

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

APRIL 14, 2015

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:44 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
MAXINE BROWN-ROBERTS
MATT JESICK

DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

ANNA CHAMBERLIN

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS STAFF PRESENT:

MAXIMILIAN TONDRO

The transcript constitutes the minutes from the
Public Hearing held on April 14, 2015.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

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

<u>Application No. 18974 - Jarek Mika</u>	8
<u>Application No. 18886 - Hoorazor</u>	8
<u>Application No. 18953 - Saudi Arabia</u>	8
<u>Application No. 18998 - St. Sophia</u>	8
<u>Application No. 18987 - Pierce Investments</u>	8
<u>Application No. 18979 - Adal</u>	8
<u>Application No. 18977 - Weaver Prospect, LLC</u>	8
<u>Request for Party Status</u>	8
<u>Application No. 18952 - Daniel Fields</u>	9
<u>Dismiss</u>	9
<u>Application No. 18965 - Peter and Diana Minshall</u>	9
<u>Application No. 18968 - Mohammed Khaishgi</u>	14
<u>Presentation by the Applicant</u>	
Toye Bello	15
<u>Office of Planning Report</u>	
Matt Jesick	17
<u>Department of Transportation Report</u>	17
<u>ANC-2F</u>	17
<u>Testimony by Individuals in Support</u>	18
<u>Testimony by Individuals in Opposition</u>	18
<u>Vote to Approve</u>	18
<u>Application No. 18973 - Pouria Saidi and Gholam Paknejad</u>	19
<u>Presentation by the Applicant</u>	
Toye Bello	19
<u>Office of Planning Report</u>	
Maxine Brown-Roberts	21

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

T-A-B-L-E O-F C-O-N-T-E-N-T-S (Cont.)

<u>Department of Transportation Report</u>	21
<u>ANC-6F</u>	22
<u>Testimony by Individuals in Support</u>	22
<u>Testimony by Individuals in Opposition</u>	22
<u>Vote to Approve</u>	22
<u>Application No. 18978 - 4326 Georgia, LLC</u>	23
<u>Presentation by the Applicant</u>	
Kyrus Freeman	23
<u>Office of Planning Report</u>	
Stephen Mordin	25
<u>Department of Transportation Report</u>	26
<u>ANC-4C</u>	26
<u>Testimony by Individuals in Support</u>	26
<u>Testimony by Individuals in Opposition</u>	26
<u>Vote to Approve</u>	26
<u>Application No. 18949 - Bright Future</u>	
<u>Early Learning Center, LLC</u>	27
<u>Presentation by the Applicant</u>	
Tetal Beshal-Geza	28
<u>Office of Planning Report</u>	
Matt Jesick	29
<u>Department of Transportation Report</u>	30
<u>ANC-5C</u>	30
<u>Testimony by Individuals in Support</u>	30
<u>Testimony by Individuals in Opposition</u>	
Delores Jackson	30
<u>Vote to Approve</u>	41

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

T-A-B-L-E O-F C-O-N-T-E-N-T-S (Cont.)

<u>Application No. 18977 - Weaver Prospect, LLC</u>	42
<u>Presentation by the Applicant</u>	
Christine Roddy	42
<u>Office of Planning Report</u>	
Stephen Mordfin	53
<u>Department of Transportation Report</u>	
Anna Chamberlin	54
<u>ANC-2E</u>	62
<u>Testimony by Individuals in Support</u>	
Robert Elliott	63
Richard Hinds	64
<u>Testimony by Individuals in Opposition</u>	
Terry Liverman	71
<u>Rebuttal by the Applicant</u>	
Christine Roddy	72
Jami Milanovich	74
<u>Adjournment</u>	88

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

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

9:43 a.m.

CHAIRPERSON JORDAN: Good morning. Would the hearing please come to order. We're located at the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. and we're here for the Board of Zoning Adjustment's public hearings.

My name is Lloyd Jordan, Chairperson. To my right is Jeffrey Hinkle, Member of the Board. To my left is Vice Chair Marnique Heath. To her left is Robert Miller, Member of the Zoning Commission sitting in as a Member of the Board of Zoning Adjustment for today.

Please be advised that today's proceedings are being webcast live and also being recorded by a court reporter.

So, therefore, I'm going to ask you to refrain from any disruptive noises here in the room today. That's your signal to check your cell phones and everything else that might buzz, whistle, scream and holler and turn them off or put them away, put them in silent mode.

If you're going to provide testify, speak to the Board, address the Board, speak, address, communicate with the Board, even look at the Board crazy in any kind of manner, I'm going to need you to do two things.

The first of which, I'm going to need you to complete two witness cards per person. That's two witness cards per person. Prior to testifying -- let me go back. Prior to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 sitting at the table, please give those witness cards to the
2 court reporter who's seated to my right. So, that's two
3 witness cards per person. Hand them to the court reporter
4 prior to testifying or sitting at the table. Okay.

5 The second thing I'm going to need you to do is to now
6 stand and take the oath which will be given by Mr. Moy,
7 Secretary to the Board.

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

12 Ladies and gentlemen, you may consider yourselves under
13 oath.

14 CHAIRPERSON JORDAN: Very good. I was remiss to say if
15 you're not familiar with the operations of the Board, there's
16 a pamphlet to the door to my left in the back if you want to
17 get the pamphlet and read and understand how we proceed here.

18 Are there any announcements, Mr. Moy?

19 MR. MOY: Yes, sir, thank you, Mr. Chairman. Good
20 morning. Good morning to the Members of the Board.

21 For the record, I want to announce that on the docket
22 for today one of the cases has been postponed and rescheduled
23 to May 12th, 2015. That is Application Number 18974 of Mika.

24 I also want to take the opportunity to announce that five
25 cases that are scheduled in future hearing dates have been

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 rescheduled. That's Application 18886 of Hoorazor and that
2 decision has been delayed to May 5th; 18953 of Saudi Arabia
3 has been moved -- rescheduled from April 28th to a hearing date
4 of November 3rd; 18998 of St. Sophia scheduled for May 19th
5 has been rescheduled to a hearing date on June 16th; 18987 of
6 Pierce Investments rescheduled from April 28 to a hearing date
7 on June 9th and finally, 18979 of Adal scheduled for April 21st
8 has been moved to a hearing date on June 23rd and that completes
9 the staff's introduction, Mr. Chairman.

10 CHAIRPERSON JORDAN: Thank you.

11 Let's see where we are today. We have a party status
12 case. Don't we? Yes.

13 Can we have a representative in Case Number 18977? The
14 representative of the applicant and a representative of the
15 party status. Okay. Who's -- all right. So, please
16 identify yourself first.

17 MS. RODDY: Hi. My name is Christine Roddy and I am the
18 representative for the applicant.

19 CHAIRPERSON JORDAN: And the party status request came
20 from, what, East Bank, Inc.

21 MS. RODDY: Yes, and they actually filed this morning
22 a withdraw of that request.

23 CHAIRPERSON JORDAN: Oh, they did.

24 MS. RODDY: And submitted a letter in support.

25 CHAIRPERSON JORDAN: Okay. All right. Appreciate

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 it. Thank you. Well, that took care of that. Thank you very
2 much. As you know, we'll call you back up. Yes, that's going
3 to do.

4 Application 18952, is the applicant here on 18952?
5 18952?

6 This matter was on for a show cause. It had been
7 previously on the docket for March 17th, 2015. The staff of
8 the Office of Zoning has bent over backwards to communicate
9 with this individual their case on this docket. I'm going to
10 call it one more time before we dismiss this.

11 Application 18952. With no response, I'm going to
12 order that this case been dismissed unless there's some
13 objection by the Board.

14 Then, Mr. Moy, we have dismissed this case.

15 All right. So, let's have -- just discuss some
16 preliminary matters. Application 18965, if we can have a
17 representative of the appellant, the DCRA and also the
18 intervener which is Real Party and Interest please come to the
19 -- okay. Let's start to my left. Mr. Sullivan, would you like
20 to introduce yourself.

21 MR. SULLIVAN: Thank you. Thank you, Mr. Chairman.
22 My name is Marty Sullivan with the law firm of Sullivan & Barros
23 here on behalf of the appellant.

24 CHAIRPERSON JORDAN: Ms. Prince.

25 MS. PRINCE: Allison Prince of Goulston & Storrs here

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 on behalf of the property owner.

2 MR. PROSS: John Pross. I'm the property owner.

3 MR. TONDRO: Maximilian Tondro on behalf of the DCRA.

4 CHAIRPERSON JORDAN: What's your name again?

5 MR. TONDRO: Pardon me. Maximilian Tondro.

6 CHAIRPERSON JORDAN: Okay. A couple of things
7 happened in this case like overnight and within a day which
8 I really have problems with. I really, really, really, a
9 couple of more, really have problems with.

10 You know, we talk about on the Board about getting
11 documents ahead of time so that the Board can actually spend
12 some time and go through these. As you -- especially, folks,
13 at this table, this Board and probably all the previous Boards
14 spend at least 8 to 12 hours prior to coming for these hearings
15 and we read all these cases and we go through all the exhibits
16 and all that.

17 Then at the 9th hour, we get tons of stuff from DCRA for
18 one and then it requires everybody else to shuffle, running
19 around to do things.

20 Now, I understand the regulations in regards to what has
21 to be filed in an appeal is a little different time-wise, but
22 we certainly believe in fairness and the opportunity for people
23 to respond.

24 Now, today, Mr. Sullivan, I got a request from you to
25 -- arguably for the sake -- the ability to examine the motion

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 that was to file to properly respond. Is that still your
2 position, needing time?

3 MR. SULLIVAN: Yes, it is, Mr. Chairman.

4 CHAIRPERSON JORDAN: Okay. It's my intent to continue
5 this for a week. Give you the opportunity to respond. I don't
6 know if we necessarily are going to need any other give and
7 take on it. It shouldn't be much because I think both the --
8 the owner and DCRA has kind of drilled down into these issues.
9 But, giving you a week. So, that would be -- we need to get
10 from you -- I guess not even a real week. We need it Thursday.
11 Would that be sufficient time for you to get us a response?

12 MR. SULLIVAN: Thursday? This Thursday?

13 CHAIRPERSON JORDAN: Yes. I mean I can carry it on the
14 docket even further. Mr. Moy, where are we for two weeks?
15 But, to be truthful, I think you got to lift based upon what
16 I've seen in the motion to dismiss. So, I want to make sure
17 you have adequate time to respond.

18 MR. MOY: Mr. Chair.

19 CHAIRPERSON JORDAN: Excuse me one second. Yes.

20 MR. MOY: Mr. Chair, I just want to -- in terms of the
21 Board's document, I would not recommend the 28th. You have
22 a huge docket. So, the earliest would be May the 5th.

23 CHAIRPERSON JORDAN: Okay. Yes. Um-hum.

24 MR. TONDRO: Mr. Chair, just a quick response that we
25 received Mr. Sullivan's motion to continue this morning at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 8:19. If he did have a problem because he was unfamiliar, he
2 received it as he indicated yesterday afternoon. If that was
3 an issue right away, he could have filed away.

4 CHAIRPERSON JORDAN: You really want to make that
5 argument? Seeing that you dumped on -- okay. I got you.
6 Thank you. I understand. Understand. And I understand
7 you're saying it's not that difficult of argument and it's not
8 92 pages and all that.

9 MR. TONDRO: It didn't -- I file a response this morning
10 which I was told -- I don't know if you saw, but it's not 92
11 pages.

12 CHAIRPERSON JORDAN: I know. That's why I said. I was
13 telling us I understood you said it's not 92 pages. It's only
14 12 pages and most of it is about -- see I read.

15 MR. TONDRO: I sorry. Thank you. Thank you.

16 CHAIRPERSON JORDAN: So, we're well aware of where you
17 are and the positioning. It's just an overall scent. If I
18 was on that side of the table and I got whatever it was, then
19 I would want the time and I think out of fairness and certainly
20 we don't want an appealable matter. At least, we want to make
21 sure we've done properly.

22 Ms. Prince, do you want to respond to any of that or --

23 MS. PRINCE: Thank you. We'd like to be respectful of
24 the Board's time and certainly, if you feel more time is in
25 order, that's appropriate.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 I would like to note that I have raised the timeliness
2 issue from the outset with counsel for the appellant. Instead
3 of addressing that issue directly in their prehearing
4 statement, they dodged the issue.

5 It's a threshold jurisdictional issue as this Board is
6 aware. So, it should not have come as a surprise that we raised
7 timeliness. We fully expected that it would have been
8 addressed by the appellant's counsel.

9 CHAIRPERSON JORDAN: Well, a couple of things. One, I
10 agree with you and as I indicated to Mr. Sullivan, I think he
11 has a lift, but it's not jurisdictional. It's actually what
12 we call claim processing and the court of appeals as recently
13 as last week has supported the Board's position that it's claim
14 processing versus being jurisdictional.

15 So, there is tons of cases you can take a look at. This
16 kind of really just happened and was it the Wega -- the Wega
17 case. Yes.

18 So, it's claim processing. So, the Board does have some
19 discretion in regards to the 60-day filing requirement.

20 So, we're going to put this on for May 5th. So, Mr. Moy,
21 would you give some time lines. So, if we're going to stretch
22 it out like that, then let's take some time to allow others
23 to do a reply back if necessary.

24 MR. MOY: If the -- well, let's work backwards.
25 Replies to the appellant deadline of April 29th and perhaps

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 if the applicant can submit his response to the motions by I
2 would say, well, the 21st.

3 CHAIRPERSON JORDAN: Twenty-first of April?

4 MR. MOY: Of April.

5 CHAIRPERSON JORDAN: Okay. That's right. The party
6 status is gone. Right? Okay. And then the reply for anyone.

7 MR. MOY: Okay. Let me start over again. So, if the
8 appellant can file by April 21st, all parties respond by April
9 28th and the continuation date would be May the 5th.

10 CHAIRPERSON JORDAN: Okay. So, that would be our
11 order. Thank you very much. Appreciate it. Thank you.

12 Okay. I think we're at the top of the order.

13 MR. MOY: Okay. So, if we're going to the top of the
14 order, then that would be Application Number 18968. This is
15 the application of Mohammed, I'm not going to try and pronounce
16 this, K-H-A-I-S-H-G-I.

17 CHAIRPERSON JORDAN: Come on. Take a leap.

18 MR. MOY: No, that was -- no, I haven't had my coffee
19 this morning, sir.

20 CHAIRPERSON JORDAN: Please identify yourselves.

21 MR. BELLO: Mr. Chair, good morning. Toye Bello
22 representing the applicant.

23 MR. KHAISHGI: Good morning, Mr. Chairman. Mohammed
24 Khaishgi, the homeowner.

25 MS. ALLIBHOY: Good morning. Faheen Allibhoy,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 property owner as well.

2 CHAIRPERSON JORDAN: All right. Preliminarily, what
3 I'm going to need is a signed authorization, although you're
4 giving it to Mr. Bello here, but just make sure the file --
5 the file has letters of authorization that's not executed.
6 So, yes. And the self-cert wasn't executed I believe also in
7 this case. So, let's just make sure we dot those i's and cross
8 the t's unless it was so light that it didn't get picked up
9 on IZCS and it was so light that it didn't get picked up in
10 ZDOC. So, but we need to make sure there's one so that the
11 record clearly reflects that.

12 MR. BELLO: I'll follow up on that.

13 CHAIRPERSON JORDAN: I don't have any issues or
14 questions with the application. I believe, in my opinion,
15 that the documents already submitted in the record would
16 justify the relief requested. But, that doesn't mean the
17 other Board Members may not have something they need to hear
18 from the applicant.

19 Anything, anybody? Okay.

20 Well, everybody's shaking their head meaning they
21 certainly believe as you know that there is sufficient
22 information already in the record that would support the relief
23 and you know how we proceed here.

24 It's your -- yes. So, the question is it's not -- well,
25 I think the Board can make record as we move in this case that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 it's not a R-4 zone. It's R-5-B and we recognize there's still
2 the request for relief. So, we can make that adjustment in
3 our summary order when we get to that point. But, it's not
4 a R-4. It's a R-5-B.

5 MR. BELLO: It is an R-5-B.

6 CHAIRPERSON JORDAN: Yes. So, you just might want to
7 just do a -- just a brief memo. Just letter, two lines, do
8 it on a yellow piece of paper we're amending saying it's a
9 R-5-B.

10 MR. BELLO: Will do.

11 CHAIRPERSON JORDAN: So, with that, as you know, you
12 have the right to present to the Board if you feel that you
13 need to. However, we've been here before when people -- we
14 were at this point and people start talking themselves into
15 problems. So.

16 MR. BELLO: We'll rest on the record.

17 CHAIRPERSON JORDAN: Okay.

18 MR. BELLO: That's all.

19 CHAIRPERSON JORDAN: Then we will turn it over to Mr.
20 Jesick and go to the Office of Planning.

21 MR. JESICK: Thank you, Mr. Chairman, Members of the
22 Board.

23 The Office of Planning rests on the record in support
24 of the application. Thank you.

25 CHAIRPERSON JORDAN: Board, are there any questions for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the Office of Planning on this application?

2 Does the applicant have any questions?

3 MR. BELLO: No, sir.

4 CHAIRPERSON JORDAN: Then let's go to Department of
5 Transportation. Anyone from Transportation on this case? We
6 do have a letter of no objection to the application from
7 Department of Transportation.

8 Is there anyone here from ANC -- oh, we don't have an
9 ANC report. Do we? ANC-2F.

10 MR. BELLO: We do.

11 CHAIRPERSON JORDAN: There's one in the file.

12 MR. MOY: It should be Exhibit 23, sir.

13 CHAIRPERSON JORDAN: Okay. How did I miss that?

14 MR. MOY: It came in late.

15 CHAIRPERSON JORDAN: Okay.

16 ZC COMMISSIONER MILLER: Yes. Mr. Chairman, yes, the
17 ANC voted -- 2F voted. It's a letter dated March 17. I'm not
18 sure when we received it. But, they voted unanimously to
19 support the application for the variance in this case.

20 CHAIRPERSON JORDAN: Very good. Thank you. Is anyone
21 here from ANC-2F?

22 Then we -- as indicated, we have -- you have support from
23 ANC-2F.

24 There are also at least two letters from neighbors in
25 support of the application, but are there others here wishing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 to speak in support? Anyone wishing to speak in support?

2 Anyone wishing to speak in opposition? Anyone in
3 opposition?

4 Then we would close the record based upon what we've
5 already deduced for the file and I would move that we grant
6 the relief requested in the amended application in Case 18968.

7 ZC COMMISSIONER MILLER: Second.

8 CHAIRPERSON JORDAN: Motion made and second.
9 Discussion. All those in favor of the motion aye.

10 (Ayes.)

11 CHAIRPERSON JORDAN: Those opposed nay. The motion
12 carries. Mr. Moy.

13 MR. MOY: Staff would record the vote as 4 to 0. This
14 on the motion of Chairman Jordan to approve the application
15 for the relief requested. Second the motion Mr. Miller. Also
16 in support, Vice Chair Heath and Mr. Hinkle. We have a Board
17 seat vacant. Motion carries, sir.

18 CHAIRPERSON JORDAN: Very good. Summary please.

19 MR. MOY: Thank you.

20 CHAIRPERSON JORDAN: Thank you. Mr. Bello, thank you
21 very much. Mr. Bello, I think you should just stay seated.

22 Let's do his next case since he's trying to claim today's
23 docket. Do you want to call that?

24 MR. MOY: Yes, sir. I believe that is Application
25 Number 18973 and this is request for variance relief from the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 off-street parking requirements under 2101.1.

2 CHAIRPERSON JORDAN: Okay. Please identify
3 yourselves.

4 MS. PAKNEJAD: Dona Paknejad, property owner.

5 MR. SAIDI: Pouria Saidi, property owner.

6 CHAIRPERSON JORDAN: You have to put it on the record.
7 Each case stands on its own as you know.

8 MR. BELLO: Toye Bello representing the applicant.

9 CHAIRPERSON JORDAN: You tried the look. Everybody
10 knows me. I don't have to say that. Just for the record.
11 Thank you.

12 Preliminarily, we do have authorization for you, Mr.
13 Bello. However, just so you know, we need to update your
14 self-cert. The self-cert is not signed. Yes, unless again
15 it's picked up too lightly, but it's in there with a name. But,
16 it's not signed. Okay.

17 MR. BELLO: I'll follow up on that, but I did send one
18 in.

19 CHAIRPERSON JORDAN: Yes, there's a self-cert there.
20 Oh, you sent one.

21 MR. BELLO: Yes.

22 CHAIRPERSON JORDAN: And not --

23 MR. BELLO: Signed.

24 CHAIRPERSON JORDAN: Because there's a Williams, a
25 Richard.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. BELLO: Yes, that's the agent, the attorney.

2 CHAIRPERSON JORDAN: Okay. But, yes, that one's not
3 signed. I didn't see an additional one. I don't know. But,
4 please just follow up. Making sure the record's proper.

5 MR. BELLO: Will do, sir.

6 CHAIRPERSON JORDAN: Thank you.

7 Board, any issues with this case?

8 Again, I believe that the record is sufficient to
9 support the relief requested by the applicant and with your
10 permission, we'll proceed on to the Office of Planning.

11 MR. BELLO: I don't, sir.

12 CHAIRPERSON JORDAN: Very good. Thank you. So, we
13 turn to Ms. Brown-Roberts and see if there's anything in
14 addition she needs to add to the Planning report.

15 MS. BROWN-ROBERTS: Good morning, Mr. Chairman and
16 Members of the Board.

17 I have nothing else to add and the Office of Planning
18 will stand on the record with a recommendation of approval.
19 Thank you.

20 CHAIRPERSON JORDAN: Thank you. Board, questions for
21 Planning? The applicant, questions for Planning?

22 MR. BELLO: No, sir.

23 CHAIRPERSON JORDAN: All right. Department of
24 Transportation. Did I miss the DDOT letter because I don't
25 have that in my notes? No objection. Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 So, we have a letter of no objection from the Department
2 of Transportation.

3 ANC-6F. Anyone here from ANC-6F? We got a letter from
4 them? There's no letter from 6F. Do you have a letter from
5 6F?

6 MR. BELLO: We got no response from the ANC whatsoever.

7 CHAIRPERSON JORDAN: Did you try contacting --

8 MR. BELLO: We did severally and so did the property
9 owners.

10 CHAIRPERSON JORDAN: Okay. I see the head nodding.
11 Just property owners, yes, you tried to contact ANC-6F? Just
12 say -- yes.

13 MS. PAKNEJAD: Through two phone calls and email.

14 CHAIRPERSON JORDAN: Thank you. We just want that for
15 the record. Because the court reporter's over there trying
16 to diagram your head shaking. It just doesn't look well in
17 the transcript. Very good. Appreciate it.

18 So, we think there's been reasonable effort to contact
19 ANC-6F.

20 You have nine neighbors who have submitted letters in
21 support of the relief which is good. We always encourage
22 people to talk to their neighbors and that's very helpful
23 certainly to yourself and to the Board.

24 Is there anyone else wishing to testify in support of
25 the application? Anyone else wishing to testify in support?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Anyone in opposition? Anyone in opposition?

2 Then we will close the record on this made and is the
3 Board ready to deliberate.

4 Then I would move that we grant the relief requested in
5 Case 18973.

6 VICE CHAIR HEATH: Second.

7 CHAIRPERSON JORDAN: Motion made and second.
8 Discussion. All those in favor aye.

9 (Ayes.)

10 CHAIRPERSON JORDAN: Those opposed nay. The motion
11 carries. Mr. Moy.

12 MR. BELLO: Thank you, Mr. Chair.

13 MR. MOY: Staff would record the vote as 4 to 0. This
14 on the motion of Chairman Jordan to approve the application
15 for the relief request. Second the motion Vice Chairperson
16 Heath. Mr. Miller and Mr. Hinkle in support. We have a Board
17 seat vacant. Motion carries, sir.

18 CHAIRPERSON JORDAN: Summary please.

19 MR. MOY: Thank you.

20 CHAIRPERSON JORDAN: Thank you very much. Appreciate
21 it.

22 MR. BELLO: Thank you. Thank you, sir.

23 CHAIRPERSON JORDAN: Thank you very much. All right.
24 Let's call 978 please.

25 MR. MOY: All right. Application Number 18978 of 4326

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Georgia, LLC. Parties to the table.

2 Mr. Chairman, this is a request for variance from the
3 off-street parking requirements, compact parking space
4 requirements at property 4326 Georgia Avenue, N.W.

5 CHAIRPERSON JORDAN: Good. Would you please identify
6 yourselves?

7 MR. FREEMAN: Good morning, Mr. Chairman. For the
8 record, my name is Kyrus Freeman. I'm an attorney with the
9 law firm of Holland & Knight on behalf of the applicant.

10 MR. BROWN: My name is Kevin Brown. I'm a Vice
11 President at Neighborhood Development Company in 4326 Georgia,
12 LLC.

13 MR. GRANT: Good morning. I'm Aubrey Grant. I'm with
14 Emotive Architecture, the architects for their project.

15 CHAIRPERSON JORDAN: Good. All right. Mr. Freeman,
16 this is one where the Department of Transportation has
17 recommended some TDM. What's your position on that?

18 MR. FREEMAN: Yes, Mr. Chairman, we -- you're right.
19 DDOT submitted a report in support. They proposed two TDM
20 measures and we are happy to include those two measures as a
21 condition of our approval if you grant the application.

22 CHAIRPERSON JORDAN: So, are these going to be
23 apartments or condos?

24 MR. BROWN: These will be condos.

25 CHAIRPERSON JORDAN: Okay. Okay. So, they're going

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 to be condos. So, the initial sale of each unit. For the sale
2 of each of unit. Okay.

3 I was just thinking since they're going to be condos the
4 initial sale -- if the condo docks need to have anything in
5 regards, but it's just the initial -- the initial sale. It
6 needs to be an initial declaration that that's going -- that
7 they're required -- that the property's required to have the
8 Bike Share membership.

9 Then they have to provide a package of transportation
10 rated information and promotional -- that's for tenants. But,
11 I think we can also make that for condo owners also on the second
12 part. So, that you provide information and promotional
13 brochures for residents of the unit on the initial move in.
14 Make sure that the declaration of the various condo documents
15 has that for -- a declarant so that they'll know. Okay, Mr.
16 Freeman?

17 MR. FREEMAN: So, you're saying that the word tenant
18 should say tenant or residents?

19 CHAIRPERSON JORDAN: Yes, but I understand they're
20 going to be condos. Right?

21 MR. FREEMAN: Right.

22 CHAIRPERSON JORDAN: Okay. So, then we'll say -- it's
23 okay. The first one's okay. Then the second one, I think we
24 just make sure it's either -- although the second one just says
25 tenants, but it needs to be the initial owners, initial sales.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Okay.

2 MR. FREEMAN: Okay.

3 CHAIRPERSON JORDAN: And I guess to make it easier so
4 you don't have to come back, because if you can't get your sales
5 straight, if it's not really moving, you might want to flip
6 them to apartments. Then let's make sure to tenants or initial
7 sale on both. If that makes sense to you.

8 MR. FREEMAN: Okay.

9 CHAIRPERSON JORDAN: Okay. Board, is there anything
10 else that you need to hear from the applicant on this?

11 Mr. Freeman, you know our procedures. So, can we move
12 on?

13 MR. FREEMAN: Yes, sir.

14 CHAIRPERSON JORDAN: then we would turn to the Office
15 of Planing for Mr. Mordfin and see if there's anything we need
16 to add.

17 MR. MORDFIN: Good morning, Chairman and Members of the
18 Board.

19 The Office of Planning supports this application and
20 stands on the record.

21 CHAIRPERSON JORDAN: Board, questions? Applicant,
22 questions?

23 MR. FREEMAN: No.

24 CHAIRPERSON JORDAN: So, Department of Transportation,
25 that was their letter. So, we do have a letter of support and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 they wanted those conditions placed in for mitigation
2 purposes. Which we've taken care of.

3 What ANC is this? ANC-4C. Do we have a letter from 4C?
4 Yes, they recommend approval. Is anyone here from ANC-4C?
5 So, we do have a letter of approval from ANC-4C.

6 Is anyone here wishing to speak in support of the
7 application? Anyone in support of the application?

8 Anyone opposed? Anyone opposed?

9 Then we'll close the record and I would move that we
10 grant the relief in 18978 with the conditions as discussed.

11 VICE CHAIR HEATH: Second.

12 CHAIRPERSON JORDAN: Motion made and second.
13 Discussion? All those in favor aye.

14 (Ayes.)

15 CHAIRPERSON JORDAN: Those opposed nay. The motion
16 carries. Mr. Moy.

17 MR. MOY: Staff would record the vote as 4 to 0. This
18 on the motion of Chairman Jordan to approve the application
19 for the relief requested as well as adding two conditions where
20 the Board modified the language in the second condition. Also
21 seconding Vice Chairperson Heath. Also in support Mr. Miller
22 and Mr. Hinkle. We have a Board seat vacant. Motion carries,
23 sir, 4 to 0.

24 CHAIRPERSON JORDAN: Summary please.

25 MR. MOY: Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MR. BROWN: Thank you.

2 CHAIRPERSON JORDAN: Thank you. Thanks a lot.
3 Appreciate it. Okay. Mr. Moy, let's call -- let me check.
4 I think we're okay. Forty-nine.

5 MR. MOY: Yes, before the Board is Application Number
6 18949. This is the application of Bright Future Early
7 Learning Center, LLC.

8 Mr. Chairman, this is a request for a variance from the
9 off-street parking requirements under Section 2101 at 2535
10 Bladensburg Road, N.E.

11 CHAIRPERSON JORDAN: Excuse me one second. Ms.
12 Glazer.

13 Okay. I thought we might have a bump in this one.
14 A couple of things. Please identify yourselves.

15 MS. BESHAL-GEZA: Hi. My name is Tetal Beshal-Geza.

16 CHAIRPERSON JORDAN: Come a lot closer.

17 MS. BESHAL-GEZA: Tetal Beshal-Geza.

18 CHAIRPERSON JORDAN: It's not -- your mike may not be
19 on.

20 MS. BESHAL-GEZA: Beshal. Tetal Beshal.

21 CHAIRPERSON JORDAN: Try that because it -- no, try
22 again.

23 MS. BESHAL-GEZA: How about now? Okay.

24 CHAIRPERSON JORDAN: Please --

25 MS. BESHAL-GEZA: Tetal Beshal-Geza.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON JORDAN: I'm writing that phonically. Go
2 ahead.

3 MS. TECLA-MANOUD: I'm Beth Tecla-Manoud.

4 CHAIRPERSON JORDAN: Okay. There might be some
5 procedural issues that we have here.

6 One, we don't have an authorization letter from the
7 owner. Who owns the property?

8 MS. TECLA-MANOUD: Sami Satouri. It was sent.

9 CHAIRPERSON JORDAN: We do have a -- can you take a look
10 at that, Mr. Moy?

11 The second thing, what about the affidavit of posting.
12 Do we have that in the file?

13 MS. BESHAL-GEZA: Yes.

14 MS. TECLA-MANOUD: Yes.

15 CHAIRPERSON JORDAN: Just verify those two things, Mr.
16 Moy. Yes, posting. Good. And authorization?

17 MR. MOY: It's there.

18 CHAIRPERSON JORDAN: Okay. When was that filed? Very
19 good. Okay. We took the letter in support as authorization
20 to move forward.

21 Did you meet with ANC-5C?

22 MS. TECLA-MANOUD: We tried to contact them several
23 times. We were unable to.

24 MS. BESHAL-GEZA: And we also went to the meeting.

25 CHAIRPERSON JORDAN: You went to the meeting?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. BESHAL-GEZA: Yes, the ANC meeting, but they were
2 unable to hear our case.

3 CHAIRPERSON JORDAN: Okay. Just give me a second.
4 Okay. I'm fine. I was thinking that they should -- okay.
5 Good.

6 Board, any questions for this applicant? Okay.

7 The way we normally proceed, the Board believes there's
8 sufficient information based upon the record to support the
9 relief requested.

10 You certainly have the opportunity to do a presentation
11 before the Board, but at this point, you might not want to say
12 another. You might want to just proceed on, but it's up to
13 you.

14 MS. BESHAL-GEZA: Sure.

15 CHAIRPERSON JORDAN: Okay. Then let's turn to the
16 Office of Planning. See if there's anything in addition.

17 MR. JESICK: Thank you, Mr. Chairman, Members of the
18 Board. My name is Matt Jesick. The Office of Planning rests
19 on the record in support of the application. Thank you.

20 CHAIRPERSON JORDAN: Good. Board, questions of
21 Planning?

22 The applicant any questions of Planning?

23 MS. BESHAL-GEZA: No.

24 CHAIRPERSON JORDAN: We do have a letter from the
25 Department of Transportation with no objection to the relief.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 There's no letter from ANC-5C and we understand the
2 issue that you tried to meet with them.

3 Letters of support, I didn't see any. Did you have any
4 letters of support from anyone? Yes.

5 MS. TECLA-MANOUD: From the landlord.

6 CHAIRPERSON JORDAN: Just from the landlord, but --

7 MS. TECLA-MANOUD: Yes.

8 CHAIRPERSON JORDAN: -- talking about the others in the
9 area. Is there anyone here wishing to testify or speak in
10 support of these application? Anyone wishing to speak in
11 support?

12 Anyone wishing to speak in opposition? Yes, please
13 come forward.

14 Just make sure your microphone is on and is it a bright,
15 glowing, green light in front of you?

16 MS. JACKSON: A green light.

17 CHAIRPERSON JORDAN: Speak into the mike.

18 MS. JACKSON: Hello.

19 CHAIRPERSON JORDAN: I think you're on. Did you give
20 witness cards to --

21 MS. JACKSON: Yes.

22 CHAIRPERSON JORDAN: Okay. Give us your name please.

23 MS. JACKSON: My name is Delores Jackson.

24 CHAIRPERSON JORDAN: All right. Ms. Jackson, thank
25 you for coming. You have three minutes to address the Board.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MS. JACKSON: I'm a resident around the corner from this
2 location. My address is 2813 Douglas Street, N.E. and my
3 concern is with the parking in the alley and blocking the alley.

4 I have a driveway beside my house and in the past, when
5 they have done construction on this property, they blocked up
6 my driveway by parking in the alley.

7 It's a unique street that I live on. There are only two
8 houses on my street.

9 The majority of the time, there is no parking in front
10 of my house. The two of us residents there can't park or anyone
11 coming to visit can't park.

12 There is a -- right over near Bladensburg Road, there
13 is a taxicab company across the street. There's another
14 business beside this location and there is also a Metro car
15 barn about a block or two from -- from my residence.

16 In the past, I've had problems with the contractor and
17 asked -- have asked him to move so I could get out of my driveway
18 and one contractor especially refused to move and I have in
19 the past had to call the police to get them to move from the
20 front of my driveway so I could get out.

21 Now, they're requesting to have 11 staff members and
22 they're going to have 62 children come, but my concern is that
23 this alley is going to be blocked up for them coming and going
24 to this residence and the only entrance, it's a parking lot
25 which I thought was for the church beside this residence. So,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 I'm assuming that's the parking lot they are talking about.
2 But, there is only one entrance to this parking lot. It's
3 through this alley.

4 And that's my concern with -- with my residence being
5 -- my driveway being blocked up.

6 CHAIRPERSON JORDAN: Got it. I'm hearing a couple of
7 things. One, I'm hearing you say that the construction. What
8 construction company? What construction is brought on that
9 --

10 MS. JACKSON: When they were remodeling this property,
11 they had contractors there that were doing remodeling there.

12 CHAIRPERSON JORDAN: Okay. Um-hum.

13 MS. JACKSON: And they would come in the alley. They
14 were not just unloading --

15 CHAIRPERSON JORDAN: Okay.

16 MS. JACKSON: -- whatever they had. They were parking
17 and just parking in the alley for hours.

18 CHAIRPERSON JORDAN: Got it.

19 MS. JACKSON: And also, I've had another problem with
20 this -- with this location not related to parking, but it
21 related to a dumpster that was placed in front of my house with
22 trash.

23 CHAIRPERSON JORDAN: So, there's a dumpster in front of
24 your place? From --

25 MS. JACKSON: In front of my house.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRPERSON JORDAN: Was or is?

2 MS. JACKSON: It was.

3 CHAIRPERSON JORDAN: And it's been moved?

4 MS. JACKSON: It was removed.

5 CHAIRPERSON JORDAN: Okay.

6 MS. JACKSON: But, trash was still there and they cited
7 my house. Which we've cleared that up because Mr. Satouri did
8 write a letter explaining that they were responsible for this
9 stuff.

10 CHAIRPERSON JORDAN: But, that's not occurring any
11 longer?

12 MS. JACKSON: That's -- right. It's not occurring.

13 CHAIRPERSON JORDAN: Okay. Now, let me talk about the
14 parking issue. Is there just a general parking issue in the
15 area or is it parking that you know is directly related to the
16 child development center?

17 MS. JACKSON: Both.

18 CHAIRPERSON JORDAN: Okay.

19 MS. JACKSON: With the parking -- general parking for
20 the area and the problem with the parking for this development
21 center is that my driveway is beside the alley. My driveway
22 has a -- there's an alley beside my driveway. The alley has
23 three entrances. One goes from the left from 30th Street.
24 One from the right from Channing Street. They all meet at the
25 point at the bottom of my -- my house where my yard is. Which

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 is close to where this entrance to this -- to this business
2 would be.

3 CHAIRPERSON JORDAN: So, it's easy to roll from the
4 alley into your driveway. That's what I'm understanding. Is
5 that correct?

6 MS. JACKSON: Drive up into the alley, go in my
7 driveway. Then I would come out the alley. Where I'm coming
8 out the alley out of my driveway. I mean -- I'm sorry. Out
9 of my driveway is right behind this location.

10 CHAIRPERSON JORDAN: And how frequent does that occur?

11 MS. JACKSON: It happens quite often especially when
12 they were doing the work on the property there,

13 CHAIRPERSON JORDAN: Okay. All right.

14 MS. JACKSON: And one -- one of the contractors I really
15 had a problem. Because even when I asked him to move so I could
16 get out of my driveway, he would turn his head and go and walk
17 back in the building and leave the vehicle still there. That's
18 why I had to contact the police on several occasions.

19 CHAIRPERSON JORDAN: Right. Right. Right. Right.
20 Okay. Let me ask the applicant. Would you respond to that?
21 One, are you still doing construction? Well, is it
22 construction related to the child development or construction
23 in the building in general? What is that?

24 MS. BESHAL-GEZA: Building in general and that was --
25 was Mr. Satouri.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRPERSON JORDAN: And is there --

2 MS. BESHAL-GEZA: We rented the place. We leased the
3 place way after he's done.

4 CHAIRPERSON JORDAN: Okay. So, there's no longer any
5 construction in the building?

6 MS. BESHAL-GEZA: No.

7 CHAIRPERSON JORDAN: And have you been in operation?

8 MS. BESHAL-GEZA: No, not yet.

9 CHAIRPERSON JORDAN: Okay. So, the -- okay. So, you
10 have not been in operation?

11 MS. BESHAL-GEZA: We haven't opened yet.

12 CHAIRPERSON JORDAN: Got it. Okay.

13 MS. JACKSON: What I was trying to --

14 CHAIRPERSON JORDAN: Wait. Wait.

15 MS. JACKSON: Okay.

16 CHAIRPERSON JORDAN: Board, any questions? Yes, the
17 questions you have of Ms. Jackson and the issue.

18 Ms. Jackson, you wanted to say something else? But,
19 very briefly please.

20 MS. JACKSON: Yes, also, the entrance to this business
21 is on Bladensburg Road and there are parking restrictions there
22 on that street. So, when the people are going to be picking
23 up these kids and they can't stop in front of that location,
24 my concern is that they're going to be coming in the alley and
25 blocking up the alley and blocking up my driveway.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRPERSON JORDAN: I hear what you're saying, but
2 here's part of the problem. To a great extent speculation
3 because it has not been in operation and I thought when you
4 were talking initially that this operation was causing an
5 affect upon your property, but it's my understanding that
6 they're there not in operation. Would that be correct?

7 MS. JACKSON: Yes, I assume they're not yet.

8 CHAIRPERSON JORDAN: Yes. So, we have a larger issue
9 with other activities in the building possibly.

10 MS. JACKSON: Right.

11 CHAIRPERSON JORDAN: I don't know how to properly
12 advise you about that, but I don't think those things are before
13 us in regards to this particular relief. Certainly not the
14 construction. But, I understand the construction's gone.

15 Is there any more construction? No more construction?

16 MS. JACKSON: I believe it's gone.

17 CHAIRPERSON JORDAN: It's gone. I'm trying to think
18 what we could do around that. It's kind of hard to deal with
19 speculative issues like that. But, this property and this
20 operation is going to have the use of another subsequent
21 parking lot, adjacent parking lot.

22 So, what time do people come to the child development
23 center? Is it a set point of time when they come, drop off,
24 pick up?

25 MS. TECLA-MANOUD: No, it's between 6:30 until 9:00.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Set drop off time.

2 CHAIRPERSON JORDAN: Yes, but so, is there a certain
3 period of time that people drop off children?

4 MS. TECLA-MANOUD: Between 6:30 until 9:00 and school
5 will be --

6 CHAIRPERSON JORDAN: Nine a.m.?

7 MS. TECLA-MANOUD: Yes.

8 CHAIRPERSON JORDAN: And they come pick them up around
9 what time?

10 MS. TECLA-MANOUD: Between 4:30 until 6:30. So, it
11 would be not a whole lot of car at one time.

12 CHAIRPERSON JORDAN: How many students? How many
13 students are we talking? How many students are we having?
14 Sixty. Right?

15 MS. TECLA-MANOUD: Sixty-two.

16 CHAIRPERSON JORDAN: Sixty-two. All right. All
17 right. Board, any other questions? Yes. Yes, Mr. Miller.

18 ZC COMMISSIONER MILLER: Thank you, Mr. Chairman.

19 Yes, so, you are going to use the alley as the drop-off
20 and pick-up point for the kids for those parents who arrive
21 by vehicle?

22 MS. BESHAL-GEZA: Yes, sir.

23 ZC COMMISSIONER MILLER: And do you anticipate how many
24 of -- how many people would be -- how many parents would be
25 arriving by vehicle versus walking?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MS. BESHAL-GEZA: No, there is no way of telling. It's
2 between like 6:30 -- we open at 6:30 and cut-off time is at
3 9:00.

4 ZC COMMISSIONER MILLER: And what can you say to
5 reassure Ms. Jackson that the vehicles -- what will you do to
6 make sure that the vehicles aren't blocking the alley or her
7 driveway?

8 MS. BESHAL-GEZA: We just will make sure it's one or two
9 cars at a time and everybody keeps moving. So.

10 ZC COMMISSIONER MILLER: You'll have staff out there.

11 MS. BESHAL-GEZA: Out there receiving the children.
12 Out there receiving the children. So, there will be staff
13 receiving children at the gate. So.

14 ZC COMMISSIONER MILLER: Okay. Thank you.

15 MS. BESHAL-GEZA: You're welcome.

16 CHAIRPERSON JORDAN: This is what I'm thinking and we
17 can talk about it, Board, in our deliberation. I'm thinking
18 one way to be sure -- at least for awhile to make sure that
19 for a certain period of time at least that there is a
20 representative from the child development center that's out
21 between 6:00 and 9:00 a.m. to be sure that people are not
22 parking in your driveway and that they're properly moving in
23 and out of the alley. That's kind of what's bouncing in my
24 head.

25 That's something that's you'd be able to do. Wouldn't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 you?

2 MS. BESHAL-GEZA: Yes, definitely.

3 CHAIRPERSON JORDAN: All right. Thank you, Ms.
4 Jackson.

5 Anybody else? Any other person speaking in opposition?

6 Then we'll close the record based upon what we have. Is
7 the Board ready to deliberate?

8 I think we need to put a condition here that requires
9 the -- at least for probably the first six months or so to have
10 the applicant have a traffic kind of coordinator stand out at
11 the alley making sure people get in the habit of knowing how
12 they're suppose to drop off and that the driveway is not the
13 driveway to drop people off. That's my thought.

14 Board, any feedback on that? Anyone? Good, bad,
15 indifferent?

16 ZC COMMISSIONER MILLER: I think that's a good
17 suggestion, Mr. Chairman.

18 CHAIRPERSON JORDAN: All right. So, then if that would
19 be -- so, then I would make that as a condition to any relief.

20 So, I move that we grant the relief requested in 18949
21 with the condition that the applicant at least for six months
22 shall have a traffic coordinator for the hours of 6:00 to 9:00
23 for the pick-up and delivery period. Pick-up and drop-off
24 period be posted at the alley spot and be sure to direct people
25 where they can park and they can't park.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Okay. That would be my motion. Discussion.

2 VICE CHAIR HEATH: Second the motion.

3 CHAIRPERSON JORDAN: All those in favor aye.

4 (Ayes.)

5 CHAIRPERSON JORDAN: Those opposed nay. Mr. Moy.

6 MR. MOY: Staff would record the vote as 4 to 0. This
7 on the motion of Chairman Jordan to approve the application
8 for the relief requested as well as the condition as cited by
9 the Board. Seconded the motion Vice Chairperson Heath. Also
10 in support Mr. Miller and Mr. Hinkle. Board seat vacant.
11 Motion carries, sir.

12 CHAIRPERSON JORDAN: Then let's have a summary order
13 please.

14 MR. MOY: Yes. Thank you.

15 CHAIRPERSON JORDAN: Thank you very much and we're
16 going to stand down for about seven minutes. We'll take a
17 break for seven minutes and come back. Thank you.

18 MS. BESHAL-GEZA: Thank you.

19 (Whereupon, the above-entitled matter went off the
20 record at 10:31 a.m. and resumed at 10:39 a.m.)

21 MR. MOY: Yes, sir. The hearing is out of recess. The
22 application before the Board is Application Number 18977.
23 Should be an easy -- and this is the application of Weaver
24 Prospect, LLC.

25 CHAIRPERSON JORDAN: Okay. So, let's introduce --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 please introduce yourselves.

2 MS. RODDY: Good morning. My name is Christine Roddy
3 and I'm an attorney with Goulston & Storrs. I'm here on behalf
4 of the applicant.

5 MR. ANTUNOVICH: My name's Joe Antunovich. I'm an
6 architect/planner representing the client.

7 MR. SPERRY: I'm Kevin Sperry with Antunovich
8 Associates, architect, representing the client.

9 MS. MILANOVICH: Good morning. Jami Milanovich with
10 Wells and Associates, transportation consultant for the
11 project.

12 CHAIRPERSON JORDAN: All right. Earlier, we had a call
13 for party status and the applicant. I was informed by Ms.
14 Roddy that we have -- East Bank withdrew.

15 There was a second request for party status. Did you
16 have any conversation with that person?

17 MS. RODDY: I'm sorry. My client did meet with them and
18 I believe that they are here today.

19 CHAIRPERSON JORDAN: Let me go back to that again.
20 What am I doing here?

21 All right. Is there a Cookson? Cookson is here.
22 Please come forward. Okay. Come take a microphone please.
23 Well, all right. Let's -- is the microphone on? Say -- no,
24 push it again. You don't have the bright glowing green light.
25 That's --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MR. LIVERMAN: Do now.

2 CHAIRPERSON JORDAN: There you go. Got a couple of
3 issues here.

4 One, I have a -- well, let's have you introduce yourself.

5 MR. LIVERMAN: Good morning. My name is Terry
6 Liverman. I'm a lawyer and also President of Chatel Real
7 Estate. I represent Mr. and Mrs. Cookson. They own the
8 property at 3232 Prospect. Which is immediately to the west
9 of the subject property.

10 CHAIRPERSON JORDAN: Mr. Liverman, I don't have a
11 proper request for party status from Mr. Cookson and it's
12 beyond the time to submit one. I additionally don't have an
13 authorization letter from you. Did you --

14 MR. LIVERMAN: I filed a Form 140, talked to the staff.
15 Did this --

16 CHAIRPERSON JORDAN: When did you do that? Do I have
17 an authorization --

18 MR. LIVERMAN: It was on the deadline which I believe
19 was the first.

20 CHAIRPERSON JORDAN: There is one? Your name is on the
21 form. There's no signature. There's no follow up. There's
22 no basis for a party status and I have no authorization. Do
23 you have an authorization letter? I don't have an
24 authorization letter from the owner.

25 I tell you what we will let you do. We'll let you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 participate and speak in opposition if that's your party's
2 position or in support when we get to it. But, I don't have
3 sufficient basis to grant any party status at this point to
4 Mr. Cookson. Is it?

5 MR. LIVERMAN: Correct.

6 CHAIRPERSON JORDAN: The documentation doesn't provide
7 the information. There's no authorization letter here. So,
8 procedurally, it's just not there.

9 But, you can participate in regards to --

10 MR. LIVERMAN: Understood and thank you.

11 CHAIRPERSON JORDAN: -- simply providing their input
12 when we get to that point. All right.

13 I think the Board understands the relief that's being
14 requested and the need for relief. At least I do. I don't
15 know where anybody else is.

16 The Department of Transportation has proffered some
17 conditions and the condition was to prohibit restaurant uses
18 from the site.

19 So, where's the applicant on that?

20 MS. RODDY: We would actually request a modified
21 condition to say that we're not actively recruiting
22 restaurants, but we don't want to preclude restaurants in the
23 future. So, in the event we do have a restaurant tenant, that
24 prior to issuance of a C of O, we would submit a study to DDOT
25 with respect to the loading implications of placing a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 restaurant there and the proposed mitigation efforts to
2 address those impacts.

3 CHAIRPERSON JORDAN: You got that in writing?

4 MS. RODDY: Yes, I circulated I believe what our
5 proposed conditions would be.

6 CHAIRPERSON JORDAN: Proposed conditions that we need
7 to have.

8 MR. MOY: Oh, yes. Yes, I have right here. I'm sorry.

9 CHAIRPERSON JORDAN: Have you discussed these
10 conditions with Department of Transportation?

11 MS. RODDY: We have. I will let Ms. Chamberlin speak
12 for herself, but I believe that we are -- that DDOT is okay
13 with our proposed modifications.

14 CHAIRPERSON JORDAN: What else has been modified in
15 regards to what has been proffered by DDOT versus what you just
16 gave us?

17 MS. RODDY: We modified the condition with respect to
18 the loading coordinator. I believe that was number 4. We are
19 fine with providing a loading coordinator to monitor the
20 loading operations for our property, but we would propose
21 striking the requirement that we monitor the other properties
22 on the block and their loading.

23 And then finally, we also -- we would ask that the
24 parking requirements not be included as conditions of approval
25 since we are not seeking a parking variance and we're providing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the requisite amount of parking in this project.

2 There were two conditions that they proposed. One for
3 no discounted parking and unbundling the parking.

4 CHAIRPERSON JORDAN: And how is your parking going to
5 be provided?

6 MS. RODDY: I'm sorry.

7 CHAIRPERSON JORDAN: You're making -- you're providing
8 the requisite parking requirements. Right? Yes.

9 MS. RODDY: Right. We're providing 96 spaces within
10 the garage.

11 CHAIRPERSON JORDAN: Okay. What about the loading
12 zone?

13 MS. RODDY: We will work with DDOT through the public
14 space process to place a loading zone on Prospect Street.

15 CHAIRPERSON JORDAN: Okay. I hear you. We need to
16 drill down. I'm not -- know if I'm jumping up and down and
17 really open to number 1. I think there's a lot of activity
18 on this street already as well in the documentation and I have
19 some concern and questions for DDOT also because a lot of this
20 stuff is up in the air and there's some things where we need
21 to -- and I just need to kind of get to that.

22 You have also -- you had a -- we have a letter from --
23 who is it? A letter in opposition from a neighbor that talks
24 about that this project would interfere with her access to her
25 property.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Have you had a conversation with that neighbor?

2 MS. RODDY: I believe that's the same neighbor.

3 CHAIRPERSON JORDAN: Okay. Okay. Got it. Got it.

4 So, how do we -- how does this Board, if the Board
5 believes that there is an issue or potentially there can be
6 an issue with -- on this loading impact and the affect upon
7 the community, get our arms around the issue for mitigation
8 purposes if you now have a restaurant there and you and DDOT
9 don't agree about how it gets mitigated?

10 MS. RODDY: Well, perhaps prior to the C of O for that
11 restaurant, DDOT and the applicant would have agree how it
12 would be mitigated and place that loading zone on Prospect
13 Street.

14 CHAIRPERSON JORDAN: So, we get to the point where we
15 have a restaurant that doesn't want to agree to or the applicant
16 doesn't want to agree to DDOT's proposal, where does that put
17 us?

18 I hear you saying it. They talk about it and they don't
19 get anywhere. You know, we've been in a lot of arbitrations,
20 a lot of mediations and everybody puts their best foot forward
21 we hope and it hits a wall. So, how do we get around that?

22 MS. RODDY: Well, DDOT would have quite a lot of
23 leverage in that instance. Because without a Certificate of
24 Occupancy, the restaurant could not operate at that site.

25 CHAIRPERSON JORDAN: Yes, but so, I guess the Board --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 this Board is just punting. So, in essence, the Board is
2 punting.

3 MS. RODDY: Well, since the loading space will be
4 located in public space, I think that it is a public space issue
5 that we would have to resolve with DDOT.

6 CHAIRPERSON JORDAN: Yes, but it also affects the
7 zoning relief that you're requesting. So, I hear what you're
8 saying. I'm just -- like I said just talking out loud, trying
9 to process it.

10 Because from what I'm understanding both -- from
11 everybody's filings including the applicant, this is a well
12 used area and it's kind of some other issues going on up and
13 down the block and et cetera. You know, kind of makes you think
14 again when we say that every area in the District can't be
15 developed. We can't put everything everywhere. But, I
16 understand the commercial aspect on this one-half of the block
17 versus the residential portion and it's a lot of stuff going
18 on.

19 So, and I don't know how you -- if there's any need to
20 respond to those thoughts.

21 Board, any other questions or something you need to hear
22 from this applicant on this?

23 I think we understand about the inability to place
24 loading the building. I think that's real clear and I think
25 also the -- both -- from my understanding, DDOT is torn and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 everybody else is torn. Well, we can do the loading, but then
2 everybody's going to scream and holler because we got to take
3 away the parking for the building.

4 So, it's like, you know, six on one hand. Not even six
5 on one hand. Maybe eight on one hand and four on the other
6 because if we took away -- you came here to get parking relief,
7 everybody would go crazy about that.

8 So, is that pretty much the assessment? The proper
9 assessment of this?

10 MS. RODDY: Yes, that's a very succinct assessment and
11 I mean we are happy to commit to working with the ANC and the
12 Citizens of Association of Georgetown during the public stage
13 process for that loading zone and like I said before, prior
14 to any Certificate of Occupancy for that restaurant use, we
15 would have to have that organized and worked out.

16 And I will also just mention we aren't actively seeking
17 a restaurant for this site. We're actually not speaking to
18 any restaurants. We just don't want to preclude that
19 possibility. We're talking to retailers.

20 CHAIRPERSON JORDAN: How many parking spaces, again so
21 I don't have to go through my notes, are there going to be there?
22 How many parking spaces?

23 MS. MILANOVICH: Ninety-six.

24 CHAIRPERSON JORDAN: Yes, I know the lot well.

25 ZC COMMISSIONER MILLER: Mr. Chairman, can I --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON JORDAN: Yes, please.

2 ZC COMMISSIONER MILLER: And how many parking spaces
3 are there on the existing surface parking lot? Eighty I think.

4 MS. MILANOVICH: It's 86 currently.

5 ZC COMMISSIONER MILLER: Yes, I'm familiar with that
6 parking lot, too. I'm sure. There are a lot of people who
7 go to Georgetown by car when looking for a place to park.

8 CHAIRPERSON JORDAN: Or if you go to --

9 ZC COMMISSIONER MILLER: I guess if the applicant can
10 -- I realize that you're providing more than the required
11 parking for this site, but can you address how though -- this
12 surface parking lot is serving parking needs for the general
13 area right now. Do you expect that it will continue? That
14 the underground garage will continue to serve other or will
15 this project generate all the parking related? I'm a little
16 concerned about the loss of parking for the general area.

17 MS. MILANOVICH: The proposed parking would remain
18 public parking for the general area. So, the people that are
19 parking there could continue to park there.

20 ZC COMMISSIONER MILLER: Do you have any estimate about
21 what the site itself would -- I guess you don't have a use.
22 So, you don't know for sure.

23 MS. MILANOVICH: Right. Well, I mean in general, you
24 know, because it's a retail development, a lot of the trips
25 that are attracted to retail-type developments are what we call

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 pass-by trips. So, it's not that they're new trips to the
2 roadway network. So, I would envision that some of the people
3 parking in the new parking lot they may be shopping at the new
4 store, but they were already in Georgetown anyway. Maybe
5 going to dinner or visiting some of the other retail stores
6 in the area.

7 So, the net increase in parking demand for this
8 particular development I don't think is all that significant
9 because likely they're already in Georgetown doing other stuff
10 as well.

11 ZC COMMISSIONER MILLER: Thank you.

12 CHAIRPERSON JORDAN: East Bank, I think we have a
13 withdrawal letter that has some considerations of why they
14 withdrew. Correct?

15 MS. RODDY: That's correct. We actually have a private
16 agreement that we will record against the property that lists
17 each of those conditions.

18 CHAIRPERSON JORDAN: All right.

19 ZC COMMISSIONER MILLER: Do you have an objection to
20 those conditions? Those trash management conditions being
21 added to the BZA order?

22 MS. RODDY: No.

23 ZC COMMISSIONER MILLER: I think that would be a useful
24 thing to add, Mr. Chairman. It's a --

25 CHAIRPERSON JORDAN: Theirs is about trash. All

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 trash. Isn't it. Okay. Well, we can come back. Let's --
2 any other questions for this applicant?

3 I don't know what you can present in regards to try to
4 get us over this hump about the restaurant issue. But, let's
5 hear from DDOT and maybe that will give us some more backing
6 and I think overall there are some challenges to this whole
7 area. I think even your traffic study talks about it. I mean
8 it's just some challenges. So, but understand again, like I
9 said, eight on one hand and four on the other regarding what
10 do you do in regard to loading relief and what's more impactful.
11 Less parking or more than enough parking.

12 So, let's do this. Let's go to the Office of Planning.
13 Then work our way around.

14 Unless there's something that you wanted to give input
15 on right now or you want to hold it back for rebuttal maybe.

16 MS. RODDY: We'll wait until rebuttal. That's fine.
17 Thank you.

18 CHAIRPERSON JORDAN: Board, is that okay with you that
19 they're -- okay. So, let's go to the Office of Planning.

20 MR. MORDFIN: Good morning. The Office of Planning
21 continues to support this application and has no further
22 comments.

23 CHAIRPERSON JORDAN: You're not Ms. Elliott.

24 MR. MORDFIN: No, she's unable to be here today.

25 CHAIRPERSON JORDAN: So, we're going to stand on her

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 report. Okay. Who were the -- because everybody -- I mean
2 everybody's in the same space. I mean it's -- let's go to the
3 Department of Transportation. Unless the Board has any
4 questions for OP and the applicant, questions for OP?

5 MS. RODDY: No.

6 CHAIRPERSON JORDAN: Let's go to the Department of
7 Transportation please. Yes.

8 MS. CHAMBERLIN: Good morning. I'm Anna Chamberlin.

9 And as we mentioned in the report and also shown in the
10 applicant's study, the existing loading zone is actually
11 under-utilized on the south side of the street and can
12 adequately accommodate the proposed use for this project and
13 we feel that the proposed use for this project can be
14 accommodated on the street.

15 We do have reservations about the restaurant use because
16 that would be a higher intense loading and delivering activity
17 and that's especially what's occurring on the north side. So,
18 the problem with the commercial activity on the north side
19 mainly caused by restaurant use is that they're not actually
20 using the loading zone on the south side of the street. So,
21 they are parking in front of their business for easier loading
22 activity and that's where the concern is being raised from the
23 neighborhood and we share that concern as well.

24 But, we do believe that the proposed project itself can
25 be accommodated on street. They have the loading zone on their

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 side of the street. We are interested in working -- continuing
2 working with the applicant and community on maybe redesigning
3 the loading zone, shifting it. There's a possibility we could
4 shift the loading zone to the north side and so, then the south
5 would have to load from the north side. But, it would
6 alleviate I guess the existing conditions that are happening.

7 In terms of their proposed condition, I think we stand
8 that we wouldn't want to see a restaurant use right now. So,
9 if maybe there's a term saying for a limited amount of time
10 there's no restaurant use, I mean we don't know what's going
11 to happen. The northern site could be redeveloped and they'll
12 be able to accommodate their loading on-site under a new
13 project.

14 So, obviously, we understand the applicant's concern
15 about restricting, you know, future use. You don't know
16 what's going to be there in 10/15 years.

17 But, as of right now, we still wouldn't want to see a
18 restaurant use.

19 Regarding the -- I guess the parking conditions we put
20 in, those are best practices just intended as the applicant's
21 proposing an increase of 10 spots to the existing and six spots
22 above zoning. So, it's just -- those are unbundling the
23 parking and providing discounted parking are just ways to
24 insure that there's not an increase in travel demand for that
25 site. So.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRPERSON JORDAN: Okay. Parking relief is not
2 before us and so, that's one of our hesitations from dealing
3 with that. In fact, they're going to have more than enough
4 parking.

5 But, the issue about -- this is a busy area. As from
6 everybody's report, it said it's busy and it seems, when I was
7 reading your report as well as the applicant's report, there's
8 a lot of moving parts in this area and I guess part of the
9 problem that we have with a lot of these applications, the
10 District is developing at such rapid pace and there's a lot
11 of moving parts.

12 And what we've been getting at this Board, although it's
13 not here in front of us yet, so, we're just dealing with this
14 one project, is that especially when we're talking with DDOT
15 you guys are looking at a singular issue, a singular entity,
16 a singular piece of relief and then we get two weeks later
17 three/four other properties on that same block which are
18 getting some type of relief and then we're looking at it kind
19 of with blinders on because, you know, it is the application
20 that's in front of us. But, the multiply factor.

21 And I heard you say something about there's other things
22 that might happen there. So, I'm just talking out loud about
23 the issues and the concerns that we kind of have and I don't
24 know if you have the answer to that.

25 One thing that I would probably -- I heard your impact

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 -- I mean your statement about number 1 and certainly, I would
2 have a concern about it, too. I think your report clearly
3 shows the higher level of use doing to restaurant use. But,
4 I'm thinking maybe we can add something. I think number 1 has
5 to change.

6 Number 1 because it's just suggestive in nature and not
7 mandatory regarding any mitigation. It says that the
8 applicant shall propose a plan and submit that to DDOT. But,
9 there's no teeth behind it and I think we can work on that as
10 a Board and do that.

11 And I just don't know whether there -- what we need to
12 hear from you in regards to the other parts of the area, but
13 I wouldn't doubt that we'll be back again for another piece
14 of relief on that block and some other impact on the citizens
15 and that's what I'm really trying to think about. The impact
16 on the neighbors as we've gotten letters from the neighbors
17 as these things begin to multiply.

18 You're right. If we look at it singularly, then we're
19 okay. You think that loading across the street is okay. The
20 present loading.

21 MS. CHAMBERLIN: No. No. No. The present loading is
22 an issue across the street.

23 CHAIRPERSON JORDAN: Because they're double parking
24 over there.

25 MS. CHAMBERLIN: Correct.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON JORDAN: Right.

2 MS. CHAMBERLIN: Because they're illegally loading
3 essentially.

4 CHAIRPERSON JORDAN: And you don't think we'll have
5 that same on the opposite side with this loading zone?

6 MS. CHAMBERLIN: No. So, the loading -- wait. Sorry.

7 CHAIRPERSON JORDAN: No, go ahead. Tell me about the
8 other --

9 MS. CHAMBERLIN: Repeat the --

10 CHAIRPERSON JORDAN: -- another double parking on one
11 side.

12 MS. CHAMBERLIN: On the north side.

13 CHAIRPERSON JORDAN: You think -- and you think on this
14 side that loading's not an issue because?

15 MS. CHAMBERLIN: So, the loading zone on the south side
16 which is the side of the applicant is under-utilized. It's
17 the loading on the north side doesn't have a loading zone and
18 that's where the double parkings happen.

19 CHAIRPERSON JORDAN: Okay.

20 MS. CHAMBERLIN: Because you're actually not allowed to
21 park on the north side and the trucks are just pulling up in
22 front of the businesses, in front of their driveways.

23 So, what we could look at would be flipping the parking.
24 So, then the loading zone would be on the north side. Which
25 would help --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 CHAIRPERSON JORDAN: So, the loading zone for both
2 north and south would be on the north side. Is that what you're
3 --

4 MS. CHAMBERLIN: Correct.

5 CHAIRPERSON JORDAN: Okay. I mean it's above our pay
6 grade, but okay. I mean that's a DDOT issue how to get there.
7 Okay.

8 Board, any questions for Transportation? Any other
9 questions since I've been mumbling here? Mr. Miller, please.
10 Um-hum.

11 ZC COMMISSIONER MILLER: Thank you, Mr. Chairman.

12 So, Ms. Chamberlin, in your report, you mention three
13 alternative loading configurations for this block other than
14 the existing one. Including 120-foot proposed loading zone.
15 A new 60-foot loading zone, but the 55-foot existing zone and
16 option D, loading zones on north and south sides. I'm looking
17 on page 6 of your report.

18 MS. CHAMBERLIN: Correct.

19 ZC COMMISSIONER MILLER: Could that street accommodate
20 loading zones on both sides of the street?

21 MS. CHAMBERLIN: It's a very narrow street. So, if it
22 was to be on both sides, we have some concerns with that because
23 you would essentially be creating a chicane effect. So, if
24 you're driving, then you'd shift to the north or you'd shift
25 to the south depending on where the loading zones -- so, that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 isn't necessarily our preferred alternative.

2 What I mention now is there's the option E which would
3 be to just put it on the north side.

4 So, those are still options. We obviously -- there's
5 not a win-win solution. There's going to be some give and
6 take. You're either losing parking, depending on how much
7 parking you're losing and where you're going to have to
8 restrict the loading and the parking to happen. So, that's
9 definitely a dialogue that needs to happen with all the
10 affected parties on that street.

11 ZC COMMISSIONER MILLER: And the restaurant use is a
12 loading intensive use which is why you're concerned about it.
13 Are there other uses like grocery store? It is 30,000 square
14 feet.

15 MS. CHAMBERLIN: A grocery store would be a higher
16 intense use as well.

17 ZC COMMISSIONER MILLER: So, if we're going to include
18 any reference to restaurant use and a condition whether as
19 proposed by the applicant or as originally proposed by DDOT,
20 I think we probably should make it broader than just a
21 restaurant. It should be, you know, restaurant, grocery store
22 or any other eating or drinking establishment or something that
23 covers everything that would be of concern.

24 CHAIRPERSON JORDAN: That's great, Mr. Miller. Good
25 call.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Any other questions for Department of Transportation?
2 Applicant?

3 MS. RODDY: I'd like to ask just one question. Ms.
4 Chamberlin, would you say that the existing loading zone on
5 Prospect Street is sufficient to address the loading for the
6 proposed project?

7 MS. CHAMBERLIN: Correct. Under non-restaurant use.
8 Yes.

9 CHAIRPERSON JORDAN: Okay. Any other questions?
10 Okay. Then let's -- oh, yes, please, Mr. Miller.

11 ZC COMMISSIONER MILLER: I'm sorry. I meant to ask Ms.
12 Chamberlin one more thing. Did you get to see the trash
13 storage management conditions that the applicant has entered
14 into with East Bank?

15 MS. CHAMBERLIN: I did.

16 ZC COMMISSIONER MILLER: Do you think -- some of those
17 on-site trash storage and collection and does that address some
18 of your concerns about the loading?

19 MS. CHAMBERLIN: No, because it's just -- essentially,
20 what they're asking is what we'd want to see anyways in terms
21 of public space. It's not keeping the trash on public space.
22 But, they would still have to wheel it out onto the street for
23 pick up.

24 ZC COMMISSIONER MILLER: Thank you.

25 CHAIRPERSON JORDAN: Well, it's right there. Wow.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 That's interesting. Okay.

2 Any other questions for DDOT?

3 And we thank you for coming. It's important that
4 Department of Transportation's here for -- when you make
5 comments and conditions and modifications. So, we really
6 thank you for coming. Because in the past, the Board's had
7 to try to decipher through it and not understand where to go.
8 So, then we leave it out. So.

9 All right. So, do we have anyone here from ANC -- which
10 ANC are we? ANC-2 what? It's 2 something. ANC-2E.
11 Representative of ANC-2E. We have a letter of approval from
12 ANC-2E.

13 Is there anyone here wishing to speak in support?
14 Anyone wishing to speak in support? Please come forward if
15 you -- would you give us your name please?

16 MR. ELLIOTT: My name is Robert R. Elliott.

17 CHAIRPERSON JORDAN: Okay. Mr. Elliott, you have
18 three minutes to talk to the Board. Let us know what's on your
19 mind.

20 MR. ELLIOTT: I very much support the application. I
21 own all of the commercial --

22 CHAIRPERSON JORDAN: Yes, see if your mike's on. Yes.

23 MR. ELLIOTT: My name is Robert R. Elliott. I live
24 across the street and in addition, I own all of the commercial
25 property across the street which includes right now four

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 restaurants. We've reduced our restaurant use by bringing in
2 a large retail store instead of two restaurants.

3 Incidentally, the west end of that block was mentioned
4 as being residential. I don't think so. There might be one
5 resident. I think all of those old buildings are -- well, it's
6 all zoned commercial and I think they're all used commercially
7 except possibly one residence somewhere on that block. So,
8 isn't really a residential block at that end.

9 I think the -- I did want to mention just for background
10 information that in my observation having operated this
11 property since 1983 that most of the parking of trucks occurs
12 before noon. There's a little bit after that and I think one
13 thing that could be done probably is to have the meter parking
14 or if there still is meter parking on the south side of the
15 street, to start in front of our property there and in front
16 of the subject property about 1:00 p.m. It's not used very
17 much in the morning anyway.

18 And another thing that was mentioned is that the street
19 is narrow. I think it's 29 feet wide. It will definitely
20 accommodate trucks on both sides of the street. It may not
21 be highly desirable, but it's not much different from having
22 parking on the south side and trucks pulling up on the north
23 side leaving basically one lane for two-way traffic. That's
24 the problem and it wouldn't be much different if there were
25 trucks on the south side and the north side.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Thank you.

2 CHAIRPERSON JORDAN: Yes. We appreciate it. Board,
3 any questions of Mr. Elliott? Applicant, any question of Mr.
4 Elliott?

5 Thank you for coming down.

6 Anyone else wishing to speak in support? Are you in
7 support? Please.

8 MR. HINDS: We're in support in opposition.

9 CHAIRPERSON JORDAN: Let's make sure. Okay. So, you
10 want to do it under support. All right. Good segue because
11 we're about to go to the -- let me. One more second.

12 Anyone else wishing to speak in support? Support?

13 All right. We're going to go for the hybrid. Now,
14 speak for support. Your position please.

15 MR. HINDS: I am Richard Hinds, legal counsel for the
16 Citizens Association of Georgetown.

17 We have submitted a written statement for the Board in
18 which we indicated that we are very supportive of this project
19 because it's bringing some high quality retail to Georgetown
20 which Georgetown needs to continue to be a prosperous business
21 corridor.

22 It also is preserving the existing parking and, in fact,
23 increasing it which is very, very important. This I think the
24 Board recognizes. So, that's the plus.

25 The negative is that we're very concerned about the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 existing truck unloading on this street which has been
2 mentioned. Oftentimes reduces a two-lane street to one lane
3 and, in fact, if this project were to go forward with no truck
4 loading approval, there would be essentially the potential for
5 blockage of this entire street.

6 Which has issues for safety and obviously, there are
7 people who live on this street and further west and they would
8 be very inconvenience to have their street blocked.

9 So, I think there's a real issue here on the truck
10 loading side. The applicant is here before this Board
11 requesting that there be no truck unloading in the site.
12 Whereas, I think, as the Board has recognized, everyone who
13 has spoken to this issue says it is essential that there be
14 truck unloading on this site.

15 We are very concerned that the position of the
16 Department of Transportation does not seem to recognize the
17 seriousness of the issue that's posed here. This one small
18 space at the corner of Wisconsin Avenue and Prospect Street
19 is fully utilized by illegal parkers. It is not available,
20 therefore, for trucks nor would any truck stop at this
21 particular site to unload at a restaurant a half to two-thirds
22 of a block away. That is not how truckers operate. They
23 unload closest to the place that they're loading.

24 And we would also observe that that will be the case
25 whether or not there is a truck unloading zone as has recently

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 been suggested by the Department of Transportation on the north
2 side. The trucks are going to park there. They don't need
3 a loading zone. They're just going to park there anyway.

4 What's important to us is that this remain a no-parking
5 zone on the north side of the street and the trucks will park
6 there sure enough, but they'll park in the morning and so, if
7 we have a truck coordinator on-site on the south side of the
8 street, he can make sure that there is no duplicate parking
9 of trucks on both sides of the street at the same time. That
10 would be, I think, an important job for that coordinator and
11 the applicant has agreed to have that coordinator.

12 The one sticking issue here is that we need to have a
13 truck unloading zone near where the trucks are going to unload
14 on the south side of the street. Trucks, again, are not going
15 to go to the north side of the street even if there's an
16 unloading zone there and park and move stuff across the street.
17 That isn't what trucks do.

18 It is essential, therefore, in our judgment to have a
19 loading zone and a good size loading zone on the south side
20 of the street. We have proposed 120 feet. That proposal has
21 been backed by ANC-2E who, like we, are supportive of the
22 project, but think that that is the type of loading that is
23 required.

24 And lastly, our last concern about the DDOT is that DDOT
25 normally has an unwritten policy, it's our understanding, that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 there can only be one loading zone on a street. The one loading
2 zone that's there is totally inadequate. If they want to keep
3 it, fine. We're not objecting to that.

4 But, what we are saying is that there has to be an
5 unloading zone right near where this new project is going to
6 require unloading and this also happens to be exactly opposite
7 where all these restaurants load. So, having a loading zone
8 there would create, you know, an ability for trucks to go past
9 this street and for two-way traffic to continue.

10 So, we think we have a clear solution to a problem. We
11 believe that the applicant has made the case for zoning relief
12 in the form of loading, but we also think that we're unhappy
13 with being told by DDOT that they'll work this out with the
14 applicant and what we heard today does not give us great comfort
15 as to how it will be worked out. It could be worked out in
16 a way, we think, that would be totally inadequate just judging
17 from what I heard today.

18 So, those are our concerns and we would suggest to the
19 Board that the Board not grant zoning relief until there is
20 a clear plan for how we're going to deal with this truck
21 unloading problem and we would also like to participate in that
22 exercise.

23 CHAIRPERSON JORDAN: Yes.

24 MR. HINDS: Thank you.

25 CHAIRPERSON JORDAN: That's kind of what we've been

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 bouncing in my head. Because as I said earlier, once this is
2 from this Board, we have no way to help or provide input and
3 there's a lot of things that's very speculative.

4 Because right now we have illegal parking on the north
5 side. The trucks pull up and do what they're doing and if we
6 have a loading zone on the south side, then cars -- how much
7 room are we going to have for a car to get by if we still got
8 the illegal parking. Because we got to assume that's because
9 it's been happening. Right? So --

10 MR. HINDS: It would create a not parking zone though
11 on the south side.

12 CHAIRPERSON JORDAN: The south side. Right.

13 MR. HINDS: Which if DDOT enforced which they're
14 capable of doing--

15 CHAIRPERSON JORDAN: That's an enforcement issue.

16 MR. HINDS: -- it would create an open lane in the
17 morning when these restaurants of which there are several are,
18 you know, unloading. Also, the applicant -- excuse me, the
19 applicant -- the prior speaker has a matter-of-right
20 development in the next block that is 25 apartments and retail.
21 He needs loading and unloading there, too, and that's again
22 just an example of why we need to have more loading and
23 unloading on this block than that one small space next to
24 Wisconsin Avenue.

25 CHAIRPERSON JORDAN: Yes, especially if the street's 29

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 feet as has been testified to and I don't know if that exactly
2 is right. That gets into some of their issues.

3 But, here's the issue about the voting -- excuse me.
4 Excuse me. The loading coordinator you said would handle both
5 sides of the street, but the loading coordinator really has
6 no influence on the other side of the street.

7 MR. HINDS: Well, I think he can talk with the
8 restaurants and find out when they unload. Which is in the
9 morning.

10 CHAIRPERSON JORDAN: He or she. Yes.

11 MR. HINDS: And they don't unload when their customers
12 are there eating and, you know, so, I think that he would be
13 able to schedule the truck unloading for this project at some
14 point -- if it is in the morning at all at a point when it does
15 not conflict with the restaurants.

16 Mr. Elliott is the owner of most of those restaurants
17 and he's here and I'm sure would be happy to say that he would
18 cooperate because he's told us he would cooperate with the
19 parking problem on this street.

20 But, he, in fact, is going to add to it and he needs
21 unloading in that same area. Not on Wisconsin Avenue, but
22 right where we're talking about.

23 And I see that on the screen there's the proposal that
24 CAG has proposed which is fully supported by the ANC and which
25 we think would solve the problems we're here talking about.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 But, we're a little disappointed at the fact that it has
2 not received enthusiastic welcome from DDOT and we're very
3 concerned about some of the suggestions that DDOT would stick
4 with this small unloading zone a half a block away from
5 anywhere. Which is always at the current time fully occupied
6 by illegally parked cars. Not trucks.

7 CHAIRPERSON JORDAN: All right. We thank you for
8 coming down and talking to us. As you know, we don't control
9 DDOT, but understand the concerns. Definitely understand the
10 concerns. That's kind of what we've been wrestling with in
11 regards to this application.

12 It's not an easy solution for anyone I don't think.

13 Board, any questions? Applicant, any questions?

14 Thank you very much.

15 Anyone wishing to speak in opposition? Yes, Mr. --

16 MR. LIVERMAN: Liverman.

17 CHAIRPERSON JORDAN: Liverman. Yes. Please. Sir,
18 you have three minutes.

19 MR. LIVERMAN: Thank you for your indulgence. I want
20 to keep this brief.

21 The owner of the property, both Mr. Cookson and his wife,
22 Caroline, have filed a letter. I'm not going to repeat it.
23 It speaks for itself.

24 I am really here to express on their behalf concern as
25 everyone has about the parking and additional congestion.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 As a matter of record, you should know that their
2 property 3232 is used as a residence and has been for as long
3 as I know.

4 CHAIRPERSON JORDAN: They are right adjacent to this
5 parking lot now.

6 MR. LIVERMAN: Correct. Absolutely.

7 CHAIRPERSON JORDAN: And they're not the ones with the
8 driveway. They don't have a driveway.

9 MR. LIVERMAN: They do not have a driveway.

10 CHAIRPERSON JORDAN: Okay. They park on the street.

11 MR. LIVERMAN: Yes.

12 CHAIRPERSON JORDAN: Okay. Thought so. Okay.

13 MR. LIVERMAN: That's all I have and thank you.

14 CHAIRPERSON JORDAN: They're kind of sandwiched
15 between a driveway behind them, a little spot --

16 MR. LIVERMAN: They are the ham in the sandwich.

17 CHAIRPERSON JORDAN: Right and then the parking lot in
18 front of them and --

19 MR. LIVERMAN: Yes, there is an entrance. There is
20 parking in Mr. Elliott's building, but kind of a little shift.

21 CHAIRPERSON JORDAN: Board, any additional questions
22 for Mr. Liverman? The applicant, any questions?

23 All right. We thank you.

24 Anybody else wishing to speak in opposition?

25 Then let's turn back to the applicant for some type of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 rebuttal and trying to get us past these issues.

2 MS. RODDY: Thanks. I think I can -- I may have a
3 solution. So, I would like to have Ms. Milanovich speak to
4 the existing loading and then also the process that we'd be
5 going through for the proposed loading zone.

6 But, before I do that, we'd be willing to commit to a
7 condition that said that we would not have any restaurant use
8 for a period of three years. We want to be clear though that
9 we --

10 CHAIRPERSON JORDAN: No. No. No. Let me offer
11 something before you said that.

12 MS. RODDY: Okay.

13 CHAIRPERSON JORDAN: Because as we've gotten through
14 some additional examination, it's not just a restaurant use.
15 I believe it's a higher loading use tenant. It's not just
16 restaurants. A higher loading use tenant.

17 And what I've been bouncing in my mind, I haven't talked
18 certainly to the Board, is that we would make -- we're going
19 to have to have some teeth, number one, and it's not just make
20 a recommendation and submit it and then you drive on off. It's
21 got to have some teeth, number one, to this fact that I'm
22 thinking that the applicant would be required to comply with
23 the Department of Transportation's mitigation plan.

24 Because once it's away from this Board, it's away from
25 this Board and we're the ones with the responsibility and duty

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 in granting this relief and we can't just make this
2 speculative.

3 This whole conversation is very speculative and now
4 hearing that there's some other kind of development that's
5 already planned for this block. As we said we've been getting
6 it bit by bit and piece by piece and so, if that would be a
7 concern to you, while you're doing your rebuttal here, respond
8 to that.

9 MS. RODDY: I understand. I think that we would be
10 happy to say -- to broaden that to say the higher impact.

11 We want to be sure that that would not include -- I know
12 you had referenced eating and drinking establishments, but we
13 would not want to include a coffee shop in that prohibition
14 for that three-year period.

15 We heard Ms. Chamberlin testify that the existing
16 loading zone on Prospect would be sufficient to address the
17 loading needs of the proposed project assuming it's not a
18 restaurant use. So, we would be able to move forward with the
19 proposed project using that existing loading zone while we're
20 working out the loading issues for the broader block.

21 And I'll have Ms. Milanovich speak to some of the peak
22 periods that we may -- we see in the existing loading.

23 MS. MILANOVICH: Thank you. I just want to make a
24 couple points and maybe a couple of clarifications.

25 So, the project is proposed with the stipulation that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 it would not be a restaurant or higher loading demand type use
2 in the next three years.

3 We've done some surveys of some similar retail tenants
4 as what's being proposed here and so, the deliveries for this
5 particular project are estimated to be approximately two per
6 day and that's at maximum. It obviously depends on, you know,
7 how many tenants would be in this building. But, that would
8 be at the outside. Plus trash service once a day and recycling
9 we anticipate would occur three times per week.

10 So, the delivery loading needs would be pretty minimal
11 and we think that with some increased enforcement of the
12 existing loading zone, that loading zone could, in fact,
13 accommodate that number of deliveries.

14 The graph that I have up on the presentation right now
15 shows the available storage in that existing loading zone.

16 CHAIRPERSON JORDAN: In the current loading zone.

17 MS. MILANOVICH: In the current loading zone. We went
18 out over a three-day period to determine the utilization.
19 Now, it's important to note that what we found was that during
20 that three-day period, 81 to 93 percent of the vehicles that
21 actually used that are passenger cars and so, they're illegally
22 using that loading zone.

23 So, that's why I say with some increased enforcement,
24 if you take out those illegally parked vehicles, you can see
25 the -- the green line represents -- again we selected Thursday

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 because that was the busiest of the three days that we observed.
2 During the majority of the day, the bulk of that loading zone
3 which is currently 55 feet is available.

4 CHAIRPERSON JORDAN: Pointer. Can we have the
5 pointer? Thank you. Um-hum.

6 MS. MILANOVICH: So, again, you can see. The current
7 loading zone is 50 feet. I'm sorry. Fifty-five feet. So,
8 during the bulk of the day, this line denoted that the majority
9 of the loading zone is available for us.

10 In the morning when it peaks, there is a short period
11 of time when it is fully utilized by commercial vehicles. So,
12 again, there's -- you know, with increased enforcement,
13 there's some capacity that could be utilized by this particular
14 project.

15 What we've been working diligently with DDOT and the
16 community on is a solution that would not just accommodate the
17 particular loading needs for this development, but also solve
18 some of those issues that are occurring on the north side of
19 Prospect Street.

20 And so, to that end, we went out and we did some surveys
21 of the activity that's occurring on the north side of the street
22 and you can see on this graph what we did was plot the number
23 of trucks or the linear feet of truck deliveries that are
24 occurring illegally on the north side.

25 And again, you can see how some of the proposed loading

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 options would do a better job at accommodating again the
2 existing loading issue.

3 So, right now, you can see throughout the day, you know,
4 the majority of the loading activity is pretty low. It does
5 peak pretty significantly.

6 CHAIRPERSON JORDAN: What time period is that?

7 MS. MILANOVICH: That is from about 8:45/9:00 to about
8 9:30. So, a 30 to 45-minute window. You know, in this time
9 period there and you can see what we've done is plot the
10 capacity of each of the loading options horizontally and so,
11 you can see a couple of the options that we're working with
12 DDOT on really do start to address accommodating the existing
13 loading as well as our loading and also, moving that loading
14 zone to a mid-block location as we've proposed in a number of
15 the scenarios would make it more attractive to those businesses
16 on the north side.

17 So, again, our loading needs could be accommodated in
18 the existing loading zone, but what we've really been trying
19 to do and, you know, we've heard the concerns of the community
20 loud and clear, we're trying to come up with a solution that
21 addresses --

22 CHAIRPERSON JORDAN: The loading zone that's on the
23 corner?

24 MS. MILANOVICH: Yes. We're coming -- trying to come
25 up with a solution that also addresses the existing problem

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that's occurring on Prospect.

2 CHAIRPERSON JORDAN: I'm not -- you're not saying that
3 -- with the present loading zone, you said something about the
4 existing loading zone. You think you can operate within that.
5 So, that would require your trucks to go to the corner and bring
6 whatever they're bringing back down. I don't know how far it
7 is, but not all -- you know, down the block.

8 MS. MILANOVICH: That's correct. That's correct. If
9 we were to use that loading zone. But, again, that's -- the
10 other options would move it mid-block. Which would help us
11 admittedly, but it would also help those businesses on the
12 north side.

13 CHAIRPERSON JORDAN: Where are we in that regard? Has
14 there been a commitment for DDOT to do that?

15 MS. MILANOVICH: There's been a commitment to DDOT to
16 work with the applicant to determine what the most appropriate
17 solution would be. We --

18 CHAIRPERSON JORDAN: The answer is no, there's no
19 commitment. As we sit and speak here today, we're having
20 discussions about what potentially may happen in the future.

21 MS. MILANOVICH: To a particular option, no.

22 CHAIRPERSON JORDAN: Yes. Got ya. That's what I was
23 asking, but go ahead.

24 MS. MILANOVICH: Sorry. The other thing I wanted to
25 point out is that we have agreed to implement a loading

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 management plan and I don't believe that any of the businesses
2 on the north side, just given the timing of when they were
3 approved, were required to implement a loading management
4 plan. So, our loading management plan requires that there
5 would be a coordinator, a loading coordinator, for the site.

6 CHAIRPERSON JORDAN: Do you have that already handed
7 out to us? I know it might be in the record. You got a
8 separate -- where do I reference it? If you got a sufficient
9 amount, the next -- okay. You do. Do you have enough or okay.
10 One more. Yes, we're good. Here pass some of them that way.
11 Yes. Thank you.

12 MS. MILANOVICH: So, the loading coordinator would be
13 required to schedule the deliveries and one of the stipulations
14 of the loading management plan is that they would schedule
15 those so that the loading zone's capacity was not exceeded.

16 Again, if you think back to the graph that I had showed
17 previously, there's a very short period of time in the morning
18 from about 8:45 to 9:30 when that loading on the north side
19 of Prospect Street peaks and so, the loading coordinator by
20 virtue of the stipulation in the loading management plan would
21 be scheduling their deliveries outside of that time period
22 because the loading zone would be utilized by the restaurant
23 deliveries on the north side.

24 CHAIRPERSON JORDAN: Does that mean if a truck comes
25 outside that period you refuse them?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 MS. MILANOVICH: That's correct.

2 CHAIRPERSON JORDAN: How practical is that? Does it
3 occur in your experience?

4 MS. MILANOVICH: It has occurred. It's a little more
5 difficult with like FedEx and UPS type deliveries, but --
6 because they're on, you know, a standard route. But, yes, it
7 has occurred in other projects.

8 The loading coordinator also would inform the vendors
9 and the delivery companies that the deliveries would have to
10 occur during the hours of the loading zone. We had proposed
11 that the loading zone be in effect until 5:00 p.m. so that it
12 would revert back to parking for the community in the evening.
13 So, all of the loading activities would need to take place prior
14 to 5:00 p.m.

15 MS. RODDY: Mr. Chairman, can I clarify something?

16 CHAIRPERSON JORDAN: Yes, go ahead please.

17 MS. RODDY: There's an absolute commitment from DDOT to
18 update and work on the loading zone. Thus it is a condition
19 in our report. A condition of our support states: "The
20 applicant shall design and install a loading zone and street
21 configuration to be approved by DDOT." Which is a public space
22 committee, public space permitting matter. We don't feel the
23 Board of Zoning Administration is the location to approve a
24 loading zone. That is a public space.

25 CHAIRPERSON JORDAN: Right. We're not trying to do

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that, but they're asking for relief that we have to consider
2 where we are. So.

3 MS. RODDY: Correct. But, I just want to make sure
4 because there was testimony here stating that --

5 CHAIRPERSON JORDAN: We know what our jurisdiction
6 authority is.

7 MS. RODDY: -- DDOT wasn't committed to making any
8 improvements to the loading zone and I wanted to clarify that.

9 CHAIRPERSON JORDAN: Yes. We understand what our
10 authority is. Thank you.

11 Ms. Milanovich, are you finished? She got anything
12 else?

13 MS. RODDY: And so, in closing, I would just like to
14 follow up on a few things that we said. Well, this is a perfect
15 segue.

16 So, along with that condition that was proposed by DDOT,
17 we would just like to say that -- make a condition of the
18 approval, that we will continue to work with not only DDOT,
19 but the ANC and the citizens association of Georgetown to come
20 up with that loading zone for Prospect Street and as a condition
21 of the BZA approval, that would have to be sorted out prior
22 to the Certificate of Occupancy for any retailer at the site.

23 So, that is the teeth.

24 CHAIRPERSON JORDAN: Say the last bit again.

25 MS. RODDY: It would have to be implemented prior to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Certificate of Occupancy being issued for any retailer at the
2 site.

3 And with respect to the higher impacts that we were
4 discussing earlier, we could commit to not providing a grocery
5 store, a restaurant or a tavern on the site for a period of
6 three years.

7 CHAIRPERSON JORDAN: Why three years?

8 MS. RODDY: As DDOT had mentioned, they didn't want to
9 have one immediately, but they didn't necessarily object to
10 having one at some point in the future and we --

11 CHAIRPERSON JORDAN: What if the situation doesn't
12 change?

13 MS. RODDY: We would have to provide the report to DDOT
14 analyzing the impacts of the loading on Prospect Street.

15 So, this would give a three-year period to have the
16 building operating to properly assess those impacts.

17 CHAIRPERSON JORDAN: So, we should only do our -- if we
18 do an approval of this project, we should only do it for three
19 years.

20 MS. RODDY: No, because we'll be providing the analysis
21 to DDOT so that we would come up with those mitigation --

22 CHAIRPERSON JORDAN: An analysis means that it will be
23 taken care of in your estimation?

24 MS. RODDY: We would also have to provide what
25 mitigation we would provide and DDOT would be the ultimate

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 judge of those mitigation --

2 CHAIRPERSON JORDAN: Right.

3 MS. RODDY: -- features.

4 CHAIRPERSON JORDAN: So, that's something, as you
5 agree, we need to add to number 1 because right now, it's --
6 you're just providing reports there.

7 MS. RODDY: Right. No, and I understood your concern
8 previously when you had mentioned that. So.

9 CHAIRPERSON JORDAN: Okay. All right. Anything else
10 in rebuttal? Board, any other questions?

11 I'm trying to wonder. You know, I think we close this
12 hearing. However, I'm not comfortable that we go into
13 deliberation.

14 I think I would like to see a consolidated -- different
15 conditions placed on this property. One we can get our teeth
16 around. That's what I would suggest before we actually would
17 move on this and, one, that would be in light of the
18 conversation we're having.

19 I'm not jumping up and down about the three-year
20 limitation because I don't know what's going to happen in year
21 4 or 5 and -- unless the restaurant's going to be -- excuse
22 me. Unless the relief being granted is going to be subject
23 to that and I don't think you want that.

24 It's a lot of moving parts with this one and this Board
25 has been in that position and then the following week when we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 grant a relief, we're confronted with something else in that
2 same block and square, in fact, there is impact.

3 I'm with you. I understand what you're doing. Just
4 talking about the mitigation side. I think you've shown that
5 you have to have the relief.

6 But, we're also -- as you know, this Board's responsible
7 for mitigating any impact upon what relief is going to be
8 granted. Whether you accept it or not, as long as we can
9 justify that there is basis for our condition, then we need
10 to do so because there are people who have voiced their
11 concerns, community groups, neighbors and et cetera. We
12 understand.

13 As I said before, it's really an eight and four deal and
14 it's not an easy thing to deal with. Yes.

15 You want to say.

16 MR. EPLING: Yes, John Epling with Goulston & Storrs.

17 I was at all four ANC meetings and clearly what you're
18 discussing has really been -- we work really hard with all the
19 ANC commissioners, on-site with DDOT, with CAG to come up with
20 a solution and we do. We have a solution to our issue.

21 Even the ANC members at the meeting basically said this
22 is a work in progress. Because they understand that they can
23 fix our issue. We can't necessarily today fix all the other
24 issues.

25 So, there's been a long conversation over eight months

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 about -- this project actually went pretty smoothly. It's all
2 about where to put the loading.

3 CHAIRPERSON JORDAN: Right.

4 MR. EPLING: So, we understand. We'll work with you to
5 come up with a good condition.

6 But, the one thing that you can see by us having CAG
7 support, ANC support and DDOT support is that we've been
8 working hard to address this issue and we think we could do
9 that.

10 CHAIRPERSON JORDAN: Yes, some of those things are with
11 asterisks because they're all joined when you're talking about
12 this 120-foot loading zone. Which is still pie in the sky as
13 far as being here. But, you're talking about it. You're
14 trying to get it.

15 And that's -- and all I'm trying to get to -- I don't
16 have to explain it, but I want you to understand where I'm
17 coming from because once we take our action, it's out of here
18 and then the next time somebody comes in or the community is
19 that we've affected and our responsibility under the law is
20 that we're suppose to make sure that there's no substantial
21 impact upon the community. So, that's where we are. Okay.

22 MR. EPLING: Could I say one --

23 CHAIRPERSON JORDAN: Go ahead. Last.

24 MR. EPLING: You asked Ms. Milanovich a question. We
25 can't force DDOT to do anything. That's our issue. So,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that's really the answer.

2 CHAIRPERSON JORDAN: I know. So, that's part of the
3 rock and the hard place. Yes, I understand.

4 Right, Board. We understand.

5 So, can we -- Mr. Moy, where are we? Mr. Miller, anybody
6 else, got any other input on there.

7 ZC COMMISSIONER MILLER: Not to prolong it, Mr.
8 Chairman, I think the DDOT conditions as amended by the -- I
9 would think we can work with the DDOT conditions along with
10 the trash management conditions that were suggested by East
11 Bank and, you know, they have the -- the applicant has agreed
12 to preclude restaurant, tavern or grocery for three years and
13 subject any such future proposed use to DDOT mitigation
14 conditions. I think if we did that it would take care of that
15 issue.

16 As DDOT pointed out, one of their conditions is the
17 applicant shall design and install a loading zone and street
18 configuration to be approved by DDOT.

19 I would like to include in there something that they're
20 already doing. This is also add in in consultation with the
21 ANC. But --

22 CHAIRPERSON JORDAN: Yes, I understand. We have a lot
23 of conditions. I just want to see them consolidated --

24 ZC COMMISSIONER MILLER: Right.

25 CHAIRPERSON JORDAN: -- so we can read them and what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 have you and that's all what I could see.

2 We can do a week turnaround or something. Yes, because
3 we got a spot next week. Right?

4 MR. MOY: The docket would accommodate this application
5 for next week, sir.

6 CHAIRPERSON JORDAN: If that's -- anything else? Let
7 me just put it on and if you can come in or we can submit. As
8 long as we get the conditions. I just need to see it all
9 because we got a lot of moving parts in this thing. Okay. All
10 right. So.

11 MR. MOY: Can the applicant file by Friday? Would that
12 be sufficient for the Board?

13 CHAIRPERSON JORDAN: Oh, what's today? Tuesday. By
14 Friday, get it all done and cleaned up and then we can talk
15 about it on the next -- so, let's make this -- put this on for
16 -- could just say just do a decision, but just put it on for
17 -- we'll take it under the meeting, but make it a bifurcated
18 kind of deal. We might ask questions from the applicant.

19 MR. MOY: Will do.

20 CHAIRPERSON JORDAN: Good. All right. With that, we
21 thank everybody for coming down and think about also keeping
22 an eye on the next-door neighbor and see what you can do for
23 them in your condition proposed if you can. Just you know.
24 All right. Thank you all. Appreciate it.

25 (Whereupon, the above-entitled matter went off the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 record at 11:40 a.m.)

2

3

4

5

6

7

8

9

10

11

12

13

14

15