHAIR JORDAN: Okay. So this is what
10 we're going to do if it's okay with the Board.
11 We're going to continue this matter. And we need
12 to get from both parties the documentation about
13 ownership of this property.

14 I mean it's key to where you are. It's
15 one of the things that you guys raised in your party
16 status issues, and you're claiming that you own
17 part of this property in which relief is being
18 requested.

19 And before you could go forward, you
20 have to show that you own the property in which
21 you're seeking the relief. Okay? So here we go
22 back with those dates again. And I'm just, yes?

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1 ZC MEMBER TURNBULL: May I ask a
2 question? Since we have ownership data that's
3 contradictory to his --

4 CHAIR JORDAN: I don't know that to be
5 true.

6 ZC MEMBER TURNBULL: Okay. All right.
7 We don't know how we can solve the problem here.

8 CHAIR JORDAN: No, you're not going to
9 solve it here. That's why we're not going to have
10 a hearing today.

11 ZC MEMBER TURNBULL: Our role is not to
12 solve property ownership. We're here for strictly
13 the zoning issues, I think, but you've got to, we
14 need, if you feel that there is a lien or something
15 on this property that is still in effect, you need
16 to be able to show that to us.

17 As Mr. Bell is going to be proving that
18 he bought this property clean and there's nothing
19 on it, so I mean that's the issue that's going to
20 be coming before us as to the ownership of the
21 property.

22 CHAIR JORDAN: Yes, and it's your

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1 burden to show, as you've raised it because I
2 understand some of you are saying you got some of
3 it in tax sales.

4 Somebody owns part of the land, and so
5 it's whichever way you guys want to do it. But
6 we're only going to do it, you're only going to get
7 one shot at this. Okay?

8 MR. MULDER: We will submit the
9 documentation as soon as possible.

10 CHAIR JORDAN: May 3rd, Mr. Moy. Oh,
11 wait, one, two, I'm sorry, March. One, two, three,
12 one, two, three, four, five, six. I only see six
13 cases on March 3rd. Am I correct?

14 MR. MOY: That's correct as of
15 yesterday.

16 CHAIR JORDAN: Okay. I mean all the
17 other days, I've gone through it. And any other
18 days are loaded.

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

20 CHAIR JORDAN: So this is going to be
21 set, I can't see it happening any time before it,
22 so March 3rd. And this is what I'm going to ask

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1 you, yes, please.

2 MR. BELL: So here's my question. I
3 have received a building permit on this lot by the
4 DC government based on a plat provided by the DC
5 government, shows no encroachments whatsoever.
6 It seems to me that --

7 CHAIR JORDAN: I'm sorry, Mr. Bell.
8 I'm not going to have that conversation with you.
9 We've already decided what's going to happen.
10 This Board has to be comfortable with the ownership
11 issue.

12 That's it, not trying to be
13 unreasonable, but it is what it is. Okay? What
14 you do with another agency is something else. And
15 DCRA didn't ask you to prove that you own the land.
16 They didn't ask you to do that. Isn't that
17 correct?

18 MR. BELL: No, they didn't.

19 CHAIR JORDAN: I know they didn't. I
20 used to be the director of their agency, so I know
21 they did not ask you to prove you own the land. So
22 let's, so this is going to be moved to March 3rd.

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1 This is what I'm going to need you to
2 do. Mr. Moy, give me, I want to exchange the
3 documentation so that each side can see the
4 documentation.

5 So if you can work our way for a start
6 for Mr. Bell, for both parties to exchange their
7 documentation and then give them an opportunity to
8 respond to what the documentation is.

9 Although I think that's probably well
10 above us, and we don't have OAG here to help give
11 some rendering here.

12 So I think we need to be, exchange
13 within ten days of the hearing and then seven days
14 for any rebuttal thereof. Does that make sense,
15 Board? Okay. So ten days from, what's that?

16 MR. MOY: Okay. So working from March
17 3rd for the continued hearing, seven days from that
18 is the 24th, so that can be your rebuttal,
19 rebuttals. Okay? Ten days from February the 24th
20 would be, February the 12th, which is a Thursday
21 if my math is correct.

22 CHAIR JORDAN: So on February 12th is

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1 it? At least by February 12th you guys exchange
2 documents. You show your hand. You show your
3 hand and exchange documents.

4 Then you're going to have three days to
5 send to the Board what you dispute about the other
6 person's proof. Okay?

7 MR. BELL: All right.

8 CHAIR JORDAN: Sorry, but this is kind
9 of what we have to do for us to be able to even to
10 move forward on this thing. All right, so that
11 would be the order of the Board. And so, thank you.
12 Mr. Adams?

13 MR. ADAMS: Yes, I just asked, so we
14 should send the documents to the Board on the --

15 CHAIR JORDAN: On the first, is that
16 February 20 what was it, 12th, 14th?

17 MR. MOY: I would make that February
18 12th.

19 CHAIR JORDAN: On February 12th you're
20 going to do two things. Each side is going to do
21 two things. You're going to exchange documents
22 with each other, and you're going to file the

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1 document here with the Board, your individual
2 documents.

3 Then three days later, within three
4 days, you're going to have the opportunity to share
5 with each other your discussion of that, your
6 rebuttal to what was submitted and also file it with
7 the Board.

8 So it's two things you're going to be
9 sending to the Board, okay. Good. So that's
10 where we are, and we appreciate you coming down.
11 Just we've got to step through these things, the
12 preliminary issues which you raised. All right.

13 Thank you.

14 MR. BELL: Thank you, Mr. Chairman.

15 MR. MOY: Just for the record then, Mr.
16 Chairman, so that would be February 12th. And
17 their rebuttals, I'm going to move it up because
18 that three days would be February the 17th.

19 MR. BELL: Okay. The actual hearing
20 will be --

21 MR. MOY: March the 3rd.

22 CHAIR JORDAN: Thanks, and we just

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1 thank you for all your input in this whole
2 conversation.

3 MS. ELLIOTT: Always a pleasure.

4 CHAIR JORDAN: Thank you, Ms. Elliott.
5 Thanks a lot. Thank you. All right, Mr. Moy, is
6 there any other business coming before the Board
7 today?

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

9 CHAIR JORDAN: Mr. Bell, do you need
10 this? And file whatever you need to do. No other
11 business, Board, anything? Christmas carols?
12 It's a little late for that.

13 Thank you very much. All right, so
14 then we are adjourned, thanks.

15 (Whereupon, the above-entitled matter
16 went off the record at 11:18 a.m.)

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