

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

FEBRUARY 3, 2015

+ + + + +

The Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:37 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

MARCIE COHEN, Zoning Commission Vice-Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LAWRENCE FERRIS, ESQ.
MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

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STEPHEN GYOR
STEPHEN MORDFIN
MEGAN RAPPOLT

DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

RYAN WESTROM

The transcript constitutes the minutes from the
Public Hearing held on February 3, 2014.

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

(9:44 a.m.)

CHAIRPERSON JORDAN: Let's do 18908, please.

MR. MOY: Okay, to the table Application 18908 of Donald Hurlbert and Barbara Watanabe, I believe. This is a request, Mr. Chairman, for variance relief. As advertised for public notice from lot occupancy, rear yard and non-conforming structure requirements.

CHAIRPERSON JORDAN: Thank you, Mr. Moy. Good morning. Please make sure your microphone is on. You should have a bright glowing green light. Please identify yourselves.

MR. HURLBERT: I'm Donald E. Hurlbert, owner of the property.

MR. WILSON: Paul Wilson, Architect.

CHAIRPERSON JORDAN: Very good. Good morning. Board, unless there -- I didn't see any issues in my review of this matter. I believe the documents already submitted would support relief, unless the Board has any other issues or something they feel like drilling down?

The Board believes that based upon what's already been filed in the case that you qualify for the relief that you've requested. Certainly, it is up to you to decide whether or not you want to present anything further to the Board, although the Board is telling you it is not necessary.

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1 So, in that case, you have the opportunity to waive your
2 right to hearing and we can proceed on.

3 MR. WILSON: We're prepared to stand on the record.

4 CHAIRPERSON JORDAN: Very good. Then let's turn to the
5 Office of Planning to see if there's anything in addition that
6 needs to be added from the Office of Planning for this case.

7 MR. GYOR: Good morning, Mr. Chairman, Members of the
8 Board. Stephen Gyor with the Office of Planning. We support
9 the applicant's request for relief and rest on the record.
10 Thanks.

11 CHAIRPERSON JORDAN: Board, any questions of the Office
12 of Planning? Applicant, any questions of Office of Planning?
13 Anyone here from the Department of Transportation on this
14 particular case?

15 I don't have a letter from DDOT, or did I miss it in my
16 review? Okay, so, I didn't miss it. All right, anyone here
17 from ANC 6B for this case? Anyone from ANC 6B on this case?

18 We do have a strong letter of support from ANC 6B, where
19 they voted 10 to 0 in support of this application. Is there
20 anyone here wishing to speak in support of this application?
21 Anyone wishing to speak in opposition? Anyone in opposition?

22 Then we will close the record on this matter, and I would
23 move that we grant the relief requested in 18908.

24 MEMBER ALLEN: Second.

25 CHAIRPERSON JORDAN: Motion made and second.

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1 Additional discussion? All those in favor of the motion aye.

2 (Chorus of ayes.)

3 Those opposed nay? The motion carries. Mr. Moy?

4 MR. MOY: Staff would record the vote as 5 to 0. This
5 is on the motion of Chairman Jordan to approve the application
6 for the relief requested. Second the motion, Ms. Allen.
7 Support Ms. Cohen, Vice Chair Heath and Mr. Hinkle. The motion
8 carries, sir.

9 CHAIRPERSON JORDAN: On summary, please.

10 MR. MOY: Thank you.

11 CHAIRPERSON JORDAN: Very good. Thank you. Didn't
12 mean to make you sweat here. Thirteen, please, 913.

13 MR. MOY: Application 18913 to the table. This is the
14 application of Goring and Devaney. And this application is
15 in for variance, multiple variance relief. Mr. Chairman?

16 CHAIRPERSON JORDAN: Great, thank you. Good morning.
17 Could you please identify yourselves, please? Please make
18 sure your microphone is on. Push the button.

19 MR. KONAPELSKY: My name is David Konapelsky. I'm with
20 GTM Architects.

21 MS. GORING: I'm Simone Goring. I'm the property
22 owner.

23 MS. BATTIES: Leila Batties, with the Law Firm of
24 Holland and Knight.

25 MS. BLOOMFIELD: Jessica Bloomfield with the Law Firm

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1 of Holland and Knight.

2 CHAIRPERSON JORDAN: All right, a couple of preliminary
3 things. Let me refresh my tired memory here. All right, it's
4 -- I believe there is additional relief that is necessary for
5 this case. Have you looked at whether or not you need
6 additional relief from 401 Lot Area and 406 Court?

7 MS. BLOOMFIELD: Yes. We've adjusted in our pre-hearing
8 statement, and we can discuss it again if you'd like.

9 CHAIRPERSON JORDAN: Did you file a revised
10 certification form? You've filed it?

11 MS. BLOOMFIELD: Yes. It's Exhibit 29.

12 CHAIRPERSON JORDAN: Okay, then we're on the same page
13 about the additional relief?

14 MS. BLOOMFIELD: Right.

15 CHAIRPERSON JORDAN: All right. You can just kind of
16 sit down for a minute. I think you'll be okay. With the
17 additional relief, and certainly I want to make sure that
18 before the Board -- before you pick up any order for the Board,
19 Mr. Moy make sure that the administrative -- any administrative
20 fees are taken care of. They might've already been.

21 All right, you threw me off. I told you I'm having one
22 of those mornings, and you distracted me. Now, I'm really in
23 left field. Unless the Board has any issues or questions with
24 this matter, with the amended relief request, I -- I believe
25 that the record already supports the relief necessary.

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1 Are there any questions anyone on the Board may have that
2 they need to hear anything from the applicant? Okay, so, as
3 you know, the Board is comfortable that the record supports
4 the relief that you requested.

5 You have the opportunity if you want to do a
6 presentation. I see all your boards. If you want to, go ahead
7 and take that step. But as the two of you certainly know, many
8 people have taken that step and then left without the relief
9 that they wanted.

10 So, it is up to you to decide how you want to proceed.

11 MS. BLOOMFIELD: We're happy to rest on the record.
12 Thank you.

13 CHAIRPERSON JORDAN: That's wisdom. So, then we
14 return to the Office of Planning to see what Ms. Thomas has
15 for us.

16 MS. THOMAS: Good morning, Mr. Chair. OP has nothing
17 additional to add, and we support the request for relief.
18 Thank you.

19 CHAIRPERSON JORDAN: Okay, Board, any questions of
20 Office of Planning? Applicant, any questions of Office of
21 Planning? Do we have anyone here from Department of
22 Transportation on this case?

23 We do have a letter from Department of Transportation
24 with no objection to the relief requested. Anyone here from
25 ANC 6E on this matter? We do have a letter of support from

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1 ANC 6E.

2 Is there anyone here wishing to speak in support of this
3 application? Anyone to support? Anyone in opposition?
4 Anyone in opposition? Good, then we will close this hearing.
5 Based upon the submission and the amended relief requested,
6 I would move that we grant the relief in 18913.

7 MEMBER ALLEN: Second.

8 CHAIRPERSON JORDAN: Motion made and second.
9 Discussion? Those in favor aye.

10 (Chorus of ayes.)

11 Those opposed nay. The motion carries. Mr. Moy?

12 MR. MOY: Staff would record the vote as 5 to 0. This
13 is on the motion of Chairman Jordan to approve the application
14 for the relief requested, as well as the amendment to add two
15 additional variance relief. Second the motion, Ms. Allen.
16 Also in support Ms. Cohen, Vice Chair Heath and Mr. Hinkle.
17 Motion carries, sir.

18 CHAIRPERSON JORDAN: Summary order, please.

19 MR. MOY: Thank you.

20 CHAIRPERSON JORDAN: Have a good day. All right, let's
21 call 912, please.

22 MR. MOY: All right, the next application to the table
23 is 18912 of Michael Pietsch. I was close; thank you, sir. Mr.
24 Chairman, this was originally requested for variance relief.

25 CHAIRPERSON JORDAN: Variance relief?

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1 MR. MOY: Well, at least for the lot area as publically
2 noticed, and lot occupancy. I believe the Board it's going
3 to explore, as was originally advertised, special exception
4 for off street parking. As I mentioned, the Board will address
5 that with the applicant.

6 CHAIRPERSON JORDAN: Okay. I thought there was
7 another, some other issue with this one. Let's discuss for
8 a minute the relief for the parking. I think they made a
9 request for -- first, let me have you identify yourselves.

10 MR. PIETSCH: Hello, Mr. Chair. My name is Michael
11 Pietsch. My wife and I, Dana Ball, are the owners of the
12 property and we are owner/occupants, sir.

13 MR. JELEN: My name is William Jelen. I'm the
14 architect.

15 CHAIRPERSON JORDAN: Okay, I think there was an
16 original request for special exception for parking here. It's
17 the belief that this requires a variance from parking. I don't
18 know if there's discussion or what your view is on that.

19 MR. JELEN: We weren't given any specific guidance on
20 that. We asked for a special exception for parking for lot
21 occupancy and lot area.

22 MR. PIETSCH: There is no access to the alley, sir.

23 CHAIRPERSON JORDAN: I'm not at that point.

24 MR. PIETSCH: Okay.

25 CHAIRPERSON JORDAN: I think that this doesn't even

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1 qualify for the special exception. We really need to look at
2 this as a variance for the parking requirement, the one
3 parking. I think that we use the same argument that would
4 support your other relief requested regarding the lot
5 occupancy on this.

6 Let me verify with OP if you're on the same page with
7 them.

8 MS. RAPPOLT: Megan Rappolt, OP. Yes, they listed on
9 application variance and special exception. So, we analyzed
10 it as a variance. All three areas of relief.

11 CHAIRPERSON JORDAN: Okay, so the shotgun didn't hit
12 in. Okay, very good. That's the way to do it. Your
13 application and your statement I didn't think was very strong
14 supporting the requested relief, but I believe that Office of
15 Planning's report certainly took you over the hump, just so
16 you know.

17 Office of Planning is recommending support for this.
18 Let me go back to you again. Go back to Planning again. I
19 believe you're making a recommendation that they also need rear
20 yard and lot area relief?

21 MS. RAPPOLT: Correct. I don't think they need lot
22 area because that is an existing non-conformity.

23 CHAIRPERSON JORDAN: Yes.

24 MS. RAPPOLT: Yes, definitely rear yard.

25 CHAIRPERSON JORDAN: And do you want the Board to accept

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1 that as -- do you want to make the request to the Board that
2 we amend your requested relief to add the rear yard relief?

3 MR. PIETSCH: Yes.

4 CHAIRPERSON JORDAN: It is true. That's right; 20 feet
5 is required and 7 is -- okay. Why don't you do that and we
6 can have this discussion? That's true that I meant to ask the
7 -- please.

8 MS. NAGELHOUT: Mary Nagelhout, OIG. My question with
9 this application is are you planning to keep the existing
10 structure and enlarge it? Or, are you raising that and
11 building on an empty lot? Because I think that affects the
12 relief that you need here.

13 MR. PIETSCH: We're going to keep as much of the
14 existing structure as we can to save on money on the build,
15 and the parts that have to be taken down will be taken down.

16 MS. NAGELHOUT: I don't know if I can make a
17 determination based on that whether it is an enlargement of
18 an existing structure or not. But if it is, then I think they
19 would need relief under 2001.3 for enlargement of a
20 non-conforming structure, and they would need rear yard, but
21 they would not need 401.

22 CHAIRPERSON JORDAN: So, let's this. Why don't we --
23 why don't you show us what you're doing? Tell us how the
24 building is being transformed. Because I don't think we are
25 clear.

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1 MR. JELEN: Sure. It's existing. It's a one-story
2 commercial space that occupies 97.7 percent of the lot. It
3 has a foot-and-a-half rear yard.

4 The lot is situated -- it's a land locked lot that does
5 not have alley access. It's a shorter lot than most.
6 Therefore, the area is a little smaller.

7 What we're doing is basically building on the existing
8 footprint, matching the existing south neighbor's rear wall
9 and building up a residential structure that would be a
10 three-story with a basement.

11 So, as Mike had mentioned, we're trying to -- we're going
12 to be reusing the party walls that are existing. We're not
13 sure if we can --

14 CHAIRPERSON JORDAN: You're not going to demolish the
15 building or anything?

16 MR. JELEN: The front facade will be -- yes, the front
17 will be changed. It's kind of all been blocked in; at this
18 point, the existing bay windows of the shop. So, that will
19 have to change and the first floor will have to change to match
20 the south building.

21 CHAIRPERSON JORDAN: Okay. So, we're not -- but we're
22 keeping the same footprint.

23 MR. PIETSCH: Yes, sir.

24 CHAIRPERSON JORDAN: But we're going up. We're going
25 up how many foot? Two stories? Ms. Nagelhout? Let's play

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1 it safe and add the relief, and it'll help you. But I -- and
2 just in case, because you're going up, because we do have some
3 non-conformity with this, I think we need to add 2001.3 just
4 to clarify and make sure we have no issue.

5 All right, it is my understanding that this building is
6 smaller in proportion. Smaller square footage than the other
7 property on the block. Also, you have no alley to allow you
8 to provide the -- to meet the zoning regulations. Is that
9 correct?

10 MR. PIETSCH: Yes.

11 CHAIRPERSON JORDAN: As I said, it picked up pretty much
12 from Office of Planning's report. Board, any questions you
13 want to ask these applicants?

14 ZC VICE CHAIR COHEN: It appears from one of the site
15 photos that we have that you're going to be making it conform
16 to the streetscape itself. Is that what you're planning to
17 do.

18 MR. PIETSCH: Yes, ma=am. My wife and I have tried to
19 blend it in to add to the neighborhood. Right now, the analogy
20 that my wife and I use is it's like a missing tooth in a
21 beautiful smile. If you look at the front area there, the
22 butcher shop that was built in the early part of the century
23 does not meet or doesn't match to any of the buildings around
24 it.

25 So, with the beautiful architecture all around us, we're

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1 trying to blend it in and add to our community, ma'am.

2 ZC VICE CHAIR COHEN: Thank you.

3 CHAIRPERSON JORDAN: Board, any additional questions.
4 Okay, so, I think the Board is clear now after going through
5 the answering of questions what is going on with this property.
6 You can continue if you want to do any other presentation.

7 We can go to Office of Planning, who has really looked
8 at this, and also been carrying water on this for you. So,
9 is that okay to go to Office of Planning? Is there anything
10 that you --

11 MS. RAPPOLT: Office of planning has nothing to add.
12 Thanks.

13 CHAIRPERSON JORDAN: Yes, please. You have a question
14 of the applicant?

15 ZC VICE CHAIR COHEN: You have your neighbors
16 supporting this, but did you talk to the ANC about this
17 proposal?

18 MR. PIETSCH: Ma'am, the letter from the ANC was loaded
19 up on Monday.

20 ZC VICE CHAIR COHEN: Okay.

21 MR. PIETSCH: Because of -- their vote was a 9 to 0 vote
22 in strong support of this, ma'am. But what happened was it
23 was a conditional support. They wanted to hear what the BCA
24 had to say about it before, and because of Martin Luther King
25 Day, the BCA was actually after the ANC.

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1 So, we went to the BCA and the BCA also came through with
2 strong support. We have a brand new --

3 CHAIRPERSON JORDAN: For the record, BCA is? Explain,
4 please.

5 MR. PIETSCH: I apologize, Mr. Chair. The BCA is the
6 Bloomingdale Community Association, or civic association.
7 So, we have the BCA's strong support. So, that conditional
8 support from the ANC went through, and because we have a new
9 president today and because of Martin Luther King Day, it
10 didn't get uploaded until yesterday. Our apologies for that.

11 CHAIRPERSON JORDAN: Okay, do we have a DDOT letter?
12 Okay, I don't know how I missed it. So, it's no objection on
13 Department of Transportation. We now have ANC report. Is
14 anyone here from ANC 5E? Anyone here from ANC 5E?

15 We have a letter that we received that is in support of
16 this relief being granted. Is anyone here wishing to speak
17 in support of this application? Anyone in support? Anyone
18 in opposition? Anyone in opposition?

19 Board, any additional questions of this applicant on
20 this? All right, then we'll close the record based on what
21 has already been deduced, and we would -- I would move that
22 we grant the revised relief requested as set forth here of the
23 Board today.

24 VICE CHAIR HEATH: Second.

25 CHAIRPERSON JORDAN: Okay, motion made and second.

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1 Further discussion? All those in favor aye.

2 (Chorus of ayes.)

3 Those opposed nay. The motion carries. Mr. Moy?

4 MR. MOY: Staff would record the vote as 5 to 0. This
5 is on the motion of Chairman Jordan to approve the amended
6 relief as described; second the motion, Vice Chair Heath.
7 Also in support Ms. Cohen, Ms. Allen and Mr. Hinkle. The
8 motion carries, sir.

9 CHAIRPERSON JORDAN: Okay, summary, please.

10 MR. MOY: Yes, sir.

11 CHAIRPERSON JORDAN: Very good. Thank you.

12 MR. PIETSCH: Thank you so much.

13 CHAIRPERSON JORDAN: Okay, 18914.

14 MR. MOY: To the table is Applicant 18914 of John
15 Peters. As publically, advertised, Mr. Chairman, this is a
16 request for special exceptions from the alley setback under
17 2300.4, and accessory building height under 2500.4 at premises
18 240 9th Street Southeast.

19 CHAIRPERSON JORDAN: Good morning. Please identify
20 yourselves. Make sure your microphone is on.

21 MR. PETERS: John Peters, owner/occupant of 240 9th
22 Street.

23 MS. HARDWICK: Gay Hardwick, architect.

24 CHAIRPERSON JORDAN: So, we do have your affidavit of
25 posting and self representing yourself. But here's the issue:

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1 What was noticed on this property, what was the -- what notice
2 -- I understand this notice is a special exception.

3 MS. HARDWICK: And variance.

4 CHAIRPERSON JORDAN: Special exception and variance on
5 the signage and the notice? So, we had a variance from the
6 -- from 2500.3 and 4, lot occupancy, correct?

7 MS. HARDWICK: I believe lot occupancy is special
8 exception, and the alley's setback and the building height were
9 both variances.

10 CHAIRPERSON JORDAN: Okay, but did you notice a special
11 exception for something in this case?

12 MS. HARDWICK: Lot occupancy.

13 CHAIRPERSON JORDAN: All right. I guess we're okay.
14 I guess we're okay. Because actually, we need a variance for
15 lot occupancy and not a special exception.

16 MS. HARDWICK: It's 63 percent under 70 percent.

17 CHAIRPERSON JORDAN: Sixty percent is permitted,
18 correct? Am I right?

19 MS. HARDWICK: Because of each PO's request to move it
20 out, it brought it up to 63 percent, which was --

21 CHAIRPERSON JORDAN: Which is over 60, yes. All right,
22 so we can do a special exception because -- okay. I don't know
23 if you had additional conversation with the Office of Planning,
24 but they are not recommending the 2500.4 relief. So, why don't
25 you address that?

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1 MS. HARDWICK: Me or Office of Planning?

2 CHAIRPERSON JORDAN: You.

3 MS. HARDWICK: For the height?

4 CHAIRPERSON JORDAN: Yes. You read the Office of
5 Planning report. I don't know if you've had subsequent
6 meetings with them now.

7 MS. HARDWICK: I did. I actually was confused by the
8 report because it looked like they supported two pieces of the
9 application and didn't support one of them.

10 CHAIRPERSON JORDAN: That is correct.

11 MS. HARDWICK: But the criteria for supporting one of
12 them is the same criteria that they didn't support.

13 CHAIRPERSON JORDAN: We're going to do it this way.
14 Let's turn to Office of Planning and let's hear their
15 recommendations, so they can further give you an opportunity
16 to respond back.

17 MR. MORDFIN: Good morning, Chair, Members of the
18 Board. I'm Steve Mordfin. Yes, the Office of Planning
19 recommended approval of two aspects, two sections of this
20 request, and did not recommend approval of the height.

21 As for the two being variances and the unique hardship,
22 we felt that the unique hardship was different leading to a
23 practical difficulty when it came to the distance from the
24 center line with the historic preservation requesting that
25 they move it up, and the applicant having to deal with the

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1 zoning regulations, saying that it has to be set back. We
2 thought that resulted in a practical difficulty to the
3 applicant in trying to satisfy both of those requirements.

4 As for the height, we felt that was a different practical
5 difficulty. We didn't see what the practical difficulty was
6 in not being able to go up to 18 feet. Therefore, we
7 recommended to deny this. We didn't see what was unique and
8 resulting in a practical difficulty that you needed the
9 additional height on this accessory garage building.

10 CHAIRPERSON JORDAN: Right. Thank you. Board, any
11 questions from Office of Planning? Now it kicked in. I look
12 at these things sometimes almost a week in advance. Now it
13 kicked in when you explained it.

14 So, why do you need the additional height? First, let's
15 go through this. I think there's some serious questions in
16 regards to you meeting the variance test for this property.
17 So, what's unique about this property that affects your need
18 for you to have this height relief?

19 MS. HARDWICK: The primary piece that differentiates
20 this property from the row of houses on the block is there's
21 utility poles across the alley, and there's one right to the
22 side of the garage, which makes it very difficult to turn into
23 the garage.

24 Right now, using a vehicle -- at the garage, you have
25 to go in on a very dramatic angle, which uses up the whole floor

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1 of the garage, making it unusable for any other space or any
2 other purpose on the first floor.

3 The second floor, by adding just three feet to what is
4 allowed by right, Mr. Peters would be able to have an artist
5 studio on the second floor with nice -- none of the neighbors
6 are objecting, and they all actually think it would be a great
7 addition to the neighborhood.

8 Without that, there's no chance of gaining that space
9 on the ground floor because the position of the utility poles
10 makes it impossible to use it as a garage and an artist space.

11 So, that's the main argument for an exceptional
12 condition. My question with the exceptional condition from
13 office of planning is if there's an exceptional condition
14 that's been acknowledged for one variance, why doesn't it apply
15 to the second variance request?

16 CHAIRPERSON JORDAN: Because each one you're going to
17 have to justify to the Board as to why you cannot meet the zoning
18 regulations in regards to that particular relief that you're
19 requesting.

20 MS. HARDWICK: Okay, I'm learning here. I also thought
21 the --

22 CHAIRPERSON JORDAN: So, I still haven't heard why you
23 need the three feet. I understand the turning radius, but what
24 --

25 MS. HARDWICK: Because without three feet, we can't go

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1 out the second floor. So, the head room height requirement
2 from building code will not allow a second floor without the
3 added three feet.

4 VICE CHAIR HEATH: Have you spoken Capitol Hill
5 Restoration Society?

6 MS. HARDWICK: I have, to both the zoning committee and
7 the historic preservation committee.

8 VICE CHAIR HEATH: And did you make them aware of your
9 reason for needing the additional height? We've just received
10 a letter of opposition from them, and I just wanted to see if
11 you were aware of that.

12 MS. HARDWICK: I saw the --

13 VICE CHAIR HEATH: Have you talked to them about the
14 issue?

15 MS. HARDWICK: Yes. I saw that it came across my desk
16 at 5:00 last night, and I immediately called them but wasn't
17 able to get in touch with them before this morning. I was
18 surprised by it, because in the meeting they actually voiced
19 support for it. So, I was not expecting that at all. ANC was
20 unanimously supportive, and both meetings with Capitol Hill
21 Restorations were supportive.

22 So, to be honest, I don't know what happened with that.

23 CHAIRPERSON JORDAN: But this three feet on the second
24 floor, as you propose it, and if I remember right from the
25 pictures, it kind of dwarfs the other alley residents -- alley

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1 structures.

2 MS. HARDWICK: No, there's -- the adjoining property
3 has a two-story garage right next to it, and what we're
4 proposing is --

5 CHAIRPERSON JORDAN: But aren't you still higher than
6 that garage?

7 MS. HARDWICK: No, no. We're putting it at exactly the
8 same height as the adjacent building. That was how the height
9 was determined, still being able to meet building code. So,
10 we're doing the minimum seven-foot ceilings in order to match
11 the existing building to the right.

12 CHAIRPERSON JORDAN: Let me have a second. Do you have
13 a picture?

14 MS. HARDWICK: Yes.

15 CHAIRPERSON JORDAN: That's okay. I can pull it up.
16 It's in the file. I just need to pull it up.

17 ZC VICE CHAIR COHEN: I have a photo, and --

18 CHAIRPERSON JORDAN: Yes, please.

19 ZC VICE CHAIR COHEN: It doesn't show exactly which
20 building it is. Is it -- we have a back alley photo, and
21 there's one building that does extent. Then are you the second
22 one from -- I don't know, the alley, the side alley or side
23 yard, or the third building?

24 MS. HARDWICK: There's a side alley. Is it this image?

25 ZC VICE CHAIR COHEN: No. It's one I have from Google

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1 maps.

2 MS. HARDWICK: Okay, it's not second or third from an
3 alley. There's -- there's a two-story existing garage.

4 ZC VICE CHAIR COHEN: Okay, yes. I see. It's a
5 building.

6 MS. HARDWICK: Yes.

7 ZC VICE CHAIR COHEN: Then there's a building -- how
8 many in from that garage?

9 MS. HARDWICK: Zero. We're right adjacent to it.

10 ZC VICE CHAIR COHEN: All right, then there's a mistake
11 on this.

12 CHAIRPERSON JORDAN: Okay.

13 VICE CHAIR HEATH: So your roof aligns with the parapet
14 of the adjacent neighbor?

15 MS. HARDWICK: That's what we're proposing.

16 VICE CHAIR HEATH: Okay.

17 CHAIRPERSON JORDAN: and are you calling the -- in your
18 exhibit E, the gray utility pole is the pole you're saying cuts
19 your radius from being able to turn into the --

20 MS. HARDWICK: Yes. It's a very narrow alley as it is,
21 and this is the only utility pole in the alley, and it is
22 directly across from the garage.

23 Oh, the light pole on the same side of the garage? No.

24 CHAIRPERSON JORDAN: It's a gray pole. I don't know
25 what it is.

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1 MS. HARDWICK: Yes, that's is -- that is not the pole
2 in question. The pole in question is on the other side of the
3 alley, and it sticks about two feet into the alley. It's the
4 -- you can see it --

5 CHAIRPERSON JORDAN: Which exhibit?

6 MS. HARDWICK: It's the cover sheet of the drawings.
7 It's this pole.

8 CHAIRPERSON JORDAN: Let me go back to that.

9 CHAIRPERSON JORDAN: It's the brown pole, the tall,
10 brown pole?

11 MS. HARDWICK: Yes.

12 CHAIRPERSON JORDAN: Okay, so, I'm looking from the
13 yard out over the --

14 MS. HARDWICK: Yes.

15 CHAIRPERSON JORDAN: And how wide is that alley? Ten
16 feet?

17 MS. HARDWICK: I believe it's 12 feet. I'll double
18 check. I should know that. It's 14 feet. The utility pole
19 sits over two feet into the alley.

20 CHAIRPERSON JORDAN: The alley is how big again? How
21 wide?

22 MS. HARDWICK: Fourteen feet.

23 CHAIRPERSON JORDAN: And you said the utility feet
24 sticks --

25 MS. HARDWICK: A couple feet --

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1 CHAIRPERSON JORDAN: Into the alley to 12 feet,
2 reducing it?

3 MS. HARDWICK: Yes. And because of the width of the
4 alley, none of the garages on the alley are actually conforming
5 to the alley set back. They are all, by nature of the width
6 of the alley, not conforming.

7 CHAIRPERSON JORDAN: Okay. Board, do you have any
8 other questions?

9 MEMBER HINKLE: If I could just ask?

10 CHAIRPERSON JORDAN: Yes, please.

11 MEMBER HINKLE: So, the Historic Preservation Board is
12 requiring you to come up to the same line as the other garages?

13 MS. HARDWICK: Yes, and they also, actually I should
14 note, would like to see the facade of the alley keep that same
15 plane. So, matching the existing building right next to it
16 was actually their recommendation as well.

17 MEMBER HINKLE: Okay, so that's the reason for bumping
18 up the lot occupancy that's doing that?

19 MS. HARDWICK: Yes.

20 MEMBER HINKLE: In order to expand more, that would
21 require more lot occupancy in order to get some additional
22 space to use. Okay, that's why you're going up?

23 MS. HARDWICK: Yes.

24 MEMBER HINKLE: And Historic Preservation required you
25 to do that?

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1 MS. HARDWICK: They did not require us to go up; they
2 requested that we go out.

3 MEMBER HINKLE: Out to the building line?

4 MS. HARDWICK: Yes.

5 CHAIRPERSON JORDAN: All right, I think I'm good.
6 Anything else from the Board? Okay, then let's turn back to
7 the Office of Planning and ask. Mr. Mordfin, regarding the
8 inability or the lack of accessibility of that alley to do the
9 radius turn into that garage, do you have an opinion about that?

10 MR. MORDFIN: Well, we didn't receive anything that
11 actually documented how difficult it is or isn't to get into
12 the garage. So, that was part of the reason why we did not
13 recommend for that also.

14 It's a garage, so does it also need to double as a work
15 space on the ground floor of this garage or upstairs?

16 CHAIRPERSON JORDAN: But hearing the testimony now --
17 how off is the radius to turn? What additional has to happen
18 for the radius to get into that garage space? How is it being
19 affected? The turning in radius, how is it being affected?

20 MS. HARDWICK: I have not done the calculation on what
21 that turning radius is. Mostly, I don't have the software that
22 actually can calculate the turning radius. You probably can
23 speak to that.

24 MR. PETERS: Just from use, I don't swing into it. You
25 have to kind of do like a three-point turn into it, to navigate

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1 past the pole. So, then the car rests on an angle in the
2 garage.

3 CHAIRPERSON JORDAN: All right, that's good enough for
4 me. Anything else, Mr. Mordfin?

5 MR. MORDFIN: No, sir.

6 CHAIRPERSON JORDAN: Board, questions of Planning?
7 Then we would go to Department of Transportation. Anyone here
8 for Department of Transportation on this case? We have a
9 letter of no objection to the relief requested. Do we have
10 the ANC letter?

11 ANC 6A, is anyone here from ANC 6A for this case? I do
12 have a letter of support from ANC 6A on this. We do have a
13 number of letters from supporting neighbors. Does anyone wish
14 to speak in support of this application? Anyone wishing to
15 speak in support? Anyone wishing to speak in opposition?
16 Anyone in opposition?

17 Unless the Board needs to hear anything else additional
18 on this case, then we would close the record. Anything else
19 the Board needs to hear?

20 All right, are we ready to deliberate on this case?
21 Does anyone want to make a motion or feel strongly about this?
22 Don't wait on the chair.

23 All right, then I would move that we grant the relief
24 requested in 18914. I believe that there's been sufficient
25 showing that there's an exceptional situation, condition and

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1 a practical difficulty, and the need for the additional height
2 regarding the variance relief from 2500.4.

3 That has been demonstrated here by the testimony
4 presented by the applicant. Additionally, the supporting
5 documentation in those exhibits we just referenced would
6 support that additional debt relief, and understanding that
7 Office of Planning was not supporting, but the Office of
8 Planning did not also have the testimony before it in being
9 able to make its recommendation not to support it on this
10 matter.

11 So, with that, that would be my motion.

12 VICE CHAIR HEATH: Second.

13 CHAIRPERSON JORDAN: Motion made and second.
14 Additional discussion? All those in favor of the motion aye.

15 (Chorus of ayes.)

16 Those opposed nay. The motion carries. Mr. Moy?

17 MR. MOY: Staff would record the vote as 5 to 0. This
18 is on the motion of Chairman Jordan; second the motion, Vice
19 Chair Heath. Also in support Ms. Cohen, Ms. Allen and Mr.
20 Hinkle. This is for the amended variance and special
21 exception relief. I believe the revised plans are identified
22 under Exhibit 27. I believe.

23 CHAIRPERSON JORDAN: Thank you.

24 MS. HARDWICK: Thank you.

25 CHAIRPERSON JORDAN: We normally take a 10:30 break,

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1 but Ms. Allen is almost up out of her chair. So, we'll give
2 you that at 10:26. Let's take five minutes.

3 (Whereupon, the above-entitled matter went off the
4 record at 10:28 a.m. and resumed at 10:38 a.m.)

5 CHAIRPERSON JORDAN: let's call 880.

6 MR. MOY: Yes, sir. Application number 18880, Sahr
7 Bockai. This is a property at premises 1368 and 1370 Kenyon
8 Street Northwest.

9 CHAIRPERSON JORDAN: Okay, is there anyone here on this
10 case, 18880? Arm for the record this matter has been before
11 the Board. I think it was before us on December 16th, and we
12 actually had a hearing. They were supposed to submit
13 additional documentation. However, in the interim period of
14 time on the same relief requested, they filed a case with the
15 Zoning Commission for the same relief.

16 So, we're not going to continue, deny it or -- I guess
17 it's not moot. All right, let's do this. Let's continue it
18 to a far out date. Mr. Moy, I hate to bog up our stats with
19 having a case sitting out there, but we need to ask them to
20 withdraw it.

21 So, let's continue it for a 30-day period. Ask them to
22 withdraw it. If they don't withdraw it, and if they don't
23 participate, then we're going to deny it. Does that make
24 sense? Okay, so unless the Board has any issue with that,
25 we'll handle that administratively, as an administrative

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1 order.

2 MR. MOY: We'll move it officially to March 3, pending
3 additional correspondence.

4 CHAIRPERSON JORDAN: But we're going to contact them,
5 please.

6 MR. MOY: Yes, sir.

7 CHAIRPERSON JORDAN: Not going to get us in edgewise
8 with the Zoning Commission. No.

9 MR. MOY: Okay, done, sir.

10 CHAIRPERSON JORDAN: All right, that was a tough one.
11 I'm ready to go for the day. Okay, 18823.

12 MR. MOY: To the table, this is Applicant 18823 of Peggy
13 Joyner. As the Board will recall, this was requested relief
14 under Section 223; not meeting lot occupancy and rear yard,
15 I believe. This was last heard by the Board on December 9th,
16 2014.

17 CHAIRPERSON JORDAN: Okay, good morning. Please
18 identify yourselves. Make sure your microphone is on. It's
19 got to be green. If it's read, we're in trouble.

20 MS. JOYNER: Peggy Joyner, owner of the property.

21 MS. FERRIERA: Catarina Ferriera, architect.

22 MS. JOYNER: Anthony Joyner, homeowner.

23 CHAIRPERSON JORDAN: Okay, we've had the hearing
24 actually on this matter, and there was some additional
25 documentation being submitted on the record. Then there was

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1 a subsequent filing, pushing forth the argument as I think we
2 also discussed during the hearing that the Board was asking
3 questions whether or not the empty lot -- the effect on the
4 empty lot, and whether or not the land elevation made this
5 property unique.

6 But let me go back and ask an additional question
7 regarding -- so, this ramp. Is that -- tell us about the ramp
8 that's going to be there, connected to the property. Tell us
9 about this. How is it a fix to the property? How is this ramp
10 going?

11 MS. FERRIERA: The ramp would connect the rear deck
12 adjacent to the main house to the second story of the existing
13 garage. It is really a convenience ramp so that my client does
14 not have to go down a flight of stairs, and then up another
15 flight of stairs to get to the gym that is being proposed on
16 the second story of the garage.

17 It's an elevated walk way. We have reduced its width
18 to bare minimum. We've reduced it to three feet. Really,
19 it's a convenience -- it's a circulation element, really.
20 It's just a path. An elevated path. It would be very open,
21 open underneath, open railings.

22 CHAIRPERSON JORDAN: But I know we didn't talk about --
23 I wonder if they need additional relief. Ms. Nagelhout, let
24 me talk to you on this one.

25 So, we're okay with relief from 403 lot occupancy, 404

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1 rear yard. So, we have a connection with the ramp. It's going
2 to be connected. All right, all right. Let's do this. I'm
3 going to turn to the Office of Planning to see if they had an
4 opportunity to review the supplemental filing, and if that
5 changed in any way it's recommendation.

6 MS. RAPPOLT: Megan Rappolt with the Office of
7 Planning. We commend the applicant for reducing the lot
8 occupancy from where it was originally in the 80's. Now it's
9 about 79 percent, and it is really difficult for Office of
10 Planning to support this amount of lot occupancy on a large
11 lot, compared to other ones in the square. But we leave it
12 to the Board, and again, are happy that the applicant looked
13 again at the design to try to reduce the occupancy.

14 CHAIRPERSON JORDAN: Thanks. Any questions of the
15 Board? I appreciate that. Any questions for Office of
16 Planning?

17 We've actually been through a whole hearing on this
18 matter. I think -- yes, please. Go ahead.

19 ZC VICE CHAIR COHEN: Could you tell me what type of
20 materials you're going to be using for this walkway?

21 MS. FERRIERA: The walkway will be very much like a
22 deck. It will have decking materials as the walking surface,
23 and wood railings, cedar railings.

24 ZC VICE CHAIR COHEN: Can you remind me of the width?

25 MS. FERRIERA: Three feet.

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1 ZC VICE CHAIR COHEN: Three feet.

2 MS. FERRIERA: It was originally four feet, and we have
3 since reduced it.

4 CHAIRPERSON JORDAN: Additional questions? Then
5 we've already been through this. Is the Board ready to
6 deliberate on this case? I think there's been adequate
7 showing that this property has some exceptional situation
8 conditions. It's adjacent to a public area, and public land
9 right next to it.

10 It also give the illusion that this is a wider property,
11 but more importantly, the change in grade and elevation on this
12 property I think causes exceptional condition in the ability
13 of the applicant to meet the zoning regulations.

14 I think the relief -- although there is a huge increase
15 in lot occupancy, I think the applicant has made a case as to
16 why it is necessary to have this. I think we did have support
17 from -- they had support from the ANC. The neighbors all buy
18 it. The Department of Transportation didn't object to it.

19 So, that would be my thought on it. Anybody else on the
20 Board got a thought on this matter that they want to discuss?
21 Say ditto or something.

22 MEMBER ALLEN: Ditto.

23 CHAIRPERSON JORDAN: Thank you, Ms. Allen. At this --
24 yes, please.

25 ZC VICE CHAIR COHEN: Can you describe to me the

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1 construction that is under way? According to one of your
2 submissions, there's --

3 MS. FERRIERA: Sure. The house is undergoing an
4 extensive renovation. It's a full renovation. Mainly
5 interior, and there's also some construction on the rear. We
6 are rebuilding the porch that was there previously.

7 There's an existing garage at the rear of the property
8 that nothing is happening to, pending the outcome of this
9 process.

10 CHAIRPERSON JORDAN: All right, then. I would move that
11 we grant the relief in this matter as modified and amended for
12 the reasons I set forth in my statement.

13 MEMBER ALLEN: Second.

14 CHAIRPERSON JORDAN: Motion made and second.
15 Additional discussion. All those in favor aye?

16 (Chorus of ayes.)

17 Those opposed nay. Motion carries, Mr. Moy.

18 MR. MOY: Staff would record the vote as 5 to 0. This
19 is on the motion of Chairman Jordan to approve the amended
20 relief as described; also seconding the motion, Ms. Allen.
21 Also in support Ms. Cohen, Vice Chair Heath and Mr. Hinkle.
22 The motion carries, sir, 5 to 0.

23 CHAIRPERSON JORDAN: Thank you, Mr. Moy. Thank you.

24 MS. FERRIERA: Thank you.

25 CHAIRPERSON JORDAN: No summary.

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1 MR. MOY: Okay, next up?

2 CHAIRPERSON JORDAN: Next up is the only up, right?

3 MR. MOY: That I believe would be Application 18891 of
4 14 & H, LLC. This was continued from the Board's last public
5 hearing on January 6, 2015.

6 I believe in addition to the requested relief that was
7 advertised, it was amended to also I believe add -- or rather
8 remove the height requirements under Section 770.

9 CHAIRPERSON JORDAN: Mr. Moy, can I see you a second?
10 Can you come to my office? Good morning. Please identify
11 yourselves again. This is a matter we already had a hearing
12 on. Some additional documentation was submitted. We gave
13 you a hard time, and then -- but you guys are used to it. So,
14 please identify yourselves. Do you need a second?

15 MS. MOLDENHAUER: We'll pull it together.

16 CHAIRPERSON JORDAN: For you, we'll give a second. If
17 it was anybody else, we wouldn't give a second. Second gone.
18 All right, now let's go.

19 MS. MOLDENHAUER: Good morning. Still good morning.
20 My name is Meredith Moldenhauer from the Law Firm of Griffin,
21 Murphy, Moldenhauer and Wiggins. I'm here with the applicant,
22 Mehari Sequar. We also have Jeff Goins from PGN Architects
23 and we have Erwin Andres from Gorove/Slade. I'm also joined
24 here by my colleague, Eric Daniel.

25 MR. SEQUAR: Good morning. My name is Mehari Sequar.

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1 I'm the owner and developer of the site, and applicant.

2 MR. GOINS: Good morning. I'm Jeff Goins with PGN
3 Architects.

4 MR. ANDRES: Good morning. Erwin Andres with
5 Gorove/Slade.

6 CHAIRPERSON JORDAN: All right, we actually had a
7 hearing on this. When did we have the hearing? Was it last
8 week?

9 MR. MOY: Yes, it was --

10 MS. MOLDENHAUER: It was about a month-and-a-half ago.

11 CHAIRPERSON JORDAN: Okay, I knew it was --

12 MR. MOY: January 6.

13 CHAIRPERSON JORDAN: I knew it was some time, and we
14 actually went through a full hearing. I think at the end, we
15 asked that the applicant submit the traffic -- a transportation
16 analysis and to respond back about any concern about the
17 loading dock -- loading -- right? Is that what we talked
18 about?

19 MS. MOLDENHAUER: To clarify, we did not have a full
20 hearing. But you did ask for information on the traffic. We
21 supplemented that. We've met with DDOT on multiple occasions;
22 had a dialog. We have obviously supplemented the record, and
23 have a full written filing on this case.

24 CHAIRPERSON JORDAN: Okay, well, how far did we get in
25 the hearing, Mr. Moy, because I looked at my notes here and

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1 -- that's okay. We can do the hearing again.

2 ZC VICE CHAIR COHEN: Actually, Mr. Chairman, I didn't
3 participate in either the full or partial hearing that you had,
4 but I did read the record for today.

5 CHAIRPERSON JORDAN: Very good. Okay. All right, so
6 where did we leave off from the hearing? What did we do?

7 MS. MOLDENHAUER: All that you did was ask if we had had
8 dialog. I represented that we had not hired a traffic
9 consultant. You then requested that we do that, and then we
10 --

11 CHAIRPERSON JORDAN: All right.

12 MS. MOLDENHAUER: -- continued the case for today. But
13 the record is full unless the Board has specific questions.

14 CHAIRPERSON JORDAN: Well, I think -- because I think
15 you're still going to have to get past the no parking hump.
16 I know, that's why I said it. She's being feisty here today.
17 Especially getting past the parking issue. So, although the
18 report I think is clear about -- let's drill down on that.

19 Any other issues the Board needs to hear about? I think
20 we understand the project quite well. So, we don't need a
21 presentation regarding the aspect of the project. Board,
22 anything else you want to hear on this? Certainly the amount
23 of relief being requested for this project is a huge amount
24 of relief for the parking, and parking as you know is something
25 we take -- well, we take everything seriously, but --

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1 MR. HINKLE: Mr. Chair, there were I believe some
2 modifications to the plans related to FAR. Is that correct?
3 Maybe they could just address that briefly and explain to us
4 a little bit further what you did do. That would be helpful.

5 CHAIRPERSON JORDAN: Okay.

6 MS. MOLDENHAUER: At this point, I'll turn over to Erwin
7 Andres to provide an explanation on the parking. Then we'll
8 turn to Jeff Goins to provide the reduction in the FAR request
9 as well.

10 MR. ANDRES: Good morning, Chairman Jordan. Erwin
11 Andres of Gorode/Slade again. What we'll do is just go to the
12 parking slide. I'm pretty sure you're familiar with where the
13 location is. It's at the intersection of H Street and Florida
14 Avenue. It's near the starburst intersection.

15 It's a very constrained site. The aerial shows the
16 triangular nature of the site, and given the dimensions, the
17 dimensions are such that if there are -- sort of the X and Y
18 axis of that -- of that site is such that if it were a fully
19 rectangular site, I think we would show that the parking would
20 be viable because -- but because of the fact that the depth
21 and the width are sort of truncated by the fact that it's half
22 of a full rectangle, the ability to get a ramp down is possible,
23 but once you get down to the bottom of the ramp, there is nothing
24 you can really do because there's not enough turning radius
25 to get a vehicle into a parking space.

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1 As you know, Chairman Jordan, we've been representing
2 some other developments where we've shown that it's a cost
3 issue, where the cost of going down to a lower level prohibits
4 the implementation of parking.

5 In this case, it's basically a physical impossibility.
6 So, that's what sort of differentiates this from other parking
7 variance cases we've been on. If you notice on the slides that
8 we show, there are three different ways to get down there that
9 we've tried to identify so that we can exhaustively prove that
10 parking is not viable on a site.

11 The one in the upper right-hand corner is one where we
12 show access off of Florida Avenue dropping down. The problem
13 with that is once you get down, there's not enough turning
14 radius, as I mentioned before, to make any maneuvers into a
15 parking space.

16 Unfortunately, there's also -- the reason why it's not
17 possible to provide parking is because even if vehicles get
18 down there, there's no physical way to turn them around so that
19 they don't have to back up the ramp. So -- and in all three
20 instances that we show on the slide it's not possible to provide
21 parking on a lower level.

22 With respect to the actual parking variance they're
23 requesting, there's -- there's 21 spaces, which is a zoning
24 requirement, and there is no parking provided on the site
25 because of the fact that, as I've shown in a previous slide,

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1 we can't physically put it on there.

2 As is customary, we've shown what the zoning rewrite
3 requirement would be. It would only be five spaces. I
4 understand it is only in draft, but hopefully this year it'll
5 be implemented.

6 CHAIRPERSON JORDAN: I read that and I just kind of X'ed
7 it in my mind. Just like I'm X'ing it here.

8 MR. ANDRES: I just wanted to bring that up just because
9 DDOT's review is ultimately based on the guidelines set in that
10 rewrite.

11 With respect to loading, it's an issue that we are
12 coordinating with DDOT through the public space application.
13 We are going back and forth with them, and we're looking at
14 potential loading on Florida Avenue.

15 The demand -- the parking demand related to the site:
16 we're looking to mitigate for several -- given several benefits
17 associated with the location of the site. It's well located
18 along a transit corridor with the streetcar, and multiple bus
19 lines.

20 CHAIRPERSON JORDAN: Streetcar? I read that too, and
21 I said, "What streetcar is he talking about?"

22 MR. ANDRES: There are tracks, and they're testing, and
23 it is my understanding that it is coming soon.

24 CHAIRPERSON JORDAN: To a theater near you.

25 MR. ANDRES: With respect to existing bike facilities,

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1 there are bike routes in and around the site, as well as
2 multiple -- excuse me, bike share stations. Next slide.

3 With respect to neighborhood amenities, the -- as you
4 know, H Street is becoming a very popular location new
5 residents coming to the District because of the fact that it
6 is very walkable. There are a lot of amenities in the area,
7 that include a thriving night life, many restaurants.

8 There are some other amenities that include dry
9 services, as well as food and beverage and grocery options.

10 So, then with respect to the justification for the
11 relief, obviously we've identified that physically it's not
12 possible to park in, but because of the fact that it is well
13 situated and that we are marketing the project to those who
14 don't want -- who don't need a car or who don't have a car,
15 as I've mentioned before, having a car is almost like having
16 a pet. If you don't -- if you're looking for a place to live,
17 and you have a pet or a car, chances are you won't live there
18 because of those restrictions.

19 So, in this instance, we are providing the opportunity
20 for those who don't have a car or who don't need a car, and
21 who have access or live near, in and around the H Street
22 corridor, or work around the H Street corridor, this is the
23 opportunity for them to do so.

24 Differentiating this project from other projects, we've
25 worked on two other parking variance projects on Florida Avenue

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1 that this Board has seen probably within the last six months.
2 And the opportunity for on-street parking is available based
3 on -- next slide, please. Based on the fact that there are
4 unrestricted spaces a block north of here.

5 Along Florida Avenue, basically between 13th and 14th
6 Streets, there is opportunity for on-street parking on those
7 unreserved streets because a lot of those homes actually have
8 parking within the alleys.

9 So, that's why it frees up a lot of on-street parking
10 on the streets. Our inventory shows that. If you notice, the
11 --

12 CHAIRPERSON JORDAN: You've gone from 72 to 76 percent
13 at various times; is that right?

14 MR. ANDRES: Well, 72 to 76 percent is at the peak time
15 on, say, a Friday night, typically when the bars and the --
16 and some of the restaurants on H Street drive that demand. But
17 typically during the week, it is lower than that.

18 So, what we did is we took a worst case scenario, and
19 identified that one-quarter of the spaces are still available
20 within relatively close walking distance.

21 Then responding to your comment to coordinate with DDOT,
22 we have had extensive discussions with DDOT. DDOT had
23 identified in their previous review letter several TDM
24 elements, and we have agreed to implement all of them.

25 In addition to all of these TDM elements that the

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1 applicant has agreed to implement, they've also entered into
2 an agreement with the ANC to restrict the residents from
3 obtaining VPP, which is visitor parking permits. So, that's
4 a separate agreement that they had with the local ANC.

5 CHAIRPERSON JORDAN: All right.

6 MR. ANDRES: So, with that, the difference between this
7 project and some of the other parking variance projects that
8 I've appeared before you with is the fact that there is some
9 on-street parking available, and the fact that it's physically
10 not possible to provide parking on the lower level.

11 CHAIRPERSON JORDAN: You said there's a difference
12 between the other ones that you normally appear to us. I don't
13 think you ever came here and fought against parking, or fought
14 against the relief of no parking.

15 MR. ANDRES: Yes, I've been here. I represented a case
16 on 14th Street where there was no parking.

17 CHAIRPERSON JORDAN: All right, and you fought against
18 that? You said they shouldn't have parking? You agreed that
19 -- you're opposite. You said they should've had parking.

20 MR. ANDRES: No, I --

21 CHAIRPERSON JORDAN: That's okay. I understand. I
22 don't think you understood what I -- but we're on the same page.
23 All right, Board, please, questions on this parking.

24 ZC VICE CHAIR COHEN: I'd like to ask the applicant.
25 Again, the possible feasibility of providing parking it

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1 appears to be legitimate. But are you going to be able to pass
2 those savings onto any of the units because you're not going
3 to be digging deep, and probably paying 25,000 per parking
4 space?

5 MR. SEQUAR: Yes, we hope to. Obviously if we have any
6 savings on costs, that means we're able to provide cheaper
7 units. I will also be including some AZ units. It could be
8 two to three units. We're not entirely sure just yet what the
9 numbers are. But at the same time, the units that we'll be
10 providing are larger, family-sized units. Larger than
11 average. So, there will be better spaces there.

12 So, we hope to pass on some of the savings into offerings
13 that we actually do put out.

14 ZC VICE CHAIR COHEN: There's a property across the
15 street. I believe it's a senior building. Is that correct?

16 MR. SEQUAR: Yes. It's a 90-foot building on the
17 northeast side of Florida Avenue.

18 ZC VICE CHAIR COHEN: And I presume it has parking?

19 MR. SEQUAR: Yes, it does.

20 ZC VICE CHAIR COHEN: And do you know the utilization
21 of that parking?

22 MR. SEQUAR: Can I --

23 MR. ANDRES: No, we don't.

24 ZC VICE CHAIR COHEN: You might want to visit their site
25 and see if there's an arrangement you can make on behalf of

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1 your residents.

2 CHAIRPERSON JORDAN: That's not going to happen. It's
3 just not going to happen. They are in the throes of doing some
4 of their own developing and other things. That particular
5 building has --

6 ZC VICE CHAIR COHEN: Okay, because I think that has
7 restricted rents, and when you have restricted rents --

8 CHAIRPERSON JORDAN: The building across the street is
9 a senior housing --

10 ZC VICE CHAIR COHEN: Yes, and it's a Section 8.
11 Anyway, my thinking is that when you have a subsidized housing,
12 you need often income to support the maintenance. So, I
13 thought maybe --

14 CHAIRPERSON JORDAN: It's just the wrong time. But
15 anyway, what about during the off-peak hours?

16 MR. ANDRES: During off-peak hours, the unrestricted
17 spaces are obviously, because of the fact that they're
18 unrestricted, there are more of them available. We have
19 identified a range of 70 to 80 percent are not available during
20 the peak hours.

21 CHAIRPERSON JORDAN: Is your analysis include the other
22 three or four buildings that are coming online in that area,
23 and how did that affect your analysis?

24 MR. ANDRES: Well, with respect to the other -- those
25 spaces are geared because some of those other developments

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1 actually do have parking. So, it just provides a little bit
2 of overflow if that's necessary.

3 CHAIRPERSON JORDAN: The same ones that have asked for
4 no parking relief within --

5 MR. ANDRES: Well, no --

6 CHAIRPERSON JORDAN: -- even within --

7 MS. MOLDENHAUER: The closest project is a project that
8 I represented with --

9 CHAIRPERSON JORDAN: The one with the firehouse?

10 MS. MOLDENHAUER: They were providing parking in the
11 rear. They were asking for some degree of relief, but they
12 were providing parking in the rear.

13 CHAIRPERSON JORDAN: There's like four projects going
14 on in an area.

15 MS. MOLDENHAUER: And then probably two doors down from
16 that, I believe there was some parking. Again, the on-street
17 was an opportunity to provide for overflow.

18 CHAIRPERSON JORDAN: So the availability of parking;
19 the closest is where?

20 MR. ANDRES: Can you go back to the -- it's a block to
21 the north. If you look at the site, the -- actually, the one
22 before. If you look at the site, the block to the north that
23 has the green, the green lines, are the unrestricted spaces.

24 CHAIRPERSON JORDAN: Yes.

25 MEMBER ALLEN: So, I'm getting from your discussion

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1 that, unlike in other cases that we've heard, you are marketing
2 to people with cars. There's not a restriction on autos, or
3 is there?

4 MS. MOLDENHAUER: Yes. I mean they're not going to be
5 marketing -- I think what we had indicated is that it's like
6 if you have a dog --

7 MEMBER ALLEN: I understand that, but in terms of the
8 market.

9 MS. MOLDENHAUER: We will not be marketing to people
10 with cars. We'll be encouraging people that do not have cars
11 that want to use public transit; obviously they'll be more
12 inclined to buy at the building. This is going to be a
13 condominium for out sales. So, there are obviously going to
14 be people that are disclosed.

15 One of the things we had talked with the ANC in detail
16 about was that this is going to be part of the public offering
17 statement; that it's going to be disclosed. They'll also have
18 identification in the purchase contract for acknowledging that
19 the buyer understands there are RPP and VPP restrictions.

20 So, I think that any buyer, because of the extensive
21 dialog that we had with the ANC and the ANC Zoning Committee,
22 I think we really hashed out a lot of details there with that
23 community. In other words, how to best situate the projects.

24 That way, when someone comes and buys this unit, they
25 will be aware of these restrictions, and then they will buy

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1 knowing that they most likely will not want to have a car at
2 all. Or, if they did, they would then be informed of some of
3 the local private parking facilities nearby.

4 CHAIRPERSON JORDAN: That's what I think my question --
5 didn't I ask that question, and you said about the private
6 parking facilities. They're where?

7 MR. ANDRES: The private parking facilities --

8 CHAIRPERSON JORDAN: Where the public can buy or rent
9 space or whatever.

10 MR. ANDRES: Yes. I just need two seconds.

11 MS. MOLDENHAUER: We don't anticipate that to be the
12 primary -- I mean the primary buyer is going to be using their
13 bicycle, using the repair location on the site and using public
14 transit. We believe that to be the primary individual to
15 purchase at the project. So, this is obviously a minor aspect
16 of the primary marketing purchaser.

17 MR. ANDRES: With respect to the offsite parking
18 locations, there's one located a block south of here. It's a
19 small surface lot. There are large places where you can store
20 your car, where a lot of the residents potentially who are drawn
21 to developments like this where they'll park it because they
22 won't use it for the rest of the week unless they have to do
23 grocery shopping or if they're going to travel; in instances
24 like that, you can -- there's an enormous amount of parking
25 west of 3rd Street by Union Station, where they can store their

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1 car.

2 CHAIRPERSON JORDAN: It's a good distance, isn't it?
3 It's like a mile-and-a-half.

4 MS. MOLDENHAUER: How long would it take you if you --

5 CHAIRPERSON JORDAN: I think I was asking a question,
6 Ms. Moldenhauer. He was -- I was talking, and you know how
7 that kind of goes.

8 MR. ANDRES: It's 13 blocks. So, probably around a
9 mile. Yes, that's correct.

10 CHAIRPERSON JORDAN: That's why I asked the question.

11 MEMBER ALLEN: I just wanted to go back to the owner
12 because I thought I heard you say that you have larger units
13 that would be appealing to families.

14 MR. SEQUAR: Well, the composition would be one to two
15 bedrooms, but two bedrooms are larger than average two
16 bedrooms. So, there will still be two bedrooms, or one
17 bedrooms. They will be just larger. We don't anticipate that
18 we'll have actually families, but we'll anticipate the usual
19 demographics that usually live in one and two bedrooms. As
20 everybody said, we will be marketing to people, and they will
21 be aware that there's no parking.

22 So, if they do have a car, this won't be the place that
23 they're likely to purchase.

24 MS. MOLDENHAUER: Mr. Andres, can I ask you a question?
25 Even though it is a mile, how long would it take if you took

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1 a bus from the building, walked out of your door in order to
2 get your car if you parked it at Union Station?

3 MR. ANDRES: Well, if you're going 30 miles an hour,
4 that is 30 seconds per mile. So, it's probably less than a
5 minute in a bus if you hit all the lights.

6 MS. MOLDENHAUER: And I'll ask the applicant in terms
7 of what amenities are close by; so if you were to live in the
8 building, what would you be able to walk to or cross the street
9 near Bladenburg and Benning?

10 MR. SEQUAR: You have a grocery stores. You have CVS
11 and the usual amenities that you need for day-to-day living,
12 all within walking distance. Obviously, you have the bus and
13 restaurants on 8th Street, which are also in walking distance.
14 In addition, we'll be providing a bike stand, a bike stand
15 within the building. So, we anticipate that quite a number
16 of the people who live there will actually own a bike, or will
17 cycle to and fro.

18 CHAIRPERSON JORDAN: Any additional questions on the
19 parking. If we get to the point, I can come back and discuss
20 these TDM measures. So, do you want to talk about the fire
21 issue?

22 MR. GOINS: Good afternoon. I'm Jeff Goins. So, I
23 kind of will start off before I jump in and just kind of give
24 a brief background of the site and how we approached it.

25 This design has evolved with about ten iterations with

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1 the community. It has been very thought out in many meetings
2 in our office with the PNC Committee working on this design.
3 A lot of community input.

4 One of the good things about this site, or the exciting
5 things about this site when you approached it is that it forms
6 a gateway on Florida and H Avenue -- H Street.

7 What I wanted to kind of point out on this side is from
8 a planning standpoint, you hold this edge here. On Florida
9 Avenue, you hold this edge along H. You end up with the
10 triangle lot that you have. This slide here also I think --
11 there's no neighbors here. So, you actually are working with
12 three facades. You get to design three facades.

13 It's a gateway on Florida and H Street. So, we wanted
14 to actually take the advantage there and make sure that all
15 three facades were designed because they would be visible from
16 many points of view. In this slide here, and it's hard to see
17 here but is colored blue, what I thought was unique about this
18 site is that the actual footprint only occupies 44 percent of
19 the actually triangle.

20 The lot, however, is much smaller inside the triangle,
21 which was a very unique conditions. It was kind of our typical
22 condition. When we approached the design, the core -- we
23 wanted to have as much articulation along the 14th Street
24 facade as possible, and with the corridor angle you kind of
25 end up with this core configuration no matter what you do.

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1 We've tried many different core configurations, and
2 this was by far the only one that would work out to be the most
3 efficient core shape. You can kind of see. I think Mehari
4 mentioned the unit size. You end up with these large, deep
5 units that are one bedroom; one bedroom dens that are inboard
6 bedrooms. This is much larger.

7 We're doing about 500 units within the Washington D.C.
8 area, and these are much larger than most of the units that
9 we're doing. I think we're close to 900 square foot on average
10 per unit here.

11 A lot of that is dictated by the shape of the actual
12 triangle. And see, we were kind of caught because if you move
13 -- no matter what you do here, if you start moving this facade,
14 it affects the stair location because it has to be corridor
15 diagonal.

16 So, you're working with the building code and the zoning
17 here because to move this facade in moves this core in, which
18 pushes this stair forward, which ultimately ruins the unit or
19 makes it non-useful.

20 So, we kind of -- we're just stuck there in that
21 configuration. When we were working with the community, we
22 pulled the facade in on the top floor. So, it's really a
23 tri-part design. You have your base; your H Street
24 guidelines. A nice base all the way around. Nice materials.
25 Then you have your middle and you have your top.

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1 So, that was a good result in working with the community.
2 So, the top floor, where we're picking up a lot of the
3 efficiencies, actually is the top floor because you can see
4 the core does not exist on the top floor.

5 So, those will be duplex units with the floor below.
6 That's actually where we're picking up a lot of the
7 efficiencies that we've lost. Through the process with the
8 -- also, it's worth mentioning here too that we do not have
9 penthouses on this structure.

10 That was through the community meetings. It'll be a
11 greenroof up there, and mechanical. There is no public
12 penthouse. That was the result with the community.

13 So, here's a good diagram that kind of illustrates it.
14 What I was -- when you move this site in to conform, you can
15 kind of see you're starting to eat a lot more core, and also
16 you're actually having very little design opportunities along
17 14th Street. I mean you don't comply with H Street guidelines
18 there.

19 Then you see part 2 here. When you move it in here,
20 you're ruining two units there on the end. It starts being
21 more core in scenarios 2 and 3. This is really inefficient
22 when you move it in here. You would end up with a building
23 that occupies 20 percent of that actual square.

24 It would not be good planning if you conformed there.
25 So, where we ended up I think is the likely conclusion that

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1 is the most efficient from an FAR standpoint and a lot occupancy
2 standpoint, and the usefulness of the units themselves.

3 So, here's the top floor showing a configuration. You
4 know, if you conformed with the FAR on the top floor, you're
5 building mainly core on the top floor, as opposed to actual
6 valuable space for the units.

7 Here is a good illustration that kind of shows if it was
8 a rectangle, the shape, how you would lay a building out. If
9 it was a rectangle, which is the ideal configuration. Here
10 is the triangle, the same size lot. You can kind of see the
11 unit configurations here, and how we end up with these deep
12 corner units.

13 Here's kind of showing the space that we would be losing
14 if we start conforming, and each of those scenarios mentioned
15 before.

16 CHAIRPERSON JORDAN: But you can conform. You choose
17 not to conform.

18 MS. MOLDENHAUER: It's a question of practical
19 difficulty. Practical difficulty exists even with the
20 proposed and the requested relief. So, what we're trying to
21 show is that even with the proposed requested relief, there
22 is still a practical difficulty, and we're showing the degree
23 of exceptional difficulty that would exist with any other
24 alternatives that would be more compliant with the zoning
25 regulations, which is what these diagrams are trying to

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1 illustrate.

2 CHAIRPERSON JORDAN: But I didn't hear that in the
3 presentation that there's a difficulty.

4 MR. GOINS: Well, in this scenario for example up here,
5 you would lose one-third of the project. It wouldn't exist.

6 CHAIRPERSON JORDAN: You can do it, but you lose a third
7 of that floor?

8 MR. GOINS: Yes. It would be very difficult to
9 actually get any of the units to work. They wouldn't work.

10 CHAIRPERSON JORDAN: Throughout the building?

11 MR. GOINS: All the way up, yes.

12 CHAIRPERSON JORDAN: Reducing where the top floor would
13 just have the core elements in that --

14 MR. GOINS: No. This would be throughout the whole
15 building if we were establishing that condition. And here,
16 as you can see, it would be -- in essence, you would be losing
17 four units. It would be even worse case scenario.

18 Then this narrow here, when you're coming off of Florida
19 Avenue, you're creating units from -- in laying out bedrooms
20 and kitchens. They're just not going to lay out. This is the
21 proposed solution there.

22 MS. MOLDENHAUER: I'm just going to ask Mr. Goins a
23 couple questions. The efficiency, the preventative
24 efficiency that being provided here compared -- what's the
25 efficiency percentage on this project?

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1 MR. GOINS: Eighty-three percent.

2 MS. MOLDENHAUER: And in a majority of your other
3 projects that you've done in the area, what is the typical
4 efficiency on those projects?

5 MR. GOINS: For a similar type project we're around 85
6 to 87 percent.

7 MS. MOLDENHAUER: And if you were not provided the
8 relief, what would be your efficiency percentage on this
9 project?

10 MR. GOINS: We would be at 78 percent.

11 MS. MOLDENHAUER: So, is that a practical or a viable
12 design that you would recommend at a core factor or an
13 efficiency level, to that effect?

14 MR. GOINS: I wouldn't keep my job. So, it would not
15 be something that I would recommend in this case.

16 MS. MOLDENHAUER: And -- and why is that in regards to
17 the obligations to build an efficient design?

18 MR. GOINS: Well, it has to do with -- a larger
19 project, for example; we're going a 200-unit project. Our
20 core factor is around 83 or 84 percent because each unit can
21 make up for the inefficiencies of a larger core.

22 A smaller project, to achieve the success in the market
23 or from a business standpoint, or even from an architectural
24 standpoint, we need to be -- we easily hit 15 percent and start
25 going up from there, and start trying to get as much square

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1 footage as we can.

2 MS. MOLDENHAUER: And the shape of this lot, as you're
3 showing in this diagram, is -- it's the shape of the triangle
4 that creates the inefficiency here; is that correct?

5 MR. GOINS: Yes, without a doubt.

6 CHAIRPERSON JORDAN: Isn't it an economic argument?

7 MS. MOLDENHAUER: That's why I'm asking about the
8 shape. If --

9 CHAIRPERSON JORDAN: The whole thing is an economic
10 argument.

11 MS. MOLDENHAUER: No, I believe it's a factor of the
12 design of the shape of the lot. So, it's -- I mean if the lot
13 was shaped on a triangle or a rectangle, would the efficiency
14 be able to comply with zoning?

15 MR. GOINS: Yes.

16 MS. MOLDENHAUER: So, but for the shape of the lot as
17 a triangle and the -- the large triangular dimensions of this
18 lot, you would be able to comply with zoning?

19 MR. GOINS: Yes.

20 MS. MOLDENHAUER: And without -- with requesting the
21 additional relief, would it be practice to build a partial
22 floor on the top floor?

23 MR. GOINS: It would not be practical. I wouldn't
24 recommend it.

25 MS. MOLDENHAUER: And you would not recommend it due to

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1 the -- why? In other words, what is unique about this site
2 as to why you would not recommend a partial floor?

3 MR. GOINS: Because as the -- the two sides are
4 tapering. Unlike a square, a triangle -- a triangle sets up
5 the best for residential construction. Then a square and
6 triangle would be last for residential.

7 As it is tapering, the core, when you start moving it
8 in, it's almost like a two times diminishing effect on your
9 efficiency as opposed to a rectangle, where you could bring
10 it in subtly. One foot here and one foot there. A triangle
11 is a much greater deficiency as you move in.

12 I think you would be building mainly core as opposed to
13 anything else.

14 MS. MOLDENHAUER: How also does the shape of the lot
15 create practical difficulty in regards to the unit layouts on
16 this project?

17 MR. GOINS: It's very difficult. We actually have
18 three units that I would consider where you could lay them out
19 because they have right angles. They're the three along the
20 H Street facade.

21 The other ones? It's going to be difficult, and it was
22 difficult to lay those units out. We don't have right angles.

23 MS. MOLDENHAUER: And does that create additional dead
24 space, which is challenging and practically difficult for the
25 layouts and overall usability?

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1 MR. GOINS: Yes. We have long corridors in these
2 units. The corridors are inefficient. It's not what we would
3 typically allow in a normal -- where you have a 25-foot wide
4 dimension with a 30-foot deep one-bedroom unit. This is
5 considerably different and much more challenging.

6 MS. MOLDENHAUER: At this point in time, I want to open
7 it up for Board questions. Then I'll provide a closing,
8 following any additional questions.

9 CHAIRPERSON JORDAN: Board, any additional questions?
10 Let's turn to Office of Planning.

11 MS. RAPPOLT: Megan Rappolt. For the record, we
12 thought this was a pretty challenging site. It's difficult
13 for us to support the additional FAR because it's a brand new
14 site on a raised site.

15 Just sort of build to the 4.8. I think they've
16 demonstrated in their submission packets that they could do
17 it. It's just they want to provide some extra units on the
18 top floor. So, with that, I think we support almost everything
19 else about this project.

20 It is for development on H Street. We'd be supportive
21 of this application without the FAR relief.

22 CHAIRPERSON JORDAN: All right, that's essentially
23 what my question was to the applicant, but I never heard that.
24 That's why I believe the issue is that it can be done, but you're
25 going to lose some units. So, it's an economic issue, as

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1 opposed to a structural issue, right?

2 MS. RAPPOLT: It appears that way to us. We're open to
3 hear more.

4 ZC VICE CHAIR COHEN: I have a question. Does this site
5 conform to the comprehensive plan?

6 MS. MOLDENHAUER: It does.

7 ZC VICE CHAIR COHEN: Board, any additional questions?
8 Applicant, questions of OP, please?

9 MS. MOLDENHAUER: I just want to -- so, the Office of
10 Planning is supportive of all of the different relief including
11 the special exception relief under the HV guidelines?
12 Everything except for the FAR relief?

13 MS. RAPPOLT: Yes. We definitely struggled with the
14 parking internally. We thought that your discussions with
15 DDOT helped alleviate some of that with the extra study that
16 you did to show that there's 60 to 70 parking spaces there
17 helped us on that. We really just struggle with the FAR
18 relief.

19 MS. MOLDENHAUER: I'm just trying to clarify. Your
20 report previously had indicated that -- I'm just trying to
21 confirm that --

22 MS. RAPPOLT: At that point, I don't think -- you had
23 already resubmitted your prehearing statement a few days ago,
24 or a week ago. So, that was a different submission. So, our
25 report originally addressed the original submission.

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1 MS. MOLDENHAUER: But on the record today, you support
2 all of the various areas of relief, including the special
3 exception and parking. You're just not supportive of the FAR?

4 MS. RAPPOLT: Correct.

5 MS. MOLDENHAUER: Okay.

6 CHAIRPERSON JORDAN: Additional questions?

7 MS. MOLDENHAUER: No other questions of OP.

8 CHAIRPERSON JORDAN: Okay. Department of
9 Transportation?

10 MR. WESTROM: Thank you, Chairman and Board. Ryan
11 Westrom from DDOT. And as has already been conveyed, we at
12 this juncture to not object to the application for variances,
13 specifically in regards to parking, as was noted.

14 I think it was perhaps a little bit of a surprise to all
15 of us the extent of unrestricted parking in immediate adjacency
16 to this building, and the number of spaces available to
17 support.

18 I think that you, Chairman Jordan, raised an extremely
19 cogent point in that there are several other buildings coming
20 online, and we did consider that. What is difficult is we
21 don't have a tabulation of the parking variance stop in all
22 four or five of these buildings. But the sheer number of
23 spaces available, and the fact that this building is the one
24 that is closest to this area where there appears to be on-street
25 parking available lent itself to support in this particular

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1 project especially.

2 It is a large number of parking spaces that are being
3 sought, but at the same time, there is an even larger of
4 available spaces. And so, there shouldn't be a concern in that
5 regard.

6 They did come forward with a robust TDM plan. We were
7 impressed for a building of this scale. It is, I believe, a
8 very good plan, and one that will support their goals in terms
9 of marketing to non-automotive users.

10 The last issue that is worth noting, although not part
11 of this variance sought, the loading was of course an issue
12 of great importance to the function of the building and with
13 extensive dialog, we have reached agreement with them but we,
14 as part of the public space permitting process, will move
15 forwards toward finding a solution.

16 We think there is a solution that is at hand, but it will
17 require some investment from the applicant in the public space
18 area, and there will be requirements that we as DDOT hold the
19 building and project to that we will expect them to meet.

20 With all of things in mind, again, we would concur with
21 the applicant that the evidence needed to support the variances
22 there, and we would not object to its approval.

23 CHAIRPERSON JORDAN: Board, additional questions for
24 Department of Transportation?

25 ZC VICE CHAIR COHEN: Mr. Chairman, I don't have any

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1 questions. Just have, I guess, a comment based upon numerous
2 years of experience. Not so much on the Zoning Commission,
3 although I do have those too.

4 As long as this is in accord with the comprehensive plan,
5 and the need for additional housing in this city is severe.
6 Of course at the lower end more than at the higher end, which
7 this will serve, but I understand the argument of the architect
8 about efficiencies and the need to obviously make this an
9 economically viable deal.

10 The applicant may not have made the strongest of
11 arguments on the economic side, but the way that I think they
12 are not directly hitting the dollars and sense of this deal
13 doesn't in any way compromise this as being a need; that they
14 met the threshold of describing --

15 CHAIRPERSON JORDAN: Ms. Cohen, are you asking a
16 question? Because we're not --

17 ZC VICE CHAIR COHEN: No. I said I was making a
18 comment.

19 CHAIRPERSON JORDAN: Okay, because I --

20 ZC VICE CHAIR COHEN: Regarding I think --

21 CHAIRPERSON JORDAN: I didn't know if he was supposed
22 to answer.

23 ZC VICE CHAIR COHEN: I immediately started saying that
24 it's not a question. It's a comment. I really do believe that
25 they met the threshold of need. Significant need.

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1 CHAIRPERSON JORDAN: Okay. Going back to Department
2 of Transportation; yes, the other project is coming aligned.
3 I think we've heard before us at least four different projects.
4 Everybody is using the same 70 percent utilization number as
5 their ability to defend the lack of parking in their project.

6 What is OP's opinion regarding how that availability
7 that Orange street parking availability gets wrapped up, or
8 gets dried up? I know you mentioned -- not OP. Department of
9 Transportation. I know you mentioned before that you did take
10 that into consideration, but how do you see that shrinking?
11 The on-street --

12 MR. WESTROM: Yes, it's a practical difficulty. I mean
13 in all that we do, it is many transportation elements where
14 the last stand is in some ways the people who are forced to
15 deal with it most severely.

16 Again though, all of the other projects that we are aware
17 of are ones kind of to the south and west of this location.
18 This is, if you will, the furthest down the corridor. There
19 are several others that are nearby.

20 The one on Maryland, that is the largest nearby that I'm
21 aware of, does provide their own parking. Another one that
22 we have coming before the Board shortly is a much smaller
23 project, although they are seeking a parking variance.

24 Summing together all of the ones that we were aware of,
25 we were still less than the 70 that are available on-street.

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1 I think you're right though; at some point down the line, the
2 spaces will fill up. I don't think we're at that point now
3 though.

4 What we'll do at that point in time is very fair, and
5 I think a question that still is something that we're working
6 through.

7 CHAIRPERSON JORDAN: Okay, any additional questions?
8 Applicant, any questions of DDOT.

9 MS. MOLDENHAUER: No questions of DDOT. Thank you for
10 working so quickly with us over the last couple of weeks.

11 MR. WESTROM: Welcome.

12 CHAIRPERSON JORDAN: Where are we? ANC, do we have ANC
13 here? Anyone from ANC 6A? 6A, 6A? We have a letter of
14 support from ANC 6A for this project.

15 Does anyone here wish to speak in opposition? Anyone
16 wish to speak in support? Opposition? Support? Anybody
17 wishing to speak? All right, then, we'll turn back to the
18 applicant for any -- well, before we get to rebuttal, let me
19 ask some questions here. Then you can go into rebuttal on this
20 transportation demand management plan.

21 So, I think you had six categories for that, and if we
22 went further with this, the first one being the RPP, the
23 residential parking permit. You've offered, and you would be
24 required, to make this RPP restricted, and that these
25 restrictions were run with the land and in various covenants

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1 and condo declarations, etcetera. Correct?

2 MS. MOLDENHAUER: Yes, correct. For the life of the
3 project.

4 CHAIRPERSON JORDAN: For the life of the project. And
5 these transportation and -- the transportation incentives is
6 a second kind of broad grouping category; one that you will
7 provide a \$200.00 smart card to the occupants, correct? And
8 these are condos, right?

9 MS. MOLDENHAUER: Yes.

10 CHAIRPERSON JORDAN: They're not going to be
11 apartments.

12 MS. MOLDENHAUER: The intention is condos, yes, or an
13 annual membership to a car share/bike share. The first five
14 years.

15 CHAIRPERSON JORDAN: Right, or. Okay, I missed the or.
16 For the first five years. First five years of new -- of any
17 new -- well, these incentives have to be offered to any new
18 occupant.

19 MS. MOLDENHAUER: Yes. So, they would be all first
20 purchasers. All the initial purchasers would receive this.
21 And then if there were any subsequent sales to subsequent
22 owners during that five-year period, these incentives would
23 also be provided.

24 CHAIRPERSON JORDAN: That's what I wanted to make sure
25 we're clear on. Okay, the bicycle amenities, I guess they

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1 speak for themselves. I mean I don't have any real questions
2 there. You've got two different -- three different bicycle
3 incentives. Twenty-one units are going to be in the basement
4 or in the cellar of the unit.

5 Then short-term 20 outside the building. Then you're
6 going to do a bicycle repair facility, correct?

7 MS. MOLDENHAUER: Yes, correct.

8 CHAIRPERSON JORDAN: Then regarding the marketing
9 plan. You're going to provide the marketing plan for this
10 building to indicate that this is not a car building that you're
11 going to emphasize walking and cycling for this area, and the
12 other transportation information ability for them to be able
13 to pull down how to get around without a car.

14 I think I added here that you need to distribute to the
15 occupants of the building at least twice annually the
16 information to the various links, just to follow back up with
17 them. On-site transportation information: the transit
18 screens you're going to do. You're going to print materials
19 or something.

20 The third thing was to -- applicants must provide
21 instructions to residents and retail employees, describing the
22 numerous sources of real time transportation. That's kind of
23 the same thing over again, right?

24 Ride match and ride sharing; how are you going to do the
25 ride match and ride sharing?

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1 MR. ANDRES: There's a metropolitan DC program called
2 -- that's sponsored by Metropolitan Washington Counsel of
3 Governments that you could subscribe to to -- that links people
4 with cars to people who need rides.

5 CHAIRPERSON JORDAN: Did I miss any of your TDM?

6 MS. MOLDENHAUER: Those are all of them.

7 MEMBER ALLEN: So, once all the initial building units
8 are sold, I would think a condo association would then take
9 place and the applicant is actually going to be out of the
10 picture?

11 MS. MOLDENHAUER: That is correct.

12 MEMBER ALLEN: So, do these -- is -- will these be
13 implemented within the condo association document?

14 MS. MOLDENHAUER: Yes.

15 CHAIRPERSON JORDAN: Part of the condition is they're
16 going to be in the condo declarations --

17 MEMBER ALLEN: I just wanted to make sure.

18 CHAIRPERSON JORDAN: They'll also be recorded with the
19 land.

20 MS. MOLDENHAUER: They would also be required to be part
21 of the bylaws. The declaration just literally identifies the
22 legal description of the project. It also would include the
23 encumbrances, but the bylaws would include the fiduciary
24 duties of the Board of Directors and the restrictions on and
25 the obligations on those requirements.

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1 CHAIRPERSON JORDAN: Something we probably missed, and
2 others, they need to be in those bylaws not amendable. Not
3 amendable.

4 MS. MOLDENHAUER: They -- they would be restricted
5 based on the covenants that are already part of it. And then
6 the covenants -- so, the bylaws could be amenable, but they
7 would then be in violation of the covenant, which would not
8 be amenable.

9 CHAIRPERSON JORDAN: Right. But I'm just saying that
10 I would recommend, or maybe we need to order that so it's a
11 clear notice in the bylaws. Because the bylaws are probably
12 not drafted. It's something that's easily done. These
13 things are not amendable to every other provision in there
14 that's allowed to be amended.

15 MS. MOLDENHAUER: It just can't violate the Condominium
16 Act in regards to get the property registered. So, the
17 covenant would be non-amendable, and then the bylaws would
18 indicate that it could not violate the covenant.

19 CHAIRPERSON JORDAN: Yes, okay. All right, anything
20 you want to offer? Well, let me go back.

21 So, the whole discussion about the inefficiencies and
22 what I was trying to get at is really an economic argument,
23 is it not? Why don't you talk about that? I mean it's not
24 structurally. It can be done. But for the economics and
25 efficiency of the building is an economic argument.

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1 MS. MOLDENHAUER: Can I walk through that?

2 CHAIRPERSON JORDAN: Yes, whichever.

3 MS. MOLDENHAUER: In response, one of the things I think
4 -- if we can walk through this diagram and identify the fact
5 that it's -- not all of these options are a question of
6 economics. It's a question of building code, and then also
7 compliance or whether or not you're compliant with certain
8 aspects of the zoning code, and then whether or not you would
9 be -- so, whether you're really trading a compliance of one
10 portion of the zoning code or compliance of another portion.

11 CHAIRPERSON JORDAN: Okay.

12 MS. MOLDENHAUER: So, I'll turn to Jeff to kind of walk
13 through that.

14 MR. GOINS: Excuse me. I've been fighting this for
15 weeks. I apologize. I've been trying not to touch anything.

16 CHAIRPERSON JORDAN: Did you see how quick and how fast
17 he moved?

18 MR. GOINS: In scenario one here, if we made scenario
19 1 conform, I think we would be in violation of H Street
20 guidelines, because then along 14th Street, we would have a
21 core there as opposed to fenestration, and meet the openness
22 requirement and the H Street guidelines.

23 In Scenario 2, this stair would not work with the
24 building code. We would need to pull the stair in, which then
25 is going to destroy almost all the units because we're really

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1 not going to have any units that work except for probably two
2 or three per floor.

3 Then in this scenario, as you can see, it's probably the
4 least effective one because it's mainly core. So, from a
5 professional standpoint, none of them really work.

6 MS. MOLDENHAUER: On the third scenario, would that
7 comply with the overlay as well, in regards to required
8 fenestration on H Street?

9 MR. GOINS: I'd have to check, but I doubt it. I doubt
10 that's gonna comply as well. Also, I think we're going to have
11 some building code issues with this one as well.

12 CHAIRPERSON JORDAN: Because?

13 MR. GOINS: The corridor diagonal; the stairs have to
14 be a corridor diagonal. So, to get it to comply with the
15 building code, not the zoning, you're going to actually have
16 to have the core, elevator and stairs line up along one facade,
17 which then would make you in violation of the H Street
18 guidelines.

19 MS. MOLDENHAUER: In any of these other scenarios, how
20 would that affect the efficiency and the practical difficulty
21 of building a structure like that in regards to how efficient
22 the building would be in comparison to units versus core
23 requirement?

24 MR. GOINS: Let me make sure I understand that question.
25 Well, I think in all of the designs, the design that we've

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1 proposed mathematically is perfect. I think it meets the
2 building code. You've got efficiency at its highest point in
3 that scenario, which is 83 percent.

4 When you start moving any one of the facades or
5 something, it's like I was saying; the deficiency is two times
6 like in a rectangle where you could come in from all sides.
7 We're not able to do that here because any side that we come
8 in wrecks the whole design concept. Does that make sense?

9 MS. MOLDENHAUER: I think I want to make sure I clarify.
10 You said that numerically it's perfect. Is it numerically
11 perfect because of how challenging the triangle is? And even
12 with the requirement, you're still under a typical efficiency?

13 MR. GOINS: Yes.

14 MS. MOLDENHAUER: Can you clarify that?

15 MR. GOINS: Yes. It's challenging to get the core to
16 work in the exact location that we've proposed. It was 10 or
17 15 design iterations.

18 Then when we went to the community and we started
19 massaging the design, it was the hours spent. Getting the core
20 just in itself to work was extremely challenging with this
21 site.

22 We weren't actually looking at it from a core standpoint
23 before zoning, and going back and forth. It was extremely
24 challenging, and even at the end, we're much lower in
25 efficiency than a normal project: by 5 percent at least and

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1 78 percent without the upper floor.

2 CHAIRPERSON JORDAN: Every time you use the word
3 efficiency, it goes into a business deal to me mentally, and
4 it's different than an inability to -- I was going to say you
5 had me on the code issues, but it just goes from the number
6 of units that are available, the number of units of wasted space
7 that would be there when you're talking efficiencies.

8 MS. MOLDENHAUER: Well, let me address that issue
9 because I think it's a question of -- it's not a question of
10 financial. It's a question of the shape of the lot creates
11 these challenging practical difficulties. Then let me just
12 ask Mehari to address going to some of the Court of Appeals
13 cases, and the desire to obtain relief, and the benefit of --
14 rather than allowing properties to lay idle.

15 So, I'm just going to ask Mr. Sequar to provide some
16 documentation and facts about the property on the record.

17 CHAIRPERSON JORDAN: I think before he does that, just
18 kind of reply back to what I asked. So, maybe I didn't state
19 -- maybe I didn't enter with a question mark in terms of when
20 we talk inefficiencies. Is it different than a structural
21 issue? As I said, I can completely understand picking up on
22 all your building code issues but still the discussion of
23 inefficiencies lies at the number of units, or amount of wasted
24 space, which has an economic value to make it -- make the
25 building worthwhile going forward or not. Is that correct?

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1 MR. SEQUAR: Can I answer that, Chairman? It is a case
2 that even with the design that we have, it's still inefficient,
3 and I'll address your point. Anything other than being
4 granted variance, we wouldn't be able to build the building.

5 CHAIRPERSON JORDAN: Go back some.

6 MR. SEQUAR: Sorry. If we weren't granted the variance
7 we wouldn't be able to build the building because we
8 effectively would be building just a core and obviously that
9 makes no sense to build just the core.

10 So, we need the relief in order to have practically --

11 CHAIRPERSON JORDAN: So, when you say just the core,
12 you're saying there's no units?

13 MR. SEQUAR: Well, the core would be such a large
14 portion of this --

15 CHAIRPERSON JORDAN: That reduces the number of units
16 to be built?

17 MR. SEQUAR: Yes, absolutely.

18 CHAIRPERSON JORDAN: So, that's a sense of economics
19 being able to go forward to do the deal. Is that correct?

20 MR. SEQUAR: yes, it is. It's part of --

21 CHAIRPERSON JORDAN: So, I wasn't in outer space when
22 I was asking this probably a half hour ago.

23 MR. SEQUAR: Absolutely not. The thing is if we
24 weren't granted the relief, then we would not be able to build
25 the building because it just doesn't make sense. Even with

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1 the relief that we're seeking, even if they were to be granted,
2 we would still be far inefficient from all the other buildings.

3 So, it's -- is that practical? No, it's not practical.
4 So, prior to my acquiring the building, the building had been
5 vacant. It's currently derelict. Had been vacant for over
6 ten years. Hadn't been -- no one wanted to develop it, other
7 than myself, due to the challenges that this particular site
8 posed.

9 Also, it had been marketed for a number of years. No
10 one decided to take the opportunity because it was impractical
11 without the reliefs. And so, we're here in front of you today
12 to request these reliefs in order to put a building there
13 practically.

14 CHAIRPERSON JORDAN: Let me turn to Office of Planning
15 to ask one other question here. So, has Office of Planning
16 in their objection to the increased FAR, run any numbers to
17 show that this building can be done within the zoning
18 regulations and make it a feasible project?

19 MS. RAPPOLT: I think I would just say that we really
20 aren't sure, and we requested meetings with the applicant to
21 discuss this issue and would've liked to have seen some of this,
22 but never had that opportunity.

23 CHAIRPERSON JORDAN: Go ahead.

24 MS. MOLDENHAUER: Office of Planning was at the meeting
25 with DDOT following our prior hearing. They were present, and

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1 all of the information that we presented today was in our
2 pre-hearing statement that was filed prior to the earlier case.
3 There's been nothing that's been presented today in regards
4 to the diagrams, the illustrations and the FAR argument that
5 was not previously provided to Office of Planning.

6 We sat in a meeting for over an hour with DDOT with OP
7 present. So, if there was additional dialog that could've
8 occurred, we would obviously always be willing to sit down and
9 work with OP. So, I'd just like to have that on the record.

10 MS. RAPPOLT: We did have the opportunity to look at the
11 pre-hearing statements. The drawings that I have are a little
12 different than what you've shown today. I would've liked the
13 opportunity to have a discussion about it. So, that's all.

14 CHAIRPERSON JORDAN: I didn't -- fine. I appreciate
15 both responses. Board, any additional questions on this?
16 Anyone? Anything else you think you need to talk about?
17 Because I think we're -- all right. Then we would close the
18 record on this case. I don't think that it's necessary that
19 we get anything additional.

20 I don't know where the Board is on this but let me say
21 this. I think I'm there with the relief requested for several
22 reasons. One is I think we do need some additional affordable
23 housing units. I think that the property itself is just a
24 difficult space.

25 Half is but for this being on a triangle and the other

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1 level of discussion I was -- I was really not satisfied on the
2 economics on this because it still breaks down to economic
3 issues. However, I think that for the whole layout of the
4 property, the -- I think the -- it's almost obvious with the
5 economics on it although we normally would like to have the
6 economics on it.

7 But I think it's so far reaching the difference would
8 be here that I don't think we necessarily have to have it. It
9 would've been good to have it because as I've said about a half
10 hour ago, 45 minutes, any time we talk about inefficiency and
11 you've got the ability to do it, and it's not just straight
12 code issues or regulation issues, then it's an economic issue
13 that there's a decision being made by the applicant of whether
14 or not I want to put my money forward.

15 Clear. I think you identified that further in your wrap
16 up. So, that's -- but that's okay. I think the layout of this
17 building makes it -- I think you'd b e really hard pressed to
18 show that the economics woke to any other scenario, and we don't
19 have anything opposite of that, showing that it could work
20 within the zoning regulations on this project. So, that's
21 kind of why I asked that question for the record to document
22 moving forward with this.

23 So, that's just my thought about it. Board, any other
24 comments and issues on this one? Yes?

25 MEMBER HINKLE: Yes, Mr. Chairman. I tend to agree

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1 with you, and I'll let go what the ANC noted in their support
2 for the FAR relief is that really it is a limited lot size
3 relative to the square, and I think that does work to the
4 advantage of the applicant here, as well as the triangular
5 shape.

6 So, I certainly support the FAR relief at least up to
7 the 5.2 that's being requested.

8 CHAIRPERSON JORDAN: Anyone else? So, if there's
9 nothing else, I would move that we grant the relief, the amended
10 relief, and I think the plans have been amended already. We
11 already have that in the file, don't we?

12 ZC VICE CHAIR COHEN: Yes. I'll second that.

13 CHAIRPERSON JORDAN: With the TDM measures, etcetera,
14 as we talked about them with the changes here. So, motion made
15 and second. Additional discussion? All those in favor aye.

16 (Chorus of ayes.)

17 Those opposed nay? The motion carries. Mr. Moy?

18 MR. MOY: Staff would record the vote as 5 to 0. This
19 is on the motion of Chairman Jordan to approve the amended
20 relief requested; second the motion, Ms. Cohen. Also in
21 support Vice Chair Heath, Ms. Allen and Mr. Hinkle. The
22 motion carries, 5 to 0, Mr. Chairman.

23 MS. MOLDENHAUER: With the ANC in support and no
24 oppositional parties or persons, we would request a summary
25 order.

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1 CHAIRPERSON JORDAN: Yes, I know, but I was just
2 thinking about the Office of Planning's opposition and making
3 sure that the record is clear in regard to Office of Planning's
4 opposition. That's what I'm bouncing in my head at this point.

5 So, let's do a full order. However, let's do this. I'm
6 going to ask that the applicant counsel write up the order for
7 us, and then we can put this on an expedited kind of review
8 and get it done.

9 So, with that, we would close this case. Thank you.

10 MS. MOLDENHAUER: Thank you.

11 CHAIRPERSON JORDAN: Thanks everyone. Appreciate it.
12 Is there -- is there any other business coming before the Board
13 at this time, Mr. Moy?

14 MR. MOY: Not to my knowledge, sir.

15 CHAIRPERSON JORDAN: Anything anybody else needs?
16 Okay, then we would but for saying to goodbye S. Kathryn Allen,
17 we certainly appreciate all her hard work and support here on
18 the Board. Driving me crazy at times.

19 MEMBER ALLEN: And you're so lucky to have me. I do
20 want to just say how much I've appreciated being on this Board.
21 I appreciate all the colleagues and all the support. I want
22 to thank Mayor Gray, as well as Mayor Bowser, both of whom have
23 offered this opportunity to me, and but for other
24 commitments, I would still be here. Thank you very much to
25 everyone, especially my chairman.

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1 CHAIRPERSON JORDAN: All right, very good. With that,
2 then we are adjourned.

3 (Whereupon, the above-entitled matter went off the
4 record at 11:56 a.m.)

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