

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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

10:00 a.m.

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

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

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

MR. SEARLE: Sorry, yes.

CHAIRPERSON JORDAN: There you go.

MR. SEARLE: Jennifer Keller.

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

MR. SEARLE: Yes.

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

For this particular relief, I could be supportive of this, in this instance, because you're already -- the property -- you're just trying to basically, clean up something that's already been happening, and it's already been cited by

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1 DCRA I believe, is that right?

2 MR. SEARLE: I was -- when I purchased the
3 property in 2009, I was told it had a certificate of occupancy,
4 and I re-applied for it by mail.

5 In the process of having the apartment rent
6 though, I determined that it was not a certificate of
7 occupancy. It was a business license, and so, the apartment
8 had not been zoned.

9 I continued the lease and when my dweller left
10 the apartment, I've started the process with the Board of
11 Zoning.

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

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

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

21 MR. SEARLE: Yes.

22 CHAIRPERSON JORDAN: Okay, then let's turn to
23 the Office of Planning, and see if there is anything in addition
24 to what's already in the record.

25 MS. ELLIOTT: Good morning, Mr. Chairman,

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1 members of the Board.

2 For the record, I'm Brandice Elliott with the
3 Office of Planning.

4 We have nothing additional to add to the report.
5 We're recommending approval of the request.

6 CHAIRPERSON JORDAN: Thank you. Anyone here
7 from Department of Transportation? We do have a letter of no
8 objection to the requested relief.

9 Anyone here from ANC-3C for this matter?
10 ANC-3C?

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

13 Anyone here wishing to speak in support? Anyone
14 wishing to speak in support? Anyone wishing to speak in
15 opposition? Anyone in opposition?

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

18 VICE CHAIRMAN ALLEN: Second.

19 CHAIRPERSON JORDAN: Motion made and seconded.
20 Additional discussion?

21 All those in favor signify by saying aye.

22 (Chorus of ayes)

23 CHAIRPERSON JORDAN: Those opposed, nay. The
24 motion carries. Mr. Moy?

25 MR. MOY: Staff would record the vote as 4-0.

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

6 CHAIRPERSON JORDAN: Summary, please.

7 MR. MOY: Thank you.

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

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

11 CHAIRPERSON JORDAN: Thank you. Appreciate it.
12 I guess we're at 868.

13 MR. MOY: Application No. 18868 of Eli and
14 Margaret Joseph.

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

18 CHAIRPERSON JORDAN: Okay, all right. Just one
19 second.

20 All right, please identify yourself for the
21 record.

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

24 CHAIRPERSON JORDAN: Okay, we were just looking
25 at the request for relief because it speaks of special

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1 exception and is asking for a variance and then I think the
2 variance is being asked for -- from the front yard relief, but
3 we believe that's sufficient to do the special exception,
4 extension of the non-conforming use under 2001.3.

5 So, that's kind of what our discussion was about
6 here.

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

10 Mr. Cooke, as you may have heard, the Board
11 believes there is sufficient information here already in the
12 record to grant the relief for the special exception, and it's
13 also your opportunity, if you want to make a statement, you
14 can, but otherwise, you know, it's probably heavily suggested
15 that you want to move on.

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

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

19 MS. VITALE: Good morning, Mr. Chairman, members
20 of the Board. Elisa Vitale.

21 Office of Planning supports the requested
22 relief. We'll rest on the record and can answer any questions.
23 Thank you.

24 CHAIRPERSON JORDAN: Board, any questions of
25 Planning?

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1 We also have a letter from Department of
2 Transportation, with no objection to the requested relief.

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

5 Is there anyone here wishing to testify -- I mean,
6 anyone in support? Anyone wishing to speak in support?

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

10 Anyone here wishing to testify in opposition?
11 Anyone in opposition?

12 Then we would close the record on this matter,
13 and I would grant the -- I would move we grant the relief
14 requested for the special exception.

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

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

22 (Chorus of ayes)

23 CHAIRPERSON JORDAN: Those opposed, nay. The
24 motion carries. Mr. Moy?

25 MR. MOY: Staff would record the vote as 4-0.

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1 This on the motion of Chairman Jordan to approve the amended
2 relief for a special exception under Section 223 in 2001.3.
3 Second the motion, Mr. May. Also in support Vice Chair Allen
4 and Mr. Hinkle. Member not present. Motion carries.

5 CHAIRPERSON JORDAN: Okay, summary, please.

6 MR. MOY: Thank you.

7 CHAIRPERSON JORDAN: Thank you. Next case?

8 MR. MOY: Next application before the Board is
9 18864/18403.

10 This is the application of Roslyn Taylor.

11 As advertised, Mr. Chairman, advertised as
12 request for a modification of a previously approved special
13 exception order under Section 205, to allow expansion of a
14 child development center for 27 children and eight to nine
15 teachers at -- in the R-1-B District at premises 4428 Ord
16 Street, Northeast, Square 5117, Lot 838.

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

20 Would you please identify yourself?

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

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

3 One, you're outside -- the filing for the
4 modification was outside the time frame for receiving the
5 modification.

6 So, we need you to file an application for this,
7 and pay the appropriate fees for the relief. The time period
8 had expired, when you filed for the modification.

9 So, therefore, the application is still not
10 alive. It requires -- you can't modify that which went out
11 of existence. So, we need you to do a new application.

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

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

16 With respect to the self-certification, we can
17 provide correspondence from the -- Ms. Taylor was actually
18 directed here by the Office of the Zoning Administrator, so
19 we can provide that documentation in their.

20 CHAIRPERSON JORDAN: Okay, I'm going to ask OIG
21 to respond to timeliness.

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

25 CHAIRPERSON JORDAN: Okay.

1 MS. NAGELHOUT: -- request for an extension.
2 So, that order -- the validity period of that order has expired.

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

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

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

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

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

13 MR. HUGHES: Why does it have a two-year time
14 limit?

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

18 MR. HUGHES: Unless within such period.

19 MS. NAGELHOUT: But it would -- you'd never ask
20 for an extension, is the point.

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

24 MS. NAGELHOUT: Use to the lapse, just the order,
25 the validity of the order. So, this would be considered a new

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1 application to expand an existing child development center.

2 MR. HUGHES: Okay.

3 MS. NAGELHOUT: Rather than to modify a prior
4 order.

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

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

12 MR. HUGHES: Thank you.

13 CHAIRPERSON JORDAN: Does that consensus with
14 the Board?

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

16 Now, that we've taken care of procedural issues
17 here, I just have -- I guess there is really -- so, you're going
18 from -- you're going to have 27 children and nine teachers,
19 is that correct?

20 MR. HUGHES: That's correct.

21 CHAIRPERSON JORDAN: Okay, so, it's an increase
22 of like 15 and -- so, it's an increase of 15 children and was
23 it another two?

24 MR. HUGHES: Two to three staff.

25 CHAIRPERSON JORDAN: Two to three staff persons,

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1 and the -- you've seen the conditions recommended by the Office
2 of Planning?

3 MR. HUGHES: Yes, sir.

4 CHAIRPERSON JORDAN: Any issues with that?

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

6 CHAIRPERSON JORDAN: Any issues?

7 MR. HUGHES: Mr. Chairman.

8 CHAIRPERSON JORDAN: Let me go over them. So,
9 one is that the hours of operation shall be from 7:00 a.m. to
10 6:00 p.m.

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

12 CHAIRPERSON JORDAN: Six a.m.?

13 MR. HUGHES: Twenty-three hours.

14 CHAIRPERSON JORDAN: This is overnight, okay.
15 Yes, I'm sorry, a.m.

16 That -- the number of enrolled children shall not
17 exceed 27. The number of staff, including two onsite
18 residents shall not exceed nine.

19 Outdoor activities shall be supervised and
20 concluded by 8:00 p.m. Trash shall be kept onsite, collected
21 three times a week and the property shall be kept free of
22 debris.

23 Staff shall monitor the dropping off and picking
24 up of the children.

25 MR. HUGHES: Mr. Chair, the Applicant is

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1 agreeable to all these conditions, with a couple of
2 clarifications.

3 One Item 3, the number of staff, contemplation
4 is a total of nine, including Ms. Taylor. She is one of the
5 two residents -- she is one of the residents of the house. Her
6 husband is not part of -- does not participate in the operations
7 of the child care center.

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

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

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

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

23 So, we'd just like to submit this and --

24 CHAIRPERSON JORDAN: So, that's two times a
25 week?

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1 MR. HUGHES: The recycling occurs at the same
2 time as the trash removal.

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

6 Board, any other questions of the Applicant?
7 Yes, please.

8 VICE CHAIRMAN ALLEN: Is the daycare now 23
9 hours?

10 MS. TAYLOR: Yes, ma'am.

11 CHAIRPERSON JORDAN: It's 23 hours.

12 VICE CHAIRMAN ALLEN: Okay, thank you.

13 MS. TAYLOR: You're welcome.

14 CHAIRPERSON JORDAN: Yes, please.

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

18 MS. TAYLOR: Because of the needs of infant and
19 toddler slots in the District of Columbia.

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

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

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1 MS. TAYLOR: No, sir.

2 COMMISSIONER MAY: That was just --

3 MS. TAYLOR: No, sir.

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

7 MS. TAYLOR: Yes, sir.

8 COMMISSIONER MAY: Okay, thank you.

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

11 MS. TAYLOR: Yes, sir.

12 CHAIRPERSON JORDAN: That's what I thought,
13 okay. Ms. Allen?

14 VICE CHAIRMAN ALLEN: I just have one other
15 question.

16 How many of the children are infants? Toddlers?
17 Are they all?

18 MS. TAYLOR: No, we have six infants and six
19 toddlers currently.

20 VICE CHAIRMAN ALLEN: Okay, because I was
21 concerned and I guess we'll hear from OP, but I was concerned
22 that trash pick-up of sort of dirty soiled diapers, once a week,
23 might not be very healthy. Are you concerned about that? I
24 would be concerned about that.

25 MS. TAYLOR: Well, we did have concerns and we

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1 got a visit from an inspector from the District. He suggested
2 that seeing that we had a business in the District, we needed
3 a commercial trash can, instead of a regular -- the regular
4 green trash cans, which did adhere to, and we have that big
5 huge trash can.

6 It has a cover on it, and we also have the
7 recycling bin.

8 VICE CHAIRMAN ALLEN: Thank you.

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

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

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

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

20 OP is not necessarily an agency with expertise
21 in sanitation.

22 So, I'm sure that there is some sort of commercial
23 container there, that can be appropriately sealed, etcetera,
24 and picked up by a commercial service. I just would not know
25 what would have to be specified in the order, to ensure that

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1 that's adequate.

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

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

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

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

11 MS. TAYLOR: Yes, sorry. Yes, it is, sir.

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

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

19 CHAIRPERSON JORDAN: And you know that it's
20 suppose to be odor-free, or is it just a regular commercial
21 and you're just saying it's odor-free? I mean, how do you know
22 it's odor-free?

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

25 CHAIRPERSON JORDAN: It's sealed?

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1 MS. TAYLOR: Yes, sir.

2 CHAIRPERSON JORDAN: Do you have a picture of it?

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

4 CHAIRPERSON JORDAN: Okay, that was my concern,
5 yes, okay.

6 All right, good. Yes, go ahead.

7 COMMISSIONER MAY: So, when you take the trash
8 out, is it all going to be bagged, as it goes into the dumpster,
9 when it goes into the dumpster? You need to be on the
10 microphone.

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

14 COMMISSIONER MAY: What is a Genie bottle?

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

17 COMMISSIONER MAY: Okay.

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

19 COMMISSIONER MAY: Got it, okay.

20 CHAIRPERSON JORDAN: Okay.

21 COMMISSIONER MAY: So, it's sealed?

22 MS. TAYLOR: Yes, sir.

23 CHAIRPERSON JORDAN: Well, come on now.
24 Anyway, got it, okay.

25 COMMISSIONER MAY: Plenty of diaper time on my

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1 side.

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

5 Then we would modify this to one time for trash
6 pick up.

7 Board, any additional questions of the
8 Applicant? Mr. Cochran, anything additional you wanted to
9 say?

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

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

15 MR. COCHRAN: You never know when they'll go out
16 of business.

17 CHAIRPERSON JORDAN: All right, so, give me that
18 wording again.

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

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

23 MR. HUGHES: We agree, yes. Thank you, Mr.
24 Chair.

25 CHAIRPERSON JORDAN: Okay, so, that is what

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1 we'll change number five to.

2 Is there anyone here from Department of
3 Transportation for this matter?

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

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

10 CHAIRPERSON JORDAN: Okay, all right.

11 MR. HUGHES: I'm not sure if it was independently
12 submitted.

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

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

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

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

24 Anyone wishing to speak in opposition? Anyone
25 in opposition?

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

3 So, I would close the hearing, based upon the
4 record that we have, Board, any other discussion?

5 Then I would move that we grant the relief for
6 29 children and nine teachers, 10 teachers, and that the
7 conditions as read, with the modification to number five, that
8 required trash should be kept onsite and collected in a sealed,
9 odor-free commercial container and picked up once a week by
10 a commercial operation.

11 Okay, so, that would be my motion.

12 VICE CHAIRMAN ALLEN: Second.

13 CHAIRPERSON JORDAN: Motion made and seconded.
14 All those in favor, aye.

15 (Chorus of ayes)

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

18 MR. MOY: Staff would record the vote as 4-0.
19 This on the motion of Chairman Jordan to approve the request
20 for modification with the conditions as cited by the Board,
21 be amended - as amended.

22 Second the motion, Vice Chair Allen. Also in
23 support, Mr. May and Mr. Hinkle. We have member not present.
24 Motion carries, sir.

25 CHAIRPERSON JORDAN: Summary, please.

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1 MR. MOY: Thank you.

2 CHAIRPERSON JORDAN: All right, very good.
3 Thank you very much.

4 MS. TAYLOR: Thank you.

5 CHAIRPERSON JORDAN: On 866.

6 MR. MOY: All right, next up is Application No.
7 18866. This is Planned Parenthood Association of D.C., as
8 advertised for variances from the Court under Section 536 and
9 parking requirements under Section 2101 and 2120, and a special
10 exception for office use under Section 508.

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

13 CHAIRPERSON JORDAN: Okay, please identify
14 yourself.

15 MR. COCHRAN: Good morning. My name is
16 Christine Roddy and I am the attorney with Goulston & Storrs,
17 and with us today we have representatives of the Applicant.
18 We have both Ms. Lynn Hackney and Mr. Loren with us this
19 afternoon, and to my left, I have Erwin Andres, who is our
20 transportation consultant, and to my right, I have Jane Nelson,
21 who is our project architect.

22 CHAIRPERSON JORDAN: Okay, a couple of things.
23 First, we'll grant the motion -- the request of the Office of
24 Planning and accept the report out of time.

25 If it's anybody else but you, Ms. Thomas, no.

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1 We'll accept that report out of time.

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

5 The parking relief is a lift, and in your
6 presentation, I think you need to drill into that, especially
7 effect upon the surrounding community and etcetera.

8 So, when you go through your presentation, you
9 want to do that.

10 Board, any other thing specifically you want to
11 hear? What about anything about this -- the dimensions of the
12 Court? No? Okay.

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

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

21 CHAIRPERSON JORDAN: Yes, please.

22 MS. RODDY: Okay, as I mentioned, there are three
23 areas of the relief. We are seeking special exception for the
24 office.

25 The parking is actually a special exception,

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1 since this is considered a contributing building to the 16th
2 Street Historic District.

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

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

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

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

18 The project has simultaneously undergone review
19 by the Historic Preservation Review Board, which has granted
20 concept approval. We have gone to the ANC. The ANC has noted
21 that it has no objections to the project and we have the support
22 of the Office of Planning, as well as DDOT.

23 DDOT did have two recommendations in their
24 report, that we provide additional parking, and we have agreed
25 to do that.

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

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

7 MS. NELSON: Good morning. Jane Nelson with
8 Nelson Architects.

9 I'll just quickly show you the location.

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

14 It is a mid-block site. It is surrounded by
15 primarily commercial office buildings. There is one
16 apartment building to the -- on the block to the south, and
17 a representative of that apartment building did attend the ANC
18 Committee meeting, and they are in support of the project.

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

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

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1 The site plan shows, you can just see the remnants
2 of the row houses at the back, and there is a two-story addition
3 and a four-story at the front.

4 That is the current facade. The Historic
5 Preservation Office has concurred that the top two floors of
6 that facade are non-contributing and we are retaining the lower
7 two floors of that historic facade. Everything behind it will
8 be removed.

9 The top row shows our new eight-story building
10 within that street scape.

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

14 In keeping with 16th Street historic apartment
15 buildings, the organization vertically is base, shaft and
16 capital.

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

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

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

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

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

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

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

18 We are providing -- the existing building has
19 five spaces. We are providing three, partly because we have
20 to require -- we need to provide a van space, which has a much
21 wider requirement than the standard space.

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

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

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1 This is the roof plan. They would be eight-feet
2 tall, set back eight feet, minimum of eight feet. So, it would
3 be the one-to-one set back.

4 The penthouse, we are not asking for relief on
5 that, as well.

6 So, they would be -- basically, the architectural
7 embellishments for terraces -- roof terraces on the project.

8 The trellis that you see in the -- this corner
9 right here is actually the walk-out terrace at the eighth
10 floor. So, it does two things. One, it provides a very nice
11 for that unit, but also it cuts away that top element for the
12 court and brings additional eastern light into that court, and
13 that's -- if you have any questions on that, I'm happy to
14 answer.

15 CHAIRPERSON JORDAN: Yes, Ms. Allen?

16 VICE CHAIRMAN ALLEN: I have a couple of
17 questions. You said that you had to -- you were required to
18 have a van? Could you explain that a little more?

19 MS. NELSON: Sure.

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

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

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

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

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

6 MS. NELSON: That's in addition, yes, it's just
7 a note.

8 VICE CHAIRMAN ALLEN: All right.

9 CHAIRPERSON JORDAN: Yes, Mr. May?

10 COMMISSIONER MAY: So, why isn't a trellis
11 considered a roof structure?

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

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

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

20 So, I don't understand why it wouldn't be a roof
21 -- the roof structure -- why it would not be considered a roof
22 structure.

23 MS. NELSON: The penthouse is 18.6.

24 COMMISSIONER MAY: Right.

25 MS. NELSON: And we were certainly just trying

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1 to minimize the -- from the Historic Preservation standpoint.

2 COMMISSIONER MAY: Right.

3 MS. NELSON: Views from across the street.

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

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

11 MS. RODDY: Right, and we would be comfortable
12 requesting that relief if the Board would consider it.

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

16 COMMISSIONER MAY: Okay.

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

19 COMMISSIONER MAY: Okay.

20 CHAIRPERSON JORDAN: Yes.

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

24 CHAIRPERSON JORDAN: Mr. Hinkle?

25 MEMBER HINKLE: Yes, thank you. I want to get

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1 to the -- the requested relief for the parking.

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

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

8 MEMBER HINKLE: And everything behind that
9 facade is demolished?

10 MS. RODDY: Correct.

11 MEMBER HINKLE: And you're asking for special
12 exception relief for the parking, under 2120.6.

13 So, just reading that, so, the Board can grant
14 relief from the parking requirements, as a result -- and I'm
15 going to quote this, "As a result of the location of the
16 historic resource, providing that the required parking will
17 result in significant architectural or structural difficulty
18 in maintaining the historic integrity or appearance of the
19 historic resource."

20 So, how would providing the required parking
21 result in some significant architectural or structural
22 difficulty in maintaining those first two floors of the facade?

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

25 So, to do a below grade, as I discussed earlier,

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1 the width, the math basically doesn't work with the ramp width,
2 the drive aisle, and then a 19-foot depth parking space.

3 If you could do parallel spaces, those are
4 basically 20 feet long. You'd still only get a couple of
5 spaces down there.

6 So, a ramp below grade structure is impractical.

7 If we just -- if we got rid of the ramp and
8 basically surface-parked under the building, again, two
9 negative and impractical things.

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

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

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

22 I mean, for me, the special exception gets to the
23 point of preserving a historic resource, and right, I am just
24 not getting the relationship between the parking relief and
25 preserving the facade itself without additional structure

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1 behind it.

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

7 So, it maintains that appearance along 16th
8 Street and the providing the core.

9 I think though from what she had said, and we also
10 have Mr. Andres here to discuss the impacts, which is part of
11 the requirement as well, that this case also would fit the
12 variance and satisfy the variance requirement.

13 It's unique in that it is only 50 feet wide and
14 it also has those two -- first two floors that must be
15 preserved, and we get the practical difficulty for all the
16 reasons that Ms. Nelson just explained, as to why we would not
17 be able to provide additional parking and provide a court to
18 access the building.

19 So, then again, we'll have Mister -- we haven't
20 gotten to Mr. Andres at this point, but we -- he can testify
21 to the impacts that the lack of parking would have on the
22 community, and that we are mitigating that and that this really
23 is a community that isn't driving to this site. They're in
24 downtown. Most people who live there would use public
25 transportation and everyone who worked there would likely use

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1 public transportation, as well.

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

4 MEMBER HINKLE: Yes, I mean, we hear this all the
5 time, right.

6 CHAIRPERSON JORDAN: Everybody uses the same
7 argument --

8 MEMBER HINKLE: Right.

9 CHAIRPERSON JORDAN: -- up and down the block,
10 throughout the District, and everybody is saying that no one
11 is going to park, but there's an awful lot of cars around, and
12 anyway, we'll get to that, under Mr. Andres.

13 But let me ask you. So, you could keep the five
14 spaces, but could you -- because you're eliminating two of the
15 spaces you already have, I mean, without impacting the
16 historical nature of the property.

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

20 CHAIRPERSON JORDAN: That's your election
21 though, right?

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

23 CHAIRPERSON JORDAN: The van spaces.

24 MS. NELSON: The accessible van space.

25 CHAIRPERSON JORDAN: Okay.

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

3 In addition, that access aisle acts are the rear
4 -- the entrance, the pedestrian entrance and the removal of
5 trash and loading from that rear.

6 So, they have five now. They just have five
7 nine-foot wide spaces. They do not have an accessible van
8 space.

9 CHAIRPERSON JORDAN: Anybody else, questions?
10 You can proceed on.

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

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

18 MS. RODDY: And we'll have Mr. Andres now
19 testify.

20 MR. ANDRES: Good morning, Chairman Jordan,
21 members of the Board.

22 For the record, Erwin Andres with Gorove/Slade
23 Associates.

24 We've worked with the development team to support
25 the application.

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

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

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

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

19 I understand, as we've spoke about before,
20 Chairman Jordan, if this -- under the new zoning rewrite
21 regulations, and I understand that it's not final yet, but
22 under the draft zoning rewrite regulations, this project would
23 have no parking requirement associated with the residential.

24 As part of the loading requirements, there is no
25 loading requirement either.

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1 With respect to the justification itself, and I
2 think this goes to the heart of the issue, we believe that the
3 -- the parking that's provided and the amenities that are in
4 and around the site, as well as the demographics associated
5 with residents in and around the subject property, lends itself
6 to the amount of parking that we're providing.

7 With respect to the actual demographics from the
8 census tract, 60 percent of the two census tracts that this
9 site is located in and near, do not own cars. So, there is
10 60 percent non-vehicle ownership.

11 The District average is in the 50 percent range.
12 So, it's a higher non-auto ownership, as compared to the
13 overall District.

14 With respect to destination of journey to work
15 information, which is information related to how people get
16 to and from work, 78 percent of the residents in the households
17 in these two census tracts where the site is located do not
18 drive to work.

19 CHAIRPERSON JORDAN: Seventy?

20 MR. ANDRES: Seventy-eight percent. So, only
21 22 percent either drive or car-pool to work, of the residents
22 that live in this -- within the census tracts.

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

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1 CHAIRPERSON JORDAN: So, what's 78 percent of
2 the number -- residents for this building?

3 MR. ANDRES: Seventy-eight percent of
4 residents?

5 CHAIRPERSON JORDAN: Are projected for this
6 building.

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

11 CHAIRPERSON JORDAN: Right, 24.

12 MR. ANDRES: Yes.

13 CHAIRPERSON JORDAN: Twenty-one to 24.

14 MR. ANDRES: About 24.

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

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

20 CHAIRPERSON JORDAN: Using your numbers.

21 MR. ANDRES: Absolutely.

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

24 MR. ANDRES: Absolutely.

25 CHAIRPERSON JORDAN: Can't have both sides.

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1 MR. ANDRES: No, I understand that, but you know,
2 certain residential developments attract certain types of
3 residents.

4 There are some residents that are not close to
5 the metro and have no real proximity to some of the amenities
6 that drive non-auto --

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

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

13 CHAIRPERSON JORDAN: So, that would include the
14 same issue with being near mass transportation, etcetera.

15 MR. ANDRES: Yes, that's correct, but this also
16 includes some other residential buildings within the area that
17 have parking.

18 So, in this instance, we have a limited number
19 of parking, so, the way that the marketing for this
20 development, as well as other developments like this, are
21 looking to attract people who either are currently not reliant
22 on their personal vehicle or choose to live near where they
23 work.

24 I wouldn't be surprised if some of the residents
25 live within the Golden Triangle downtown bid area. So, that

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1 they choose that -- you know, they'd rather spend their money
2 not on transportation, but obviously higher housing costs.

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

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

9 So, the first is obviously, the demographic cuts
10 out a whole bunch of people --

11 CHAIRPERSON JORDAN: I'm asking for this
12 building, what are you -- what is being placed for this
13 building, that's going to discourage people from owning cars?

14 MR. ANDRES: Well, with respect to the TDM plan,
15 the Transportation Demand Management plan provides
16 opportunities to disseminate information, so that those who
17 are non -- who are not inclined to drive or own a car, to get
18 the information they need to be able to access bike-share,
19 car-share, metro-rail, future street car line and there is 20
20 bus lines within three blocks of this site.

21 In addition to that, we're providing each
22 residential unit, car-share membership or capital bike-share
23 memberships, so it helps stimulate that environment of
24 providing non-auto modes to commute, and then we're providing
25 onsite bicycling, which we've committed to as part of our

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1 response to DDOT comments.

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

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

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

11 CHAIRPERSON JORDAN: Okay.

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

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

21 So, if there are residents that come that -- if
22 they're visitors for the residents during the day that don't
23 have parking, they can park in those facilities, but the
24 residents themselves have access to the green facilities,
25 which provide overnight parking.

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1 So, those green facilities, and there are 12 of
2 then within three blocks of the site, that provide the
3 necessary sort of overflow relief, with respect to parking
4 supply, in the event that despite all of the recommendations
5 that we're identifying, in the event that somebody still wants
6 to drive, there is an opportunity for them to use one of these
7 offsite parking garages that do provide overnight parking.

8 CHAIRPERSON JORDAN: Has the Applicant made any
9 arrangements with one of the parking garages?

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

12 CHAIRPERSON JORDAN: Okay.

13 MS. RODDY: And just to clarify, I know that we
14 were anticipating in the math that we did before, that there
15 would be 34 residents. We would anticipate there would
16 actually be 24 residents. We don't expect to have two
17 residents in the one-bedroom units.

18 So, with 24 residents in the building, that would
19 really be five spaces. The 22 percent comes out to five
20 spaces.

21 So, just wanted to clarify that. That's a
22 two-space overflow from what we're providing in that, we've
23 made arrangements, like I said, for overflow parking in a
24 neighboring garage.

25 CHAIRPERSON JORDAN: So, what kind of

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1 arrangements have you made?

2 MS. RODDY: We have Ms. Hackney, who is a
3 representative of the Applicant, coming to testify.

4 CHAIRPERSON JORDAN: Okay.

5 MS. HACKNEY: Good morning, Chairman and the
6 Board.

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

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

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

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

23 CHAIRPERSON JORDAN: You wouldn't have to start
24 paying necessarily right now.

25 MS. HACKNEY: Generally, I asked -- I

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

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

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

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

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

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

17 So, I personally used both of these garages for
18 11 years for my staff. So, I'm very familiar with the people
19 and how they run and how it works.

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

25 We would have as few as 10 a month or as many as

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1 20, depending on who needed parking at any given time.

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

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

9 VICE CHAIRMAN ALLEN: That's what I was asking.
10 So, the folks who you -- yes, right. So, Planned Parenthood
11 moved, but the people who are going to be in this building are
12 the ones that you're referencing, the five spaces or whatever
13 the 10 people, the 24, I got you.

14 MS. HACKNEY: Okay.

15 VICE CHAIRMAN ALLEN: All right.

16 MS. HACKNEY: Thank you.

17 CHAIRPERSON JORDAN: Okay, anything else?

18 COMMISSIONER MAY: No, Chairman.

19 CHAIRPERSON JORDAN: All right, anything else,
20 Ms. Roddy?

21 MS. RODDY: That's our presentation. I would
22 just add that, you know, we have advertised for a variance
23 relief for the courtyard, so if you'd be more comfortable in
24 proceeding with a variance for the parking, which as we walked
25 through the -- this impractical difficulty, I do believe we

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1 can satisfy parking.

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

5 What do you claim is unique about this building?

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

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

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

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

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

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

19 CHAIRPERSON JORDAN: I'm talking about step one,
20 not step two.

21 MS. RODDY: Right, it's a conflict of the width
22 of the lot, as well as the fact that we have to preserve the
23 first two floors, the first two-floor facade, and that
24 together, since the facade runs from north to south for the
25 entirety of the lot, creates the practical difficulty and the

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1 uniqueness of the site.

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

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

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

11 CHAIRPERSON JORDAN: All right, so, but you're
12 making the argument that this building is unique compared to
13 other buildings and other situations, and I'm saying you're
14 talking about your building.

15 MS. RODDY: Yes, and our's is a facade. I don't
16 know what the other historic attributes would be. They may
17 not be -- have to preserve the building, which would create
18 a different uniqueness.

19 Our's would be the --

20 CHAIRPERSON JORDAN: But that's something you
21 just pulled out the air, without doing the research to find
22 out.

23 You know the standard better than I do, and the
24 fact that almost every building has something that they
25 consider themselves unique about it, but actually, we look at

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1 it as required within the realm of the immediate universe, it
2 may not be.

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

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

7 CHAIRPERSON JORDAN: Okay, sorry, we can
8 proceed, back in session. Thank you. Do you want to proceed?

9 MS. RODDY: You had asked us --

10 CHAIRPERSON JORDAN: Well, wait. Do we have
11 seats? Do you need seats? Yes, let's -- please, let's take
12 seats and -- thank you.

13 MS. RODDY: You had asked us what was unique
14 about this property and if there were any other properties that
15 were similarly wide, and if you look at the plot for Square
16 183, and I'm looking at one that was in Exhibit-C of our initial
17 submission.

18 You'll note that the property to the south of us
19 is similarly wide, whereas the properties to the north,
20 directly to the north is considerably wider, as well as the
21 property north of that.

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

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1 of our lot, as the property to the north.

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

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

10 CHAIRPERSON JORDAN: Mr. May?

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

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

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

16 CHAIRPERSON JORDAN: Can you pop it up?

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

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

21 MS. RODDY: No, in our initial submission.

22 CHAIRPERSON JORDAN: Tab 3?

23 MS. RODDY: C as in Christine.

24 CHAIRPERSON JORDAN: Your initial submission?

25 COMMISSIONER MAY: Yes, I mean, it's not syncing

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1 up with what the --

2 CHAIRPERSON JORDAN: Yes, right.

3 COMMISSIONER MAY: The way our documents are
4 listed.

5 MS. RODDY: I'm sorry.

6 COMMISSIONER MAY: It's in the tab.

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

10 CHAIRPERSON JORDAN: Let's proceed on it. You
11 might have to submit that, and more, that's not off the hip,
12 so that we can verify it, because I'm not going to hold up the
13 hearing for this, and because that's something that should have
14 been pointed out to us, and -- before. So, let's proceed on
15 it.

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

19 Any other questions of the Applicant at this
20 particular point?

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

24 CHAIRPERSON JORDAN: Exhibit-11?

25 COMMISSIONER MAY: So, explain again, now that

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1 we have this exhibit in front of us.

2 CHAIRPERSON JORDAN: Eleven?

3 COMMISSIONER MAY: Eleven, yes. If you might,
4 exactly what the -- your argument about the -- the wide -- why
5 it's different compared to the neighbors.

6 MS. RODDY: Yes. So, we're Lot 111, and you'll
7 note that we are similarly wide as Lot 106 to our south, Lot
8 98 and 91 to our north is narrower.

9 Lots 881 and Lot 105 are considerably wider, and
10 then Lot 884 also in our square, is much wider.

11 CHAIRPERSON JORDAN: One-zero-six, what did you
12 say about 106?

13 MS. RODDY: It's similarly wide as our lot. So,
14 yes.

15 CHAIRPERSON JORDAN: They're the same?

16 MS. RODDY: Yes.

17 COMMISSIONER MAY: Yes.

18 CHAIRPERSON JORDAN: Got you, all right, that's
19 all right.

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

23 Of the two lots that one is narrow or similarly
24 wide, Lot 91 has access all along the length of it, along the
25 alley.

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1 CHAIRPERSON JORDAN: Lot 91?

2 MS. RODDY: Yes, at the north -- to the north.

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

5 Ninety-one, over here, okay, is that 91? It's
6 upside down. Okay, I got you, 91 is what now?

7 MS. RODDY: It has access. You have the 16th
8 Street frontage as well as the frontage all on the east-west
9 length of that lot from the alley.

10 Similarly, Lot 106, which is similarly wide, has
11 16th Street access, as well as L Street and again, that's all
12 the entire length of that east-west length of that lot.

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

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

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

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

25 CHAIRPERSON JORDAN: They have access to the --

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1 but I --

2 COMMISSIONER MAY: Does 105 have parking in the
3 building?

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

6 None of the garages -- none of the buildings on
7 that square have garages, on that -- on our side of the alley.

8 All of the buildings that Ms. Roddy referenced
9 do not have parking.

10 CHAIRPERSON JORDAN: They have no parking?

11 MR. ANDRES: Yes.

12 CHAIRPERSON JORDAN: On that block?

13 MR. ANDRES: Well, there is no structured
14 parking in the building. So, they might have --

15 CHAIRPERSON JORDAN: In the building, they have
16 it on the property?

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

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

22 MS. RODDY: Yes, that is the taller building.

23 COMMISSIONER MAY: That is the taller building,
24 and 106 is the historic building on the corner that was just
25 redone, and they took off all the stucco or faux stucco, and

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1 that doesn't have any parking in it, as I recall. That's a
2 historic building, right?

3 MS. RODDY: Correct.

4 COMMISSIONER MAY: Yes. So, we've seen many
5 cases where parking is extremely difficult because of the width
6 of -- or because of a dimension of the property, because you
7 know, you have a certain floor plate that is really necessary,
8 in order to have efficient structured parking.

9 Can you tell us what that might be? I mean, is
10 it -- does it become efficient at 60 feet? Eighty feet?
11 One-hundred feet?

12 MS. RODDY: Yes.

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

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

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

23 COMMISSIONER MAY: Okay, and remind me again,
24 the width of the property.

25 MS. NELSON: Fifty feet.

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1 COMMISSIONER MAY: Fifty feet, exactly, okay,
2 and but even at 60 feet, you've got room for two sets of spaces
3 on either side, and then one drive aisle, right? You don't
4 necessarily get a turnaround necessary for a ramp.

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

7 COMMISSIONER MAY: Right.

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

10 COMMISSIONER MAY: Right.

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

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

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

20 COMMISSIONER MAY: Right.

21 MR. ANDRES: -- and drop down, you know,
22 depending on what the depth of that lot is, there is also some
23 constraints, unless that ramp is, you know, upwards of 15 to
24 16 percent.

25 COMMISSIONER MAY: So, did you look at doing the

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1 steepest possible ramp and getting down to a single parking
2 level, instead of having those cellar apartments, and what kind
3 of numbers did you get out of that?

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

9 COMMISSIONER MAY: Right.

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

13 COMMISSIONER MAY: And you get three, maybe four
14 outside, and I mean, the current design shows three and you
15 could get a fourth, possibly.

16 MS. NELSON: Possibly. Well, you would have to
17 -- the 20 -- you need to subtract the 20 feet for the drive
18 aisle, plus another five feet for pedestrian access. So, that
19 is --

20 COMMISSIONER MAY: No, I'm not talking about
21 additive. I'm talking about what -- you know, having a garage
22 versus having the surface parking. The surface parking gets
23 -- your current scheme is three spaces, and then if you -- but
24 if instead, you had a ramp down into the building, you would
25 get four or five spaces, you say.

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1 MS. NELSON: On the surface or below?

2 COMMISSIONER MAY: Below.

3 MS. RODDY: Correct, and again, our current
4 scheme, it's three zoning compliance spaces, a fourth that does
5 not meet the zoning requirements.

6 COMMISSIONER MAY: Got it, okay. So, Ms. Roddy,
7 lots of this size are fairly frequently developed for office
8 or apartments, and the argument is typically made that a
9 variance is needed for parking in a -- because of these sorts
10 of circumstances.

11 In those kinds of cases, are they typically, you
12 know, truly unique properties, where you know, everything else
13 on the block is 100 feet wide and this one only happens to be
14 50 feet, and so, therefore, it can't fit, or is it often in
15 places where there are other properties on the block that are
16 the same width or narrower?

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

21 So, I think that this situation is -- I know that
22 there are other situations where the lots aren't wide enough
23 to accommodate the parking, but this is the situation of both
24 of those issues.

25 As we -- we wouldn't be able to provide -- I mean,

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1 assuming we were located elsewhere in the District, we could
2 come off of the front, provide some parking from the front,
3 and then provide additional parking, surface parking from the
4 alley.

5 But given that the fact that we have to preserve
6 the facade along the front, we can't do that. We're limited
7 only to the alley access, and I think that it's those factors
8 that create the uniqueness.

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

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

21 COMMISSIONER MAY: Right.

22 MS. RODDY: -- square.

23 COMMISSIONER MAY: Okay, all right. Thank you.

24 CHAIRPERSON JORDAN: All right, couple of
25 questions.

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

7 Additionally, is there anything that you're
8 proposing for your lease, that says that tenants can't have
9 a car?

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

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

17 We would need -- that does not stop the condo
18 documents that have a covenant that they cannot -- owners in
19 this building cannot have cars.

20 Additionally, then we're talking about -- and
21 going further about additional sales of the building and the
22 condo docs, that the association makes sure that they are
23 provided the bike-share member, etcetera and car-share
24 membership.

25 I don't see that in your TDM kind of offering

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1 here.

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

5 These buildings have a history and a whole life,
6 and as you know, parking is a major, major issue in the
7 District, and we see it all the time, and some of these reports
8 from -- some other or some transportation experts, I can just
9 take it, change the name of the Applicant and just put a new
10 name on it, because they all read the same. They're all
11 guessing about what is going to happen.

12 We put in these measures and what -- and parking
13 is the issue, even places where there has been granted relief,
14 based upon some of the same arguments that people aren't going
15 to have parking in the District, and nobody is going to drive,
16 and sure enough, those aspects of this, those buildings are
17 up for a little bit, we find out people have cars, have parking,
18 because they decide one, not just they have to go to work, but
19 how are they going to get groceries on the weekend, and we're
20 not taking the groceries on the metro, all of those kind of
21 things.

22 So, we take it real serious, and I'm just saying
23 to you, it's not the convenience of the Applicant. It's the
24 convenience of the citizens of the District of Columbia, okay.
25 That's really what we're looking at.

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

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

7 So, I just put -- I put forth to you, is it Ms.
8 Hackney?

9 MS. HACKNEY: That's correct.

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

13 MS. HACKNEY: Fair enough.

14 CHAIRPERSON JORDAN: Because they have to be
15 real issues here and --

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

18 CHAIRPERSON JORDAN: Well, I was just asking
19 you, have you considered what are those type of things, because
20 we have -- if you kind of follow and track how this Board has
21 operated, we're asking for those things.

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

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1 MS. HACKNEY: I think that what we run into is
2 with the Condominium Board. We can put requirements and condo
3 docs from the initial public offering statement, but if the
4 Board subsequently votes to do something differently, we have
5 to --

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

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

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

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

19 Anybody? No? Please, then Ms. Thomas.

20 MS. THOMAS: Good morning, Mr. Chair. Karen
21 Thomas with the Office of Planning, for the record.

22 We are going to stand on the record of our report.
23 We've reviewed the application of a special exception,
24 including the parking issue that you're focusing on.

25 I'd just like to highlight one issue with respect

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1 to the condition.

2 You were asking whether the property was unique
3 and to what extent, but when you -- the variance test requires
4 that there is an exceptional narrowness, and I would position
5 -- position that with respect to parking, it is exceptionally
6 narrow to provide parking on that site, because as Miss -- as
7 the Applicant Ms. Roddy stated, there is a magic number to --
8 and width, to be able to provide that situation below grade.

9 I'd be happy to take any other questions.

10 CHAIRPERSON JORDAN: Yes, please.

11 COMMISSIONER MAY: So, did you, either initially
12 or since I raised the issue, look into the question of the
13 trellises of the roof?

14 MS. THOMAS: Well, since you raised the question
15 with the trellises, having discussed it with other staff
16 members, this did not raise a red flag for us, because it was
17 open.

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

21 COMMISSIONER MAY: They wouldn't consider it a
22 roof structure, just because it doesn't have a roof over it.

23 MS. THOMAS: No, because it was 51 percent open,
24 because it was an open structure.

25 COMMISSIONER MAY: Okay, but penthouses

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1 frequently don't have roofs at all. They're open to the sky
2 and they just have enclosing walls.

3 So, those aren't roof structures, either?

4 MS. THOMAS: That would -- that is classified as
5 a roof -- a penthouse is classified as a roof structure, but
6 a trellis has not been in the past. So, we did not --

7 COMMISSIONER MAY: But I mean, usually they're
8 attached to the -- the penthouses are often -- they're attached
9 to the penthouse, in fact, part of this one is attached to the
10 penthouse.

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

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

22 In fact, we have that for the stairway exit from
23 the rear top floor unit, where it's not set back from the
24 courtyard.

25 I think all these things need to be addressed

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

9 My memory could be faulty. It could be that
10 you're -- you know, you're absolutely right, and everybody --
11 and I'm the one in the wrong, and somebody just needs to show
12 me why I'm wrong.

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

15 COMMISSIONER MAY: Thank you.

16 MS. THOMAS: Thank you.

17 CHAIRPERSON JORDAN: Anybody else, questions
18 for Office of Planning?

19 Applicant, questions for Office of Planning?

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

23 20: Happy to be here. I will largely stand on
24 the record --

25 CHAIRPERSON JORDAN: Please identify yourself.

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1 MR. ROGERS: Sure, Jonathan Rogers with the
2 District Department of Transportation, and happy to stand on
3 the record that the site, given its location and its excellent
4 access to transportation alternatives, will -- the parking
5 relief that is requested is -- will not have an adverse impact
6 on the transportation network.

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

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

13 MR. ROGERS: You're talking about
14 Transportation Data Management effectiveness, essentially?

15 CHAIRPERSON JORDAN: Yes.

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

19 So, it's not -- it's difficult to attribute a
20 certain performance to one particular element, but it's, how
21 does the entire plan work, given the other elements that are
22 in place, given context, given the demographics of the
23 residents and so on.

24 CHAIRPERSON JORDAN: And I don't know if you had
25 the chance -- well, just reviewing the ones that is done by

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1 Arlington and Fairfax County and some other places, and we're
2 -- we have a more intense use, I believe than those areas, I
3 mean, still some concerns.

4 Okay, Board, any other questions of Mr. Rogers?

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

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

10 Is anyone here wishing to speak in support?
11 Anyone wishing to speak in support?

12 Anyone wishing to speak in opposition? Anyone
13 wishing to speak in opposition?

14 We will turn back to the Applicant for any
15 rebuttal and closing, please.

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

23 Another possibility might be that we would
24 maintain a minimum number of spaces at an offsite location.

25 I think there is a couple ways that we can do this,

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1 to get to your concern, through the use of the covenant.

2 CHAIRPERSON JORDAN: So, you said the owners
3 would be required to produce a monthly lease? Was that the
4 first one?

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

9 CHAIRPERSON JORDAN: And the second thing that
10 you said?

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

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

16 MS. RODDY: Well, I would just -- I would
17 continue just to, you know, evidence that DDOT believes that
18 this will not have an impact. Our analysis shows the same.

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

23 We are happy to provide those assurances as we
24 just went through, if that makes your more comfortable with
25 our request for the parking variance.

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1 I think that our submission does evidence the
2 courtyard, the variance standard has been met for the
3 courtyard. I also believe that the office space, the evidence
4 is in there, that we meet the special exception standard for
5 the additional office space.

6 CHAIRPERSON JORDAN: All right, thank you.
7 Then we will close the record. Any additional -- yes, but I
8 was just -- we're going to do deliberation or you want to just
9 --

10 Okay, so, let's close the record with what we have
11 before use, and I note the Board is ready to deliberate, or
12 if there is additional information that we're going to need.
13 Mr. May?

14 COMMISSIONER MAY: Well, I think there is
15 probably -- there is some additional information, I certainly
16 requested some.

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

20 I think that the -- the Applicant has made the
21 case here, for relief from the parking. I mean, that seems
22 to be the big issue here. I have, you know, what I think are
23 minor concerns about the trellis, but I think they need to be
24 addressed, and they will be.

25 But the parking here -- parking relief here

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1 really makes sense. There are certainly circumstances when
2 parking relief for additional housing in certain neighborhoods
3 is problematic because of the tendency for spill-over parking,
4 for people to go ahead and, you know, have a car, even though
5 their building doesn't have parking for them, and then they
6 just go park in the neighborhood.

7 Well, the immediate vicinity here is not a
8 residential neighborhood. You have to go a couple blocks to
9 get to anyplace where there is -- where there even are
10 residential parking spaces.

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

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

23 I don't think that there's any problem with it.
24 So, I think that it meets the uniqueness test, because of the
25 narrowness and the difficulty of putting parking under the

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

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

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

15 CHAIRPERSON JORDAN: Anybody else? Mr. Hinkle?

16 MEMBER HINKLE: Yes, thank you. So, I think
17 we're talking about a variance on parking and I'm not quite
18 sure that the Applicant has made the case on the uniqueness
19 test.

20 Now, I agree with Mr. May, in terms of the impact,
21 but it's how do we get there, and what I would propose is to
22 have the Applicant come back with a solid argument, in terms
23 of the variance on the parking relief, because I would like
24 to see that spelled out by the Applicant, in terms of how it
25 meets the first prong, how this property is unique, and how

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1 that uniqueness actually fits into the practical difficulty
2 to provide the parking.

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

7 So, my suggestion is to have the Applicant
8 supplement the record.

9 CHAIRPERSON JORDAN: I agree with that. I
10 believe the record is very light, in regards to showing the
11 uniqueness, showing how there is an issue with parking, the
12 inability to park -- to create parking spaces underneath, the
13 financial issue that may hit, trying to do it, even for the
14 four or five that you can put there. I mean, that is -- I would
15 agree with that. Ms. Allen?

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

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

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

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1 CHAIRPERSON JORDAN: Okay, let's do this.
2 Let's keep the record open. Let's just -- what we need to see,
3 something from the Applicant regarding the issue of trellis
4 versus roof structure.

5 We need a stronger argument for you, with not just
6 us sitting here looking at guessing, is this building smaller,
7 narrower or whatever, on uniqueness, regarding this property.

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

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

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

22 MEMBER HINKLE: Do we need a supplemental from
23 the Office of Planning?

24 CHAIRPERSON JORDAN: I think Planning is very
25 clear.

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

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

6 Yes, you asked for OP to respond to that?

7 MEMBER HINKLE: Yes.

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

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

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

16 MR. MOY: Well, Mr. Chairman, depending on the
17 labor of the Applicant --

18 CHAIRPERSON JORDAN: So, we were January or
19 February?

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

23 Given the size of the docket, when are you back?

24 CHAIRPERSON JORDAN: Twenty-seventh of
25 December?

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

3 CHAIRPERSON JORDAN: Okay.

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

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

7 MR. MOY: Yes, may need filings a week before the
8 27th.

9 CHAIRPERSON JORDAN: Yes.

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

12 CHAIRPERSON JORDAN: Mr. May won't be here.

13 MS. RODDY: Okay.

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

16 Okay, so, the submittal?

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

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

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

24 Eight-six-seven, Mr. Moy?

25 MR. MOY: The next application is Application

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1 18867 of Growth Spurts. If the Applicant is here, this a
2 request for a variance from the off-street parking
3 requirements under Section 2101.1 for a child development
4 center at 1802 D Street, Northeast.

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

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

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

13 Thank you. You may be seated.

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

17 MR. SMITH: Calvin Smith.

18 CHAIRPERSON JORDAN: Okay.

19 MS. SMITH: Good morning. I'm Camilla Smith.

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

23 MS. SMITH: No.

24 CHAIRPERSON JORDAN: Okay.

25 MS. SMITH: You mean something on the wall or the

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1 door?

2 CHAIRPERSON JORDAN: Yes.

3 MS. SMITH: No.

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

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

9 CHAIRPERSON JORDAN: All right, so, we're going
10 to have to continue this for another time. You have to post
11 the property.

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

17 Then you have to file with the Board, an affidavit
18 swearing that these things happened, okay?

19 MR. SMITH: Okay, got you. No one told us about
20 that.

21 CHAIRPERSON JORDAN: Mr. Moy?

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

24 Given the number of hearing dates we have in
25 December, so, the earliest, the Board has eight or nine cases

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1 for January 6th, which I would have preferred, and January 13th
2 is also similarly.

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

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

11 MR. MOY: But given the nature of this
12 application, I would suggest January 6th, sir.

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

15 So, I would go over across the hall now, to get
16 the signage and etcetera, get that all worked out, so when you
17 get home or wherever you're going, get back to the property,
18 put it up, so you at least get that out the way. Okay, thank
19 you.

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

21 MR. MOY: Yes, sir. Again, this would be
22 Applications 18852 and 18853, both are applications of SB Urban
23 LLC, multiple variance relief and special exceptions relief.

24 Both at premises 90 Blagden Alley Northwest, the
25 other property at 91 Blagden Alley Northwest.

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1 CHAIRPERSON JORDAN: As soon as Mr. May comes
2 back, we'll continue to introductions, please. We'll take
3 five minutes.

4 (Whereupon, the above-entitled matter went off
5 the record at 11:43 a.m. and resumed at 11:46 a.m.)

6 CHAIRPERSON JORDAN: Okay, are we ready, Mr.
7 Moy?

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

10 CHAIRPERSON JORDAN: Okay, please identify
11 yourselves.

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

16 MR. KATZEN: My name is Brook Katzen with the SB
17 Urban, the Applicant.

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

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

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

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

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

4 For me, it's drilling down on the parking relief,
5 I think. I am good on most --on all the other requests and
6 I think your application is supported.

7 Board, anything you want to drill down on?

8 MEMBER HINKLE: Yes, thank you, Mr. Chair. I
9 think most everybody at the table was here for the last
10 application. I have the same issues with this application,
11 as I had with the last.

12 I'm not sure if the special relief -- I mean, the
13 special exception for the parking relief is appropriate in this
14 case, and then secondly, on both lots, I need to hear more about
15 the uniqueness, and why that uniqueness would create a
16 practical difficulty in providing parking. So, that's where
17 I stand.

18 CHAIRPERSON JORDAN: Okay, all right.

19 MR. KADLECEK: Okay, we're happy to provide that
20 information.

21 CHAIRPERSON JORDAN: Board, additional? We're
22 good, okay, all right.

23 MR. KADLECEK: I also wanted to preface it with
24 the fact that we've reviewed the DDOT report. They asked for
25 us to agree to four additional conditions, which we do agree

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1 do, and with that, I'll let Devon and Jami discuss the parking.

2 First, I think we'll focus on the special
3 exception for the M Street lot, and then we'll talk about the
4 variance relief for the 9th Street lot.

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

8 CHAIRPERSON JORDAN: Is that one of your
9 exhibits?

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

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

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

16 So, putting any type of parking on the --

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

19 MR. PERKINS: Okay, so, talking about the M
20 Street building, located here.

21 At the north end of the property is a historic
22 structure that we have to maintain in whole. So, providing
23 any sort of access into the building through this historic
24 structure would not be acceptable to HPO, and we are also not
25 allowed to have curb cuts along M Street at South, and we have

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1 a very narrow alley to the west side of the site. The alley
2 is only 15 feet wide.

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

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

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

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

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

21 What this results in is more than 1,000 square
22 feet of space.

23 CHAIRPERSON JORDAN: Where did you say you could
24 get one row in?

25 MR. PERKINS: On the end here. If we could

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1 figure out how to get access off of the alley and into a ramp,
2 we can get approximately five spaces on the end of the building.

3 However, when you look at the overall
4 configuration of the plan, more than 78 percent of the plan
5 is required just for circulation of the vehicles, and so, you
6 end up providing over 1,000 square feet of space for each
7 vehicle, simply because of the practical of the practical
8 issues of the building of that width.

9 CHAIRPERSON JORDAN: Yes, so, you can't get
10 another row in without -- because you don't have access. You
11 wouldn't have access to that row.

12 MR. PERKINS: Yes, if we can get the turns to
13 work, to get in --

14 CHAIRPERSON JORDAN: Got you.

15 MR. PERKINS: So, we can get about eight spaces
16 or nine spaces per floor at the max, and practically speaking
17 --

18 CHAIRPERSON JORDAN: But you couldn't get --

19 MR. PERKINS: -- it's just really inefficient.

20 CHAIRPERSON JORDAN: You couldn't get to it.

21 MR. PERKINS: It would be very, very difficult.

22 It would be an extraordinarily difficult entrance.

23 CHAIRPERSON JORDAN: Okay.

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

25 CHAIRPERSON JORDAN: Okay, structurally not

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1 feasible or financially not feasible?

2 MR. PERKINS: The amount of opening and ramp that
3 you would have to have, and the turns that you would have to
4 make to get onto that ramp are practically infeasible.

5 CHAIRPERSON JORDAN: Okay.

6 MEMBER HINKLE: So, the historic structure,
7 that's contributing or not?

8 MR. PERKINS: Yes.

9 MEMBER HINKLE: That is, and it was an auto
10 garage, is that correct?

11 MR. PERKINS: Yes.

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

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

18 MEMBER HINKLE: Okay.

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

22 CHAIRPERSON JORDAN: Ms. Allen?

23 VICE CHAIRMAN ALLEN: Can you go back a slide or
24 two?

25 MR. PERKINS: To the ground floor plan?

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1 VICE CHAIRMAN ALLEN: I don't know. I'll tell
2 you when you get there. There.

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

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

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

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

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

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

19 The difficulty that we have is that if we have
20 to put a 20 foot opening here and pull in, and immediately turn
21 down, it's just a -- it really effectively destroys the ground
22 floor plan and the connectedness of the amenities with the
23 residential units, and it's also just a very, very impractical
24 ramp solution.

25 CHAIRPERSON JORDAN: Okay, proceed.

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1 MR. PERKINS: Okay, so, 9th Street has similar
2 issues. The 9th Street property is even smaller. It is only
3 57 feet across in the width, and about 130 feet in length, and
4 again, if we provide a ramp coming off of the alley at the back,
5 a ramp coming down, the ramp takes up more than two-thirds of
6 the length of the property, and we can again, in an 8,000
7 square foot area, at the very max, get eight spaces.

8 It also has, you know, just detrimental impacts
9 on what we would like to actually accomplish on the alley, which
10 is keeping the activity and the pedestrian quality of the alley
11 itself.

12 So, again, it's just an extreme challenge and an
13 extreme inefficiency on a building of this size.

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

17 MR. PERKINS: Yes, extremely unusual. This
18 particular alley has numerous restaurants, shops, exercise
19 centers, coffee shops, and it's very, very, heavily active by
20 pedestrians, so, keeping cars out of this alley is very
21 desirable, because as you know, alleys don't have sidewalks,
22 so that are a lot of people that use this alley. So, minimizing
23 the impact of vehicles on this alley is critical to the design.

24 CHAIRPERSON JORDAN: Why did you say that on the
25 9th -- go back to the 9th Street.

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1 The first thing you said about the -- what was
2 the width of the alley portion?

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

6 CHAIRPERSON JORDAN: Okay.

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

9 CHAIRPERSON JORDAN: All right, continue.

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

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

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

23 In addition, there are an abundance of nearby
24 amenities, such -- and services, such as grocery stores,
25 restaurants, pharmacies, banks, hardware stores, barber

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shops, salons, all making it unnecessary to have a vehicle to run your typical daily errands.

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

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

There will be a transportation coordinator for the buildings. Again, that coordinator will notify potential residents that they won't be eligible for residential parking permits, and that they will be prohibited from obtaining residential parking or temporary parking permits.

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

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

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1 There will be transit screens provided in both
2 residential buildings. Car-share memberships will be
3 provided for all residents of the buildings, for the initial
4 term of their lease, and that will be done in perpetuity.

5 Capital bike-share memberships will also be
6 provided, however, instead of being provided for residents who
7 do not own bikes, at DDOT's request, we will providing them
8 for all residents of the buildings for the initial term of their
9 lease, and again, that will be done in perpetuity.

10 There will be bike parking inside the building
11 for residents. There will be a bicycle repair facility
12 inside.

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

15 MS. MILANOVICH: Correct.

16 CHAIRPERSON JORDAN: We can do that.

17 MS. MILANOVICH: Okay.

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

20 VICE CHAIRMAN ALLEN: Thank you. I just want to
21 make sure I understand the nature of this building.

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

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

25 VICE CHAIRMAN ALLEN: Let me just -- let me

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1 finish my question.

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

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

11 MR. BALABAN: We appreciate the --

12 CHAIRPERSON JORDAN: And because there are 69 --
13 60 more spaces required, isn't that correct?

14 You're required to have 61 parking spaces? Am
15 I right or wrong?

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

17 CHAIRPERSON JORDAN: And you're asking for zero?

18 MR. KADLECEK: That's correct.

19 CHAIRPERSON JORDAN: That's a lift.

20 MR. BALABAN: So, we appreciate the question. We
21 should describe a couple things about the project and the
22 community and our model that may be helpful.

23 First of all, of the 123 units, they will be 100
24 percent studio apartments. We formed our company
25 specifically to develop and operate for the long-term, small

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1 household, small unit rental apartments.

2 Number two, they will all be furnished. So,
3 there will be no move-in or move-out deliveries of a
4 conventional kind.

5 Number three, Jami referred to the parking
6 restrictions, and our leases will not only point out that one
7 cannot have a residential parking permit, but the leases will
8 preclude in such a way that it would be a breach of the lease,
9 any tenant from seeking by any means, any parking
10 arrangements for any automobile that they may have, by any
11 means other than renting a space in a parking garage.

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

23 So, it is not an ordinary apartment building. It
24 is not an ordinary apartment community. It won't have
25 ordinary apartment renters.

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1 There are no one-bedrooms. There are no
2 two-bedrooms. There are no families. The units average 380
3 square feet. We do not expect even many couples and the
4 couples that we will have from time to time, will be people
5 who are urban and share the perspective of all of the members
6 of our community, that they want to be immediately proximate
7 to transportation. They want to be immediately proximate to
8 pedestrian-accessible urban amenities, and they want to have
9 immediate access to the workplace.

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

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

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

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

25 They'll have a suitcase and a little bit of stuff,

1 if they have anything more, if they have any china or they have
2 any furniture from grandma, they won't choose to live here,
3 because there is no room for it in the unit.

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

7 We have discussed with the ANC at length, a
8 loading and trash operations plan, which does everything that
9 we can to preclude in a way that's consistent with this profile
10 of tenant and community that I've described to you, that we
11 will not have vehicular traffic contributed to the alley.

12 CHAIRPERSON JORDAN: Basically, your loading
13 plan is that the tenant would be required to provide notice
14 to you, couple weeks or so in advance, and they are doing
15 on-street loading and unloading, correct?

16 MR. BALABAN: There is a designated loading
17 area on 9th Street, and our staff is obligated by the conditions
18 to advise all persons and parties who may do loading that there
19 is parking on 9th Street, that parking is not permitted in the
20 alley, and we expect there will be very few people who will
21 actually arrive with anything that requires a loading stop of
22 any kind.

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

25 MR. KADLECEK: It's commercial loading.

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1 CHAIRPERSON JORDAN: Okay.

2 MR. KADLECEK: It's a commercial loading.

3 CHAIRPERSON JORDAN: That's what you mean?

4 MR. KADLECEK: Yes, it's commercial loading
5 space.

6 CHAIRPERSON JORDAN: Yes.

7 VICE CHAIRMAN ALLEN: And let me just ask about
8 the building itself.

9 Is there any storage for each of the units?

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

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

16 CHAIRPERSON JORDAN: Anything else?

17 MR. KADLECEK: We have nothing additional.

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

20 Office of Planning, please.

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

23 For most of my testimony, I will rest on the
24 record, just to address the parking question.

25 We felt that the application adequately

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1 addressed the special exception test for parking relief on the
2 M Street property, as well as the variance test for the 9th
3 Street property.

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

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

15 That concludes my testimony. I'd be happy to
16 take any questions.

17 CHAIRPERSON JORDAN: This is a hard something to
18 swallow with 62 parking spaces gone in kind of a residential
19 neighborhood, and what is your opinion about that? You don't
20 find there is any -- it won't have an impact on this
21 neighborhood?

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

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1 The residents would not be permitted to park on
2 the street. There are numerous transit options available. I
3 think as was alluded to in the previous case this morning, the
4 people who choose to live in this location would -- and in the
5 -- specifically, the type of units that are being provided,
6 would likely not even have vehicles.

7 So, yes, we are comfortable with granting the
8 relief.

9 CHAIRPERSON JORDAN: Any other questions for
10 Planning, Board?

11 Applicant, any questions for Planning? Mr.
12 Rogers, transportation?

13 MR. ROGERS: Good afternoon. I'm Jonathan
14 Rogers with the District Department of Transportation.

15 Again, largely rest on the record and only say
16 that between the transportation options that are plentiful and
17 available on the vicinity, the transportation demand
18 management plan and the parking restrictions and plans
19 included in the application, DDOT finds that there will be no
20 significant negative impact to the transportation network, and
21 also, DDOT acknowledges and appreciates the Applicant's
22 inclusion of the four addition TDM measures in their
23 application. I'll be happy to answer any questions.

24 CHAIRPERSON JORDAN: So, no impact for not
25 having 62 parking spaces in a building that has at least 175,

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1 is it? What is the number?

2 MR. KADLECEK: One-hundred-twenty-three in it.

3 CHAIRPERSON JORDAN: One-hundred-twenty-three
4 units.

5 MR. ROGERS: That's correct. So, looking -- I
6 guess I'll focus on the parking management plan that the
7 Applicant has proposed.

8 They've changed the address, so that the
9 properties aren't RPP eligible. The parking spaces in the
10 vicinity, the curbside parking spaces are either RPP or they're
11 metered spaces.

12 Without RPP permit, there are no viable long-term
13 curbside parking options for the residents.

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

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

25 CHAIRPERSON JORDAN: What do we do after two

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

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

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

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

13 MR. CAIN: That would be myself and Greg.

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

17 MR. CAIN: My name is Walt Cain.

18 CHAIRPERSON JORDAN: Just make sure that the
19 microphone is on, please.

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

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1 Greg sits on that committee and it's also --

2 CHAIRPERSON JORDAN: And Greg's last name is?

3 MR. CAIN: My name is Walt Cain. This is Greg

4 Melcher.

5 CHAIRPERSON JORDAN: Greg Melcher.

6 MR. CAIN: And Greg sits on that committee, and
7 also is the Commissioner who represents the single-member
8 district, where the project would be located.

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

12 CHAIRPERSON JORDAN: Okay.

13 MR. CAIN: -- to the Board.

14 CHAIRPERSON JORDAN: But just make sure we have
15 our five minute on our timer, please, Mr. Moy.

16 All right, very good. Thank you, and welcome,
17 please.

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

23 Then they first came, I looked at the application
24 and again, said exactly what you said, "Are you telling me zero
25 parking places," and but since then, and over the course of

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1 the past several months, we've come to a place where I think
2 that this is -- it's in the best interest of the community,
3 and I think it will really be a benefit to the community, and
4 the things that specifically led the ANC to that conclusion
5 was the changing of the address to Blagden Alley, thus making
6 the residents ineligible for RPP.

7 The transportation demand plan, which includes
8 -- the Applicant has also agreed to install an additional
9 Capital bike-share station within the immediate vicinity of
10 the project.

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

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

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

25 I'll wrap up my portion, just by saying that we

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1 work with a lot of developers on a lot of different projects,
2 and these folks have really been our example of the way the
3 process should work.

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

8 CHAIRPERSON JORDAN: Mr. Melcher.

9 MR. MELCHER: Okay, thank you. Yes, I'm the
10 President of the Blagden Alley/Naylor Court Association, as
11 well as a single-member district from ANC-2F06.

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

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

21 In considering the proposal, I was looking very
22 carefully at the interior of Blagden Alley and all the other
23 development activity currently underway.

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

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1 What I've concluded is that the ideal solution
2 for future development is one that does not add any additional
3 vehicle traffic to the interior of the alley.

4 We believe it's very important that Blagden Alley
5 become a living alley full of pedestrians either walking in
6 or between their places of residence and the restaurants and
7 bars that are here or soon to come.

8 We should also be capital that there's a metro
9 stop that is a short two blocks away, and by the way, if you
10 walk out of that metro, you walk under the underpass. So,
11 you're literally only going about 100 feet before you're in
12 this building, or actually outside, exposed to the elements.

13 In any event, for that reason, I've reached the
14 conclusion that I don't really want to see any additional
15 parking or parking garage entrances in the alley.

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

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

24 You just need to go there a few minutes on a
25 Saturday around the coffee bar and see what goes on, the people

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

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

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

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

18 So, bottom line is, this is really our fifth try
19 at this location in 20 years, to get something to happen. It's
20 fortunate we found a project that's both residential and fits
21 with our downtown close to metro location, and just keep in
22 mind that something could come back, if this project doesn't
23 go through, it could be C-2-A, it could be fast food
24 restaurants, who knows what would go in those lots.

25 I think this is one that's worked, and I ask you

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1 to approve it. Thank you.

2 CHAIRPERSON JORDAN: Board, any questions of the
3 ANC representatives?

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

7 MR. MELCHER: They're basically -- have been
8 used for parking of the -- the old warehouse, the historic
9 building has had storage in it and the rest of the two lots
10 are just parking lots, at this point.

11 CHAIRPERSON JORDAN: And so, you don't perceive
12 there is any impact of not having -- thus having zero to 62
13 less parking spaces?

14 MR. MELCHER: Well, clearly, there is going to
15 be impact when you build a new building, you know. Clearly,
16 there will be more people. There will be more density.
17 That's going to happen, whatever you put there.

18 I just think in this case, they built the case
19 to justify minimizing it, and further, if you look at the entire
20 alley and think of the historic alley, what you want it to be,
21 I envision it full of people walking around, going to the
22 restaurants, the bars, using the shops that are back there,
23 and if you add additional garage door entrances and more cars
24 and more trucks going in there, then you're never going to
25 achieve that vision.

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1 CHAIRPERSON JORDAN: All right, any other
2 questions, Board?

3 Then is there any one here -- thank you for
4 coming.

5 Anyone here wishing to speak in support? We do
6 have a letter from the Coalition of Smarter Growth and letters
7 of another neighbor. Anyone else want to speak in support?

8 Please come forward, and you have three minutes.
9 Okay, please.

10 MS. CORT: Thank you, Chairman. My name is
11 Cheryl Cort. I'm with the Coalition for Smarter Growth. I
12 did submit written testimony in advance.

13 We are a non-profit in the Washington, D.C.
14 region, where we're based in D.C., making the case for smart
15 growth. Our mission is to promote walk-able, inclusive and
16 transit-oriented communities, and the land-use and
17 transportation policies and investments needed to make those
18 communities flourish.

19 We wish to express our strong support for this
20 residential housing project and the variances needed to make
21 it feasible and appropriate to its unique context, which I note
22 is a treasured pedestrian oriented historic alley, and I really
23 recommend that everybody, if you haven't been there, you really
24 need to go there. It's a wonderful -- it's a wonderful place.

25 Given the continued strong demand to live in this

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1 growing neighborhood and in the city in general, the site's
2 walking and bicycling proximity to hundreds of thousands of
3 jobs and the neighborhood's low car ownership rate, this
4 project is a helpful contribution to making the city's --
5 meeting the city's need for housing.

6 The project is especially welcome with its
7 addition of 11 inclusionary zoning units, half of 50 percent
8 AMI and half at 80 percent AMI.

9 The building has -- could require a level of
10 parking that's actually even inappropriate, in terms of what
11 we were seeing, in terms of a typical market development would
12 typically do, sort of dig down like one level, about the .3
13 parking ratio. This is that higher .5, which developers
14 consistently tell me is just too high for these great
15 transit-oriented neighborhoods.

16 But no-vehicle parking is appropriate for this
17 location for the following reasons.

18 Parking would be a costly and unneeded expense,
19 especially given the numerous transit alternatives readily
20 available in the neighborhood. The project is only intended
21 to -- for residents who do not own or need a car.

22 The project's management will amplify residents
23 already significant transportation options through
24 substantial transportation demand management program and
25 other services, and the historic character of Blagden Alley

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1 would be significantly degraded by adding parking facilities.

2 We note actually, if you look at the commute
3 pattern for the census tract that most commuters are walking
4 to their jobs. Thirty-seven percent of people going to work
5 every day are walking to their jobs, and that is followed by
6 riding transit at 31 percent.

7 The area already enjoys 41 percent car-free
8 renters, and that's before trying to attract and -- attract
9 car-less households. That's just passively, not actively
10 seeking out those who don't need cars and those who are seeking
11 to live in a place where it is very easy not to own a car.

12 I think what's important about this project is
13 that it offers a sound alternative to unworkable parking
14 requirements and demonstrates the fallacy of the notion that
15 there is a fixed amount of parking demand per housing unit.

16 This is specific to a context, to the type of
17 person that is being attracted to a particular housing project,
18 and we welcome this added housing, taking advantage and --
19 taking advantage of this location and really building on the
20 strength of the transit accessibility, but even more so
21 actually, the walk -- this incredibly high walk to work rate.

22 So, it's not even we're talking about transit
23 here. We're actually just talking about people walking to
24 their jobs.

25 We agree with ANC-2F, that the developer has

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1 demonstrated a compelling alternative model for providing
2 housing that does not generate demand for vehicle parking and
3 we applaud the robust transportation demand management
4 program, and I especially want to call out the new Capital
5 bike-share station with the additional bikes and docks, and
6 along with the other things, including bicycle storage room
7 and a bicycle repair room.

8 So, in summary, I just want to say that we are
9 very enthusiastic about this very intentional project, that
10 does not need to and is intentionally seeking to serve people
11 who don't own cars, who don't want to own cars and who want
12 to live in a great place where they can probably walk to work,
13 and we also, with our publicizing this, we have 41 people who
14 have joined with us in signing a petition, saying that this
15 is a really great project, that we hope that the BZA will
16 advance. Thank you very much.

17 CHAIRPERSON JORDAN: Board, any questions?
18 Applicant, any questions? Our next witness, please. You've
19 got three minutes. Make sure the microphone is on. Thank
20 you.

21 MR. LEFEBVRE: Hello. My name is Alexis
22 Lefebvre. I'm a resident on the 1400 block of Church Street.
23 I used to live at 16th and R, so I'm well aware of how difficult
24 parking is in neighborhoods around Logan Circle.

25 I know there was another sort of controversial

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1 parking variance case on my block recently, and I supported
2 the approval of that one, as well.

3 I think sort of -- we've touched on the issue here
4 that for most people like me, and I'm just speaking anecdotally
5 for me and my friends in the neighborhood, it's a very conscious
6 choice to live a denser metro-accessible area. It's a lot of
7 people that don't have cars, don't want cars, that like the
8 walk-ability. That's really an appeal of the neighborhood.

9 Again, just speaking from either me and my
10 friends of the five households that I am friends with in this
11 area, three of those have cars. We all have garage parking.
12 I have a friend who moved there with a car, after two weeks,
13 he couldn't take the parking. He sold it, didn't need it.

14 People's attitudes towards driving and parking
15 are changing, particular in this neighborhood. So, I would
16 urge BZA to approve this and other projects like it,
17 particularly where the developer, I think is really gone to
18 great lengths to address the concerns.

19 I wasn't even aware of the Blagden Alley address
20 change. I think that's, you know, a great addition to this
21 project, so, thank you.

22 CHAIRPERSON JORDAN: Board, any questions?
23 Applicant, any questions?

24 Thank you very much. Thank you, two, for coming.

25 Anyone here wishing to speak in opposition?

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1 Yes, please come forward.

2 I'm going to limit the number, because I'm sure
3 it's all on the parking issue and if it gets kind of redundant.

4 Yes, we need some additional space, if we could.
5 Mr. Kadlecek, you can bring some of your team back up, if
6 necessary.

7 All right, let's see. How many do we have? One,
8 two, three, four, five, six, okay.

9 Is someone going to talk about anything other
10 than parking? Who is speaking, other than parking?

11 MR. MIKHAILOV: Hi, Mr. Chairman. I'm Sergei
12 Mikhailov, and I'm the Petitioner organizer. In addition to
13 the witnesses here, we have petition with 75 signatures in
14 opposition to the project.

15 CHAIRPERSON JORDAN: Okay, that wasn't what I
16 asked.

17 So, we're going to do two minutes a witness,
18 because we understand that issue, but we just simply want you
19 to -- so, let's begin please. Yes, but still, we're going to
20 -- go ahead, please.

21 Just make sure, you've got to identify
22 yourselves, and let me first ask, have all of you been sworn?
23 Have you been sworn in?

24 Mr. Moy, let's make sure -- if you have not been
25 sworn, please stand and take the oath with Mr. Moy.

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1 (Witnesses sworn)

2 CHAIRPERSON JORDAN: Please identify yourself.

3 MR. NELSEN: My name is Craig Nelsen. I live in
4 Blagden Alley, and what it seems like this project is, is just
5 an attempt to take -- to jam as many apartments and as many
6 people as possible into a small area, regardless of the impact
7 it might have on the people who already live there.

8 As I understand it, this project is planning to
9 widen the alley and turn -- co-op the alley, usurp it basically,
10 to provide a common area for the residents of this project,
11 and this is -- this is something that they're selling as a way
12 to keep people from going crazy, living in apartments the size
13 of two parking spaces.

14 This is -- if anything is going to harm the
15 character of Blagden Alley and its historical nature, it's
16 seems to me, this would be it. It's not even close to keeping
17 it within the character of the alley, as it is today.

18 So, I think -- you know, I just hope that the --
19 I think what -- some of the objections I've heard from the Chair
20 has been -- have been right on, and I think that the people
21 -- the greed that sort of is -- the engine behind this project
22 should be -- if left unchecked, is just going to destroy what
23 is there, and that would be a shame, because as you said, if
24 that happens, there is no going back. Once this is done, you
25 know, it's over and the whole city will have lost something

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1 that's kind of a treasure.

2 CHAIRPERSON JORDAN: Thank you very much.
3 Board, questions? Applicant, questions? Our next witness,
4 please.

5 MS. BEEBE: Good morning. My name is Carolyn
6 Beebe, and I have lived on M Street, three doors down from this
7 proposed development since 1980. I raised my daughter in this
8 house and my daughter and her husband are now raising their
9 three children in this house.

10 We are clearly committed to this residential
11 neighborhood and to the city, and this neighborhood, as we've
12 already discussed, is unique. It's the first residential
13 block north of the downtown development and in 1996, the Board
14 of Zoning signed this case that changed the alley zoning to
15 C-2-A, and this was a movement by people in the neighborhood
16 to try to decrease the terrible crime that was going on in the
17 1990's in Blagden Alley, and the document, which we have here,
18 it states quite clearly that this was -- the purpose of this
19 was to protect the character of the neighborhood, the
20 residential character of the neighborhood, and it was
21 requesting that there would be small scale commercial uses and
22 residential uses to revitalize the interior of the square.

23 This development that is being proposed, these
24 130 or 125 units, these tiny 300 square foot units, are
25 essentially residential hotels, and this is going to be a hotel

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1 on a residential block.

2 They say they have a kitchen. It's two burners
3 and a little fridge, which is what you get in a hotel room.

4 So, this is not appropriate for this residential
5 block, apart from parking, which is another issue, but it's
6 a very dense development that is going to detract from the
7 residential character of M Street.

8 CHAIRPERSON JORDAN: Thank you, Ms. Beebe.
9 Board, any questions? Applicant, questions? Our next
10 witness, please?

11 MS. SCHAUER: Good morning. My name is Barbara
12 Schauer. I am -- my building is at 937 M Street. I've been
13 in the area since 1988, and as Carolyn said, Zoning Commission
14 Order No. 782, dated February 12, 1996 re-zoned the interior
15 of the alley from R-4 to C-2-A, with 10 pages of discussion
16 as to what the limits would be on this development. It was
17 C-2-A with many limits, in terms of the density of the
18 commercial development was allowed.

19 Back in 1996, and I was there, so I remember,
20 nothing of this sort would have ever been agreed to, and this
21 is not just an apartment building. It's like a dormitory --
22 it's a short residents hotel, three to six months per person.

23 Yes, people will find ways of finding parking.
24 They can go down to the local police station and get a card
25 to stick in their window for a month. So, this notion that

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1 that's going to be prevented it not true.

2 Number two, the third prong of the variance proof
3 is that you have to show substantial detriment to the public
4 good or impairment of the intent purpose or integrity of the
5 zoned plan does not occur.

6 They have not made an argument that this
7 development does not do all of those things.

8 Historic Blagden Alley is unique. It's unique in
9 the east coast. It's unique in Washington. It is not a
10 pedestrian alley. Just about every street that leads into it
11 has a garage behind the house, including myself, Carolyn and
12 many of these people. People drive through the alley.

13 The notion that it's going to become some kind
14 of a Venetian piazza is a fantasy. It's a drive-able alley
15 with lots of garages in back, and in fact, the building that
16 they're incorporating into the development is a garage. It's
17 not a beautiful house. It's not a store. It is not a pedestrian
18 alley.

19 If you come in there, you'll see there are not
20 many cafes. There is one coffee and there is one tiny, little
21 restaurant that is only open three days a week for special
22 evening events and a bar that just opened last week.

23 So, it is not a busy commercial zone. That's
24 absolutely not true, and finally, there were many people who
25 would have come here today. I have signatures here for 74

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1 people who are adamantly opposed to this, for a variety of
2 reasons.

3 We want protection of our precious alley. It's
4 a resource for us, for our future generations, for the entire
5 city, for the country. It's on the National Register. It's
6 also in a D.C. historic zone.

7 Secondly, the issue of this loading and unloading
8 of trash. How does 100 -- how does trash for 125 people get
9 removed from a building and put on the sidewalk? This is their
10 proposal. There's no loading dock, and this notion that
11 people are going to be biking up with their little satchel to
12 go into an apartment is absurd.

13 They're short-term rentals, three to six months.
14 People are going to be coming and going in droves, like a hotel.

15 CHAIRPERSON JORDAN: Okay, I appreciate --

16 MS. SCHAUER: And that's the end of my statement.
17 Thank you.

18 CHAIRPERSON JORDAN: No, no, I think it was
19 impactful. Thank you.

20 MS. SCHAUER: But I would like to put some things
21 into the record, that I brought.

22 CHAIRPERSON JORDAN: No, we've used the time,
23 but if you could submit your --

24 MS. SCHAUER: Yes, I put my paper in, yes.

25 CHAIRPERSON JORDAN: Okay. Board? Applicant?

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1 Next, please.

2 MR. MIKHAILOV: Mr. Chairman, I was wondering if
3 in light of the fact that we do have 75 signatures from the
4 neighbors, if you can allow us --

5 CHAIRPERSON JORDAN: No, two minutes. Go
6 ahead.

7 MR. MIKHAILOV: All right. So, I do agree with
8 the second Zoning Commission ANC Commission that re-zoning
9 back in 1996 to create C-2-A zone did create a problem, and
10 I guess my recommendation for this, I think that to really
11 correct this issue, it should not be done at the BZA level.
12 Should go back to Zoning Commission and actually get re-zoned
13 back.

14 Now, addressing the various variances requests,
15 I do -- I'm encouraged by the fact that in the previous case,
16 for the Church Street development project, that the Board voted
17 3-2, just barely in favor of the project, and I feel that the
18 increased magnitude of this project and even a more brazen
19 request for, you know, zero parking spaces, it's provided six,
20 convinces some members to vote in opposition.

21 Now, I did some -- I will submit a -- I guess a
22 15 page report, which I hope you will read a little bit. I
23 tried to make arguments for all the prongs, the variances
24 tests.

25 I am not at all convinced that either property

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1 is exceptional. Generally, the Applicant essentially lists
2 several factors, majority of them are in fact, favorable, and
3 then they declare that there is a combination of factors as
4 to how it constitutes exceptional condition.

5 You know, and I have a long list, which I don't
6 have time to review right now, but just from a review of those.

7 So, I do not believe that the exceptional
8 condition has been met.

9 Going -- addressing the issue of practical
10 difficult for parking, again, their argument is that the
11 general garage will be inefficient. As far as I know,
12 inefficiency by itself is not -- doesn't have any bearing in
13 BZA deliberations.

14 There is a long sort of gap between inefficiency
15 and practical difficulty. So far, this has not been proven.

16 Now, there are other ways to achieve efficiency.
17 I have several appendices that are attached, that suggest that
18 one can use a car elevator or an automated parking system to
19 achieve greater efficiency.

20 CHAIRPERSON JORDAN: You're over your time.
21 So, and we've seen what you submitted.

22 MR. MIKHAILOV: Well, I do request that you read
23 the report.

24 CHAIRPERSON JORDAN: I know you have submitted
25 information before, and we've already looked at that. So,

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1 just to let you know that.

2 But we appreciate your concern and certainly, the
3 depth of your concern and research and work here on this
4 particular -- because I do know we've had that, and that these
5 things are very important.

6 Next witness, please.

7 MR. LIPINSKI: My name is Don Lipinski. I live
8 at 937 M Street. I'm just not in favor of this project.

9 Even if the variances weren't needed, the project
10 is just too large and too dense for Blagden Alley Historic
11 District, and the surrounding residential area.

12 Protection of this area was promised in the
13 re-zoning of 1996 and it was intended to offer some commercial
14 development, to stabilize the neighborhood alley.

15 Now, we're faced with a situation where the
16 excessive development threatens to overtake the alley, and
17 this shouldn't be allowed.

18 What is proposed is far beyond thinking of behind
19 the re-zoning. I have lived there since 1989 and this type
20 of development was never envisioned.

21 The alley is a rare historic area, and the
22 intention was for protection, not for commercial development.
23 The area is on the national historic registry for historic
24 places, and development must be modest, scaled to preserve the
25 history.

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1 The surrounding Victorian row houses must also
2 be protected from the encroachment of commercial development.

3 It's quite obvious that any hardship the
4 developers feel they may have is one of their own making. The
5 site is develop-able, but at reasonable scale, and that
6 concludes my --

7 CHAIRPERSON JORDAN: Thank you for your
8 comments. We understand the impact, yes, but it's kind of
9 caught all in.

10 Board, any questions? Thank you. Our next
11 witness.

12 MS. CORRIGAN: My name is Colleen Corrigan and
13 I live right on the alley. I'll show you where.

14 I live right here, and this -- this community
15 development is really going to affect me.

16 CHAIRPERSON JORDAN: I have to have you on the
17 microphone.

18 MS. CORRIGAN: Okay, no problem. Right behind
19 my house. I have a unique house. I have 10 unit -- a small
20 10 unit apartment building. So, I am aware of what apartments
21 are.

22 Out of my 10 units, four of my tenants have cars.
23 I have two studios and -- I have two studios and eight
24 one-bedrooms, and to say that they will not get cars is a fluke.
25 They will get cars. People do want to drive places. They want

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1 to go see mom and dad. They want to drive.

2 They also rent cars. Enterprise is right down
3 the street, and they rent a car and they'll bring their rental
4 car right back, and my tenants do rent their cars -- rent cars,
5 and they have to find parking on the street.

6 It's very hard to find parking on the street now,
7 and it's going to be absolutely insane to find parking on the
8 street with this property 122 units coming.

9 My husband is also handicapped. Have to get him
10 out the back door of my -- I have a ramp built in the back of
11 my house, to try to get him out my back -- out my back door,
12 and I need access, and it's been very hard right now, to get
13 access back and forth. I need access to 9th Street and in the
14 alley.

15 If this becomes pedestrian only, I will not be
16 able to get him out the door. Thank you very much.

17 CHAIRPERSON JORDAN: Thank you. Our next
18 witness, please.

19 MR. HORVATH: Yes, my name is Ed Horvath. I live
20 at 929 --

21 CHAIRPERSON JORDAN: Last name?

22 MR. HORVATH: Horvath, H-O-R-V-A-T-H. I live
23 at 929 M Street. It's three lots away from this development.

24 This is a very unique situation, special
25 situation. One thing which hasn't been raised and which is

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1 not in the OP's report is this property is -- the 9th Street
2 property is immediately adjacent to the D.C. Convention
3 Center.

4 Both of the -- the D.C. Convention Center is
5 within 200 feet of both of these properties. At the D.C.
6 Convention Center, that was plopped in the middle of our
7 neighborhood. We have at times 45,000 people there for
8 events, with zero public parking.

9 This just adds too that burden. Even the parking
10 that we have, when we have special events, special national
11 emergency events, the President is there, our streets are
12 blocked off.

13 We have 10 foot fences in front of our homes. We
14 need to, you know, be able to get in and out.

15 So, this is not a normal street in a normal
16 neighborhood. Blagden Alley is 30 feet wide there. The idea
17 of mechanical parking is something which again, could
18 alleviate the -- and allow for denser parking within parking
19 structures.

20 While 62 spaces may be a lot, I think that at least
21 two-thirds of that number would be a reasonable way to go.
22 Don't have to have everything, but I have friends who are major
23 bike riders, and they say, you know, they can't envision 123
24 units of people, even who were serious bikers, not having
25 vehicles.

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1 One of the other things that was brought in the
2 prior case was, there is no provision for ADA parking either.
3 Zero parking, and you know, I think this is just such a burden
4 on the neighborhood.

5 We had other buildings, right on the same square
6 where zero parking was proposed. They went back and re-did
7 their designs, put in two levels of parking, and across the
8 street from this, immediately across the street, the Whitman
9 condo, that was built and we had influence on the architect
10 there. They have more than a one-to-one ratio of parking per
11 unit.

12 Parking is -- off-street parking in garages is
13 needed in this neighborhood. Thank you.

14 CHAIRPERSON JORDAN: Thank you. Appreciate
15 your concern and comment.

16 I think we have one other person that came in.
17 No? Yes?

18 MS. BAKKER: Yes, I did.

19 CHAIRPERSON JORDAN: All right, you have two
20 minutes, please.

21 MS. BAKKER: Sorry?

22 CHAIRPERSON JORDAN: Two minutes, please.

23 MS. BAKKER: My name is Sara Bakker.

24 CHAIRPERSON JORDAN: Just make sure your
25 microphone is on.

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1 MS. BAKKER: My name is Sara Bakker. I'm at 1235
2 4th Street, and I have similar concerns as other neighbors have
3 stated.

4 But specifically, the biggest concern is with the
5 transportation analysis, and that the Applicant was allowed
6 to reduce the trip generation number by 90 percent.

7 This yielded number is below a threshold of a
8 required full traffic impact study, and when my husband, Sergi
9 Mikhailov spoke with Jonathan Rogers, the development reviewer
10 for DDOT, he was asked, why the 90 percent reduction was --
11 how it was rationalized and why 90 percent and not 75 percent?

12 He stated, Mr. Rogers stated that the DDOT felt
13 that the 90 percent was reasonable, without citing any concrete
14 study. In fact, there was no study to back the generous 90
15 percent reduction.

16 Essentially, he had allowed the Applicant to make
17 assertions without any factual basis, and we find this to be
18 arbitrary and capricious.

19 In other matters, the domino effect, because we
20 don't live directly in that neighborhood, but the domino effect
21 of parking due to events in the Convention Center, and
22 otherwise, we have a family and we find it very difficult to
23 find parking, especially on weekends. So, we foresee that
24 increasing.

25 The speaker mentioned earlier that he foresees

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1 -- because it is fully rented or fully furnished, that there
2 will be no -- nobody will be driving, and that's incorrect
3 because it's similar to dorm living, and if anyone has children
4 in dorms, you bring a lot of stuff for them. You drive. They
5 have families. They will buy stuff. The premise is that they
6 will have cheaper living, so they will probably spend more
7 money.

8 You have Uber, which is a new form of
9 transportation and it is prevalent in our neighborhood. They
10 come, they go to the alleyways, they find parking on the street.
11 They double-park, and that -- he mentioned, there will be other
12 forms of transportation, including being picked up, and that
13 is a very frequent and encouraged way now.

14 So, it impacts many people. Excuse me.

15 CHAIRPERSON JORDAN: Well, your time is up.

16 MS. BAKKER: Two minutes? Okay.

17 CHAIRPERSON JORDAN: Thank you. We appreciate
18 all the comments. Board, questions? Applicant, questions?

19 We thank you all for coming down. Your input is
20 very important. We know generally, the gist of where you are,
21 and other comments were the same, you know, kind of boxed in.
22 That's why we're able to kind of convince it.

23 We understand the issue, and we're taking a good,
24 hard look at this. So, thank you all for coming down.

25 Mr. Kadlecek, rebuttal? Let me ask one

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1 question. Is the property -- you said the property is going
2 to be furnished. Is it optional? Can I take the furniture
3 out?

4 MR. KADLECEK: I'll let Mr. Balaban speak to
5 that, but my understanding is no, and I also want to emphasize,
6 not only are they furnished, by the provide everything from
7 linens, dishes, utensils. It's not like a dorm. People don't
8 have to bring anything.

9 CHAIRPERSON JORDAN: Like a hotel?

10 MR. KADLECEK: Except you have to have a lease.

11 CHAIRPERSON JORDAN: How long is the lease?

12 MR. BALABAN: There will be no leases shorter
13 than 90 days.

14 CHAIRPERSON JORDAN: It's extended-stay hotel.

15 MR. BALABAN: We certainly wouldn't call it
16 that. There will be residential leases and we expect to have
17 many 12 month leases and if it's convenient for a specific
18 tenant to make shorter arrangements, because it is so easy to
19 move in and move out, because as Mr. Kadlecek said, everything
20 is provided, we expect there will be some short-term tenants.

21 CHAIRPERSON JORDAN: Rebuttal, Mr. Kadlecek?

22 MR. KADLECEK: Yes, Mr. Milanovich is going to
23 speak a little bit about TDM.

24 CHAIRPERSON JORDAN: What about them? We've
25 got the TDM plan.

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1 MR. KADLECEK: Effectiveness of TDM.

2 CHAIRPERSON JORDAN: It's not rebuttal, right?

3 MR. KADLECEK: Well, the -- I believe that the
4 neighbors testified that they think there is going to be a
5 significant impact on the neighborhood.

6 CHAIRPERSON JORDAN: Go ahead.

7 MS. MILANOVICH: I just thought it might be
8 helpful to cite a few case studies, that show that the TDM plan
9 is actually -- they do work. They are effective in reducing
10 vehicular trips, and the case studies that I'm going to cite
11 are actually -- the TDM plans aren't nearly as robust as what
12 we're proposing.

13 So, we've done annual studies at a number of
14 developments. I'm going to talk about one in the District
15 that's near the Foggy Bottom metro station, and then the other
16 three are actually in Fairfax County, and the reason I've
17 selected those is because those are not near metro, and it's
18 sometimes hard to understand if you're looking at a site near
19 metro, how much of the reduction in vehicular trips is simply
20 just because you're adjacent to metro versus how much is from
21 the effectiveness of the TDM plan.

22 So, the Square 54 development, which is adjacent
23 to the Foggy Bottom metro station, has -- it's where the Whole
24 Foods is at 22nd and I. There is residential and office
25 components there, as well.

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1 When we did the study for that several years ago,
2 the estimated trip reduction for that project was 60 percent,
3 and that's 60 percent reduction in a.m. and p.m. peak hour
4 vehicle trips.

5 We've gone out and monitored that, most recently
6 in September of this year, and what we found was that the site
7 is actually achieving a 70 percent reduction in the a.m. peak
8 hour and an 82 percent reduction in the p.m. peak hour. So,
9 significantly exceeding the anticipated reduction.

10 I also looked at three sites, and as I said, in
11 Fairfax County. Two of those sites are more than one mile from
12 metro. One of those is Ridgewood, which the goal of that TDM
13 plan was to achieve a 20 percent trip reduction during the p.m.
14 peak hour, and when we monitored that and did a survey of that
15 last year, in November of 2013, we found that they're actually
16 achieving a 46 percent reduction. So, more than doubling the
17 reduction that was specified in their goal.

18 The other that's more than one mile from metro
19 is the Mosaic District in the Merrifield area of Fairfax
20 County. Their goal was 30 percent non-single occupant
21 vehicles, and in December of 2013, a year ago, we did a survey
22 of that site and found that they are actually achieving a 42
23 percent non-single occupant vehicle rate.

24 Then the final case that I'll cite is the Reserve
25 at Tysons. It's about a mile from the Dunn-Loring metro

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1 station. This was done pre-silver line.

2 Their goal again, was a 20 percent non-single
3 occupant vehicle and in November of 2013, they were actually
4 achieving 30 percent non-single occupant vehicle, and I just
5 do want to note that none of those projects included Capital
6 bike-share memberships for residents or car-share memberships
7 for residents, not at initial occupancy and certainly, not in
8 perpetuity of the project.

9 As I said, three of the four are nowhere near
10 metro. In our case, we're near metro, so we're having the
11 benefit not only of the TDM plan, but also the proximity to
12 metro.

13 So, I thought that might just help put it in
14 context and show that TDM plans really do work.

15 CHAIRPERSON JORDAN: Certainly, and I would want
16 you to submit those studies and your analysis on that, so we
17 can see the actual comparable's of TDM's that were in place,
18 what the initial goal was within the reduction and the time
19 period. That would be good. Thank you.

20 All right, anything else?

21 MR. KADLECEK: Yes, I just have a short closing.

22 CHAIRPERSON JORDAN: Yes, please.

23 MR. KADLECEK: Three main points I want to make
24 in closing.

25 The first is, I want to re-emphasize Mr.

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1 Balaban's testimony about the nature of the residents in this
2 building.

3 They're not the kind of people who are going to
4 be bringing a lot of stuff. They are choosing to live in this
5 neighborhood and in this type of project precisely because they
6 want to be near transit. They want to be near amenities. They
7 want to be near restaurants. They want to be near jobs. They
8 want to be near gyms. They want to be near everything that
9 they can get to within a short walk, with metro, with bus.

10 If they want to have a car, there are plenty of
11 other options in the District, even in this neighborhood, there
12 are other options for people to have cars where they can park
13 in their building.

14 That's not the type of marketing that this
15 project is oriented towards. These are not the types of people
16 that are going to live in this building.

17 Secondly, when you're talking -- when people are
18 making comparisons about people parking on the street, we have
19 to remember that this is an atypical type of apartment. It's
20 not a standard one-bedroom. It's also not eligible for RPP,
21 which in think differentiates it from a lot of the other
22 buildings in the neighborhood that some of the neighbors have
23 testified to.

24 My second main point is, there was some
25 discussion about -- concern about preserving the Blagden

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1 Alley, and I want to say that we are in complete agreement with
2 preserving Blagden Alley. In fact, as Commissioner Melcher
3 testified, we believe this project actually helps preserve
4 Blagden Alley by eliminating additional car traffic in it.

5 For those people who do have garages that back
6 onto the alley, this will make their lives a lot easier than
7 if a matter-of-right building with parking were to go in and
8 have parking, or cars driving through the alley.

9 There is no part of the alley that's being deeded
10 to this project. I think there was a misunderstanding about
11 that. We're actually preserving part of our property that
12 will be towards and which will, in effect, widen the alley.

13 Then finally, I want to emphasize again, the ANC
14 support. We went to the ANC for just the BZA case, four times,
15 not to mention the times that we went to the ANC for the HPRB
16 case.

17 The ANC felt, as you heard, very strongly that
18 we went above and beyond to meet the concerns of the community
19 that were expressed at those meetings of the ANC Commissioners.
20 That's why we've committed to such a robust TDM plan, and that's
21 why we're, you know, willing to do as much as we can to minimize
22 the fact that there would be any negative impact, but never
23 the less, we believe that the types of residents that will live
24 here are not likely to bring cars, despite the number of parking
25 spaces that we're asking for relief from. So, thank you.

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1 CHAIRPERSON JORDAN: All right, thank you.
2 We'll close the record on this, unless the Board needs
3 something additional.

4 I do want the study that you recited, so we can
5 take a look at that. I would like to have that. Mr. May?

6 COMMISSIONER MAY: I just have one question.
7 Reading back over the ANC report, and I'm not seeing the actual
8 vote, what the vote was. Was it unanimous or was it a split
9 vote?

10 MR. KADLECEK: It was a split vote.

11 COMMISSIONER MAY: And I'm sorry, I'm asking
12 him.

13 CHAIRPERSON JORDAN: Folks that participated as
14 witnesses with -- in the -- in opposition, it's no discussion.
15 Your guys time is done. It's now conversation with the
16 Applicant, okay.

17 COMMISSIONER MAY: So, I'm sorry, can you tell
18 me what it was? It was a split vote?

19 MR. KADLECEK: Four to three.

20 COMMISSIONER MAY: Four to three? Okay, so,
21 technically, we need to have that reflected in the -- in the
22 report, and I'm just not sure I -- we have it on a -- in a written
23 form in the record. Yes, I mean, it's -- I'm not seeing it
24 in the letter that was written.

25 CHAIRPERSON JORDAN: So, I'd like to see that in

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1 the -- the letter amended in the record.

2 Board, anything else you want to see? I don't
3 think we're ready for a decision on this, are you?

4 Okay, so, Mr. Moy, I want to put this over for
5 -- on the hearing docket, just in case there is some additional
6 questions, but for hearing/decision date.

7 I'm telling you, that study is going to be very
8 key, because it's a -- you know, I've looked at the Arlington
9 and Fairfax County studies myself. I've been always waiting
10 for the District to do its -- you know, because you're right.
11 I mean, your Arlington is still -- and Fairfax is still not
12 the District, and we keep hearing, it's coming, it's coming
13 and coming and coming, and these -- you know, this project is
14 going from a required 61 or 62 parking spaces to zero in a
15 residential neighborhood.

16 Yes, that alley is zoned commercial. Then
17 that's another aspect this Board has got to look at, the impact
18 of what went on in the Zoning Commission hearing when it was
19 designated as commercial. I think that's a fair consideration
20 also.

21 So, and now, we hear that the ANC vote was
22 actually 4-3 and it wasn't a slam dunk there, as I was kind
23 of getting the impression, it was a slam dunk.

24 So, I want to put this on for another date, Mr.
25 Moy. That's fair.

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1 So, I think as soon as December 27th? No, I'm
2 sorry.

3 MR. MOY: January 27th.

4 CHAIRPERSON JORDAN: January 27th is fine. No,
5 no, January 27th is fine with me.

6 You know, we -- you know, we've got to do these
7 things with -- you know, certainly with some speed, but it's
8 got to be deliberate speed.

9 These things are not like, you know -- because
10 these decisions are going to impact people for a long time.
11 Mr. Moy?

12 MR. MOY: Okay, as I heard Mr. Chairman, that was
13 continued hearing, as opposed to a decision meeting for January
14 -- Tuesday, January 27th. Any filings as the Board requests,
15 by January 20th, because I believe the 19th is a holiday. I
16 believe that's a Monday, I think, but I could be second-guesses
17 on that.

18 CHAIRPERSON JORDAN: So, the 27th?

19 MR. MOY: Yes, sir.

20 CHAIRPERSON JORDAN: And in on the 19th?

21 MR. MOY: Twenty.

22 CHAIRPERSON JORDAN: They've got to get it in by
23 the 20th? What's the docket look like? We've been stacking
24 some stuff up for the 27th.

25 MR. MOY: Yes, but I have high confidence in this

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1 Board.

2 CHAIRPERSON JORDAN: What the heck does that
3 mean? Twenty-seventh, please, okay, and with the submission
4 beforehand.

5 Thank you, all. Thanks, everybody. Thank you
6 all for coming down and being diligent on this. I know this
7 is -- it's one of those issues. It's one of those life
8 impactful issues and we understand that.

9 All right, a brief three minutes and then we're
10 up and running. We'll take the last case for the day, and
11 that's got to move expediently.

12 (Whereupon, the above-entitled matter went off
13 the record at 1:00 p.m. and resumed at 1:06 p.m.)

14 CHAIRPERSON JORDAN: This is Case No. 18841, the
15 continuation hearing of Robert Searle for the variance for
16 addition to row-dwelling in the R-4 District at 1522 8th
17 Street, Northwest.

18 This case was previously heard in October 28th
19 -- was it October 28th, that long ago? October 28th, it seemed
20 like just yesterday. October 28th, 2014.

21 The case was kept open for the Applicant to
22 present to the Board, issues that were raised during the
23 hearing, including explanation of other alternatives and
24 options and why it's not feasible -- why those things are not
25 feasible, and to further clarify the structural reasons for

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1 the third floor expansion.

2 Anyway, okay, good. So, the Board has reviewed
3 the record on the matter. I think we see what's going on. Let
4 me find out.

5 Board, was there any other questions we want to
6 ask this Applicant about the supplemental filing?

7 I kind of -- if we can do -- if you bear with me
8 a minute, let me go and ask a question of OP on their report,
9 because it's my understanding, Ms. Vitale, you still are not
10 in support of the relief for the third floor, correct?

11 MS. VITALE: That is correct.

12 CHAIRPERSON JORDAN: And let me ask you, because
13 you wrote in your report, some potential alternative ways to
14 do the -- how to handle the structural issue with the building,
15 that the Applicant could refrain -- re-frame the existing third
16 floor roof and distribute the roof load to the parting wall
17 and dog-leg the wall, or the Applicant could restructure and
18 stabilize the under-pinning.

19 If doing it your way, would they not need any
20 zoning relief to do this project?

21 MS. VITALE: I actually did speak with the Office
22 of the Zoning Administrator in DCRA, to confirm that if the
23 Applicant were to pull permits to, you know, renovate and
24 stabilize the existing structure without the addition, if that
25 could be done, without the need for relief, and they indicated

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1 that was in fact, the case.

2 CHAIRPERSON JORDAN: All right. So, back to the
3 Applicant, to respond to that and/or -- yes, I got you.

4 No, I didn't do it. That's my fault. You
5 weren't on. There you go. Now, you can do it.

6 MS. MOLDENHAUER: At this point, can I
7 cross-examine Office of Planning based on that statement or
8 are we jumping around?

9 CHAIRPERSON JORDAN: Yes, because we're already
10 in the hearing. So, let's -- I think unless there is something
11 else you think you need to present to the Board, that you
12 haven't presented to us.

13 MS. MOLDENHAUER: Well, one, I'd like to
14 cross-examine Office of Planning.

15 CHAIRPERSON JORDAN: Go ahead.

16 MS. MOLDENHAUER: And then I can provide
17 additional supplemental.

18 CHAIRPERSON JORDAN: Certainly, that would be
19 good. Go ahead.

20 MS. MOLDENHAUER: So, my question would be,
21 based on your proposed options, is it your understanding that
22 structurally, you would have to underpin and thus, demolish
23 the existing basement structure?

24 CHAIRPERSON JORDAN: Say that again. Could you
25 rephrase that?

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1 MS. MOLDENHAUER: Based on your recommendations
2 to just simply re-stabilize the existing wall, do you
3 understand or is it your understanding that you would have --
4 in order to do that, you would have to then demolish a portion
5 of the existing basement or cellar unit?

6 MS. VITALE: I'm --

7 CHAIRPERSON JORDAN: You're missing the
8 question?

9 MS. VITALE: No, I understand what she's saying,
10 and I'm not certain that I know, you know, the relevance of
11 that.

12 You could underpin that existing wall that now
13 runs from the basement to the third floor, to the existing third
14 floor, that half-story, you know, as I discussed with staff
15 in the Office of the Zoning Administrator.

16 That underpinning work could be done without the
17 need for additional relief. The extent of renovation interior
18 work to underpin, I don't -- I can't speak specifically --

19 CHAIRPERSON JORDAN: I think her --

20 MS. VITALE: -- to that.

21 CHAIRPERSON JORDAN: I think her question is
22 saying doing it the way that you suggest, would you then either
23 take away the use or is there a need to substantially change
24 the cellar level in doing that? Is that your question?

25 MS. MOLDENHAUER: I think the Office of Planning

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1 had answered the question, that they haven't evaluated the need
2 to --

3 CHAIRPERSON JORDAN: Well, first let me -- was
4 that the question, as I rephrased it?

5 MS. MOLDENHAUER: Not exactly.

6 CHAIRPERSON JORDAN: All right, so, let's make
7 sure we're clear on the question, because I --

8 MS. MOLDENHAUER: The question was, in your
9 proposed alternatives, did you consider the fact that those
10 proposed alternatives would require waste and demolition of
11 a portion of the cellar unit that has been renovated?

12 MS. VITALE: Yes, I did. I know it -- at the last
13 hearing, you did indicate that the basement unit had been
14 renovated recently.

15 I did check permit records, didn't see any permit
16 records for extensive renovation work for the basement.

17 So, I did. I understood that certainly, that's
18 finished space and to underpin in a finished space, would
19 require some disruption, certainly of that space.

20 MS. MOLDENHAUER: And that does not evaluate in
21 regards to wasteful renovation or something that would be
22 practically difficult? In other words, to wasting an existing
23 structure that's been renovated already?

24 MS. VITALE: I'm not certain how that's relevant
25 to the case before us and the need for the third floor.

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1 CHAIRPERSON JORDAN: Let me say this. Ms.
2 Vitale, relevance, don't worry about that. Let's just answer
3 the question. We'll handle the relevance, okay? I
4 understand. Just answer the question.

5 I understand where you're coming from, but just
6 answer the question. I think -- I understand what she's
7 asking --

8 MS. VITALE: As I stated, yes, I understand that
9 you would certainly need to disrupt some existing finished
10 space, in order to underpin that wall.

11 MS. MOLDENHAUER: Then no other questions at
12 this point for OP.

13 We'll then just simply -- we have obviously, we
14 can elaborate on the information that was provided in regards
15 to the civil engineer, and we also, in part of the revised
16 plans, have shown that the roof top access has been removed
17 from the structure, and I believe that the Applicant would like
18 to provide a brief statement, as well, to the Board.

19 MR. SEARLE: Good afternoon, Chairman Jordan and
20 the Board.

21 I'll try to be quick and brief on this.

22 I just want to give, from my perspective, you
23 know, the difficulty that is, you know, on the decision of how
24 to remedy this wall in my unique situation, as we talked about.
25 There is an internal wall. It's got a lot of cracks. It's

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1 even buckling in a spot, and it's causing a lot of problems
2 and something has to be done to remedy, and this was done
3 through previous owners, through modifications and failure to
4 keep upkeep of the property.

5 In consulting initially with my architect, she
6 gave me a couple options. You know, one we discussed, which
7 was to carry the load of the roof back to the rear well, which
8 has a better footing and better structural integrity to carry
9 the load.

10 The other, which was to tear apart the basement,
11 which you know, to build up that wall to put in footing, which
12 obviously was going to be difficult, because we'd have to tear
13 apart -- and wasteful, because we'd have to tear apart the
14 basement that was already finished, or demolishing the garage,
15 which again, was wasteful to a structure that was already
16 there, and it would also require a variance and permission from
17 the Historic Board.

18 So, because of the risk and the difficulty, it
19 seemed that, you know, carrying the load to the back wall was
20 the best option that we could do.

21 She told me that this would require a variance
22 and that this can be costly and laborious, but I felt because
23 of the other options and the alternatives and this old house,
24 that this was what we would go for.

25 So, before we even started, I reached out to the

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1 neighbors, and I got support from all the neighbors that I
2 asked. We brought this to ANC-6E and Alex Padro, that actually
3 lives across the street, and he was very emphatically in
4 support of it, and he -- because he is -- lives across the
5 street, he also is concerned about how far it's reaching.

6 I also got very emotional support from Mary
7 Sutherland, who was community activist at the meeting, who
8 happens to be my next door neighbor, who was very vocal during
9 the meeting in support for it.

10 So, following the last meeting from the Zoning
11 Committee, or from the Board, we did get the structural
12 engineer to look at it, and he in deed, backed what we had said
13 in the last meeting through the architect, that that wall is
14 basically -- he condemned it, which he said -- he was actually
15 concerned about it falling apart unless we did some serious
16 construction to it, which involves the -- putting -- finishing
17 or taking -- putting the footing in and increasing the footing
18 on the foundation.

19 So, if there still is a question, I just want to
20 make it clear that from -- you know, from my perspective, or
21 at least -- and I hope it's the Board's perspective, that I
22 mean, deliberation is good, but I think in this case, I rest
23 on the experts of the architect and the structural engineer,
24 who actually saw the uniqueness of my property, have been able
25 to look at the walls, the deterioration of the walls, look

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1 underneath and saw the casing -- how the footing is and the
2 foundation, and so, I would like to rest on their expert
3 opinion, and their advice to me, which is the best option would
4 be to carry the load through that -- to that rear wall, and
5 that's all I have. Thank you, sir.

6 CHAIRPERSON JORDAN: Thank you. Anything else
7 that you think the Board needs to hear? Board, questions?
8 Yes, Mr. May?

9 COMMISSIONER MAY: Okay, well, first of all, I
10 appreciate the fact that you removed the rooftop access. That
11 was problematic for me.

12 Let's talk about this "condemned wall". I mean,
13 condemned wall is just -- that's the term that the engineer
14 used for it, right? It's not -- you haven't -- you don't have
15 a condemnation sticker on it from DCRA or anything like that,
16 right?

17 MS. MOLDENHAUER: No, it was what the --

18 COMMISSIONER MAY: What they called it? What
19 they -- how they referred to it?

20 MS. MOLDENHAUER: How they referred to it.

21 COMMISSIONER MAY: Okay, so, tell me more about
22 why it's condemned.

23 The wall extends from the -- presumably the
24 basement level, all the way up to the roof? Correct?

25 MS. MOLDENHAUER: I am not a civil engineer and

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1 we don't have our civil engineer here with us.

2 COMMISSIONER MAY: Okay, well, your architect
3 sure be able to answer that question.

4 MS. FOWLER: Sure, yes. It does extend from the
5 basement level and it carries the load of the partial third
6 floor.

7 COMMISSIONER MAY: Partial third floor, right
8 and the roof, right? Carries to the roof?

9 MS. FOWLER: Yes, the roof load from the third
10 floor.

11 COMMISSIONER MAY: Right, it doesn't include --
12 actually carry any load from the third floor, because that's
13 carried by bearing -- the party walls.

14 MS. FOWLER: Right.

15 COMMISSIONER MAY: So, the -- what portion of
16 this wall is bad? I mean, is it bad from the basement? I mean,
17 from the cellar all the way to the roof?

18 MS. FOWLER: That's correct. Yes, we observed
19 cracks and bowing, kind of throughout from the basement level,
20 all the way up through --

21 COMMISSIONER MAY: So, how much bowing are you
22 talking about?

23 MS. FOWLER: He had -- in his letter, kind of
24 states that there is --

25 COMMISSIONER MAY: The only dimension I saw was

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1 three-eighths of an inch, which is not much.

2 MS. FOWLER: Out of plain movement that he
3 mentioned in the letter.

4 COMMISSIONER MAY: Yes.

5 MS. FOWLER: There is one particular area in the
6 basement where you can see -- you can visually see that there
7 is -- there has been movement in that wall.

8 COMMISSIONER MAY: It's moving, it's bowing?

9 MS. FOWLER: It's bowing, yes.

10 COMMISSIONER MAY: Okay, is the mortar in tact?

11 MS. FOWLER: No, there is definitely areas where
12 the mortar is not.

13 COMMISSIONER MAY: I mean, in the area where it's
14 bowing, is the mortar in tact?

15 MS. FOWLER: In that area, it's not exposed.
16 The mortar is not exposed, but we can see other damage and
17 bowing from the finished wall.

18 COMMISSIONER MAY: So, it's pushing on the
19 finished wall?

20 MS. FOWLER: Right.

21 COMMISSIONER MAY: And you can't see it?

22 MS. FOWLER: That's what we think. That's what
23 we believe.

24 COMMISSIONER MAY: In the basement level?

25 MS. FOWLER: Correct.

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1 COMMISSIONER MAY: So, you're going to have to
2 take apart that wall anyway, in order to fix that, right? You
3 don't want to have the -- I mean, you're not going to want to
4 have the masonry wall start pushing through the drywall.

5 MS. FOWLER: I think once the load is removed,
6 we won't need to --

7 COMMISSIONER MAY: It's not going to bow
8 anymore. It's only going to bow as much as it has.

9 MS. FOWLER: I believe so.

10 COMMISSIONER MAY: Okay.

11 CHAIRPERSON JORDAN: What caused the damage to
12 the wall, anyway, the structure?

13 MS. FOWLER: There was -- as we testified
14 previously, there have been holes put through the wall over
15 time, for duct work and other utilities, doorways put through
16 without proper support, and also, we believe that that
17 foundation -- based on other projects that I've experienced
18 through work, there is potentially no footing under that
19 particular wall.

20 Usually, it's just kind of a brick wall laid on
21 the dirt. So, we believe that there is settling -- it's
22 settling differently than the perimeter walls.

23 COMMISSIONER MAY: So, where -- to what extent
24 have you been able to examine the actual masonry? Is it on
25 the first floor? Second floor? Inside only? Second floor

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1 or third floor inside only?

2 MS. FOWLER: Inside, mostly, but there is a
3 photograph we had in the --

4 COMMISSIONER MAY: Yes, I saw one where there is
5 a -- sort of a column --

6 MS. FOWLER: Right.

7 COMMISSIONER MAY: -- piece that is exposed, and
8 it's obviously, in very bad shape behind the drywall. Is that
9 the extent to which it has been -- you've examined the masonry?

10 MS. FOWLER: On the upper levels, we've seen
11 cracks -- there is plaster walls --

12 COMMISSIONER MAY: Right.

13 MS. FOWLER: -- so, we were able to see cracks
14 that have occurred from the --

15 COMMISSIONER MAY: It's the differential
16 settlement, right?

17 MS. FOWLER: Correct, and where the wall meets
18 the party walls --

19 COMMISSIONER MAY: Yes.

20 MS. FOWLER: -- where it's separated.

21 COMMISSIONER MAY: Right, it's settling a little
22 bit more in the middle because it doesn't have the foundation,
23 right.

24 MS. FOWLER: But it's much easier to tell with
25 the plaster walls than it is for instance, in the basement --

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1 COMMISSIONER MAY: Right.

2 MS. FOWLER: -- where this is drywall.

3 COMMISSIONER MAY: Right, so, how much do you
4 think it has actually settled there?

5 I mean, because those cracks at corners like that
6 are quite common in older plaster -- you know, houses with
7 plaster.

8 MS. MOLDENHAUER: I think the issue is, and I
9 think we can kind of go back and forth with this, but what we
10 did from the last time is, we actually went and we obtained
11 a civil engineer from them, to provide their expert opinion.

12 COMMISSIONER MAY: And I read it, and I have
13 questions about it, and he's not here. So, I'm trying to
14 figure out what I need to figure out.

15 MS. MOLDENHAUER: I'm just trying to say that
16 obviously, you know, one of the things we're relying upon is
17 his, you know --

18 COMMISSIONER MAY: Right.

19 MS. MOLDENHAUER: -- opinion that wall and --

20 COMMISSIONER MAY: Okay, let me tell you what --
21 what he described in the letter is no worse than conditions
22 that I've seen in multiple townhouses over the years, and
23 particularly on that back wall.

24 So, I'm trying to understand if that wall really,
25 truly is in jeopardy or not, because based on the description,

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1 it's not compelling.

2 So, I'm trying to find that out. If you want me
3 to stop --

4 MS. MOLDENHAUER: No.

5 COMMISSIONER MAY: -- I'll stop and vote, you
6 know.

7 MS. MOLDENHAUER: I'm just trying to --

8 COMMISSIONER MAY: Okay.

9 MS. MOLDENHAUER: -- focus what we have,
10 obviously on the --

11 COMMISSIONER MAY: I understand, I understand
12 and it's, you know, as you can probably tell, it's not
13 compelling enough for me.

14 CHAIRPERSON JORDAN: As I always say, and you
15 know certainly, we've already read the record. So, we know
16 what we read.

17 COMMISSIONER MAY: Right.

18 CHAIRPERSON JORDAN: So, the questions are just
19 follow-ups that we need to get the answers to.

20 COMMISSIONER MAY: So, in terms of the actual
21 construction that you would do here, at this point, you would
22 take down the wall from the level of the floor, the first floor,
23 all the way up to the roof, essentially.

24 MS. FOWLER: That's correct.

25 COMMISSIONER MAY: Okay, and then the roof load,

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1 you expect to use a king beam to carry that, the rest?

2 MS. FOWLER: Correct. We were planning to
3 reinforce --

4 COMMISSIONER MAY: An existing king beam?

5 MS. FOWLER: -- forward king beams and then
6 install new king beams further back.

7 COMMISSIONER MAY: I see, yes, right, because
8 it's too far to span.

9 So, is there anything that would prevent you from
10 simply spanning from the existing brick wall, to rebuild the
11 back wall, at the third floor with just wood framing?

12 I mean, is there any reason why you couldn't just
13 stop it there and maintain the same envelope?

14 I mean, you're arguing that this is structurally
15 necessary because you need to remove that wall, and the only
16 solutions that we've heard so far is that you'd have to demolish
17 the thing down to the basement and put in a new footing and
18 build it all up and masonry.

19 But you're also -- you know, you're showing king
20 beams that are being carried by the party walls and by the
21 dog-leg wall, and if those are strong enough to carry king beams
22 that will carry the roof load, couldn't you, you know, span
23 that, you know, at the top of the second floor, span and then
24 put your wall, you know, your back wall right on top of that
25 and then maintain the envelope and comply with the zoning?

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1 MS. FOWLER: I mean, part of the strategy here
2 is to remove the load from that -- the wall that the engineers
3 condemned, and spread it out over multiple points, and which
4 are also carrying down onto walls that we believe have more
5 viable foundations than the wall that's currently carrying the
6 loads.

7 So, the idea is to disperse this load over
8 different walls that we've seen have better foundations.

9 COMMISSIONER MAY: Okay.

10 MS. MOLDENHAUER: And if you were -- what would
11 be another option? Would it be to carry out to the original
12 existing exterior wall?

13 COMMISSIONER MAY: I'm just asking why not?

14 MS. MOLDENHAUER: But what I'm saying, if they
15 pulled it out to the original existing wall, which is the second
16 one, that would still then require zoning relief. It would
17 just --

18 COMMISSIONER MAY: No, no, no, I'm not talking
19 about the original existing wall. I'm talking about the wall
20 that is bad, essentially in the same plain, have a beam that
21 goes from the party wall at the top to the -- you know, the
22 viable masonry wall, you know, at the end of the dog-leg there,
23 and carry the load down that way, and build up.

24 MS. FOWLER: We're kind of basing what we -- our
25 design on the recommendations of the structural engineer and

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1 what he thought was the most efficient way to address the issue.

2 COMMISSIONER MAY: So, the structural engineer
3 who gave us this report most recently, was the one who advised
4 you originally to extend the roof all the way to the back of
5 the house?

6 MS. FOWLER: He didn't originally, but when we
7 showed him the designs and we walked through the house, he
8 concurred that that was the best solution.

9 COMMISSIONER MAY: Okay, all right. It's
10 unfortunate that he's not here to testify to that, because
11 that's not what he wrote in his letter. He wrote that the
12 letter -- that the wall is not viable and should come down,
13 and you know --

14 CHAIRPERSON JORDAN: There was a lot of detail.

15 COMMISSIONER MAY: Yes, it's -- I'll leave it
16 there. I don't have any further questions.

17 MS. MOLDENHAUER: I want to ask Jennifer a
18 question.

19 So, if based on what obviously, the structural
20 engineer informed you, that this wall, this entire wall is not
21 viable, what would be the alternative, if you were to use this
22 wall, the original, which I'm just going to -- kind of going
23 over on a cursory here.

24 This was the original wall of the property.
25 Would that still require zoning relief? You're expanding not

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1 all the way to the far back wall, all the way to the far --
2 to the far back wall, but to the middle wall, which is the
3 original wall, would that still require zoning relief, if you
4 went back to that portion?

5 MS. FOWLER: Yes, it would also have its own
6 challenges, as well, because the wall has been removed in many
7 locations.

8 CHAIRPERSON JORDAN: Okay, Board, any
9 additional questions?

10 COMMISSIONER MAY: Actually, I do have another
11 question.

12 So, you have -- in your submission, you included
13 information about the garage, that indicates the garage has
14 been there for a long time. Is it a contributing structure
15 in the Historic District?

16 MS. MOLDENHAUER: We have not yet gone to HPO.
17 We were going through the BZA process first, and then we're
18 going to be going to the Historic Preservation process.

19 But what we did pull up was just a --

20 COMMISSIONER MAY: I saw what you submitted,
21 yes.

22 MS. MOLDENHAUER: Also that -- from the 1907
23 picture on the left here, is a picture of all of the original
24 garages that were built at that time, and if you look at the
25 picture on the right, that's actually a picture from our

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1 current.

2 So, obviously, majority, almost all of those
3 original structured garages have been removed from this entire
4 square. You can see the picture on the right, where there is
5 really only one other garage structure from the image.

6 So, we have not yet pursued HPO. We are going
7 go through the BZA process first, but we do believe it would
8 be an issue, in regards to, you know, addressing that, since
9 this was -- is one of the few garages that are left.

10 COMMISSIONER MAY: Okay, so, in your original
11 submission on page C4, you have a photograph of that garage,
12 which shows a concrete block garage with a double door on it.
13 That's what I'm -- that's the garage, right?

14 MS. MOLDENHAUER: That's the interior side, yes.

15 COMMISSIONER MAY: It's the alley side.

16 MS. MOLDENHAUER: Is that the alley side?
17 Sorry.

18 COMMISSIONER MAY: I'm looking at the alley
19 side. I don't have the picture of the -- of the interior side.

20 Yes, I mean, I'm seeing basically a block wall
21 garage.

22 I mean, I guess what it -- my point is that even
23 -- I'm sorry, and the current iteration of the garage, it
24 borders the alley directly, right? It's not off-set the way
25 it's shown in the basement up on the left.

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1 CHAIRPERSON JORDAN: Is that flipped?

2 COMMISSIONER MAY: No.

3 MS. MOLDENHAUER: It appears to be.

4 COMMISSIONER MAY: Right. So, one of the
5 solutions to the -- I'm sorry, is one of the solutions for the
6 garage to be removed, and then to build the addition -- the
7 expansion the way you want?

8 MS. MOLDENHAUER: We believe that that would
9 create a practical difficulty, in regards to waste of an
10 existing structure, and we also believe we'd have to --

11 COMMISSIONER MAY: And this -- and I understand
12 that's what you would argue, but that's not what I asked.

13 Would that be a solution? It would be -- it may
14 not be the solution you want, but is that a solution, that if
15 you took the garage away, would you be compliant with zoning,
16 with this addition?

17 MS. MOLDENHAUER: If you removed the garage
18 structure it would reduce the lot occupancy and --

19 COMMISSIONER MAY: Right.

20 MS. MOLDENHAUER: Yes.

21 COMMISSIONER MAY: So, you'd be zoning
22 compliant.

23 MS. MOLDENHAUER: But so I -- it's -- so, it would
24 not though, you would have to have an issue with the court,
25 because the issue here is the court, and so --

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1 COMMISSIONER MAY: Right.

2 MS. MOLDENHAUER: -- it would not change the
3 court issue, and the court obviously provides the light and
4 air that, you know, courts were designed for that purpose.

5 So, you would still --

6 COMMISSIONER MAY: Right, but it's a different
7 test for court versus lot occupancy, right?

8 MS. MOLDENHAUER: But the relief that we're
9 seeking now --

10 COMMISSIONER MAY: You have a 223 relief on
11 extending a non-compliant court, but you can't, for
12 non-compliant -- non-conforming lot occupancy.

13 MS. MOLDENHAUER: No, exactly, so, obviously,
14 you know, but that obviously goes to the degree of relief and
15 here, if we were -- the same issue is the case here.

16 We have a question of a non- conforming court,
17 and if we wanted to increase that non-conforming court, we
18 would still need zoning relief, and then that actually just
19 goes to --

20 COMMISSIONER MAY: But the special exception
21 relief as opposed to variance relief.

22 MS. MOLDENHAUER: It goes to then the case of
23 1700 N Street, in which the Court evaluated Barber and they
24 indicated that that case was distinguishable, "Because the
25 owner of the property had two alternative methods that could

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1 be constructed without full compliant -- within full
2 compliance of the zoning regulations."

3 Whereas, here in this -- in the case of 1700 N
4 Street, the YMCA had not feasible alternative methods that
5 would provide both a pool and also require the parking spaces.

6 So, we are arguing that this is a same situation
7 as the Court of Appeals determined in that case, which was
8 distinguished from Barber.

9 We have alternatives, but any of those
10 alternatives would still require zoning relief. The option
11 that you just presented, Commissioner May, would still require
12 a degree of zoning relief, and it would also then, in our
13 opinion, create more practical difficulty because it would
14 not allow the maintenance or the maintaining of structures,
15 such as a parking structure.

16 We've heard a lot of testimony about, you know,
17 the need for parking in the area, and we believe that it would
18 be a practical difficulty to demolish the --

19 COMMISSIONER MAY: Elimination of the garage
20 doesn't take away parking.

21 MS. MOLDENHAUER: It reduces the style of
22 parking that you're being provided.

23 COMMISSIONER MAY: Changes it.

24 MS. MOLDENHAUER: And storage, and so, we -- but
25 to the legal issue, the legal issue identifies in the 1700 N

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1 Street block case that if the only other alternatives would
2 still require zoning relief, then in those regards, the
3 standard has been met and we present that --

4 COMMISSIONER MAY: So, in that case that you're
5 citing --

6 MS. MOLDENHAUER: -- there are alternatives --

7 COMMISSIONER MAY: In the case that you're
8 citing, is that one where it was one variance versus another
9 variance?

10 MS. MOLDENHAUER: It was whether or not they
11 could provide a pool. So, it was actually -- it was literally
12 the desire to have a pool for the YMCA, and also provide
13 parking.

14 So, they had indicated that they could not
15 provide both the pool and parking, and so, here we're
16 indicating that if you had any other alternative, you would
17 either be, you know, wastefully destructing or destroying a
18 portion of the structure, or you would still need relief from
19 special exception relief, or if you were even -- even too, as
20 we were talking about, pull the wall back to possibly maybe
21 another portion of the structure, you would still then need
22 court relief. You just would not need -- the degree would
23 change.

24 So, based on --

25 COMMISSIONER MAY: Right, but there is an

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1 essential difference between special exception relief and
2 variance relief, right, and I'm not sure that the case you're
3 citing has anything to do with that.

4 MS. MOLDENHAUER: There is no specific case that
5 relates to both that is -- is comparing that, and
6 unfortunately, we have limited --

7 COMMISSIONER MAY: You're the one that brought
8 it up. That's why I asked.

9 MS. MOLDENHAUER: But I believe it's so --

10 CHAIRPERSON JORDAN: Okay, okay,.

11 MS. MOLDENHAUER: -- parallel on the legal
12 issues.

13 CHAIRPERSON JORDAN: I think we can do this all
14 day. I think we're ready to wrap this up.

15 Is there any other evidence? Board, any
16 additional questions from the Board?

17 Okay, then we will close the record in this case.
18 Is the Board ready to deliberate?

19 Okay, then we'll move into deliberations on this.

20 This is a matter which I think you can kind of
21 toss up, in regards to how you take care of the structural
22 issue, but clearly, there is a showing that this building has
23 some uniqueness and has been defined by the evidence presented
24 by the Applicant, and that there is a structural issue with
25 this wall.

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1 How you do it, I think you can probably get 15
2 experts in the room and you'll probably get 12 different ways
3 of how you can handle the structural issue. But I think it
4 presents enough that the structural issue shows that there is
5 a deterioration of some sort, an erosion in this building, and
6 there has got to be some kind of aspect of attacking that third
7 floor wall and that half-portion of the roof.

8 Again, question about where the experts are, and
9 I would -- I believe that doing so still is going to require
10 some type of practical difficulty, in regards to this property,
11 and depending on which way you do it, will have an affect upon
12 the cellar and require some additional spending of money, maybe
13 in the area that didn't need it.

14 But again, you can go back and forth with the
15 experts. I think it's -- I can support this application, based
16 upon what I've heard so far, what I've heard in this case.

17 Based upon that, I think again, the argument how
18 you do it and 15 different ways to do it, it's still
19 questionable, but I think there has been reasonable evidence
20 presented by the Applicant, to support this and that's my
21 thought. Anyone else?

22 COMMISSIONER MAY: Certainly. So, as you might
23 guess, I don't support granting a variance in this
24 circumstance.

25 Certainly, the idea of fixing the problem with

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1 the wall by extending the load and carrying the load,
2 distributing it over more of the walls is a way to solve the
3 problem. It is not the only way to solve the problem, and I
4 don't believe that it is necessarily even the most
5 cost-effective way to solve the problem.

6 It is the most cost-effective way for the home
7 owner to expand the dwelling and not lose their garage and not
8 lose the basement apartment during the course of construction.

9 But frankly, I don't see that either -- you know,
10 any of those issues warrant granting a variance in this
11 circumstance.

12 I think that -- I mean, you know, yes, experts
13 can differ on these things, but we're not talking about really
14 super complicated stuff here. This is pretty basic stuff, and
15 I think that it -- there is a solution that doesn't involve
16 anything nearly this complicated or this -- that requires
17 granting, you know, extra space to a rather lot occupancy
18 relief, in order to fix a problem of a structural wall. I think
19 that those are issues that can be fixed in much more
20 understandable and zoning compliant ways, and I just didn't
21 see anything that was compelling in the evidence that was
22 provided.

23 It was -- you know, this was a solution that the
24 architect came up with and consulted with the civil engineer
25 or the structural engineer after the fact, in order to justify

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1 the solution. At least, that's the way it looks to me.

2 So, I agree with the Office of Planning, this is
3 not something that we should be granting.

4 CHAIRPERSON JORDAN: I would move we grant the
5 relief in this matter.

6 VICE CHAIRMAN ALLEN: Second.

7 CHAIRPERSON JORDAN: Motion made and seconded.
8 Any additional discussion from anyone?

9 All those in favor of the motion, signify by
10 saying aye.

11 (Chorus of ayes)

12 CHAIRPERSON JORDAN: Those opposed nay. The
13 motion passes. Mr. Moy?

14 MR. MOY: Staff would record the vote as 3-1.
15 This is on the motion of Chairman Jordan or approve the
16 application for the relief requested. Second the motion, Vice
17 Chair Allen. Also in support, Mr. Hinkle. Opposed to the
18 motion, Mr. May and we have a member not present. The motion
19 carries, Mr. Chairman.

20 CHAIRPERSON JORDAN: The motion passes. Let's
21 have a full order. Maybe, no, we can do a summary order.

22 We can't have a summary. We need a full order.
23 Make it full, okay, all right.

24 (Whereupon, the above-entitled matter went off
25 the record briefly at 1:37 p.m.)

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1 MR. MOY: Before we close the hearing, Mr.
2 Chairman, can I make just a real quick announcement?

3 CHAIRPERSON JORDAN: Yes.

4 MR. MOY: Yes, just for the record, just to leave
5 a paper trail, two cases that were rescheduled, 18899 Ron
6 Rogers was rescheduled to December 9th and the hearing case
7 of Kevin Latner 18865 was rescheduled to December 16th.
8 That's all I have, Mr. Chairman.

9 (Whereupon, the above-entitled matter went off
10 the record at 1:40 p.m.)
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